



Town Commission

Jarvis Hall 4505 N. Ocean Drive

Regular Town Commission

REGULAR TOWN COMMISSION

Being held at Tuesday, April 09, 2019
Jarvis Hall 4505 N. Ocean Drive

1. **CALL TO ORDER, MAYOR CHRIS VINCENT**
2. **PLEDGE OF ALLEGIANCE TO THE FLAG**
3. **INVOCATION – Pauline Brooks McGuinness (Representing the Bahai' Faith)**
4. **ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS**
5. **PRESENTATIONS**
 - 5.a Pinwheels for Prevention Campaign "Child Abuse Prevention Month" Proclamation
[Child Abuse Prevention.docx](#)
 - 5.b Text to 911
[911-To-Text-Brochure-v6.3-NEWFINAL.PDF](#)
[text-to-911-palmscard_V2md.pdf](#)
6. **PUBLIC COMMENTS**
7. **PUBLIC SAFETY DISCUSSION**
 - 7.a VFD March 2019 Report
[VFD March Report.pdf](#)
 - 7.b BSO March 2019 Report
[TM Report-March 2019.pdf](#)
8. **TOWN MANAGER REPORT**
 - 8.a Town Manager's Report
[4-9-19 AM TM Report.docx](#)
[EX 1 Active Code Violations - April 1 2019.pdf](#)
[EX 2 All Cases With Fines - April 1 2019.pdf](#)
[EX 3 Code Fines over 75K.pdf](#)
9. **TOWN ATTORNEY REPORT**
10. **APPROVAL OF MINUTES**
 - 10.a March 26, 2019 Town Commission Meeting Minutes
[032619 LBTS Commission 1st draft minutes \(002\).docx](#)
11. **CONSENT AGENDA**

- 11.a Settlement and Release Agreement with Waste Pro
[4-9-19 AM Restated WP Agreement.pdf](#)
[Ex1 Waste Pro Agreement 4-1_3F14734-.pdf](#)

12. OLD BUSINESS

- 12.a El Mar Greenway Project
[Ex1 Resolution 2017-18.pdf](#)

13. NEW BUSINESS

- 13.a Broward League of Cities 2019-20 Board of Directors Appointments
[Ex 1. Board Request Appointment.pdf](#)

14. COMMISSIONER COMMENTS

15. ORDINANCES 1ST READING

- 15.a Ordinance 2019-01 - AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, APPROVING THE 2019 RESTATED SOLID WASTE, BULK WASTE, AND RECYCLING COLLECTION SERVICES AGREEMENT WITH WASTE PRO USA, INC. ("2019 RESTATED COLLECTION AGREEMENT"); AUTHORIZING AMENDMENTS INCLUDING COMMINGLED WASTE, NUMBER OF CARTS IN DUPLEXES, PENALTIES; AUTHORIZING EXECUTION OF THE AGREEMENT; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE.

[4-9-19 AM Restated WP Agreement.docx](#)

[Ex1_Ord 2019-01_and ExA Collection Agreement.pdf](#)

[Ex2 Redline Collection Agreement 4.3.19_3F23772.pdf](#)

- 15.b Ordinance 2019-04 - AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, AMENDING CHAPTER 8, "FIRE PREVENTION AND PROTECTION," ARTICLE I "IN GENERAL" OF THE CODE OF ORDINANCES TO ADOPT THE FLORIDA FIRE PREVENTION CODE (NFPA 1) AND (NFPA 101) AS THE FIRE CODE FOR THE TOWN AND TO ESTABLISH FEES FOR FIRE INSPECTION AND REVIEW; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE

[Exhibit 1_ 2019-04 Fire Prevention Ordinance 3F28488.pdf](#)

16. ORDINANCES 2ND READING

- 16.a Ordinance 2019-02 - AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, AMENDING CHAPTER 6, "BUILDINGS AND BUILDING REGULATIONS," ARTICLE I "IN GENERAL" OF THE CODE OF ORDINANCES TO UPDATE REGULATIONS REGARDING CONSTRUCTION SITE OPERATION, MAINTENANCE AND ABANDONMENT, CONSTRUCTION OFFICE REQUIREMENTS, AND REQUIREMENTS FOR PORTABLE STORAGE UNITS; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE

17. RESOLUTIONS – PUBLIC COMMENTS

- 17.a** Resolution 2019-02 - A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, APPROVING AN AMENDED AND RESTATED AGREEMENT BETWEEN THE TOWN AND BROWARD AMBULANCE D/B/A AMERICAN MEDICAL RESPONSE (“AMR”) FOR PRE HOSPITAL EMERGENCY MEDICAL SERVICES (“EMS”); APPROVING THE FEE SCHEDULE FOR EMS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

[Ex1 Reso 2019-02 AMR Amendment 3EX6049.pdf](#)

[Ex2_3-12-19 AM AMR Amendment.pdf](#)

18. QUASI JUDICIAL PUBLIC HEARINGS

- 18.a** Request for a Variance for 4341 Bougainville Drive
[4-9-19 AM Variance 4341Bougainville Drive.docx](#)
[Ex 1- 2019-V-01- Application.pdf](#)
[EX 2- Board of Adjustment Staff Report 4-3-19.pdf](#)
[Ex 3-Board of Adjustment 4.03. 2019 Unapproved Minutes.pdf](#)
[EX 4- Development Order 4341 Bougainville Drive -3F23529-FINAL.pdf](#)
- 18.b** Request for a Variance for 4433 Bougainville Drive (Community Church of Lauderdale-By-The-Sea)

[4-9-2019 AM 2019-V-02 4433 Bougainville Variance 3F18571.docx](#)

[Ex 1 2019-V-02 4433 Bougainville Application.pdf](#)

[Ex 2 2019-V-02 4433 Bougainville BofA Staff Report.pdf](#)

[Ex 3- BofAd 03.19. 2019 APPROVED.pdf](#)

[Ex 4 Development Order 2019-V-02 4433 Bougainville 3F1862802.pdf](#)

19. ADJOURNMENT

THE TOWN OF LAUDERDALE-BY-THE-SEA WILL FURNISH APPROPRIATE AUXILIARY AIDS AND SERVICES NECESSARY TO AFFORD INDIVIDUALS AN EQUAL OPPORTUNITY TO PARTICIPATE IN MEETINGS OF THE TOWN COMMISSION. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT AND FLORIDA STATUTE 286.26, PERSONS WITH DISABILITIES NEEDING SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS PROCEEDING SHOULD CONTACT THE TOWN CLERK NO LATER THAN TWO (2) DAYS PRIOR TO THE MEETING AT (954) 640-4200 FOR ASSISTANCE.

IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE TOWN COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING OR HEARING, HE/SHE WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSES MAY NEED TO INSURE THAT A VERBATIM RECORDING OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

PROCEDURES FOR PUBLIC COMMENTS:

Public Comments may address issues that are not on this meeting's agenda, but should relate to the business of the Town, and should not contain personal attacks. If your comment requires follow up, the Town Manager will have a staff person respond to your concerns, and will advise us of the outcome.

The Town Clerk will read off the names of those who have signed up to speak. When your name is called, please come to the podium, state your name for the record, and indicate whether you are a Town resident. Do not state your address. You have up to three minutes to make your comments, but there is no requirement to use the entire time. If you wish to address a particular Commissioner or member of Town Administration, please do so by use of their title.

If you wish to approach the Commission dais to hand out a document or for some other reason, please request permission and state your reason for doing so. All documents to be provided to the Commission should be handed to the Town Clerk for distribution.

These procedures have been developed to assure that the Town Commission meeting time is efficiently used, and that meetings are conducted in a polite and respectful manner. More information on the decorum rules for Town Commission meetings is available in Section 2-23 of the Town Code of Ordinances.



Town Commission Agenda Item Report

Meeting Date: April 9, 2019

Submitted by: Tedra Allen

Submitting Department: Administration

Item Type: Presentations

Agenda Section: PRESENTATIONS

Subject Title:

Pinwheels for Prevention Campaign "Child Abuse Prevention Month" Proclamation

Explanation:

The Pinwheels for Prevention campaign is Florida's initiative to raise awareness of the important role everyone can play to promote healthy child development and prevent child abuse and neglect. The campaign symbol, a blue and silver pinwheel, represents happy, healthy childhoods and is symbolic of how one person can make a positive difference in the life of a child.

Early experiences in childhood have a great impact on our lives. The research behind adverse childhood experiences (ACEs) has shown that abuse, neglect, household dysfunction, and violence increases the risk for poor health outcomes later in life and can limit opportunities to become productive and self sufficient (<https://www.cdc.gov/violenceprevention/childabuseandneglect/acestudy/index.html>).

Recommendation:

N/A

Attachments:

[Child Abuse Prevention.docx](#)



PROCLAMATION

*Issued by the Governing Body of the
Town of Lauderdale-By-The-Sea, Florida*

CHILD ABUSE PREVENTION MONTH

WHEREAS, Florida's future depends on nurturing the healthy development of our children; and

WHEREAS, the abuse and neglect of children can cause severe, costly and lifelong problems; and

WHEREAS, every child has a right to a safe, healthy and happy childhood where they are educationally and developmentally on track; and

WHEREAS, research shows that parents and caregivers who have support systems and know how to seek help in times of trouble are more resilient and better able to provide safe environments and nurturing experiences for their children; and

WHEREAS, individuals, businesses, schools, and faith-based and community organizations must make children a top priority and take action to support the physical, social, emotional, and educational development and competency of all children; and

WHEREAS, the blue and silver pinwheel stands as a symbol of the health and happiness all children deserve; and

WHEREAS, during the month of April, Prevent Child Abuse Florida, in collaboration with the Governor's Office of Adoption and Child Protection, the Florida Department of Children and Families and the Ounce of Prevention Fund of Florida, will implement Pinwheels for Prevention, a statewide campaign promoting awareness of healthy child development, positive parenting practices, and the types of concrete support families need within their communities;

NOW, THEREFORE, I, Chris Vincent, Mayor, on behalf of the Town Commission of Lauderdale-By-The-Sea, do hereby proclaim April 2019 as:

“Child Abuse Prevention Month”

And urge all Floridians to engage in activities whose purpose is to strengthen families and communities to provide the optimal environment for healthy child development.

*In witness whereof, we have hereunto set our
hands and caused this seal to be affixed*

Attest: _____
Tedra Allen, Town Clerk

Chris Vincent, Mayor
April 9, 2019



Town Commission Agenda Item Report

Meeting Date: April 9, 2019

Submitted by: Thomas Palmer

Submitting Department: Public Safety

Item Type: Presentations

Agenda Section: PRESENTATIONS

Subject Title:

Text to 911

Explanation:

Broward County rolled out the Text to 911 program on April 2nd with the primary message being "Call 911 if you can, text ONLY if you can't". This program is intended to be used in situations where calling 911 may place you in danger (e.g. domestic violence situations, home invasions, abductions, if unable to speak or hear due to disability or injury). Captain Palmer will provide a short "Do's and Don'ts" presentation to highlight the programs proper usage and its limitations.

Recommendation:

N/A

Attachments:

[911-To-Text-Brochure-v6.3-NEWFINAL.PDF](#)

[text-to-911-palmcard_V2md.pdf](#)

**CALL if you can...
TEXT only if you can't.**

THINGS TO KNOW

- Call if you can, text if you can't.
- Know your exact location / address.
- DO NOT send photos, videos or emojis.
- DO NOT use slang or abbreviations.
- As with all text messages, 911 messages may take longer than a call or may not be received.
- Keep text messages plain and easy to understand.
- A text sent to 911 has a 160 character limit for a single text.
- The Text-to-911 system currently processes texts in English; language translation is not available at this time.
- You must have text messaging included on your wireless phone plan.
- If texting to 911 is not available in your area, your phone carrier will send you a message requesting that you make a voice call to 911.

**CALL 911
IF YOU CAN**

TEXT ONLY IF YOU CAN'T

**BROWARD
COUNTY
FLORIDA
911.BROWARD.ORG**

500 copies of this public document were promulgated at a cost of \$254.00 or \$0.548 per copy, to inform the public about services provided by Broward County.

! NOW AVAILABLE IN BROWARD COUNTY

**CALL 911
IF YOU CAN**

TEXT ONLY IF YOU CAN'T

**WHEN IT'S NOT SAFE TO CALL
OR IF YOU'RE SPEECH OR HEARING IMPAIRED**

**BROWARD
COUNTY
FLORIDA
911.BROWARD.ORG**

WHAT IS TEXT-TO-911?

Text-to-911 allows you to send text messages to local 911 dispatch centers during an emergency, when calling is not an option. It is especially useful for people who may be deaf, hard-of-hearing or speech impaired.

HOW IT WORKS

The phone carriers send your text message to the text control centers which then forward the message to the right 911 Public Safety Answering Point (PSAP) center in Broward County.

Providing details of your location and type of emergency will help the call taker send help quickly.

It is ALWAYS IMPORTANT to know your location / address / city and provide the information to the call taker.

Receipt of the text message can be delayed by your carrier.

911

Help – there is an intruder in my house and I'm hiding in the closet

What is the address of the emergency?

1234 Main Street Pembroke Pines

Help is on the way.

Q W E R T Y U I O P
A S D F G H J K L
↑ Z X C V B N M ✕
. ? 1 2 3 space return

STEP-BY-STEP

1. Open your message App
2. Enter 911 in the "TO" field
3. Enter your LOCATION (address preferred)
4. Enter a short detail of the emergency
5. Push Send
6. Be prepared to answer questions and follow instructions from the 911 call taker
7. DO NOT SEND pictures, videos, abbreviations, emojis, or group text messages

Text-to-911 is for emergency use only. Misuse of 911 can result in criminal charges, fines, and jail time.

DO NOT TEXT AND DRIVE

CALL 911
IF YOU CAN

TEXT ONLY IF YOU CAN'T

WHEN TO TEXT 911

- Domestic violence situations
- Home invasions
- Abductions
- If calling 911 puts you in danger
- If unable to speak or hear due to disability or injury

- Calling 911 is always preferable. Text only when it's not possible to call
- When texting, your location will NOT automatically be sent to 911
- Always provide your location/address to 911
- As with all text messages, they may be delayed or not received at all
- Text communication takes longer than making a call
- Language interpretation is not available at this time; English is the preferred language
- Texts to 911 cannot be sent as group messages
- Texts cannot contain photos or videos
- Use plain language. No abbreviations, slang or emojis
- A text or data plan is needed to text 911
- Misuse of 911 can result in criminal charges, fines and jail time



500 copies of this public document were promulgated at a cost of \$120.00, or \$0.24 per copy, to provide the public with information about this Broward County program.



Town Commission Agenda Item Report

Meeting Date: April 9, 2019

Submitted by: Judson Hopping

Submitting Department: Public Safety

Item Type: Report

Agenda Section: PUBLIC SAFETY DISCUSSION

Subject Title:

VFD March 2019 Report

Explanation:

Monthly Activity Report

Recommendation:

Accept/Approve

Attachments:

[VFD March Report.pdf](#)



Item No. _____

LAUDERDALE • BY • THE • SEA

Agenda Item Memorandum

LBTS Volunteer Fire Dept.

Department

Judson Hopping

Department Director

COMMISSION MEETING DATE – 6:30 PM	Deadline to Town Clerk
☒ April 9 th – Regular Meeting 6:30 PM	April 4 th

**Subject to Change*

- | | | | |
|---------------------------------------|---|---------------------------------------|---------------------------------------|
| ☐ Presentation | ☒ Reports | ☐ Consent | ☐ Ordinance |
| ☐ Resolution | ☐ Quasi-Judicial | ☐ Old Business | ☐ New Business |

☐ **FY2019 – PART OF THE STRATEGIC PLAN**

SUBJECT TITLE: Monthly Activity Report – March 2019

**EXHIBITS: Chief's Overview
Summary Report
Active Members Roster
Activity Report
Unit Response Time**



Lauderdale-By-The-Sea Volunteer Fire Department

Overview

During the month of March 2019, the Volunteer Fire Department attended the Broward County Fire Chief's association monthly meeting. The fire department also continued its focus on fire prevention for high-rise buildings and commercial properties. There were twenty fire inspections, with no re-inspections, or complaints for the month of March.

Responses:

The Volunteer Fire Department responded to 29 fire rescue calls within the limits of our contract.

- Of the 29 fire rescue calls received, there were 7 fire alarms, 2 accident w/Injuries, 2 water rescues, 3 smoke/fire investigations, 3 elevator rescues, 1 gas leak, 1 fuel spill, 1 commercial structure fire, and 9 classified as "other" fire.
- There were 111 emergency medical 911 calls for March 2019. The department was dispatched to 14 of those calls, of which 6 were cancelled by the Chief on Duty or Med12. The department assisted Med12/212 on 8 of the medical calls.

Training:

The Volunteer Fire Department had 17 regular in-town members, and 36 associate out of town members for a total of 53 active members.

The fire department held 5 fire drills, 1 ocean rescue drill, hose testing, 6 specialty training sessions, and 8 car seat instructional installations consisting of the following:

- 159 Hrs - Fire Fighter & Ocean rescue skills
- 143 Hrs - Annual Hose testing
- 116 Hrs - Elevator Safety Awareness class
- 160 Hrs - Open Water Lifeguard class
- 7.5 Hrs - Kid Safe "Child Passenger Safety" for the public

A total of 585.5+ hours were spent in the month of March on training.

In closing, the Volunteer Fire Department will continue to improve and increase its members training, as required by ISO and newly established state training curriculums.

Respectfully,

Judson Hopping,
Fire Chief



Town of Lauderdale-By-The-Sea Fire Department Monthly Report March 2019

	Regular In-town	Associate Out of Town
Active Member	17	36
Fire 1 non-certified	1	0
Fire 1 Certified	2	0
Fire II Certified	14	36
CPR/1 st Responder	9	3
EMT-B (FL)	3	17
Paramedic (FL)	5	16

Emergency Calls

Fire/Rescue	29
Total Medical 911 calls	111
Medical calls V.F.D. Not Dispatched	97
Medical calls V.F.D. Dispatched	14
Medical calls Canceled by COD/M12	6
Medical calls V.F.D. Assisted	8

Training

585.5+ Total Hrs.

Firefighter skills & beach drills	159 Hrs
Annual Hose Testing	143 Hrs
Elevator Safety Awareness	116 Hrs
Open Water Lifeguard class	160 Hrs
Public Service: Car Seats	7.5 Hrs

Station Watch/Community Service

3,163.25+ Total Hrs.

Firefighter logged Station Watch hours	2,359.75+ Hrs
Ocean Rescue patrol	59.5 Hrs
Chief on Duty/Command	744 Hrs

LBTS Volunteer Fire Department - March 2019, Active Roster

Last Name	First Name	LBTS FF No.	Membership	Town Resident	Rank	Fire Cert	EMS Certification	MTD Calls	YTD Calls
Alarcon	Stacey	6043	Associate Member		Firefighter	Firefighter II	Paramedic (FL)	7	24
Alvarez-Orozco	Elizabeth	6026	Associate Member		Firefighter	Firefighter II	Paramedic (FL)	5	13
Aubrey	Keith	163	Regular Member		Firefighter	Firefighter II	CPR for healthcare provider	7	67
Baker	Rebecca	7017	Associate Member		Firefighter	Firefighter II	Paramedic (FL)	7	8
Beavers	Zachary	6036	Associate Member		Firefighter	Firefighter II - D/E	EMT-B (FL)	3	19
Benrubl	Aaron	7007	Associate Member		Firefighter	Firefighter II	Paramedic (FL)	6	31
Bosanac	Derek	7019	Associate Member		Firefighter	Firefighter II	Paramedic (FL)	2	2
Chase	Gordon	110	Regular Member		Lieutenant	Firefighter I	CPR for healthcare provider	10	34
Chenique	Jordan	7008	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	2	25
Cheshire	Amelia	7023	Associate Member		Firefighter	Firefighter II	Paramedic (FL)	12	18
Colbert	Darren	6058	Associate Member		Firefighter	Firefighter II	CPR for healthcare provider	2	23
DiBucci	Thomas	6010	Associate Member		Firefighter	Firefighter II	CPR for healthcare provider	6	28
Eaton	Nicholas	6032	Regular Member		Captain	Firefighter II - D/E	Paramedic (FL)	16	54
Edouard	Myriam	708	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	2	18
Fajkis	Ireneusz	7022	Associate Member		Firefighter	Firefighter II	Paramedic (FL)	3	3
Fann	Kevin	174	Regular Member	*	Firefighter	Firefighter II	EMT-B (FL)	6	6
Freybe	Hileia	7016	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	5	10
Garcia	Raymond	7010	Associate Member		Firefighter	Firefighter II	CPR for healthcare provider	1	29
Gonzalez	Rosemary	7005	Associate Member		Firefighter	Firefighter II	Paramedic (FL)	5	24
Hernandez	Sasha	6013	Associate Member		Firefighter	Firefighter II	Paramedic (FL)	2	20
Hopping	Judson	054	Regular Member		Fire Chief	Firefighter II - D/E	EMT-B (FL)	9	60
Johnson	Kenneth	123	Regular Member	*	Firefighter	Firefighter I	CPR for healthcare provider	32	177
Justice	Jennifer	171	Regular Member		Firefighter	Firefighter II	Paramedic (FL)	3	13
Kane	Mark	155	Associate Member		Firefighter	Firefighter II-D/E - Officer I	EMT-B (FL)	11	64
Karley	Robert	101	Regular Member	*	Firefighter	Firefighter II - D/E	CPR for healthcare provider	18	154
Leiva	Gabriel	6046	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	4	16
Levine	Eric	7012	Associate Member		Firefighter	Firefighter II	Paramedic (FL)	5	6
Louvaris	John	078	Regular Member		Deputy Chief	Firefighter II-D/E - Officer I	CPR for healthcare provider	20	150
Luscar	Marc-Dudley	6051	Associate Member		Firefighter	Firefighter II	Paramedic (FL)	1	13
Mangin	Andrew	735	Associate Member		Firefighter	Firefighter II - D/E	Paramedic (FL)	1	20
Marshall	Ryan	7020	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	4	4
Martindale	Daniel	7009	Associate Member		Firefighter	Firefighter II	Paramedic (FL)	2	13
McCormick	William	7006	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	5	18
McKenzie	Jacquvias	7015	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	3	5

Last Name	First Name	LBTS FF No.	Membership	Town Resident	Rank	Fire Cert	EMS Certification	MTD Calls	YTD Calls
Miklosh	Joseph	7013	Associate Member		Firefighter	Firefighter II	Paramedic (FL)	1	3
Moraga	Marcos	6059	Associate Member		Firefighter	Firefighter II	Paramedic (FL)	8	23
Murray	Ryan	7021	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	9	9
Paine	Kyle	173	Regular Member		Trainee	Trainee	CPR for healthcare provider	3	13
Paine	Riley	704	Regular Member		Battalion Chief	Firefighter II-D/E - Officer I	Paramedic (FL)	11	69
Paine	Stephen	140	Regular Member		Fire Marshal	Firefighter II	CPR for healthcare provider	11	104
Randazzo	Chris	175	Regular Member	*	Firefighter	Firefighter II	EMT-B (FL)	1	6
Ritchey	Dylan	6000	Regular Member		Firefighter	Firefighter II	CPR for healthcare provider	2	18
Rozalez	Dezi	7004	Associate Member		Firefighter	Firefighter II	Paramedic (FL)	6	22
Ryckewaert	Robert	757	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	4	14
Scott, III	Kenneth	7011	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	5	5
Shaw	Kyle	7014	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	5	5
Silverstone	James	25	Regular Member	*	Firefighter	Firefighter II	CPR for healthcare provider	17	87
St.Thomas	Jeffrey	176	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	2	2
Valentine	Alfredo	150	Regular Member		Lieutenant	Firefighter II	Paramedic (FL)	4	55
Vogel	Richard	130	Regular Member		Firefighter	Firefighter II	Paramedic (FL)	0	28
Weisberg	Lee	6034	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	1	26
Woods	Devon	7018	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	5	7
Young	Alexa	6031	Associate Member		Firefighter	Firefighter II	EMT-B (FL)	3	16

Monthly Activity Report - March 2019

Date	Fire/Rescue Calls	Event Description	Start Time	End Time	No. of FF
02-Mar-19	106 Commercial Blvd.	Other fire - vehicle vs ped robbery	9:00:00 PM	9:27:00 PM	6
04-Mar-19	4205 Bougainville Drive	Other fire - vehicle lockout	8:47:00 PM	8:54:00 PM	9
05-Mar-19	6000 North Ocean Drive	Other fire - possible forced entry	5:10:00 PM	5:26:00 PM	8
05-Mar-19	4413 El Mar Drive	Other fire - suspicious incident	7:31:00 PM	7:41:00 PM	8
05-Mar-19	1461 South Ocean Blvd.	Other fire - busted pipe	9:02:00 PM	9:17:00 PM	9
05-Mar-19	2000 South Ocean Blvd.	Smoke investigation	10:07:00 PM	10:16:00 PM	7
05-Mar-19	4326 Bougainville Drive	Smoke investigation - Everglades	10:08:00 PM	10:22:00 PM	7
06-Mar-19	6000 N. Ocean Drive	Fire alarm	1:14:00 PM	1:29:00 PM	11
12-Mar-19	5000 North Ocean Drive	Fire alarm	7:05:00 PM	7:58:00 PM	9
15-Mar-19	4220 El Mar Drive	Fire alarm	8:15:00 AM	8:29:00 AM	8
15-Mar-19	1940 E. Terra Mar	Other fire - Iguana stuck in drain	3:23:00 PM	3:51:00 PM	9
16-Mar-19	4605 North Ocean Blvd.	Hlt n Run w/Injuries	5:02:00 PM	5:06:00 PM	8
16-Mar-19	5000 North Ocean Drive	Water rescue	7:23:00 PM	7:27:00 PM	5
18-Mar-19	1981 W. Terra Mar Drive	fuel/spill - odor	6:58:00 PM	7:30:00 PM	8
18-Mar-19	4405 North Ocean Drive	Commercial structure fire	10:38:00 PM	10:54:00 PM	9
19-Mar-19	6000 North Ocean Blvd.	Fire alarm	1:02:00 PM	1:13:00 PM	7
20-Mar-19	255 Commercial Blvd.	Elevator rescue	12:38:00 PM	12:44:00 PM	6
21-Mar-19	1600 South Ocean Blvd.	Elevator rescue	10:05:00 AM	10:29:00 AM	9
22-Mar-19	4160 N. Ocean Drive	Service call - birds stuck in storm drain	7:55:00 PM	8:16:00 PM	6
23-Mar-19	2005 Ocean walk Terr	Fire alarm	11:59:00 AM	12:04:00 PM	6
24-Mar-19	4312 El Mar Drive	Fire investigation	2:47:00 AM	2:57:00 AM	5
26-Mar-19	4900 N. Ocean Drive	Fire alarm	6:28:00 PM	6:43:00 PM	8
26-Mar-19	3900 North Ocean Drive	Elevator rescue	8:09:00 PM	9:02:00 PM	8
27-Mar-19	4536 El Mar Drive	Open water drowning	3:53:00 PM	4:19:00 PM	8
27-Mar-19	Commercial & A1A	Accident w/injuries	6:46:00 PM	6:53:00 PM	8
27-Mar-19	5200 North Ocean Drive	Other fire - hydrant being flushed	11:15:00 PM	11:35:00 PM	6
29-Mar-19	1900 S. Ocean Blvd.	Gas leak/odor	10:48:00 PM	10:56:00 PM	5
29-Mar-19	4405 North Ocean Blvd.	Fire alarm	12:01:00 AM		4
29-Mar-19	4325 North Ocean Drive	Suspicious Incident	1:16:00 PM	2:15:00 PM	6
Total Calls				29	

Date	1st Responder Calls	Event Description	Start Time	End Time	No. of FF
02-Mar-19	South Ocean Blvd.	medical, E12 canceled upon arrival	4:10:00 PM	4:20:00 PM	19
06-Mar-19	South Ocean Blvd.	medical, E12 assisted M12	4:24:00 AM	5:06:00 AM	5
09-Mar-19	North Ocean Drive	medical, E12 assisted M12	3:06:00 PM	12:12:00 PM	5
12-Mar-19	Seagrape Drive	medical, E12 canceled by M12	4:25:00 AM	5:35:00 AM	4
13-Mar-19	North Ocean Drive	medical, E12 assisted M12	11:01:00 PM	11:06:00 PM	6
15-Mar-19	Bougainville Drive	medical, E12 assisted M12	7:20:00 AM	7:23:00 AM	5
15-Mar-19	South Ocean Blvd.	medical, E12 canceled by M12	5:25:00 PM	5:40:00 PM	8
19-Mar-19	Seagrape Drive	medical, E12 canceled by M12	11:30:00 AM	11:47:00 AM	7
19-Mar-19	Seagrape Drive	medical, BSO called for info	12:49:00 PM	12:58:00 PM	7
23-Mar-19	Capri Avenue	medical, E12, assisted M12	10:52:00 AM	11:40:00 AM	18
23-Mar-19	Bougainville Drive	medical, E12 assisted M12	6:35:00 PM	6:36:00 PM	4
26-Mar-19	Bougainville Drive	medical, E12 assisted M12	4:00:00 AM	4:14:00 AM	4
29-Mar-19	Oleander Way	medical, E12 canceled M12	12:06:00 PM	12:22:00 PM	5
30-Mar-19	North Ocean Drive	medical, E12 assisted M12	8:19:00 PM	8:53:00 PM	7
Total Calls				14	

Date	Public Service	Event Description	Start Time	End Time	No. of FF
05-Mar-19	Station 12	Remove (2) forward facing car seats	10:00:00 AM	11:00:00 AM	1
06-Mar-19	Station 12	Remove & adjust a rear facing base & car seat	4:00:00 PM	4:30:00 PM	1
06-Mar-19	Station 12	Installed a forward facing car seat	4:30:00 PM	5:30:00 PM	1
06-Mar-19	Station 12	Installed a rearfacing car seat	7:00:00 PM	8:00:00 PM	1
10-Mar-19	Station 12	Installed a forward facing car seat	4:00:00 PM	5:00:00 PM	1
11-Mar-19	Station 12	Installed a forward facing car seat	12:00:00 PM	1:00:00 PM	1
12-Mar-19	Station 12	Installed a rearfacing car seat	2:30:00 PM	3:30:00 PM	1
17-Mar-19	Bougainville Drive	Unlock parking enforcement vehicle	1:30:00 PM	4:00:00 PM	5
23-Mar-19	Station 12	Installed a rearfacing car seat	12:30:00 PM	1:30:00 PM	1
23-Mar-19	Jarvis Hall/Station 12	Community Pancake breakfast/Fire safety awareness	7:00:00 AM	12:00:00 PM	17
26-Mar-19	E. Tradewinds Avenue	Assisted resident with flooded house	5:30:00 PM	6:30:00 PM	5

Date	Drill/Training	Event Description	Start Time	End Time	No. of FF
02-Mar-19	Assumption Church	Annual Hose Testing	8:00:00 AM	4:30:00 PM	22
04-Mar-19	Station 12	Search n rescue	6:00:00 PM	10:00:00 PM	8
07-Mar-19	Station 12	Hose deployment & repacked SQ12	6:00:00 PM	10:00:00 PM	4
09-Mar-19	Station 12	Ocean rescue drill	9:00:00 AM	12:00:00 PM	5
11-Mar-19	Station 12	Elevator Safety Awareness - classroom lecture	6:00:00 PM	10:00:00 PM	6
13-Mar-19	community center	Elevator Safety Awareness - classroom lecture	6:00:00 PM	10:00:00 PM	8
16-Mar-19	4900 North Ocean Blvd	Elevator Awareness training - practical	9:00:00 AM	12:00:00 PM	15
18-Mar-19	Station 12	Search n Rescue; primary & RIT	6:00:00 PM	10:00:00 PM	6
21-Mar-19	Station 12	Search n Rescue	6:00:00 PM	10:00:00 PM	9
28-Mar-19	Station 12	Search n Rescue w/new search ropes	6:00:00 PM	10:00:00 PM	9
30-Mar-19	Station 12	Lifeguard class; lecture & practical	9:00:00 AM	12:00:00 PM	13
30-Mar-19	Westminister HS	Lifeguard class & recertification	12:00:00 PM	3:00:00 PM	15
31-Mar-19	Beach	Lifeguard class - waterfront	9:00:00 AM	1:00:00 PM	12

Date	Ocean Rescue Patrol	Event Description	Start Time	End Time	No. of FF
06-Mar-19	Beach	Ocean rescue patrol & training	10:00:00 AM	1:00:00 PM	2
06-Mar-19	Beach	Ocean rescue patrol & training	10:00:00 AM	2:00:00 PM	2
09-Mar-19	Beach	Ocean rescue patrol	1:45:00 PM	5:45:00 PM	2
11-Mar-19	Beach	Ocean rescue patrol	11:30:00 AM	3:00:00 PM	2
11-Mar-19	Beach	Ocean rescue patrol	1:00:00 PM	3:00:00 PM	2
13-Mar-19	Beach	Ocean rescue patrol	11:00:00 AM	3:00:00 PM	2
13-Mar-19	Beach	ocean rescue patrol	12:30:00 PM	3:00:00 PM	2
17-Mar-19	Beach	Ocean rescue patrol	11:00:00 AM	2:00:00 PM	2
17-Mar-19	Beach	Ocean rescue & training	11:30:00 AM	1:00:00 PM	2
23-Mar-19	Beach	Ocean rescue patrol & trng	2:45:00 PM	6:00:00 PM	2
27-Mar-19	Beach	Ocean rescue patrol	11:00:00 AM	1:30:00 PM	2

*Ocean Rescue patrol consist of checking poles/life rings, educating public on flags, rips currents & any fire related issued near or on the beach.

Unit Response Time 3- Month Average

Mar-19

Apparatus	Batt. Chief 12	Engine 12	Engine 212	Squirt 12
Call Count	34	42	1	2
Response Time	0:04:52	0:05:51	0:00:00	0:00:00

Total Average Response Time : 4:18

Feb-19

Apparatus	Batt. Chief 12	Engine 12	Engine 212	Squirt 12
Call Count	33	39	3	6
Response Time	0:05:16	0:05:34	0:00:00	0:00:00

Total Average Response Time : 4:24

Jan-19

Apparatus	Batt. Chief 12	Engine 12	Engine 212	Squirt 12
Call Count	44	46	3	6
Response Time	0:05:01	0:05:57	0:00:00	0:00:00

Total Average Response Time : 4:36



Town Commission Agenda Item Report

Meeting Date: April 9, 2019

Submitted by: Thomas Palmer

Submitting Department: Public Safety

Item Type: Report

Agenda Section: PUBLIC SAFETY DISCUSSION

Subject Title:

BSO March 2019 Report

Explanation:

BSO March 2019 Report

Recommendation:

Accept/Approve

Attachments:

[TM Report-March 2019.pdf](#)



Date: April 5, 2019

To: William Vance
Town Manager
Lauderdale-By-The-Sea

From: Captain Thomas Palmer *TPM*
Lauderdale-By-The-Sea District

Subject: Monthly Report to Commission – March 2019

EMPLOYEE OF THE MONTH: Deputy Rene Suarez and Detective Eric Blevins

In March 2019, Deputy Rene Suarez was dispatched to an in-progress theft call at 4319 N Ocean Drive (Walgreen's Liquor Store). Contact was made with the store employee who stated two males had entered the store, and stole an unknown amount of liquor from the rear storage area and left without paying.

One of the suspects, identified as Vincent Ridley, was seen by the store employee to the rear of the store handling two cases of liquor. When asked if he needed assistance, Ridley immediately dropped the cases and began to walk away. At this point, the employee then observed a second suspect, identified as Jessie Mack, also to the rear of the store carrying a black duffle bag filled with liquor bottles. Deputy Suarez located Ridley immediately and he was placed into custody without incident. Detective Blevins conducted a search for the second suspect and located Mack inside of a parked vehicle parked in front of a nearby business as he was trying to conceal himself inside of the vehicle. Blevins contacted the suspect and located 15 bottles of liquor between his feet. Mack was also placed into custody without further incident.

During the investigation it was discovered that the suspects were responsible for two prior thefts at the Walgreens in 2019 and they were additionally charged with those crimes as well. The duo is also being investigated for additional crimes in Broward County and both subjects have significant felony criminal histories.

For their actions, efforts and teamwork while investigating this case, I award Deputy Rene Suarez and Detective Eric Blevins as Deputies of the Month for March 2019.

COMMUNITY PROGRAMS AND SERVICES: These ancillary programs and services are available to residents on an ongoing basis.

- **Elder Links:** This program offers referral services to elderly residents and other senior citizens in need of medical and mental health care, meal delivery or other social services.
- **Business and Residential Security Surveys:** The Business and Residential Security Survey program teaches participants to secure their business, home or condominium to reduce the likelihood of burglary and theft. Security surveys, conducted by a certified law enforcement security specialist, are provided upon request, at no charge to the business owner or resident.
- **Vacation House Watch Program:** Residents who are traveling out-of-town may register for this program. Deputies will conduct periodic checks of their residence until their return.
- **Neighborhood Crime Prevention Program:** The Neighborhood Crime Prevention program liaison organizes and conducts crime prevention and security seminars at the request of neighborhood civic and condominium associations. We will also help facilitate any Neighborhood Crime Watch programs in which the residents wish to participate.
- **Identity Theft and Scam Prevention Program:** The Identity Theft and Scam Prevention program is designed to inform residents about identity theft and how to lessen their chances of becoming a victim of a scam. Residents are informed on the importance of shredding documents, awareness of suspicious individuals, protection of passwords and use of caution in revealing information. Our Shred-A-Thon to reduce identity theft event is incorporated into this program.
- **Enhanced Marine Law Enforcement Patrol Program:** The BSO Marine Patrol Unit participates in the Enhanced Marine Law Enforcement Grant on behalf of Lauderdale-by-the-Sea. This grant allows for additional maritime patrols throughout the Town's waterways and adjacent ocean area.
- **Citizen Observer Patrol (COP) Program:** COP volunteers are local residents who receive public safety training. They are a tremendous asset to the Town of Lauderdale-by-the-Sea. COP members alternate assisting in administrative duties or patrolling local neighborhoods as an extra pair of eyes and ears to supplement deputy sheriff patrols. COP members also attend monthly patrol information and criminal intelligence briefings. A summary of COP statistical activity is included at the end of this report.
- **Sexual Offender Tracking Program:** There are no individuals legally classified as a sexual offender residing within Town limits. The sex offender database is routinely checked by BSO to ensure compliance with State of Florida legal mandates. Existing municipal ordinances prohibit persons classified as sexual offenders or sexual predators from residing within Town limits.
- **Bicycle Patrol:** Deputies utilize specialized patrol bicycles to enhance public safety and community outreach. This mode of patrol allows the deputies to interact one-on-one with our residents and visitors. The patrol bicycles were utilized for a total of 27 ½ hours this month.

- **All-Terrain Vehicle Patrol:** The ATV / Polaris are primarily utilized on the beach areas in order to conduct patrols to deter criminal activity and maintain the security of the beach-area properties. The ATV patrol is instrumental in marine fisheries regulation enforcement and protection. Deputies used the ATV / Polaris for 50 hours this month.
- **Crisis Intervention Team / Homeless Outreach Team Programs:** The C.I.T. / H.O.T. program is comprised of specially trained patrol deputies and supervisors who are able to intervene in situations involving persons with mental illness or are otherwise experiencing mental health crises or are homeless and in need of services. Four (4) individuals experiencing homelessness were contacted during the month. Two (2) individuals were trespass warned from commercial establishments around town. None of the individuals accepted services offered by deputies.
- **Automated License Plate Reader Camera System:** The ALPR system installation was completed in October 2014. The system is proving to be an effective tool to Public Safety. **See Notable Incidents/Arrests below.**
- **e – Alerts:** This information initiative allows Town residents to stay informed, via email or text messages, of important topics such as criminal activity, traffic information, upcoming events, security issues and other important public safety information throughout Broward County and Lauderdale-by-the-Sea. Residents can register for this program through either the Lauderdale-by-the-Sea or the Broward Sheriff's Office internet website.
****PLEASE NOTE:** The e-Alert system is being phased out and will be replaced with the Sheriff's new BSO ALERTS. Users must register for the new ALERT system to receive notifications. Citizens can sign up by visiting the Sheriff's website www.sheriff.org and click on BSO ALERTS or I have provided a hyperlink below:
<https://member.everbridge.net/index/892807736729054#/login> **
- **Electronic Message Board:** The BSO Lauderdale-by-the-Sea district continues to utilize the electronic traffic safety message board at various locations within the Town. This allows the district to alert residents about any traffic problems and other important public safety issues impacting them.
- **SaferWatch:** SaferWatch is an application (app) that gives citizens the power to record or report non-emergency incidents as they happen. It provides another option to the "If you see something, say something" message and allows individuals that "If you see something, SEND something" via a mobile application (app) from your smartphone.

SPECIAL EVENTS: These events required the participation of the BSO LBTS district.

St. Patrick's Day Event: Village Grill and 101 Ocean hosted their annual St. Patrick's Day event. No crimes reported, four special detail deputies were hired for event security.

NOTABLE INCIDENTS / ARRESTS:

CASE: 13-1903-000119

DATE/TIME: March 5, 2019 @ 1906 hrs

LOCATION: 4319 N Ocean Dr (Walgreens)

ARRESTEES: Vincent Maurice Ridley (b/m, DOB: 4/30/1959)

Jessie James Mack (b/m, DOB: 5/18/1957)

INCIDENT: Burglary & Grand Theft

SUMMARY: Deputy Suarez was dispatched to an in-progress theft call at 4319 N Ocean Drive (Walgreen's Liquor Store). Contact was made with the store employee who stated two males had entered the store, and stole an unknown amount of liquor from the rear storage area and left without paying. One of the suspects, identified as Vincent Ridley, was seen by the store employee to the rear of the store handling two cases of liquor. When asked if he needed assistance, Ridley immediately dropped the cases and began to walk away. At this point, the employee then observed a second suspect, identified as Jessie Mack, also to the rear of the store carrying a black duffel bag filled with liquor bottles. Deputy Suarez located Ridley immediately and he was placed into custody without incident. Detective Blevins conducted a search for the second suspect and located Mack inside of a parked vehicle parked in front of a nearby business as he was trying to conceal himself inside of the vehicle. Blevins contacted the suspect and located 15 bottles of liquor between his feet. Mack was also placed into custody without further incident.

CASE: 13-1903-000381

DATE/TIME: March 16, 2019 @ 0621hrs

LOCATION: 4609 N. Ocean Drive

ARRESTEES: Joshua Vanik (w/m, DOB: 5/26/88)

INCIDENT: Felony Possession of Narcotics and Violation of Probation (Burglary)

SUMMARY: While conducting an investigation into a domestic violence incident the suspect was contacted and a records check revealed an active warrant for violation of probation. The suspect was in possession of a duffel bag that contained 10lbs of cannabis and 73 vials of THC vape cartridges. Detectives from BSO Major Narcotics Unit responded to further investigate. The suspect was transported to jail.

CASE: 13-1903-000425

DATE/TIME: 03/17/19 @ 23:41 hrs

LOCATION: 221 Commercial Blvd

SUSPECT: Unknown

INCIDENT: Burglary Conveyance

SUMMARY: The victim advised she parked her father's white 2005 Ford Escape in the NE side of the Suntrust Bank's parking lot. Between 21:00 and 23:40 hours an unknown subject shattered the vehicle's front passenger window and removed a pink sequin bag that was **left in plain view** on the front seat that contained only make-up. Investigation ongoing.

CASE: 13-1903-000302

DATE/TIME: 3/12/19 @ 1027 hrs

LOCATION: 101 Commercial Blvd et al

SUSPECT: Lunzer Luzincourt (b/m 04/01/91) (identified and arrested on 4/4/19)

INCIDENT: Grand Theft

SUMMARY: On Monday, 03/11/2019, between approximately 0950 hours-1015 hours, an unknown suspect stole 16 empty beer kegs from behind three businesses with a total value of approximately \$560.00. The security cameras at 101 Ocean and Taco Craft show a black male, approx. 6ft., wearing a white t-shirt, blue track pants with white stripes down the legs, black socks with black open toed sandals. The suspect was seen driving a Silver Toyota van, unknown tag in the alley behind the businesses. The suspect was identified by detectives and located by Sergeant Bachan on 4/4/19.

CASE: 13-1903-000712

DATE/TIME: 3/30/19 0944 Hrs.

LOCATION: 4345 E Tradewinds Av.

ARRESTEE: Alain D. Zaltzman W/M 5/25/99

VEHICLE: 2001 Audi A6 NJ Tag Z72JJU

INCIDENT: Recovered Stolen Auto (Arrest)

SUMMARY: While monitoring the ALPR system, Deputies Koos and Kratz received an LPR hit on a 2001 Audi A6 NJ tag Z72JJU to be listed as stolen and the possible driver (subject) to be listed as a missing endangered person (drug abuser). Deputy Kratz located the vehicle unoccupied parked in front of 4345 E Tradewinds Av. After watching the vehicle for a few minutes, the subject was observed opening the driver's door and sitting in the driver's seat and was the lone occupant. The suspect was taken into custody without incident and transported to the BSO main jail.

CASE: 13-1903-000722

DATE/TIME: 3/30/19 @ 2019 hrs

LOCATION: 4343 N. Ocean Dr

VICTIM: W/M 24 yoa

INCIDENT: Sick/injured person (overdose)

SUMMARY: Deputies were dispatched to an unresponsive male lying in the grass outside the above location. Upon arrival, Deputy Duarte found the man suffering from a possible overdose, and he was unresponsive. Deputy Duarte immediately administered her issued dose of Narcan and the patient was transported to AMR where he was in stable condition.

MONTHLY ARREST LOG:

Battery-Domestic Violence	4249	Bougainvilla Dr
Capias Arrest - Criminal Use of ID	200	Commercial Blvd
Disorderly Intoxication	4400	El Mar Dr
False Information/ID Given to LEO	4399	N Ocean Dr
Defraud Inn Keeper Less Than \$300	1	Commercial Blvd
Grand Theft Greater than \$300 Less Than \$5k	4319	N Ocean Dr
Grand Theft Greater than \$300 Less Than \$5k	4319	N Ocean Dr
Petty Theft 2nd Degree, 1st Offense	14	Commercial Blvd
Possess With Intent to Sell/Manufacture/Deliver Cannabis	4613	N Ocean Dr
Battery-Domestic Violence	4601	El Mar Dr
Grand Theft Motor Vehicle (Possess)	4345	E Trade Winds Av
Violation of an Injunction For Protection Against Domestic Violence	4249	Bougainvilla Dr
Warrant-Possession of Cannabis < 20 grams	4400	Bougainvilla Dr

CRIME STATISTICS:

CRIME	CURRENT MONTH	PRIOR MONTH	2018 YTD	2019 YTD
AUTO THEFT	0	0	1	1
BURGLARY-BUSINESS	0	0	1	0
BURGLARY-CONVEYANCE	1	1	8	3
BURGLARY-RESIDENCE	1	1	7	2
BURGLARY-STRUCTURE	0	0	0	0
FORCIBLE SEX	0	0	0	0
ARSON	0	0	0	0
ASSAULT-AGGRAVATED	0	0	0	0
HOMICIDE	0	0	0	0
ROBBERY	0	0	1	0
THEFT-GRAND	4	2	4	7
THEFT-PETIT	7	4	6	11
TOTALS	12	8	28	24

CITIZEN OBSERVER PATROL STATISTICAL SUMMARY:

COP Activity	Total
Number of Volunteers	32
COP Hours Worked - Month	226
COP Patrol Miles - Month	350
COP Hours Worked - YTD	652
COP Patrol Miles - YTD	1183

COP Bike Patrol Hours - Month	0
COP Bike Patrol Hours - YTD	15

COP Beach Patrol Hours – Month	46.5
COP Beach Patrol Hours - YTD	106.5

RESERVE DEPUTY ASSISTANCE: Reserve Deputies are part-time, fully-sworn deputies who provide supplemental staffing to LBTS, when available, at NO cost to the Town.

	Month	2019 YTD
Reserve Deputy - Days Worked	4	8
Reserve Deputy - Hours Worked	29	71

MONTHLY STAFFING AND STATISTICAL REPORT:

The March 2019 Monthly Staffing and Statistical Report is attached.



Lauderdale by the Sea Monthly Activity March 2019

Reports/Calls	
Miscellaneous Service	
Event Reports	61
Accidents	18
Calls for Service	760

Traffic	
Types of Citation	
Non-Moving / Moving Citation	66
Parking	0
Warnings	90
Total Citations	156

Arrests	
Type of Arrest	
Felony	4
Misdemeanor	5
NTA	0
Capias/Warrant	2
Traffic	0
DUI	0
DV Misdemeanor	2
DV Felony	0
Municipal Ordinance	0
Total Arrests	13

Time Worked	
Hours Worked	
Bike Patrol	27.5
Court Overtime	161.5
Training	138
Detached	72
Other Overtime	39
Days Worked	31

General	
FI	29
Truant	0
Truant Debriefed	0
Elder Link	1

Narrative
ATV: 402 Miles / 50 Hours Reserve Deputies worked 4 Shifts (29 hrs)



MONTHLY STAFFING AND STATISTICAL REPORT LAUDERDALE-BY-THE-SEA DISTRICT

March 31, 2019

CURRENT STAFFING ALLOCATIONS

Position	Budgeted Positions	Actual Positions	Vacant Positions
District Chief	1	1	
Executive Lieutenant	1	1	
Sergeant	3	3	
Deputy Sheriff	19	18	1
Community Service Aide	1	1	
Administrative Specialist	1	1	
Clerical Specialist (P/T)	2	1	1
TOTAL	28	26	2

PERSONNEL ON LIGHT DUTY, PROMOTED, TRANSFERRED, ETC.

Name	CCN	Status	Circumstances
n/a			

DETACHED PERSONNEL / LOCATION

Name	CCN	Detached To	Reason	Hours
Sergeant Craig Bachan	7892	H.R.	DLE Oral Board	8
Deputy Michael Kratz	11289	Oakland Pk Dist	Parade	4
Detective Eric Blevens	16798	CST	Operation	10
Detective Glen Genovese	13738	CST	Operation	10
Detective Glen Genovese	13738	QRF	Adjunct Trainer	40
			TOTAL	72



LAUDERDALE-BY-THE-SEA DISTRICT
SEX OFFENDERS



Palmer, John

05/26/1932

DECEASED

1500 South Ocean Dr. Apt #
1502

Lauderdale-by-the-Sea, FL
33062

Criminal History:

Computer Pornography - Attempt
to Entice and Coerce an Individual
under 18 years of age to engage in
sexual act.

Updated: April 1, 2019



LAUDERDALE BY THE SEA DISTRICT
NEARBY SEX OFFENDERS – MARCH, 2019



PEREIRA VINCENT

09/18/1950

3333 NE 34 ST .

APT# 1220

FT Lauderdale, 33308

BATTERY U/16
(1999) BROWARD



MESSIER

JOSEPH P

12/11/1974

111 Briny Ave.

Apt 1602

Pompano Bch, 33062

SEX OFFENSE,
FEDERAL
(KNOWINGLY
ENTICING A
MINOR VIA
COMPUTER TO
ENGAGE IN
SEXUAL ACTIVITY)
2003 - FEDERAL
(CONVICTED)



MORALES

MICHAEL WALTER

04/22/1974

516 S. Ocean Blvd #2
Pompano Beach 33062

BROWARD COUNTY

USE OF COMPUTER
TO SOLICIT OR LURE
A CHILD TO ENGAGE
IN SEXUAL
CONDUCT F.S.
847.0135(3)(a)
(PRINCIPAL)

(GUILTY/CONVICT)
10/24/2014)



CLARKE JAMES

ORLIN

05/14/1980

4011 N. Ocean Blvd. #
110

Ft. Lauderdale

33308

SEX OFFENSE, OTHER
STATE (3RD DEGREE
CRIMINAL SEXUAL
CONDUCT-PERSON 13
TO 15)

Macomb, MI



Town Commission Agenda Item Report

Meeting Date: April 9, 2019

Submitted by: William Vance

Submitting Department: Administration

Item Type: Report

Agenda Section: TOWN MANAGER REPORT

Subject Title:

Town Manager's Report

Explanation:

Town Manager's Report

Recommendation:

Accept

Attachments:

[4-9-19 AM TM Report.docx](#)

[EX 1 Active Code Violations - April 1 2019.pdf](#)

[EX 2 All Cases With Fines - April 1 2019.pdf](#)

[EX 3 Code Fines over 75K.pdf](#)



Item No. _____

Agenda Memorandum

Office of the Town Manager

Department

Bill Vance

Town Manager

COMMISSION MEETING DATE: April 9, 2019

ITEM CATEGORY: Reports

SUBJECT TITLE: Town Manager's Report

1. **Granicus Update:** The new agenda management and video streaming system (Granicus) was implemented for the first time for the Board of Adjustment meeting on Wednesday, April 3. The broadcast was a success and is now available on the Town's website for public viewing.
2. **Terra Mar Stormwater Project Update:** The LBTS Public Works Director and Town Manager met informally with Terra Mar residents John Graziano, Kay Hall and Town Commissioner Edmund Malkoon on Friday April 5 to discuss anticipated LBTS sponsored Terra Mar stormwater improvements and when they will potentially move forward. I as the new LBTS Town Manager indicated (at that meeting) that I wanted to next discuss the engineering conclusions identified within the related Mathews Consulting Group's \$15K Terra Mar stormwater improvement study with County Stormwater (project) permitting officials. LBTS's Town Engineer will again be in attendance at that meeting. *This meeting request has been made.

(FYI) My highest immediate Town Manager Terra Mar stormwater improvement priorities will be to identify (with agreement from Broward County stormwater permitting officials) realistic ways to enhance the flow of stormwater out of residential areas located adjacent to and actually on East Terra Mar Drive. These areas of Terra Mar contain the worst scenario ponding situations within this LBTS subdivision. I believe such initial regional stormwater improvement planning will lead towards other immediate future negotiations (with Broward County stormwater permitting officials) that will accomplish additional stormwater improvements being concurrently and successfully designed for Terra Mar (in 2019) to improve property values and quality of life in that area of Town

*Once your Town Manager, Town Public Works Director and Town Engineer are able to determine (with Broward County Stormwater Officials Assistance) the ability for Terra Mar stormwater investments to realistically accomplish some/all of the goals identified within the Mathews Consulting Group's Terra Mar stormwater improvements study, I will present a game plan to move forward in coordination with Terra Mar residents and then bring it back to the Town Commission for vetting and formal public consideration..

3. **Downtown Sound Levels:** The Town has received several complaints about the sound levels in the downtown area. BSO and Code staff have been monitoring the levels over the past month



and we have issued notice of violations to those businesses that are in violation of the current code requirements. If the violation occurred as part of a special event, we sent an email to remind the permit holder to maintain the sound levels outlined in their special event permit.

Staff is gathering information from other neighboring communities and will be prepared to discuss the issue when the Downtown Issues workshop is scheduled. We would like to schedule the meeting in May and will bring forward an agenda item next meeting to secure a date for the workshop. Your Town Manager is meeting with appreciated local Downtown property owners who have been cited for noise ordinance violations to identify ways in which Staff's downtown code enforcement can be improved while we still successfully maintain LBTS's continual success.

4. **Community Church Update:** The Church has ordered an appraisal and we will meet with them to finalize the purchase once they receive their appraisal.
5. **Off-Site Warehouse Harding Update:** Town Manager contacting architect charged with assisting these 2019 facility enhancing efforts.
6. **FCCMA 2019 Annual Conference:** Town Manager plans to attend this late May conference if no Mayor/Commission objection. Deputy Town Manager would be Acting Town Manager.
7. **Palm Club Sewer Improvements:** Town Manager initiating planning for design of these improvements to begin in 2019 following scope of necessary sewer service provision improvement meeting(s) with Palm Club residents sponsored by Town Manager with Town Engineer and Public Works Director technical support.
8. **Code Reports:** Attached are Exhibit 1 Active Code Violations; Exhibit 2 All Cases with Fines; and Exhibit 3 Code Cases over \$75,000.
9. **LBTS-FL.GOV Website – First 90 Days:** The graphs below shows new site is showing very positive results in its first 90 days. Since the launch of the new site, results in search engines have increased with 62% of viewers finding the site through search results. Also note the number of views of the top ten pages gives us insight into what information is the most important. Seeing the day and time they are using the site coincides with our busier times in Town Hall. Mobile usage is already at 40% and we expect that the higher desktop number will go down as repeat viewers become more comfortable with the site. We continue to improve the content weekly, i.e., Steve and Vicki have just updated the Recycle pages, and we will start next week to prioritize the information on the Parking Services page(s).

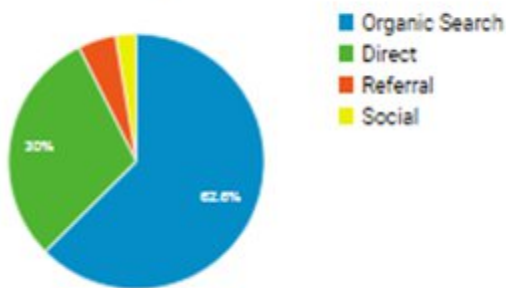
Agenda Memorandum

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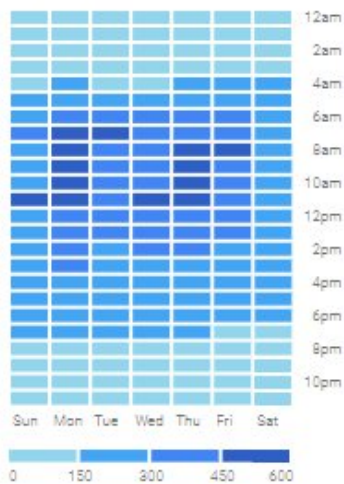
Top Channels

Dec 15, 2018 - Mar 28, 2019



Page	Pageviews
/	32,601
/152/Building-Department	3,109
/153/Forms	2,406
/9/Visitors	2,342
/172/Parking-Services	2,250
/235/Pelican-Hopper-Shuttle	1,981
/318/Staff-Directory	1,875
/calendar.aspx?CID=14	1,551
/dev/buildingpage.htm	1,470
/27/Government	1,352

Users by time of day



Sessions by device



Agenda Memorandum

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ACTIVE CODE VIOLATIONS

April 1, 2019

Date Created	Case #	Owner Name	Property Address	Incident Type	Status	Balance
3/18/2019	19030009	KAVON ENTERPRISES INC % PAUL NOVAK	106 E COMMERCIAL BLVD	Noise Violations	Open	\$0
3/18/2019	19030010	CIANI,ELAYNA CIANI,WILLIAM	112 E COMMERCIAL BLVD	Noise Violations	Open	\$0
8/5/2017	18050046	PIZZI,THOMAS III PIZZI,THOMAS JR ET AL	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
8/5/2017	18050047	GUTHRIE,TIMOTHY F GUTHRIE,CARLA M	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
8/5/2017	18050048	POULIOT FAM LIMITED PARTNERSHIP	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
8/5/2017	18050049	SCHWEITZER,MICHAEL K	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/25/2018	18050058	IMPERIAL SUN LLC	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050001	DICAIRE,LOUISE NADEAU RICHARD,LOUISE	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050002	SENOJ ENTERPRISE LLC	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050003	BLAND,ROSA	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050004	ROBITAILLE,ANDRE	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050005	RHEAUME,SYLVIA R LE RHEAUME,DEBRA J	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050006	LIMA,GAIL A	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050007	BROWN,MARK H CORGEE,JAMES R	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050008	CULLINAN FAMILY TRUST	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050009	GALVIN,JOHN R & ANDREA A	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050010	YOUNG,LEONARD L & YOUNG,GEORGIA	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050011	FRIGERIO,ALEJANDRO	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050012	WILDING,LORRAINE	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050013	G&L USA LLC	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050014	ZIMMERMAN,ANNETTE ZIMMERMAN,JAMES	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050015	KIAN US LLC	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050016	RAND,JOEANNA RAND,JORY	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050017	GODDARD,DULCE GALINDO GODDARD,GARY WILLIAM	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050019	WHITELEATHER,DANIEL	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050020	TREZZA,ANTHONY TREZZA,JEANA	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050021	SCHAEFER,CURTIS L & CATHERINE A	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050022	GREISER,MARIAN	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050023	MASTRO,LOUIS & MASTRO,SARAH	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050025	WHITE-DUARTE,MARCIO WHITE-DUARTE,MICHAEL E	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050026	DANSA CORPORATION	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050027	ARMAS,VICTORIA ASUAJE	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050028	SAWICKI,STANLEY D	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050029	MASTRO,JOSEPH & MARY LE JOSEPH & MARY MASTRO REV LIV TR	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050030	TAMAZ,MARIANE	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050031	NOMADERIA INC	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050032	FEREIRA,LUIS & MARIELBA FEREIRA,MARIA ALEJANDRA	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050033	FEREIRA,LUIS & FEREIRA,MARIELBA	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050034	KLINE,NORMAN & MARLYN	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050035	POULIOT FAMILY LIMITED PARTNERSHIP	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050036	BRENNAN,MARIA C H/E BRENNAN,KARINA	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050037	STROM.TERJE MIKAL STROM,MONA KRISTIN FILTVEDT	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050038	VIOLA,MAXIMILIAN	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050039	VITALE,ROSE	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050040	MCGHEE,JESSIE MARILYN MCGHEE,WILLIAM MCKAY	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050041	ROBERTS,LORENE A H/E BAKER,LUCILLE	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050042	MOUSSA,SOUFAINE BEN TOUATI,HEDI	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050043	HOARD,GREG & HOARD,NANCY	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050044	POULIOT FAMILY LIMITED PARTNERSHIP	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050045	ANNE MICHAELIDES REV TR /MICHAELIDES,ANNE TRSTEE	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050059	JOCHIMSEN,SHARON E	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
5/3/2018	18050050	GALULLO,KATHY ANN	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
9/10/2018	18090001	GARDENS BY THE SEA S CONDO ASSN	1541 S OCEAN BLVD	Zoning Violations	Open	\$20,850
8/23/2018	38373	MULRY,JULIE L MULRY,THOMAS B	1711 W TERRA MAR DR	No Garbage/Trash Service	Open	\$0
2/22/2019	39695	MULRY,JULIE L MULRY,THOMAS B	1711 W TERRA MAR DR	No Garbage/Trash Service	Open	\$0
3/22/2016	16030018	JOHNSON,DANIELLE	1724 BEL-AIR Ave	Nuisance	Open	\$705,850
5/18/2017	17050026	JOHNSON,DANIELLE	1724 BEL-AIR AVE	Nuisance/Abandoned Homes	Open	\$533,350

11/2/2018	18110003	DAMICO,MICHAEL	1725 BLUE WATER TER N	Property Maintenance	Open	\$0
3/13/2019	19030003	KARTHAR SERVICES LLC	1736 BEL-AIR AVE	Vacation Rental	Open	\$0
12/9/2017	18070017	ARRIETA,MYRIAM LE GARAY,JAVIER & GARAY,CUSTODIO	1751 S OCEAN BLVD	Property Maintenance	Open	\$658
12/9/2017	18070018	BAKER,MARLENE S	1751 S OCEAN BLVD	Property Maintenance	Open	\$658
12/9/2017	18070019	BUDZINSKI,ANNA M BUDZINSKI,VINCENT J	1751 S OCEAN BLVD	Property Maintenance	Open	\$658
12/9/2017	18070020	BURSZTEIN,TRUDY & ADAM	1751 S OCEAN BLVD	Property Maintenance	Open	\$658
12/9/2017	18070021	CANDIOTTI,AMERICO L & CANDIOTTI,ALFRED A	1751 S OCEAN BLVD	Property Maintenance	Open	\$658
12/9/2017	18070022	ARAUJO,SINVAL D & GINA MARIA SMPW QUADRA 14 CONJUNTO	1751 S OCEAN BLVD	Property Maintenance	Open	\$658
12/9/2017	18070023	ENRIGHT,KEVIN O'CONNOR,DENNIS	1751 S OCEAN BLVD	Property Maintenance	Open	\$658
12/9/2017	18070024	HARMONY LIV TR GREEN,MARVIN D TRSTEE ETAL	1751 S OCEAN BLVD	Property Maintenance	Open	\$658
12/9/2017	18070025	HUGHES,KAREN L	1751 S OCEAN BLVD	Property Maintenance	Open	\$658
12/9/2017	18070026	KOBYRN,CHARLES W VITALE,CHARLENE P	1751 S OCEAN BLVD	Property Maintenance	Open	\$658
12/9/2017	18070027	MAZEWSKI,ALOYSIUS MAZEWSKI,JANICE	1751 S OCEAN BLVD	Property Maintenance	Open	\$658
12/9/2017	18070028	MAZEWSKI,MARILYN	1751 S OCEAN BLVD	Property Maintenance	Open	\$658
12/9/2017	18070029	PELL,ABBI L	1751 S OCEAN BLVD	Property Maintenance	Open	\$658
12/9/2017	18070030	REEDY,GIGI M WILLIAM H & ZULA M REEDY TR	1751 S OCEAN BLVD	Property Maintenance	Open	\$658
12/9/2017	18070031	TIERNEY,DAVID H	1751 S OCEAN BLVD	Property Maintenance	Open	\$658
12/9/2017	18070032	WHEATLEY,MARK H & ANDREA J	1751 S OCEAN BLVD	Property Maintenance	Open	\$658
12/9/2017	18070033	YOCKEY,HARRY R	1751 S OCEAN BLVD	Property Maintenance	Open	\$658
2/25/2019	19020018	SILVERI,MICHAEL	1800 E TERRA MAR DR	Vacation Rental	Open	\$0
2/25/2016	16020013	IMERTI,SONIA	1800 S OCEAN Blvd	Building Code Violations	Open	\$94,950
2/22/2019	39694	CROVETTO,GILDA SALAZAR,GEORGE	1912 OCEAN MIST DR	No Garbage/Trash Service	Open	\$0
2/25/2019	39724	FORERO,CARLOS MALAGON,ESPERANZA	1930 CORAL REEF DR	No Garbage/Trash Service	Open	\$0
5/10/2018	18050057	GILCHRIST,RAEL M GILCHRIST,LOURDES L	1931 WATERS EDGE	Permits Required Violations	Open	\$50
3/13/2019	19030004	1940 WATERS EDGE LLC	1940 WATERS EDGE	Vacation Rental	Open	\$0
8/7/2018	38161	EVANS,MARJORIE EVANS FAMILY REV TR	1941 WATERS EDGE	Minimum Standards for dwellings	Open	\$0
2/25/2019	39728	GRANT P GALUPPI LIV TR GALUPPI,GRANT P TRSTEE	1949 WINDWARD DR	No Garbage/Trash Service	Open	\$0
2/22/2019	39702	PLATNER,MICHAEL H/E NEDRY,ROBERTA K	1951 CORAL REEF DR	No Garbage/Trash Service	Open	\$0
10/19/2018	18100015	NPLH HOLDINGS LLC	1984 WINDWARD DR	Building Code Violations	Open	\$50
2/22/2018	18020015	ANGLIN FAM TR % RAYMOND ANGLIN	2 E COMMERCIAL BLVD	Property Maintenance	Open	\$1,550
1/17/2018	18010014	GARIEPY,LYNNE	2000 S OCEAN BLVD	Building Code Violations	Open	\$34,600
12/19/2018	39429	MURRAY,JOYCE MARILYN JOYCE MARILYN MURRAY REV LIV TR	2000 S OCEAN BLVD	Permits Required Violations	Open	\$0
3/17/2018	18030016	2024 OCEAN MIST DRIVE LLC	2024 OCEAN MIST DR	Permits Required Violations	Open	\$50
4/7/2017	18080010	SHANAHAN,GEORGE C	2036 COCO PALM PL	Landscape Violations	Open	\$3,550
1/8/2019	39546	CARLI JAMESON TR VALENTINO,JILL TRSTEE	2037 WINDWARD DR	Landscape Violations	Open	\$0
11/15/2018	18120015	BIANCO,ANTHONY C & HAZEL M	2041 CORAL REEF DR	Permits Required Violations	Open	\$350
3/13/2019	19030005	BACHMANN,CAROL & MARK BACHMANN,KATHERYN & P ETAL	2051 CORAL REEF DR	Vacation Rental	Open	\$0
1/8/2019	39544	SABATINI INVESTMENTS LLC	207 COMMERCIAL BLVD	Sign Violations	Open	\$0
2/25/2019	39731	VIRDI,DEPINDER KAUR VIRDI,RANBIR SINGH	2160 CORAL REEF DR	No Garbage/Trash Service	Open	\$0
8/21/2018	38319	SERAFINI,SILVIO & ANA E	217 E COMMERCIAL BLVD	Business Tax	Open	\$0
9/20/2018	39398	SERAFINI,SILVIO & ANA E	217 E COMMERCIAL BLVD	Sign Violations	Open	\$0
11/20/2018	18110014	SERAFINI,SILVIO & ANA E	217 E COMMERCIAL BLVD	Building Code Violations	Open	\$350
7/7/2018	37871	ACS 218 LLC	218 E COMMERCIAL BLVD	Business Tax	Open	\$0
7/7/2018	37873	ACS 218 LLC	218 E COMMERCIAL BLVD	Business Tax	Open	\$0
3/14/2019	19030008	ACS 218 LLC	218 E COMMERCIAL BLVD	Zoning Violations	Open	\$0
10/9/2018	38865	HOWARD,BENJAMIN R	218 PINE AVE	Nuisance/overgrowth weeds & gras	Open	\$0
12/31/2018	39613	HOWARD,BENJAMIN R	218 PINE AVE	Landscape Violations	Open	\$0
2/22/2019	39693	HOWARD,BENJAMIN R	218 PINE AVE	No Garbage/Trash Service	Open	\$0
7/7/2018	37878	SEAGRAPE COMMONS LLC	222 E COMMERCIAL BLVD	Business Tax	Open	\$0
3/18/2019	19030012	ACS 218 LLC	222 E COMMERCIAL BLVD	Noise Violations	Open	\$0
2/22/2019	39705	AVALON LIV TR ALBERS,SANDRA TRSTEE ETAL	223 AVALON AVE	No Garbage/Trash Service	Open	\$0
9/10/2018	38518	HART,ROBERT S AKINS,JUDY HART	223 CORSAIR AVE	Property Maintenance	Open	\$0
2/25/2019	39713	VON BEHREN,JAMES B & LAUREL L	226 LAKE CT	No Garbage/Trash Service	Open	\$0
11/10/2018	39183	NOURYAN,EDWARD	228 CODRINGTON DR	Inoperative vehicles	Open	\$0
3/14/2018	18070009	SKY007 LLC	230 LAKE CT	Business Tax	Open	\$0
11/20/2018	18120002	SKY007 LLC	230 LAKE CT	Permits Required Violations	Open	\$700
11/28/2018	18120001	SKY007 LLC	230 LAKE CT	Property Maintenance	Open	\$4,900
2/22/2019	39701	PETRECCIA,BERNARD PETRECCIA,RITA	232 OCEANIC AVE	No Garbage/Trash Service	Open	\$0
2/25/2019	39723	SERATTE,ANDREA DELK,THOMAS	234 PINE AVE	No Garbage/Trash Service	Open	\$0
8/9/2018	18080009	NGUYEN,DUNG K QUACH,DUNG A	235 HIBISCUS AVE	Vacation Rental	Open	\$16,900
11/6/2018	18120005	CHIA,MICHELLE %GREENBERG LAW GROUP P A	238 CORSAIR AVE	Permits Required Violations	Open	\$0

2/22/2019	39692	REINEKE,BRANDON T & KRISTEN D	239 IMPERIAL LN	No Garbage/Trash Service	Open	\$0
2/22/2019	39690	DEW,ROBERT DALE	241 AVALON AVE	No Garbage/Trash Service	Open	\$0
8/22/2018	38337	CHRZANOWSKI,RAFAL	245 CORSAIR AVE	No Garbage/Trash Service	Open	\$0
2/22/2019	39698	LUO,JIANYI ZHANG,CHUNCHENG	248 HIBISCUS AVE	No Garbage/Trash Service	Open	\$0
9/21/2018	19020021	GALLAGHER,CHRISTOPHER & LOUISE	251 ALGIERS AVE	Vision Hazards	Open	\$50
2/22/2019	39697	LANCRY,VICTOR LANCRY FAMILY REV TR ETAL	251 LOMBARDY AVE	No Garbage/Trash Service	Open	\$0
8/11/2018	18090005	NEPTUNE GARDEN SHOP	254 NEPTUNE AVE	Property Maintenance	Open	\$400
2/25/2019	39720	SWING,ROBERT M SWING,STEPHANIE R	255 CORSAIR AVE	No Garbage/Trash Service	Open	\$0
2/25/2019	39719	POWER WINDSUN BAHAMAS LTD %HERMANN KRASSLER	255 SHORE CT	No Garbage/Trash Service	Open	\$0
2/22/2019	39709	ROSAS HAVEN LLC	256 IMPERIAL LN	No Garbage/Trash Service	Open	\$0
2/25/2019	39727	SEBASTIAN,CYNTHIA D	258 AVALON AVE	No Garbage/Trash Service	Open	\$0
3/18/2019	19030013	GAGARIN,PAVEL	263 N TRADEWINDS AVE	Vacation Rentals Inspection	Open	\$0
9/23/2016	16110001	BRANDT,YANN (PREVIOUSLY: ULVIC PROPERTIES)	267 CAPRI Ave	Landscape Violations	Open	\$700
10/16/2018	38888	BRANDT,YANN	267 CAPRI AVE	Property Maintenance	Open	\$0
3/13/2019	19030006	ROUSSO,CAROL A	267 HIBISCUS AVE	Vacation Rental	Open	\$0
8/11/2018	18080030	FISTEL,LILIANA	267 OCEANIC AVE	Property Maintenance	Open	\$0
2/22/2019	39689	BRONGO,DAVID ANTHONY JR & TANIA	283 S TRADEWINDS AVE	No Garbage/Trash Service	Open	\$0
2/22/2019	39691	GENESIS PHARMACEUTICALS	284 CODRINGTON DR	No Garbage/Trash Service	Open	\$0
2/25/2019	39716	MANSON,STEVEN J BOTSFORD,ERIK R	284 HIBISCUS AVE	No Garbage/Trash Service	Open	\$0
1/8/2019	19010005	BROMBERG,YAKOV BROMBERG,ZLATA	290 TROPIC DR	Landscape Inspections	Open	\$0
4/11/2018	18040035	OSTROKOLOWICZ,TODD	297 TROPIC DR	Zoning Violations	Open	\$0
2/22/2019	39696	KNOWLTON,ADAM	3271 CYPRESS CREEK DR	No Garbage/Trash Service	Open	\$0
10/12/2018	38856	NEGELEV,ALEXANDER	3271 SEAWARD DR	Landscape Violations	Open	\$0
12/10/2018	39383	GAGLIANO,LAUREN	3285 SEAWARD DR	Landscape Violations	Open	\$0
12/26/2018	39606	MOSHER,ARTHUR L H/E STONE,PAUL D & KAREN J	3900 N OCEAN DR	Permits Required Violations	Open	\$0
4/8/2013	13040002	LION CAPRICE LLC	4108 EL MAR Dr	Property Maintenance	Open	(\$34,176)
11/30/2016	16110010	FDG SOUTH LLC	4108 EL MAR DR	Property Maintenance	Open	\$149,619
12/9/2016	16120011	FDG SOUTH LLC	4108 EL MAR DR	Building Code Violations	Open	\$80,850
12/23/2016	16120054	FDG SOUTH LLC	4108 EL MAR DR	Building Code Violations	Open	\$149,619
2/21/2012	12020017	LION CAPRICE LLC	4110 EL MAR Dr	Property Maintenance	Open	\$25,975
4/8/2013	13040003	LION CAPRICE LLC	4110 EL MAR Dr	Property Maintenance	Open	(\$34,176)
12/1/2016	16120001	FDG SOUTH LLC	4110 EL MAR DR	Property Maintenance	Open	\$111,625
12/23/2016	16120055	FDG SOUTH LLC	4110 EL MAR DR	Building Code Violations	Open	\$111,625
12/1/2016	16120002	FDG SOUTH LLC	4116 N OCEAN DR	Property Maintenance	Open	\$102,800
12/23/2016	16120056	FDG SOUTH LLC	4116 N OCEAN DR	Building Code Violations	Open	\$102,800
10/11/2018	18110001	FDG SOUTH LLC	4116 N OCEAN DR	Property Maintenance	Open	\$250
3/21/2019	19030014	FDG SOUTH LLC	4116 N OCEAN DR	Graffiti Violations	Open	\$0
12/13/2018	19010001	THE R GROUP LLC	4132 N OCEAN DR	Zoning Violations	Open	\$0
3/21/2019	19030015	THE R GROUP LLC	4132 N OCEAN DR	Zoning Violations	Open	\$0
8/9/2018	18080019	3RM INVESTMENTS LLC	4144 EL MAR DR	Permits Required Violations	Open	\$750
8/15/2018	18080020	3RM INVESTMENTS LLC	4144 EL MAR DR	Property Maintenance	Open	\$3,650
8/15/2018	18080021	3RM INVESTMENTS LLC	4144 EL MAR DR	Zoning Violations	Open	\$750
2/22/2019	39704	4146 SEAGRAPE DRIVE LLC(1031) %LIEBMAN,RAYMOND L ESQ CPA	4146 SEAGRAPE DR	No Garbage/Trash Service	Open	\$0
9/21/2018	38574	MYATT,FRANK C EST %RUDOLF & HOFFMAN PA	4201 EL MAR DR	Permits Required Violations	Open	\$0
9/21/2018	38573	NOBLE Q ROBERTSON REV TR ROBERTSON,NOBLE Q TRSTEE	4209 EL MAR DR	Zoning Violations	Open	\$0
1/20/2018	18030014	BREZA,THOMAS S	4303 BOUGAINVILLA DR	Zoning Violations	Open	\$0
2/12/2019	19020010	OCEAN TREASURE SFP LLC	4308 EL MAR DR	Zoning Violations	Open	\$0
11/20/2017	17110014	4312 HOLDINGS LLC	4312 SEAGRAPE DR	Building Code Violations	Open	\$42,350
2/25/2019	39725	4312 HOLDINGS LLC	4312 SEAGRAPE DR	No Garbage/Trash Service	Open	\$0
3/20/2018	18030023	WENS HOLDING LLC	4321 EL MAR DR	Property Maintenance	Open	\$0
2/11/2019	19020004	BRYZGALOVA,MARINA MITKOV,DORDE	4324 SEAGRAPE DR	Vacation Rental	Open	\$0
6/22/2018	37764	WHITE CAP OF FL INC	4326 BOUGAINVILLA DR	Business Tax	Open	\$0
6/30/2017	17060028	4326 OCEAN DR LLC	4326 N OCEAN DR	Nuisance/Abandoned Homes	Open	\$191,450
11/2/2018	18110005	4326 OCEAN DR LLC	4326 N OCEAN DR	Permits Required Violations	Open	\$7,050
3/20/2018	18030024	WENS HOLDING LLC	4329 EL MAR DR	Permits Required Violations	Open	\$0
3/20/2018	18030025	WENS HOLDING LLC	4329 EL MAR DR	Property Maintenance	Open	\$0
3/20/2018	18030026	WENS HOLDING LLC	4333 EL MAR DR	Property Maintenance	Open	\$0
3/20/2018	18030027	WENS HOLDING LLC	4337 EL MAR DR	Property Maintenance	Open	\$0
3/14/2018	18030028	WENS HOLDING LLC	4341 EL MAR DR	Property Maintenance	Open	\$0
3/18/2019	19030011	PUMP REALTY TR	4400 EL MAR DR	Noise Violations	Open	\$0
2/21/2019	19020014	COMMERCIAL A1A LLC	4405 N OCEAN DR	BTR Housing Inspection	Open	\$50

12/10/2018	18120007	MARCHETTI,STEVEN MERCANTE,ROBERT	4422 SEAGRAPE DR	Permits Required Violations	Open	\$50
2/22/2019	39710	PRIMO WATERFRONT PROPERTIES LLC	4431 W TRADEWINDS AVE	No Garbage/Trash Service	Open	\$0
8/23/2018	38350	ROBINS,ALAN	4505 POINCIANA ST	No Garbage/Trash Service	Open	\$0
2/22/2019	39707	ROBINS,ALAN J	4507 POINCIANA ST	No Garbage/Trash Service	Open	\$0
4/25/2009	18040026	BELL,ROBERT K	4521 N OCEAN DR	Property Maintenance	Open	\$353,050
4/25/2009	18040027	BELL,ROBERT K	4521 N OCEAN DR	Sign Violations	Open	\$351,750
2/21/2018	18030015	BELL,ROBERT K	4521 N OCEAN DR	Property Maintenance	Open	\$59,900
11/9/2018	39169	MIAMI SOAR 575 LAND TR MORDECHAI,DORIT TRESTEE	4536 POINCIANA ST	Property Maintenance	Open	\$0
11/20/2018	18110015	CELENZA,JOSEPH & RHONDA	4537 BOUGAINVILLA DR	Building Code Violations	Open	\$350
2/25/2019	39715	WAZENSKI MARCHETTI,ANN MARIE	4543 BOUGAINVILLA DR	No Garbage/Trash Service	Open	\$0
2/12/2019	19020009	FDG CENTRAL LLC	4546 EL MAR DR	Nuisance/Vacant Lot	Open	\$100
6/20/2018	18060013	BARTCZAK,JENNIFER C MARCUS,PATRICK A	4548 POINCIANA ST	Vacation Rental	Open	\$0
5/4/2018	18050061	SEVA FLORIDA TROPICAIRE LLC	4553 BOUGAINVILLA DR	Zoning Violations	Open	\$50
10/15/2018	18100012	CEBALLOS,JORGE	4561 BOUGAINVILLA DR	Permits Required Violations	Open	\$300
11/6/2018	18110019	LBTS PROPERTIES LLC	4564 N OCEAN DR	Building Code Violations	Open	\$350
10/31/2017	17100013	KARAKAYA INC	4601 EL MAR DR	Building Code Violations	Open	\$37,850
11/27/2018	39380	KARAKAYA INC	4601 EL MAR DR	Sign Violations	Open	\$0
2/27/2018	33579	4605 N OCEAN DR LLC	4605 N OCEAN DR	Business Tax	Open	\$0
2/25/2019	39714	WASSELLE,ALYCE J ALYCE J WASSELLE REV TR	4607 W TRADEWINDS AVE	No Garbage/Trash Service	Open	\$0
2/27/2018	33580	4605 N OCEAN DR LLC	4609 N OCEAN DR	Business Tax	Open	\$0
12/13/2018	39409	UMANA,JULIA SABATINI	4614 SEAGRAPE DR	No Garbage/Trash Service	Open	\$0
11/3/2018	19030007	OEFELIN,FELICITAS B	4616 BOUGAINVILLA DR	Landscape Violations	Open	\$0
10/17/2018	38891	MCISF III LLC	4616 POINCIANA ST	Zoning Violations	Open	\$0
9/22/2014	14110003	DEE JAY ENTERPRISES INC	4617 EL MAR Dr	Permits Required Violations	Open	\$125,150
3/7/2019	19030002	SEA GARDEN BY THE SEA INC	4625 N OCEAN DR	Zoning Violations	Open	\$0
2/22/2019	39700	O'SEAN VILLA LLC	4641 N OCEAN DR	No Garbage/Trash Service	Open	\$0
5/22/2013	13060015	PEREIRA,PATRICIA	4648 BOUGAINVILLA Dr	Nuisance	Open	\$156,525
5/11/2017	18080003	PEREIRA,PATRICIA	4648 BOUGAINVILLA DR	Property Maintenance	Open	\$51,050
8/1/2018	38099	THE FAVALE CONDOMINIUM ASSN, INC. C/O FAVALE,JOSEPH FAVALE,VINCENT MARIO	4652 POINCIANA ST	Property Maintenance	Open	\$0
11/20/2018	18110017	OCONTO INVESTMENTS CORP % MORENO,MARTHA	4900 N OCEAN BLVD	Building Code Violations	Open	\$350
11/5/2015	15110003	BRICMAYFL LLC	5000 N OCEAN BLVD	Building Code Violations	Open	\$232,850
10/10/2018	38840	BOUGAINVILLA COURT HOMEOWNERS	BOUGAINVILLA DR	Landscape Violations	Open	\$0
11/21/2018	39285	230 TROPICAL SHORES DEV LLC	GARDEN CT	Nuisance	Open	\$0
2/4/2019	39623	MARINA VILLAGE HOME OWNERS ASSN INC	GARDEN CT	Recreational Vehicles& Boats Violations	Open	\$0
2/25/2019	19030001	230 TROPICAL SHORES DEV LLC	SHORE CT	Zoning Violations	Open	\$0

ALL CASES WITH FINES

April 1, 2019

Date Created	Case #	Owner Name	Property Address	Incident Type	Status	Balance
3/27/2018	18050001	DICAIRE, LOUISE NADEAU RICHARD, LOUISE	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050002	SENOJ ENTERPRISE LLC	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050003	BLAND, ROSA	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050004	ROBITAILLE, ANDRE	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050005	RHEAUME, SYLVIA R LE RHEAUME, DEBRA J	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050006	LIMA, GAIL A	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050007	BROWN, MARK H CORGEE, JAMES R	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050008	CULLINAN FAMILY TRUST	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050009	GALVIN, JOHN R & ANDREA A	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050010	YOUNG, LEONARD L & YOUNG, GEORGIA	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050011	FRIGERIO, ALEJANDRO	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050012	WILDING, LORRAINE	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050013	G&L USA LLC	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050014	ZIMMERMAN, ANNETTE ZIMMERMAN, JAMES	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050015	KIAN US LLC	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050016	RAND, JOEANNA RAND, JORY	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050017	GODDARD, DULCE GALINDO GODDARD, GARY WILLIAM	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050019	WHITELEATHER, DANIEL	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050020	TREZZA, ANTHONY TREZZA, JEANA	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050021	SCHAEFER, CURTIS L & CATHERINE A	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050022	GREISER, MARIAN	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050023	MASTRO, LOUIS & MASTRO, SARAH	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050025	WHITE-DUARTE, MARCIO WHITE-DUARTE, MICHAEL E	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050026	DANSA CORPORATION	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050027	ARMAS, VICTORIA ASUAJE	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050028	SAWICKI, STANLEY D	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050029	MASTRO, JOSEPH & MARY LE JOSEPH & MARY MASTRO REV LIV TR	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050030	TAMAZ, MARIANE	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050031	NOMADERIA INC	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050032	FEREIRA, LUIS & MARIELBA FEREIRA, MARIA ALEJANDRA	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050033	FEREIRA, LUIS & FEREIRA, MARIELBA	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050034	KLINE, NORMAN & MARLYN	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050035	POULIOT FAMILY LIMITED PARTNERSHIP	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050036	BRENNAN, MARIA C H/E BRENNAN, KARINA	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050037	STROM, TERJE MIKAL STROM, MONA KRISTIN FILTVEDT	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050038	VIOLA, MAXIMILIAN	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050039	VITALE, ROSE	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050040	MCGHEE, JESSIE MARILYN MCGHEE, WILLIAM MCKAY	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050041	ROBERTS, LORENE A H/E BAKER, LUCILLE	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050042	MOUSSA, SOUFAINE BEN TOUATI, HEDI	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050043	HOARD, GREG & HOARD, NANCY	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050044	POULIOT FAMILY LIMITED PARTNERSHIP	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050045	ANNE MICHAELIDES REV TR /MICHAELIDES, ANNE TRSTEE	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
8/5/2017	18050046	PIZZI, THOMAS III PIZZI, THOMAS JR ET AL	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
8/5/2017	18050047	GUTHRIE, TIMOTHY F GUTHRIE, CARLA M	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
8/5/2017	18050048	POULIOT FAM LIMITED PARTNERSHIP	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
8/5/2017	18050049	SCHWEITZER, MICHAEL K	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
5/3/2018	18050050	GALULLO, KATHY ANN	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/25/2018	18050058	IMPERIAL SUN LLC	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
3/27/2018	18050059	JOCHIMSEN, SHARON E	1439 S OCEAN BLVD	Property Maintenance	Open	\$1,440
11/6/2018	18110007	POLCARI, RICHARD S & MARIA J	1470 S OCEAN BLVD	Permits Required Violations	Closed	\$50
7/28/2015	15120011	ZEIGLER, JANET ZEIGLER, MARK	1501 S OCEAN Blvd	Building Code Violations	Closed	\$750
9/10/2018	18090001	GARDENS BY THE SEA S CONDO ASSN	1541 S OCEAN BLVD	Zoning Violations	Open	\$20,850
12/9/2017	18070017	ARRIETA, MYRIAM LE GARAY, JAVIER & GARAY, CUSTODIO	1751 S OCEAN BLVD	Property Maintenance	Open	\$658
12/9/2017	18070018	BAKER, MARLENE S	1751 S OCEAN BLVD	Property Maintenance	Open	\$658
12/9/2017	18070019	BUDZINSKI, ANNA M BUDZINSKI, VINCENT J	1751 S OCEAN BLVD	Property Maintenance	Open	\$658
12/9/2017	18070020	BURSZEIN, TRUDY & ADAM	1751 S OCEAN BLVD	Property Maintenance	Open	\$658

12/9/2017	18070021	CANDIOTTI,AMERICO L & CANDIOTTI,ALFRED A	1751 S OCEAN BLVD	Property Maintenance	Open	\$658
12/9/2017	18070022	ARAUJO,SINVAL D & GINA MARIA SMPW QUADRA 14 CONJUNTO	1751 S OCEAN BLVD	Property Maintenance	Open	\$658
12/9/2017	18070023	ENRIGHT,KEVIN O'CONNOR,DENNIS	1751 S OCEAN BLVD	Property Maintenance	Open	\$658
12/9/2017	18070024	HARMONY LIV TR GREEN,MARVIN D TRSTEE ETAL	1751 S OCEAN BLVD	Property Maintenance	Open	\$658
12/9/2017	18070025	HUGHES,KAREN L	1751 S OCEAN BLVD	Property Maintenance	Open	\$658
12/9/2017	18070026	KOBRYN,CHARLES W VITALE,CHARLENE P	1751 S OCEAN BLVD	Property Maintenance	Open	\$658
12/9/2017	18070027	MAZEWSKI,ALOYSIUS MAZEWSKI,JANICE	1751 S OCEAN BLVD	Property Maintenance	Open	\$658
12/9/2017	18070028	MAZEWSKI,MARILYN	1751 S OCEAN BLVD	Property Maintenance	Open	\$658
12/9/2017	18070029	PELL,ABBI L	1751 S OCEAN BLVD	Property Maintenance	Open	\$658
12/9/2017	18070030	REEDY,GIGI M WILLIAM H & ZULA M REEDY TR	1751 S OCEAN BLVD	Property Maintenance	Open	\$658
12/9/2017	18070031	TIERNEY,DAVID H	1751 S OCEAN BLVD	Property Maintenance	Open	\$658
12/9/2017	18070032	WHEATLEY,MARK H & ANDREA J	1751 S OCEAN BLVD	Property Maintenance	Open	\$658
12/9/2017	18070033	YOCKEY,HARRY R	1751 S OCEAN BLVD	Property Maintenance	Open	\$658
2/25/2016	16020013	IMERTI,SONIA	1800 S OCEAN Blvd	Building Code Violations	Open	\$94,950
12/8/2015	15120007	BARBOSA,MARIO HERNAN	1800 S OCEAN Blvd	Building Code Violations	Closed	\$150
1/5/2016	16010001	KAT-NIK HOLDINGS INC	1900 S OCEAN Blvd	Building Code Violations	Closed	\$41,800
2/16/2016	16020004	BREITBERG,DYANE	1931 WATERS EDGE	Building Code Violations	Closed	\$72,300
5/18/2016	16060033	BREITBERG,DYANE	1931 WATERS EDGE	Property Maintenance	Closed	\$27,600
8/31/2015	15090002	BREITBERG,DYANE	1931 WATERS EDGE	Recreational Vehicles& Boats Violations	Closed	\$21,250
8/10/2015	15100009	BREITBERG,DYANE	1931 WATERS EDGE	No Garbage/Trash Service	Closed	\$6,240
5/10/2018	18050057	GILCHRIST,RAEL M GILCHRIST,LOURDES L	1931 WATERS EDGE	Permits Required Violations	Open	\$50
5/7/2015	15050006	BREITBERG,DYANE	1931 WATERS EDGE	Recreational Vehicles& Boats Violations	Closed	\$50
4/29/2009	18040016	BREITBERG,DYANE	1931 WATERS EDGE	Zoning Violations	Closed	\$47,400
6/30/2009	18040021	ROWE,NANCY ROBBINS,JUDY	1961 TROPIC ISLE	Permits Required Violations	Closed	\$60,750
6/30/2009	18040022	ROWE,NANCY ROBBINS,JUDY	1961 TROPIC ISLE	Permits Required Violations	Closed	\$60,750
6/30/2009	18040023	ROWE,NANCY ROBBINS,JUDY	1961 TROPIC ISLE	Permits Required Violations	Closed	\$60,750
5/19/2017	17080030	WALLIN,ANDERS G	1961 WINDWARD DR	Property Maintenance	Closed	\$150
10/19/2018	18100015	NPLH HOLDINGS LLC	1984 WINDWARD DR	Building Code Violations	Open	\$50
7/13/2018	18070011	SAAR,TARA H/E SAAR,PAUL	1988 W TERRA MAR DR	Nuisance/Abandoned Homes	Closed	\$4,700
7/17/2014	14080013	SAAR,TARA H/E SAAR,PAUL	1988 W TERRA MAR Dr	Vacation Rental	Closed	\$2,250
2/22/2018	18020015	ANGLIN FAM TR % RAYMOND ANGLIN	2 E COMMERCIAL BLVD	Property Maintenance	Open	\$1,550
1/17/2018	18010014	GARIEPY,LYNNE	2000 S OCEAN BLVD	Building Code Violations	Open	\$34,600
6/14/2018	18060006	PIERCE,JASON DODERLEIN,TANYA ET AL (PREVIOUSLY: WILMINGTON TRUST, NA C/O SPS)	2011 CORAL REEF DR	Nuisance/Abandoned Homes	Closed	\$50
3/17/2018	18030016	2024 OCEAN MIST DRIVE LLC	2024 OCEAN MIST DR	Permits Required Violations	Open	\$50
1/19/2010	18040028	LEAL,ALVARO	2031 COCO PALM PL	Zoning Violations	Closed	\$30,300
7/29/2013	13080043	LEAL,ALVARO	2031 COCO PALM PI	No Garbage/Trash Service	Closed	\$6,440
9/23/2011	18040033	LEAL,ALVARO	2031 COCO PALM PL	No Garbage/Trash Service	Closed	\$2,525
7/12/2011	18040032	LEAL,ALVARO	2031 COCO PALM PL	Nuisance/overgrowth weeds & gras	Closed	\$2,100
6/10/2010	18040029	LEAL,ALVARO	2031 COCO PALM PL	Nuisance/overgrowth weeds & gras	Closed	\$700
1/26/2011	18040030	LEAL,ALVARO	2031 COCO PALM PL	Landscape Violations	Closed	\$650
7/28/2017	17080032	LEAL,ALVARO	2031 COCO PALM PL	No Garbage/Trash Service	Closed	\$200
3/22/2011	18040031	LEAL,ALVARO	2031 COCO PALM PL	No Garbage/Trash Service	Closed	\$125
4/7/2017	18080010	SHANAHAN,GEORGE C	2036 COCO PALM PL	Landscape Violations	Open	\$3,550
11/15/2018	18120015	BIANCO,ANTHONY C & HAZEL M	2041 CORAL REEF DR	Permits Required Violations	Open	\$350
4/7/2017	17060003	QUIRK,KEVIN E & CORLY L	2072 OCEAN MIST DR	Landscape Violations	Closed	\$150
11/20/2018	18110014	SERAFINI,SILVIO & ANA E	217 E COMMERCIAL BLVD	Building Code Violations	Open	\$350
6/11/2015	15060015	RICHARD BARRIE JR INC	226 BASIN Dr	Property Maintenance	Closed	\$369,500
11/28/2018	18120001	SKY007 LLC	230 LAKE CT	Property Maintenance	Open	\$4,900
11/20/2018	18120002	SKY007 LLC	230 LAKE CT	Permits Required Violations	Open	\$700
7/30/2017	17070033	SCHMITZ,TONA B	233 CORSAIR AVE	Vacation Rental	Closed	\$150
8/9/2018	18080009	NGUYEN,DUNG K QUACH,DUNG A	235 HIBISCUS AVE	Vacation Rental	Open	\$16,900
8/4/2018	18080004	ELGAMAL,AHMED HASSABALLA,DALIA	240 IMPERIAL LN	Vacation Rental	Closed	\$100
5/6/2015	15060019	CHYZANOWSKI,RAFAL	245 CORSAIR Ave	Building Code Violations	Closed	\$10,025
9/21/2018	19020021	GALLAGHER,CHRISTOPHER & LOUISE	251 ALGIERS AVE	Vision Hazards	Open	\$50
8/11/2018	18090005	NEPTUNE GARDEN SHOP	254 NEPTUNE AVE	Property Maintenance	Open	\$400
9/23/2016	16110001	BRANDT,YANN (PREVIOUSLY: ULVIC PROPERTIES)	267 CAPRI Ave	Landscape Violations	Open	\$700
2/20/2008	18040007	HEIDEN,HANNELORE	3270 SPANISH RIVER DR	Zoning Violations	Closed	\$291,950
1/5/2010	18040009	HEIDEN,HANNELORE	3270 SPANISH RIVER DR	Property Maintenance	Closed	\$135,000
12/14/2012	13010016	FEDERAL NATIONAL MORTGAGE ASSN & % BANK OF AMERICA NA	3270 SPANISH RIVER Dr	Minimum Standards for dwellings	Closed	\$51,700
6/24/2013	13060012	FEDERAL NATIONAL MORTGAGE ASSN % BANK OF AMERICA NA	3270 SPANISH RIVER Dr	Property Maintenance	Closed	\$13,000
1/6/2010	18040011	HEIDEN,HANNELORE	3270 SPANISH RIVER DR	Property Maintenance	Closed	\$4,900

1/5/2010	18040010	HEIDEN,HANNELORE	3270 SPANISH RIVER DR	Nuisance/overgrowth weeds & gras	Closed	\$3,300
4/12/2010	18040012	HEIDEN,HANNELORE	3270 SPANISH RIVER DR	No Garbage/Trash Service	Closed	\$650
1/10/2011	18040013	HEIDEN,HANNELORE	3270 SPANISH RIVER DR	Permits Required Violations	Closed	\$450
7/13/2009	18040008	HEIDEN,HANNELORE	3270 SPANISH RIVER DR	Nuisance/overgrowth weeds & gras	Closed	\$150
12/23/2016	16120054	FDG SOUTH LLC	4108 EL MAR DR	Building Code Violations	Open	\$149,619
11/30/2016	16110010	FDG SOUTH LLC	4108 EL MAR DR	Property Maintenance	Open	\$149,619
12/9/2016	16120011	FDG SOUTH LLC	4108 EL MAR DR	Building Code Violations	Open	\$80,850
12/23/2016	16120055	FDG SOUTH LLC	4110 EL MAR DR	Building Code Violations	Open	\$111,625
12/1/2016	16120001	FDG SOUTH LLC	4110 EL MAR DR	Property Maintenance	Open	\$111,625
2/21/2012	12020017	LION CAPRICE LLC	4110 EL MAR Dr	Property Maintenance	Open	\$25,975
2/18/2012	12020014	NORTH POINTE INVESTMENTS LLC	4116 N OCEAN Dr	Nuisance	Closed	\$2,068,872
12/23/2016	16120056	FDG SOUTH LLC	4116 N OCEAN DR	Building Code Violations	Open	\$102,800
12/1/2016	16120002	FDG SOUTH LLC	4116 N OCEAN DR	Property Maintenance	Open	\$102,800
9/15/2018	18090002	FDG SOUTH LLC	4116 N OCEAN DR	Nuisance	Closed	\$4,900
10/11/2018	18110001	FDG SOUTH LLC	4116 N OCEAN DR	Property Maintenance	Open	\$250
5/14/2014	14050017	THE R GROUP LLC	4132 N OCEAN Dr	Sign Violations	Closed	\$65,050
5/5/2014	15030009	THE R GROUP LLC	4132 N OCEAN Dr	Business Tax	Closed	\$30,375
6/14/2018	18080001	THE R GROUP LLC	4132 N OCEAN DR	Property Maintenance	Closed	\$3,850
10/24/2015	15100026	THE R GROUP LLC	4132 N OCEAN Dr	Garage Sales Violations	Closed	\$50
5/5/2014	15030007	R GROUP LLC	4133 EL MAR Dr	Business Tax	Closed	\$48,825
5/5/2014	15030008	R GROUP LLC	4136 N OCEAN Dr	Business Tax	Closed	\$52,125
9/3/2016	16090006	GORANA INTERNATIONAL INC	4140 EL MAR Dr	Building Code Violations	Closed	\$550
8/15/2018	18080020	3RM INVESTMENTS LLC	4144 EL MAR DR	Property Maintenance	Open	\$3,650
8/9/2018	18080019	3RM INVESTMENTS LLC	4144 EL MAR DR	Permits Required Violations	Open	\$750
8/15/2018	18080021	3RM INVESTMENTS LLC	4144 EL MAR DR	Zoning Violations	Open	\$750
10/2/2018	18100010	3RM INVESTMENTS LLC	4144 EL MAR DR	Permits Required Violations	Closed	\$50
11/8/2017	17110007	MARENAS 2010 LLC	4221 BOUGAINVILLA DR	Building Code Violations	Closed	\$7,700
11/20/2017	17110014	4312 HOLDINGS LLC	4312 SEAGRAPE DR	Building Code Violations	Open	\$42,350
6/30/2017	17060028	4326 OCEAN DR LLC	4326 N OCEAN DR	Nuisance/Abandoned Homes	Open	\$191,450
10/20/2010	18040019	4326 OCEAN DR LLC	4326 N OCEAN DR	Property Maintenance	Closed	\$37,950
11/1/2010	18040020	4326 OCEAN DR LLC	4326 N OCEAN DR	Property Maintenance	Closed	\$37,950
8/22/2018	18080029	4326 OCEAN DR LLC	4326 N OCEAN DR	Nuisance	Closed	\$18,750
11/2/2018	18110005	4326 OCEAN DR LLC	4326 N OCEAN DR	Permits Required Violations	Open	\$7,050
3/28/2017	17040004	4326 OCEAN DR LLC	4326 N OCEAN DR	Nuisance	Closed	\$2,250
8/19/2017	17080025	4326 OCEAN DR LLC	4326 N OCEAN DR	Nuisance/Abandoned Homes	Closed	\$2,200
5/17/2017	17050021	SEA GRAPE DRIVE PROPERTY INC	4337 SEAGRAPE DR	Permits Required Violations	Closed	\$27,500
1/31/2014	14020020	WHITE CAP OF FLORIDA INC	4353 N OCEAN Dr	Business Tax	Closed	\$1,800
2/21/2019	19020014	COMMERCIAL A1A LLC	4405 N OCEAN DR	BTR Housing Inspection	Open	\$50
12/10/2018	18120007	MARCHETTI,STEVEN MERCANTE,ROBERT	4422 SEAGRAPE DR	Permits Required Violations	Open	\$50
2/29/2012	12030014	4423 TRADEWINDS LLC	4423 W TRADEWINDS Ave	Business Tax	Closed	\$6,050
7/2/2007	18040005	4423 TRADEWINDS LLC	4423 W TRADEWINDS AVE	Nuisance	Closed	\$150
7/3/2007	18040006	4423 TRADEWINDS LLC	4423 W TRADEWINDS AVE	Nuisance	Closed	\$150
10/9/2018	18100006	CEBALLOS,JORGE	4449 POINCIANA ST	Permits Required Violations	Closed	\$1,050
1/23/2013	13010017	ELACQUA,JAMES E	4473 POINCIANA St	Business Tax	Closed	\$50
6/3/2010	18040017	ROBINS,ALAN	4505 POINCIANA ST	Property Maintenance	Closed	\$150
4/25/2009	18040025	BELL,ROBERT K	4521 N OCEAN DR	Property Maintenance	Closed	\$670,850
4/25/2009	18040026	BELL,ROBERT K	4521 N OCEAN DR	Property Maintenance	Open	\$353,050
4/25/2009	18040027	BELL,ROBERT K	4521 N OCEAN DR	Sign Violations	Open	\$351,750
2/21/2018	18030015	BELL,ROBERT K	4521 N OCEAN DR	Property Maintenance	Open	\$59,900
4/25/2009	18040024	BELL,ROBERT K	4521 N OCEAN DR	Property Maintenance	Closed	\$150
11/20/2018	18110015	CELENZA,JOSEPH & RHONDA	4537 BOUGAINVILLA DR	Building Code Violations	Open	\$350
2/12/2019	19020009	FDG CENTRAL LLC	4546 EL MAR DR	Nuisance/Vacant Lot	Open	\$100
5/4/2018	18050061	SEVA FLORIDA TROPICAIRE LLC	4553 BOUGAINVILLA DR	Zoning Violations	Open	\$50
10/15/2018	18100012	CEBALLOS,JORGE	4561 BOUGAINVILLA DR	Permits Required Violations	Open	\$300
11/6/2018	18110019	LBT'S PROPERTIES LLC	4564 N OCEAN DR	Building Code Violations	Open	\$350
7/28/2015	15070023	KARAKAYA INC	4600 N OCEAN Dr	Building Code Violations	Closed	\$26,350
10/31/2017	17100013	KARAKAYA INC	4601 EL MAR DR	Building Code Violations	Open	\$37,850
3/3/2016	16030013	KARAKAYA INC	4601 EL MAR Dr	Building Code Violations	Closed	\$7,050
5/17/2018	18070013	4605 N OCEAN DR LLC	4605 N OCEAN DR	Property Maintenance	Closed	\$2,250
7/28/2015	15070024	KARAKAYA INC	4608 N OCEAN Dr	Building Code Violations	Closed	\$25,900
5/17/2018	18070012	4605 N OCEAN DR LLC	4609 N OCEAN DR	Property Maintenance	Closed	\$50

1/6/2018	18010004	OEFELEIN,FELICITAS B	4616 BOUGAINVILLA DR	Building Code Violations	Closed	\$24,000
1/6/2018	18010005	OEFELEIN,FELICITAS B	4616 BOUGAINVILLA DR	Zoning Violations	Closed	\$24,000
9/22/2014	14110003	DEE JAY ENTERPRISES INC	4617 EL MAR Dr	Permits Required Violations	Open	\$125,150
5/16/2017	17060007	COLLINS,BRENDAN	4629 POINCIANA ST	Permits Required Violations	Closed	\$100
2/23/2018	18080002	FDG NORTH LLC	4640 EL MAR DR	Property Maintenance	Closed	\$50
5/22/2013	13060015	PEREIRA,PATRICIA	4648 BOUGAINVILLA Dr	Nuisance	Open	\$156,525
5/11/2017	18080003	PEREIRA,PATRICIA	4648 BOUGAINVILLA DR	Property Maintenance	Open	\$51,050
1/14/2014	14010008	FLORIDA DEVELOPMENT GROUP INC	4660 N OCEAN Dr	Hotel Outreach	Closed	\$446,820
11/20/2018	18110017	OCOTON INVESTMENTS CORP % MORENO,MARTHA	4900 N OCEAN BLVD	Building Code Violations	Open	\$350
11/5/2015	15110003	BRICMAYFL LLC	5000 N OCEAN BLVD	Building Code Violations	Open	\$232,850
1/13/2017	17010003	ROSDOR INTERNATIONAL SA	5000 N OCEAN BLVD	Building Code Violations	Closed	\$150



Properties with Fines over \$75,000*

In Litigation/Foreclosure			Violation	Accrued	Daily
2)	4521	N Ocean Dr (6 Units, Thunderbird)*	Pole Sign, Structural, Paint	\$858,350	\$300
3)	3270	Spanish River Drive (Ober)	Sewer, Roof/Tarp, Trash	\$181,905	\$0
4)	4326	N Ocean Drive (4 Units, 4326 Ocean Dr LLC)	Structural, Paint, Bees	\$299,150	\$900
Florida Development Group Properties			Violation	Accrued	Daily
5)	4108/4110	El Mar Dr (formerly Villa Caprice)	WWOP, Structural, Electric, 40-Year	\$4,735,810	\$2,150
6)	4116	N Ocean Dr (formerly LBTS Resort)	Structural, Electrical Maintenance	\$2,276,222	\$400
Other Properties			Violation	Accrued	Daily
8)	226/230	Basin Dr (Marina)	Unsafe Dock, WWOP, Boats	\$369,500	\$0
10)	4132	N Ocean Dr (Sea Lord Construction Site)	WWOP (sign), Delinquent BTR	\$203,775	\$0
11)	5000	N Ocean Dr #1711 (Condo, BricMayFL)	WWOP (Interior Alterations)	\$233,650	\$200
12)	1931	Waters Edge (PWL--Gilchrist)	Sewer, Boat, WWOP (Interior)	\$140,090	\$0
13)	4648	Bougainvilla Dr (5 Units, Patricia Pereira)	Inoperative Vehicle	\$156,825	\$75
14)	4617	El Mar Dr (Dee Jay Beach Resort)	WWOP (Seal and Stripe)	\$125,550	\$100
15)	1800	S Ocean Blvd #1307 (Condo, Sonia Imerti)	WWOP (Kitchen Cabinets/Counters)	\$95,350	\$100
TOTAL.....				\$9,676,178	

Notes

* Inspection 4521 N Ocean Dr (6 Units, Thunderbird) 04/01/19, Violations remain

Abbreviations Key

OVG	Overgrown Grass
WWOP	Work Without Permits
Lx	Landscape Maintenance
BTR	Business Tax Receipt
PWL	Purchased w/ Knowledge of Lien(s)

*As of Friday, April 05, 2019



Town Commission Agenda Item Report

Meeting Date: April 9, 2019

Submitted by: Tedra Allen

Submitting Department: Administration

Item Type: Minutes

Agenda Section: APPROVAL OF MINUTES

Subject Title:

March 26, 2019 Town Commission Meeting Minutes

Explanation:

Recommendation:

Accept/Approve

Attachments:

[032619 LBTS Commission 1st draft minutes \(002\).docx](#)

**TOWN OF LAUDERDALE-BY-THE-SEA
TOWN COMMISSION
REGULAR MEETING MINUTES
Jarvis Hall
4505 Ocean Drive
Tuesday, March 26, 2019
6:30 PM**

1. CALL TO ORDER, MAYOR CHRIS VINCENT

Mayor Vincent called the meeting to order at 6:39 p.m. Also present were Vice Mayor Elliot Sokolow, Commissioner Edmund Malkoon, Commissioner Alfred “Buz” Oldaker, Commissioner Randy Strauss, Town Manager Bill Vance, Deputy Town Manager Tony Bryan, Town Attorney Susan L. Trevarthen, Municipal Services Director Ken Rubach, Development Services Director Linda Connors, Special Projects Coordinator Debbie Hime, Public Information Officer Steve d’Oliveira, Project Manager Kathie Margoles, and Town Clerk Tedra Allen.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. INVOCATION

Rabbi Benzion Singer gave the Invocation.

4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS

Commissioner Malkoon requested that a Resolution addressing home rule of vacation rentals be placed on the Agenda as Item 16b. A brief presentation was also added as Item 11c.

5. PRESENTATIONS

a. Pier Restoration Update

Spiro Marchelos, owner of Fisherman’s Pier, explained that the pier is undergoing repairs for damage experienced during Hurricane Irma. Nick Terziev of Double P Construction, contractor, stated that his company is in the process of making under- and above-water restorations to the pier. These restorations are subject to daily weather and water conditions. Repairs are being made with redundancies in mind in order to prevent compromising the integrity of the structure.

Mr. Marchelos noted that extensions may be requested in order to address any Code violations that may have existed on the site. Mayor Vincent requested that the contractor provide copies of on-site logs to a building official so the Town is kept apprised of progress. Mr. Terziev agreed to provide these materials upon request.

6. PUBLIC COMMENTS

At this time Mayor Vincent opened public comment.

Ron Piersante, resident, expressed his appreciation for outgoing Town Manager Bud Bentley and his service to the Town.

Barbara Cole, resident, also stated her appreciation for Town Manager Bentley and welcomed new Town Manager Bill Vance. She continued that she is concerned with the future development of El Mar Drive, including plans for a walkway in the median.

As there were no other individuals wishing to speak at this time, Mayor Vincent closed public comment.

7. PUBLIC SAFETY DISCUSSION

Howard Goldberg, resident, recalled that a pancake breakfast was recently held to raise funds for the Town's Volunteer Fire Department (VFD). He presented the Commission with a check for \$2000 raised from this event.

a. BSO February 2019 Report (Captain Tom Palmer)

Captain Tom Palmer of the Broward Sheriff's Office (BSO) advised that there have recently been several calls regarding scams. One common scam includes allegations that the Internal Revenue Service (IRS) is contacting individuals to request funds in the form of gift cards or via wireless transaction. Captain Palmer emphasized that the IRS will never contact individuals by phone.

Another recent scam asks individuals to send gift cards as bail for a relative in a detention facility. Gift cards cannot be used for this purpose. Captain Palmer encouraged anyone who feels they are targeted by these or other scams to contact BSO. He cautioned that the scammers' phone numbers may use local area codes and/or prefixes.

Commissioner Strauss added that another recent scam is a call or email allegedly from Florida Power and Light (FPL). He urged any resident receiving this call to contact FPL using the number on their utility bill rather than the number or email sent as part of this message.

Commissioner Oldaker made a motion, seconded by Commissioner Strauss, to approve. Motion carried 5-0.

8. TOWN MANAGER REPORT

a. February Finance Report (Tony Bryan, Deputy Town Manager)

Deputy Town Manager Tony Bryan stated that the Finance Report includes an error regarding the parking revenue allocation: the allocation between accounts is incorrect. This will be corrected in the next Finance Report.

Commissioner Oldaker commented that cap invoices appear to be falling well behind schedule. Deputy Town Manager Bryan confirmed this, explaining that there had been an issue with the company failing to send invoices to the Town. This is because the contractor has taken over the reconciliation process from the Town.

b. Town Manager Report (Bill Vance, Town Manager)

Town Manager Bill Vance stated that the transition process has been very positive and efficient, and thanked former Town Manager Bud Bentley and Town Staff for their assistance in bringing him up to date.

9. TOWN ATTORNEY REPORT

None.

10. APPROVAL OF MINUTES

a. March 12, 2019 Town Commission Meeting Minutes (Tedra Allen, Town Clerk)

Commissioner Oldaker made a motion, seconded by Commissioner Strauss, to approve. Motion carried 5-0.

11. CONSENT AGENDA

Items 11a and 11c were pulled for additional discussion.

a. Micro Bee Apiary at Town Hall – Contract with The Urban Bee Keepers (Kathie Margoles, Project Manager)

Mayor Vincent noted that the initial cost of the micro-apiary will be \$7500, with a second expenditure of funds required upon completion of the structure. The Town will own the structure itself and the fence around it. Project Manager Kathie Margoles confirmed that The Urban Bee Keepers are responsible for stocking the apiary and the hive's annual operating costs, including maintenance of the structure.

Commissioner Malkoon recognized resident Ann Marchetti, who was integral to the development of this program, and Assistant Town Manager Sharon Ragoonan for work done toward this project.

Commissioner Malkoon made a motion, seconded by Commissioner Oldaker, to approve. Motion carried 5-0.

b. Special Event Application – TacoCraft Cinco de Mayo 5-5-19 (Debbie Hime, Special Projects Coordinator)

Vice Mayor Sokolow made a motion, seconded by Commissioner Oldaker, to approve. Motion carried 5-0.

c. Visitor Center Employee Nomination for Greater Fort Lauderdale Convention and Visitors Bureau SunSational Service Courtesy Award at the National Tourism Day Luncheon, May 8, 2019 (Debbie Hime, Special Projects Coordinator)

Special Projects Coordinator Debbie Hime noted that the most recent edition of *Town Topics* includes a feature story on the Town's Visitors Center and volunteer manager Veronica Pietronuto, who has been nominated for the SunSational Service Courtesy Award. The May 8, 2019 Tourism Day luncheon will be held at the Convention Center. The Visitors Center will be closed on May 8 so volunteers and others may attend.

Vice Mayor Sokolow made a motion, seconded by Commissioner Oldaker, to approve. Motion carried 5-0.

12. OLD BUSINESS

a. FY19 Action Plan Update

Town Manager Vance advised that he will provide comment on the fiscal year (FY) 2019 Action Plan Update at the April 9, 2019 meeting. Items completed throughout the year will be noted as part of these updates.

13. NEW BUSINESS

None.

14. COMMISSIONER COMMENTS

Mayor Vincent expressed his condolences on the recent passing of former Town Commissioner Jim Pollack.

Commissioner Malkoon extended his thanks to former Town Manager Bentley for his service and welcomed new Town Manager Vance.

Commissioner Oldaker addressed previously existing signage on I-95, which had directed individuals to the Town and its Visitors Center. He requested information on why these signs were no longer in place. It was noted that these signs were installed in the late 1990s.

15. ORDINANCES

a. Ordinances 1st Reading

- i. Ordinance 2019-03 – AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 5 “BEACHES AND WATERWAYS” OF THE TOWN’S CODE OF ORDINANCES TO CREATE SECTION 5-8, “PROHIBITION ON DISTRIBUTION, SALE OR USE OF PLASTIC STRAWS”; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND FOR AN EFFECTIVE DATE (Kathie Margoles, Project Manager)**

At this time Mayor Vincent opened public comment.

Riley Kramer-Dew, resident, thanked the Commission for consideration of this Ordinance.

As there were no other individuals wishing to speak at this time, Mayor Vincent closed public comment.

Vice Mayor Sokolow recommended that the Ordinance may be more enforceable if the word “use” is removed from its language, noting the proximity of other municipalities that are not subject to the Ordinance. He added that there is consideration at the state level of preempting local regulation of the sale and/or distribution of plastic straws, and noted that the Town may wish to wait for the outcome of this proposed action before passing the Ordinance.

Town Attorney Susan Trevarthen advised that the Ordinance would not be enforced until June 2019. She suggested that the Commission may wish to consider deferring second reading of the Ordinance until after the completion of the legislative session, at which point they will know whether or not they may enact the Ordinance. She concluded that the Commission may determine whether or not they wish to include the word “use” in the Ordinance’s language before proceeding.

Mayor Vincent referred to the penalties written into the Ordinance, pointing out that the Town will need to discuss these further upon or before second reading.

Town Attorney Trevarthen continued that in other municipalities’ Ordinances on this issue, the penalty for use by individuals was lower than the penalty for stores selling or distributing straws. It was noted that penalties are typically established by Resolution, which would be presented to the Commission upon second reading of the Ordinance. It was determined that the penalty would be set at \$150, with additional information to come on the penalties enacted by other municipalities.

Vice Mayor Sokolow made a motion, seconded by Commissioner Oldaker, to approve the Ordinance on first reading with the deletion of the “use” condition, with a penalty of \$150 for noncompliance, and deferring the second reading until after the end of the legislative session. Motion carried 5-0.

b. Ordinances 2nd Reading

None.

16. RESOLUTIONS – PUBLIC COMMENTS

- a. Resolution 2019-06 – A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, APPOINTING AN ACTING TOWN MANAGER TO SERVE IN THE EVENT THE TOWN MANAGER IS ABSENT OR DISABLED; PROVIDING FOR REPEAL OF ANY CONFLICTING RESOLUTION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE (Bill Vance, Town Manager)**

At this time Mayor Vincent opened public comment, which he closed upon receiving no input.

Mayor Vincent advised that this Resolution is already in place and is being updated.

Commissioner Oldaker made a motion, seconded by Vice Mayor Sokolow, to approve. Motion carried 5-0.

- b. Resolution 2019-07 – A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, URGING THE FLORIDA LEGISLATURE AND THE FLORIDA GOVERNOR TO OPPOSE LEGISLATIVE CHANGES PROHIBITING LOCAL REGULATION OF VACATION RENTALS; PROVIDING FOR DIRECTION TO TOWN OFFICIALS; PROVIDING FOR AN EFFECTIVE DATE (Commissioner Malkoon)**

Commissioner Malkoon explained that he had received inquiries regarding Senate Bill (SB) 824, which would preempt home rule of vacation rentals by any town. SB 824 would completely defeat all local regulation of vacation rentals, leaving regulations that apply to all residential uses as the Town's only option.

At this time Mayor Vincent opened public comment, which he closed upon receiving no input.

Vice Mayor Sokolow made a motion, seconded by Commissioner Malkoon, to approve. Motion carried 5-0.

17. QUASI JUDICIAL PUBLIC HEARINGS

None.

18. ADJOURNMENT

With no further business to come before the Commission at this time, the meeting was adjourned at 7:39 p.m.

Mayor Chris Vincent

ATTEST:

Town Clerk Tedra Allen

Date



Town Commission Agenda Item Report

Meeting Date: April 9, 2019

Submitted by: Kathie Magoles

Submitting Department: Administration

Item Type: Consent

Agenda Section: CONSENT AGENDA

Subject Title:

Settlement and Release Agreement with Waste Pro

Explanation:

This is one of two solid waste related items on tonight's agenda. The companion item is Ordinance 2019-01, which adopts the 2019 Restated Collection Agreement. The 2019 Restated Agreement includes several housekeeping changes plus revisions to Section 3.5 to clarify and strengthen requirements to use the Town's designated disposal facilities and that advanced permission is required from the Town before commingling materials.

Recommendation:

We recommend the Commission authorize the Town Manager to execute the attached Settlement and Release Agreement (Exhibit 1).

Attachments:

[4-9-19 AM Restated WP Agreement.pdf](#)

[Ex1 Waste Pro Agreement 4-1_3F14734-.pdf](#)



Agenda Memorandum

Town Manager's Office

Department

Bud Bentley

staff

COMMISSION MEETING DATE: April 9, 2018

ITEM CATEGORY: Consent

SUBJECT TITLE: Settlement And Release Agreement with Waste Pro

EXPLANATION: This is one of two solid waste related items on tonight's agenda. The companion item is Ordinance 2019-01, which adopts the 2019 Restated Collection Agreement. The 2019 Restated Agreement includes several housekeeping changes plus revisions to Section 3.5 to clarify and strengthen requirements to use the Town's designated disposal facilities and that advanced permission is required from the Town before commingling materials.

The Settlement Agreement provides for the following actions:

1. **Account Audit.** In 2018 Waste Pro reviewed its LBTS accounts and found errors. From the start of Waste Pro providing services some customers were overcharged about \$25,000 and other customers were under billed about \$36,000. (Waste Pro inherited the account billing information from the previous company.)
 - ✓ The settlement agreement provides that Waste Pro will send refunds to any customer that was overcharged and will write off any under charges through September 30, 2018.
2. **2018 Temporary Disposal Agreement.** In July 2018 after the end of the Sun-Bergeron contract, the Town contracted with Waste Pro for the disposal of waste and recyclables for a period of 6 months. The Town owes about \$9,700, which is the marginal increase in cost from what we were paying.
 - ✓ Waste Pro has agreed to waive this bill.
3. **Use of a Non-Designated Facility and Commingling of Waste.** In 2017 and 2018 the truck that collects waste from dumpsters in LBTS also collected waste outside of Town (commingling) and the drivers tended to go to the Wheelabrator South Incinerator site rather than the Sun-Bergeron disposal site, which is the Town's designated site. This was a violation of the Collection Agreement and our contract with Sun-Bergeron. Waste Pro has settled with Sun-Bergeron so the Town does not have any liability to Sun-Bergeron.
 - ✓ Town waives the penalty of \$2,000 for each instance Waste Pro disposed of MSW at a non-designated facility.
 - ✓ Town agree to not invoke Section 9.9 of the Town's 2017 Collection Agreement declaring a material breach of contract.



This settlement agreement resolves these past issues and the changes in the 2019 Restated Collection Agreement details the process for the collection hauler to request approval to commingle waste and reinforces the requirements to use the Town designated disposal facilities

RECOMMENDATION: We recommend the Commission authorize the Town Manager to execute the attached Settlement and Release Agreement **(Exhibit 1)**.

Exhibits:

1. Settlement and Release Agreement

Reviewed by Town Attorney:

☒	Yes	☐	No
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File: T:\0 Agenda\4-9-19 Commission\Admin\WP Settlement\4-9-19 AM Restated WP Agreement.docx

Exhibit 1

SETTLEMENT AND RELEASE AGREEMENT

THIS SETTLEMENT AGREEMENT (“**Settlement Agreement**”) is made and entered into by the Town of Lauderdale-By-The-Sea (“Town”) and Waste Pro, Inc. (collectively, “**Parties**”), for the purpose of settlement of the Town’s claim for penalties and indemnification arising from certain services provided to the Town by Waste Pro pursuant to the Parties’ 2017 Restated Collection Agreement (“**Agreement**”) as described more fully herein.

RECITALS

WHEREAS, the Solid Waste, Bulk Waste, and Recycling Collection Services Agreement was originally executed on July 1, 2009; the 2012 Restated Agreement was amended, renewed and executed for the first renewal period and effective until May 17, 2017; the 2015 Restated Agreement extended the first renewal period for one year until November 30, 2016; and the 2017 Restated Agreement was executed as the second renewal period and expires on November 30, 2018;

WHEREAS, the Agreement requires Waste Pro to provide Solid Waste, Bulk Waste, and Recycling Collection Services (“Collection Services”) for the Town and further requires Waste Pro to indemnify and hold harmless the Town against claims, demands, penalties, losses and actions (including attorney’s fees) caused by the negligence of Waste Pro or its agents, employees, or subcontractors in the performance of the Agreement, as more particularly described at Section 18 of the Agreement;

WHEREAS, in July 2017, the Town discovered that the customer accounts were billed incorrectly and Waste Pro calculated that this amounted to \$35,266.24 in underpayment and \$24,772.26 in overpayments to Waste Pro for collection services;

WHEREAS, in May 2018, the Town notified Waste Pro and the Town’s Disposal contractor, Sun-Bergeron Joint Venture, about the differences in the municipal solid waste (MSW) being reported by both companies;

WHEREAS, the Parties determined that the discrepancy was attributed to Waste Pro comingling open market rate tons with commercial tons and disposing of the waste at a non-designated disposal facility;

WHEREAS, Waste Pro has represented to Town that they have settled with Sun-Bergeron Joint Venture about disposing of MSW at sites other than the Town’s designated disposal site.

WHEREAS, Waste Pro violated Section 3.5 of the 2017 Restated Collection Agreement and provides for the imposition of a two thousand dollar (\$2,000.00) penalty for each instance occurring between 2015 and 2018;

WHEREAS, the Parties executed a 90-day solid waste disposal and recycling services agreement (“Temporary Disposal Agreement”) effective July 3, 2018, which was extended through December 31, 2018, and the Temporary Disposal Agreement provided for the directly billing of the services to the Town on a monthly basis for payment and amounts to \$9,634.85 for the period between September 1, 2018 through November 30, 2018; and

Exhibit 1

WHEREAS, the Parties desire to settle and resolve the Town's demand for indemnification for Waste Pro's violation of section 3.5 of the 2017 Restated Agreement and any and all other demands, claims or actions of any sort arising directly or indirectly from the billing error, disposal of certain MSW to a non-designated location, and amounts due under the Temporary Agreement.

NOW, THEREFORE, in consideration of the mutual promises set forth here and other good and valuable consideration, the terms and sufficiency of which are hereby acknowledged and established, the Parties stipulate and agree that the Town's claim for indemnification shall be resolved and settled, subject to the terms and conditions of this Settlement Agreement.

SETTLEMENT AGREEMENT

1. In consideration of the terms of settlement here described, the Parties hereby release each other, as well as their respective employees and agents, from any and all demands, claims or actions of any sort, known or unknown, arising directly or indirectly from the Agreement.
2. The Parties agree to settle the Town's demands and Waste Pro's demands as follows:
 - a. Waste Pro shall credit to the account of solid waste customers or refund previous solid waste Customers who were overcharged for services through September 30, 2018, which the parties believe is approximately \$24,772.26;
 - b. Waste Pro shall write off approximately \$36,000 balance owed to Waste Pro by solid waste customers who were undercharged for services through September 30, 2018. Nothing herein precludes Waste Pro from correcting collection rates and collecting monies owed by customers since October 1, 2018;
 - c. Waste Pro waives the invoices to the Town in the amount of approximately \$9,634.85 and the Town will owe \$0.00 for the services provided under the 2018 Temporary Disposal Agreements; and
 - d. Town waives the penalty of \$2,000 for each instance Waste Pro disposed of MSW at a non-designated facility prior to the effective date of this Settlement Agreement.
 - e. Town will not invoke Section 9.9 of the Town's 2017 Restated Collection Agreement for a material breach of contract regarding any of Waste Pro's violations that are set forth in this Settlement Agreement.
3. The Parties acknowledge that, in entering into this Settlement Agreement, they have not relied upon any representations, warranties, promises or conditions made by the other party or agents of the other party that are not specifically set forth in this Agreement. The Parties acknowledge that they each have freely executed this Agreement after independent investigation, with the advice of counsel and without fraud, duress or undue influence.
4. This Settlement Agreement shall become effective on the date that it has been executed by both Parties. Each person or entity executing this Settlement Agreement represents and warrants that such person or entity is authorized to enter into this Settlement Agreement

Exhibit 1

and that this Agreement comprises valid and binding obligations of both parties. This Settlement Agreement may be executed in counterparts including PDF or facsimile.

5. This Agreement shall be construed and enforced according to the laws of the State of Florida. Venue in any proceedings between the parties shall be in Broward County, Florida.

IN WITNESS WHEREOF, the Parties hereto have caused this document to be executed on the last day set forth below.

Dated: April ____, 2019.

TOWN OF LAUDERDALE-BY-THE-SEA,
FLORIDA

By: _____

Name: William Vance

Title: Town Manager

Dated: April ____, 2019.

WASTE PRO, INC.

By: _____

Name: Russell Mackie

Title: Regional Vice President



Town Commission Agenda Item Report

Meeting Date: April 9, 2019

Submitted by: William Vance

Submitting Department: Administration

Item Type: Discussion Item

Agenda Section: OLD BUSINESS

Subject Title:

El Mar Greenway Project

Explanation:

Design Agreement with Erdman Anthony for Town Improvements

FDOT selected the firm of Erdman Anthony of Florida (West Palm Beach office) to design the El Mar Greenway Project.

At the September 26, 2018 meeting, the Commission approved a \$53,003 locally funded agreement with FDOT for the design cost to replacing the outside sidewalks, widening the existing roadway pavement two feet, replacing all curbs and gutters, and a more comprehensive drainage plan in their designs. In addition, FDOT approved including the conduit necessary for the Town to install pedestrian lighting and irrigation after the Greenway contract is closed out.

At the Town's request, Erdman Anthony provided an initial proposal to design pedestrian lighting, hardscape, landscape and irrigation, all of which are not eligible for federal funding. We met with the design team on April 3rd to refine the scope of work and we expect to have a design contract on the April 23, 2019 agenda.

Change in Schedule

At the April 3rd meeting we were surprised to learn that FDOT has changed the project schedule and that they plan to award a construction contract in May 2020 instead of January 2020, with construction starting in the fall of 2020. We are following up with the MPO and FDOT regarding how such a significant decision could be made without our input and without even the courtesy of notice.

Penny Infrastructure Surtax

The EL Mar Greenway Project was on the Town's Penny Surtax project list and it is our recommendation that the Commission authorize the Town staff to apply for to utilize Penny Surtax monies to fund the Town's portion of the project. As you may know the County and the Independent Transportation Surtax Oversight Board are currently developing the policies and procedures for the use of these funds. Given that construction is scheduled to start in the fall of 2020. The majority of our expense will be in 2021 after the FDOT contractor completes its work. The timing should be good for the Town since the Penny Surtax Interlocal Agreement provides for the MPO to rank projects and the number of projects funded will depend on the dollars available and we have a shovel-ready project that is already on the MPO's five-year plan.

Construction Management (Local Agency Program Agreement)

On May 23, 2017, the Commission approved Resolution 2017-18 (Exhibit 1). The resolution, which was requested by the Florida Department of Transportation ("FDOT"), achieved the following:

1. It expressed the Commission's support of the El Mar Drive Greenway Mobility Project FM# 437786-1, which improves conditions for bicyclists and pedestrians (line 41);
2. It expresses support for FDOT being the agency responsible for design and construction activities on the Projects (line 44); and
3. It commits to continue funding the operation and maintenance of the Project after construction (line 46).

Over time, staff's opinion about FDOT managing the construction of the project has changed. We are influenced by FDOT projects such as the Galt Ocean Mile Project, the Broward Boulevard Project in Fort Lauderdale, three projects in Hollywood, problem projects in Miami, and the ongoing Wilton Manner Drive Project.

FDOT's process for estimating construction periods is very linear and FDOT staff strongly discourages placing restrictions on contractors; believing that restrictions increase bid prices.

We understand why FDOT has their policies and procedures and we respect their experience constructing bridges and major roadways; however, in our constricted urban setting, an extended construction period could cause significant economic harm to our small businesses. Our own construction experience, most notably the three phases of the Commercial Boulevard renovation, leads us to believe that it is in the best interest of our community to have the Town manage the construction.

You may remember that in 2011 the Town entered into a Local Agency Program (LAP) Agreement with FDOT for the construction of the North A1A Project. That agreement provided for the Town to manage the construction of the project, which was completed on time and within budget. We suggest the Town become LAP certified again and request FDOT agreement that this be a LAP project. We do not know if FDOT will agree to a LAP with the Town.

Recommendation:

Commission concurrence that the Town renew its LAP certification and submit the Greenway Project for Penny Surtax funding.

Attachments:

[Ex1 Resolution 2017-18.pdf](#)

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3 A RESOLUTION OF THE TOWN COMMISSION OF
4 THE TOWN OF LAUDERDALE-BY-THE-SEA,
5 FLORIDA, SUPPORTING FLORIDA DEPARTMENT
6 OF TRANSPORTATION'S GREENWAY
7 PROJECT FM# 437786-1; PROVIDING FOR
8 CONFLICTS; PROVIDING FOR SEVERABILITY;
9 PROVIDING AN EFFECTIVE DATE.

12 **WHEREAS**, the Broward Metropolitan Planning Organization's 2018/2019
13 Transportation Improvement Program includes funding for engineering for the El Mar
14 Drive Greenway Mobility Project, FM# 437786-1 (the "**Project**") and construction
15 funding programed in the Long Range Transportation Plan ; and

6 **WHEREAS**, Lauderdale-By-The-Sea (the "Town") has funds budgeted in its
7 Capital Improvement Fund and will continue to budget funds for this Project necessary
8 to pay for the improvements beyond the scope of the Greenway grant funding; and

9 **WHEREAS**, the Project is on El Mar Drive, which is fully within the Town,
0 and is identified in Exhibit "A," attached hereto and made a part of this Resolution;
1 and

2 **WHEREAS**, the Florida Department of Transportation ("**FDOT**") will be the
3 agency responsible for design and construction activities on the Projects; and

WHEREAS, FDOT requires a resolution supporting its role as the Project's designer and construction administrator; and

WHEREAS, the Town endorses FDOT's role as the Project's designer and construction administrator; and

WHEREAS, the Town, as the owner of the El Mar Drive right-of-way, is committed to continue funding the operation and maintenance of the Project; and

WHEREAS, the Project will further the goal of the Town to support the development, design and construction of sustainable, multi-modal transportation facilities throughout the Town, to meet the demands of residents, travelers, businesses and the community.

35
36 NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION
37 OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA:
38

39 SECTION 1. Recitals. The foregoing "Whereas" clauses are hereby ratified and
40 confirmed by the Town Commission, and incorporated herein.

41 SECTION 2. Support for the Project. The Town supports FDOT's Project
42 FM# 437786-1, with the location identified on the attached Exhibit "A," to improve
43 conditions for bicyclists and pedestrians.

44 SECTION 3. FDOT as Designer and Construction Administrator. The
45 Town supports FDOT as the Project designer and construction administrator.

46 SECTION 4. Commitment to Continued Funding. The Town commits to
47 continue funding the operation and maintenance of the Project as determined in the
48 Town's annual budget process.

49 SECTION 5. Conflict. All resolutions or parts of resolutions in conflict
50 herewith, be and the same are hereby repealed to the extent of such conflict.

51 SECTION 6. Severability. The provisions of this Resolution are declared to be
52 severable and if any section, sentence, clause or phrase of this Resolution shall for any
53 reason be held to be invalid or unconstitutional, such decision shall not affect the validity
54 of the remaining sections, sentences, clauses, and phrases of this Resolution, but they
55 shall remain in effect, it being the legislative intent that this Resolution shall stand
56 notwithstanding the invalidity of any part.

RESOLUTION 2017-18

57 **SECTION 7. Effective Date.** This Resolution shall become effective upon
58 passage and adoption.

59 **PASSED AND ADOPTED** this 23rd day of May, 2017.

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65 **ATTEST:**

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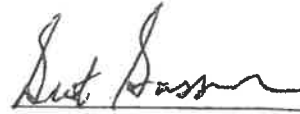
70 **Approved as to form:**

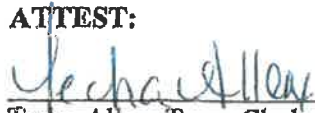
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MAYOR SCOT SASSER

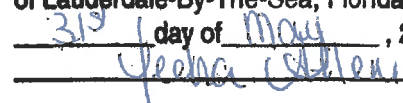

Tedra Allen, Town Clerk


Susan L. Trevarthen, Town Attorney

CERTIFICATION

I certify this to be a true and correct copy of the record in my office.

WITNESSED by my hand and official seal of the Town of Lauderdale-By-The-Sea, Florida

31st day of May, 2017
 Town clerk

FM# 437786-1 (includes Pine to Flamgino Link)

Pine Ave is North Boundary of project.

 El Mar Greenway

Lauderdale-By-The-Sea

El Mar Drive

Flamingo Avenue and Ocean Drive is the South Boundary of Project

2000 ft





Town Commission Agenda Item Report

Meeting Date: April 9, 2019

Submitted by: Tedra Allen

Submitting Department: Administration

Item Type: Discussion Item

Agenda Section: NEW BUSINESS

Subject Title:

Broward League of Cities 2019-20 Board of Directors Appointments

Explanation:

According to the League By-Laws, each municipality shall appoint a Director, Alternate, and Second Alternate to attend and vote at any Board of Directors or General Membership meeting held where he/she represents his/her municipality.

Currently Commissioner Oldaker is the Director, Commissioner Malkoon is the Alternate, and Commissioner Strauss is the Second Alternate representing the Town from May 2018 thru May 2019. The Broward League of Cities request that the appointments are completed by April 18, 2019.

Recommendation:

Appoint a Director, Alternate and Second Alternate for a one year term beginning May 2019 thru May 2020

Attachments:

[Ex 1. Board Request Appointment.pdf](#)



MEMORANDUM

To: City Clerks
From: Mary Lou Tighe, Executive Director
Date: March 20, 2019
Re: 2019-20 Board of Director Appointments

2018-2019 OFFICERS

President Tim Lonergan
Commissioner, Oakland Park
1st Vice President Daniel J. Stermer
Mayor, Weston
2nd Vice President Traci Callari
Vice Mayor, Hollywood
Secretary Beverly Williams
Commissioner, Lauderdale Lakes
Treasurer Gary Resnick
Commissioner, Wilton Manors

DIRECTORS

Immediate Past President Dan Daley
Commissioner, Coral Springs
Past President Greg Ross
Mayor, Cooper City
Past President Susan Starkey
Councilmember, Davie
Past President M. Margaret Bates
Vice Mayor, Lauderhill
Past President Frank Ortis
Mayor, Pembroke Pines
Barbara Baldassarre
Commissioner, Hillsboro Beach
Gloria Battle
Vice Mayor, Deerfield Beach
Peggy Brown
Commissioner, Weston
Felicia Brunson
Commissioner, West Park
Anthony Caggiano
Mayor, Margate
Mark Douglas
Deputy Mayor, Sunrise
Rhonda Eaton
Commissioner, Pompano Beach
Justin Flippen
Mayor, Wilton Manors
Michelle Gomez
Mayor, Tamarac
Bill Harris
Commissioner, Dania Beach
Dale Holness
Vice Mayor, Broward County
Anabelle Lima-Taub
Commissioner, Hallandale Beach
Bob Mayersohn
Commissioner, Parkland
Doug McKay
Mayor, Southwest Ranches
Wayne Messam
Mayor, Miramar
Ashira Mohammed
Mayor, Pembroke Park
Heather Moraitis
Commissioner, Fort Lauderdale
Tim Neal
Councilmember, Sea Ranch Lakes
Alfred "Buz" Oldaker
Commissioner, Lauderdale-by-the-Sea
Iris Siple
Commissioner, Pembroke Pines
Lynn Stoner
Mayor, Plantation
Ken Thurston
Mayor, Lauderhill
Becky Tooley
Commissioner, Coconut Creek
Glenn Troast
Mayor, Lighthouse Point
Lorenzo Wood
Commissioner, North Lauderdale

Samuel S. Goren, Esquire
Goren Cherof Doody & Ezrol, P.A.
Legal Counsel

Mary Lou Tighe
Executive Director
Sely Cochran
Deputy Executive Director

According to the League By-Laws:

- Each city shall appoint a Director, Alternate, and Second Alternate to attend and vote at any Board of Directors or General Membership meeting held where he/she represents his/her municipality.
- It is the responsibility of each Director to communicate with his/her respective municipal officials, employees, and constituents concerning actions taken or to be taken by the Board of Directors or the general membership. Directors are responsible for bringing issues of collective importance to the attention of the Board of Directors.
- Each member of the Board of Directors shall notify his or her Alternate to attend Board of Director Meetings when that voting member will not attend. The Alternate shall have the right to participate and vote. In the event the Alternate cannot attend, the Alternate shall notify his or her Second Alternate to attend Board of Director meetings when the Alternate cannot attend. The Second Alternate shall have the right to participate and vote.

Please agenda the selection of your Director, Alternate, and Second Alternate for your **next** commission meeting **as the deadline for board appointments is April 18, 2019.** The term will begin on May 18, 2019 and end in May of 2020.

Please forward the information below to scochrane@browardleague.org.

=====

Municipality: _____

Commissioner/Council Appointments: _____

Director: _____

Alternate: _____

Second Alternate: _____



Town Commission Agenda Item Report

Meeting Date: April 9, 2019

Submitted by: Tedra Allen

Submitting Department: Administration

Item Type: Ordinances 1st Reading

Agenda Section: ORDINANCES 1ST READING

Subject Title:

Ordinance 2019-01 - AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, APPROVING THE 2019 RESTATED SOLID WASTE, BULK WASTE, AND RECYCLING COLLECTION SERVICES AGREEMENT WITH WASTE PRO USA, INC. ("2019 RESTATED COLLECTION AGREEMENT"); AUTHORIZING AMENDMENTS INCLUDING COMMINGLED WASTE, NUMBER OF CARTS IN DUPLEXES, PENALTIES; AUTHORIZING EXECUTION OF THE AGREEMENT; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE.

Explanation:

This is one of two solid waste related items on tonight's agenda. The companion item is a Settlement Agreement with Waste Pro concerning their commingling dumpster waste and disposing at a non-designated site.

Attached for First Reading is Ordinance 2019-01 (Exhibit 1), which adopts the 2019 Restated Solid Waste Bulk and Recycling Collection Services Agreement (Exhibit A to Ordinance 2019-01).

The primary change in the 2019 Restated Agreement is in Section 3.5, which is re-formatted and revised because of the situation we had with Waste Pro, which is the subject of the other solid waste agenda item. The re-formatting focuses the reader's attention on the requirement to use designated disposal facilities and the revisions set out the process for the collection hauler to get advanced permission to commingle materials.

Recommendation:

Adopt Ordinance 2019-01 on First Reading

Attachments:

[4-9-19 AM Restated WP Agreement.docx](#)

[Ex1_Ord 2019-01_and ExA Collection Agreement.pdf](#)

[Ex2 Redline Collection Agreement 4.3.19_3F23772.pdf](#)



Agenda Memorandum

Town Manager's Office

Department

Bud Bentley

Staff

COMMISSION MEETING DATE: April 9, 2018

ITEM CATEGORY: Ordinance

SUBJECT TITLE: First Reading of Ordinance 2019-01 Adopting 2019 Restated Solid Waste Franchise Collection Agreement

EXPLANATION: This is one of two solid waste related items on tonight's agenda. The companion item is a Settlement Agreement with Waste Pro concerning their commingling dumpster waste and disposing at a non-designated site.

Attached for First Reading is Ordinance 2019-01 (**Exhibit 1**), which adopts the 2019 Restated Solid Waste Bulk and Recycling Collection Services Agreement (Exhibit A to Ordinance 2019-01).

The primary change in the 2019 Restated Agreement is in Section 3.5, which is re-formatted and revised because of the situation we had with Waste Pro, which is the subject of the other solid waste agenda item. The re-formatting focuses the reader's attention on the requirement to use designated disposal facilities and the revisions set out the process for the collection hauler to get advanced permission to commingle materials.

Proposed Sec. 3.5.

3.5 DESIGNATED DISPOSAL FACILITY AND COMMINGLING OF WASTE

All Solid Waste, Bulk Waste, Residential Recyclable Materials, and Recyclable Materials ~~from TOWN facilities~~ collected pursuant to this Agreement shall be delivered to facilities designated (~~"Designated Disposal Facilities"~~) by the TOWN ("Designated Disposal Facilities"), with the exception of waste which is shown by affidavit to be destined for transportation to any destination outside of the State of Florida. A violation of this Section is a material breach of contract.

3.5.1 Disposal Facility Outside of Florida

Should CONTRACTOR direct waste to a location outside the State of Florida, it shall indemnify and hold harmless the TOWN for any action resulting from such disposal. CONTRACTOR specifically acknowledges that the prices in this Agreement include this indemnification and hold harmless obligation as a part of its cost for out of state delivery, and such cost is not to be interpreted as a penalty for, or barrier to, delivery of the waste by CONTRACTOR out of state.



3.5.2 Ownership and Commingling of Waste.

- (a) The TOWN shall retain ownership of all Solid Waste, Bulk Waste, Residential Recyclable Materials, and Recyclable Materials ~~from TOWN facilities~~ until delivery to the Designated Disposal Facility.
- (b) In the event that CONTRACTOR commingles any ~~Solid Waste, Bulk Waste, recyclables, or other~~ materials collected under the terms and conditions of this Agreement with ~~Solid Waste or other~~ materials from other jurisdictions, CONTRACTOR shall indemnify and hold TOWN harmless from any and all losses, claims, or liability associated with the quantities of Solid Waste or other materials that were commingled.
- (c) CONTRACTOR shall inform TOWN and Town's Designated Disposal Facilities prior to commingling any materials and receive their approval. The Town Manager's approval shall not be unreasonably be withheld.

CONTRACTOR shall submit for the Town Manager's approval the formula for converting the tons of disposed commingled waste to cubic yards and then the calculation of the tons/yardage of Town waste from the total disposed. The formula may be revised from time to time at the request of either party.

The other changes are housekeeping in nature such as providing a new example of how holidays (Sec. 5.5.2) are handled.

To show the changes, we have attached a "redlined" agreement (**Exhibit 2**). Additions are underlined and deletions are ~~overstruck~~.

RECOMMENDATION: Adopt Ordinance 2019-01 on First Reading

Exhibits:

- 1. Ordinance 2019-XX with Exhibit A (2019 Restated Collection Franchise Agreement)
- 2. Redlined version of the proposed 2019 Restated Collection Agreement

Reviewed by Town Attorney:

☐	Yes	☐	No
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File: T:\0 Agenda\4-9-19 Commission\Admin\Collection Agmt\2019 AM Restated WP Agreement.docx

Exhibit 1

ORDINANCE No. 2019-01

1 **AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF**
2 **LAUDERDALE-BY-THE-SEA, FLORIDA, APPROVING THE 2019**
3 **RESTATED SOLID WASTE, BULK WASTE, AND RECYCLING**
4 **COLLECTION SERVICES AGREEMENT WITH WASTE PRO USA, INC.**
5 **(“2019 RESTATED COLLECTION AGREEMENT”); AUTHORIZING**
6 **AMENDMENTS INCLUDING COMMINGLED WASTE, NUMBER OF**
7 **CARTS IN DUPLEXES, PENALTIES; AUTHORIZING EXECUTION OF**
8 **THE AGREEMENT; PROVIDING FOR CONFLICTS, SEVERABILITY,**
9 **AND FOR AN EFFECTIVE DATE.**

10 **WHEREAS**, in 2009, the Town of Lauderdale-By-The-Sea issued a Request for Proposals
11 No. 09-02-01 for solid waste and recycling services for the residences and businesses within the
12 corporate limits of the Town on May 12, 2009 the Town adopted Ordinance 2009-13 and entered
13 into a Solid Waste, Bulk Waste and Recycling Collection Services Agreement, (the “**Collection**
14 **Agreement**”) with the top ranked firm, Choice Environmental Services Of Broward, Inc.
15 (“Choice”) for an initial three year term, with three (3) optional renewal periods of three to five
16 years each; and

17 **WHEREAS**, on March 27, 2012 the Town Commission adopted Ordinance 2012-03,
18 exercised the first renewal and approved the 2012 Restated Collection Agreement for the first
19 renewal period of June 21, 2012 to June 30, 2015 (the “First Renewal Term”); and

20 **WHEREAS**, in 2014, Progressive Waste Services, Inc, (“Progressive”) a successor in
21 interest to Choice, advised the Town that it entered into an agreement with Waste Pro USA, Inc.
22 (“Waste Pro”) providing for Waste Pro’s purchase of certain assets of Progressive, and Progressive
23 requested the Town’s approval of the transfer of the 2012 Restated Collection Agreement to Waste
24 Pro; and

Exhibit 1

ORDINANCE No. 2019-01

25 **WHEREAS**, on August 19, 2014, the Town approved the transfer of the 2012 Restated
26 Collection Agreement to Waste Pro and Waste Pro has been providing collection services for the
27 Town since that time; and

28 **WHEREAS**, on January 13, 2015, the Town Commission adopted Ordinance 2014-20, the
29 First Amendment to the 2012 Restated Collection Agreement, which extended the first renewal
30 term for a six-month period to November 30, 2015, and deleted certain provisions related to the
31 expiration of the Town’s Solid Waste Disposal Interlocal Agreement with Broward County on
32 July 2, 2013; and

33 **WHEREAS**, on November 24, 2015, the Town Commission adopted Ordinance No. 2015-
34 14, which approved the 2015 Restated Collection Agreement providing for a one-year extension
35 of the First Renewal Term through November 30, 2016, and amendments to improve the
36 operations of the solid waste and recyclable collection system; and

37 **WHEREAS**, on November 15, 2016, the Town Commission approved a 90-day extension
38 to the First Renewal Term through February 16, 2016, and on February 14, 2017, the Town
39 Commission approved another 90-day extension of the First Renewal Term through May 17, 2017,
40 to provide time for the parties to negotiate the terms of the Second Renewal Term of the 2015
41 Restated Collection Agreement; and

42 **WHEREAS**, the May 9, 2017, the Town Commission adopted Ordinance 2017-06, which
43 approved the 2017 Restated Collection Agreement; and

44 **WHEREAS**, the 2019 Restated Collection Agreement, attached as **Exhibit “A”**, (the
45 “2019 Restated Collection Agreement”) amends the 2017 Restated Collection Agreement to
46 improve communication regarding commingled waste, and modify provisions including, but not
47 limited to, missed collections, required number of carts in a duplex, and penalties; and

Exhibit 1

ORDINANCE No. 2019-01

48 **WHEREAS**, the 2019 Restated Collection Agreement is found to be in the best interests
49 of the Town.

50 **NOW THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE**
51 **TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AS FOLLOWS:**

52
53 **SECTION 1. Recitals.** The foregoing “Whereas” clauses are ratified and confirmed as
54 being true, correct and reflective of the legislative intent underlying this Ordinance and are hereby
55 made a specific part of this Ordinance.

56 **SECTION 2. Adoption of Agreement.** The 2019 Restated Collection Agreement
57 between the Town of Lauderdale-By-The-Sea and Waste Pro USA, Inc., attached as Exhibit “A”
58 and made a part hereof by this reference, is hereby approved and adopted.

59 **SECTION 3. Execution of Agreement.** The appropriate Town officials and staff are
60 authorized to execute the 2019 Restated Collection Agreement, attached as Exhibit “A”, together
61 with such non-material changes as are acceptable to the Town Manager and approved as to form
62 and legal sufficiency by the Town Attorney.

63 **SECTION 4. Conflicts.** All sections or parts of sections of the Code of Ordinances, all
64 ordinances or parts of ordinances and all resolutions or parts of resolutions in conflict herewith, be
65 and the same, are hereby repealed to the extent of such conflict.

66 **SECTION 5. Severability.** Should any section or provision of this Ordinance, or any
67 paragraph, sentence or word, be declared by a Court of competent jurisdiction to be invalid, such
68 decision shall not affect the validity of the remainder hereof, as a whole or a part hereof, other than
69 the part declared to be invalid.

70

ORDINANCE No. 2019-01

71

72 **SECTION 6. Effective Date.** This Ordinance shall become effective upon adoption on
73 second reading.

74 Passed on the first reading, this _____ day of _____, 2019.

75 Passed and adopted on the second reading, this _____ day of _____, 2019.

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MAYOR CHRIS VINCENT

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First Reading

Second Reading

82

Mayor Vincent

83

Vice-Mayor Sokolow

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Commissioner Oldaker

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Commissioner Malkoon

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Commissioner Strauss

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89 ATTEST:

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93 _____
Tedra Allen, Town Clerk

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95 APPROVED AS TO FORM:

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Susan L. Trevarthen, Town Attorney

**Solid Waste, Bulk Waste, and Recycling Collection Services Agreement
Between
The Town of Lauderdale By-The-Sea, Florida
and
Waste Pro USA, Inc.**



2019 Restated Collection Agreement

**History: RFP No. 09-02-01 - Effective July 1, 2009 -
First Amendment - September 10, 2009
Second Amendment - January 11, 2011
Third Amendment - September 30, 2011
Restated Agreement - March 27, 2012
First Amendment to the Restated Agreement – January 13, 2015
2015 Restated Agreement – November 24, 2015
2017 Restated Agreement – May 18, 2017
2019 Restated Agreement – [REDACTED], 2019**

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This Agreement and amendments thereto (hereinafter referred to as "Agreement") made and first entered into the 1st day of July, 2009, and amended as provided below, by and between the Town of Lauderdale By-The-Sea, a municipal corporation of the State of Florida (hereinafter referred to as "**TOWN**"), acting by and through its duly authorized Town Commission, and Waste Pro USA, Inc., a Florida Corporation and successor-in-interest pursuant to a transfer of this Agreement approved by the Town Commission on August 19, 2014 (hereinafter referred to as "**CONTRACTOR**").

The amendments to this Agreement include:

1. First Amendment on September 10, 2009,
2. Second Amendment on January 11, 2011,
3. Third Amendment on September 30, 2011,
4. 2012 Restated Agreement on March 27, 2012 (first renewal period),
5. First Amendment to the 2012 Restated Agreement on January 13, 2015, and
6. 2015 Restated Agreement on November 24, 2015 (extension of first renewal period).
7. 2017 Restated Agreement on May 18, 2017 (second renewal period).
8. 2019 Restated Agreement on [REDACTED], 2019 (amendments)

WITNESSETH:

WHEREAS, the CONTRACTOR and the TOWN wish to set forth the terms and conditions of this Agreement for the provision of a Solid Waste, Bulk Waste, and Recycling Collection Services.

NOW THEREFORE, for the mutual benefits and other considerations recited herein, the parties agree as follows:

SECTION 1: AGREEMENT

1.1 FRANCHISE

For the term of this Agreement, the TOWN hereby grants the CONTRACTOR the exclusive franchise and the sole obligation to operate and maintain comprehensive Solid Waste, Bulk Waste, and recycling collection services for Residential Collection Service Units and Solid Waste for Commercial Collection Service Units in and for the TOWN, except as specifically excluded in this Agreement. The franchise specifically excludes the exclusive collection of construction and demolition debris. The CONTRACTOR is authorized by the TOWN, in, upon, over, and across the present and future streets, alleys, bridges, easements, and other public places of the TOWN for the purposes of fulfilling CONTRACTORS' obligations under this Agreement within the municipal corporate limits of the TOWN, or as directed in conformance with the Charter and Ordinances of the TOWN and other applicable law. The CONTRACTOR'S sole consideration from the TOWN shall be the right to provide the services specified herein at the rates specifically authorized herein.

1.2 TERM OF AGREEMENT

The initial term of this Solid Waste, Bulk Waste, and Recycling Collection Services Agreement ("Agreement") was for a period of three (3) consecutive years, commencing on July 1, 2009 at 12:00 a.m., local time, through June 20, 2012 at 11:59 p.m., local time. The first renewal period commenced on June 21, 2012 at 12:00 a.m., local time, and continued through May 17, 2017 at 11:59 p.m., local time. The second renewal period commenced on May 18, 2017 at 12:00 a.m., local time, and ends on November 30, 2021 at 11:59 p.m., local time.

1.3 EXPIRATION OF AGREEMENT PROVISIONS

In the event a new Agreement has not been awarded upon the expiration of this Agreement, and renewal options are not exercised, the CONTRACTOR agrees to provide service to the TOWN for an additional ninety (90) calendar day period beyond the expiration of the Agreement at the then established rates, provided the TOWN requests said services, in writing, at such time.

1.4 OPTION TO RENEW

- (a) *Renewal Periods.* After the initial three (3) year period, this Agreement may be renewed for three (3) additional periods, each lasting between three (3) and five (5) years as shown in the following table.

Table 1 – Renewal Periods

Initial Term:	July 1, 2009 to June 20, 2012
First Renewal Term:	June 21, 2012 to May 17, 2017
Second Renewal Term	May 18, 2017 to November 30, 2021
Third Renewal Term	Three (3) to Five (5) Years
Renegotiate Terms and Conditions or Request Bids from Qualified Contractors	To be determined

- (b) *Renewal Process.* Prior to making a recommendation to the Town Commission on whether to renew the Agreement, the Town Manager or designee will meet and confer with the CONTRACTOR regarding changes in terms and conditions that either the TOWN or the CONTRACTOR would like to see reflected in an amendment to the Agreement covering the next renewal period. The TOWN shall thereafter notify the CONTRACTOR of its decision to exercise a renewal option or allow the Agreement to terminate. Said notice shall be in writing and delivered not less than one hundred eighty (180) calendar days prior to the expiration date.

In the event the TOWN notifies the CONTRACTOR of its decision to exercise a renewal option, the CONTRACTOR shall notify the TOWN in writing of its intent to accept or decline the renewal option offer within twenty (20) calendar days of receipt of the TOWN's offer.

- (c) *Final Renewal Term.* In the event the Agreement is renewed for three (3) Renewal Terms, the TOWN may, at the end of the final renewal term, either renegotiate the term and

conditions of the Agreement with the current CONTRACTOR or request bids from qualified contractors to provide Solid Waste Collection, Bulk Waste Collection, and Recycling Services.

- (d) *No Limits on Right of Termination.* This section in no way limits the TOWN'S right to terminate this Agreement for cause at any time during the initial term or any extension thereof, pursuant to Section 9 of this Agreement.

SECTION 2: DEFINITIONS

For the purpose of this Agreement, the definitions contained in this Section shall apply, unless otherwise specifically stated. If a word or phrase is not defined in this Section, the definition of such word or phrase as contained in the Code of the TOWN shall apply. When not inconsistent with the context, words used in the present tense shall include the future, words in the plural shall include the singular, and use of the masculine gender shall include the feminine gender. The word "shall" is always mandatory and not merely discretionary.

1. **Advertising** shall mean any written communication for the purpose of promoting a product or service. No advertising shall be permitted on Collection vehicles or any other vehicles, Recycling Bins, Recycling Containers, Containers, Roll-offs or other equipment used for the purpose of administering this Agreement. The CONTRACTOR'S name in which it is doing business and non-toll telephone service number, written communication as specified in the Agreement or written communication as directed by the Town Manager, shall not be considered Advertising.
2. **Account Holder** shall mean the party responsible for payment for services provided by CONTRACTOR that has arranged an account with the CONTRACTOR.
3. **Agreement** shall mean this Agreement.
4. **Bags** shall mean non-dissolvable plastic bags.
5. **Biological Waste** shall mean, as defined in Chapter 403, Florida Statutes, Solid Waste that causes or has the capability of causing disease or infection and includes, but is not limited to, biomedical waste, diseased or dead animals, and other wastes capable of transmitting pathogens to humans or animals.
6. **Biomedical Waste** shall mean, as defined in Chapter 403, Florida Statutes, any Solid Waste or liquid waste that may present a threat of infection to humans. The term includes, but is not limited to, non-liquid human tissue and body parts; laboratory and veterinary waste which contain human-disease-causing agents; discarded disposable sharps; human blood, and human blood products and body fluids; and other materials which in the opinion of the Department of Health represent a significant risk of infection to persons outside the generating facility.
7. **Brown Goods** shall mean discarded computers, televisions, stereos, cabinets, furniture, and other similar domestic goods. Brown Goods must be generated by the Customer and at the Residential Service Unit or Commercial Service Unit wherein the Brown Goods are collected. Anytime White Goods are referenced in this Agreement, it will include the servicing of Brown Goods.
8. **Bulk Waste** shall mean those wastes that may require special handling and management including, but not limited to: all types of vegetative matter resulting from normal yard and landscaping maintenance that does not exceed six (6) feet in length, White Goods, Brown Goods, furniture, equipment, and other similar items including materials resulting from minor home repairs. Bulk Waste does not include items herein defined as Garbage, Contractor-Generated Waste, Exempt

Waste, or items such as televisions, mirrors, window glass, or containers with fluids, or waste containing refrigerants or other potentially harmful fluids or gases.

9. **Bulk Waste Collection Service** shall mean Bulk Waste Collection from Residential Service Units and delivery of the Bulk Waste to the Designated Disposal Facility.
10. **Business Day** shall mean any day, Monday through Friday, from 8 a.m., local time until 4 p.m., local time.
11. **Cart** shall mean a metal or plastic receptacle on wheels, that is mechanically emptied, with a maximum capacity of ninety-six (96) gallons used to store Solid Waste, Yard Waste or Recyclable Materials until collection by the CONTRACTOR.
12. **Collection** shall mean the process whereby Solid Waste, Bulk Waste, and Recyclable Materials are removed and transported to the appropriate Designated Disposal Facility. Collection shall exclude the process of picking up, transporting, and dropping off Exempt Waste.
13. **Collection Rates** shall mean the rates approved pursuant to the terms of this Agreement that are to be charged by the CONTRACTOR for collection services.
14. **Commercial Establishment** shall mean all retail, professional, wholesale, institutional, lodging, and industrial facilities, and any other commercial enterprises, offering goods or services to the public located in the Service Area.
15. **Commercial Services** shall mean Commercial Solid Waste Collection Services performed in the Service Area.
16. **Commercial Service Unit** shall mean any Commercial Establishment in the Service Area.
17. **Commercial Solid Waste** shall mean any Garbage or Trash that is usual to the normal operations of a Commercial Service Unit. A Customer driven activity at the Commercial Service Unit wherein the Commercial Solid Waste is collected and does not include items defined herein as Yard Waste, Bulk Waste, Contractor-Generated Waste, or Exempt Waste must generate commercial Solid Waste. Recyclable Materials are not Commercial Solid Waste.
18. **Commercial Solid Waste Collection Service** shall mean the Collection and disposal of Commercial Solid Waste from Commercial Service. Commercial Solid Waste Collection Service shall be provided via Containers or Dumpsters.
19. **Commercial Recycling Collection Service Unit** shall mean the Collection of Recyclable Materials from Commercial Service Units utilizing Recycling Bins and/or Containers, and the delivery of the Recyclable Materials to the Designated Recycling Facility.
20. **Compactor** shall mean a mechanism, whether stationary or mobile, with a minimum compaction ratio of 2.5 to 1.0 used for the densification of Solid Waste in Containers or Roll-offs. The CONTRACTOR shall clearly mark all Dumpsters and Roll-offs and Compactors as to prohibit their use for the disposal of Biological Waste, Biomedical Waste, Hazardous Waste, or Sludge if hauler is to provide as opposed to Inter Local Agreement (ILA).
21. **Construction and Demolition Debris** as defined in Chapter 403, Florida Statutes, as may be amended from time to time, shall mean discarded materials generally considered to be not water-soluble and non-hazardous in nature, including, but not limited to, steel, fence, screen, metal, glass, brick, concrete, asphalt roofing material, pipe, gypsum wallboard, and lumber, from the construction or destruction of a structure as part of a construction or demolition project or from the renovation of a structure, and including rocks, soils, tree remains, trees, and other vegetative matter

that normally results from land clearing or land development operations for a construction project. This includes non-vegetative construction and demolition debris as a result of a fire, and manmade or natural disaster, to include hurricane debris.

22. **Container** shall mean a Dumpster or Cart used to store Solid Waste, Yard Waste or Recyclable Materials.
23. **CONTRACTOR** shall mean the person or entity that has entered into this Agreement to provide the services described herein for the Service Area.
24. **Contractor-Generated Waste** shall mean Bulk Waste generated by builders, building contractors, privately employed tree trimmers and tree surgeons, landscape services, and lawn or yard maintenance services and nurseries.
25. **County** shall mean Broward County, Florida.
26. **Customer** shall mean person(s) that produce the Solid Waste, Bulk Waste and Recyclable Materials at a physical location. The Customer may be the Account Holder.
27. **Designated Disposal Facility** shall mean the facility designated by the Town for receipt of all Solid Waste, Bulk Waste and Yard Waste collected within the Town that is capable of being processed at the Designated Disposal Facility.
28. **Designated Recycling Facility** shall mean the Recovered Materials Processing Facility designated by the Town for receipt of the Recyclable Materials collected within the Town.
29. **Disposal Charges** shall mean the prevailing per-ton rate charged at the Designated Disposal Facility for the acceptance and disposal of Residential Waste, Commercial Solid Waste, and other waste materials.
30. **Disposal Fee** shall mean the amount within the Collection Rate paid by the Customer that is charged for the disposal of Solid Waste, Bulk Waste and Yard Waste.
31. **Dumpster** shall mean a metal or plastic receptacle, with a capacity of up to and including eight (8) cubic yards designed or intended to be mechanically dumped into a loader-packer type garbage truck.
32. **Dwelling Unit** shall mean an individual living unit in a single-family dwelling, duplex dwelling, multi-family dwelling, or mixed-used dwelling within a structure or building intended for, or capable of being utilized for residential living, other than those structures or building units included within the definition of Commercial Service Unit herein.
33. **Exempt Waste** shall mean Biological Waste, Biomedical Waste, Construction and Demolition Debris, Hazardous Waste, Sludge, automobile parts, boats, boat parts, boat trailers, internal combustion engines, lead-acid batteries, used oil and tires, those wastes under the control of the Nuclear Regulatory Commission, and those other materials whose size, weight, or both are in excess of that allowed for Bulk Waste as defined herein.
34. **Franchise Fee** shall mean the charge to CONTRACTOR for the use of present and future streets, alleys, bridges, easements, and other public places of the TOWN. The Franchise Fee shall be calculated by multiplying the Gross Revenues as defined herein by the assigned franchise fee percentage. For example, commercial franchise fee shall be ten percent (10%) of Gross Revenues for Commercial Services and three point seven six percent (3.76%) of Gross Revenues for Residential/Multi Family Services.

35. **Garbage** shall mean all waste that is generated from normal residential activities. These materials generally include, but are not limited to, kitchen and food waste, animal and produce waste, or any organic waste that is a result of storage, preparation, cooking, or handling of food materials. Also included in this category are household waste items such as food packaging materials; non-recyclable cans, plastics, paper, cardboard, and bottles; rags and cleaning supplies, and other items usual to housekeeping.
36. **Gross Revenues** shall mean all charges invoiced by the CONTRACTOR arising from, attributable to or in any way derived from the services it provides pursuant to this Agreement, exclusive of franchise fees.
37. **Hazardous Waste** shall mean Solid Waste, or a combination of Solid Wastes, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated, or otherwise managed. The term does not include human remains that are disposed of by persons licensed under Chapter 470, Florida Statutes.
38. **Non-Collection Notice** shall mean a sticker, tag, or door hanger used by the CONTRACTOR to notify Customers of the reason for non-collection of materials set out by the Customer for Collection by the CONTRACTOR pursuant to the Agreement, developed and provided by the CONTRACTOR and approved by the TOWN. CONTRACTOR is required to provide a Non-Collection Notice anytime Solid Waste, Bulk Waste, or Recycling Materials are not picked up for any reason.
39. **Ordinance** shall mean those parts of the Code of the TOWN governing Solid Waste Collection, Disposal, and Recycling activities within the TOWN.
40. **Recovered Materials Processing Facility** shall mean a facility engaged solely in the storage, processing, resale, or reuse of Recyclable Materials, and that meets the requirements of Section 403.7046, Florida Statutes.
41. **Recyclable Materials** shall mean those materials that are capable of being recycled and which would otherwise be processed or disposed of as Solid Waste. Recyclable Materials to be collected shall include all materials that are accepted by the Designated Recycling Facility.
42. **Recycling** shall mean any process by which materials that would otherwise have been Residential Solid Waste or Commercial Solid Waste, are collected, separated, or processed and reused or returned to use in the form of raw materials or products.
43. **Recycling Bin** shall mean a rigid rectangular receptacle stenciled with the TOWN logo. Recycling Bins shall not contain the name or logo of the CONTRACTOR. Recycling Bins shall be made of plastic or other suitable substance of no less than fourteen (14) gallons.
44. **Recycling Container or Recycling Cart** shall mean a wheeled metal or plastic receptacle, with a capacity of ninety six (96) gallons or an alternative sized specified by TOWN, intended to be manually or mechanically dumped into a loader-packer type recycling truck. Recycling Containers shall be stenciled with the Town logo and shall not contain the name or logo of the CONTRACTOR. A Recycling Container is commonly referred to as a "Recycling Cart."
45. **Residential Collection Service Unit – Single Family, Duplex** shall mean one single family home or one duplex unit that uses containers that are placed at curbside for collection.

46. **Residential Collection Service Unit – Multi Family Container Service** shall mean a Multi Family property that uses containers that are placed at curbside for collections.
47. **Residential Recycling Collection Service Unit** shall mean all types of Residential Collection Service Units utilizing Recycling Bins, Dumpsters and/or Containers, and the delivery of the Recyclable Materials to the Designated Recycling Facility.
48. **Residential Collection Service Unit – Multi Family Dumpster Service** shall mean the Collection of Garbage and Trash from multi-family residential units that utilize dumpsters for the Collection Service.
49. **Residential Solid Waste** shall mean Garbage and Trash resulting from the normal household activities of a Residential Service Unit. The Customer at the Residential Service Unit wherein the waste is collected must generate the Solid Waste. It does not include items defined herein as Contractor-Generated Waste or Exempt Waste. Recyclable Materials and Bulk Waste are not Residential Solid Waste.
50. **Roll-Off Collection Service** shall mean the Collection and disposal of Roll-Off Containers containing Construction and Demolition Debris. Collection of Construction and Demolition Debris is not considered exclusive to the CONTRACTOR under the terms and conditions of the Agreement.
51. **Roll-Off Containers** shall mean any metal receptacle with a capacity of more than eight (8) cubic yards, which is normally loaded onto a motor vehicle. Roll-off Containers utilized for services covered under this Agreement shall be owned by the CONTRACTOR.
52. **Scheduled Collection Day** shall mean any day in which Collection activities take place.
53. **Service Area** shall mean the municipal limits of the TOWN.
54. **Sludge** shall mean the accumulated solids, residues, and precipitates generated as a result of waste treatment or processing including wastewater treatment, water supply treatment, or operation of an air pollution control facility, and mixed liquids and solids pumped from septic tanks, grease traps, privies, or similar disposal appurtenances, or any other such waste having similar characteristics or effects.
55. **Solid Waste** shall mean Garbage and Trash. Bulk Waste and Recyclable Materials are not considered Solid Waste.
56. **Special Waste** shall mean Solid Waste that can require special handling and management, including, but not limited to used tires, used oil, lead-acid batteries, ash residue, and biological wastes.
57. **TOWN** shall mean the Town of Lauderdale By-The-Sea, Broward County, Florida.
58. **Town Commission** shall mean the Town Commission of the TOWN.
59. **Town Manager** shall mean the Town Manager of the TOWN, or his/her designated representative(s).
60. **Town Sponsored Special Events** shall mean events sponsored or co-sponsored by the TOWN.
61. **Trash** shall mean plastic bags, wood, bundles, toys, Yard Waste, and other similar waste materials in cans or similar receptacles. Trash does not include items that are Contractor-Generated Waste or Exempt Waste.

- 62. **Yard Waste (or Yard Trash)** shall mean vegetative materials from normal yard and landscaping maintenance that is from the serviced property.
- 63. **Yard Waste Collection Service** shall mean the once per week collection of Yard Waste utilizing carts from Cart Customers (single family, duplex and multifamily).
- 64. **White Goods** shall mean discarded refrigerators, ranges, water heaters, freezers, and other similar domestic appliances. White Goods must be generated by the Customer and at the Residential Service Unit or Commercial Service Unit wherein the White Goods are collected. Any time White Goods are referenced in this Agreement, it will include the servicing of Brown Goods.
- 65. **Work Day** shall mean any day, Monday through Saturday.
- 66. **Undefined Amount of Solid Waste or Recyclables** shall mean the quantity of disposed material that can be placed in a Container by and still allow proper collection with the lid closed.

SECTION 3: COLLECTION SERVICES TO BE PROVIDED BY CONTRACTOR

The CONTRACTOR shall provide all Residential Services and Commercial Services, as defined in Section 3 herein, within the corporate limits of the TOWN, except as provided herein. Said service shall include:

3.1 RESIDENTIAL SOLID WASTE – GARBAGE AND TRASH

- (a) **All Residential Solid Waste.** The CONTRACTOR is responsible to collect all Solid Waste, Bulk Trash, and Recycling Materials in the Service Area. In the event the CONTRACTOR is not able to collect, CONTRACTOR is required to provide a Non-Collection Notice with the contractual reason for non-collection.
- (b) **Christmas Trees.** The CONTRACTOR shall collect Christmas Trees from all Residential Service Units at curbside at no additional cost to the Residential Service Unit or the TOWN on normal pickup days when the tree is placed in the Cart or on any Bulk Trash pickup day.
- (c) **Containers.** Containers provided by the CONTRACTOR shall meet accepted industry standards. TOWN will select the color of the Container; however, once the color is selected, all Containers of the same type shall be the same color. Carts shall have a capacity of not greater than ninety-six (96) gallons. The CONTRACTOR is not required to empty any Carts that exceed 150 pounds in weight.
- (d) **Container Repair or Replacement.**
 - (1) **Cart.** Upon notification to CONTRACTOR by the TOWN or a Customer that a Residential Collection Service Unit's Cart has been stolen or damaged, the CONTRACTOR upon verification shall deliver a replacement Cart or make repairs to the Container within two (2) Work Days of said notice. Each Residential Collection Service Unit shall be entitled to two (2) repairs or two (2) replacements of lost, destroyed, or stolen Containers within a rolling 24 month period at no cost to the TOWN or the Residential Collection Service Unit. Additional replacement Containers or repairs shall be provided at the CONTRACTOR'S actual cost and charged to the Residential Collection Service Unit Customer, unless such damage was caused by CONTRACTOR.

- (2) **Dumpster.** Upon notification to CONTRACTOR by the TOWN or a Customer that a Residential Collection Service Unit's Dumpster has been stolen or damaged, the CONTRACTOR upon verification shall deliver a replacement Dumpster or make repairs to the Dumpster within four (4) Work Days of said notice.
- (3) **Plastic Multi-Family Dumpsters.** During the period June 1, 2017 to May 31, 2020, CONTRACTOR shall, at its own cost and expense, replace all of the metal Dumpsters that are currently in use by customers with Multi Family Dumpster Service, with new plastic dumpsters. CONTRACTOR shall replace approximately one-third of the metal Dumpsters each year, until all of the metal dumpsters have been replaced. This provision only applies to metal Dumpsters for which a comparably sized plastic Dumpster is commercially available.
- (e) **Collection Rates.** As of the effective date of this Agreement, the CONTRACTOR shall provide Collection Service for each type of service according to the Collection Rates shown in the corresponding Exhibits to this Contract, which are incorporated herein; unless specifically and expressly authorized by this Agreement, CONTRACTOR shall not impose any other charges or assessments of any kind whatsoever to the Customer or the TOWN.
- (f) **Service Levels Not Designated** – For Residential Solid Waste service levels not designated in this Agreement, the CONTRACTOR may provide the level and type of service negotiated and mutually agreed upon between the CONTRACTOR and Customer at the rates negotiated and mutually agreed upon between the CONTRACTOR and the Customer. All said service levels, types, and rates shall be approved by the TOWN.
- (g) **Ownership** of Carts –Carts purchased by the CONTRACTOR shall be deemed to be owned by the CONTRACTOR, except that Carts in the possession of a Residential Collection Service Unit or the TOWN at the end of the Agreement shall be deemed to be owned by the TOWN.
- (h) **Yard Waste Collection Service.** The Town has the option of implementing Yard Waste Collection Service for residential Customers utilizing Carts under the following terms and conditions:
 - (1) Upon receipt of written notice from TOWN of its decision to implement yard waste service, the CONTRACTOR shall begin providing once a week residential and Multifamily (with carts service) yard waste collection service within one hundred and twenty (120) days of such notice.
 - (2) The fee for once a week yard waste collection service paid to CONTRACTOR shall be equal to the fee for once a week recycling collection. CONTRACTOR shall provide and deliver necessary yard waste carts at no additional cost or charge to the Customer or the TOWN, the ownership of which shall transfer to the TOWN upon the expiration or termination of this Agreement.

Should this Agreement terminate before the end of a three year amortization period following the purchase of carts provide for in this Section, the TOWN shall reimburse the CONTRACTOR the unamortized capital cost of these carts. Example: One thousand Recycling Carts are purchased at a cost of \$50 per Cart and \$1.39 per Cart is amortized each month. If the Agreement terminates 30 months after the purchase of the Carts, the TOWN will reimburse the CONTRACTOR \$8,333 [1000 carts x \$1.39 per month x 6 month].

- (3) For the first year of Yard Waste Collection Service, the Disposal Fee component of the monthly Collection Rate collected by the CONTRACTOR for Residential Waste Collection Service shall be considered sufficient to cover the actual cost of disposal of Yard Waste and there shall be no change to the rates charged. In the second year after implementation and subsequent years, the Disposal Fee component of the monthly charge to each Customer for Yard Waste Collection Service shall be based on the prior year's actual cost of disposal of Yard Waste from July 1st to June 31st, averaged over the number of total number of residential Container Customers plus any applicable CPI adjustment provided for in Section 6.8.1.2. This amount shall become the new disposal fee for yard waste collection in the monthly Collection Rate.
- (4) The Solid Waste Disposal Fee for Residential Collection Services shall be adjusted as provided for in Section 6.8.1.2.
- (5) An example of how subsections (2) and (3) above would work is shown in Table 3.1.

Table 3.1 – Calculating the Collection and Disposal Rate
for Yard Waste Collection Service.

Monthly Rate for Single Family and Duplex				
	Service Components	11-1-11 Monthly Rates	If Yard Waste Implemented in 2012	11-1-13 Monthly Rate (1)
1.	Solid Waste collection	\$4.15	\$4.15	\$4.15
2.	Recycling collection	\$2.08	\$2.08	\$2.08
3.	Yard Waste collection		\$2.08	\$2.08
4.	Bulk Trash Collection	\$1.10	\$1.10	\$1.10
5.	Disposal Fee -Solid Waste	\$8.03	\$8.03	\$6.42 (2)
6.	Disposal Fee-Yard Waste			\$1.11 (2)
	Total	\$15.35	\$17.44	\$16.94

Footnotes:

- (1) For the purpose of this example, the assumption is the disposal fee remains the same and there is no change in CPI.
- (2) The example is calculated on a Yard Waste Disposal Rate of \$50 per ton with twenty percent of the waste stream being diverted to Yard Waste Containers.

Calculation: disposal fee of \$72.57 per ton; 1065 single family accounts; $\$8.03 \times 1065 = \$8,551.95$ monthly disposal fee; $\$8,551.95 / \$72.57 = 117.8$ tons per month; 80% of 117.8 = 94.3 tons of household waste per month; 20% = 23.6 tons of yard waste per month,

3.1.1 Residential Collection Service Units – Single Family, Duplex (Cart Service)

- (a) **Frequency.** The CONTRACTOR shall pick up, twice per week, at least three (3) days apart, an undefined amount of Garbage and Trash from each residential unit.

- (b) ***Suspension of Service.*** Single Family or Duplex Residential Service Units may suspend service in accordance with the requirements of the Town Code of Ordinances.
- (c) ***Placement of Carts.*** CONTRACTOR shall pick up all Carts placed within three (3) feet of the street. Carts, after being emptied by CONTRACTOR, will be returned by CONTRACTOR as close as reasonably possible to its original location. Carts shall not be placed in front of the garage doors or behind vehicles blocking vehicular movement unless originally placed in those locations by the resident.
- (d) ***Number of Carts.*** CONTRACTOR will provide one (1) Cart to each Residential Service Unit, unless a smaller size Cart is requested by the Residential Service Unit and agreed upon by CONTRACTOR. In accordance with Chapter 10 of the Town Code, when a duplex is owned by a single person / entity, residents of the Duplexes units may share a common waste and recycling cart provided under a single account, provided it is sufficient to accommodate the joint usage without spillover. An additional waste cart requires an additional account.
- (e) ***Size of Carts.*** The TOWN shall determine the size of the Carts for each class of service.
- (f) ***Residential Off-Street Collection Service.*** The CONTRACTOR shall provide off-street Collection for Solid Waste from Residential Collection Service Units if (a) all adult occupants residing therein are incapable of moving the Carts, (b) a written request for off-street service has been made to the CONTRACTOR by the Residential Collection Service Unit, and (c) the request is approved by the Town Manager, in the manner required by the TOWN. No additional monies shall be due to the CONTRACTOR for the provision of off-street service to Customers. The point of Collection for off-street service shall be the back or side-yard or such other location as designated in writing by the CONTRACTOR to the Residential Collection Service Unit. The CONTRACTOR shall provide off-street service on the same scheduled Collection day that Residential Solid Waste Collection Service would otherwise be provided to the Residential Collection Service Unit.

3.1.2 Residential Collection Service Units – Multi Family with Cart Service

- (a) ***Frequency.*** The CONTRACTOR shall pick up twice per week, at least three (3) days apart, an undefined amount of Garbage and Trash from each Residential Collection Service Unit at curbside or a designated location.
- (b) ***Placement of Containers.*** CONTRACTOR shall pick up all Carts placed within three (3) feet of the street. Carts, after being emptied by CONTRACTOR, will be returned by CONTRACTOR as close as reasonable possible to its original location. Carts shall not be placed in front of the garage doors or behind vehicles blocking vehicular movement unless originally placed in those locations by the resident.
- (c) ***Number of Carts.*** CONTRACTOR shall provide one (1) Cart for each Residential Collection Service Unit if requested, to accommodate the Solid Waste Collection needs of the Residential Collection Service Units. CONTRACTOR may reduce total numbers of Carts if collection is easily contained in a lesser number of Carts. The CONTRACTOR shall provide the number of Carts necessary for efficient and

sanitary services based on the reasonable request of an authorized representative of the Residential Service Units, in accordance with the following:

- (i) A “reasonable request” shall be made at least thirty (30) days prior to the desired date of pick-up or delivery of Carts.
- (ii) A “reasonable request” shall be defined as any request for a number of Carts sufficient for efficient and sanitary services. Regardless of the actual number of Carts sufficient for efficient and sanitary services, the Residential Service Units shall pay the rate for the number of Carts equaling at least fifty percent (50%) of the number of residential dwelling units. If fifty percent (50%) is not a whole number, the minimum number of Carts will be rounded down; for example, eleven (11) residential dwelling units may request no fewer than five (5) Carts.
- (iii) A reasonable request may be made up to two (2) times per fiscal year for free. Additional requests to have Carts picked up or delivered may be made, but shall require payment of a fee. The fee shall be twenty-five dollars (\$25) for the first four (4) Carts to be picked up or delivered; additional Carts may be requested to be picked up or delivered for a fee of fifteen dollars (\$15) each.
- (iv) In the event of disagreement about the reasonable number of Carts, the TOWN shall make the final determination.

3.1.3. Residential Collection Service Units – Multi Family Dumpster Service

- (a) **Number and Size; Frequency of Pickup.** The CONTRACTOR shall provide the sizes and numbers of Dumpsters necessary for efficient and sanitary services based on the reasonable request of an authorized representative of Residential Service Units. Dumpsters shall be picked up as frequently as volume demands, but not less than twice per week, at least three (3) days apart. The Account Holder and the CONTRACTOR shall mutually agree upon the size and frequency of pick-up of Dumpsters. The CONTRACTOR shall notify Account Holder if it is deemed necessary to increase service, and notify the TOWN of their intention to do so. Any dispute between Account Holder and CONTRACTOR shall be resolved by TOWN according to the process established by Town Code and the decision of the TOWN shall be final and binding.
- (b) **Dumpsters.** Dumpsters provided by the CONTRACTOR shall meet accepted industry standards. The CONTRACTOR shall maintain Dumpsters as necessary to maintain efficient and sanitary services.
- (c) **Placement of Dumpsters -** CONTRACTOR shall empty all Dumpsters from the Customer’s Dumpster enclosure or where placed by the Customer on collection day. Dumpsters, after being emptied by CONTRACTOR, will be returned by CONTRACTOR as close as reasonably possible to its original location. No Dumpsters shall be placed by Customer or CONTRACTOR in the public right-of-way unless specific written approval has been given by the TOWN. Valet service may be provided by CONTRACTOR as a special service (see Exhibit 5).

3.2 RESIDENTIAL BULK WASTE

3.2.1 Bulk Waste Collection Schedule and Generation Location

The CONTRACTOR shall pick up Bulk Waste from each Residential Collection Service Unit once a month according to the annual schedule adopted by the TOWN.

All Bulk Waste shall be placed curbside for collection according to the TOWN Code and shall be generated from the Residential Collection Service Unit disposing of the Bulk Waste.

3.2.2 Bulk Waste Service. Bulk Waste Collection Services shall be provided by CONTRACTOR in accordance with the following service levels:

Residential Service Unit	Service Level
Single Family, Duplex	No Maximum
Multi Family with Carts	One (1) cubic yard of Bulk Waste multiplied by the number of Solid Waste Carts from the Residential Service Units. For example, if an 11 unit Multi Family property has five (5) Solid Waste Carts, the CONTRACTOR shall collect up to five (5) cubic yards of Bulk Waste.
Mixed-Use Property	Bulk Waste pickup shall be provided for the residential use only, which shall not exceed two (2) cubic yards monthly. Upon request to Contractor for the service, the service will be provided at the next regularly scheduled pickup.
Multi Family Dumpster Service	No Maximums

3.3 COMMERCIAL SOLID WASTE

3.3.1 Commercial Solid Waste Collection Service – The CONTRACTOR shall provide Commercial Solid Waste Collection Service as deemed necessary and as determined between the CONTRACTOR and the Customer. However, frequency shall be no less than two (2) times per week with no exception for Holiday(s) as set forth herein, except that Collection service scheduled to fall on a Holiday may be rescheduled as determined between the Customer and the CONTRACTOR as long as the minimum frequency requirement is met. The size of the Container or Dumpster and the frequency of Collection (meeting minimum requirements) shall be determined between the Customer and the CONTRACTOR. However, size and frequency shall be sufficient to provide that no Solid Waste shall be placed outside the Container or Dumpster. Dumpster(s) and Container(s) shall be accessible to the CONTRACTOR’S crew and vehicles. In the event of disagreement about the size of Dumpster or frequency of collection, the TOWN shall make the final determination.

- 3.3.2 **Rates** - The CONTRACTOR shall provide Container(s) and Dumpster(s) at the approved rates as identified in Exhibit 4 and Exhibit 5 Compacted Dumpster Service, which are incorporated herein, and, unless specifically authorized by this Agreement, CONTRACTOR shall not impose any other charges or assessments of any kind whatsoever to the Customer or the TOWN unless specifically and expressly set forth herein. Customers may own their Dumpsters and/or Container(s) provided that the Customer shall be completely responsible for its proper maintenance and such Container(s) shall be of a type that can be serviced by the CONTRACTOR'S equipment.
- 3.3.3 **Service Levels not Designated** – For Commercial Solid Waste Collection service levels not designated, the CONTRACTOR shall provide the level and type of service negotiated and mutually agreed upon between the CONTRACTOR and Customer at the rates negotiated and mutually agreed upon between the CONTRACTOR and the Customer. All said service levels, types, and rates shall be approved by the TOWN.
- 3.3.4 **Placement of Dumpsters** - CONTRACTOR shall empty all Dumpsters from the Customer's Dumpster enclosure or where placed by the Customer on collection day. Dumpsters, after being emptied by CONTRACTOR, will be returned by CONTRACTOR as close as reasonably possible to its original location. No Dumpsters shall be placed by Customer or CONTRACTOR in the public right-of-way unless specific written approval has been given by the TOWN. Valet service may be provided by CONTRACTOR as a special service (see Exhibit 5).
- 3.3.5 **Dumpster Repair or Replacement.** Upon notification to CONTRACTOR by the TOWN or a Customer that a Dumpster has been stolen or damaged, the CONTRACTOR upon verification shall deliver a replacement Dumpster or make repairs to the Dumpster within four (4) Work Days of said notice.

3.4 RECYCLING

The CONTRACTOR shall offer recycling services to all Commercial Recycling Collection Service Units; the fees for those services shall be agreed upon by the Commercial Recycling Collection Service Unit and the CONTRACTOR.

The CONTRACTOR shall provide Recycling Services to all Residential Service Units as described below.

- 3.4.1 CONTRACTOR shall provide Recycling Services to all Residential Collection Units one (1) day per week, on a regular scheduled Solid Waste pick up day. The services to be performed by the CONTRACTOR shall consist of Collection of all designated Recyclable Materials and transportation to the Designated Recycling Facility.
- 3.4.2 Should unanticipated events, circumstances, or changes in law arise that necessitate any additions or deletions to work described in this Section, including the type of items included as Recyclable Materials, the parties shall negotiate any necessary cost changes and shall enter into an Agreement amendment covering such modifications and any compensation to CONTRACTOR before undertaking any changes or revisions to such work.
- 3.4.3 **Purchase and Distribution:** CONTRACTOR shall provide one (1) Recycling Cart to each Residential Collection Service Unit – Single Family and Duplex and one (1) Recycling Cart for every Garbage Container required in Section 3.1.2 for Residential

Collection Service Units – Multi Family with Containers. TOWN will select the color of the Container; however, once the color is selected, all Containers shall be the same color. The TOWN may select one alternative sized CART that the Residential Collection Service Unit may request from CONTRACTOR and CONTRACTOR shall promptly provide said carts to the Customers as directed by the Town at no charge to either the Customer or the Town. All Recycling Carts shall be capable of being emptied by mechanical equipment.

- a. The CONTRACTOR shall maintain sufficient Recycling Carts to ensure that extra or replacement Recycling Carts can be provided to Customers or properties in accordance with the terms and conditions of the Agreement. The CONTRACTOR'S employees shall take care to prevent damage to Recycling Carts by unnecessary rough treatment.
- b. The CONTRACTOR shall purchase and distribute new Recycling Carts as requested by TOWN to existing Residential Collection Service Units for the term of this Agreement.
- c. The CONTRACTOR shall purchase and distribute Recycling Carts to new Residential Collection Service Units that are added to the Service Area during the term of the Agreement.

3.4.4 **Repair or Replacement** – Upon notification to CONTRACTOR by the TOWN or a Customer that a Residential Service Unit's Recycling Container has been stolen or damaged, the CONTRACTOR upon verification shall deliver a replacement Container to such Residential Service Unit or make repairs to the Container within two (2) Work Days of said notice. Each Residential Service Unit shall be entitled to two repairs or replacements of lost, destroyed, or stolen Containers within a two year period at no cost to the TOWN or the Residential Collection Service Unit. Additional replacement Containers or repairs shall be provided at the CONTRACTOR'S actual cost.

3.4.5 **Ownership** – Ownership of Recycling Carts purchased by the CONTRACTOR shall rest with the CONTRACTOR, except that ownership of Recycling Carts in the possession of a Residential Collection Service Unit or TOWN at the end of the Agreement shall rest with the TOWN.

3.4.6 **Recyclable Materials to be Collected** – The CONTRACTOR shall collect all Recyclable Materials that are accepted by the Designated Recycling Facility and that are placed in a Recycling Container.

3.4.7 **Contaminated Recyclable Materials** – The CONTRACTOR shall not collect Recyclable Materials that are significantly contaminated with non-Recyclable Materials.

The CONTRACTOR shall leave a Non-Collection Notice explaining why the material in the Recycling Cart was not collected and shall advise the Town that day of the non-collection. The CONTRACTOR shall not collect the Recyclable Materials until the Residential Service Unit segregates the Recyclable Materials from the contaminating material.

The TOWN shall approve the design of said notice, and the cost of printing said notice shall be borne by the CONTRACTOR.

The CONTRACTOR shall maintain a record of the address of any Residential Service Unit where Recyclable Materials were not collected, the date of non-collection, and the reason they were not collected, to be provided to the TOWN upon request.

- 3.4.8 **Recycling Containers for Residential Units Utilizing Dumpsters** – The CONTRACTOR shall provide the same level of Residential Recycling Service to Residential Units using Dumpsters as provided to the Residential Units – Multi Family as identified in Section 3.4. If the recycling volume is sufficient, upon request of an Account Holder, CONTRACTOR shall provide a recycling Dumpster instead of or in addition to Recycling Carts.
- 3.4.9 **Residential Off-Street Collection Service.** The CONTRACTOR shall provide off-street Collection for Recyclables from Residential Service Units if (a) all adult occupants residing therein are incapable of moving their carts, (b) a written request for off-street service has been made to the CONTRACTOR by the Residential Service Unit, and (c) the request is approved by the Town Manager, in the manner required by the TOWN. No additional monies shall be due to the CONTRACTOR for the provision of off-street service to Customers. The point of Collection for off-street service shall be the back or side-yard or such other location as designated in writing by the CONTRACTOR to the Residential Service Unit. The CONTRACTOR shall provide off-street service on the same scheduled Collection day that Residential Solid Waste Collection Service would otherwise be provided to the Residential Service Unit.

3.5 DESIGNATED DISPOSAL FACILITY AND COMMINGLING OF WASTE

All Solid Waste, Bulk Waste, Residential Recyclable Materials, and Recyclable Materials collected pursuant to this Agreement shall be delivered to facilities designated by the TOWN (“Designated Disposal Facilities”), with the exception of waste which is shown by affidavit to be destined for transportation to any destination outside of the State of Florida. A violation of this Section is a material breach of contract.

3.5.1 Disposal Facility Outside of Florida

Should CONTRACTOR direct waste to a location outside the State of Florida, it shall indemnify and hold harmless the TOWN for any action resulting from such disposal. CONTRACTOR specifically acknowledges that the prices in this Agreement include this indemnification and hold harmless obligation as a part of its cost for out of state delivery, and such cost is not to be interpreted as a penalty for, or barrier to, delivery of the waste by CONTRACTOR out of state.

3.5.2 Ownership and Commingling of Waste.

- (a) The TOWN shall retain ownership of all Solid Waste, Bulk Waste, Residential Recyclable Materials, and Recyclable Materials until delivery to the Designated Disposal Facility.
- (b) In the event that CONTRACTOR commingles any materials collected under the terms and conditions of this Agreement with materials from other jurisdictions, CONTRACTOR shall indemnify and hold TOWN harmless from any and all losses, claims, or liability associated with the quantities of Solid Waste or other materials that were commingled.

- (c) CONTRACTOR shall inform TOWN and Town's Designated Disposal Facilities prior to commingling any materials and receive their approval. The Town Manager's approval shall not be unreasonably be withheld.

CONTRACTOR shall submit for the Town Manager's approval the formula for converting the tons of disposed commingled waste to cubic yards and then the calculation of the tons/yardage of Town waste from the total disposed. The formula may be revised from time to time at the request of either party.

3.5.3 Change in Designated Disposal Facility

In the event the TOWN changes the Designated Disposal Facility, TOWN shall give CONTRACTOR at least sixty (60) days-notice of the date the change is to go into effect.

- (a) In such case, TOWN and the CONTRACTOR agree to enter into good faith negotiations regarding modifications to this Agreement that may be required in order to implement changes in the interest of the public welfare or due to change in law.
- (b) When such modifications to this Agreement are necessary, the TOWN and the CONTRACTOR shall negotiate in good faith, a reasonable and appropriate compensation adjustment for any increase or decrease in the services or other obligations required of the CONTRACTOR due to any modification in the Agreement under this Section.
- (c) The TOWN and the CONTRACTOR shall not unreasonably withhold agreement to such compensation adjustment. In the event the parties cannot reach agreement within 30 days of the notice, then either party has the right to terminate this Agreement on 180 days written notice. During any such 180 day period, CONTRACTOR shall cooperate with TOWN in assuring a smooth transition to the new disposal facility or arrangement.

3.6 SPECIAL WASTE COLLECTION SERVICES

CONTRACTOR shall not be required to collect and/or dispose of Special Waste, Hazardous Waste, Biohazardous or Biomedical Waste, or Sludge, but may offer such service in the Service Area. All collection and disposal for those types of waste are not regulated or exclusive under this Agreement, but if provided by the CONTRACTOR, shall be in strict compliance with all federal, state, and local laws and regulations.

3.7 TOWN'S RIGHT TO DESIGNATE CONTAINER SIZE AND FREQUENCY OF PICK UP

The TOWN reserves the right to determine the frequency of pick up and the number and size of Containers needed at all Residential Service Units and Commercial Service Units within the TOWN'S corporate limits. The TOWN agrees not to designate more than three (3) sizes of Carts, which at this time are 95, 65 and 35 gallon Carts. TOWN shall give at least thirty (30) days-notice to CONTRACTOR of a change in Cart size; however, CONTRACTOR may continue to deploy existing Carts that are in their inventory. All new Carts thereafter shall be ordered in the size specified by TOWN.

If the TOWN determines that a change in frequency of service or Container size or number is necessary, the CONTRACTOR shall adjust the service accordingly. The Account Holder shall be responsible to pay for the adjusted service levels, whether increased or decreased.

3.8 MIXED USE PROPERTIES

3.8.1 Defined - The following terms are defined for purposes of this subsection 3.8 only:

- (a) *Mixed-use property* is defined as a property, which may contain more than one parcel or premises, containing both residential and non-residential uses. For the purposes of Solid Waste collection under this section, the non-residential uses shall not involve food sales or service.
- (b) *Small mixed-use property* is defined as a mixed-use property with a total area of 6,000 square feet or less.
- (c) *Large mixed-use property* is defined as a mixed-use property with a total area of greater than 6,000 square feet.

3.8.2 Solid Waste and Bulk Waste Service - As an alternative to the use of Dumpsters, property owners and tenants of mixed use properties may arrange for Solid Waste and Bulk Waste Collection as follows:

(a) *Small mixed-use property option.* The property owner or the single tenant of a small mixed-use property may arrange for a residential Cart that will also serve the non-residential use(s). Such owner or tenant shall be charged the residential Cart rate in Exhibit 1 in those cases where the Garbage from the entire property can be accommodated in one residential Cart, without spillover. In the event additional Carts are required, they shall be provided at the commercial Cart rate applicable to similar volumes of Garbage. Bulk Waste pickup shall be provided for the residential use only, which shall not exceed two (2) cubic yards monthly. Upon request to Contractor for the service, the service will be provided at the next regularly scheduled pickup

(b) *Large mixed-use property option.*

i. *Property owners.* The property owner of a mixed-use property in excess of a total area of 6,000 square feet may arrange for a single or multiple commercial containers that will also serve the residential use of the property, if the Container(s) is (are) of sufficient size to accommodate the joint usage without spillover. Such owner shall be charged the commercial Container rate. Bulk Waste pickup shall be provided for the residential use only, which shall not exceed two (2) cubic yards monthly. Upon request to Contractor for the service, the service will be provided at the next regularly scheduled pickup.

ii. *Tenants.* The tenant of a mixed-use property in excess of a total area of 6,000 square feet, who leases both non-residential space and a residential dwelling on the property, may arrange for a single or multiple commercial containers to serve both his or her residential and non-residential Garbage disposal needs, if the Container is of sufficient size to accommodate the joint usage without spillover. Such Tenants shall be charged the commercial Container rate. Bulk Waste pickup shall be provided for the residential use only, which shall not exceed two (2) cubic yards monthly. Upon request to Contractor for the service, the service will be provided at the next regularly scheduled pickup

- 3.8.3 **Other Requirements.** Mixed Use Properties opting to use Containers shall be governed by the in the same manner as similar customers for the disposal of Christmas trees, Container repair or replacement, and placement of Carts.

SECTION 4: EDUCATION SERVICES

The CONTRACTOR shall provide the following public education services about the TOWN'S Solid Waste, Bulk Waste, and Recycling Services. The CONTRACTOR shall be responsible for all expenses associated with the notices and educational services required herein. All notices, educational materials, and educational services shall be approved by the Town Manager prior to being printed and used by the CONTRACTOR.

4.1 ANNUAL NOTICE TO CUSTOMERS

The CONTRACTOR shall design, print, and distribute an annual notice to all Residential and Commercial Customers within the Service Area. At a minimum, the notice shall identify the scheduled Collection days, summarize the applicable set-out requirements, provide an overview of current issues affecting the service, provide information on how to register complaints, and how to contact Customer Service.

4.2 NOTICES TO NEW CUSTOMERS

The CONTRACTOR shall design, print, and distribute a notice to new Residential and Commercial Customers within the Service Area. At a minimum, the notice shall identify the scheduled Collection days, summarize the applicable set-out requirements, provide an overview of current issues affecting the service, provide information on how to register complaints, and how to contact Customer Service. The notice shall be sent out not later than thirty (30) days after service begins.

4.3 NON-COLLECTION NOTICE

The CONTRACTOR shall not be required to collect any Solid Waste, Bulk Waste, or Recyclable Materials, within reason, which does not meet the requirements in this Agreement. The CONTRACTOR shall collect that portion of Solid Waste, Bulk Waste, or Recyclable Materials that meets the set-out requirement, and shall affix to the improper Garbage Can, Container, Bag, or other material a Non-Collection Notice explaining why Collection was not made. The TOWN shall approve the design of said notice and the cost of printing said notice shall be borne by the CONTRACTOR. The CONTRACTOR shall maintain a record of the address of any Customer where Solid Waste, Bulk Waste, or Recyclable Materials were not collected, the date of non-collection, and the reason they were not collected, to be provided to the TOWN upon request.

SECTION 5: HOURS OF COLLECTION, SCHEDULES, AND ROUTES

5.1 RESIDENTIAL SERVICES

Residential Services shall be made with a minimum of noise and disturbance commencing no earlier than 7:00 a.m., local time, and terminating no later than 6:00 p.m., local time, Monday through Saturday, with no service on Sunday.

5.2 COMMERCIAL SERVICES

Commercial Services shall be made with a minimum of noise and disturbance and shall be provided between the hours of 7:00 a.m., local time, and 6:00 p.m., local time, Monday through Saturday and between the hours of 8:00 a.m., local time, and 6:00 p.m., local time, on Sunday.

5.3 EXTENDED COLLECTION HOURS/DAYS

The hours and/or days of Collection may be extended due to extraordinary circumstances or conditions with the prior written consent of the TOWN.

5.4 QUIET ENJOYMENT

The receipt by the TOWN of a complaint pattern referencing noise or disturbances that occurred during the operating hours set forth in this Section shall be prima facie evidence of “disturbances” and the CONTRACTOR shall adjust the Commercial Service hours at such identified locations as the TOWN shall direct the CONTRACTOR in writing. The adjustment of such hours shall not result in a rate change for the CONTRACTOR.

5.5 SCHEDULES AND ROUTES

The CONTRACTOR shall submit proposed changes to routes and schedules to be approved by the Town Manager no later than ninety (90) calendar days prior to the proposed effective date of the change.

In the event of a temporary change in residential routes or schedules that will alter the day of Collection, the CONTRACTOR shall have said changes approved by the Town Manager at the earliest practical date. The CONTRACTOR shall bear all expenses for public education in the event of a change in residential routes (i.e. preparation of news releases, postage, copies, etc.).

The TOWN reserves the right to deny the CONTRACTOR’S vehicles access to certain streets, bridges, and public ways, inside the TOWN or outside the TOWN in route to Designated Disposal Facilities where it is in the best interest of the general public to do so due to conditions of streets and bridges. The CONTRACTOR shall use best efforts to not interrupt the regular schedule and quality of service because of such street closures.

5.6 HOLIDAY PICK-UP SCHEDULE

Christmas is designated as a Holiday. The CONTRACTOR is not required to provide Solid Waste Cart, Bulk Waste, or recycling collection or maintain office hours on a Holiday. The TOWN reserves the right to add or delete designated holidays for the duration of this Agreement.

5.5.1 If Solid Waste Cart collection falls on a Holiday, then Solid Waste carts shall be collected on the Customer’s next regularly scheduled pick-up day after the Holiday.

5.5.2 If recycling Cart collection falls on a Holiday, then recycling carts shall be collected on the Customer’s Solid Waste collect date within that week. For example, if the Customer’s Solid Waste Cart is collected on Monday and Thursday and the Holiday is on Monday, then the recycling Cart shall be collected Thursday of that Holiday week.

5.5.3 If Bulk Waste collection falls on a Holiday, the CONTRACTOR shall schedule Bulk Waste collection one week after the Holiday.

- 5.5.4 Dumpster collection shall not be affected by Holidays; however, nothing herein prevents the CONTRACTOR for making alternative arrangements for Holiday collection of dumpsters.

SECTION 6: CHARGES AND RATES

6.1 COLLECTION SERVICES

The CONTRACTOR shall be responsible for the establishment of all collection service accounts, billing and collection of payments for all accounts in accordance with the Collection Rates as they may subsequently be adjusted pursuant to this Agreement. Town shall bear no responsibility for unpaid accounts and CONTRACTOR may not terminate, suspend, or interrupt service based upon non-payment.

In the event of non-payment by a Customer, CONTRACTOR may pursue all legally available means for collection. In the event of non-payment by a Customer, CONTRACTOR, as its sole and exclusive remedy from the TOWN, shall (in writing) provide the name, address and amount of nonpayment to the TOWN and TOWN shall use its code enforcement prosecution process to attempt to collect the amount of the non-payment. Any amounts so collected by the Town, representing the amount of the nonpayment, shall be provided to the CONTRACTOR upon receipt by the TOWN. The TOWN shall not be responsible or liable in any way whatsoever, for any unpaid bills or for its inability to collect unpaid accounts and the TOWN shall not be required to foreclose on any code enforcement liens for unpaid service, though it may, at its sole option, undertake such action. CONTRACTOR shall be responsible for all costs incurred in the collection of Solid Waste and other materials as required herein, including but not limited to, cost of equipment, employees and related costs, disposal fees, fuel and maintenance, administration, and all other costs incurred in the provision of the required services. The TOWN shall bear no responsibility for any costs unless specifically and expressly provided for herein. The Account Holder's only obligation shall be to pay the charges set forth in the appropriate Exhibits setting forth charges or as otherwise specifically and expressly set forth herein.

6.2 SPECIAL COLLECTION SERVICES

The CONTRACTOR shall be responsible for the billing and collection of payments for Special Collection Services. Rates for Special Collection Services are set in Exhibit 6 for the term of the Agreement and are not subject to annual rate increases.

Special Collection Services for current and future TOWN facilities shall be provided at the request of the TOWN and at the expense of the CONTRACTOR.

6.3 CHANGE IN BILLING PRACTICES; DISPOSAL FEES

- 6.3.1 The TOWN reserves the right at any time to change billing and collections responsibilities for Residential and Commercial accounts. To the extent that TOWN elects to assume billing and collections responsibilities for Residential and or Commercial accounts, the CONTRACTOR will compensate TOWN for providing such service in the form of a monthly administrative fee equal to ten percent (10%) of the Collection element of the Rates shown in the then current Collection Rates.

6.3.2 The TOWN reserves the right at any time to elect to pay Disposal Charges directly for Solid Waste disposed through Cart Service, Dumpster Service, or both. Upon written notice to the Contractor of the Town's intent to pay for Disposal Charges for a particular class of Customer and on the date set forth in the notice, the CONTRACTOR shall be responsible for reimbursement to the Town as set forth below.

6.3.2.1 Cart Service. CONTRACTOR shall submit to TOWN all revenues collected from the Disposal Fee component of the Collection Rates within thirty days of collection.

6.3.2.2 Dumpster Service. Since there is no Disposal Fee component in the Dumpster Collection Rate, the amount submitted to TOWN shall be calculated based on the percentage of the Disposal Charge to the total Collection Rate for the previous twelve months.

6.4 APPROVED COLLECTION RATES

The rates shown in the Collection Rate Exhibits shall apply to all Residential Service Units and Commercial Service Units within the corporate limits of the TOWN.

6.5 FRANCHISE FEES AND ADMINISTRATIVE FEE

6.5.1 In consideration of the privilege granted to the CONTRACTOR to use and occupy the streets, alleys, bridges, easements, and other public places of the TOWN, pursuant to this Agreement and the right to charge the fees set forth herein, the CONTRACTOR shall pay to the TOWN a Franchise Fee for all services CONTRACTOR provides under this Agreement within the TOWN'S municipal corporate limits. Franchise Fees for Residential Collection Services shall be established equal to three point seventy six percent (3.76%) of gross revenues. Franchise Fees for Commercial Collection Services shall be established at ten percent (10%) of gross revenues. CONTRACTOR shall submit payment to the TOWN monthly for the duration of this Agreement, as amended from time to time. Franchise fees are included in the Collection Rates set forth in the Exhibits but CONTRACTOR may show the Franchise Fee separately on the Customer's bill.

6.5.1.1 CONTRACTOR shall submit to the TOWN on a monthly basis, the payment of the Franchise Fee and a financial statement setting forth the computation of Gross Revenues used to calculate the Franchise Fee for the preceding month and a detailed explanation of the method of computation that is acceptable to the TOWN Finance Director. The CONTRACTOR'S chief Financial Officer or designee shall certify the statement financial. The CONTRACTOR will bear the cost of the preparation of such financial statements.

6.5.1.2 Subject to applicable law, the acceptance by the TOWN of any Franchise Fee payment shall not be construed, as an accord that the amount paid is in fact the correct amount, nor shall such acceptance of payment be construed as a release of any claim the TOWN may have for additional sums payable. The Franchise Fee payment is not a payment in lieu of any other tax, fee, or assessment.

6.5.2 In addition to the Franchise Fee provided for in Section 6.5.1, an Administrative Fee equal to three point seventy six percent (3.76%) of the gross revenue, excluding Franchise Fees,

from single family/duplex residential collection services shall be paid TOWN at the time of collection. Example: A single family accounts pay \$15 per month plus \$0.56 in Franchise Fees for a total of \$15.56. The Administrative Fee is calculated on the \$15 and not the on the total of \$15.56. The financial statement required in 6.5.1.1 shall include the documentation necessary to verify the Administrative Fee payment.

6.6 ADDITIONAL SERVICES

- 6.6.1 As determined by the Town Commission, the TOWN may provide additional Solid Waste services such as, but not limited to, recycling incentive programs and related education services. At the TOWN's option, it may increase the monthly Collection Rate for various classes of Customers to fund these additional services. For as long as CONTRACTOR does the Solid Waste billing, upon receipt, CONTRACTOR shall pay to the TOWN at the end of each month, the increased amount collected for these additional services.
- 6.6.2 Upon request by TOWN, CONTRACTOR shall provide once per month electronic waste collection from residents at no additional cost to TOWN or residents.

6.7 RECYCLING REVENUES

The TOWN shall retain all sums received from the sale of Recyclable Materials as a result of the CONTRACTOR'S provision of Recycling services for all Residential Service Units, Community Events, and TOWN facilities. CONTRACTOR shall take all steps necessary to ensure that payments from the Designated Recycling Facility resulting from the sale of Recyclable Materials are paid directly to the TOWN and not the CONTRACTOR. The CONTRACTOR shall maintain proper and accurate records to reflect the weight, by sort category, of the Recyclable Materials recovered each month, including copies of receipts from the Designated Recycling Facility.

6.8 CHANGES TO EXHIBITS TO REFLECT CHANGES IN RATES

The Collection Rates provided herein are subject to change as set forth below. The Exhibits to this Agreement stating the rates to be charged hereunder shall be amended to reflect changes in the Disposal Charge and in the Consumer Price Index, as provided in this Section. The amended Exhibits shall be filed with the City Clerk, with a copy provided the Contractor, and shall be deemed effective as if fully set forth in this Agreement until subsequently amended as provided hereunder without the necessity of a formal amendment to this Agreement.

6.8.1 Disposal Fee Adjustment

Upon the written request of either the CONTRACTOR or TOWN, and after documentation has been submitted acceptable to the Town Manager demonstrating the basis for a Disposal Fee adjustment, the Disposal Fee component of the Monthly Collection Rate (as set forth in the Exhibits to this Agreement) shall be adjusted, on the first of the month closest to the effective date of such change in Disposal Rate(s) or 60-days of after the request, whichever is later. The change shall reflect the percentage change (either an increase or decrease) in the Disposal Rate. If a proposed change in the Disposal component is approved by the Town Manager, then such change shall be reflected on an amended exhibit as set forth in this subsection.

6.8.2 CPI INCREASE.

Upon the written request of either the CONTRACTOR or TOWN, and once documentation demonstrating the basis for a CPI adjustment has been submitted acceptable to the Town Manager, the Collection component of the monthly collection rate shall be adjusted, effective October 1 of each year, or 60-days after the request, whichever is later, to account for the change in the annual Consumer Price Index, from the previous period from June 1 to May 31 prior to the October 1 adjustment date, based on the All Urban Consumers, Miami/Fort Lauderdale Region. No CPI adjustment shall be greater than five percent (5%). When the proposed change in the Collection component is approved by the Town Manager, the appropriate Exhibit to this Agreement shall be amended as provided for in this subsection.

SECTION 7: SERVICES TO TOWN

7.1 TOWN FACILITIES AND PROPERTY

The CONTRACTOR shall provide Solid Waste Collection, Bulk Waste Collection, Roll-Off Collection and Recycling Collection and disposal to all current and future TOWN owned and/or operated facilities and property, or project sites without charge to the TOWN. Containers, Dumpsters, and Roll-Offs shall be furnished and maintained by the CONTRACTOR at no charge to the TOWN. The size of the Containers, Dumpsters, and Roll-Offs and the frequency of pick-up service for said facilities shall be at such intervals as determined by the TOWN.

7.2 TOWN SPONSORED SPECIAL EVENTS

The CONTRACTOR shall provide Solid Waste and Recycling Containers, portable toilets and/or Roll-offs, as well as Collection of receptacles, for up to a maximum of twelve (12) Town Sponsored Special Events per year for the term of the Agreement at no cost to the TOWN or Special Event co-sponsors. The CONTRACTOR shall remove said receptacles on an on-call basis. The TOWN shall determine the size and number of said receptacles to be provided by the CONTRACTOR. The CONTRACTOR shall be responsible for the expenses of Containers, portable toilets and/or Roll-offs rental and maintenance, Collection, Disposal Charges, and all other related expenses incurred for the Town Sponsored Special Events.

SECTION 8: EMERGENCY SERVICE PROVISIONS

8.1 SUSPENSION OF COLLECTION SERVICES

In an emergency event such as a hurricane, tornado, major storm, natural or manmade disaster, or other such event, the TOWN may grant the CONTRACTOR a variance from regular routes and schedules. As soon as practicable after such event, the CONTRACTOR shall advise the TOWN when it is anticipated that normal routes and schedules can be resumed.

8.2 EMERGENCY EVENTS CLEAN-UP

The clean-up from emergency events is not exclusive to this Agreement. The TOWN reserves the right to select the CONTRACTOR and/or another agency and/or company to perform the clean-up from emergency event(s). The CONTRACTOR shall, by request of the TOWN, work jointly with other agencies and/or companies during emergency events. The clean-up from some events may require that the CONTRACTOR hire additional equipment, employ additional personnel, or work existing personnel on overtime hours to clean debris resulting from the event. The CONTRACTOR

shall receive additional compensation, above the normal compensation contained in this Agreement, to cover the costs of rental equipment, additional personnel, overtime hours, and other documented expenses.

8.3 EMERGENCY PREPAREDNESS PLAN AND SERVICE RATES

In the event that the CONTRACTOR wants to propose changes in CONTRACTORS' Emergency Preparedness Plan (**Exhibit 7**), CONTRACTOR shall submit such changes to the TOWN by April 15th of any year, and after documentation has been submitted acceptable to the Town Manager demonstrating the basis for the changes, the changes shall normally be effective the following October 1st unless an earlier date is approved by the Town Manager. The rates and fee schedule in the Plan must be reasonable and within market rates. In no event shall the rates change by more than the CPI adjustment provided for in Section 6.8.

The CONTRACTOR shall perform debris removal services when requested by the TOWN. The CONTRACTOR shall begin to assist the TOWN to clear roads and remove storm debris with heavy equipment within twenty-four (24) hours after the event passes if provided written authorization and direction from the Town Manager or designee. The CONTRACTOR shall begin a significant effort to remove vegetative and construction and demolition materials debris within seventy-two (72) hours after the event passes, provided the CONTRACTOR has received written authorization and approval from the Town Manager or designee. The equipment and manpower resources and other particulars will be identified in the Emergency Preparedness Plan. CONTRACTOR shall be responsible for the preparation of all documents and forms and support information required by Federal Emergency Management Agency (**FEMA**). The CONTRACTOR within the time limits established by FEMA for such filings shall submit such documents, forms and information to the TOWN. CONTRACTOR shall refund to TOWN any payment to CONTRACTOR that is otherwise qualified for reimbursement but is rejected by FEMA due to the CONTRACTOR provided documentation.

8.4 CHANGES TO EXHIBITS TO REFLECT CHANGES IN RATES

The Emergency Service Rates provided herein are subject to change as set forth above. The Exhibit to this Agreement stating the rates shall be amended to reflect changes as provided in this Section. The amended Exhibit shall be filed with the City Clerk, with a copy provided the Contractor, and shall be deemed effective as if fully set forth in this Agreement until subsequently amended as provided hereunder without the necessity of a formal amendment to this Agreement.

SECTION 9: CONTRACTOR'S RELATION TO TOWN

9.1 CONTRACTOR REPRESENTATIVE AVAILABILITY

The CONTRACTOR shall cooperate with the TOWN in every reasonable way in order to facilitate the progress of the work contemplated under this Agreement. As such, the CONTRACTOR shall have a competent and reliable representative on duty that is authorized to receive orders and to act on its behalf. The CONTRACTOR agrees that the TOWN shall have twenty-four (24) hour access to said representative. Answering machines, pagers, or other devices that do not provide for immediate contact with the CONTRACTOR'S said representative(s) shall not meet the requirements of this Section.

9.2 INDEPENDENT CONTRACTOR

It is expressly agreed and understood that CONTRACTOR is in all respects an independent CONTRACTOR as to the work. Even though in certain respects, CONTRACTOR may be required to follow the direction of the Town Manager or the TOWN'S designated representative, the CONTRACTOR is in no respect an agent, servant, or employee of the TOWN.

9.3 SUPERVISION OF AGREEMENT PERFORMANCE

The Town Manager, or the TOWN'S designated representative, is hereby designated as the public official responsible for the administration of this Agreement by the TOWN, and, in such capacity, they are charged with the overall, general supervision of CONTRACTOR'S performance hereunder. CONTRACTOR shall diligently work with the Town Manager or the TOWN'S designated representative, to formulate and to adopt guidelines and procedures to facilitate the supervision and review of its performance.

9.4 WEIGHT TICKETS

The CONTRACTOR shall retain the weight ticket from the Designated Disposal Facility for the Collection of Solid Waste, Bulk Waste, or other materials from Residential Service Units or Commercial Service Units delivered from the TOWN and the weight tickets from the Designated Recycling Facility for the Recyclable Materials delivered from the TOWN for review by the TOWN upon reasonable notice according to the requirements of Sec. 9.6. Said data shall be reviewed at CONTRACTOR'S offices. If the CONTRACTOR fails to provide the above data or additional data requested by the TOWN, the TOWN reserves the right to impose a penalty or withhold payment for services as provided in the Agreement or to terminate this Agreement.

9.5 REPORTS

- 9.5.1 **Monthly Complaints and Missed Collection.** CONTRACTOR shall maintain an accurate and up-to-date log of date, time, and address of all complaints received and missed Collections, the disposition thereof, actions taken to resolve the complaints or missed Collections, and the date and time the complaints or missed Collections were resolved. The CONTRACTOR shall provide the complaint log to the TOWN in the form of a monthly report in Microsoft Excel or an alternative computer program selected by the TOWN, no later than the fifteenth (15th) day of each month, or upon request by the TOWN.
- 9.5.2 The TOWN reserves the right to correct a complaint if the complaint is not corrected within twenty-four (24) hours of notification to the CONTRACTOR. The TOWN reserves the right to impose a penalty in these cases. If the CONTRACTOR fails to provide the above data, or additional data requested by the TOWN, the TOWN reserves the right to withhold payment for services or impose the penalty provided in Sections 11.
- 9.5.3 The CONTRACTOR shall provide TOWN a semi-annual fiscal year reports (submitted by April 30) and an annual report (submitted by October 31st) that includes, but not limited to, tonnage collected per week by Customer type for the different types of services provided and the number of accounts by type.
- 9.5.4 TOWN may require other reports that may be reasonable necessary for the management of the TOWN Solid Waste system.

9.6 RECORDS, AUDIT AND INSPECTION OF WORK RIGHTS

The CONTRACTOR shall keep books and records utilizing a computerized record-keeping program and require any and all subcontractors to keep books and records as may be necessary in order to record complete and correct entries as to services provided and fees charged pursuant to this Agreement. Such records shall include complete and legible daily attendance and enrollment records.

Upon providing reasonable notice, such books and records will be available at all reasonable times for examination and audit by the TOWN and its representatives, and shall be kept for a period of six (6) years after the completion of all work to be performed pursuant to this Agreement. Incomplete or incorrect entries in such books and records may be grounds for disallowance by the TOWN of any fees or expenses based upon such entries.

9.7 FACILITY INSPECTION RIGHTS

The TOWN may, at reasonable times during the term hereof, inspect the CONTRACTOR'S facilities and perform such inspections, as the TOWN deems reasonably necessary, to determine whether the services required to be provided by the CONTRACTOR under this Agreement conform to the terms hereof and/or the terms of the solicitation documents, if applicable. The CONTRACTOR shall make available to the TOWN all facilities and assistance to facilitate the performance of inspections by the TOWN'S representatives.

9.8 LIABILITY FOR DELAYS OR NON-PERFORMANCE DUE TO UNUSUAL CIRCUMSTANCES

It is expressly agreed that in no event shall the TOWN be liable or responsible to the CONTRACTOR, or to any other person, on account of any stoppage or delay in the work herein provided for, by injunction or other legal or equitable proceedings brought against the TOWN or the CONTRACTOR, or on account of any delay from any cause over which the TOWN has no control. The CONTRACTOR shall not be responsible for delays or non-performance of the terms and provisions of this Agreement where such delays or non-performance are caused by events or circumstances beyond the control of the CONTRACTOR. The CONTRACTOR shall not be entitled to compensation for such period of time as the delay or non-performance shall continue, but will be entitled to pro-rata compensation once said work has been completed. In the event of a strike of the employees of CONTRACTOR, or any other similar labor dispute which makes performance of this Agreement by the CONTRACTOR substantially impossible, CONTRACTOR agrees that the TOWN shall have the right to call the bond hereinafter described within one (1) week of such action and engage another person, firm, town attorney or corporation to provide necessary services with the bond proceeds applied to pay any difference between the Agreement price in effect and the costs charged by the successor company. In the event the bond is called, the TOWN will first call and use the cash/surety bond posted by the CONTRACTOR.

9.9 BREACH OF AGREEMENT

If, in the opinion of the Town Manager, or the designated TOWN representative, there has been a material breach of Agreement, the Town Manager, or designated TOWN representative, shall notify the CONTRACTOR, in writing, specifying the basis and reason in which there has been a breach of Agreement. If, within a period of ten (10) calendar days from the date of CONTRACTOR'S receipt of the notice, the CONTRACTOR has not eliminated or otherwise cured the conditions considered to be a breach of Agreement, the Town Manager shall so notify

the Town Commission in writing, and a public hearing shall be set for a date within fifteen (15) calendar days of such notice to the Town Commission. On the date of the hearing, the Town Commission shall hear from the CONTRACTOR and the Town Commission shall make a final determination as to whether or not there has been a breach of Agreement and direct what further action shall be taken by the TOWN, as hereinafter provided. Pending resolution of the alleged breach, the provisions of Section 20 shall govern the CONTRACTOR.

9.10 TERMINATION

If the CONTRACTOR fails to begin work at the time specified, or discontinues the prosecution of the work, or any portion thereof, for any cause not excused as provided herein, and the Town Commission makes a final determination that a breach has occurred, and if the CONTRACTOR fails to cure such default within five (5) Business Days after the receipt of such notice from the Town Commission, the TOWN may thereupon, by action of the Town Commission, declare the Agreement terminated and in default. Upon such declaration of cancellation or breach, the TOWN may take over the work or any portion thereof or engage another firm to take over the work or any portion thereof. The CONTRACTOR shall pay the TOWN for any payments due for services rendered by the CONTRACTOR prior to termination of the Agreement. Such cancellation of the Agreement shall not relieve the CONTRACTOR or the cash/surety of liability for failure to faithfully perform this Agreement, and, in case the expense incurred by the TOWN in performing or causing to be performed the work and services provided for in said Agreement shall exceed the sum which would have been payable under this Agreement, then the CONTRACTOR, and the cash/surety, to the extent of its obligation, shall be liable to the TOWN in the amount of any such expenses in excess of the Agreement price. The TOWN may apply the cash bond in its possession toward any and all damages incurred as a direct or indirect result of failure by the CONTRACTOR to properly perform its obligations under this Agreement and it may look to the cash/surety, the CONTRACTOR and any guarantor for additional damages. The CONTRACTOR'S cash/surety or security will not be released until such time as the term of this Agreement otherwise expires.

9.11 DELINQUENT PAYMENTS

The TOWN is entitled to a late fee for any payment due the TOWN that is delinquent more than 10-calendar days. The late fee shall be charged at the rate of .0005 per day for each calendar day the payment is delayed up to the day the payment is postmarked (example: \$10,000 payment X .0005 = \$5.00 per day late fee.)

SECTION 10: CUSTOMER RELATIONS

9.12 CUSTOMER OFFICE HOURS

The CONTRACTOR shall take all reasonable steps and do all things necessary to ensure good and harmonious Customer relations in the TOWN. The CONTRACTOR agrees that it shall have telephone service via a non-toll call from the TOWN. The non-toll telephone service shall be listed in the name in which the company is doing business as the CONTRACTOR. The CONTRACTOR'S employee(s), whom shall be familiar with the TOWN, shall staff the telephone service from 7:00 a.m., local time, till 5:00 p.m., local time, Monday through Friday and Saturday from 7 a.m. until 12:00 p.m., and Saturday Emergency Contact from 12:00 p.m. to 6:00 p.m. Answering machines, pagers, or other devices that do not provide for immediate contact with the CONTRACTOR'S employee(s) shall not meet the requirements of this Section.

10.2 MISSED COLLECTIONS

If the Collection of any Residential Service Unit or Commercial Service Unit is missed during the regular route Collection, the CONTRACTOR shall ensure that the missed Collection shall be picked up on the same day if CONTRACTOR becomes aware of the missed collection or if notification was received by the CONTRACTOR before 12:00 p.m., local time, otherwise the missed Collection shall be picked up before 12:00 p.m., local time, on the next Work Day.

Any deviation from the requirements of this provision must be approved by the Town Manager, or the TOWN'S designated representative. If the CONTRACTOR fails to comply with this provision, or any of the terms and conditions of the Agreement, the TOWN reserves the right to ensure that the Collection is made, either with its own workforce or an outside source, and to charge all costs, plus reasonable overhead, to the CONTRACTOR in the manner deemed to be in the best interest of the TOWN. Such a manner may include, but is not limited to, withholding the amount of the costs, plus reasonable overhead, from any monies owed to the CONTRACTOR.

The CONTRACTOR shall not be required to collect Solid Waste or Bulk Waste material from curbside that is non-conforming; however, in each such case, the CONTRACTOR shall notify each resident by using a Non-Collection Notice which can be a sticker, tag, or door hanger, in a form approved by the TOWN, notifying the resident of the problem and how the Customer needs to correct the problem. The CONTRACTOR shall then notify the TOWN of the location every time a non-conforming location is noticed.

10.3.1 SPILLAGE AND LITTER

The CONTRACTOR shall not be responsible for cleaning up sanitary conditions around Containers, or Roll-off Containers caused by the carelessness of the Customer; however, the CONTRACTOR shall clean up any, and all, Solid Waste, Bulk Waste, Recyclable Materials, or other refuse materials including leakage of fluids spilled from Containers, Dumpsters, Roll-off Containers, Recycling Bins, Recycling Containers, and Collection vehicles by the CONTRACTOR, CONTRACTOR'S vehicles, or the CONTRACTOR'S employees. During transport, all Solid Waste, Bulk Waste, and Recyclable Materials shall be contained, covered, or enclosed so that leaking, spilling, and blowing of the Solid Waste, Bulk Waste, and Recyclable Materials is prevented. The CONTRACTOR shall be responsible for the cleanup of any spillage or leakage caused by the CONTRACTOR, CONTRACTOR'S vehicles, or the CONTRACTOR'S employees. Said cleanup shall be completed at the CONTRACTOR(s) expense within four (4) hours of CONTRACTOR becoming aware of the spillage or leakage.

SECTION 11: PENALTIES

Based upon an investigation, the Town Manager shall determine whether penalties shall be assessed against the CONTRACTOR for failure to comply with provisions described in the Agreement. Factors to be considered include, but are not limited to, acts of God, repeated occurrences of similar types, witnesses, and documentation of the incident. The Town Manager, in consultation with the Town Attorney, shall make the determination as to when repeated occurrences of failure to comply with the provisions of the Agreement arise to a material breach of the Agreement pursuant to section 9.9.

The CONTRACTOR shall have five (5) Calendar Days from the date of the written notice to CONTRACTOR to file a written letter of protest with the Town Manager. If the protest is filed within five

(5) Calendar Days excluding Saturday and Sunday, the Town Manager, or individuals appointed by the Town Manager, shall conduct a formal review of each filed protest. The determination of the Town Manager and/or her designated representative shall be final.

Failure by the CONTRACTOR to remedy the cause of any complaint within the time indicated, failure to comply with Agreement provisions, or performance failures shall result in the Town Manager imposing penalties, or any other legal means available. Verified complaints of sloppy service provided by CONTRACTOR, including, but not limited to Solid Waste, Bulk Waste, and Recyclable Materials being left in the roadway or Carts not being returned to the point of Collection shall be resolved by the CONTRACTOR on the day of the verified complaint. Penalties are as set forth below:

- 11.1 SPILLAGE AND LITTER** – Failure to clean up spilled material from loading and/or transporting. Each failure shall result in the imposition of a penalty in the amount of Two Hundred Fifty Dollars (\$250.00).
- 11.2 COLLECTION MISSES** – Failure or neglect to collect properly prepared Solid Waste, Yard Waste, Bulk Waste, or properly prepared Recyclable Materials from any Customer on the regular scheduled Collection day. Each failure shall result in the imposition of a One Hundred Dollar (\$100.00) penalty. Each additional twenty-four (24) hours of failure to collect after previous notification shall result in the imposition of a penalty in the amount of Two Hundred Fifty Dollars (\$250.00) each day.
- 11.3 ROUTE COMPLETION** – Failure or neglect to complete each route (including missing whole streets) on the regularly scheduled Collection day according to the time schedule in Sections 5.1 or 5.2. Each failure shall result in the imposition of a Five Hundred Dollar (\$500.00) penalty each day, in addition to the penalty assessed for the individual Collection misses. An extension of time authorized by the TOWN pursuant to Section 5.3 shall not be considered a failure to complete a route.
- 11.4 MIXING MATERIALS** – Mixing Recyclables with Solid Waste, or any other material intended to be collected separately, during Collection shall result in the imposition of a penalty in the amount of One Thousand Dollars (\$1,000.00) for each instance.
- 11.5 MIXING COMMERCIAL AND RESIDENTIAL PROGRAM RECYCLABLES** – Mixing Commercial Program Recyclables and Residential Program Recyclables during Collection shall result in the imposition of a penalty in the amount of One Thousand Dollars (\$1,000.00).
- 11.6 CUSTOMER COMPLAINTS OTHER THAN COLLECTION MISSES** – Failure to resolve complaints other than Collection misses within the time provided in the Agreement or for all other complaints within five (5) Work Days from the day of notification shall result in the imposition of a penalty in the amount of Two Hundred Fifty Dollars (\$250.00) for each instance and \$10 per day starting on the sixth (6th) day.
- 11.7 DISPOSING AT NON-DESIGNATED DISPOSAL FACILITY** – Failure to dispose of Solid Waste, Yard Waste, Bulk Trash or Recyclable Materials collected in the TOWN as required by Section 3.5 of this Agreement or as directed by TOWN shall result in the imposition of a Two Thousand Dollar (\$2,000.00) penalty for each instance; each instance shall mean each day of collected Waste or Recyclable Materials that is not disposed of pursuant to Section 3.5 or as directed by TOWN.
- 11.8 CHRONIC COMPLAINT PROBLEMS** – Failure or neglect to correct chronic problems (chronic shall mean three (3) or more similar verifiable complaints within a rolling twelve (12) month period) in any category of service shall result in the imposition of a Two Hundred Fifty Dollars

(\$250.00) penalty for each occurrence after the third verifiable complaint. Each day that a chronic problem is not corrected is considered to be a new occurrence.

- 11.9 CHRONIC EQUIPMENT PROBLEMS** – Failure or neglect to correct chronic equipment problems (chronic shall mean three (3) instances of the same or similar problem within a rolling twelve (12) month period) shall result in the imposition of a penalty in the amount of Two Hundred Fifty Dollars (\$250.00) for each occurrence after the third occurrence. Each day of a chronic equipment problem is considered an occurrence.
- 11.11 MISCELLANEOUS DEFICIENCIES AND INFRACTIONS** – A penalty in the amount of One Hundred Dollars (\$100.00) may be levied by the Town Manager for the following deficiencies and infractions: failure to maintain equipment in a clean, safe, and sanitary manner; failure to have vehicle operators properly licensed; failure to maintain office hours as identified in the Agreement; failure to properly cover materials in Collection Vehicles; and failure to comply with the hours of operation as identified in the Agreement.
- 11.12 CONTRACTOR REPORTS** – Failure to provide the reports required by the Agreement as provided in Section 9 subsequent to the Transition Period. For each day of delay, a penalty in the amount of Two Hundred Fifty Dollars (\$250.00) shall be assessed. In addition, the TOWN shall withhold payment for services until receipt of reports.
- 11.13 POST DISASTER/STORM CLEANUP** – Unless waived by the TOWN MANAGER, failure of the CONTRACTOR to begin a good faith effort to remove vegetative materials and construction and demolition debris within twenty-four (24) hours after the storm event passes and failure to begin a significant effort to remove vegetative materials and construction and demolition debris within seventy-two (72) hours after the storm event, provided the CONTRACTOR has first secured written authorization and approval from the Town Manager. A penalty in the amount of Five Thousand Dollars (\$5,000.00) will be assessed each day for each infraction.

SECTION 12: RESERVED

SECTION 13: PERFORMANCE BOND AND CORPORATE GUARANTY

- 13.1 PERFORMANCE BOND** - The CONTRACTOR shall furnish at its own cost, to the TOWN, an irrevocable Performance Bond, in form and content approved by the TOWN Attorney for the faithful performance of this Agreement and all of its obligations arising hereunder in the amount of One Million Dollars (\$1,000,000.00)

Said bond shall be rated "A+" or better as to management and "FSC XV" or better as to the strength by Best's Insurance Guide or Surety; shall be listed on the U.S. Treasury Department's list of acceptable sureties for federal bonds or bonding limits shall not exceed twenty percent (20%) of its policy surplus (capital & surplus) as listed in Best's Insurance Guide; and, Surety shall have been in business and have a record of successful and continuous operation for at least five (5) years; further, all bonds shall contain all provisions required by §255.05, Florida Statutes, guarantee the performance of the Agreement, and serve as security for the payment of all persons performing labor and furnishing materials in connection with the Agreement. The policy or bond may not be canceled or altered without at least thirty (30) calendar days prior notice to the TOWN and upon agreement of the TOWN.

Maintenance of said bond and the performance by the CONTRACTOR of all of the obligations under this paragraph shall not relieve the CONTRACTOR of liability under the default provisions set forth in this Agreement or from any other liability as a result of any material breach hereunder. The Performance Bond may be "called" in the event of any default hereunder by the CONTRACTOR. The calling of the Bond shall in no manner restrict or preclude any additional or further remedies available to the TOWN against the CONTRACTOR for breach, default, or damages hereunder.

The TOWN reserves the right to increase the Performance Bond amount in the event of a change in the Designated Disposal Facility or due to the duration of the renewal periods.

- 13.2 CORPORATE GUARANTY** - The CONTRACTOR shall cause to be obtained a corporate guaranty of PARENT COMPANY ("Guarantor"), whereby the Guarantor shall guarantee all of the obligations of the CONTRACTOR under this Agreement. The guarantee shall be in a form and content approved by the TOWN Attorney.

SECTION 14: EQUIPMENT AND PERSONNEL

14.1 VEHICLES AND COLLECTION EQUIPMENT

The CONTRACTOR shall provide and maintain and have available at all times the necessary amount of Collection trucks and equipment to perform the work as specified herein. During severe storms and emergencies, the CONTRACTOR shall have sufficient vehicles, personnel, containers, etc. in order to meet the needs of the TOWN.

14.2 EQUIPMENT IN GOOD REPAIR

The CONTRACTOR shall use Collection vehicles within the TOWN that are professionally painted, with bodies that are watertight to a depth of not less than eighteen inches (18"), with solid sides, without body damage, solid tires as approved by the Florida Department of Transportation. The average age of the CONTRACTOR'S Collection vehicles that are used within the TOWN shall not exceed four (4) years, with no vehicle over seven (7) years. All vehicles shall be equipped with operational radio transceiver capable of communicating with the CONTRACTOR'S dispatch from anywhere in the TOWN and cell phone. Each collection truck shall be equipped with a video recording system capable of recording vehicle speed, driver behaviors, accidents and collection of containers. Video recording shall be kept for at least 48 hours and made available to the TOWN upon its request. The CONTRACTOR shall provide sufficient equipment, in proper operating condition so regular schedules and routes of Collection can be maintained. Equipment is to be maintained in reasonable, safe, working condition.

Collection vehicles shall be painted with the company color scheme, with the name of the CONTRACTOR and the number of the vehicle printed in letters not less than four inches (4") high, on each side of the vehicle, and vehicles shall be numbered and a record kept of the vehicle to which each number is assigned.

No advertising shall be permitted on Vehicles, Containers, or Roll-offs or any other equipment servicing the TOWN. The CONTRACTOR is required to keep Collection vehicles and Dumpsters cleaned and painted to present a pleasing appearance. The CONTRACTOR shall make available for approval by the TOWN a schedule showing the frequency of the cleaning and painting of the vehicles, the age, and miles of the vehicle.

Each non-packer Collection vehicle shall be equipped with a cover, which may be net with mesh, or tarpaulin, or fully enclosed top. Such cover shall be kept in good order and used to cover the load going to and from the Disposal Facility, or when parked, if the contents are likely to be scattered if not covered.

Collection vehicles shall not be overloaded so as to scatter collected material, however, if material is scattered from the CONTRACTOR'S Collection vehicle for any reason, it shall be picked up immediately. Each Collection vehicle shall have a fork, shovel, and broom for this purpose. The CONTRACTOR'S Collection vehicles are not to interfere unduly with vehicular or pedestrian traffic and are not to be left unattended, and shall move with the traffic flow.

14.3 CONTRACTOR'S PERSONNEL

The CONTRACTOR shall assign a qualified person to be the Route Superintendent in charge of its operations within the TOWN, and shall give the name or names of the CONTRACTOR'S representatives to the TOWN. The CONTRACTOR shall also provide information regarding the experience of the CONTRACTOR'S representatives. The CONTRACTOR shall adhere to the following requirements:

- 14.3.1 Each driver shall, at all times, carry a valid Florida driver's license for the type of vehicle they are driving.
- 14.3.2 All employees and subcontractors of the CONTRACTOR shall be considered to be, at all times, the sole employees or subcontractors of the CONTRACTOR under its sole discretion and not an employee, subcontractor, or agent of the TOWN. The CONTRACTOR shall supply competent and physically capable employees and subcontractors. The TOWN may require the CONTRACTOR to remove any employee or subcontractor it deems careless, incompetent, insubordinate, or otherwise objectionable and whose continued performance of the services is not in the best interest of the TOWN.
- 14.3.3. The direction and supervision of Collection and disposal and salvage recycling operations shall be by competent, qualified, and sober personnel, and the CONTRACTOR shall devote sufficient personnel, time, and attention to the direction of the operation to assure performance satisfactory to the TOWN. All employees, subcontractors, superintendents, and workmen employed by the CONTRACTOR shall be careful and competent. The CONTRACTOR shall also provide uniforms that are clearly identified with the company name. Employees and subcontractors of the CONTRACTOR shall have and wear proper dress attire at all times. Proper dress attire shall consist of industrial style work pants, a button front shirt or T-shirt with the CONTRACTOR'S company name or logo, and appropriate footwear.
- 14.3.4. All employees or subcontractors used by the CONTRACTOR during the term of the Agreement shall be of a standing or affiliation that will permit the CONTRACTOR'S performance herein to be carried on harmoniously and without delay, and in no case, or in any circumstance, will such employee or subcontractor cause any disturbance, interference or delay to any work or service rendered to the TOWN or by the TOWN. In no case or in any circumstances will the employee or subcontractor conduct himself/herself negligently, disorderly, or dishonestly in the due and proper performance of the employee's duties. The CONTRACTOR shall see to it that his employees and subcontractors serve the public in a courteous, helpful, and impartial manner.

- 14.3.5. The CONTRACTOR'S employees shall follow the regular walk for pedestrians while on private property. No employee shall meddle with property that does not concern him. Care shall be taken to prevent damage to property, including flowers, shrubs, and other plantings. Anything spilled shall be picked up immediately by such employee. Any damages incurred shall be paid by CONTRACTOR.
- 14.3.6 In the event that the Town Manager becomes dissatisfied with the performance of any CONTRACTOR'S personnel, which includes employees, independent contractors, or subcontractors, performing services under this Agreement for any reason, the Town Manager shall provide written notification to CONTRACTOR. Upon receipt of such notification, CONTRACTOR shall transfer such person out of TOWN service at the earliest practical date, which shall not exceed fourteen (14) days from the receipt of the notice. TOWN retains the right to immediately request a transfer if, in the sole opinion of the Town Manager, the immediate transfer is in the best interest of the Town.
- 14.3.7 **Assignment and Subcontracting.** Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by CONTRACTOR, without the consent of TOWN, which consent may be withheld or conditioned in the sole and absolute discretion of TOWN. In addition, CONTRACTOR shall not subcontract any portion of the services required by this Agreement without the prior approval of the Town Manager, which shall be in her sole and absolute discretion, except as documented in the CONTRACTOR'S Proposal.

SECTION 15: WORKING CONDITIONS

15.1 COMPLIANCE WITH STATE, FEDERAL, AND LOCAL LAWS

The CONTRACTOR shall comply with all applicable County, State, and Federal laws relating to wages, hours, and all other applicable laws relating to the employment or protection of employees, now or thereafter in effect.

15.2 EEO STATEMENT

The CONTRACTOR agrees that it will not knowingly violate any applicable laws, statutes, codes, rules and regulations related to or prohibiting discrimination in employment in the performance of its work under this Agreement.

15.3 AMERICANS WITH DISABILITIES ACT COMPLIANCE

The CONTRACTOR shall comply with the requirements of the Americans with Disabilities Act, as amended from time to time.

15.4 FAIR LABOR STANDARDS ACT

The CONTRACTOR is required and hereby agrees by execution of this Agreement to pay all employees not less than the Federal minimum wage and to abide by other requirements as established by the Congress of the United States in the Fair Labor Standards Act, as amended from time to time.

SECTION 16: INSURANCE

Throughout the term of this Agreement, CONTRACTOR shall maintain insurance in the type and amounts and pursuant to the requirements set forth below. The required insurance coverage shall be issued by an insurance company authorized and licensed to do business in the State of Florida, with a minimum rating of A-, in accordance with the latest edition of A.M. Best's Insurance Guide. The insurance coverage shall be primary insurance with respect to the CONTRACTOR, its officials, employees, agents and volunteers. Any insurance maintained by the TOWN shall be in excess of the CONTRACTOR'S insurance and shall not contribute to the CONTRACTOR'S insurance.

The insurance coverage shall include a minimum of:

- 16.1 Worker's Compensation And Employer's Liability Insurance:** Workers' Compensation insurance to apply for all employees in compliance with the "Workers' Compensation Law" of the State of Florida and all applicable Federal laws. In addition, the policy(ies) must include:
- (a) Employers' Liability with a limit of One Hundred Thousand Dollars (\$100,000.00) each accident, Part A.
 - (b) Employers' Liability with a limit of One Million Dollars (\$1,000,000.00), Part B.
- 16.2 Comprehensive General Liability.** Comprehensive General Liability with minimum limits of Five Million Dollars (\$5,000,000.00) per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability with respect to CONTRACTOR. CONTRACTOR shall provide Ten Million Dollar (\$10,000,000.00) annual aggregate Comprehensive General Liability coverage. Coverage must be afforded on a form no more restrictive than the latest edition of the Comprehensive General Liability policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include:
- (a) Premises and/or Operations;
 - (b) Independent Contractors;
 - (c) Products and/or Completed Operations;
 - (d) Explosion, Collapse, and Underground Coverages;
 - (e) Broad Form Property Damage;
 - (f) Broad Form Contractual Coverage applicable to this specific Agreement, including any hold harmless and/or indemnification agreement;
 - (g) Personal Injury Coverage with Employee and Contractual Exclusions removed, with minimum limits of coverage equal to those required for Bodily Injury Liability and Property Damage Liability; and
 - (h) TOWN and CONTRACTOR are to be expressly included as "Additional Insured" with respect to liability arising out of operations performed for TOWN and CONTRACTOR by or on behalf of CONTRACTOR and Emergency Service Provisions Subcontractors or acts or omissions of owner or CONTRACTOR in connection with general supervision of such operation.
- 16.3 Comprehensive Automobile and Vehicle Liability Insurance:** This insurance shall be written in comprehensive form and shall protect the TOWN and the CONTRACTOR against claims for injuries to members of the public and/or damages to property of others arising from the CONTRACTOR'S use of motor vehicles or any other equipment and shall cover operations with

respect to onsite and offsite operations. Insurance coverage shall extend to any motor vehicles or other equipment irrespective of whether the same is owned, non-owned, or hired. The limit of liability shall not be less than Five Million Dollars (\$5,000,000.00) per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include:

- (a) Owned Vehicles; and
- (b) Hired and Non-Owned Vehicles.

16.4 Umbrella Liability, general aggregate of Ten Million Dollars (\$10,000,000.00).

16.5 Certificates of Insurance: Prior to commencement of any services hereunder, CONTRACTOR shall provide to the Town Manager, Certificates of Insurance evidencing the required insurance coverages. The Certificates of Insurance shall not only name the types of policy(ies) provided, but also shall specifically name the TOWN as additional insured with respect to all required liability policies. The TOWN reserves the right to require the CONTRACTOR to provide endorsements, upon written request by the TOWN. If a policy is due to expire prior to the completion of the services hereunder, renewal Certificates of Insurance or policies shall be furnished prior to the date of their policy expiration.

Each policy shall be endorsed with a provision that not less than thirty (30) calendar days' written notice shall be provided to the CONTRACTOR and the TOWN before any policy or coverage is cancelled or restricted. Acceptance of the Certificate(s) is subject to approval of the TOWN Manager.

CONTRACTOR'S insurance shall contain a severability of interest provision providing that, except with respect to the total limits of liability, the insurance shall apply to each insured or additional insured in the same manner as if separate policies had been issued to each.

All deductibles or self-insured retentions must be declared to and be approved by the Town Manager.

All required insurance shall be evidenced by valid and enforceable policies issued by a company licensed to do business in the State of Florida and otherwise acceptable to the TOWN. The CONTRACTOR shall not cancel (or permit any lapse under) any policy of required insurance.

Each policy of required insurance shall:

- (i) contain the agreement of the insurer that the insurer shall not cancel or materially alter the same without thirty (30) calendar days prior written notice to TOWN except in the case of non-payment by the CONTRACTOR for which ten (10) calendar days' prior written notice will be provided to TOWN;
- (ii) provide for third party vicarious liability;
- (iii) delete the insured versus insured exclusion with respect to claims brought by the TOWN; and,
- (iv) be effective for a period from the date of this Agreement through at least one (1) year after completion of the Work provided hereunder, except for professional liability insurance which shall be effective for a period from the date of this Agreement through at least five (5) years after completion of the work provided hereunder.

The minimum coverages and time periods specified above are not intended, and shall not be construed, to limit any liability of the CONTRACTOR to TOWN under this Agreement. Neither party shall be liable to the other for loss or damage covered by insurance to the extent that insurance proceeds are actually available with respect to such loss or damage and to the extent that the applicable policies of such insurance include the waiver or subrogation (which the parties shall obtain if available without additional premium). CONTRACTOR is responsible for the payment of all deductibles in connection with any claims made under the insurance policies required by this Agreement. The cost of deductibles paid by CONTRACTOR shall be included in the cost of the service.

SECTION 17: PROPERTY DAMAGE

The CONTRACTOR shall be responsible for the repair, or replacement, if repair is not adequate, of any damages to public or private property during the provision of Collection service and caused by the CONTRACTOR or the CONTRACTOR'S representative.

SECTION 18: INDEMNIFICATION

The CONTRACTOR shall indemnify, defend, and hold harmless the TOWN and its officials, employees, and agents (collectively referred to as "Indemnities") and each of them from and against all loss, costs, penalties, fines, damages, claims, expenses (including attorney's fees), or liabilities (collectively referred to as "Liabilities") by reason of any injury to or death of any person or damage to or destruction or loss of any property, or any such other claims arising out of, resulting from, or in connection with **(i)** the performance or non-performance of the services contemplated by this Agreement which is, or is alleged to be, directly or indirectly caused, in whole or in part, by any act, omission, default or negligence (whether active or passive) of the CONTRACTOR or its employees, agents or subcontractors (collectively referred to as "CONTRACTOR"), regardless of whether it is, or is alleged to be, caused in whole or in part (whether joint, concurrent or contributing) by any act, omission, default, or negligence (whether active or passive) of the Indemnities, or any of them or **(ii)** the failure of the CONTRACTOR to comply with any of the paragraphs herein or the failure of the CONTRACTOR to conform to statutes, ordinances, or other regulations or requirements of any governmental authority, Federal or State, in connection with the performance of this Agreement. The CONTRACTOR expressly agrees to indemnify and hold harmless the Indemnities, including any of them, from and against all liabilities which may be asserted by an employee or former employee of the CONTRACTOR, or any of its subcontractors, as provided above, for which the CONTRACTOR'S liability to such employee would otherwise be limited to payments under state Worker's Compensation or similar laws.

SECTION 19: ASSIGNMENT OF AGREEMENT; NON-TRANSFERABILITY

- 19.1** This Agreement, or any portion or interest herein, shall not, under any circumstances, be sublet, assigned, transferred, or otherwise encumbered by CONTRACTOR without the advance express, written consent of the TOWN, which may or may not be granted at the sole discretion of the TOWN.
- 19.2** In the event that the CONTRACTOR sells or otherwise disposes of any assets during the term of this Agreement, or CONTRACTOR is purchased by, or merged with, another corporate entity, it shall provide written notice of such to the TOWN. The TOWN has the sole discretion to determine

whether the CONTRACTOR'S ability to perform its obligations under this Agreement has been affected or impaired by such sale or disposition of assets.

SECTION 20: OPERATIONS DURING DISPUTE

In the event that any dispute, arises between the TOWN and the CONTRACTOR relating to this Agreement performance or compensation hereunder, the CONTRACTOR shall continue to render service and receive compensation in full compliance with all terms and conditions of this Agreement as interpreted, in good faith, by the TOWN, regardless of such dispute.

The CONTRACTOR expressly recognizes the paramount right and duty of the TOWN to provide adequate Collection and disposal services to its residents and further agrees, in consideration of the execution of this Agreement, that in the event of such a dispute, if any, it will not seek injunctive relief in any court without first negotiating with the TOWN in good faith for an adjustment on the matter or matters in dispute and, upon failure of said negotiations to resolve the dispute may present the matter to a court of competent jurisdiction in Broward County, Florida in an appropriate suit therefore instituted by it or by the TOWN.

Notwithstanding the other provisions in this Section, the TOWN reserves the right to terminate this Agreement at any time whenever the service provided by the CONTRACTOR fails to meet reasonable standards of the trade, after TOWN provides written notice to the CONTRACTOR pursuant to Section 9 of this Agreement. Upon termination, the TOWN may call the bond and apply the cash and surety bond for the cost of service in excess of that charged to the TOWN by the firm engaged for the balance of the Agreement period.

SECTION 21: ORDINANCE

Nothing contained in any TOWN ordinance hereafter adopted, pertaining to the Collection of Solid Waste or the Collection of Recyclable Materials, shall in anyway be construed to affect, change, modify, or otherwise alter the duties, responsibilities, and operations of the CONTRACTOR in the performance of the terms of this Agreement, unless it is agreed to in writing by both the CONTRACTOR and the TOWN and this Agreement is amended accordingly.

SECTION 22: MODIFICATIONS TO THE CONTRACT

The TOWN shall have the power to make changes in this Agreement as the result of changes in law, Town Code, or both to impose new rules and regulations on the CONTRACTOR under this Agreement relative to the scope and methods of providing Collection Services as shall from time-to-time be necessary and desirable for the public welfare. The TOWN shall give the CONTRACTOR notice of any proposed change and an opportunity to be heard concerning those matters. The scope and method of providing Collection Services as referenced herein shall also be liberally construed to include, but is not limited to the manner, procedures, operations, and obligations, financial or otherwise, of the CONTRACTOR.

The TOWN and the CONTRACTOR understand and agree that the Florida Legislature has the authority to make comprehensive changes in Solid Waste Management legislation and that these and other changes in law in the future which mandate certain actions or programs for counties or municipalities may require changes or modifications in some of the terms, conditions or obligations under this Agreement. The CONTRACTOR agrees that the terms and provisions of Town Code as it now exists or as it may be amended in the future, shall apply to all of the provisions of this Agreement and the Customers of the

CONTRACTOR located within the Service Area. In the event any future change in the Town Code materially alters the obligations of the CONTRACTOR, then the Collection charges established in this Agreement shall be adjusted. Nothing contained in this Agreement shall require any party to perform any act or function contrary to law. The TOWN and the CONTRACTOR agree to enter into good faith negotiations regarding modifications to this Agreement which may be required in order to implement changes in the interest of the public welfare or due to change in law. When such modifications are made to this Agreement, the TOWN and the CONTRACTOR shall negotiate in good faith, a reasonable and appropriate compensation adjustment for any increase or decrease in the services or other obligations required of the CONTRACTOR due to any modification in the Agreement under this Section. The TOWN and the CONTRACTOR shall not unreasonably withhold agreement to such compensation adjustment.

In the event any future change in the Town Code materially alters the obligations of the either party, then this Agreement shall be revised. The TOWN and the CONTRACTOR agree to enter into good faith negotiations regarding modifications to this Agreement which may be required in order to implement changes. When such modifications are made to this Agreement, the TOWN and the CONTRACTOR shall negotiate in good faith, a reasonable and appropriate compensation adjustment for any increase or decrease in the services or other obligations required of the CONTRACTOR due to any modification in the Agreement under this Section. The TOWN and the CONTRACTOR shall not unreasonably withhold agreement to such compensation adjustment.

In the event the parties cannot reach agreement to a modification to the contract provided for in this Section, then either party has the right to terminate this Agreement on one hundred and eighty (180) days written notice. This provision shall be liberally interpreted to achieve its expressed intent.

SECTION 23: RIGHT TO REQUIRE PERFORMANCE

The failure of the parties at any time to require performance of any provisions hereof shall in no way affect their rights thereafter to enforce same. No waiver of any breach of any provisions hereof shall be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of any provision itself.

SECTION 24: LAW GOVERNING

The Agreement shall be governed and enforced pursuant to the laws of the State of Florida. Venue for any litigation shall be commenced in Broward County, Florida.

SECTION 25: COMPLIANCE WITH LAWS AND REGULATIONS

The CONTRACTOR hereby agrees to abide by and comply with all applicable Federal, State, County, Special District, and TOWN laws, statutes, codes, rules, and regulations. The CONTRACTOR and its cash/surety shall indemnify, defend, and hold harmless the TOWN, its Town Commissioners, its officers, representatives, agents, and employees against any claim or liability arising from or based on the violation of any such laws, regulations, ordinances, orders, or decrees, whether by itself or its employees. The CONTRACTOR shall obtain at its own expense all permits and licenses required by law or ordinance and maintain same in full force and effect.

SECTION 26: SAVINGS CLAUSE

Should any provision, paragraph, sentence, word, or phrase contained in this Agreement be determined by a court of competent jurisdiction to be invalid, illegal, or otherwise unenforceable under the laws of the State of Florida or the TOWN, such provisions, paragraph, sentence, word, or phrase shall be deemed modified to the extent necessary in order to conform with such laws, or if not modifiable, then same shall be deemed severable, and in either event, the remaining terms and provisions of this Agreement shall remain unmodified and in full force and effect or limitation of its use.

SECTION 27: GENERAL

27.1 NO CONTINGENT FEES

The CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee, agent, consultant, or lobbyist working solely for the CONTRACTOR, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee, agent, consultant, or lobbyist working solely for the CONTRACTOR, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, the TOWN shall have the right to terminate the Agreement without liability at its discretion, to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift, or consideration.

27.2 NO WAIVER

No waiver by the TOWN of any term, covenant, or condition herein contained shall be deemed to be a waiver of such term, covenant, or condition or any subsequent breach of the same or any other term, covenant, or condition herein contained. The rights and remedies created by this Agreement are cumulative, and are not intended to be exclusive. The use of one remedy under this Agreement shall not be taken to exclude or waive the right or use of another Agreement, and each party shall be entitled to pursue all remedies generally available under the laws of the State of Florida.

SECTION 28: LEGAL REPRESENTATION

It is acknowledged that each party to this Agreement had the opportunity to be represented by legal counsel in the preparation of this Agreement and, accordingly, the rule that an Agreement shall be interpreted strictly against the party preparing the same shall not apply herein due to the joint contributions of both parties.

SECTION 29: FORCE MAJEURE

No party shall hold the other responsible for damages or for delays in performance caused by force majeure, acts of God, or other acts or circumstances beyond the control of either party or that could not have been reasonably foreseen and prevented. For this purpose, such acts or circumstances shall include, but not be limited to, hurricanes, tropical storms and severe weather conditions affecting performance, floods, epidemics, war, riots. Should such acts or circumstances occur, the parties shall use their best efforts to overcome the difficulties arising therefrom and to resume the work as soon as reasonably possible with the normal pursuit of the work.

The acts or omissions of subcontractors, third-party contractors, materialmen, suppliers or their subcontractors, shall not be considered acts of force majeure.

No party shall be liable for its failure to carry out its obligations under the Agreement during a period when such party is rendered unable by force majeure to carry out its obligation, but the obligation of the party or parties relying on such force majeure shall be suspended only during the continuance of the inability and for no longer period than the force majeure event.

The CONTRACTOR further agrees and stipulates that its right to excuse its failure to perform by reason of force majeure shall be conditioned upon giving written notice of its assertion that a Force Majeure delay has commenced within 24 hours after such an occurrence. The CONTRACTOR shall use all reasonable efforts to minimize such delays. The CONTRACTOR shall promptly provide an estimate as to the resumption of work.

SECTION 30: MISCELLANEOUS

30.1 CONFLICT

Neither CONTRACTOR nor its employees shall have or hold any employment or contractual relationship that is antagonistic or incompatible with CONTRACTOR'S loyal and conscientious exercise of judgment related to its performance under this Agreement.

CONTRACTOR agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against TOWN in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process. Further, CONTRACTOR agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of TOWN in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude CONTRACTOR or any other persons from representing themselves in any action or in any administrative or legal proceeding.

In the event CONTRACTOR is permitted to utilize subcontractors to perform any services required by this Agreement, CONTRACTOR agrees to prohibit such subcontractors, by written contract, from having any conflicts within the meaning of this section.

CONTRACTOR shall not give, solicit for, deliver or provide a campaign contribution directly or indirectly to a candidate, or to the campaign committee of a candidate, for the offices of Mayor or Commissioner during the term of this Agreement.

CONTRACTOR agrees that no officer or employee of the TOWN, during his or her term of employment or for one year thereafter, shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

30.2 MODIFICATION

This Agreement constitutes the entire Agreement and understanding between the parties hereto, and, subject to Section 6.8 and Section 22, it shall not be considered amended, modified, altered, or changed in any respect unless approved by the parties set forth in writing and signed by the parties hereto, subject to the requirements in Ordinance No. 2017-06.

30.3 TRADE SECRET INFORMATION

Documents, records, routing, charges, and pricing of the CONTRACTOR that the CONTRACTOR advises the TOWN are trade secret information of the CONTRACTOR, are exempt from disclosure pursuant to Section 815.045, Florida Statutes, as may be amended from time to time, unless in the sole opinion and judgment of the Town Attorney such documents and records are not within said statutory exemption.

30.4 NOTICE

Whenever any party desires to give notice unto any other party, it must be given by written notice, sent by certified United States mail, with return receipt requested, or by facsimile transmission with certification of transmission and verbal confirmation of receipt of facsimile by the receiving party, addressed to the party for whom it is intended and the remaining party, at the places last specified, and the places for giving of notice shall remain such until they shall have been changed by written notice in compliance with the provisions of this Section. For the present, the CONTRACTOR and the TOWN designate the following as the respective places for giving of notice:

As to TOWN:	Town Manager Town of Lauderdale By-The-Sea 4501 Ocean Drive Lauderdale By-The-Sea, Florida 33308-3610 Telephone: (954) 640-4200 Facsimile: (954) 776-1857
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Copy to:	Town of Lauderdale By-The-Sea 4501 Ocean Drive Lauderdale By-The-Sea, Florida 33308-3610 Telephone: (954) 640-4200 Facsimile: (954) 776-1857
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As to CONTRACTOR:	Regional Vice President Waste Pro 17302 Pines Boulevard Pembroke Pines, FL 33029 Telephone: (954) 967-4200 Facsimile: (954) 241-4489
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Copy to:	Waste Pro of Florida, Inc. General Counsel 2101 West State Road 434, Suite 305 Longwood, Florida 32779-5053 Telephone: (407) 868-8800 Facsimile: (407) 869-8884
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30.5 PUBLIC RECORDS

The CONTRACTOR shall comply with Chapter 119, Florida Statutes, as applicable, and shall comply with the following:

- (a) CONTRACTOR agrees to keep and maintain public records in CONTRACTOR's possession or control in connection with CONTRACTOR's performance under this Agreement. CONTRACTOR additionally agrees to comply specifically with the provisions of Section 119.0701, Florida Statutes. CONTRACTOR shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the Agreement, and following completion of the Agreement until the records are transferred to the TOWN.
- (b) Upon request from the TOWN's custodian of public records, CONTRACTOR shall provide the TOWN with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Chapter 119, Florida Statutes, or as otherwise provided by law.
- (c) Unless otherwise provided by law, any and all records, including but not limited to reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of the TOWN.
- (d) Upon completion of this Agreement or in the event of termination by either party, any and all public records relating to the Agreement in the possession of the CONTRACTOR shall be delivered by the CONTRACTOR to the Town Manager, at no cost to the TOWN, within seven (7) days. All such records stored electronically by CONTRACTOR shall be delivered to the Town in a format that is compatible with the TOWN's information technology systems. Once the public records have been delivered upon completion or termination of this Agreement, the CONTRACTOR shall destroy any and all duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.
- (e) Any compensation due to CONTRACTOR shall be withheld until all records are received as provided herein.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 954-640-4200, TownClerk@LBTS-fl.gov, or by mail: Town Clerk, 4501 N. Ocean Drive, Lauderdale-By-The-Sea, FL 33308.

30.6 SCRUTINIZED COMPANIES

- (a) CONTRACTOR certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S., the TOWN may immediately terminate this Agreement at its sole option if the CONTRACTOR or its subcontractors are found to have submitted a false certification; or if the CONTRACTOR, or its subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.

- (b) If this Agreement is for more than one million dollars, the CONTRACTOR certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the TOWN may immediately terminate this Agreement at its sole option if the CONTRACTOR, its affiliates, or its subcontractors are found to have submitted a false certification; or if the CONTRACTOR, its affiliates, or its subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.
- (c) The CONTRACTOR agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.
- (d) As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

30.7 JOINT PREPARATION

The parties acknowledge that they have sought and received whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

[The remainder of this page is left intentionally blank]

IN WITNESS WHEREOF, the parties have caused these presents to be executed and attested to by their duly authorized officers or representatives and their official seals to be affixed hereon, the day and year first above written.

Attest:

TOWN OF LAUDERDALE BY-THE-SEA

Tedra Allen, Town Clerk

By: _____
Chris Vincent, Mayor

____th day of _____, 2019

By: _____
William Vance, Town Manager

By: _____
Tony Bryan, Finance Director

Approved as to form and legality:

By: _____
Susan Trevarthen, Town Attorney

File: 2019 Restated Collection Agreement 3-28-18 FINAL

Printed: 4/2/2019 10:44 AM

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CONTRACTOR
Waste Pro USA, Inc.

WITNESSES:

Signature

Print Name and Title

_____ day of _____, 2019

BY: _____
Signature

Russell Mackie, Regional Vice President

_____ day of _____, 2019

ATTEST:

SECRETARY

STATE OF FLORIDA)
) SS:
COUNTY OF _____)

BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared _____ as _____ of _____, an organization authorized to do business in the State of Florida, and acknowledged and executed the foregoing Agreement as the proper official of _____ for the use and purposes mentioned in it and affixed the official seal of the corporation, and that the instrument is the act and deed of that corporation. He/she is personally known to me or has produced _____ as identification.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal at in the State and County aforesaid on this _____ day of _____, 2019.

My Commission Expires:

Signature of Notary Public

Printed Name of Notary Public

List of Exhibits

	Page
EXHIBIT 1	Residential Collection Rate for Single Family/Duplex
EXHIBIT 2	Residential Collection Rate for Multi Family With Carts
EXHIBIT 3	Multifamily Utilizing Dumpsters Collection Services
EXHIBIT 4	Commercial Dumpster Collection Services
EXHIBIT 5	Commercial Compacted Dumpster Collection Services
EXHIBIT 6	Special Collection Service Rates
EXHIBIT 7	Emergency Preparedness Plan and Service Rates
EXHIBIT 8	Franchise Ordinance No. 2019- 01

EXHIBIT 1

Single Family and Duplex Collection Rates

EXHIBIT 2
Multifamily Cart Collection Rates

EXHIBIT 3

Multifamily Dumpster Collection Rates

EXHIBIT 4

Commercial Collection Rates

EXHIBIT 5

Compactor Collection Rates

EXHIBIT 6

Special Collection Service

1	Adding lids to or changing lids	No Charge
2	Adding wheels to or changing wheels	No Charge
3	Additional Bulk Waste Collection for Residential Service Units with carts	No Charge for one special pickup per calendar year per Account Holder. (Not available to a delinquent account.) Note: Additional special pickups will be priced by CONTRACTOR depending on volume and schedule.
4	Additional Unscheduled (Not Including "On Call") Solid Waste Pick-Ups For Commercial Service Units And Residential Containerized Service Units	2X (Applicable 1X Week Solid Waste Collection Cost) + Regular Disposal Charges
5	Changing out the size of a Dumpster (above twice per year)	\$25.00 per occurrence
6	Locks (new locks installed)	\$20.00
7	Moving Container Location Per Customer Request	\$18.00 per move
8	Opening (and Closing) Doors or Gates	No Charge
9	Residential Off-Street Collection Service (Disabled Customer)	No Charge
10	Return Container to Customer's Location After Service Was Stopped	\$25.00
11	Rolling out Container less than 30 feet (and returning it to original location)	No Charge
12	Service not designated herein	See Sec. 3.1 and Sec. 3.3.4
13	Supplying (and retrofitting) Locking Mechanism	\$55.00
14	Swap-out Dumpster (extra on site Dumpster used on collection day)	Up to \$35 per month, which includes a limited number of special pick-ups as determined by Customer and CONTRACTOR
15	Unlocking and Locking of Container enclosure	\$2.00 per month
16	Valet Service: Rolling Containers from a storage location to the point of collection that is a distance 30' feet or more.	\$10 per month for all residential or commercial Carts at one Cart location. \$25 per month per Dumpster.

EXHIBIT 7

Emergency Preparedness Plan and Service Rates

The South Florida Area possibility for a natural disaster exists each and every day. The opportunity for significant amounts of damage due to natural causes is great within our area. Because of the major risks from hurricanes, severe storms, or such other natural and man-made disaster that may occur that the CONTRACTOR will assist the TOWN with emergency debris clearance. The CONTRACTOR has experience and is capable of mobilizing into a disaster area within 12 hours following a devastating storm such as a hurricane.

The CONTRACTOR's executives and managers will work with the TOWN, County, State, Federal and all other governmental entities in which the CONTRACTOR provides service to provide comprehensive relief services to include:

Pre-Disaster Services:

1. Stand-by-Contact
2. Pre-Event Planning
3. Plans Review
4. Exercise Participation
5. Employee Training

Post-Disaster Operations:

6. Emergency Road Clearance and Trimming of Damaged Vegetation
7. Removal of Debris from Public Rights-of-Way
8. Removal of Debris from Private Property (When Authorized)
9. Temporary Debris Staging and Reduction Site Management
10. Final Debris Staging and Reduction Site Management
11. Final Debris Disposal
12. Hazardous Materials Handling
13. Site Redemption
14. Inspections and Documentation
15. Assistance with FEMA and State Reimbursements

Exhibit 7 (continued)

Emergency Preparedness Plan and Service Rates

Effective June 1, 2010

The following rates are for services to be provided under the Emergency Preparedness Plan. All service rates shall be fixed until changed as provided for in this Agreement.

EQUIPMENT/TOOL/VEHICLE TYPE (INCLUDE OPERATOR AND LABOR COST)	HOURLY RATE	DAILY RATE (8 HOURS)
Boom Truck (Self Loader) & Operator with CDL Driver	\$250	\$2,000
Roll Off Truck & Operator with CDL Driver	\$198	\$1,500
Rear Load Truck & Operator with CDL Driver and Helper	\$250	\$2,000
Wheel Loader 644 or equivalent & Operator	\$250	\$2,000
D-6 Dozers or equivalent & Operator	\$250	\$2,000
Bobcat Loader or equivalent & Operator	\$200	\$1,500
Rubber Tired Backhoe	\$200	\$1,500
Project Manager with Truck	\$125	\$950
Safety Superintendent with Truck	\$125	\$950
Service Truck & Maintenance Technician	\$125	\$950
Laborers	\$50	\$380

Cost for Vegetative cleanup and transport to disposal site.
Include equipment, tools, vehicles, and operator and labor costs.

\$20.00 cubic yard

Cost for C&D debris cleanup and transport to disposal site.
Include equipment, tools, vehicles, and operator and labor costs.

\$25.00 cubic yard

EXHIBIT 8

Adopting Ordinance No. 2019 - 01

**Solid Waste, Bulk Waste, and Recycling Collection Services Agreement
Between
The Town of Lauderdale By-The-Sea, Florida
and
Waste Pro USA, Inc.**



2019 Restated Collection Agreement



History: RFP No. 09-02-01 - Effective July 1, 2009 -
First Amendment - September 10, 2009
Second Amendment - January 11, 2011
Third Amendment - September 30, 2011
Restated Agreement - March 27, 2012
First Amendment to the Restated Agreement – January 13, 2015
2015 Restated Agreement – November 24, 2015
2017 Restated Agreement – May 18, 2017
2019 Restated Agreement – [REDACTED], 2019

Solid Waste, Bulk Waste, and Recycling Collection Services Agreement

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Solid Waste, Bulk Waste, and Recycling Collection Services Agreement

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This Agreement and amendments thereto (hereinafter referred to as “Agreement”) made and first entered into the 1st day of July, 2009, and amended as provided below, by and between the Town of Lauderdale By-The-Sea, a municipal corporation of the State of Florida (hereinafter referred to as “**TOWN**”), acting by and through its duly authorized Town Commission, and Waste Pro USA, Inc., a Florida Corporation and successor-in-interest pursuant to a transfer of this Agreement approved by the Town Commission on August 19, 2014 (hereinafter referred to as “**CONTRACTOR**”).

The amendments to this Agreement include:

1. First Amendment on September 10, 2009,
2. Second Amendment on January 11, 2011,
3. Third Amendment on September 30, 2011,
4. 2012 Restated Agreement on March 27, 2012 (first renewal period),
5. First Amendment to the 2012 Restated Agreement on January 13, 2015, and
6. 2015 Restated Agreement on November 24, 2015 (extension of first renewal period).
7. 2017 Restated Agreement on May 18, 2017 (second renewal period).
8. 2019 Restated Agreement on [REDACTED], 2019 (amendments)

WITNESSETH:

WHEREAS, the CONTRACTOR and the TOWN wish to set forth the terms and conditions of this Agreement for the provision of a Solid Waste, Bulk Waste, and Recycling Collection Services.

NOW THEREFORE, for the mutual benefits and other considerations recited herein, the parties agree as follows:

SECTION 1: AGREEMENT

1.1 FRANCHISE

For the term of this Agreement, the ~~TOWN~~TOWN~~town~~ hereby grants the CONTRACTOR the exclusive franchise and the sole obligation to operate and maintain comprehensive Solid Waste, Bulk Waste, and recycling collection services for Residential Collection Service Units and Solid Waste for Commercial Collection Service Units in and for the TOWN, except as specifically excluded in this Agreement. The franchise specifically excludes the exclusive collection of construction and demolition debris. The CONTRACTOR is authorized by the TOWN, in, upon, over, and across the present and future streets, alleys, bridges, easements, and other public places of the TOWN for the purposes of fulfilling CONTRACTORS’ obligations under this Agreement within the municipal corporate limits of the TOWN, or as directed in conformance with the Charter and Ordinances of the TOWN and other applicable law. The CONTRACTOR’S sole consideration from the TOWN shall be the right to provide the services specified herein at the rates specifically authorized herein.

Solid Waste, Bulk Waste, and Recycling Collection Services Agreement

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1.2 TERM OF AGREEMENT

The initial term of this Solid Waste, Bulk Waste, and Recycling Collection Services Agreement (“Agreement”) was for a period of three (3) consecutive years, commencing on July 1, 2009 at 12:00 a.m., local time, through June 20, 2012 at 11:59 p.m., local time. The first renewal period commenced on June 21, 2012 at 12:00 a.m., local time, and continued through May 17, 2017 at 11:59 p.m., local time. The second renewal period commenced on May 18, 2017 at 12:00 a.m., local time, and ends on November 30, 2021 at 11:59 p.m., local time.

1.3 EXPIRATION OF AGREEMENT PROVISIONS

In the event a new Agreement has not been awarded upon the expiration of this Agreement, and renewal options are not exercised, the CONTRACTOR agrees to provide service to the TOWN for an additional ninety (90) calendar day period beyond the expiration of the Agreement at the then established rates, provided the TOWN requests said services, in writing, at such time.

1.4 OPTION TO RENEW

- (a) *Renewal Periods.* After the initial three (3) year period, this Agreement may be renewed for three (3) additional periods, each lasting between three (3) and five (5) years as shown in the following table.

Table 1 – Renewal Periods

Initial Term:	July 1, 2009 to June 20, 2012
First Renewal Term:	June 21, 2012 to May 17, 2017
Second Renewal Term	May 18, 2017 to November 30, 2021
Third Renewal Term	Three (3) to Five (5) Years
Renegotiate Terms and Conditions or Request Bids from Qualified Contractors	To be determined

- (b) *Renewal Process.* Prior to making a recommendation to the Town Commission on whether to renew the Agreement, the Town Manager or designee will meet and confer with the CONTRACTOR regarding changes in terms and conditions that either the TOWN or the CONTRACTOR would like to see reflected in an amendment to the Agreement covering the next renewal period. The TOWN shall thereafter notify the CONTRACTOR of its decision to exercise a renewal option or allow the Agreement to terminate. Said notice shall be in writing and delivered not less than one hundred eighty (180) calendar days prior to the expiration date.

In the event the TOWN notifies the CONTRACTOR of its decision to exercise a renewal option, the CONTRACTOR shall notify the TOWN in writing of its intent to accept or decline the renewal option offer within twenty (20) calendar days of receipt of the TOWN’s offer.

- (c) *Final Renewal Term.* In the event the Agreement is renewed for three (3) Renewal Terms, the TOWN may, at the end of the final renewal term, either renegotiate the term and

Solid Waste, Bulk Waste, and Recycling Collection Services Agreement

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conditions of the Agreement with the current CONTRACTOR or request bids from qualified contractors to provide Solid Waste Collection, Bulk Waste Collection, and Recycling Services.

- (d) *No Limits on Right of Termination.* This section in no way limits the TOWN'S right to terminate this Agreement for cause at any time during the initial term or any extension thereof, pursuant to Section 9 of this Agreement.

SECTION 2: DEFINITIONS

For the purpose of this Agreement, the definitions contained in this Section shall apply, unless otherwise specifically stated. If a word or phrase is not defined in this Section, the definition of such word or phrase as contained in the Code of the TOWN shall apply. When not inconsistent with the context, words used in the present tense shall include the future, words in the plural shall include the singular, and use of the masculine gender shall include the feminine gender. The word "shall" is always mandatory and not merely discretionary.

1. **Advertising** shall mean any written communication for the purpose of promoting a product or service. No advertising shall be permitted on Collection vehicles or any other vehicles, Recycling Bins, Recycling Containers, Containers, Roll-offs or other equipment used for the purpose of administering this Agreement. The CONTRACTOR'S name in which it is doing business and non-toll telephone service number, written communication as specified in the Agreement or written communication as directed by the Town Manager, shall not be considered Advertising.
2. **Account Holder** shall mean the party responsible for payment for services provided by CONTRACTOR that has arranged an account with the CONTRACTOR.
3. **Agreement** shall mean this Agreement.
4. **Bags** shall mean non-dissolvable plastic bags.
5. **Biological Waste** shall mean, as defined in Chapter 403, Florida Statutes, Solid Waste that causes or has the capability of causing disease or infection and includes, but is not limited to, biomedical waste, diseased or dead animals, and other wastes capable of transmitting pathogens to humans or animals.
6. **Biomedical Waste** shall mean, as defined in Chapter 403, Florida Statutes, any Solid Waste or liquid waste that may present a threat of infection to humans. The term includes, but is not limited to, non-liquid human tissue and body parts; laboratory and veterinary waste which contain human-disease-causing agents; discarded disposable sharps; human blood, and human blood products and body fluids; and other materials which in the opinion of the Department of Health represent a significant risk of infection to persons outside the generating facility.
7. **Brown Goods** shall mean discarded computers, televisions, stereos, cabinets, furniture, and other similar domestic goods. Brown Goods must be generated by the Customer and at the Residential Service Unit or Commercial Service Unit wherein the Brown Goods are collected. Anytime White Goods are referenced in this Agreement, it will include the servicing of Brown Goods.
8. **Bulk Waste** shall mean those wastes that may require special handling and management including, but not limited to: all types of vegetative matter resulting from normal yard and landscaping maintenance that does not exceed six (6) feet in length, White Goods, Brown Goods, furniture, equipment, and other similar items including materials resulting from minor home repairs. Bulk

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Waste does not include items herein defined as Garbage, Contractor-Generated Waste, Exempt Waste, or items such as televisions, mirrors, window glass, or containers with fluids, or waste containing refrigerants or other potentially harmful fluids or gases.

9. **Bulk Waste Collection Service** shall mean Bulk Waste Collection from Residential Service Units and delivery of the Bulk Waste to the Designated Disposal Facility.
10. **Business Day** shall mean any day, Monday through Friday, from 8 a.m., local time until 4 p.m., local time.
11. **Cart** shall mean a metal or plastic receptacle on wheels, that is mechanically emptied, with a maximum capacity of ninety-six (96) gallons used to store Solid Waste, Yard Waste or Recyclable Materials until collection by the CONTRACTOR.
12. **Collection** shall mean the process whereby Solid Waste, Bulk Waste, and Recyclable Materials are removed and transported to the appropriate Designated Disposal Facility. Collection shall exclude the process of picking up, transporting, and dropping off Exempt Waste.
13. **Collection Rates** shall mean the rates approved pursuant to the terms of this Agreement that are to be charged by the CONTRACTOR for collection services.
14. **Commercial Establishment** shall mean all retail, professional, wholesale, institutional, lodging, and industrial facilities, and any other commercial enterprises, offering goods or services to the public located in the Service Area.
15. **Commercial Services** shall mean Commercial Solid Waste Collection Services performed in the Service Area.
16. **Commercial Service Unit** shall mean any Commercial Establishment in the Service Area.
17. **Commercial Solid Waste** shall mean any Garbage or Trash that is usual to the normal operations of a Commercial Service Unit. A Customer driven activity at the Commercial Service Unit wherein the Commercial Solid Waste is collected and does not include items defined herein as Yard Waste, Bulk Waste, Contractor-Generated Waste, or Exempt Waste must generate commercial Solid Waste. Recyclable Materials are not Commercial Solid Waste.
18. **Commercial Solid Waste Collection Service** shall mean the Collection and disposal of Commercial Solid Waste from Commercial Service. Commercial Solid Waste Collection Service shall be provided via Containers or Dumpsters.
19. **Commercial Recycling Collection Service Unit** shall mean the Collection of Recyclable Materials from Commercial Service Units utilizing Recycling Bins and/or Containers, and the delivery of the Recyclable Materials to the Designated Recycling Facility.
20. **Compactor** shall mean a mechanism, whether stationary or mobile, with a minimum compaction ratio of 2.5 to 1.0 used for the densification of Solid Waste in Containers or Roll-offs. The CONTRACTOR shall clearly mark all Dumpsters and Roll-offs and Compactors as to prohibit their use for the disposal of Biological Waste, Biomedical Waste, Hazardous Waste, or Sludge if hauler is to provide as opposed to Inter Local Agreement (ILA).
21. **Construction and Demolition Debris** as defined in Chapter 403, Florida Statutes, as may be amended from time to time, shall mean discarded materials generally considered to be not water-soluble and non-hazardous in nature, including, but not limited to, steel, fence, screen, metal, glass, brick, concrete, asphalt roofing material, pipe, gypsum wallboard, and lumber, from the

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construction or destruction of a structure as part of a construction or demolition project or from the renovation of a structure, and including rocks, soils, tree remains, trees, and other vegetative matter that normally results from land clearing or land development operations for a construction project. This includes non-vegetative construction and demolition debris as a result of a fire, and manmade or natural disaster, to include hurricane debris.

22. **Container** shall mean a Dumpster or Cart used to store Solid Waste, Yard Waste or Recyclable Materials.
23. **CONTRACTOR** shall mean the person or entity that has entered into this Agreement to provide the services described herein for the Service Area.
24. **Contractor-Generated Waste** shall mean Bulk Waste generated by builders, building contractors, privately employed tree trimmers and tree surgeons, landscape services, and lawn or yard maintenance services and nurseries.
25. **County** shall mean Broward County, Florida.
26. **Customer** shall mean person(s) that produce the Solid Waste, Bulk Waste and Recyclable Materials at a physical location. The Customer may be the Account Holder.
27. **Designated Disposal Facility** shall mean the facility designated by the Town for receipt of all Solid Waste, Bulk Waste and Yard Waste collected within the Town that is capable of being processed at the Designated Disposal Facility.
28. **Designated Recycling Facility** shall mean the Recovered Materials Processing Facility designated by the Town for receipt of the Recyclable Materials collected within the Town.
29. **Disposal Charges** shall mean the prevailing per-ton rate charged at the Designated Disposal Facility for the acceptance and disposal of Residential Waste, Commercial Solid Waste, and other waste materials.
30. **Disposal Fee** shall mean the amount within the Collection Rate paid by the Customer that is charged for the disposal of Solid Waste, Bulk Waste and Yard Waste.
31. **Dumpster** shall mean a metal or plastic receptacle, with a capacity of up to and including eight (8) cubic yards designed or intended to be mechanically dumped into a loader-packer type garbage truck.
32. **Dwelling Unit** shall mean an individual living unit in a single-family dwelling, duplex dwelling, multi-family dwelling, or mixed-used dwelling within a structure or building intended for, or capable of being utilized for residential living, other than those structures or building units included within the definition of Commercial Service Unit herein.
33. **Exempt Waste** shall mean Biological Waste, Biomedical Waste, Construction and Demolition Debris, Hazardous Waste, Sludge, automobile parts, boats, boat parts, boat trailers, internal combustion engines, lead-acid batteries, used oil and tires, those wastes under the control of the Nuclear Regulatory Commission, and those other materials whose size, weight, or both are in excess of that allowed for Bulk Waste as defined herein.
34. **Franchise Fee** shall mean the charge to CONTRACTOR for the use of present and future streets, alleys, bridges, easements, and other public places of the TOWN. The Franchise Fee shall be calculated by multiplying the Gross Revenues as defined herein by the assigned franchise fee percentage. For example, commercial franchise fee shall be ten percent (10%) of Gross Revenues

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for Commercial Services and three point seven six percent (3.76%) of Gross Revenues for Residential/Multi Family Services.

35. **Garbage** shall mean all waste that is generated from normal residential activities. These materials generally include, but are not limited to, kitchen and food waste, animal and produce waste, or any organic waste that is a result of storage, preparation, cooking, or handling of food materials. Also included in this category are household waste items such as food packaging materials; non-recyclable cans, plastics, paper, cardboard, and bottles; rags and cleaning supplies, and other items usual to housekeeping.
36. **Gross Revenues** shall mean all charges invoiced by the CONTRACTOR arising from, attributable to or in any way derived from the services it provides pursuant to this Agreement, exclusive of franchise fees.
37. **Hazardous Waste** shall mean Solid Waste, or a combination of Solid Wastes, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated, or otherwise managed. The term does not include human remains that are disposed of by persons licensed under Chapter 470, Florida Statutes.
38. **Non-Collection Notice** shall mean a sticker, tag, or door hanger used by the CONTRACTOR to notify Customers of the reason for non-collection of materials set out by the Customer for Collection by the CONTRACTOR pursuant to the Agreement, developed and provided by the CONTRACTOR and approved by the TOWN. CONTRACTOR is required to provide a Non-Collection Notice anytime Solid Waste, Bulk Waste, or Recycling Materials are not picked up for any reason.
39. **Ordinance** shall mean those parts of the Code of the TOWN governing Solid Waste Collection, Disposal, and Recycling activities within the TOWN.
40. **Recovered Materials Processing Facility** shall mean a facility engaged solely in the storage, processing, resale, or reuse of Recyclable Materials, and that meets the requirements of Section 403.7046, Florida Statutes.
41. **Recyclable Materials** shall mean those materials that are capable of being recycled and which would otherwise be processed or disposed of as Solid Waste. Recyclable Materials to be collected shall include all materials that are accepted by the Designated Recycling Facility.
42. **Recycling** shall mean any process by which materials that would otherwise have been Residential Solid Waste or Commercial Solid Waste, are collected, separated, or processed and reused or returned to use in the form of raw materials or products.
43. **Recycling Bin** shall mean a rigid rectangular receptacle stenciled with the TOWN logo. Recycling Bins shall not contain the name or logo of the CONTRACTOR. Recycling Bins shall be made of plastic or other suitable substance of no less than fourteen (14) gallons.
44. **Recycling Container or Recycling Cart** shall mean a wheeled metal or plastic receptacle, with a capacity of ninety six (96) gallons or an alternative sized specified by TOWN, intended to be manually or mechanically dumped into a loader-packer type recycling truck. Recycling Containers shall be stenciled with the Town logo and shall not contain the name or logo of the CONTRACTOR. A Recycling Container is commonly referred to as a "Recycling Cart."

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45. **Residential Collection Service Unit – Single Family, Duplex** shall mean one single family home or one duplex unit that uses containers that are placed at curbside for collection.
46. **Residential Collection Service Unit – Multi Family Container Service** shall mean a Multi Family property that uses containers that are placed at curbside for collections.
47. **Residential Recycling Collection Service Unit** shall mean all types of Residential Collection Service Units utilizing Recycling Bins, Dumpsters and/or Containers, and the delivery of the Recyclable Materials to the Designated Recycling Facility.
48. **Residential Collection Service Unit – Multi Family Dumpster Service** shall mean the Collection of Garbage and Trash from multi-family residential units that utilize dumpsters for the Collection Service.
49. **Residential Solid Waste** shall mean Garbage and Trash resulting from the normal household activities of a Residential Service Unit. The Customer at the Residential Service Unit wherein the waste is collected must generate the Solid Waste. It does not include items defined herein as Contractor-Generated Waste or Exempt Waste. Recyclable Materials and Bulk Waste are not Residential Solid Waste.
50. **Roll-Off Collection Service** shall mean the Collection and disposal of Roll-Off Containers containing Construction and Demolition Debris. Collection of Construction and Demolition Debris is not considered exclusive to the CONTRACTOR under the terms and conditions of the Agreement.
51. **Roll-Off Containers** shall mean any metal receptacle with a capacity of more than eight (8) cubic yards, which is normally loaded onto a motor vehicle. Roll-off Containers utilized for services covered under this Agreement shall be owned by the CONTRACTOR.
52. **Scheduled Collection Day** shall mean any day in which Collection activities take place.
53. **Service Area** shall mean the municipal limits of the TOWN.
54. **Sludge** shall mean the accumulated solids, residues, and precipitates generated as a result of waste treatment or processing including wastewater treatment, water supply treatment, or operation of an air pollution control facility, and mixed liquids and solids pumped from septic tanks, grease traps, privies, or similar disposal appurtenances, or any other such waste having similar characteristics or effects.
55. **Solid Waste** shall mean Garbage and Trash. Bulk Waste and Recyclable Materials are not considered Solid Waste.
56. **Special Waste** shall mean Solid Waste that can require special handling and management, including, but not limited to used tires, used oil, lead-acid batteries, ash residue, and biological wastes.
57. **TOWN** shall mean the Town of Lauderdale By-The-Sea, Broward County, Florida.
58. **Town Commission** shall mean the Town Commission of the TOWN.
59. **Town Manager** shall mean the Town Manager of the TOWN, or his/her designated representative(s).
60. **Town Sponsored Special Events** shall mean events sponsored or co-sponsored by the TOWN.

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61. **Trash** shall mean plastic bags, wood, bundles, toys, Yard Waste, and other similar waste materials in cans or similar receptacles. Trash does not include items that are Contractor-Generated Waste or Exempt Waste.
62. **Yard Waste (or Yard Trash)** shall mean vegetative materials from normal yard and landscaping maintenance that is from the serviced property.
63. **Yard Waste Collection Service** shall mean the once per week collection of Yard Waste utilizing carts from Cart Customers (single family, duplex and multifamily).
64. **White Goods** shall mean discarded refrigerators, ranges, water heaters, freezers, and other similar domestic appliances. White Goods must be generated by the Customer and at the Residential Service Unit or Commercial Service Unit wherein the White Goods are collected. Any time White Goods are referenced in this Agreement, it will include the servicing of Brown Goods.
65. **Work Day** shall mean any day, Monday through Saturday.
66. **Undefined Amount of Solid Waste or Recyclables** shall mean the quantity of disposed material that can be placed in a Container by and still allow proper collection with the lid closed. —

SECTION 3: COLLECTION SERVICES TO BE PROVIDED BY CONTRACTOR

The CONTRACTOR shall provide all Residential Services and Commercial Services, as defined in Section 3 herein, within the corporate limits of the TOWN, except as provided herein. Said service shall include:

3.1 RESIDENTIAL SOLID WASTE – GARBAGE AND TRASH

- (a) **All Residential Solid Waste.** The CONTRACTOR is responsible to collect all Solid Waste, Bulk Trash, and Recycling Materials in the Service Area. In the event the CONTRACTOR is not able to collect, CONTRACTOR is required to provide a Non-Collection Notice with the contractual reason for non-collection.
- (b) **Christmas Trees.** The CONTRACTOR shall collect Christmas Trees from all Residential Service Units at curbside at no additional cost to the Residential Service Unit or the TOWN on normal pickup days when the tree is placed in the Cart or on any Bulk Trash pickup day.
- (c) **Containers.** Containers provided by the CONTRACTOR shall meet accepted industry standards. TOWN will select the color of the Container; however, once the color is selected, all Containers of the same type shall be the same color. Carts shall have a capacity of not greater than ninety-six (96) gallons. The CONTRACTOR is not required to empty any Carts that exceed 150 pounds in weight.
- (d) **Container Repair or Replacement.**
 - (1) **Cart.** Upon notification to CONTRACTOR by the TOWN or a Customer that a Residential Collection Service Unit's Cart has been stolen or damaged, the CONTRACTOR upon verification shall deliver a replacement Cart or make repairs to the Container within two (2) Work Days of said notice. Each Residential Collection Service Unit shall be entitled to two (2) repairs or two (2) replacements of lost, destroyed, or stolen Containers within a rolling 24 month period at no cost

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to the TOWN or the Residential Collection Service Unit. Additional replacement Containers or repairs shall be provided at the CONTRACTOR'S actual cost and charged to the Residential Collection Service Unit Customer, unless such damage was caused by CONTRACTOR.

- (2) **Dumpster.** Upon notification to CONTRACTOR by the TOWN or a Customer that a Residential Collection Service Unit's Dumpster has been stolen or damaged, the CONTRACTOR upon verification shall deliver a replacement Dumpster or make repairs to the Dumpster within four (4) Work Days of said notice.
- (3) **Plastic Multi-Family Dumpsters.** During the period June 1, 2017 to May 31, 2020, CONTRACTOR shall, at its own cost and expense, replace all of the metal Dumpsters that are currently in use by customers with Multi Family Dumpster Service, with new plastic dumpsters. CONTRACTOR shall replace approximately one-third of the metal Dumpsters each year, until all of the metal dumpsters have been replaced. This provision only applies to metal Dumpsters for which a comparably sized plastic Dumpster is commercially available.
- (e) **Collection Rates.** As of the effective date of this Agreement, the CONTRACTOR shall provide Collection Service for each type of service according to the Collection Rates shown in the corresponding Exhibits to this Contract, which are incorporated herein; unless specifically and expressly authorized by this Agreement, CONTRACTOR shall not impose any other charges or assessments of any kind whatsoever to the Customer or the TOWN.
- (f) **Service Levels Not Designated** – For Residential Solid Waste service levels not designated in this Agreement, the CONTRACTOR may provide the level and type of service negotiated and mutually agreed upon between the CONTRACTOR and Customer at the rates negotiated and mutually agreed upon between the CONTRACTOR and the Customer. All said service levels, types, and rates shall be approved by the TOWN.
- (g) **Ownership** of Carts –Carts purchased by the CONTRACTOR shall be deemed to be owned by the CONTRACTOR, except that Carts in the possession of a Residential Collection Service Unit or the TOWN at the end of the Agreement shall be deemed to be owned by the TOWN.
- (h) **Yard Waste Collection Service.** The Town has the option of implementing Yard Waste Collection Service for residential Customers utilizing Carts under the following terms and conditions:
 - (1) Upon receipt of written notice from TOWN of its decision to implement yard waste service, the CONTRACTOR shall begin providing once a week residential and Multifamily (with carts service) yard waste collection service within one hundred and twenty (120) days of such notice.
 - (2) The fee for once a week yard waste collection service paid to CONTRACTOR shall be equal to the fee for once a week recycling collection. CONTRACTOR shall provide and deliver necessary yard waste carts at no additional cost or charge to the Customer or the TOWN, the ownership of which shall transfer to the TOWN upon the expiration or termination of this Agreement.

Should this Agreement terminate before the end of a three year amortization period following the purchase of carts provide for in this Section, the TOWN shall

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reimburse the CONTRACTOR the unamortized capital cost of these carts. Example: One thousand Recycling Carts are purchased at a cost of \$50 per Cart and \$1.39 per Cart is amortized each month. If the Agreement terminates 30 months after the purchase of the Carts, the TOWN will reimburse the CONTRACTOR \$8,333 [1000 carts x \$1.39 per month x 6 month].

- (3) For the first year of Yard Waste Collection Service, the Disposal Fee component of the monthly Collection Rate collected by the CONTRACTOR for Residential Waste Collection Service shall be considered sufficient to cover the actual cost of disposal of Yard Waste and there shall be no change to the rates charged. In the second year after implementation and subsequent years, the Disposal Fee component of the monthly charge to each Customer for Yard Waste Collection Service shall be based on the prior year's actual cost of disposal of Yard Waste from July 1st to June 31st, averaged over the number of total number of residential Container Customers plus any applicable CPI adjustment provided for in Section 6.8.1.2. This amount shall become the new disposal fee for yard waste collection in the monthly Collection Rate.
- (4) The Solid Waste Disposal Fee for Residential Collection Services shall be adjusted as provided for in Section 6.8.1.2.
- (5) An example of how subsections (2) and (3) above would work is shown in Table 3.1.

Table 3.1 – Calculating the Collection and Disposal Rate
for Yard Waste Collection Service.

Monthly Rate for Single Family and Duplex				
	Service Components	11-1-11 Monthly Rates	If Yard Waste Implemented in 2012	11-1-13 Monthly Rate (1)
1.	Solid Waste collection	\$4.15	\$4.15	\$4.15
2.	Recycling collection	\$2.08	\$2.08	\$2.08
3.	Yard Waste collection		\$2.08	\$2.08
4.	Bulk Trash Collection	\$1.10	\$1.10	\$1.10
5.	Disposal Fee -Solid Waste	\$8.03	\$8.03	\$6.42 (2)
6.	Disposal Fee-Yard Waste			\$1.11 (2)
	Total	\$15.35	\$17.44	\$16.94

Footnotes:

- (1) For the purpose of this example, the assumption is the disposal fee remains the same and there is no change in CPI.
- (2) The example is calculated on a Yard Waste Disposal Rate of \$50 per ton with twenty percent of the waste stream being diverted to Yard Waste Containers.

Calculation: disposal fee of \$72.57 per ton; 1065 single family accounts; $\$8.03 \times 1065 = \$8,551.95$ monthly disposal fee; $\$8,551.95 / \$72.57 = 117.8$ tons per month; 80% of 117.8 = 94.3 tons of household waste per month; 20% = 23.6 tons of yard waste per month,

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3.1.1 Residential Collection Service Units – Single Family, Duplex (Cart Service)

- (a) **Frequency.** The CONTRACTOR shall pick up, twice per week, at least three (3) days apart, an undefined amount of Garbage and Trash from each residential unit.
- (b) **Suspension of Service.** Single Family or Duplex Residential Service Units may suspend service in accordance with the requirements of the Town Code of Ordinances.
- (c) **Placement of Carts.** CONTRACTOR shall pick up all Carts placed within three (3) feet of the street. Carts, after being emptied by CONTRACTOR, will be returned by CONTRACTOR as close as reasonably possible to its original location. Carts shall not be placed in front of the garage doors or behind vehicles blocking vehicular movement unless originally placed in those locations by the resident.
- (d) **Number of Carts.** CONTRACTOR will provide one (1) Cart to each Residential Service Unit, unless a smaller size Cart is requested by the Residential Service Unit and agreed upon by CONTRACTOR. In accordance with Chapter 10 of the Town Code, when a duplex is owned by a single person / entity, residents of the Duplexes units may share a common waste and recycling cart **Container** provided under a single account, provided it is sufficient to accommodate the joint usage without spillover. An additional waste cart requires an additional account.
- (e) **Size of Carts.** The TOWN shall determine the size of the Carts for each class of service.
- (f) **Residential Off-Street Collection Service.** The CONTRACTOR shall provide off-street Collection for Solid Waste from Residential Collection Service Units if (a) all adult occupants residing therein are incapable of moving the Carts, (b) a written request for off-street service has been made to the CONTRACTOR by the Residential Collection Service Unit, and (c) the request is approved by the Town Manager, in the manner required by the TOWN. No additional monies shall be due to the CONTRACTOR for the provision of off-street service to Customers. The point of Collection for off-street service shall be the back or side-yard or such other location as designated in writing by the CONTRACTOR to the Residential Collection Service Unit. The CONTRACTOR shall provide off-street service on the same scheduled Collection day that Residential Solid Waste Collection Service would otherwise be provided to the Residential Collection Service Unit.

3.1.2 Residential Collection Service Units – Multi Family with Cart Service

- (a) **Frequency.** The CONTRACTOR shall pick up twice per week, at least three (3) days apart, an undefined amount of Garbage and Trash from each Residential Collection Service Unit at curbside or a designated location.
- (b) **Placement of Containers.** CONTRACTOR shall pick up all Carts placed within three (3) feet of the street. Carts, after being emptied by CONTRACTOR, will be returned by CONTRACTOR as close as reasonable possible to its original location. Carts shall not be placed in front of the garage doors or behind vehicles blocking vehicular movement unless originally placed in those locations by the resident.

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- (c) *Number of Carts.* CONTRACTOR shall provide one (1) Cart for each Residential Collection Service Unit if requested, to accommodate the Solid Waste Collection needs of the Residential Collection Service Units. CONTRACTOR may reduce total numbers of Carts if collection is easily contained in a lesser number of Carts. The CONTRACTOR shall provide the number of Carts necessary for efficient and sanitary services based on the reasonable request of an authorized representative of the Residential Service Units, in accordance with the following:
- (i) A “reasonable request” shall be made at least thirty (30) days prior to the desired date of pick-up or delivery of Carts.
 - (ii) A “reasonable request” shall be defined as any request for a number of Carts sufficient for efficient and sanitary services. Regardless of the actual number of Carts sufficient for efficient and sanitary services, the Residential Service Units shall pay the rate for the number of Carts equaling at least fifty percent (50%) of the number of residential dwelling units. If fifty percent (50%) is not a whole number, the minimum number of Carts will be rounded down; for example, eleven (11) residential dwelling units may request no fewer than five (5) Carts.
 - (iii) A reasonable request may be made up to two (2) times per fiscal year for free. Additional requests to have Carts picked up or delivered may be made, but shall require payment of a fee. The fee shall be twenty-five dollars (\$25) for the first four (4) Carts to be picked up or delivered; additional Carts may be requested to be picked up or delivered for a fee of fifteen dollars (\$15) each.
 - (iv) In the event of disagreement about the reasonable number of Carts, the TOWN shall make the final determination.

3.1.3. Residential Collection Service Units – Multi Family Dumpster Service

- (a) *Number and Size; Frequency of Pickup.* The CONTRACTOR shall provide the sizes and numbers of Dumpsters necessary for efficient and sanitary services based on the reasonable request of an authorized representative of Residential Service Units. Dumpsters shall be picked up as frequently as volume demands, but not less than twice per week, at least three (3) days apart. The Account Holder and the CONTRACTOR shall mutually agree upon the size and frequency of pick-up of Dumpsters. The CONTRACTOR shall notify Account Holder if it is deemed necessary to increase service, and notify the TOWN of their intention to do so. Any dispute between Account Holder and CONTRACTOR shall be resolved by TOWN according to the process established by Town Code and the decision of the TOWN shall be final and binding.
- (b) *Dumpsters.* Dumpsters provided by the CONTRACTOR shall meet accepted industry standards. The CONTRACTOR shall maintain Dumpsters as necessary to maintain efficient and sanitary services.
- (c) *Placement of Dumpsters* - CONTRACTOR shall empty all Dumpsters from the Customer’s Dumpster enclosure or where placed by the Customer on collection day. Dumpsters, after being emptied by CONTRACTOR, will be returned by CONTRACTOR as close as reasonably possible to its original location. No

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Dumpsters shall be placed by Customer or CONTRACTOR in the public right-of-way unless specific written approval has been given by the TOWN. Valet service may be provided by CONTRACTOR as a special service (see Exhibit 5).

3.2 RESIDENTIAL BULK WASTE

3.2.1 Bulk Waste Collection Schedule and Generation Location

The CONTRACTOR shall pick up Bulk Waste from each Residential Collection Service Unit once a month according to the annual schedule adopted by the TOWN.

All Bulk Waste shall be placed curbside for collection according to the TOWN Code and shall be generated from the Residential Collection Service Unit disposing of the Bulk Waste.

3.2.2 Bulk Waste Service. Bulk Waste Collection Services shall be provided by CONTRACTOR in accordance with the following service levels:

Residential Service Unit	Service Level
Single Family, Duplex	No Maximum
Multi Family with Carts	One (1) cubic yard of Bulk Waste multiplied by the number of Solid Waste Carts from the Residential Service Units. For example, if an 11 unit Multi Family property has five (5) Solid Waste Carts, the CONTRACTOR shall collect up to five (5) cubic yards of Bulk Waste.
Mixed-Use Property	Bulk Waste pickup shall be provided for the residential use only, which shall not exceed two (2) cubic yards monthly. Upon request to Contractor for the service, the service will be provided at the next regularly scheduled pickup.
Multi Family Dumpster Service	No Maximums

3.3 COMMERCIAL SOLID WASTE

3.3.1 Commercial Solid Waste Collection Service – The CONTRACTOR shall provide Commercial Solid Waste Collection Service as deemed necessary and as determined between the CONTRACTOR and the Customer. However, frequency shall be no less than two (2) times per week with no exception for Holiday(s) as set forth herein, except that Collection service scheduled to fall on a Holiday may be rescheduled as determined between the Customer and the CONTRACTOR as long as the minimum frequency requirement is met. The size of the Container or Dumpster and the frequency of Collection (meeting minimum requirements) shall be determined between the Customer and the CONTRACTOR. However, size and frequency shall be sufficient to provide that no Solid Waste shall be placed outside the Container or Dumpster. Dumpster(s) and Container(s)

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shall be accessible to the CONTRACTOR'S crew and vehicles. In the event of disagreement about the size of Dumpster or frequency of collection, the TOWN shall make the final determination.

- 3.3.2 **Rates** - The CONTRACTOR shall provide Container(s) and Dumpster(s) at the approved rates as identified in Exhibit 4 and Exhibit 5 Compacted Dumpster Service, which are incorporated herein, and, unless specifically authorized by this Agreement, CONTRACTOR shall not impose any other charges or assessments of any kind whatsoever to the Customer or the TOWN unless specifically and expressly set forth herein. Customers may own their Dumpsters and/or Container(s) provided that the Customer shall be completely responsible for its proper maintenance and such Container(s) shall be of a type that can be serviced by the CONTRACTOR'S equipment.
- 3.3.3 **Service Levels not Designated** – For Commercial Solid Waste Collection service levels not designated, the CONTRACTOR shall provide the level and type of service negotiated and mutually agreed upon between the CONTRACTOR and Customer at the rates negotiated and mutually agreed upon between the CONTRACTOR and the Customer. All said service levels, types, and rates shall be approved by the TOWN.
- 3.3.4 **Placement of Dumpsters** - CONTRACTOR shall empty all Dumpsters from the Customer's Dumpster enclosure or where placed by the Customer on collection day. Dumpsters, after being emptied by CONTRACTOR, will be returned by CONTRACTOR as close as reasonably possible to its original location. No Dumpsters shall be placed by Customer or CONTRACTOR in the public right-of-way unless specific written approval has been given by the TOWN. Valet service may be provided by CONTRACTOR as a special service (see Exhibit 5).
- 3.3.5 **Dumpster Repair or Replacement.** Upon notification to CONTRACTOR by the TOWN or a Customer that a Dumpster has been stolen or damaged, the CONTRACTOR upon verification shall deliver a replacement Dumpster or make repairs to the Dumpster within four (4) Work Days of said notice.

3.4 RECYCLING

The CONTRACTOR shall offer recycling services to all Commercial Recycling Collection Service Units; the fees for those services shall be agreed upon by the Commercial Recycling Collection Service Unit and the CONTRACTOR.

The CONTRACTOR shall provide Recycling Services to all Residential Service Units as described below.

- 3.4.1 CONTRACTOR shall provide Recycling Services to all Residential Collection Units one (1) day per week, on a regular scheduled Solid Waste pick up day. The services to be performed by the CONTRACTOR shall consist of Collection of all designated Recyclable Materials and transportation to the Designated Recycling Facility.
- 3.4.2 Should unanticipated events, circumstances, or changes in law arise that necessitate any additions or deletions to work described in this Section, including the type of items included as Recyclable Materials, the parties shall negotiate any necessary cost changes and shall enter into an Agreement amendment covering such modifications

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and any compensation to CONTRACTOR before undertaking any changes or revisions to such work.

- 3.4.3 **Purchase and Distribution:** CONTRACTOR shall provide one (1) Recycling Cart to each Residential Collection Service Unit – Single Family and Duplex and one (1) Recycling Cart for every Garbage Container required in Section 3.1.2 for Residential Collection Service Units – Multi Family with Containers. TOWN will select the color of the Container; however, once the color is selected, all Containers shall be the same color. The TOWN may select one alternative sized CART that the Residential Collection Service Unit may request from CONTRACTOR and CONTRACTOR shall promptly provide said carts to the Customers as directed by the Town at no charge to either the Customer or the Town. All Recycling Carts shall be capable of being emptied by mechanical equipment.
- a. The CONTRACTOR shall maintain sufficient Recycling Carts to ensure that extra or replacement Recycling Carts can be provided to Customers or properties in accordance with the terms and conditions of the Agreement. The CONTRACTOR'S employees shall take care to prevent damage to Recycling Carts by unnecessary rough treatment.
 - b. The CONTRACTOR shall purchase and distribute new Recycling Carts as requested by TOWN to existing Residential Collection Service Units for the term of this Agreement.
 - c. The CONTRACTOR shall purchase and distribute Recycling Carts to new Residential Collection Service Units that are added to the Service Area during the term of the Agreement.
- 3.4.4 **Repair or Replacement** – Upon notification to CONTRACTOR by the TOWN or a Customer that a Residential Service Unit's Recycling Container has been stolen or damaged, the CONTRACTOR upon verification shall deliver a replacement Container to such Residential Service Unit or make repairs to the Container within two (2) Work Days of said notice. Each Residential Service Unit shall be entitled to two repairs or replacements of lost, destroyed, or stolen Containers within a two year period at no cost to the TOWN or the Residential Collection Service Unit. Additional replacement Containers or repairs shall be provided at the CONTRACTOR'S actual cost.
- 3.4.5 **Ownership** – Ownership of Recycling Carts purchased by the CONTRACTOR shall rest with the CONTRACTOR, except that ownership of Recycling Carts in the possession of a Residential Collection Service Unit or TOWN at the end of the Agreement shall rest with the TOWN.
- 3.4.6 **Recyclable Materials to be Collected** – The CONTRACTOR shall collect all Recyclable Materials that are accepted by the Designated Recycling Facility and that are placed in a Recycling Container.
- 3.4.7 **Contaminated Recyclable Materials** – The CONTRACTOR shall not collect Recyclable Materials that are significantly contaminated with non-Recyclable Materials.

The CONTRACTOR shall leave a Non-Collection Notice explaining why the material in the Recycling Cart was not collected and shall advise the Town that day of the non-collection. The CONTRACTOR shall not collect the Recyclable Materials until the

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Residential Service Unit segregates the Recyclable Materials from the contaminating material.

The TOWN shall approve the design of said notice, and the cost of printing said notice shall be borne by the CONTRACTOR.

The CONTRACTOR shall maintain a record of the address of any Residential Service Unit where Recyclable Materials were not collected, the date of non-collection, and the reason they were not collected, to be provided to the TOWN upon request.

- 3.4.8 **Recycling Containers for Residential Units Utilizing Dumpsters** – The CONTRACTOR shall provide the same level of Residential Recycling Service to Residential Units using Dumpsters as provided to the Residential Units – Multi Family as identified in Section 3.4. If the recycling volume is sufficient, upon request of an Account Holder, CONTRACTOR shall provide a recycling Dumpster instead of or in addition to Recycling Carts.
- 3.4.9 **Residential Off-Street Collection Service.** The CONTRACTOR shall provide off-street Collection for Recyclables from Residential Service Units if (a) all adult occupants residing therein are incapable of moving their carts, (b) a written request for off-street service has been made to the CONTRACTOR by the Residential Service Unit, and (c) the request is approved by the Town Manager, in the manner required by the TOWN. No additional monies shall be due to the CONTRACTOR for the provision of off-street service to Customers. The point of Collection for off-street service shall be the back or side-yard or such other location as designated in writing by the CONTRACTOR to the Residential Service Unit. The CONTRACTOR shall provide off-street service on the same scheduled Collection day that Residential Solid Waste Collection Service would otherwise be provided to the Residential Service Unit.

3.5 DESIGNATED DISPOSAL FACILITY AND COMMINGLING OF WASTE

All Solid Waste, Bulk Waste, Residential Recyclable Materials, and Recyclable Materials ~~from TOWN facilities~~ collected pursuant to this Agreement shall be delivered to facilities designated (~~“Designated Disposal Facilities”~~) by the TOWN (“Designated Disposal Facilities”), with the exception of waste which is shown by affidavit to be destined for transportation to any destination outside of the State of Florida. A violation of this Section is a material breach of contract.

3.5.1 Disposal Facility Outside of Florida

Should CONTRACTOR direct waste to a location outside the State of Florida, it shall indemnify and hold harmless the TOWN for any action resulting from such disposal. CONTRACTOR specifically acknowledges that the prices in this Agreement include this indemnification and hold harmless obligation as a part of its cost for out of state delivery, and such cost is not to be interpreted as a penalty for, or barrier to, delivery of the waste by CONTRACTOR out of state.

3.5.2 Ownership and Commingling of Waste.

- (a) The TOWN shall retain ownership of all Solid Waste, Bulk Waste, Residential Recyclable Materials, and Recyclable Materials ~~from TOWN facilities~~ until delivery to the Designated Disposal Facility.

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- (b) In the event that CONTRACTOR commingles any ~~Solid Waste, Bulk Waste, recyclables, or other~~ materials collected under the terms and conditions of this Agreement with ~~Solid Waste or other~~ materials from other jurisdictions, CONTRACTOR shall indemnify and hold TOWN harmless from any and all losses, claims, or liability associated with the quantities of Solid Waste or other materials that were commingled.
- (c) CONTRACTOR shall inform TOWN and Town's Designated Disposal Facilities prior to commingling any materials and ~~receive~~received their approval. The Town Manager's approval shall not be unreasonably be withheld.

CONTRACTOR shall submit for the Town Manager's approval the formula for converting the tons of disposed commingled waste to cubic yards and then the calculation of the tons/yardage of Town waste from the total disposed. The formula may be revised from time to time at the request of either party

3.5.13 Change in Designated Disposal Facility

In the event the TOWN changes the Designated Disposal Facility, TOWN shall give CONTRACTOR at least sixty (60) days-notice of the date the change is to go into effect.

- (a) In such case, TOWN and the CONTRACTOR agree to enter into good faith negotiations regarding modifications to this Agreement that may be required in order to implement changes in the interest of the public welfare or due to change in law.
- (b) When such modifications to this Agreement are necessary, the TOWN and the CONTRACTOR shall negotiate in good faith, a reasonable and appropriate compensation adjustment for any increase or decrease in the services or other obligations required of the CONTRACTOR due to any modification in the Agreement under this Section.
- (c) The TOWN and the CONTRACTOR shall not unreasonably withhold agreement to such compensation adjustment. In the event the parties cannot reach agreement within 30 days of the notice, then either party has the right to terminate this Agreement on 180 days written notice. During any such 180 day period, CONTRACTOR shall cooperate with TOWN in assuring a smooth transition to the new disposal facility or arrangement.

3.6 SPECIAL WASTE COLLECTION SERVICES

CONTRACTOR shall not be required to collect and/or dispose of Special Waste, Hazardous Waste, Biohazardous or Biomedical Waste, or Sludge, but may offer such service in the Service Area. All collection and disposal for those types of waste are not regulated or exclusive under this Agreement, but if provided by the CONTRACTOR, shall be in strict compliance with all federal, state, and local laws and regulations.

3.7 TOWN'S RIGHT TO DESIGNATE CONTAINER SIZE AND FREQUENCY OF PICK UP

The TOWN reserves the right to determine the frequency of pick up and the number and size of Containers needed at all Residential Service Units and Commercial Service Units within the TOWN'S corporate limits. The TOWN agrees not to designate more than three (3) sizes of Carts, which at this time are 95, 65 and 35 gallon Carts. TOWN shall give at least thirty (30) days-notice

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to CONTRACTOR of a change in Cart size; however, CONTRACTOR may continue to deploy existing Carts that are in their inventory. All new Carts thereafter shall be ordered in the size specified by TOWN.

If the TOWN determines that a change in frequency of service or Container size or number is necessary, the CONTRACTOR shall adjust the service accordingly. The Account Holder shall be responsible to pay for the adjusted service levels, whether increased or decreased.

3.8 MIXED USE PROPERTIES

3.8.1 **Defined** - The following terms are defined for purposes of this subsection 3.8 only:

- (a) *Mixed-use property* is defined as a property, which may contain more than one parcel or premises, containing both residential and non-residential uses. For the purposes of Solid Waste collection under this section, the non-residential uses shall not involve food sales or service.
- (b) *Small mixed-use property* is defined as a mixed-use property with a total area of 6,000 square feet or less.
- (c) *Large mixed-use property* is defined as a mixed-use property with a total area of greater than 6,000 square feet.

3.8.2 **Solid Waste and Bulk Waste Service** - As an alternative to the use of Dumpsters, property owners and tenants of mixed use properties may arrange for Solid Waste and Bulk Waste Collection as follows:

(a) *Small mixed-use property option.* The property owner or the single tenant of a small mixed-use property may arrange for a residential Cart that will also serve the non-residential use(s). Such owner or tenant shall be charged the residential Cart rate in Exhibit 1 in those cases where the Garbage from the entire property can be accommodated in one residential Cart, without spillover. In the event additional Carts are required, they shall be provided at the commercial Cart rate applicable to similar volumes of Garbage. Bulk Waste pickup shall be provided for the residential use only, which shall not exceed two (2) cubic yards monthly. Upon request to Contractor for the service, the service will be provided at the next regularly scheduled pickup

(b) *Large mixed-use property option.*

i. *Property owners.* The property owner of a mixed-use property in excess of a total area of 6,000 square feet may arrange for a single or multiple commercial containers that will also serve the residential use of the property, if the Container(s) is (are) of sufficient size to accommodate the joint usage without spillover. Such owner shall be charged the commercial Container rate. Bulk Waste pickup shall be provided for the residential use only, which shall not exceed two (2) cubic yards monthly. Upon request to Contractor for the service, the service will be provided at the next regularly scheduled pickup.

ii. *Tenants.* The tenant of a mixed-use property in excess of a total area of 6,000 square feet, who leases both non-residential space and a residential dwelling on the property, may arrange for a single or multiple commercial containers to serve both his or her residential and non-residential Garbage disposal needs, if the Container is of sufficient size to accommodate the joint usage without spillover. Such Tenants

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shall be charged the commercial Container rate. Bulk Waste pickup shall be provided for the residential use only, which shall not exceed two (2) cubic yards monthly. Upon request to Contractor for the service, the service will be provided at the next regularly scheduled pickup

- 3.8.3 Other Requirements.** Mixed Use Properties opting to use Containers shall be governed by the in the same manner as similar customers for the disposal of Christmas trees, Container repair or replacement, and placement of Carts.

SECTION 4: EDUCATION SERVICES

The CONTRACTOR shall provide the following public education services about the TOWN'S Solid Waste, Bulk Waste, and Recycling Services. The CONTRACTOR shall be responsible for all expenses associated with the notices and educational services required herein. All notices, educational materials, and educational services shall be approved by the Town Manager prior to being printed and used by the CONTRACTOR.

4.1 Annual Notice To Customers

The CONTRACTOR shall design, print, and distribute an annual notice to all Residential and Commercial Customers within the Service Area. At a minimum, the notice shall identify the scheduled Collection days, summarize the applicable set-out requirements, provide an overview of current issues affecting the service, provide information on how to register complaints, and how to contact Customer Service.

4.2 NOTICES TO NEW CUSTOMERS

The CONTRACTOR shall design, print, and distribute a notice to new Residential and Commercial Customers within the Service Area. At a minimum, the notice shall identify the scheduled Collection days, summarize the applicable set-out requirements, provide an overview of current issues affecting the service, provide information on how to register complaints, and how to contact Customer Service. The notice shall be sent out not later than thirty (30) days after service begins.

4.3 NON-COLLECTION NOTICE

The CONTRACTOR shall not be required to collect any Solid Waste, Bulk Waste, or Recyclable Materials, within reason, which does not meet the requirements in this Agreement. The CONTRACTOR shall collect that portion of Solid Waste, Bulk Waste, or Recyclable Materials that meets the set-out requirement, and shall affix to the improper Garbage Can, Container, Bag, or other material a Non-Collection Notice explaining why Collection was not made. The TOWN shall approve the design of said notice and the cost of printing said notice shall be borne by the CONTRACTOR. The CONTRACTOR shall maintain a record of the address of any Customer where Solid Waste, Bulk Waste, or Recyclable Materials were not collected, the date of non-collection, and the reason they were not collected, to be provided to the TOWN upon request.

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SECTION 5: HOURS OF COLLECTION, SCHEDULES, AND ROUTES

5.1 RESIDENTIAL SERVICES

Residential Services shall be made with a minimum of noise and disturbance commencing no earlier than 7:00 a.m., local time, and terminating no later than 6:00 p.m., local time, Monday through Saturday, with no service on Sunday.

5.2 COMMERCIAL SERVICES

Commercial Services shall be made with a minimum of noise and disturbance and shall be provided between the hours of 7:00 a.m., local time, and 6:00 p.m., local time, Monday through Saturday and between the hours of 8:00 a.m., local time, and 6:00 p.m., local time, on Sunday.

5.3 EXTENDED COLLECTION HOURS/DAYS

The hours and/or days of Collection may be extended due to extraordinary circumstances or conditions with the prior written consent of the TOWN.

5.4 QUIET ENJOYMENT

The receipt by the TOWN of a complaint pattern referencing noise or disturbances that occurred during the operating hours set forth in this Section shall be prima facie evidence of “disturbances” and the CONTRACTOR shall adjust the Commercial Service hours at such identified locations as the TOWN shall direct the CONTRACTOR in writing. The adjustment of such hours shall not result in a rate change for the CONTRACTOR.

5.5 SCHEDULES AND ROUTES

The CONTRACTOR shall submit proposed changes to routes and schedules to be approved by the Town Manager no later than ninety (90) calendar days prior to the proposed effective date of the change.

In the event of a temporary change in residential routes or schedules that will alter the day of Collection, the CONTRACTOR shall have said changes approved by the Town Manager at the earliest practical date. The CONTRACTOR shall bear all expenses for public education in the event of a change in residential routes (i.e. preparation of news releases, postage, copies, etc.).

The TOWN reserves the right to deny the CONTRACTOR’S vehicles access to certain streets, bridges, and public ways, inside the TOWN or outside the TOWN in route to Designated Disposal Facilities where it is in the best interest of the general public to do so due to conditions of streets and bridges. The CONTRACTOR shall use best efforts to not interrupt the regular schedule and quality of service because of such street closures.

5.6 HOLIDAY PICK-UP SCHEDULE

Christmas is designated as a Holiday. The CONTRACTOR is not required to provide Solid Waste Cart, Bulk Waste, or recycling collection or maintain office hours on a Holiday. The TOWN reserves the right to add or delete designated holidays for the duration of this Agreement.

5.5.1 If Solid Waste Cart collection falls on a Holiday, then Solid Waste carts shall be collected on the Customer’s next regularly scheduled pick-up day after the Holiday.

5.5.2 If recycling Cart collection falls on a Holiday, then recycling carts shall be collected on the Customer’s Solid Waste collect date **earlier in the** within that week. For example, if the

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Customer's Solid Waste Cart is collected on Monday and Thursday and the Holiday is on ~~Thursday~~ Monday, then the recycling Cart shall be collected ~~Monday~~ Thursday ~~on~~ of that Holiday week.

- 5.5.3 If Bulk Waste collection falls on a Holiday, the CONTRACTOR shall schedule Bulk Waste collection one week after the Holiday.
- 5.5.4 Dumpster collection shall not be affected by Holidays; however, nothing herein prevents the CONTRACTOR for making alternative arrangements for Holiday collection of dumpsters.

SECTION 6: CHARGES AND RATES

6.1 COLLECTION SERVICES

The CONTRACTOR shall be responsible for the establishment of all collection service accounts, billing and collection of payments for all accounts in accordance with the Collection Rates as they may subsequently be adjusted pursuant to this Agreement. Town shall bear no responsibility for unpaid accounts and CONTRACTOR may not terminate, suspend, or interrupt service based upon non-payment.

In the event of non-payment by a Customer, CONTRACTOR may pursue all legally available means for collection. In the event of non-payment by a Customer, CONTRACTOR, as its sole and exclusive remedy from the TOWN, shall (in writing) provide the name, address and amount of nonpayment to the TOWN and TOWN shall use its code enforcement prosecution ~~process~~ to attempt to collect the amount of the non-payment. Any amounts so collected by the Town, representing the amount of the nonpayment, shall be provided to the CONTRACTOR upon receipt by the TOWN. The TOWN ~~shall~~ not be responsible or liable in any way whatsoever, for any unpaid bills or for its inability to collect unpaid accounts and the TOWN shall not be required to foreclose on any code enforcement liens for unpaid service, though it may, at its sole option, undertake such action. CONTRACTOR shall be responsible for all costs incurred in the collection of Solid Waste and other materials as required herein, including but not limited to, cost of equipment, employees and related costs, disposal fees, fuel and maintenance, administration, and all other costs incurred in the provision of the required services. The TOWN shall bear no responsibility for any costs unless specifically and expressly provided for herein. The Account Holder's only obligation shall be to pay the charges set forth in the appropriate Exhibits setting forth charges or as otherwise specifically and expressly set forth herein.

6.2 SPECIAL COLLECTION SERVICES

The CONTRACTOR shall be responsible for the billing and collection of payments for Special Collection Services. Rates for Special Collection Services are set in Exhibit 6 for the term of the Agreement and are not subject to annual rate increases.

Special Collection Services for current and future TOWN facilities shall be provided at the request of the TOWN ~~facilities~~ and at the expense of the CONTRACTOR.

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6.3 CHANGE IN BILLING PRACTICES; DISPOSAL FEES

- 6.3.1 The TOWN reserves the right at any time to change billing and collections responsibilities for Residential and Commercial accounts. To the extent that TOWN elects to assume billing and collections responsibilities for Residential and or Commercial accounts, the CONTRACTOR will compensate TOWN for providing such service in the form of a monthly administrative fee equal to ten percent (10%) of the Collection element of the Rates shown in the then current Collection Rates.
- 6.3.2 The TOWN reserves the right at any time to elect to pay Disposal Charges directly for Solid Waste disposed through Cart Service, Dumpster Service, or both. Upon written notice to the Contractor of the Town's intent to pay for Disposal Charges for a particular class of Customer and on the date set forth in the notice, the CONTRACTOR shall be responsible for reimbursement to the Town as set forth below.
- 6.3.2.1 Cart Service. CONTRACTOR shall submit to TOWN all revenues collected from the Disposal Fee component of the Collection Rates within thirty days of collection.
- 6.3.2.2 Dumpster Service. Since there is no Disposal Fee component in the Dumpster Collection Rate, the amount submitted to TOWN shall be calculated based on the percentage of the Disposal Charge to the total Collection Rate for the previous twelve months.

6.4 APPROVED COLLECTION RATES

The rates shown in the Collection Rate Exhibits shall apply to all Residential Service Units and Commercial Service Units within the corporate limits of the TOWN.

6.5 FRANCHISE FEES AND ADMINISTRATIVE FEE

- 6.5.1 In consideration of the privilege granted to the CONTRACTOR to use and occupy the streets, alleys, bridges, easements, and other public places of the TOWN, pursuant to this Agreement and the right to charge the fees set forth herein, the CONTRACTOR shall pay to the TOWN a Franchise Fee for all services CONTRACTOR provides under this Agreement within the TOWN'S municipal corporate limits. Franchise Fees for Residential Collection Services shall be established equal to three point seventy six percent (3.76%) of gross revenues. Franchise Fees for Commercial Collection Services shall be established at ten percent (10%) of gross revenues. CONTRACTOR shall submit payment to the TOWN monthly for the duration of this Agreement, as amended from time to time. Franchise fees are included in the Collection Rates set forth in the Exhibits but CONTRACTOR may show the Franchise Fee separately on the Customer's bill.
- 6.5.1.1 CONTRACTOR shall submit to the TOWN on a monthly basis, the payment of the Franchise Fee and a financial statement setting forth the computation of Gross Revenues used to calculate the Franchise Fee for the preceding month and a detailed explanation of the method of computation that is acceptable to the TOWN Finance Director. The CONTRACTOR'S chief Financial Officer or designee shall certify the statement financial. The CONTRACTOR will bear the cost of the preparation of such financial statements.

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6.5.1.2 Subject to applicable law, the acceptance by the TOWN of any Franchise Fee payment shall not be construed, as an accord that the amount paid is in fact the correct amount, nor shall such acceptance of payment be construed as a release of any claim the TOWN may have for additional sums payable. The Franchise Fee payment is not a payment in lieu of any other tax, fee, or assessment.

6.5.2 In addition to the Franchise Fee provided for in Section 6.5.1, an Administrative Fee equal to three point seventy six percent (3.76%) of the gross revenue, excluding Franchise Fees, from single family/duplex residential collection services shall be paid TOWN at the time of collection. Example: A single family accounts pay \$15 per month plus \$0.56 in Franchise Fees for a total of \$15.56. The Administrative Fee is calculated on the \$15 and not the on the total of \$15.56. The financial statement required in 6.5.1.1 shall include the documentation necessary to verify the Administrative Fee payment.

6.6 ADDITIONAL SERVICES

6.6.1 As determined by the Town Commission, the TOWN may provide additional Solid Waste services such as, but not limited to, recycling incentive programs and related education services. At the TOWN's option, it may increase the monthly Collection Rate for various classes of Customers to fund these additional services. For as long as CONTRACTOR does the Solid Waste billing, upon receipt, CONTRACTOR shall pay to the TOWN at the end of each month, the increased amount collected for these additional services.

6.6.2 Upon request by TOWN, CONTRACTOR shall provide once per month electronic waste collection from residents at no additional cost to TOWN or residents.

6.7 RECYCLING REVENUES

The TOWN shall retain all sums received from the sale of Recyclable Materials as a result of the CONTRACTOR'S provision of Recycling services for all Residential Service Units, Community Events, and TOWN facilities. CONTRACTOR shall take all steps necessary to ensure that payments from the Designated Recycling Facility resulting from the sale of Recyclable Materials are paid directly to the TOWN and not the CONTRACTOR. The CONTRACTOR shall maintain proper and accurate records to reflect the weight, by sort category, of the Recyclable Materials recovered each month, including copies of receipts from the Designated Recycling Facility.

6.8 Changes To Exhibits To Reflect Changes In Rates

The Collection Rates provided herein are subject to change as set forth below. The Exhibits to this Agreement stating the rates to be charged hereunder shall be amended to reflect changes in the Disposal Charge and in the Consumer Price Index, as provided in this Section. The amended Exhibits shall be filed with the City Clerk, with a copy provided the Contractor, and shall be deemed effective as if fully set forth in this Agreement until subsequently amended as provided hereunder without the necessity of a formal amendment to this Agreement.

6.8.1 Disposal Fee Adjustment

~~6.8.1.1~~ Upon the written request of either the CONTRACTOR or TOWN, and after documentation has been submitted acceptable to the Town Manager demonstrating the basis for a Disposal Fee adjustment, the Disposal Fee component of the Monthly Collection Rate (as set forth in the Exhibits to this Agreement) shall be adjusted, on the first of the

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month closest to the effective date of such change in Disposal Rate(s) or 60-days of after the request, whichever is later. The change shall reflect the percentage change (either an increase or decrease) in the Disposal Rate. If a proposed change in the Disposal component is approved by the Town Manager, then such change shall be reflected on an amended exhibit as set forth in this subsection.

6.8.2 CPI INCREASE.

Upon the written request of either the CONTRACTOR or TOWN, and once documentation demonstrating the basis for a CPI adjustment has been submitted acceptable to the Town Manager, the Collection component of the monthly collection rate shall be adjusted, effective October 1 of each year, or 60-days after the request, whichever is later, to account for the change in the annual Consumer Price Index, from the previous period from June 1 to May 31 prior to the October 1 adjustment date, based on the All Urban Consumers, Miami/Fort Lauderdale Region. No CPI adjustment shall be greater than five percent (5%). When the proposed change in the Collection component is approved by the Town Manager, the appropriate Exhibit to this Agreement shall be amended as provided for in this subsection.

SECTION 7: SERVICES TO TOWN

7.1 TOWN FACILITIES AND PROPERTY

The CONTRACTOR shall provide Solid Waste Collection, Bulk Waste Collection, Roll-Off Collection and Recycling Collection and disposal to all current and future TOWN owned and/or operated facilities and property, or project sites without charge to the TOWN. Containers, Dumpsters, and Roll-Offs shall be furnished and maintained by the CONTRACTOR at no charge to the TOWN. The size of the Containers, Dumpsters, and Roll-Offs and the frequency of pick-up service for said facilities shall be at such intervals as determined by the TOWN.

7.2 TOWN SPONSORED SPECIAL EVENTS

The CONTRACTOR shall provide Solid Waste and Recycling Containers, portable toilets and/or Roll-offs, as well as Collection of receptacles, for up to a maximum of twelve (12) Town Sponsored Special Events per year for the term of the Agreement at no cost to the TOWN or Special Event co-sponsors. The CONTRACTOR shall remove said receptacles on an on-call basis. The TOWN shall determine the size and number of said receptacles to be provided by the CONTRACTOR. The CONTRACTOR shall be responsible for the expenses of Containers, portable toilets and/or Roll-offs rental and maintenance, Collection, Disposal Charges, and all other related expenses incurred for the Town Sponsored Special Events.

SECTION 8: EMERGENCY SERVICE PROVISIONS

8.1 SUSPENSION OF COLLECTION SERVICES

~~8.1.1~~—In an emergency event such as a hurricane, tornado, major storm, natural or manmade disaster, or other such event, the TOWN may grant the CONTRACTOR a variance from regular routes and schedules. As soon as practicable after such event, the CONTRACTOR shall advise the TOWN when it is anticipated that normal routes and schedules can be resumed.

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~~8.1.2 — If collection services are suspended and if the Town provides storm debris collection, normal bulk trash collection by CONTRACTOR shall resume after the Town has collected storm debris, which for a significant storm events shall mean two collections by Town.~~

8.2 EMERGENCY EVENTS CLEAN-UP

The clean-up from emergency events is not exclusive to this Agreement. The TOWN reserves the right to select the CONTRACTOR and/or another agency and/or company to perform the clean-up from emergency event(s). The CONTRACTOR shall, by request of the TOWN, work jointly with other agencies and/or companies during emergency events. The clean-up from some events may require that the CONTRACTOR hire additional equipment, employ additional personnel, or work existing personnel on overtime hours to clean debris resulting from the event. The CONTRACTOR shall receive additional compensation, above the normal compensation contained in this Agreement, to cover the costs of rental equipment, additional personnel, overtime hours, and other documented expenses.

8.3 EMERGENCY PREPAREDNESS PLAN AND SERVICE RATES

In the event that the CONTRACTOR wants to propose changes in CONTRACTORS' Emergency Preparedness Plan (**Exhibit 7**), CONTRACTOR shall submit such changes to the TOWN by April 15th of any year, and after documentation has been submitted acceptable to the Town Manager demonstrating the basis for the changes, the changes shall normally be effective the following October 1st unless an earlier date is approved by the Town Manager. The rates and fee schedule in the Plan must be reasonable and within market rates. In no event shall the rates change by more than the CPI adjustment provided for in Section 6.8.

The CONTRACTOR shall perform debris removal services when requested by the TOWN. The CONTRACTOR shall begin to assist the TOWN to clear roads and remove storm debris with heavy equipment within twenty-four (24) hours after the event passes if provided written authorization and direction from the Town Manager or designee. The CONTRACTOR shall begin a significant effort to remove vegetative and construction and demolition materials debris within seventy-two (72) hours after the event passes, provided the CONTRACTOR has received written authorization and approval from the Town Manager or designee. The equipment and manpower resources and other particulars will be identified in the Emergency Preparedness Plan. CONTRACTOR shall be responsible for the preparation of all documents and forms and support information required by Federal Emergency Management Agency (**FEMA**). The CONTRACTOR within the time limits established by FEMA for such filings shall submit such documents, forms and information to the TOWN. CONTRACTOR shall refund to TOWN any payment to CONTRACTOR that is otherwise qualified for reimbursement but is rejected by FEMA due to the CONTRACTOR provided documentation.

8.4 CHANGES TO EXHIBITS TO REFLECT CHANGES IN RATES

The Emergency Service Rates provided herein are subject to change as set forth above. The Exhibit to this Agreement stating the rates shall be amended to reflect changes as provided in this Section. The amended Exhibit shall be filed with the City Clerk, with a copy provided the Contractor, and shall be deemed effective as if fully set forth in this Agreement until subsequently amended as provided hereunder without the necessity of a formal amendment to this Agreement.

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SECTION 9: CONTRACTOR'S RELATION TO TOWN

9.1 CONTRACTOR REPRESENTATIVE AVAILABILITY

The CONTRACTOR shall cooperate with the TOWN in every reasonable way in order to facilitate the progress of the work contemplated under this Agreement. As such, the CONTRACTOR shall have a competent and reliable representative on duty that is authorized to receive orders and to act on its behalf. The CONTRACTOR agrees that the TOWN shall have twenty-four (24) hour access to said representative. Answering machines, pagers, or other devices that do not provide for immediate contact with the CONTRACTOR'S said representative(s) shall not meet the requirements of this Section.

9.2 INDEPENDENT CONTRACTOR

It is expressly agreed and understood that CONTRACTOR is in all respects an independent CONTRACTOR as to the work. Even though in certain respects, CONTRACTOR may be required to follow the direction of the Town Manager or the TOWN'S designated representative, the CONTRACTOR is in no respect an agent, servant, or employee of the TOWN.

9.3 SUPERVISION OF AGREEMENT PERFORMANCE

The Town Manager, or the TOWN'S designated representative, is hereby designated as the public official responsible for the administration of this Agreement by the TOWN, and, in such capacity, they are charged with the overall, general supervision of CONTRACTOR'S performance hereunder. CONTRACTOR shall diligently work with the Town Manager or the TOWN'S designated representative, to formulate and to adopt guidelines and procedures to facilitate the supervision and review of its performance.

9.4 WEIGHT TICKETS

The CONTRACTOR shall retain the weight ticket from the Designated Disposal Facility for the Collection of Solid Waste, Bulk Waste, or other materials from Residential Service Units or Commercial Service Units delivered from the TOWN and the weight tickets from the Designated Recycling Facility for the Recyclable Materials delivered from the TOWN for review by the TOWN upon reasonable notice according to the requirements of Sec. 9.6. Said data shall be reviewed at CONTRACTOR'S offices. If the CONTRACTOR fails to provide the above data or additional data requested by the TOWN, the TOWN reserves the right to impose a penalty or withhold payment for services as provided in the Agreement or to terminate this Agreement.

9.5 REPORTS

- 9.5.1 **Monthly Complaints and Missed Collection.** CONTRACTOR shall maintain an accurate and up-to-date log of date, time, and address of all complaints received and missed Collections, the disposition thereof, actions taken to resolve the complaints or missed Collections, and the date and time the complaints or missed Collections were resolved. The CONTRACTOR shall provide the complaint log to the TOWN in the form of a monthly report in Microsoft Excel or an alternative computer program selected by the TOWN, no later than the fifteenth (15th) day of each month, or upon request by the TOWN.
- 9.5.2 The TOWN reserves the right to correct a complaint if the complaint is not corrected within twenty-four (24) hours of notification to the CONTRACTOR. The TOWN reserves the right to impose a penalty in these cases. If the CONTRACTOR fails to provide the above

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data, or additional data requested by the TOWN, the TOWN reserves the right to withhold payment for services or impose the penalty provided in Sections 11.

9.5.3 The CONTRACTOR shall provide TOWN a semi-annual fiscal year reports (submitted by April 30) and an annual report (submitted by October 31st) that includes, but not limited to, tonnage collected per week by Customer type for the different types of services provided and the number of accounts by type.

9.5.4 TOWN may require other reports that may be reasonable necessary for the management of the TOWN Solid Waste system.

9.6 RECORDS, AUDIT AND INSPECTION OF WORK RIGHTS

The CONTRACTOR shall keep books and records utilizing a computerized record-keeping program and require any and all subcontractors to keep books and records as may be necessary in order to record complete and correct entries as to services provided and fees charged pursuant to this Agreement. Such records shall include complete and legible daily attendance and enrollment records.

Upon providing reasonable notice, such books and records will be available at all reasonable times for examination and audit by the TOWN and its representatives, and shall be kept for a period of six (6) years after the completion of all work to be performed pursuant to this Agreement. Incomplete or incorrect entries in such books and records may be grounds for disallowance by the TOWN of any fees or expenses based upon such entries.

9.7 FACILITY INSPECTION RIGHTS

The TOWN may, at reasonable times during the term hereof, inspect the CONTRACTOR'S facilities and perform such inspections, as the TOWN deems reasonably necessary, to determine whether the services required to be provided by the CONTRACTOR under this Agreement conform to the terms hereof and/or the terms of the solicitation documents, if applicable. The CONTRACTOR shall make available to the TOWN all facilities and assistance to facilitate the performance of inspections by the TOWN'S representatives.

9.8 LIABILITY FOR DELAYS OR NON-PERFORMANCE DUE TO UNUSUAL CIRCUMSTANCES

It is expressly agreed that in no event shall the TOWN be liable or responsible to the CONTRACTOR, or to any other person, on account of any stoppage or delay in the work herein provided for, by injunction or other legal or equitable proceedings brought against the TOWN or the CONTRACTOR, or on account of any delay from any cause over which the TOWN has no control. The CONTRACTOR shall not be responsible for delays or non-performance of the terms and provisions of this Agreement where such delays or non-performance are caused by events or circumstances beyond the control of the CONTRACTOR. The CONTRACTOR shall not be entitled to compensation for such period of time as the delay or non-performance shall continue, but will be entitled to pro-rata compensation once said work has been completed. In the event of a strike of the employees of CONTRACTOR, or any other similar labor dispute which makes performance of this Agreement by the CONTRACTOR substantially impossible, CONTRACTOR agrees that the TOWN shall have the right to call the bond hereinafter described within one (1) week of such action and engage another person, firm, town attorney or corporation to provide necessary services with the bond proceeds applied to pay any difference between the Agreement

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price in effect and the costs charged by the successor company. In the event the bond is called, the TOWN will first call and use the cash/surety bond posted by the CONTRACTOR.

9.9 BREACH OF AGREEMENT

If, in the opinion of the Town Manager, or the designated TOWN representative, there has been a material breach of Agreement, the Town Manager, or designated TOWN representative, shall notify the CONTRACTOR, in writing, specifying the basis and reason in which there has been a breach of Agreement. —If, within a period of ten (10) calendar days from the date of CONTRACTOR'S receipt of the notice, the CONTRACTOR has not eliminated or otherwise cured the conditions considered to be a breach of Agreement, the Town Manager shall so notify the Town Commission in writing, and a public hearing shall be set for a date within fifteen (15) calendar days of such notice to the Town Commission. On the date of the hearing, the Town Commission shall hear from the CONTRACTOR and the Town Commission shall make a final determination as to whether or not there has been a breach of Agreement and direct what further action shall be taken by the TOWN, as hereinafter provided. Pending resolution of the alleged breach, the provisions of Section 20 shall govern the CONTRACTOR.

9.10 TERMINATION

If the CONTRACTOR fails to begin work at the time specified, or discontinues the prosecution of the work, or any portion thereof, for any cause not excused as provided herein, and the Town Commission makes a final determination that a breach has occurred, and if the CONTRACTOR fails to cure such default within five (5) Business Days after the receipt of such notice from the Town Commission, the TOWN may thereupon, by action of the Town Commission, declare the Agreement terminated and in default. Upon such declaration of cancellation or breach, the TOWN may take over the work or any portion thereof or engage another firm to take over the work or any portion thereof. The CONTRACTOR shall pay the TOWN for any payments due for services rendered by the CONTRACTOR prior to termination of the Agreement. Such cancellation of the Agreement shall not relieve the CONTRACTOR or the cash/surety of liability for failure to faithfully perform this Agreement, and, in case the expense incurred by the TOWN in performing or causing to be performed the work and services provided for in said Agreement shall exceed the sum which would have been payable under this Agreement, then the CONTRACTOR, and the cash/surety, to the extent of its obligation, shall be liable to the TOWN in the amount of any such expenses in excess of the Agreement price. The TOWN may apply the cash bond in its possession toward any and all damages incurred as a direct or indirect result of failure by the CONTRACTOR to properly perform its obligations under this Agreement and it may look to the cash/surety, the CONTRACTOR and any guarantor for additional damages. The CONTRACTOR'S cash/surety or security will not be released until such time as the term of this Agreement otherwise expires.

9.11 DELINQUENT PAYMENTS

The TOWN is entitled to a late fee for any payment due the TOWN that is delinquent more than 10- calendar days. The late fee shall be charged at the rate of .0005 per day for each calendar day the payment is delayed up to the day the payment is postmarked (example: \$10,000 payment X .0005 = \$5.00 per day late fee.)

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SECTION 10: CUSTOMER RELATIONS

10.1 CUSTOMER OFFICE HOURS

The CONTRACTOR shall take all reasonable steps and do all things necessary to ensure good and harmonious Customer relations in the TOWN. The CONTRACTOR agrees that it shall have telephone service via a non-toll call from the TOWN. The non-toll telephone service shall be listed in the name in which the company is doing business as the CONTRACTOR. The CONTRACTOR'S employee(s), whom shall be familiar with the TOWN, shall staff the telephone service from 7:00 a.m., local time, till 5:00 p.m., local time, Monday through Friday and Saturday from 7 a.m. until 12:00 p.m., and Saturday Emergency Contact from 12:00 p.m. to 6:00 p.m. Answering machines, pagers, or other devices that do not provide for immediate contact with the CONTRACTOR'S employee(s) shall not meet the requirements of this Section.

10.2 MISSED COLLECTIONS

If the Collection of any Residential Service Unit or Commercial Service Unit is missed during the regular route Collection, the CONTRACTOR shall ensure that the missed Collection shall be picked up on the same day if CONTRACTOR becomes aware of the missed collection or if notification was received by the CONTRACTOR before 12:00 p.m., local time, otherwise the missed Collection shall be picked up before 12:00 p.m., local time, on the next Work Day.

Any deviation from the requirements of this provision must be approved by the Town Manager, or the TOWN'S designated representative. If the CONTRACTOR fails to comply with this provision, or any of the terms and conditions of the Agreement, the TOWN reserves the right to ensure that the Collection is made, either with its own workforce or an outside source, and to charge all costs, plus reasonable overhead, to the CONTRACTOR in the manner deemed to be in the best interest of the TOWN. Such a manner may include, but is not limited to, withholding the amount of the costs, plus reasonable overhead, from any monies owed to the CONTRACTOR.

The CONTRACTOR shall not be required to collect Solid Waste or Bulk Waste material from curbside that is non-conforming; however, in each such case, the CONTRACTOR shall notify each resident by using a Non-Collection Notice which can be a sticker, tag, or door hanger, in a form approved by the TOWN, notifying the resident of the problem and how the Customer needs to correct the problem. The CONTRACTOR shall then notify the TOWN of the location every time a non-conforming location is noticed.

10.3 SPILLAGE AND LITTER

The CONTRACTOR shall not be responsible for cleaning up sanitary conditions around Containers, or Roll-off Containers caused by the carelessness of the Customer; however, the CONTRACTOR shall clean up any, and all, Solid Waste, Bulk Waste, Recyclable Materials, or other refuse materials including leakage of fluids spilled from Containers, Dumpsters, Roll-off Containers, Recycling Bins, Recycling Containers, and Collection vehicles by the CONTRACTOR, CONTRACTOR'S vehicles, or the CONTRACTOR'S employees. During transport, all Solid Waste, Bulk Waste, and Recyclable Materials shall be contained, covered, or enclosed so that leaking, spilling, and blowing of the Solid Waste, Bulk Waste, and Recyclable Materials is prevented. The CONTRACTOR shall be responsible for the cleanup of any spillage or leakage caused by the CONTRACTOR, CONTRACTOR'S vehicles, or the CONTRACTOR'S

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employees. Said cleanup shall be completed at the CONTRACTOR(s) expense within four (4) hours of CONTRACTOR becoming aware of the spillage or leakage.

SECTION 11: PENALTIES

Based upon an investigation, the Town Manager shall determine whether penalties shall be assessed against the CONTRACTOR for failure to comply with provisions described in the Agreement. Factors to be considered include, but are not limited to, acts of God, repeated occurrences of similar types, witnesses, and documentation of the incident. -The Town Manager, in consultation with the Town Attorney, shall make the determination as to when repeated occurrences of failure to comply with the provisions of the Agreement arise to a material breach of the Agreement pursuant to section 9.9.

The CONTRACTOR shall have five (5) Calendar Days from the date of the written notice to CONTRACTOR to file a written letter of protest with the Town Manager. If the protest is filed within five (5) Calendar Days excluding Saturday and Sunday, the Town Manager, or individuals appointed by the Town Manager, shall conduct a formal review of each filed protest. The determination of the Town Manager and/or her designated representative shall be final.

Failure by the CONTRACTOR to remedy the cause of any complaint within the time indicated, failure to comply with Agreement provisions, or performance failures shall result in the Town Manager imposing penalties, or any other legal means available. Verified complaints of sloppy service provided by CONTRACTOR, including, but not limited to Solid Waste, Bulk Waste, and Recyclable Materials being left in the roadway or ~~Carts~~~~Garbage Cans~~~~Carts~~ not being returned to the point of Collection shall be resolved by the CONTRACTOR on the day of the verified complaint. Penalties are as set forth below:

- 11.1 **Spillage and Litter** – Failure to clean up spilled material from loading and/or transporting. Each failure shall result in the imposition of a penalty in the amount of Two Hundred Fifty Dollars (\$250.00).
- 11.2 **Collection Misses** – Failure or neglect to collect properly prepared Solid Waste, Yard Waste, Bulk Waste, or properly prepared Recyclable Materials from any Customer on the regular scheduled Collection day. Each failure shall result in the imposition of a One Hundred Dollar (\$100.00) penalty. Each additional twenty-four (24) hours of failure to collect after previous notification shall result in the imposition of a penalty in the amount of Two Hundred Fifty Dollars (\$250.00) each day.
- 11.3 **Route Completion** – Failure or neglect to complete each route (including missing whole streets) on the regularly scheduled Collection day according to the time schedule in Sections 5.1 or 5.2. Each failure shall result in the imposition of a Five Hundred Dollar (\$500.00) penalty each day, in addition to the penalty assessed for the individual Collection misses. An extension of time authorized by the TOWN pursuant to Section 5.3 shall not be considered a failure to complete a route.
- 11.4 **Mixing Materials** – Mixing Recyclables with Solid Waste, or any other material intended to be collected separately, during Collection shall result in the imposition of a penalty in the amount of One Thousand Dollars (\$1,000.00) for each instance.
- 11.5 **Mixing Commercial and Residential Program Recyclables** – Mixing Commercial Program Recyclables and Residential Program Recyclables during Collection ~~or tipping at the Designated Recycling Facility~~ shall result in the imposition of a penalty in the amount of One Thousand Dollars (\$1,000.00).

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- 11.6 **Customer Complaints other than Collection Misses** – Failure to resolve complaints other than Collection misses within the time provided in the Agreement or for all other complaints within five (5) Work Days from the day of notification shall result in the imposition of a penalty in the amount of Two Hundred Fifty Dollars (\$250.00) for each instance and \$10 per day starting on the sixth (6th) day.
- 11.7 **Disposing at Non-Designated Disposal Facility** – Failure to dispose of Solid Waste, Yard Waste, Bulk Trash or Recyclable Materials collected in the TOWN as required by Section 3.6 3.5 of this Agreement or as directed by TOWN shall result in the imposition of a Two Thousand Dollar (\$2,000.00) penalty for each instance; each instance shall mean each day of collected Waste or Recyclable Materials that is not disposed of pursuant to Section 3.6 3.5 or as directed by TOWN.
- 11.8 **Chronic Complaint Problems** – Failure or neglect to correct chronic problems (chronic shall mean three (3) or more similar verifiable complaints within a rolling twelve (12) month period) in any category of service shall result in the imposition of a Two Hundred Fifty Dollars (\$250.00) penalty for each occurrence after the third verifiable complaint. Each day that a chronic problem is not corrected is considered to be a new occurrence.
- 11.9 **Chronic Equipment Problems** – Failure or neglect to correct chronic equipment problems (chronic shall mean three (3) instances of the same or similar problem within a rolling twelve (12) month period) shall result in the imposition of a penalty in the amount of Two Hundred Fifty Dollars (\$250.00) for each occurrence after the third occurrence. Each day of a chronic equipment problem is considered an occurrence.
- 11.11 **Miscellaneous Deficiencies and Infractions** – A penalty in the amount of One Hundred Dollars (\$100.00) may be levied by the Town Manager for the following deficiencies and infractions: failure to maintain equipment in a clean, safe, and sanitary manner; failure to have vehicle operators properly licensed; failure to maintain office hours as identified in the Agreement; failure to properly cover materials in Collection Vehicles; and failure to comply with the hours of operation as identified in the Agreement.
- 11.12 **CONTRACTOR Reports** – Failure to provide the reports required by the Agreement as provided in Section 9 subsequent to the Transition Period. For each day of delay, a penalty in the amount of Two Hundred Fifty Dollars (\$250.00) shall be assessed. In addition, the TOWN shall withhold payment for services until receipt of reports.
- 11.14 **Post Disaster/Storm Cleanup** – Unless waived by the TOWN MANAGER, failure of the CONTRACTOR to begin a good faith effort to remove vegetative materials and construction and demolition debris within twenty-four (24) hours after the storm event passes and failure to begin a significant effort to remove vegetative materials and construction and demolition debris within seventy-two (72) hours after the storm event, provided the CONTRACTOR has first secured written authorization and approval from the Town Manager. A penalty in the amount of Five Thousand Dollars (\$5,000.00) will be assessed each day for each infraction.

Solid Waste, Bulk Waste, and Recycling Collection Services Agreement

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SECTION 12: RESERVED

SECTION 13: PERFORMANCE BOND AND CORPORATE GUARANTY

- 13.1** The CONTRACTOR shall furnish at its own cost, to the TOWN, an irrevocable Performance Bond, in form and content approved by the TOWN Attorney for the faithful performance of this Agreement and all of its obligations arising hereunder in the amount of One Million Dollars (\$1,000,000.00)

Said bond shall be rated "A+" or better as to management and "FSC XV" or better as to the strength by Best's Insurance Guide or Surety; shall be listed on the U.S. Treasury Department's list of acceptable sureties for federal bonds or bonding limits shall not exceed twenty percent (20%) of its policy surplus (capital & surplus) as listed in Best's Insurance Guide; and, Surety shall have been in business and have a record of successful and continuous operation for at least five (5) years; further, all bonds shall contain all provisions required by §255.05, Florida Statutes, guarantee the performance of the Agreement, and serve as security for the payment of all persons performing labor and furnishing materials in connection with the Agreement. The policy or bond may not be canceled or altered without at least thirty (30) calendar days prior notice to the TOWN and upon agreement of the TOWN.

Maintenance of said bond and the performance by the CONTRACTOR of all of the obligations under this paragraph shall not relieve the CONTRACTOR of liability under the default provisions set forth in this Agreement or from any other liability as a result of any material breach hereunder. The Performance Bond may be "called" in the event of any default hereunder by the CONTRACTOR. The calling of the Bond shall in no manner restrict or preclude any additional or further remedies available to the TOWN against the CONTRACTOR for breach, default, or damages hereunder.

The TOWN reserves the right to increase the Performance Bond amount in the event of a change in the Designated Disposal Facility or due to the duration of the renewal periods.

- 13.2** The CONTRACTOR shall cause to be obtained a corporate guaranty of PARENT COMPANY ("Guarantor"), whereby the Guarantor shall guarantee all of the obligations of the CONTRACTOR under this Agreement. The guarantee shall be in a form and content approved by the TOWN Attorney.

SECTION 14: EQUIPMENT AND PERSONNEL

14.1 VEHICLES AND COLLECTION EQUIPMENT

The CONTRACTOR shall provide and maintain and have available at all times the necessary amount of Collection trucks and equipment to perform the work as specified herein. During severe storms and emergencies, the CONTRACTOR shall have sufficient vehicles, personnel, containers, etc. in order to meet the needs of the TOWN.

14.2 EQUIPMENT IN GOOD REPAIR

The CONTRACTOR shall use Collection vehicles within the TOWN that are professionally painted, with bodies that are watertight to a depth of not less than eighteen inches (18"), with solid sides, without body damage, solid tires as approved by the Florida Department of Transportation.

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The average age of the CONTRACTOR'S Collection vehicles that are used within the TOWN shall not exceed four (4) years, with no vehicle over seven (7) years. All vehicles shall be equipped with operational radio transceiver capable of communicating with the CONTRACTOR'S dispatch from anywhere in the TOWN and cell phone. Each collection truck shall be equipped with a video recording system capable of recording vehicle speed, driver behaviors, accidents and collection of containers. Video recording shall be kept for at least 48 hours and made available to the TOWN upon its request. The CONTRACTOR shall provide sufficient equipment, in proper operating condition so regular schedules and routes of Collection can be maintained. Equipment is to be maintained in reasonable, safe, working condition.

Collection vehicles shall be painted with the company color scheme, with the name of the CONTRACTOR and the number of the vehicle printed in letters not less than four inches (4") high, on each side of the vehicle, and vehicles shall be numbered and a record kept of the vehicle to which each number is assigned.

No advertising shall be permitted on Vehicles, Containers, or Roll-offs or any other equipment servicing the TOWN. The CONTRACTOR is required to keep Collection vehicles and Dumpsters cleaned and painted to present a pleasing appearance. The CONTRACTOR shall make available for approval by the TOWN a schedule showing the frequency of the cleaning and painting of the vehicles, the age, and miles of the vehicle.

Each non-packer Collection vehicle shall be equipped with a cover, which may be net with mesh, or tarpaulin, or fully enclosed top. Such cover shall be kept in good order and used to cover the load going to and from the Disposal Facility, or when parked, if the contents are likely to be scattered if not covered.

Collection vehicles shall not be overloaded so as to scatter collected material, however, if material is scattered from the CONTRACTOR'S Collection vehicle for any reason, it shall be picked up immediately. Each Collection vehicle shall have a fork, shovel, and broom for this purpose. The CONTRACTOR'S Collection vehicles are not to interfere unduly with vehicular or pedestrian traffic and are not to be left unattended, and shall move with the traffic flow.

14.3 CONTRACTOR'S PERSONNEL

The CONTRACTOR shall assign a qualified person to be the Route Superintendent in charge of its operations within the TOWN, and shall give the name or names of the CONTRACTOR'S representatives to the TOWN. The CONTRACTOR shall also provide information regarding the experience of the CONTRACTOR'S representatives. The CONTRACTOR shall adhere to the following requirements:

14.3.1 Each driver shall, at all times, carry a valid Florida driver's license for the type of vehicle they are driving.

14.3.2 All employees and subcontractors of the CONTRACTOR shall be considered to be, at all times, the sole employees or subcontractors of the CONTRACTOR under its sole discretion and not an employee, subcontractor, or agent of the TOWN. The CONTRACTOR shall supply competent and physically capable employees and subcontractors. The TOWN may require the CONTRACTOR to remove any employee or subcontractor it deems careless, incompetent, insubordinate, or otherwise objectionable and whose continued performance of the services is not in the best interest of the TOWN.

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- 14.3.3. The direction and supervision of Collection and disposal and salvage recycling operations shall be by competent, qualified, and sober personnel, and the CONTRACTOR shall devote sufficient personnel, time, and attention to the direction of the operation to assure performance satisfactory to the TOWN. All employees, subcontractors, superintendents, and workmen employed by the CONTRACTOR shall be careful and competent. The CONTRACTOR shall also provide uniforms that are clearly identified with the company name. Employees and subcontractors of the CONTRACTOR shall have and wear proper dress attire at all times. Proper dress attire shall consist of industrial style work pants, a button front shirt or T-shirt with the CONTRACTOR'S company name or logo, and appropriate footwear.
- 14.3.4. All employees or subcontractors used by the CONTRACTOR during the term of the Agreement shall be of a standing or affiliation that will permit the CONTRACTOR'S performance herein to be carried on harmoniously and without delay, and in no case, or in any circumstance, will such employee or subcontractor cause any disturbance, interference or delay to any work or service rendered to the TOWN or by the TOWN. In no case or in any circumstances will the employee or subcontractor conduct himself/herself negligently, disorderly, or dishonestly in the due and proper performance of the employee's duties. The CONTRACTOR shall see to it that his employees and subcontractors serve the public in a courteous, helpful, and impartial manner.
- 14.3.5. The CONTRACTOR'S employees shall follow the regular walk for pedestrians while on private property. No employee shall meddle with property that does not concern him. Care shall be taken to prevent damage to property, including flowers, shrubs, and other plantings. Anything spilled shall be picked up immediately by such employee. Any damages incurred shall be paid by CONTRACTOR.
- 14.3.6 In the event that the Town Manager becomes dissatisfied with the performance of any CONTRACTOR'S personnel, which includes employees, independent contractors, or subcontractors, performing services under this Agreement for any reason, the Town Manager shall provide written notification to CONTRACTOR. Upon receipt of such notification, CONTRACTOR shall transfer such person out of TOWN service at the earliest practical date, which shall not exceed fourteen (14) days from the receipt of the notice. TOWN retains the right to immediately request a transfer if, in the sole opinion of the Town Manager, the immediate transfer is in the best interest of the Town.
- 14.3.7 **Assignment and Subcontracting.** Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by CONTRACTOR, without the consent of TOWN, which consent may be withheld or conditioned in the sole and absolute discretion of TOWN. In addition, CONTRACTOR shall not subcontract any portion of the services required by this Agreement without the prior approval of the Town Manager, which shall be in her sole and absolute discretion, except as documented in the CONTRACTOR'S Proposal.

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SECTION 15: WORKING CONDITIONS

15.1 COMPLIANCE WITH STATE, FEDERAL, AND LOCAL LAWS

The CONTRACTOR shall comply with all applicable County, State, and Federal laws relating to wages, hours, and all other applicable laws relating to the employment or protection of employees, now or thereafter in effect.

15.2 EEO STATEMENT

The CONTRACTOR agrees that it will not knowingly violate any applicable laws, statutes, codes, rules and regulations related to or prohibiting discrimination in employment in the performance of its work under this Agreement.

15.3 AMERICANS WITH DISABILITIES ACT COMPLIANCE

The CONTRACTOR shall comply with the requirements of the Americans with Disabilities Act, as amended from time to time.

15.4 FAIR LABOR STANDARDS ACT

The CONTRACTOR is required and hereby agrees by execution of this Agreement to pay all employees not less than the Federal minimum wage and to abide by other requirements as established by the Congress of the United States in the Fair Labor Standards Act, as amended from time to time.

SECTION 16: INSURANCE

Throughout the term of this Agreement, CONTRACTOR shall maintain insurance in the type and amounts and pursuant to the requirements set forth below. The required insurance coverage shall be issued by an insurance company authorized and licensed to do business in the State of Florida, with a minimum rating of A-, in accordance with the latest edition of A.M. Best's Insurance Guide. The insurance coverage shall be primary insurance with respect to the CONTRACTOR, its officials, employees, agents and volunteers. Any insurance maintained by the TOWN shall be in excess of the CONTRACTOR'S insurance and shall not contribute to the CONTRACTOR'S insurance.

The insurance coverage shall include a minimum of:

- 16.1 Worker's Compensation And Employer's Liability Insurance:** Workers' Compensation insurance to apply for all employees in compliance with the "Workers' Compensation Law" of the State of Florida and all applicable Federal laws. In addition, the policy(ies) must include:
- (a) Employers' Liability with a limit of One Hundred Thousand Dollars (\$100,000.00) each accident, Part A.
 - (b) Employers' Liability with a limit of One Million Dollars (\$1,000,000.00), Part B.
- 16.2 Comprehensive General Liability.** Comprehensive General Liability with minimum limits of Five Million Dollars (\$5,000,000.00) per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability with respect to CONTRACTOR. CONTRACTOR shall provide Ten Million Dollar (\$10,000,000.00) annual aggregate Comprehensive General Liability coverage. Coverage must be afforded on a form no more restrictive than the latest edition of the

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Comprehensive General Liability policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include:

- (a) Premises and/or Operations;
- (b) Independent Contractors;
- (c) Products and/or Completed Operations;
- (d) Explosion, Collapse, and Underground Coverages;
- (e) Broad Form Property Damage;
- (f) Broad Form Contractual Coverage applicable to this specific Agreement, including any hold harmless and/or indemnification agreement;
- (g) Personal Injury Coverage with Employee and Contractual Exclusions removed, with minimum limits of coverage equal to those required for Bodily Injury Liability and Property Damage Liability; and
- (h) TOWN and CONTRACTOR are to be expressly included as “Additional Insured” with respect to liability arising out of operations performed for TOWN and CONTRACTOR by or on behalf of CONTRACTOR and Emergency Service Provisions Subcontractors or acts or omissions of owner or CONTRACTOR in connection with general supervision of such operation.

16.3 Comprehensive Automobile and Vehicle Liability Insurance: This insurance shall be written in comprehensive form and shall protect the TOWN and the CONTRACTOR against claims for injuries to members of the public and/or damages to property of others arising from the CONTRACTOR’S use of motor vehicles or any other equipment and shall cover operations with respect to onsite and offsite operations. Insurance coverage shall extend to any motor vehicles or other equipment irrespective of whether the same is owned, non-owned, or hired. The limit of liability shall not be less than Five Million Dollars (\$5,000,000.00) per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include:

- (a) Owned Vehicles; and
- (b) Hired and Non-Owned Vehicles.

16.4 Umbrella Liability, general aggregate of Ten Million Dollars (\$10,000,000.00).

16.5 Certificates of Insurance: Prior to commencement of any services hereunder, CONTRACTOR shall provide to the Town Manager, Certificates of Insurance evidencing the required insurance coverages. The Certificates of Insurance shall not only name the types of policy(ies) provided, but also shall specifically name the TOWN as additional insured with respect to all required liability policies. The TOWN reserves the right to require the CONTRACTOR to provide endorsements, upon written request by the TOWN. If a policy is due to expire prior to the completion of the services hereunder, renewal Certificates of Insurance or policies shall be furnished prior to the date of their policy expiration.

Each policy shall be endorsed with a provision that not less than thirty (30) calendar days’ written notice shall be provided to the CONTRACTOR and the TOWN before any policy or coverage is

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cancelled or restricted. Acceptance of the Certificate(s) is subject to approval of the TOWN Manager.

CONTRACTOR'S insurance shall contain a severability of interest provision providing that, except with respect to the total limits of liability, the insurance shall apply to each insured or additional insured in the same manner as if separate policies had been issued to each.

All deductibles or self-insured retentions must be declared to and be approved by the Town Manager.

All required insurance shall be evidenced by valid and enforceable policies issued by a company licensed to do business in the State of Florida and otherwise acceptable to the TOWN. The CONTRACTOR shall not cancel (or permit any lapse under) any policy of required insurance.

Each policy of required insurance shall:

- (i) contain the agreement of the insurer that the insurer shall not cancel or materially alter the same without thirty (30) calendar days prior written notice to TOWN except in the case of non-payment by the CONTRACTOR for which ten (10) calendar days' prior written notice will be provided to TOWN;
- (ii) provide for third party vicarious liability;
- (iii) delete the insured versus insured exclusion with respect to claims brought by the TOWN; and,
- (iv) be effective for a period from the date of this Agreement through at least one (1) year after completion of the Work provided hereunder, except for professional liability insurance which shall be effective for a period from the date of this Agreement through at least five (5) years after completion of the work provided hereunder.

The minimum coverages and time periods specified above are not intended, and shall not be construed, to limit any liability of the CONTRACTOR to TOWN under this Agreement. Neither party shall be liable to the other for loss or damage covered by insurance to the extent that insurance proceeds are actually available with respect to such loss or damage and to the extent that the applicable policies of such insurance include the waiver or subrogation (which the parties shall obtain if available without additional premium). CONTRACTOR is responsible for the payment of all deductibles in connection with any claims made under the insurance policies required by this Agreement. The cost of deductibles paid by CONTRACTOR shall be included in the cost of the service.

SECTION 17: PROPERTY DAMAGE

The CONTRACTOR shall be responsible for the repair, or replacement, if repair is not adequate, of any damages to public or private property during the provision of Collection service and caused by the CONTRACTOR or the CONTRACTOR'S representative.

SECTION 18: INDEMNIFICATION

The CONTRACTOR shall indemnify, defend, and hold harmless the TOWN and its officials, employees, and agents (collectively referred to as "Indemnities") and each of them from and against all loss, costs, penalties, fines, damages, claims, expenses (including attorney's fees), or liabilities (collectively referred to as "Liabilities") by reason of any injury to or death of any person or damage to or destruction or loss of any property, or any such other claims arising out of, resulting from, or in connection with (i) the

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performance or non-performance of the services contemplated by this Agreement which is, or is alleged to be, directly or indirectly caused, in whole or in part, by any act, omission, default or negligence (whether active or passive) of the CONTRACTOR or its employees, agents or subcontractors (collectively referred to as "CONTRACTOR"), regardless of whether it is, or is alleged to be, caused in whole or in part (whether joint, concurrent or contributing) by any act, omission, default, or negligence (whether active or passive) of the Indemnities, or any of them or (ii) the failure of the CONTRACTOR to comply with any of the paragraphs herein or the failure of the CONTRACTOR to conform to statutes, ordinances, or other regulations or requirements of any governmental authority, Federal or State, in connection with the performance of this Agreement. The CONTRACTOR expressly agrees to indemnify and hold harmless the Indemnities, including any of them, from and against all liabilities which may be asserted by an employee or former employee of the CONTRACTOR, or any of its subcontractors, as provided above, for which the CONTRACTOR'S liability to such employee would otherwise be limited to payments under state Worker's Compensation or similar laws.

SECTION 19: ASSIGNMENT OF AGREEMENT; NON-TRANSFERABILITY

- 19.1** This Agreement, or any portion or interest herein, shall not, under any circumstances, be sublet, assigned, transferred, or otherwise encumbered by CONTRACTOR without the advance express, written consent of the TOWN, which may or may not be granted at the sole discretion of the TOWN.
- 19.2** In the event that the CONTRACTOR sells or otherwise disposes of any assets during the term of this Agreement, or CONTRACTOR is purchased by, or merged with, another corporate entity, it shall provide written notice of such to the TOWN. The TOWN has the sole discretion to determine whether the CONTRACTOR'S ability to perform its obligations under this Agreement has been affected or impaired by such sale or disposition of assets.

SECTION 20: OPERATIONS DURING DISPUTE

In the event that any dispute, arises between the TOWN and the CONTRACTOR relating to this Agreement performance or compensation hereunder, the CONTRACTOR shall continue to render service and receive compensation in full compliance with all terms and conditions of this Agreement as interpreted, in good faith, by the TOWN, regardless of such dispute.

The CONTRACTOR expressly recognizes the paramount right and duty of the TOWN to provide adequate Collection and disposal services to its residents and further agrees, in consideration of the execution of this Agreement, that in the event of such a dispute, if any, it will not seek injunctive relief in any court without first negotiating with the TOWN in good faith for an adjustment on the matter or matters in dispute and, upon failure of said negotiations to resolve the dispute may present the matter to a court of competent jurisdiction in Broward County, Florida in an appropriate suit therefore instituted by it or by the TOWN.

Notwithstanding the other provisions in this Section, the TOWN reserves the right to terminate this Agreement at any time whenever the service provided by the CONTRACTOR fails to meet reasonable standards of the trade, after TOWN provides written notice to the CONTRACTOR pursuant to Section 9 of this Agreement. Upon termination, the TOWN may call the bond and apply the cash and surety bond

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for the cost of service in excess of that charged to the TOWN by the firm engaged for the balance of the Agreement period.

SECTION 21: ORDINANCE

Nothing contained in any TOWN ordinance hereafter adopted, pertaining to the Collection of Solid Waste or the Collection of Recyclable Materials, shall in anyway be construed to affect, change, modify, or otherwise alter the duties, responsibilities, and operations of the CONTRACTOR in the performance of the terms of this Agreement, unless it is agreed to in writing by both the CONTRACTOR and the TOWN and this Agreement is amended accordingly.

SECTION 22: MODIFICATIONS TO THE CONTRACT

The TOWN shall have the power to make changes in this Agreement as the result of changes in law, Town Code, or both to impose new rules and regulations on the CONTRACTOR under this Agreement relative to the scope and methods of providing Collection Services as shall from time-to-time be necessary and desirable for the public welfare. The TOWN shall give the CONTRACTOR notice of any proposed change and an opportunity to be heard concerning those matters. The scope and method of providing Collection Services as referenced herein shall also be liberally construed to include, but is not limited to the manner, procedures, operations, and obligations, financial or otherwise, of the CONTRACTOR.

The TOWN and the CONTRACTOR understand and agree that the Florida Legislature has the authority to make comprehensive changes in Solid Waste Management legislation and that these and other changes in law in the future which mandate certain actions or programs for counties or municipalities may require changes or modifications in some of the terms, conditions or obligations under this Agreement. The CONTRACTOR agrees that the terms and provisions of Town Code as it now exists or as it may be amended in the future, shall apply to all of the provisions of this Agreement and the Customers of the CONTRACTOR located within the Service Area. In the event any future change in the Town Code materially alters the obligations of the CONTRACTOR, then the Collection charges established in this Agreement shall be adjusted. Nothing contained in this Agreement shall require any party to perform any act or function contrary to law. The TOWN and the CONTRACTOR agree to enter into good faith negotiations regarding modifications to this Agreement which may be required in order to implement changes in the interest of the public welfare or due to change in law. When such modifications are made to this Agreement, the TOWN and the CONTRACTOR shall negotiate in good faith, a reasonable and appropriate compensation adjustment for any increase or decrease in the services or other obligations required of the CONTRACTOR due to any modification in the Agreement under this Section. The TOWN and the CONTRACTOR shall not unreasonably withhold agreement to such compensation adjustment.

In the event any future change in the Town Code materially alters the obligations of the either party, then this Agreement shall be revised. The TOWN and the CONTRACTOR agree to enter into good faith negotiations regarding modifications to this Agreement which may be required in order to implement changes. When such modifications are made to this Agreement, the TOWN and the CONTRACTOR shall negotiate in good faith, a reasonable and appropriate compensation adjustment for any increase or decrease in the services or other obligations required of the CONTRACTOR due to any modification in the Agreement under this Section. The TOWN and the CONTRACTOR shall not unreasonably withhold agreement to such compensation adjustment.

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In the event the parties cannot reach agreement to a modification to the contract provided for in this Section, then either party has the right to terminate this Agreement on one hundred and eighty (180) days written notice. This provision shall be liberally interpreted to achieve its expressed intent.

SECTION 23: RIGHT TO REQUIRE PERFORMANCE

The failure of the parties at any time to require performance of any provisions hereof shall in no way affect their rights thereafter to enforce same. No waiver of any breach of any provisions hereof shall be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of any provision itself.

SECTION 24: LAW GOVERNING

The Agreement shall be governed and enforced pursuant to the laws of the State of Florida. Venue for any litigation shall be commenced in Broward County, Florida.

SECTION 25: COMPLIANCE WITH LAWS AND REGULATIONS

The CONTRACTOR hereby agrees to abide by and comply with all applicable Federal, State, County, Special District, and TOWN laws, statutes, codes, rules, and regulations. The CONTRACTOR and its cash/surety shall indemnify, defend, and hold harmless the TOWN, its Town Commissioners, its officers, representatives, agents, and employees against any claim or liability arising from or based on the violation of any such laws, regulations, ordinances, orders, or decrees, whether by itself or its employees. The CONTRACTOR shall obtain at its own expense all permits and licenses required by law or ordinance and maintain same in full force and effect.

SECTION 26: SAVINGS CLAUSE

Should any provision, paragraph, sentence, word, or phrase contained in this Agreement be determined by a court of competent jurisdiction to be invalid, illegal, or otherwise unenforceable under the laws of the State of Florida or the TOWN, such provisions, paragraph, sentence, word, or phrase shall be deemed modified to the extent necessary in order to conform with such laws, or if not modifiable, then same shall be deemed severable, and in either event, the remaining terms and provisions of this Agreement shall remain unmodified and in full force and effect or limitation of its use.

SECTION 27: GENERAL

27.1 NO CONTINGENT FEES

The CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee, agent, consultant, or lobbyist working solely for the CONTRACTOR, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee, agent, consultant, or lobbyist working solely for the CONTRACTOR, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, the TOWN shall have the right to terminate the Agreement

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without liability at its discretion, to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift, or consideration.

27.2 NO WAIVER

No waiver by the TOWN of any term, covenant, or condition herein contained shall be deemed to be a waiver of such term, covenant, or condition or any subsequent breach of the same or any other term, covenant, or condition herein contained. The rights and remedies created by this Agreement are cumulative, and are not intended to be exclusive. The use of one remedy under this Agreement shall not be taken to exclude or waive the right or use of another Agreement, and each party shall be entitled to pursue all remedies generally available under the laws of the State of Florida.

SECTION 28: LEGAL REPRESENTATION

It is acknowledged that each party to this Agreement had the opportunity to be represented by legal counsel in the preparation of this Agreement and, accordingly, the rule that an Agreement shall be interpreted strictly against the party preparing the same shall not apply herein due to the joint contributions of both parties.

SECTION 29: FORCE MAJEURE

No party shall hold the other responsible for damages or for delays in performance caused by force majeure, acts of God, or other acts or circumstances beyond the control of either party or that could not have been reasonably foreseen and prevented. For this purpose, such acts or circumstances shall include, but not be limited to, hurricanes, tropical storms and severe weather conditions affecting performance, floods, epidemics, war, riots. Should such acts or circumstances occur, the parties shall use their best efforts to overcome the difficulties arising therefrom and to resume the work as soon as reasonably possible with the normal pursuit of the work.

The acts or omissions of subcontractors, third-party contractors, materialmen, suppliers or their subcontractors, shall not be considered acts of force majeure.

No party shall be liable for its failure to carry out its obligations under the Agreement during a period when such party is rendered unable by force majeure to carry out its obligation, but the obligation of the party or parties relying on such force majeure shall be suspended only during the continuance of the inability and for no longer period than the force majeure event.

The CONTRACTOR further agrees and stipulates that its right to excuse its failure to perform by reason of force majeure shall be conditioned upon giving written notice of its assertion that a Force Majeure delay has commenced within 24 hours after such an occurrence. The CONTRACTOR shall use all reasonable efforts to minimize such delays. The CONTRACTOR shall promptly provide an estimate as to the resumption of work.

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SECTION 30: MISCELLANEOUS

30.1 CONFLICT

Neither CONTRACTOR nor its employees shall have or hold any employment or contractual relationship that is antagonistic or incompatible with CONTRACTOR'S loyal and conscientious exercise of judgment related to its performance under this Agreement.

CONTRACTOR agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against TOWN in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process. Further, CONTRACTOR agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of TOWN in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude CONTRACTOR or any other persons from representing themselves in any action or in any administrative or legal proceeding.

In the event CONTRACTOR is permitted to utilize subcontractors to perform any services required by this Agreement, CONTRACTOR agrees to prohibit such subcontractors, by written contract, from having any conflicts within the meaning of this section.

CONTRACTOR shall not give, solicit for, deliver or provide a campaign contribution directly or indirectly to a candidate, or to the campaign committee of a candidate, for the offices of Mayor or Commissioner during the term of this Agreement.

CONTRACTOR agrees that no officer or employee of the TOWN, during his or her term of employment or for one year thereafter, shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

30.2 MODIFICATION

This Agreement constitutes the entire Agreement and understanding between the parties hereto, and, subject to Section 6.8 and Section 22, it shall not be considered amended, modified, altered, or changed in any respect unless approved by the parties set forth in writing and signed by the parties hereto, subject to the requirements in Ordinance No. 2017-06.

30.3 TRADE SECRET INFORMATION

Documents, records, routing, charges, and pricing of the CONTRACTOR that the CONTRACTOR advises the TOWN are trade secret information of the CONTRACTOR, are exempt from disclosure pursuant to Section 815.045, Florida Statutes, as may be amended from time to time, unless in the sole opinion and judgment of the Town Attorney such documents and records are not within said statutory exemption.

30.4 NOTICE

Whenever any party desires to give notice unto any other party, it must be given by written notice, sent by certified United States mail, with return receipt requested, or by facsimile transmission with certification of transmission and verbal confirmation of receipt of facsimile by the receiving party, addressed to the party for whom it is intended and the remaining party, at the places last specified, and the places for giving of notice shall remain such until they shall have been changed by written notice in compliance with the provisions of this Section. For the present, the CONTRACTOR and the TOWN designate the following as the respective places for giving of notice:

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As to TOWN: Town Manager
Town of Lauderdale By-The-Sea
4501 Ocean Drive
Lauderdale By-The-Sea, Florida 33308-3610
Telephone: (954) 640-4200
Facsimile: (954) 776-1857

Copy to: Town of Lauderdale By-The-Sea
4501 Ocean Drive
Lauderdale By-The-Sea, Florida 33308-3610
Telephone: (954) 640-4200
Facsimile: (954) 776-1857

As to CONTRACTOR: Regional Vice President
Waste Pro
17302 Pines Boulevard
Pembroke Pines, FL 33029
Telephone: (954) 967-4200
Facsimile: (954) 241-4489

Copy to: Waste Pro of Florida, Inc. General Counsel
2101 West State Road 434, Suite 305
Longwood, Florida 32779-5053
Telephone: (407) 868-8800
Facsimile: (407) 869-8884

Solid Waste, Bulk Waste, and Recycling Collection Services Agreement

Exhibit 2

30.5 PUBLIC RECORDS

The CONTRACTOR shall comply with Chapter 119, Florida Statutes, as applicable, and shall comply with the following:

- (a) CONTRACTOR agrees to keep and maintain public records in CONTRACTOR's possession or control in connection with CONTRACTOR's performance under this Agreement. CONTRACTOR additionally agrees to comply specifically with the provisions of Section 119.0701, Florida Statutes. CONTRACTOR shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the Agreement, and following completion of the Agreement until the records are transferred to the TOWN.
- (b) Upon request from the TOWN's custodian of public records, CONTRACTOR shall provide the TOWN with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Chapter 119, Florida Statutes, or as otherwise provided by law.
- (c) Unless otherwise provided by law, any and all records, including but not limited to reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of the TOWN.
- (d) Upon completion of this Agreement or in the event of termination by either party, any and all public records relating to the Agreement in the possession of the CONTRACTOR shall be delivered by the CONTRACTOR to the Town Manager, at no cost to the TOWN, within seven (7) days. All such records stored electronically by CONTRACTOR shall be delivered to the Town in a format that is compatible with the TOWN's information technology systems. Once the public records have been delivered upon completion or termination of this Agreement, the CONTRACTOR shall destroy any and all duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.
- (e) Any compensation due to CONTRACTOR shall be withheld until all records are received as provided herein.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 954-640-4200, TownClerk@LBTS-fl.gov, fl.govFedraa@lauderdalebythesea-fl.gov, or by mail: Town Clerk, 4501 N. Ocean Drive, Lauderdale-By-The-Sea, FL 33308.

~~30.6~~—SCRUTINIZED COMPANIES

Solid Waste, Bulk Waste, and Recycling Collection Services Agreement

Exhibit 2

- (a) CONTRACTOR certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S., the TOWN may immediately terminate this Agreement at its sole option if the CONTRACTOR or its subcontractors are found to have submitted a false certification; or if the CONTRACTOR, or its subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.
- (b) If this Agreement is for more than one million dollars, the CONTRACTOR certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the TOWN may immediately terminate this Agreement at its sole option if the CONTRACTOR, its affiliates, or its subcontractors are found to have submitted a false certification; or if the CONTRACTOR, its affiliates, or its subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.
- (c) The CONTRACTOR agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.
- (d) As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

30.7 JOINT PREPARATION

The parties acknowledge that they have sought and received whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

[The remainder of this page is left intentionally blank]

**Solid Waste, Bulk Waste, and Recycling
Collection Services Agreement**

Exhibit 2

IN WITNESS WHEREOF, the parties have caused these presents to be executed and attested to by their duly authorized officers or representatives and their official seals to be affixed hereon, the day and year first above written.

Attest:

TOWN OF LAUDERDALE BY-THE-SEA

Tedra ~~Allen~~~~Allen~~~~Smith~~, Town Clerk

By: _____
Chris Vincent, Mayor

____th day of _____, 2019

By: _____
William Vance, Town Manager

By: _____
Tony Bryan, Finance Director

Approved as to form and legality:

By: _____
Susan Trevarthen, Town Attorney

File:

Printed: ~~4/3/2019 2:06 PM~~~~4/3/2019 9:59 AM~~

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**Solid Waste, Bulk Waste, and Recycling
Collection Services Agreement**

Exhibit 2

**CONTRACTOR
Waste Pro USA, Inc.**

WITNESSES:

Signature

BY: _____
Signature

Print Name and Title

Russell Mackie, Regional Vice President

_____ day of _____, 2019

_____ day of _____, 2019

ATTEST:

SECRETARY

STATE OF FLORIDA)
) SS:
COUNTY OF _____)

BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared _____ as _____ of _____, an organization authorized to do business in the State of Florida, and acknowledged and executed the foregoing Agreement as the proper official of _____ for the use and purposes mentioned in it and affixed the official seal of the corporation, and that the instrument is the act and deed of that corporation. He/she is personally known to me or has produced _____ as identification.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal at in the State and County aforesaid on this _____ day of _____, 2019.

My Commission Expires:

Signature of Notary Public

Printed Name of Notary Public

Solid Waste, Bulk Waste, and Recycling Collection Services Agreement

Exhibit 2

List of Exhibits

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EXHIBIT 1	Residential Collection Rate for Single Family/Duplex	
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EXHIBIT 9	Franchise Ordinance No. 2017-06	

EXHIBIT 1

Single Family and Duplex Collection Rates

SINGLE FAMILY AND DUPLEX COLLECTION RATE

Per Month

		(%)		(\$)					
	Service Components	Current Rates	Change >		June 1, 2017	Change >	Oct. 1, 2017	Change >	1-Oct-18
1	Disposal Fee - MSW	\$4.13	0.60%	\$0.02	\$4.15	TBD	TBD	TBD	TBD
2	Disposal Fee - Bulk	\$0.89	-0.20%	\$0.00	\$0.89	TBD	TBD	TBD	TBD
3	Garbage Cart Collection (unlimited volume, two pickups per week)	\$4.42	7%	\$0.31	\$4.73	\$0.09	\$4.82	\$0.10	\$4.92
4	Bulk Collection (unlimited volume, one pickup per month)	\$1.16	7%	\$0.08	\$1.24	\$0.02	\$1.26	\$0.03	\$1.29
5	Recycling Cart Collection (unlimited volume, one pickup per week)	\$2.21	7%	\$0.15	\$2.36	\$0.05	\$2.41	\$0.05	\$2.46
Contractor Fee		\$12.81	4.37%	\$0.56	\$13.37	TBD	TBD	TBD	TBD
Commission Approved Rate		\$14.37			\$15.38		\$15.69		\$16.00
Additional Services Amount (due Town)		\$1.56			\$2.01		TBD		TBD
Additional Services Amount percent		10.9%			13.1%		TBD		TBD
Additional Cart		\$12.00			\$12.00		\$12.00		\$12.00

EXHIBIT 2

Multifamily Cart Collection Rates

MULTIFAMILY CART COLLECTION RATE									
Monthly Rate									
	Service Components	Current Rates	Change >		June 1, 2017	Change >	Oct. 1, 2017	Change >	Oct. 1, 2018
1	Disposal Fee - MSW	\$4.13	0.6%	\$0.02	\$4.15	TBD	TBD	TBD	TBD
2	Disposal Fee - Bulk	\$0.89	-0.2%	\$0.00	\$0.89	TBD	TBD	TBD	TBD
3	Garbage Cart Collection (unlimited volume, two pickups per week)	\$5.17	7.0%	\$0.36	\$5.53	\$0.11	\$5.64	\$0.11	\$5.75
4	Bulk Collection (unlimited volume, one pickup per month)	\$0.56	7.1%	\$0.04	\$0.60	\$0.01	\$0.61	\$0.01	\$0.62
5	Recycling Cart Collection (unlimited volume, one pickup per week)	\$2.58	7.0%	\$0.18	\$2.76	\$0.06	\$2.82	\$0.06	\$2.88
Contractor Fee		\$13.33	4.5%	\$0.60	\$13.93	TBD	TBD	TBD	TBD
Commission Approved Rate:		\$14.64			\$15.70		\$16.02		\$16.34
Additional Services Amount (due Town):		\$1.31			\$1.77		TBD		TBD
Additional Services Amount percent		8.9%			11.3%		TBD		TBD
Additional Cart		\$10.00			\$10.00		\$10.00		\$10.00

EXHIBIT 3

Multifamily Dumpster Collection Rates**June 1, 2017 Multi-Family Dumpster Collection Rates****Calculation of Fees Due Contractor**

Applies to % of Total			Detail of Calculation		
		% Change	1 Yd. Container	Change	June 1st Rate
CPI =	70%	7.0%	\$122.12	\$8.55	\$130.66
Disposal =	30%	0.6%	\$52.34	\$0.31	\$52.65
Total	100%	5.08%	\$174.45	\$8.86	\$183.31
Overall Percentage Change from Pervious October			5.08%		

		Monthly CONTRACTOR Dumpster Fee					
Pick-Ups Per Week		Dumpster Size (cubic yards)					
		1	2	3	4	6	8
2		\$183.31	\$226.50	\$339.66	\$445.33	\$498.16	\$603.82
3		\$287.86	\$339.66	\$509.48	\$645.35	\$713.27	\$837.81
4		\$383.78	\$452.88	\$656.67	\$815.18	\$905.75	\$1,026.51
5		\$479.75	\$566.10	\$778.38	\$981.24	\$1,047.29	\$1,207.66
6		\$556.49	\$656.67	\$900.09	\$1,086.91	\$1,154.84	\$1,449.19
7		\$626.85	\$739.70	\$1,010.47	\$1,215.22	\$1,307.69	\$1,637.89

		Monthly Change from Pervious October					
Pick-Ups Per Week		Dumpster Size (cubic yards)					
		1	2	3	4	6	8
2		\$8.86	\$10.95	\$16.42	\$21.53	\$24.08	\$29.19
3		\$13.92	\$16.42	\$24.63	\$31.20	\$34.48	\$40.50
4		\$18.55	\$21.89	\$31.75	\$39.41	\$43.79	\$49.63
5		\$23.19	\$27.37	\$37.63	\$47.44	\$50.63	\$58.38
6		\$26.90	\$31.75	\$43.51	\$52.55	\$55.83	\$70.06
7		\$30.30	\$35.76	\$48.85	\$58.75	\$63.22	\$79.18

		Commission Approved Rates					
Pick-Ups Per Week		+ (-) 7%					
		Dumpster Size (cubic yards)					
		1	2	3	4	6	8
2		\$191.18	\$236.23	\$354.24	\$464.45	\$519.55	\$629.76
3		\$300.21	\$354.24	\$531.36	\$673.06	\$743.91	\$873.79
4		\$400.27	\$472.33	\$684.87	\$850.18	\$944.64	\$1,070.59
5		\$500.35	\$590.40	\$811.81	\$1,023.36	\$1,092.25	\$1,259.52
6		\$580.40	\$684.87	\$938.74	\$1,133.58	\$1,204.42	\$1,511.42
7		\$653.78	\$771.46	\$1,053.87	\$1,267.40	\$1,363.84	\$1,708.23

		Town Additional Services Amount (Adopted Rate Less Contractor's Fee)					
Pick-Ups Per Week		Dumpster Size (cubic yards)					
		1	2	3	4	6	8
2		\$7.87	\$9.73	\$14.58	\$19.12	\$21.39	\$25.94
3		\$12.35	\$14.58	\$21.88	\$27.71	\$30.64	\$35.98
4		\$16.49	\$19.45	\$28.20	\$35.00	\$38.89	\$44.08
5		\$20.60	\$24.30	\$33.43	\$42.12	\$44.96	\$51.86
6		\$23.91	\$28.20	\$38.65	\$46.67	\$49.58	\$62.23
7		\$26.93	\$31.76	\$43.40	\$52.18	\$56.15	\$70.34

EXHIBIT 4

Commercial Collection Rates**June 1, 2017 Commercial Collection Rates****Calculation of Fees Due Contractor**

Applies to % of Total	% Change
CPI = 70%	7.0%
Disposal = 30%	0.6%
Total 100%	5.08%

Example of Calculation		
1 Yd. Container	Change	June 1st Rate
\$134.56	\$9.42	\$143.98
\$57.67	\$0.35	\$58.02
\$192.23	\$9.77	\$202.00

Overall Percentage Change from Pervious October 5.08%

		CONTRACTOR Monthly Dumpster Fee					
Pick-Ups Per Week	Carts (96 gallons)	Dumpster Size (cubic yards)					
		1	2	3	4	6	8
2	\$68.10	\$202.00	\$238.35	\$357.53	\$468.77	\$474.84	\$635.62
3	\$102.15	\$302.99	\$357.53	\$536.31	\$679.31	\$750.82	\$881.92
4	\$136.20	\$403.99	\$476.72	\$691.23	\$858.08	\$953.41	\$1,080.54
5	\$170.26	\$504.98	\$595.89	\$819.34	\$1,032.87	\$1,102.39	\$1,271.23
6	\$197.50	\$585.79	\$691.23	\$947.46	\$1,144.10	\$1,215.62	\$1,525.47
7	\$222.46	\$659.86	\$778.62	\$1,063.66	\$1,279.18	\$1,376.51	\$1,724.10

Pick-Ups Per Week	Carts (96 gallons)	Monthly Change from Pervious October					
		Dumpster Size (cubic yards)					
		1	2	3	4	6	8
2	\$3.29	\$9.77	\$11.52	\$17.28	\$22.66	\$22.96	\$30.73
3	\$4.94	\$14.65	\$17.28	\$25.93	\$32.84	\$36.30	\$42.64
4	\$6.58	\$19.53	\$23.05	\$33.42	\$41.48	\$46.09	\$52.24
5	\$8.23	\$24.41	\$28.81	\$39.61	\$49.93	\$53.29	\$61.46
6	\$9.55	\$28.32	\$33.42	\$45.80	\$55.31	\$58.77	\$73.75
7	\$10.75	\$31.90	\$37.64	\$51.42	\$61.84	\$66.55	\$83.35

Commission Approved Rates

+ (-) 7%

Pick-Ups Per Week	Carts (96 gallons)	Dumpster Size (cubic yards)					
		1	2	3	4	6	8
2	\$71.03	\$210.67	\$248.59	\$372.89	\$488.89	\$495.23	\$662.91
3	\$106.54	\$316.00	\$372.89	\$559.33	\$708.48	\$783.06	\$919.78
4	\$142.05	\$421.34	\$497.18	\$720.91	\$894.92	\$994.36	\$1,126.94
5	\$177.56	\$526.67	\$621.48	\$854.53	\$1,077.22	\$1,149.73	\$1,325.81
6	\$205.97	\$610.94	\$720.91	\$988.15	\$1,193.23	\$1,267.81	\$1,590.98
7	\$232.02	\$688.19	\$812.06	\$1,109.34	\$1,334.10	\$1,435.61	\$1,798.14

Pick-Ups Per Week	Carts (96 gallons)	Town Additional Service Amount (Adopted Rate Less Contractor's Fee)					
		Dumpster Size (cubic yards)					
		1	2	3	4	6	8
2	\$2.93	\$8.67	\$10.24	\$15.36	\$20.12	\$20.39	\$27.29
3	\$4.39	\$13.01	\$15.36	\$23.02	\$29.17	\$32.24	\$37.86
4	\$5.85	\$17.35	\$20.46	\$29.68	\$36.84	\$40.95	\$46.40
5	\$7.30	\$21.69	\$25.59	\$35.19	\$44.35	\$47.34	\$54.58
6	\$8.47	\$25.15	\$29.68	\$40.69	\$49.13	\$52.19	\$65.51
7	\$9.56	\$28.33	\$33.44	\$45.68	\$54.92	\$59.10	\$74.04

EXHIBIT 5

Compactor Collection Rates**June 1, 2017 Compactor Rates****Calculation of Fees Due Contractor**

			Example of Calculation		
Applies to % of Total	% Change		2 Yd. Container	Change	June 1st Rate
CPI =	70%	7.0%	\$317.56	\$22.23	\$339.79
Disposal	30%	0.6%	\$136.10	\$0.82	\$136.92
Total	100%	5.08%	\$453.66	\$23.05	\$476.71
			Overall Percentage Change 5.08%		

Pick-Ups Per Week		Monthly Contractor Fee					
		1	2	3	4	6	8
2			\$476.71	\$715.07			
3			\$715.07	\$1,072.60			
4			\$953.42	\$1,382.46			
5			\$1,191.78	\$1,638.70			
6			\$1,382.46	\$1,894.92			
7			\$1,557.25	\$2,127.32			

		Monthly Change from Pervious October					
		Dumpster Size (cubic yards)					
		1	2	3	4	6	8
2			\$23.05	\$34.57			
			\$34.57	\$51.85			
3			\$46.09	\$66.83			
			\$57.62	\$79.22			
4			\$66.83	\$91.61			
			\$75.28	\$102.84			

Commission Approved Rates							+ (-)	7%
Monthly Dumpster Rate								
Pick-Ups Per Week		Dumpster Size (cubic yards)						
		1	2	3	4	6	8	
2			\$497.18	\$745.77				
3			\$745.77	\$1,118.66				
4			\$994.36	\$1,441.82				
5			\$1,242.95	\$1,709.06				
6			\$1,441.82	\$1,976.29				
7			\$1,624.12	\$2,218.67				

Pick-Ups Per Week		Town Additional Services Amount					
		Dumpster Size (cubic yards)					
		1	2	3	4	6	8
2			\$20.47	\$30.71			
3			\$30.71	\$46.06			
4			\$40.94	\$59.36			
5			\$51.18	\$70.37			
6			\$59.36	\$81.37			
7			\$66.87	\$91.35			

EXHIBIT 6

Special Collection Service

1	Adding lids to or changing lids	No Charge
2	Adding wheels to or changing wheels	No Charge
3	Additional Bulk Waste Collection for Residential Service Units with carts	No Charge for one special pickup per calendar year per Account Holder. (Not available to a delinquent account.) Note: Additional special pickups will be priced by CONTRACTOR depending on volume and schedule.
4	Additional Unscheduled (Not Including "On Call") Solid Waste Pick-Ups For Commercial Service Units And Residential Containerized Service Units	2X (Applicable 1X Week Solid Waste Collection Cost) + Regular Disposal Charges
5	Changing out the size of a Dumpster (above twice per year)	\$25.00 per occurrence
6	Locks (new locks installed)	\$20.00
7	Moving Container Location Per Customer Request	\$18.00 per move
8	Opening (and Closing) Doors or Gates	No Charge
9	Residential Off-Street Collection Service (Disabled Customer)	No Charge
10	Return Container to Customer's Location After Service Was Stopped	\$25.00
11	Rolling out Container less than 30 feet (and returning it to original location)	No Charge
12	Service not designated herein	See Sec. 3.1 and Sec. 3.3.4
13	Supplying (and retrofitting) Locking Mechanism	\$55.00
14	Swap-out Dumpster (extra on site Dumpster used on collection day)	Up to \$35 per month, which includes a limited number of special pick-ups as determined by Customer and CONTRACTOR
15	Unlocking and Locking of Container enclosure	\$2.00 per month
16	Valet Service: Rolling Containers from a storage location to the point of collection that is a distance 30' feet or more.	\$10 per month for all residential or commercial Carts at one Cart location. \$25 per month per Dumpster.

Exhibit 2

EXHIBIT 7

Emergency Preparedness Plan and Service Rates

The South Florida Area possibility for a natural disaster exists each and every day. The opportunity for significant amounts of damage due to natural causes is great within our area. Because of the major risks from hurricanes, severe storms, or such other natural and man-made disaster that may occur that the CONTRACTOR will assist the TOWN with emergency debris clearance. The CONTRACTOR has experience and is capable of mobilizing into a disaster area within 12 hours following a devastating storm such as a hurricane.

The CONTRACTOR's executives and managers will work with the TOWN, County, State, Federal and all other governmental entities in which the CONTRACTOR provides service to provide comprehensive relief services to include:

Pre-Disaster Services:

1. Stand-by-Contact
2. Pre-Event Planning
3. Plans Review
4. Exercise Participation
5. Employee Training

Post-Disaster Operations:

6. Emergency Road Clearance and Trimming of Damaged Vegetation
7. Removal of Debris from Public Rights-of-Way
8. Removal of Debris from Private Property (When Authorized)
9. Temporary Debris Staging and Reduction Site Management
10. Final Debris Staging and Reduction Site Management
11. Final Debris Disposal
12. Hazardous Materials Handling
13. Site Redemption
14. Inspections and Documentation
15. Assistance with FEMA and State Reimbursements

Exhibit 2

Exhibit 7 (continued)

Emergency Preparedness Plan and Service Rates

Effective June 1, 2010

The following rates are for services to be provided under the Emergency Preparedness Plan. All service rates shall be fixed until changed as provided for in this Agreement.

EQUIPMENT/TOOL/VEHICLE TYPE (INCLUDE OPERATOR AND LABOR COST)	HOURLY RATE	DAILY RATE (8 HOURS)
Boom Truck (Self Loader) & Operator with CDL Driver	\$250	\$2,000
Roll Off Truck & Operator with CDL Driver	\$198	\$1,500
Rear Load Truck & Operator with CDL Driver and Helper	\$250	\$2,000
Wheel Loader 644 or equivalent & Operator	\$250	\$2,000
D-6 Dozers or equivalent & Operator	\$250	\$2,000
Bobcat Loader or equivalent & Operator	\$200	\$1,500
Rubber Tired Backhoe	\$200	\$1,500
Project Manager with Truck	\$125	\$950
Safety Superintendent with Truck	\$125	\$950
Service Truck & Maintenance Technician	\$125	\$950
Laborers	\$50	\$380

Cost for Vegetative cleanup and transport to disposal site. \$20.00 cubic yard
Include equipment, tools, vehicles, and operator and labor costs.

Cost for C&D debris cleanup and transport to disposal site. \$25.00 cubic yard
Include equipment, tools, vehicles, and operator and labor costs.

Exhibit 2
EXHIBIT 8

Adopting Ordinance No. 2019 - 012019~~195-14~~

~~EXHIBIT 9~~

~~Adopting Ordinance No. 2017-06~~



Town Commission Agenda Item Report

Meeting Date: April 9, 2019

Submitted by: Judson Hopping

Submitting Department: Public Safety

Item Type: Ordinances 1st Reading

Agenda Section: ORDINANCES 1ST READING

Subject Title:

Ordinance 2019-04 - AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, AMENDING CHAPTER 8, "FIRE PREVENTION AND PROTECTION," ARTICLE I "IN GENERAL" OF THE CODE OF ORDINANCES TO ADOPT THE FLORIDA FIRE PREVENTION CODE (NFPA 1) AND (NFPA 101) AS THE FIRE CODE FOR THE TOWN AND TO ESTABLISH FEES FOR FIRE INSPECTION AND REVIEW; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE

Explanation:

Insurance Services Office, Inc (ISO) regularly inspects municipal Fire Departments, which affects the insurance rates for residential and commercial properties within the Town. In May, ISO will be reviewing the Town's Fire Department.

One requirement of the ISO rating is that the Town formally adopt the Florida Fire Prevention Code (NFPA 1) and (NFPA 101) as the Fire Prevention Code for the Town. In preparing for the upcoming ISO inspection, we have found that this requirement is not clearly established in the Town Code. The attached proposed Ordinance corrects this issue, by including the following language.

ARTICLE I. - IN GENERAL

Sec. 8-1. - Florida Fire Prevention Code Adopted and Fees Established.

- (a) The Florida Fire Prevention Code (NFPA 1) and (NFPA 101) is hereby adopted as the fire code for the Town.
- (b) All subsequent amendments to such code are hereby adopted and incorporated by reference.
- (c) Fire inspection and review fees shall be established by resolution of the Town Commission.

The adoption of this Ordinance will meet the requirements of ISO and assist the Town in securing a favorable insurance rating. The Town Fire Department would like to ensure that this language is adopted prior to the ISO inspection scheduled in May and therefore requests that second reading be scheduled for April 23, 2019.

Recommendation:

Staff recommends approval of Ordinance 2019-04 (Exhibit 1) on first reading and scheduling second reading for April 23, 2019

Attachments:

[Exhibit 1_ 2019-04 Fire Prevention Ordinance 3F28488.pdf](#)

1 **AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-**
2 **THE-SEA, AMENDING CHAPTER 8, “FIRE PREVENTION**
3 **AND PROTECTION,” ARTICLE I “IN GENERAL” OF THE**
4 **CODE OF ORDINANCES TO ADOPT THE FLORIDA FIRE**
5 **PREVENTION CODE (NFPA 1) AND (NFPA 101) AS THE**
6 **FIRE CODE FOR THE TOWN AND TO ESTABLISH FEES**
7 **FOR FIRE INSPECTION AND REVIEW; PROVIDING FOR**
8 **CODIFICATION, SEVERABILITY, CONFLICTS AND AN**
9 **EFFECTIVE DATE**

10
11 **WHEREAS**, the Town Commission recognizes that changes to the adopted Code of
12 Ordinances (the “Town Code”) are periodically necessary in order to ensure that the Town’s
13 regulations are current and consistent with the Town’s regulatory needs; and

14 **WHEREAS**, the Florida Fire Prevention Code is adopted by the State Fire Marshall at
15 periodic intervals as required by Chapter 633.202, Florida Statutes; and

16 **WHEREAS**, this complex set of Fire Code provisions are enforced by the local fire
17 official within each county, municipality, and special fire district in the State; and

18 **WHEREAS**, the Town Commission desires to amend Chapter 8, “Fire Prevention and
19 Protection,” of the Town Code to adopt the Florida Fire Prevention Code (NFPA 1) and (NFPA
20 101) as the official Fire Code for the Town; and

21 **WHEREAS**, the Town Commission desires to establish that fire inspection and review
22 fees shall be established by Resolution of the Town Commission; and

23 **WHEREAS**, the Town Commission finds that this Ordinance is in the best interests of
24 the Town and its residents.

25 **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE**
26 **TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, THAT:**

27
28 **SECTION 1. Recitals.** The foregoing “Whereas” clauses are ratified and incorporated
29 as the legislative intent of this Ordinance.

ORDINANCE 2019-04

SECTION 2. Amendment. Chapter 8, “Fire Prevention and Protection,” Article I, “In General,” of the Town Code, is hereby amended to read as follows¹:

ARTICLE I. - IN GENERAL

* * *

Sec. 8-3. - Florida Fire Prevention Code Adopted and Fees Established.

(a) The Florida Fire Prevention Code (NFPA 1) and (NFPA 101) is hereby adopted as the fire code for the Town.

(b) All subsequent amendments to such code are hereby adopted and incorporated by reference.

(c) Fire inspection and review fees shall be established by resolution of the Town Commission.

* * *

SECTION 3. Codification. This Ordinance shall be codified in accordance with the foregoing. It is the intention of the Town Commission that the provisions of this Ordinance shall become and be made a part of the Town of Lauderdale-By-The-Sea Code of Ordinances; and that the sections of this Ordinance may be renumbered or re-lettered and the word “ordinance” may be changed to “section”, “article” or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 4. Severability. If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION 5. Conflicting Ordinances. All prior ordinances or resolutions or parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

¹ Additions to existing text are shown in underline. Deletions are shown in ~~strikethrough~~.

ORDINANCE 2019-04

SECTION 6. Effective Date. This Ordinance shall become effective immediately upon
passage on second reading.

Passed on the first reading, this ____ day of _____, 2019.

Passed on the second reading, this ____ day of _____, 2019.

MAYOR CHRIS VINCENT

	First Reading	Second Reading
Mayor Vincent	_____	_____
Vice-Mayor Sokolow	_____	_____
Commissioner Malkoon	_____	_____
Commissioner Oldaker	_____	_____
Commissioner Strauss	_____	_____

Attest:

Tedra Allen, Town Clerk

(CORPORATE SEAL)

APPROVED AS TO FORM:

Susan L. Trevarthen, Town Attorney

File: R:\0 Agenda\4-9-19 Commission\Ex1 Ord 2019-XX Chapter 8 Fire Prevention 1st Reading.docx



Town Commission Agenda Item Report

Meeting Date: April 9, 2019

Submitted by: Linda Connors

Submitting Department: Development Services

Item Type: Ordinances 2nd Reading

Agenda Section: ORDINANCES 2ND READING

Subject Title:

Ordinance 2019-02 - AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, AMENDING CHAPTER 6, "BUILDINGS AND BUILDING REGULATIONS," ARTICLE I "IN GENERAL" OF THE CODE OF ORDINANCES TO UPDATE REGULATIONS REGARDING CONSTRUCTION SITE OPERATION, MAINTENANCE AND ABANDONMENT, CONSTRUCTION OFFICE REQUIREMENTS, AND REQUIREMENTS FOR PORTABLE STORAGE UNITS; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE

Explanation:

EXPLANATION: The Town regulates construction site operation and maintenance in Chapter 6-8 of our Code. It specifically outlines when a construction fence is required and how long it can remain in place, the placement of construction waste and recycling containers, and road surface maintenance.

At their March 12, 2019 meeting, the Town Commission approved Ordinance 2019-02 on first reading. This Ordinance amends the building and building regulations to establish an abandonment of construction work. Construction work shall be considered abandoned if, within a 90-day period an inspection has not been requested and passed and there is no evidence of physical construction on the site (page 4, line 107). The Ordinance also provides for construction offices on the site and clarifies the differences between portable storage units and construction storage units located on construction sites (page 5, line 157).

Staff is proposing adding a 30-day timeframe in which all objects and temporary structures and fencing must be removed after the abandoned criteria has been met. We are also proposing the following additional language be added to the Ordinance in order to provide a process as it relates to resuming active construction work on the site as well as replacing or reinstalling construction materials previously required to be removed from the construction site:

(4) Reinstatement.

a. Following abandonment of construction and no more than 1 week prior to resuming active construction work on the site, the contractor shall be required to submit an application to the Development Services Director to resume construction work on the site and replace or reinstall materials and structures previously removed from the site as provided in subsection (2) above. This application shall be in addition to any required building permits.

b. The evaluation period under subsection (1) above for abandonment of construction, shall begin on the approval date of any development application or required building permit(s) associated with the construction work on the site.

Other than this additional language, the ordinance remains as approved on first reading.

Recommendation:

Staff recommends approval of Ordinance 2019-02 (Exhibit 1) on second reading.

Attachments:

[4-09-19 AM Chapter 6 Building 3F14042.DOCX](#)

[Ex1 Ord 2019-02 Chapter 6 2nd Reading 3F13964.DOCX](#)



Agenda Memorandum

Development Services

Department

Linda Connors

Director

COMMISSION MEETING DATE: April 9, 2019

ITEM CATEGORY: Ordinance

SUBJECT TITLE: Second Reading of Ordinance 2019-02 Amending Chapter 6 Building and Building Regulations

EXPLANATION: The Town regulates construction site operation and maintenance in Chapter 6-8 of our Code. It specifically outlines when a construction fence is required and how long it can remain in place, the placement of construction waste and recycling containers, and road surface maintenance.

At their March 12, 2019 meeting, the Town Commission approved Ordinance 2019-02 on first reading. This Ordinance amends the building and building regulations to establish an abandonment of construction work. Construction work shall be considered abandoned if, within a 90-day period an inspection has not been requested and passed and there is no evidence of physical construction on the site (page 4, line 107). The Ordinance also provides for construction offices on the site and clarifies the differences between portable storage units and construction storage units located on construction sites (page 5, line 157).

Staff is proposing adding a 30-day timeframe in which all objects and temporary structures and fencing must be removed after the abandoned criteria has been met. We are also proposing the following additional language be added to the Ordinance in order to provide a process as it relates to resuming active construction work on the site as well as replacing or reinstalling construction materials previously required to be removed from the construction site:

(4) Reinstatement.

- a. Following abandonment of construction and no more than 1 week prior to resuming active construction work on the site, the contractor shall be required to submit an application to the Development Services Director to resume construction work on the site and replace or reinstall materials and structures previously removed from the site as provided in subsection (2) above. This application shall be in addition to any required building permits.
- b. The evaluation period under subsection (1) above for abandonment of construction, shall begin on the approval date of any development application or required building permit(s) associated with the construction work on the site.

Other than this additional language, the ordinance remains as approved on first reading.

Agenda Memorandum

Page 2



RECOMMENDATION: Staff recommends approval of Ordinance 2019-02 (**Exhibit 1**) on second reading.

Exhibits: 1. Ordinance 2019-02

Reviewed by Town Attorney:

☒	Yes	☐	No
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File: R:\0 Agenda\4-9-19 Commission\Dev Services\Chapter 6 - 2nd Reading\4-09-19 AM Chapter 6 Building 3F14042.DOCX

1 **AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-**
2 **THE-SEA, AMENDING CHAPTER 6, “BUILDINGS AND**
3 **BUILDING REGULATIONS,” ARTICLE I “IN GENERAL”**
4 **OF THE CODE OF ORDINANCES TO UPDATE**
5 **REGULATIONS REGARDING CONSTRUCTION SITE**
6 **OPERATION, MAINTENANCE AND ABANDONMENT,**
7 **CONSTRUCTION OFFICE REQUIREMENTS, AND**
8 **REQUIREMENTS FOR PORTABLE STORAGE UNITS;**
9 **PROVIDING FOR CODIFICATION, SEVERABILITY,**
10 **CONFLICTS AND AN EFFECTIVE DATE**

11
12 **WHEREAS,** the Town Commission recognizes that changes to the adopted Code of
13 Ordinances are periodically necessary in order to ensure that the Town’s regulations are current
14 and consistent with the Town’s regulatory needs; and

15 **WHEREAS,** the Town Commission desires to amend Chapter 6, “Buildings and Building
16 Regulations,” of the Town Code of Ordinances to create regulations regarding construction offices
17 and abandonment of construction work, and to update other regulations regarding construction and
18 portable storage units; and

19 **WHEREAS,** the Town Commission finds that this Ordinance is in the best interests of the
20 Town and its residents.

21 **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN**
22 **OF LAUDERDALE-BY-THE-SEA, FLORIDA, THAT:**

23
24 **SECTION 1. Recitals.** The foregoing “Whereas” clauses are ratified and incorporated
25 as the legislative intent of this Ordinance.

26 **SECTION 2. Amendment.** Chapter 6, “Buildings and Building Regulations,” of the
27 Town Code of Ordinances, is hereby amended to read as follows¹:

28 **Chapter 6 - BUILDINGS AND BUILDING REGULATIONS**

¹ Additions to existing text are shown in underline. Deletions are shown in ~~striketrough~~. Additions between first and second reading are shown in double underline. Deletions between first and second reading are shown in ~~double striketrough~~.

ORDINANCE 2019-02

ARTICLE I. - IN GENERAL

* * *

Sec. 6-8. - Construction site operation, maintenance, appearance, and secondary impacts.

(a) General appearance.

(1) All building and construction sites within the Town shall at all times be kept by the owner of the premises and the general contractor free of loose debris, airborne or otherwise, litter, paper, construction material waste, scrap construction material and other trash produced from the site.

(2) All materials and equipment used, placed or stored upon any building or construction site shall be maintained by the owner of the premises and the general contractor within the perimeter of the building site.

(b) ~~storage and lighting of materials.~~ Outside storage, construction office

(1) It shall be unlawful to store building materials, tools, construction units, equipment or building debris on any vacant or improved lot within the corporate limits of the Town for more than 30 days prior to the commencement of construction, during suspension of construction, or after the expiration of the related building permit.

(2) No materials or tools shall be left or stored at any construction site for any period, in such a condition as to endanger persons or vehicles in passing along any street, alley, or public way, and without illuminating same at night with a suitable light at such points thereon as may be easily seen to warn the public of danger.

(3) Any construction office must be set back a minimum of five (5) feet from the front property line and at least three (3) feet from the side property line. The placement of a construction office in fire lanes, commercial loading zones, clear sight triangles, or public rights-of-way is strictly prohibited.

(4) The location of a construction office requires approval of the Development Services Director and all required building and zoning permits must be obtained.

(c) Fencing.

(1) Temporary perimeter site fencing for new construction is required and must meet all of the following requirements:

a. Be six feet high with approved screening material to prevent dust intrusion upon adjacent properties.

b. Be installed and maintained at ground level on all sides of the site.

c. Include installation and maintenance of an approved silt fence to prevent any construction debris from entering the waterway for properties abutting a waterway.

d. Be removed from the site upon the earliest of:

1. a determination by the Building Official that construction work is deemed abandoned pursuant to subsection (h) of this code; or

2. the expiration of the related building permit; or

ORDINANCE 2019-02

3. completion of the exterior of the building; or ~~upon~~

4. the issuance of a certificate of occupancy, ~~whichever is sooner.~~

(2) Perimeter site fencing for other construction projects may be required at the discretion of the Building Official.

(3) It is not intended that the temporary fencing required by this section be limited by required setbacks.

(d) *Construction waste and recycling containers.*

(1) During periods of construction, all building and construction sites within the Town shall provide suitable on-site commercial container(s), as determined and designated by the Town, for the collection of loose debris, litter, paper, construction material waste, scrap construction material and other trash produced from the site. No off-site waste is allowed to be imported to a construction site.

(2) The construction waste and recycling container(s) shall be provided with a cover or covering that will prevent spilling or blowing of material from the container(s).

(3) The size and number of containers shall be adequate, as determined by the Town, for the amount of material generated on the building or construction site.

(4) The setback must be at least three (3) feet from the side property line and five (5) feet from the front property line.

(e) *Burning, piling or storage ~~onsite~~.* There shall be no onsite burning of any material. No materials or equipment shall be piled or ~~stored~~ stored in the public streets or on property adjacent to the construction site.

(f) *Parking.* During construction, the owner or contractor shall ~~arrange to provide for on-site or~~ off-street parking for all personal vehicles and construction equipment. Construction equipment and personal vehicles of contractors, subcontractors, their respective employees, workers, and agents are prohibited from parking on public property, public rights-of-way without the permission of the Town, ~~or and on~~ private property without the permission of the owner.

(g) *Road surface maintenance.*

(1) Where concrete or any other substance associated with the construction permanently affixes itself to any road surface, public or private, causing the surface to be uneven or defaced, it shall be immediately removed by the person or persons responsible.

(2) Where mud or excessive dirt or soil from a construction site is tracked or deposited, by vehicle or otherwise, onto any road surface, public or private, it shall be immediately removed by the person or persons responsible.

(3) The person or persons responsible as identified in this section, shall include the driver of the vehicle which deposited the substance onto the road surface, his employer, the owner of the real property containing the construction or demolition site and/or the general contractor in charge of a site from where the substance originated.

(4) Immediate removal shall mean no later than the end of each workday.

(h) *Abandonment of Construction Work.*

ORDINANCE 2019-02

(1) Construction work shall be considered abandoned if, during any 90 day period:

a. No inspections are requested and passed; and

b. There is no evidence of physical construction on the site. Evidence of physical construction on the site may include, but is not limited to, physical presence of work crews, and evidence of payment of wages for work on the site accompanied by affidavits of the wage earners confirming the days worked and work performed.

(2) If the Building Official determines that the construction work has been abandoned, within 30 days the owner shall:

a. Remove all objects and temporary structures from the site.

b. Remove all temporary fencing;

c. Apply for a fencing permit for a permanent fence, if there are construction improvements remaining on the site that the Building Official determines need to be secured; and

d. Install irrigation and seed or sod the site with grass in accordance with Sec. 6-10.

(3) Upon a finding of good cause, the Building Official may grant a 90 day extension before requiring compliance with subsection (2) above.

(4) Reinstatement.

a. Following abandonment of construction and no more than 1 week prior to resuming active construction work on the site, the contractor shall be required to submit an application to the Development Services Director to resume construction work on the site and replace or reinstall materials and structures previously removed from the site as provided in subsection (2) above. This application shall be in addition to any required building permits.

b. The evaluation period under subsection (1) above for abandonment of construction, shall begin on the approval date of any development application or required building permit(s) associated with the construction work on the site.

~~(i) (h)~~ *Violation provisions.*

(1) If at any time the Town notifies the owner or general contractor, personally or through their agent(s) or representative(s), in writing that construction activities are being conducted, or the construction site or any part thereof is being maintained, in violation of the provisions of this section, said violations shall be corrected within 24 hours of the notice.

(2) If the owner or general contractor does not satisfactorily correct the situation within 24 hours of said notification, in addition to any other enforcement actions available to the Town pursuant to this Code or otherwise provided by law, upon written notice from the Town given to the owner of the property, or to the general contractor, or to their agent(s), representative(s), or the person doing the work, work on the site shall immediately cease. Such written notice shall also state the conditions under which work may be resumed.

ORDINANCE 2019-02

(3) Upon being notified ~~that of the elimination of the~~ violation of the provisions of this section has been remedied, the Town shall inspect the site for compliance and, if in compliance, allow resumption of the construction work.

~~(j)-(i)~~ *Responsible party.* The owner of the property and the general contractor shall be jointly and severally responsible for compliance with the provisions of this section.

~~(k)-(j)~~ *Appeal.* The owner, or general contractor, personally or through their agent(s) or representative(s), shall have the right to appeal ~~from the~~ a decision of the Town ordering the cessation of all work and to appear before the Code Enforcement Special Magistrate at a specified time and place to show cause why they should not comply with said notice.

Sec. 6-8.1. - Portable storage units.

(a) *Allowed.* A single portable storage unit (“Unit”) is allowed on any Site in all zoning districts provided that a valid permit is obtained under the provisions of this section, with the exception that a Unit placed within a fenced construction site is considered a construction office and is not subject to the requirements of this section.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meaning ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Portable storage unit or Unit means any container designed for the storage of personal property that is typically rented to owners or occupants of property for temporary use and that may be delivered and removed by vehicle.

Site means a piece, parcel, tract or plot of land occupied, or that may be occupied, by one or more buildings or uses and accessory buildings and accessory use(s) and that is generally considered to be one unified parcel.

User means the owner or occupant of property entering into an agreement with a portable storage unit company for the placement of a portable storage unit on a site located in the Town.

(c) *Application and permit.*

(1) *Permit required.* ~~A single portable storage unit~~ Unit may be placed on any Site, provided that a permit is first obtained by the user or the owner/operator of the ~~portable storage~~ Unit from the Town.

(2) Application shall be made to the Development Services Department in a form approved by the Town. Required information shall include but not be limited to:

a. Demonstration that the Site has sufficient space to place a ~~portable storage unit~~ Unit and will continue to provide adequate parking, public safety access and comply with all health, safety and welfare concerns, so as not to create a nuisance towards adjacent properties.

b. A removal plan including the name, address and phone number of the individual who will remove the Unit ~~temporary structure~~;

c. A copy of the agreement with the company contracted for the removal;

ORDINANCE 2019-02

d. A copy of the Town business tax receipt for the business, if in a commercial zoning district; or proof of residency or ownership, if in a residential zoning district.

(3) The exterior of the ~~storage u~~Unit shall have a weatherproof clear pouch, which must display the permit.

(d) *Duration of use.*

(1) ~~Duration. No portable storage unit may be placed at any one Site for longer than: (a) 60 days, or (b) for the duration of related and open Building Department permits, not to exceed one year.~~

The Unit permit shall be valid for: (a) 90 days, or (b) the duration of a related and open Building Department permit, not to exceed one year.

(2) ~~Additional Second permits.~~ All sites are limited to a maximum of two portable storage unit permits within any consecutive 12-month period, provided the second Unit's permit may not be issued within 90 days of the removal of the first Unit from the property.

Notwithstanding the foregoing limitation, upon proof of a change of occupancy for the site, the ~~Development Services~~ Director may ~~grant additional~~ approve a permits within the same 12-month period for the new occupant.

(3) *Extensions.* Upon written application, showing of good cause, and payment of the application fee, an extension(s) to the permit for up to 30 days is permissible subject to approval by the Town's Development Services Director. In no any event, shall the ~~portable storage unit~~ Unit ~~shall not~~ remain on the Site longer than one year. ~~Only two permits shall be issued for a Site within a 12-month period.~~

(e) *Size.*

(1) *Single-family or duplex zoning districts.* The total square footage for portable storage units shall not exceed 130 square feet in area when portable storage units are located within single-family or duplex zoning districts.

(2) *All other zoning districts.* The total square footage of the storage unit located within all other zoning districts shall be as determined by the Development Services Director and delineated on the permit.

(f) *Location.*

(1) ~~Portable storage~~ Units shall be placed only on a hard surface and must be set back a minimum of five feet from the front property line and at least three feet from the side property line.

(2) The placement of a ~~portable storage~~ Unit in fire lanes, commercial loading zones, clear slight triangles, or public rights-of-way ~~shall be~~ is strictly prohibited.

(g) *Immediate removal during inclement weather.*

(1) All Units that have not been anchored in compliance with the Florida Building Code at installation shall be considered unsecured and shall be removed from the Town within 24 hours of ~~When~~ the issuance of a tropical storm watch or warning or a hurricane watch or warning for any portion of Broward County, Florida by the National Weather Service, National Hurricane Center or appropriate weather agency. ~~declares a tropical storm watch~~

ORDINANCE 2019-02

~~or warning or a hurricane watch or warning for any portion of Broward County, Florida, all portable storage units shall be removed from the Town within 24 hours.~~

- (2) The removal ~~of~~ or unsecured of storage units during a hurricane warning is the joint responsibility of the, property owner, user, and owner of the unit.

(h) *Unit condition.*

- (1) The user and owner of the portable storage unit shall be responsible to ensure that the portable storage unit is in good condition, free from evidence of deterioration, weathering, discoloration, rust, ripping, tearing or other holes or breaks.

- (2) When not in use, the portable storage unit shall be kept locked.

- (3) The user shall be responsible for ensuring that no hazardous substances are stored or kept within the portable storage unit.

* * *

Sec. 6-10. - Demolition site maintenance.

For the purposes of this section, "demolition" means any operation by which a structure or mass of material is wrecked, razed, rended, moved, or removed by means of any tool, equipment, or discharge of explosives, or any disturbance of the earth in any manner on public or private lands. This includes, but is not limited to, the control of dust, noise, water or drainage run-offs, debris, and the storage of construction materials.

- (a) Demolition activity in the Town requires a permit issued by the Building Department. All applications for demolition shall meet all of the following requirements:

- (1) All requirements of the Florida Building Code necessary to secure a demolition permit;
- (2) Written consent granted by all adjacent affected property owners, if adjacent property will be adversely impacted as determined by the Town;
- (3) A demolition site management plan which sets forth the procedures which will be followed to minimize impact from the demolition on adjacent properties and, when appropriate, clean-up of adjacent properties.

* * *

SECTION 3. Codification. This Ordinance shall be codified in accordance with the

foregoing. It is the intention of the Town Commission that the provisions of this Ordinance shall become and be made a part of the Town of Lauderdale-By-The-Sea Code of Ordinances; and that the sections of this Ordinance may be renumbered or re-lettered and the word "ordinance" may be

ORDINANCE 2019-02

changed to “section”, “article” or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 4. Severability. If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION 5. Conflicting Ordinances. All prior ordinances or resolutions or parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 6. Effective Date. This Ordinance shall become effective immediately upon passage on second reading.

Passed on the first reading, this ____ day of _____, 2019.

Passed on the second reading, this ____ day of _____, 2019.

MAYOR CHRIS VINCENT

	First Reading	Second Reading
Mayor Vincent	_____	_____
Vice-Mayor Sokolow	_____	_____
Commissioner Malkoon	_____	_____
Commissioner Oldaker	_____	_____
Commissioner Strauss	_____	_____

Attest:

Tedra Allen, Town Clerk

(CORPORATE SEAL)

APPROVED AS TO FORM:

Susan L. Trevarthen, Town Attorney

ORDINANCE 2019-02

287

288
289

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Town Commission Agenda Item Report

Meeting Date: April 9, 2019

Submitted by: William Vance

Submitting Department: Administration

Item Type: Discussion Item

Agenda Section: RESOLUTIONS – PUBLIC COMMENTS

Subject Title:

Resolution 2019-02 - A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, APPROVING AN AMENDED AND RESTATED AGREEMENT BETWEEN THE TOWN AND BROWARD AMBULANCE D/B/A AMERICAN MEDICAL RESPONSE (“AMR”) FOR PRE HOSPITAL EMERGENCY MEDICAL SERVICES (“EMS”); APPROVING THE FEE SCHEDULE FOR EMS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

Explanation:

Resolution 2019-02, Authorizing an Amendment to the Town’s Emergency Medical Services Contract with American Medical Response (AMR) and Approving EMS Fees.

EXPLANATION: This item was on the March 12th meeting but we withdrew it to resolve an issue with AMR. Our discussions resulted in a change to Table 3.14-2 (page 4 of Exhibit “A”) where we index the rebate threshold amount back to 2015-16 by 3%. The other change was in Section 5, Term (page 8) to increase the renewal term to 5-years (it was 3-years).

Resolution 2019-02 is Exhibit 1 and the Amended and Restated Agreement is Exhibit “A” to the resolution. The March 12th agenda item is Exhibit 2.

RECOMMENDATION: We recommend approval of Resolution 2019-02, which lists the approved EMS fees and authorizes the Town Manager to execute the AMR Amended and Restated Agreement (Exhibit “A” to Exhibit 1) with Broward Ambulance D/B/A American Medical Response (“AMR”) together with such non-substantial changes as are deemed acceptable to the Town Manager and approved as to form and legal sufficiency by the Town Attorney.

Resolution 2019-02 is Exhibit 1 and the Amended and Restated Agreement is Exhibit “A” to the resolution.

The March 12th agenda item is Exhibit 2.

Recommendation:

We recommend approval of Resolution 2019-02, which lists the approved EMS fees and authorizes the Town Manager to execute the AMR Amended and Restated Agreement (Exhibit “A” to Exhibit 1) with Broward Ambulance D/B/A American Medical Response (“AMR”) together with such non-substantial changes as are deemed acceptable to the Town Manager and approved as to form and legal sufficiency by the Town Attorney

Attachments:

[Ex1 Reso 2019-02 AMR Amendment 3EX6049.pdf](#)

[Ex2_3-12-19 AM AMR Amendment.pdf](#)

RESOLUTION 2019 - 02

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, APPROVING AN AMENDED AND RESTATED AGREEMENT BETWEEN THE TOWN AND BROWARD AMBULANCE D/B/A AMERICAN MEDICAL RESPONSE (“AMR”) FOR PRE HOSPITAL EMERGENCY MEDICAL SERVICES (“EMS”); APPROVING THE FEE SCHEDULE FOR EMS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, AMR is a licensed provider of EMS that is capable of providing services within the Town’s jurisdiction; and

WHEREAS, in 2008, the Town and AMR executed an agreement after AMR was selected through a competitive solicitation as the Town’s EMS provider (the “Agreement”); and

WHEREAS, the Agreement was renewed for an additional three (3) years in 2012; and

WHEREAS, the Town requested proposals in 2015 from cities and firms interested in providing EMS services to the Town; and

WHEREAS, the Commission, after considering what was in the best interest of the Town, awarded AMR a new five-year contract on September 8, 2015; and

WHEREAS, the current agreement terminates on September 30, 2021, and it is in the best interest of the Town, visitors, and residents for The Town to have a stable, professional, and economical emergency medical services provider.

WHEREAS, The Town and AMR also desire to enter into an Amended and Restated agreement (“Amended Agreement”) to amend the rebate rates in section 3.14 of the Amended Agreement and to provide a three-year renewal option; and

Exhibit 1

32 **WHEREAS**, the Town desires to waive the Purchasing Manual in order to enter
33 into the Amended Agreement as it is in the best interest of the Town; and

34 **WHEREAS**, pursuant to Town Code Section 8.5, the fees in the Amended
35 Agreement must be adopted by resolution.

36 **NOW, THEREFORE, BE IT RESOLVED BY THE TOWN**
37 **COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA,**
38 **FLORIDA:**

39
40 **SECTION 1. Recitals.** Each “WHEREAS” clause set forth above is true and
41 correct and incorporated herein by this reference.

42 **SECTION 2. Purchasing Manual Waived.** The Town hereby waives the
43 Purchasing Manual in order to enter into an agreement with AMR.

44 **SECTION 3. Amended Agreement Approved.** The Town Manager is
45 authorized to execute the AMR Amended and Restated Agreement (Exhibit “A”) with
46 AMR together with such non-substantial changes as are deemed acceptable to the Town
47 Manager and approved as to form and legal sufficiency by the Town Attorney.

48 **SECTION 4. Rates Approved.** The Town Commission hereby approves the
49 following rates for Emergency Medical Services:

- 50 1. Base Rates:
- 51 (a) Basic Life Support (BLS) ... \$550.00
- 52 (b) Advanced Life Support, Level 1 (ALS1) ... \$550.00
- 53 (c) Advanced Life Support, Level 2 (ALS2) ... \$675.00
- 54
- 55 2. Medical Supplies and Equipment:
- 56 (a) Intravenous Solutions... \$30.00
- 57 (b) Cervical Collar... \$25.00
- 58 (c) Backboard ... \$25.00
- 59 (d) Oxygen Therapy... \$27.00
- 60
- 61 3. Mileage (per rounded mile) ... \$10.00
- 62

Exhibit 1

SECTION 5. Conflict. All resolutions or parts of resolutions in conflict with this resolution are hereby repealed to the extent of such conflict.

SECTION 6. Severability. The provisions of this Resolution are declared to be severable and if any section, sentence, clause or phrase of this Resolution shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Resolution, but they shall remain in effect, it being the legislative intent that this Resolution shall stand notwithstanding the invalidity of any part.

SECTION 7. Effective Date. This Resolution shall become effective upon passage and adoption.

PASSED AND ADOPTED this 9th day of April, 2019.

MAYOR CHRIS VINCENT

ATTEST:

Tedra Allen, Town Clerk

Approved as to form:

Susan L. Trevarthen, Town Attorney

Exhibit "A" to Resolution 2019-02

EMERGENCY MEDICAL SERVICES AGREEMENT

THIS AMENDED AND RESTATED AGREEMENT (the "Restated Agreement") is made and entered into this _____ day of _____, 2019 by and between the Town of Lauderdale-By-The-Sea (hereinafter referred to as "**TOWN**") and Broward Ambulance, Inc. d/b/a American Medical Response (hereinafter referred to as "**AMR**"). This Agreement supersedes any previous agreement between AMR and the TOWN and serves as the sole contractual agreement between the two parties.

WITNESSETH

WHEREAS, the TOWN is a political subdivision of the State with authority over the delivery of pre-hospital emergency medical services ("EMS") within its jurisdiction; and

WHEREAS, AMR is a licensed provider of high quality EMS with the capability to provide EMS within the TOWN's jurisdiction; and

WHEREAS, AMR was selected to provide the TOWN with emergency medical services in 2008 through a competitive process for a five (5) year term; and

WHEREAS, in 2012 AMR was selected to provide the TOWN with emergency medical services for an additional three (3) year term; and

WHEREAS, the TOWN has been satisfied with the level and quality of service provided by AMR; and

WHEREAS, AMR has requested an amendment to Section 3.14 - Rebate of TOWN Contribution and both parties desire to amend Section 5 – Term; and,

WHEREAS, in order to assure that residents and visitors within the TOWN's jurisdiction receive appropriate EMS when required as a result of injury or illness, the TOWN desires to grant AMR the right to provide the specific EMS described herein, and AMR desires to provide such EMS, subject to the terms and conditions specified herein.

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Operating Area.** The TOWN hereby grants AMR the right to provide emergency medical services as described hereunder (the "Services") within the municipal boundaries of the Town of Lauderdale-By-The-Sea (the "Service Area").
2. **Retention of AMR.** The TOWN agrees to retain AMR as the ambulance provider of emergency ambulance transportation during the Term. The TOWN agrees to adopt or amend any necessary ordinances or regulations to effect this Agreement.
3. **Obligations of AMR.**
 - 3.1 **Operations.** AMR shall provide Services to the TOWN on a twenty-four (24) hour, seven (7) days per week basis during the term of this Agreement with NO EXCEPTIONS.
 - 3.1.1 AMR shall station and maintain no less than one dedicated advanced life support

(ALS) ambulance at the Facility as defined in paragraph 3.4 with a minimum staff of two (2) paramedics and one (1) emergency medical technician at all times ("Dedicated Unit").

3.1.2 If determined by mutual agreement that additional dedicated AMR units are needed, the number, location and fees for such units shall be agreed to by the parties in writing.

3.1.3 AMR shall, upon request of the TOWN, make the secondary response unit referenced in paragraph 3.9 below available to service special events as required.

3.2 **Response Time.** AMR shall respond within six (6) minutes or less to a minimum of 90% of all medical emergency 911 calls dispatched to them in each month. Response time shall be measured from the time of dispatch to the arrival time at scene of the emergency.

3.3. **Nondiscrimination.** AMR will respond to all calls without regard to gender, race, religion, age, nationality or ability to pay.

3.4. **Facilities.** AMR will staff a headquarters and a Dedicated Unit located in the Service Area at the following facility ("Facility"):

Town of Lauderdale-By-The-Sea Public Safety Building
4513 Ocean Drive
Lauderdale-by-the-Sea, Florida 33308

3.5. **Facility Maintenance.** The TOWN owns the Facility and will provide a room suitable for sleeping quarters and a room to be used as an office by AMR at the Facility. The TOWN shall be responsible for major repairs of the Facility to include HVAC, plumbing and electrical systems, the roof and storm drainage. AMR shall be responsible for the daily maintenance of the portion of the Facility assigned to them. AMR shall maintain the portion of the Facility assigned to them in good condition and promptly report to the Municipal Services Director any problems with the Facility for which the TOWN is responsible.

3.6. **Equipment.** All equipment employed by AMR shall comply with all applicable laws, rules, and regulations including, without limitation, as set forth in Rule Chapter: 64E-2 of the Florida Administrative Register & Florida Administrative Code.

3.7. **Rescue Unit.** All AMR ALS transport vehicles ("Transport Vehicles") shall be certified by the State of Florida as ALS Transport Vehicles and must meet or exceed all State regulations and licensing requirements. All Transport Vehicles shall be subject to inspection by the State to ensure continued compliance. AMR shall be responsible for the maintenance of all Transport Vehicles. AMR shall notify the TOWN within two business days of any findings of non-compliance resulting from inspections of Transport Vehicles assigned to the Service Area conducted by or on behalf of the State, the County, or other applicable regulatory bodies.

3.8. **Equipment Maintenance.** AMR will upgrade and replace ambulances, defibrillators, and other equipment used in the provision of EMS to the TOWN as needed at its expense to keep same licensed and in good working order at all times. AMR will be responsible for purchasing all capital and equipment needed to provide emergency medical services in the TOWN. Whenever it is necessary to transport equipment that belongs to first responders along with the patient in an AMR ambulance, AMR will replace any equipment belonging

to the first responders that is damaged during use by AMR. Such equipment will include, but not be limited to, stretchers, splints, extrication devices, backboards and military anti-shock trousers (MAST pants).

- 3.9. Personnel.** AMR shall maintain one Dedicated Unit stationed at the Facility at all times. A secondary response unit will also be stationed at the Facility and will be staffed with a minimum of one (1) paramedic and one (1) EMT.
- 3.9.1 AMR will be responsible for all management and personnel issues related to EMS employees hired by AMR. EMS personnel shall at all times be employees of AMR and shall be subject to AMR personnel policies and guidelines, including AMR's Standard Operating Procedures for the Service Area.
- 3.9.2 AMR shall ensure that all personnel meet or exceed the minimum training requirements required by the State of Florida.
- 3.9.3 AMR shall notify the TOWN within two business days of any AMR personnel assigned to the Service Area who are reported to the State for non-compliance with applicable paramedic/EMT certification requirements.
- 3.9.4 AMR shall notify the TOWN within two business of any disciplinary action taken against AMR personnel assigned to the Service Area.
- 3.10. Supervision.** AMR shall provide an EMS Supervisor who shall be responsible for the supervision of AMR employees operating within boundaries of the Service Area on a twenty-four (24) hour, seven (7) days per week basis during the term of this Agreement. The Supervisor on duty shall remain physically within the boundaries of the Town except when responding to a call, transporting a patient, or returning from a call. The EMS Supervisor will meet all minimum requirements provided in AMR's job description qualifications for this position. AMR shall provide the Town Manager with the name and cell phone number of the Supervisor(s).
- 3.11. Compliance.** AMR shall comply with all applicable federal, State and local laws and regulations, including, by example and not limitation, the federal Anti-kickback Statute. AMR's ambulances will conform to applicable State and local regulations for medical equipment for ambulances and be duly licensed for the transportation of patients. All personnel staffing vehicles that provide the Services will be licensed or certified as required by applicable law. AMR shall operate under the TOWN's Broward County Certificate of Public Convenience and Necessity for Class 1 ALS Rescue ("COPCN"), as required by the TOWN and the Code of Broward County. AMR shall maintain all applicable licenses, certifications and regulatory approvals necessary for the TOWN to maintain its COPCN, including but not limited to an Advanced Life Support License, as required by Chapter 401, F.S. and Chapter 64J-1, Florida Administrative Code. AMR shall complete and submit a COPCN application to Broward County on behalf of the TOWN prior to the expiration thereof.
- 3.12. Standards.** The Services shall be provided in accordance with prevailing industry standards of quality and care applicable to medical transportation service.
- 3.13. Emergency Medical Services Billing.** During the Term, AMR will be responsible for billing and collections for all Services provided by AMR. Billing and settlement of claims will be at the sole discretion of AMR. Notwithstanding the foregoing, AMR will use

Exhibit "A" to Resolution 2019-02

EMS 2019 Restated Agreement AMR and LBTS

reasonable efforts to establish payment plans for individuals with limited means and will consider "charity care" on a case-by-case basis for individuals who do not have the means to pay for the Services, all consistent with current practices and policies of AMR. AMR transport fees will be billed at the rates, established by Resolution of the Town Commission pursuant to the requirements of Chapter 8.5 of the Town Code.

3.14. Rebate of TOWN Contribution.

As shown in Table 3.14-1 Rebate, if Total Revenue exceeds the Rebate Total, AMR will rebate to the TOWN one half (1/2) of the amount that exceeds the Rebate Total ("Rebate"). The Rebate shall be capped at a maximum of the TOWN Contribution for the Contract Year. AMR will provide the TOWN with an accounting of AMR's net revenues within sixty (60) days of the end of each Contract Year and the TOWN shall deduct any rebate amount from next payments due AMR.

Table 3.14-1 Example of Rebate Calculation

Example of Calculation	CY 20xx
TOWN Contribution	\$753,660
AMR Net Revenues	+ \$256,340
Total Revenue	\$1,010,000
Rebate Threshold	<u>\$1,000,000</u>
Shared Revenue	\$10,000
50% Rebate to Town	\$5,000

The Rebate Threshold shall be adjusted each Contract Year as follows.

Table 3.14-2 Rebate Totals

Contract Year	Rebate Threshold	Adjustment
2015-16	\$1,194,052	3%
2016-17	\$1,229,874	3%
2017-18	\$1,266,770	3%
2018-19	\$1,304,773	3%
2019-20	\$1,343,916	3%
Renewal Term		
2020-21	\$1,384,234	3%
2021-22	\$1,425,761	3%
2022-23	\$1,468,534	3%
2023-24	\$1,512,590	3%
2024-25	\$1,557,967	3%

For purposes of calculating the Rebate of TOWN Contribution:

"Net Revenue" means revenue from a Contract Year from Emergency Medical Services

generated within the Service Area recognized at the time of Service, recorded net of provisions for contractual discounts and estimated uncompensated care estimated using the same assumptions about reimbursement schedules, historical collections and write-off experience, and other economic data that are used for SEC reporting. In the event AMR actually collects a higher amount for any TOWN reporting period than previously estimated for TOWN reporting (which may be due to inaccuracies based on SEC assumptions) AMR shall remit to the TOWN any additional sums due within thirty days of collection of said additional funds.

"Contract Year (CY)" means October 1 through September 30 of each year of this agreement.

"Total Revenue" means AMR's Net Revenue plus the TOWN Contribution from a Contract Year.

"TOWN Contribution" means the payment to AMR under the terms of this contract for EMS services in a Contract Year.

- 3.15. Indemnity.** AMR shall at all times indemnify, and hold harmless and defend, the TOWN from any and all fines, suits, claims, demands, penalties, losses and actions (including attorney's fees and costs), including but not limited to, any injury or death to persons or damage to or loss of property caused by AMR or its agents, employees or subcontractors in the performance (or failure of performance) of this Agreement, or in any way arising directly or indirectly from any such person's actions, in connection with providing the Services, or failure to provide such Services, to the extent permitted by applicable law. This covenant shall survive the expiration or earlier termination of this Agreement.

To the extent considered necessary by the TOWN, any sums due AMR under this Agreement may be retained by the TOWN until all of the TOWN's claims for indemnification pursuant to this Agreement have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by the TOWN.

The indemnification obligation herein shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for AMR or any subcontractor under Worker's Compensations Acts, Disability Benefit Acts or other Employee Benefits Acts. Nothing in this Agreement shall affect the immunities of the TOWN pursuant to Chapter 768, Florida Statutes.

- 3.16. Insurance.** Throughout the term of this Agreement, AMR shall maintain insurance in the type and amounts pursuant to the requirements set forth below in this section. The required insurance coverage shall be issued by an insurance company authorized and licensed to do business in the State of Florida, with a minimum rating of A-, in accordance with the latest edition of A.M. Best's Insurance Guide. The insurance coverage shall be primary insurance with respect to AMR, its officials, employees, agents and volunteers. Any insurance maintained by the TOWN shall be in excess of AMR'S insurance and shall not contribute to AMR'S insurance. AMR'S insurance shall contain a severability of interest provision providing that, except with respect to the total limits of liability, the insurance shall apply to each insured or additional insured in the same manner as if separate policies had been issued to each.

The insurance coverage shall include a minimum of:

3.16.1. Worker's Compensation and Employer's Liability Insurance: AMR shall maintain coverage to apply for all employees for statutory limits as required by applicable State and Federal laws.

3.16.2. Comprehensive General Liability: This insurance shall be written in comprehensive form and shall protect the TOWN and AMR against claims arising from injuries to members of the public or damage to property of others arising out of any act or omission to act of AMR or any of its agents, employees, or subcontractors. The limit of liability shall not be less than combined single limit of \$2,750,000.00 per occurrence and \$5,000,000.00 in the aggregate for Bodily Injury and Property Damage. Comprehensive General Liability insurance shall include endorsements for property damage; personal injury; contractual liability; completed operations; products liability and independent contractor's coverage.

3.16.3. Comprehensive Automobile and Vehicle Liability Insurance: This insurance shall be written in comprehensive form and shall protect the TOWN and AMR against claims for injuries to members of the public and/or damages to property of others arising from AMR'S use of motor vehicles or any other equipment and shall cover operations with respect to onsite and offsite operations. Insurance coverage shall extend to any motor vehicles or other equipment irrespective of whether the same is owned, non-owned, or hired. The limit of liability shall not be less than \$10,000,000.00 per occurrence for Bodily Injury and Property Damage and for Hired & Non Owned Auto Liability.

3.16.4. Professional Liability Insurance in the amount of not less than \$3,000,000.00 per occurrence and \$20,000,000.00 in the aggregate.

3.17. Certificate of Insurance: Prior to commencement of any Services hereunder, AMR shall provide to TOWN, Certificates of Insurance evidencing the forgoing required insurance coverage. The Certificates of Insurance shall not only name the types of policy(ies) provided, but also shall specifically name the TOWN as additionally insured. The TOWN reserves the right to require AMR to provide endorsements, upon written request by the TOWN. If a policy is due to expire prior to the completion of the Services hereunder, renewal Certificates of Insurance or policies shall be furnished prior to the date of their policy expiration. Each policy shall be endorsed with a provision that not less than thirty (30) calendar days' written notice shall be provided to AMR and the TOWN before any policy or coverage is cancelled or restricted. Acceptance of the Certificate(s) is subject to approval of the TOWN.

3.18. Statistical Reporting. AMR shall provide statistical and financial data reports to the TOWN on a quarterly basis. The format and content of the reports must be approved by the TOWN, with such approval not to be unreasonably withheld.

3.19. Performance Reviews. AMR shall provide the TOWN with a summary of the results of any and all reviews of their performance in connection with Services provided or initiated within the Service Area on a quarterly basis. This includes, but is not limited to, reviews conducted by the Florida Emergency Medical Services Program Emergency Medical Review Committee (EMRC) and trauma review committees. AMR shall make copies of the full reports available, at reasonable times for examination and audit as requested by the TOWN.

3.20. Customer Complaints. By October 15, January 15, April 15, and July 15 of each Contract Year, AMR shall provide the TOWN with a summary of the results of all customer complaints received in connection with the performance of Services provided or initiated within the Service Area on a quarterly basis, for the prior three months ending on September 30, December 31, March 31, and June 30, respectively, together with the other reports required hereunder. This shall include complaints related to billing issues as well as quality of service issues. AMR shall make copies of the full complaints, and information related to the resolution thereof, available, at reasonable times for examination and audit by the TOWN. If no complaints were received during the quarter, AMR's report to the TOWN shall indicate that no complaints were received during the reporting period.

4. Obligations of the TOWN

4.1. Dispatch. The TOWN shall enter into a contract, interlocal agreement or memorandum of understanding with a public safety answering point authorized to receive emergency medical calls and to dispatch emergency ambulances within the Service Area. The parties will work with AMR to develop and implement standard operating guidelines which outline policies and procedures for receiving 911 calls and dispatching AMR units and AMR staff. Notwithstanding the foregoing, the TOWN may enter into mutual aid agreements with licensed ambulance providers, as deemed necessary.

4.3. TOWN Contribution. During the Term, the TOWN will make the annual payment to AMR (the "TOWN Contribution") shown in Table 4.3 for purposes of offsetting the expenses of providing the Services described herein. The TOWN Contribution shall be payable to AMR in equal monthly installments beginning October 1, 2015 and being due on the first of each month thereafter.

Table 4.3 – Annual Town Contributions

Contract Year		Annual Increase	Annual Town Contribution
1	2015-16	-0-	\$753,660
2	2016-17	3%	\$776,270
3	2017-18	3%	\$799,558
4	2018-19	3%	\$823,545
5	2019-20	-0-	\$823,545

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Contract Year Renewal Period		Annual Increase	Annual Town Contribution
1	2020-21	3%	\$848,251
2	2021-22	3%	\$873,699
3	2022-23	3%	\$899,910
4	2023-24	3%	\$926,907
5	2024-25	3%	\$954,715

5. **Term.**

- 5.1 The term of this Agreement shall be for five (5) years from October 1, 2015 through September 30, 2020 (**Term**).
- 5.2 At the end of the Term the TOWN shall have the option to renew this Agreement upon the same terms covenants and conditions for a period of five (5) years (**Renewal Term**) from October 1, 2020 to September 30, 2025. TOWN shall exercise its right to an extension of the Term of this Agreement by notifying AMR in writing of its election to exercise its option to renew this Agreement not later than Friday, April 3, 2020. This provision in no way limits either party's right to terminate this Agreement at any time during the Term or the Renewal Term pursuant to Section 6 of the Agreement.

6. **Termination**

- 6.1. **Termination for Convenience.** The TOWN may terminate this Agreement at any time without cause and at its sole discretion upon sixty (60) days written notice via certified letter to AMR.
- 6.2 **Termination for Cause.** Either party may terminate this Agreement upon the material breach of this Agreement by the other party if such breach is not cured within ten (10) days of written notice via certified letter thereof to the other party.
- 6.3 **Automatic Termination.** Termination shall occur automatically should AMR file or consent to the filing of a petition for reorganization and or bankruptcy or become otherwise insolvent.

7. **Default.** Notwithstanding a party's right to terminate this Agreement as set forth in Article 14 above, if the TOWN or AMR fails to perform or observe any of the material terms and conditions of this Agreement for a period of ten (10) days after receipt of written notice via certified letter notice of such default from the other party, the party giving notice of default may be entitled, but is not required, to seek specific performance of this Agreement on an expedited basis, as the performance of the material terms and conditions contained herein relate to the health, safety, and welfare of the residents subject to this Agreement. The parties acknowledge that money damages or other legally available remedies may be inadequate for the failure to perform, and that the party giving notice is entitled to obtain an order from a court of competent jurisdiction requesting specific performance by the other party. Failure of any party to exercise its rights in the event of any breach by the other party shall not constitute a waiver of such rights. No party shall be deemed to have waived any failure to perform by the

other party unless such waiver is in writing and signed by the waiving party. Such waiver shall be limited to the terms contained therein. This article shall be without prejudice to the rights of any party to seek a legal remedy for any breach of the other party as may be available in law or equity.

8. **Referrals.** It is not the intent of either party that any remuneration, benefit or privilege provided for under this Agreement shall influence or in any way be based on the referral or recommended referral by either party of patients to the other party or its affiliated providers, if any, or the purchasing, leasing or ordering of any services other than the specific Services described in this Agreement. Any payments specified herein are consistent with what the parties reasonably believe to be a fair market value for the Services provided.
9. **Relationship.** In the performance of this Agreement, each party hereto shall be, as to the other, an independent contractor and neither party shall have the right or authority, express or implied, to bind or otherwise legally obligate the other. Nothing contained in this Agreement shall be construed to constitute either party assuming or undertaking control or direction of the operations, activities or medical care rendered by the other. AMR and TOWN administrative staff shall meet on a regular basis to address issues of mutual concern related to the provision of Services and the parties' respective rights and obligations hereunder.
10. **HIPAA.** Each party shall comply with the privacy and security provisions of the *Health Insurance Portability and Accountability Act of 1996* and the regulations hereunder ("HIPAA"). All Patient medical records shall be treated as confidential so as to comply with all State and federal laws.
11. **Public Records Law.** AMR shall comply with Chapter 119, Florida Statutes, as applicable, and shall comply with the following:
 - (a) AMR agrees to keep and maintain public records in AMR's possession or control in connection with AMR's performance under this Agreement. Additionally, AMR agrees to comply specifically with the provisions of Section 119.0701, Florida Statutes. AMR shall ensure that public records that are exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the Agreement, and following completion of the Agreement until the records are transferred to the TOWN.
 - (b) Upon request from the TOWN's custodian of public records, AMR shall provide the TOWN with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Chapter 119, Florida Statutes, or as otherwise provided by law.
 - (c) Unless otherwise provided by law, any and all records, including but not limited to reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of the TOWN.
 - (d) Upon completion of this Agreement or in the event of termination by either party, any and all public records relating to the Agreement in the possession of AMR shall be delivered by the AMR to the Town Manager, at no cost to the TOWN, within seven (7) days. All such records stored electronically by AMR shall be delivered to the TOWN in a format that is compatible with the TOWN's information technology systems. Once the public records have been delivered upon completion or termination of this Agreement, AMR shall

destroy any and all duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.

- (e) Any compensation due to AMR shall be withheld until all records are received as provided herein.

IF AMR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO AMR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 954-640-4200, TownClerk@lbts-fl.gov , or by mail: Town Clerk, 4501 N. Ocean Drive, Lauderdale-By-The-Sea, FL 33308.

- 12 **Audit and Inspection Rights and Retention of Records.** The TOWN shall have the right to audit the books, records and accounts of AMR that are related to this Agreement. AMR shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement.

AMR shall preserve and make available, at no cost to the TOWN at reasonable times for examination and audit by the TOWN, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement, unless AMR is notified in writing by the TOWN of the need to extend the retention period. Such retention of such records and documents shall be at AMR's expense. Any such examination or audit shall be conducted at the TOWN's expense. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings.

- 13 **Compliance Program and Code of Conduct.** AMR has made available to the TOWN a copy of its Code of Conduct, Anti-kickback policies and other compliance policies, as may be changed from time-to-time, at AMR's web site, located at: www.amr.net, and the TOWN acknowledges receipt of such documents. AMR warrants that its personnel shall comply with AMR's compliance policies, including training related to the Anti-kickback Statute.

- 14 **Non-Exclusion.** Each party represents and certifies that neither it nor any practitioner who orders or provides Services on its behalf hereunder has been convicted of any conduct that constitutes grounds for mandatory exclusion as identified in 42 U.S.C. § 1320a-7(a). Each party further represents and certifies that it is not ineligible to participate in Federal health care programs or in any other State or federal government payment program. Each party agrees that if DHHS/OIG excludes it, or any of its practitioners or employees who order or provide Services, from participation in Federal health care programs, the party must notify the other party within five (5) days of knowledge of such fact, and the other party may immediately terminate this Agreement, unless the excluded party is a practitioner or employee who immediately discontinues ordering or providing Services hereunder.

- 15 **Equal Employment Opportunity.** If the provisions of Executive Order 11,246 are applicable to this Agreement, the parties incorporate the equal employment opportunity clause set forth in 41 C.F.R. parts 60-1. If the provisions of Executive Order 13,201 are applicable to this Agreement, the parties incorporate the equal employment opportunity clause set forth in 29 C.F.R. Part 470.

16. **Notices.** Any notice required or permitted by this Agreement shall be in writing and shall be delivered as follows, with notice deemed given as indicated: (a) by personal delivery, when delivered personally; (b) by overnight courier, upon written verification of receipt; (c) by facsimile transmission, upon acknowledgment of receipt of electronic transmission; or (d) by certified or registered mail, return receipt requested, upon verification of receipt. Notice shall be sent to the following addresses:

If to TOWN: Town of Lauderdale-By-The-Sea
4501 Ocean Drive
Lauderdale-By-The-Sea, FL 33308
Attention: Town Manager

With Mandatory Copy to: Town Attorney
Town of Lauderdale-By-The-Sea
4501 Ocean Drive
Lauderdale-By-The-Sea, FL 33308

If to AMR: General Manager
American Medical Response
Broward Ambulance, Inc.
5551 NW 9th Ave.
Fort Lauderdale, FL 33309

With Mandatory Copy to: Legal Department
American Medical Response, Inc.
6200 South Syracuse Way, Suite 200
Greenwood Village, Colorado 80111

17. **Miscellaneous.** This Agreement (including the schedule hereto): (a) constitutes the entire agreement between the parties with respect to the subject matter hereof, superseding all prior oral or written agreements with respect thereto; (b) may be amended only by written instrument executed by both parties; (c) may not be assigned by either party without the written consent of the other party; (d) shall be binding on and inure to the benefit of the parties hereto and their respective successors and permitted assigns; (f) may be executed in several counterparts (including by facsimile), each of which shall constitute an original and all of which, when taken together, shall constitute one agreement; and (g) shall not be effective until executed by both parties. In the event of a conflict between this Agreement and any schedule hereto, the terms of this Agreement shall govern. AMR acknowledges and understands no officer or employee of the Town of Lauderdale-By-The-Sea, Florida, during his or her term of employment or for one year thereafter, shall have any interest, direct or indirect, in this Agreement or the proceeds thereof. No vendor shall give, solicit for, deliver or provide a campaign contribution directly or indirectly to a candidate, or to the campaign committee of a candidate, for the offices of Mayor or Commissioner.
18. **Scrutinized Companies.** AMR certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S., the City may immediately terminate this Agreement at its sole option if AMR or its subcontractors are found to have submitted a false certification; or if AMR, or its subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.

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- 18.1 If this Agreement is for more than one million dollars, the AMR certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the City may immediately terminate this Agreement at its sole option if the AMR, its affiliates, or its subcontractors are found to have submitted a false certification; or if the AMR, its affiliates, or its subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.
- 18.2 AMR agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.
- 18.3 As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.
- 19 **Severability.** In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective.
- 20 **Governing Law and Venue:** This Agreement shall be governed, construed and controlled according to the laws of the State of Florida. Any claim, objection or dispute arising out of the terms of this Agreement shall be litigated ~~at~~ on the Seventeenth Judicial Circuit in and for Broward County, Florida.

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Signature Page Follows

Exhibit "A" to Resolution 2019-02

EMS 2019 Restated Agreement AMR and LBTS

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

ATTEST:

Town of Lauderdale-By-The-Sea

Tedra Allen, Town Clerk

_____, April __, 2019
Chris Vincent, Mayor

_____, April __, 2019
Bud Bentley, Town Manager

_____, April __, 2019
Gerald (Tony) Bryan, Deputy Town Manager

APPRIVED AS TO FORM & LEGALITY

Susan L. Trevarthen, Town Attorney

**BROWARD AMBULANCE, INC.
d/b/a AMERICAN MEDICAL
RESPONSE**

By: _____

Print Name: _____

Date: _____, 2019



Agenda Memorandum

Office of the Town Manager

Department

Bud Bentley

Town Manager

COMMISSION MEETING DATE: March 12, 2019

ITEM CATEGORY: Resolution

SUBJECT TITLE: Resolution 2019-02, Authorizing an Amendment to the Town's Emergency Medical Services Contract with American Medical Response (AMR) and Approving EMS Fees.

EXPLANATION: On September 12, 2018 the Commission received the report of contracts set to expire during FY19 and the last months of 2019. At that meeting we recommended the Commission authorize us to negotiate an amendment to the Emergency Medical Service Contract to include a three-year renewal option and a revision to Sec. 3.14 rises the revenue sharing threshold for this and future years. The Commission agreed by consensus to update the Town's contract with AMR and negotiate an extension.

The attached Amended and Restated Agreement (**Exhibit 1**) has been negotiated and the most pertinent changes are:

1. Page 8, Sec. 5, Term. The term is amended to add Sec. 5.2, which provides the Town the option to renew the contract for one 3-year period under the same terms and conditions. Notice has to be given to AMR by April 3, 2020.
2. Page 4, Sec. 3.14, Rebate of Town Contribution. The rebate threshold in prior contracts has never changed. AMR requests and we agree that it should be indexed at 3% per year. The new rebate table from Sec 3.14 is reprinted below.

Table 3.14-1 Example of Rebate Calculation

Example of Calculation	FY18
TOWN Contribution	\$753,660
AMR Net Revenues	+ <u>\$256,340</u>
Total Revenue	\$1,010,000
Rebate Threshold	<u>\$1,000,000</u>
Shared Revenue	\$10,000
50% Rebate to Town	\$5,000



The Rebate Threshold is adjusted each Contract Year as follows.

Table 3.14-2 Rebate Thresholds

Contract Year	Rebate Threshold	Adjustment
2015-16	\$1,030,000	
2016-17	\$1,060,900	3%
2017-18	\$1,092,727	3%
2018-19	\$1,125,509	3%
2019-20	\$1,159,274	3%
Renewal Term		
2020-21	\$1,194,052	3%
2021-22	\$1,229,874	3%
2022-23	\$1,266,770	3%

3. **Page 7, 4.3, TOWN Contribution**

The Town's contributions in the current contract are:

Contract Year	Annual Increase	Annual Town Contribution
1 2015-16	-0-	\$753,660
2 2016-17	3%	\$776,270
3 2017-18	3%	\$799,558
4 2018-19	3%	\$823,545
5 2019-20	-0-	\$823,545

If the contract is renewed at the proposed terms, AMR will receive a 3% increase for the 2020-2021 contract year and each of the two subsequent contract years.

Contract Year Renewal Period	Annual Increase	Annual Town Contribution
6 2020-21	3%	\$848,251
7 2022-23	3%	\$873,699
8 2023-24	3%	\$899,910



-
4. The emergency medical services fees that were included as a contract exhibit are now listed in the resolution (Code Sec. 8.5-1). The fees listed in Resolution 2019-02 (**Exhibit 1**), are unchanged from the current fees.

RECOMMENDATION: We recommend approval of Resolution 2019-02, which lists the approved EMS fees and authorizes the Town Manager to execute the AMR Amended and Restated Agreement (Exhibit “A” to Exhibit 1) with Broward Ambulance D/B/A American Medical Response (“AMR”) together with such non-substantial changes as are deemed acceptable to the Town Manager and approved as to form and legal sufficiency by the Town Attorney.

Exhibits: 1. Resolution 2019-02 with Exhibit A, Restated AMR Contract

Reviewed by Town Attorney:

☒	Yes	☐	No
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File: T:\0 Agenda\3-12-19 Commission\Admin\AMR\3-12-19 AM AMR Amendment.docx



Town Commission Agenda Item Report

Meeting Date: April 9, 2019

Submitted by: Linda Connors

Submitting Department: Development Services

Item Type: Discussion Item

Agenda Section: QUASI JUDICIAL PUBLIC HEARINGS

Subject Title:

Request for a Variance for 4341 Bougainvillea Drive

Explanation:

This application is a request for a variance to permit two (2) existing chain-linked fences to be replaced with one (1) aluminum fence and one (1) aluminum retractable gate, constructed six (6) inches from the property line; where Town Code provides that no fences shall be constructed within 25 feet of the property line.

The subject property, zoned B-1/RM-25, is located at 4341 Bougainvillea Drive and is currently used as a medical office. The subject property is located on the west side of Bougainvillea Drive, south of Commercial Boulevard.

The existing gate and fence were permitted in 1980, eight (8) years prior to when the Applicant purchased the subject property. The Applicant closes the gate after business hours to prevent the public from parking on the subject property. Over time, the existing gate and fence has deteriorated and is in severe disrepair. The current code does not allow installation of a replacement gate or fence within 25' of the front property line and therefore, the gate cannot be replaced.

The application is attached as Exhibit 1. A detailed explanation of the request is provided in the attached Board of Adjustment staff report (Exhibit 2).

The request has been reviewed by Staff. The Board of Adjustment reviewed the application at their April 3, 2019 meeting (Exhibits 3 – Meeting Minutes) and recommended approval of the request by a vote of 5-0 with the following conditions:

1. The fence shall remain open during business operating hours.
2. When open, the fence shall not encroach on to any public property.
3. The perimeter fencing installed in the front setback shall be of a picket style in type.
4. The fence shall not exceed 6 feet in height as outlined in the plan attached as Exhibit 1.
5. All applicable state and federal permits shall be obtained before commencement of construction.
6. Prior to issuance of a building permit, the Town Clerk shall certify that there are no outstanding fines, moneys, fees, taxes or other charges owed to the Town by the current or past owners or operators of the property in which the building permit is being issued. A building permit will not be issued until all outstanding debts to the Town are paid in full.

Staff sent the required notices to the surrounding public and received no comment. The property was properly posted and the notice was placed on the Town's website.

Recommendation:

Staff recommends that the Commission approve the Variance request that is outlined in the attached Development Order (Exhibit 4)

Attachments:

[4-9-19 AM Variance 4341Bougainvilla Drive.docx](#)

[Ex 1- 2019-V-01- Application.pdf](#)

[EX 2- Board of Adjustment Staff Report 4-3-19.pdf](#)

[Ex 3-Board of Adjustment 4.03. 2019 Unapproved Minutes.pdf](#)

[EX 4- Development Order 4341 Bougainvilla Drive -3F23529-FINAL.pdf](#)



Item No. _____

Agenda Memorandum

Development Services

Department

Linda Connors

Director

COMMISSION MEETING DATE: April 9, 2019

ITEM CATEGORY: Quasi-Judicial

SUBJECT TITLE: Request for a Variance for 4341 Bougainvilla Drive



Figure 1- Location of Subject Property

EXPLANATION: This application is a request for a variance to permit two (2) existing chain-linked fences to be replaced with one (1) aluminum fence and one (1) aluminum retractable gate, constructed six (6) inches from the property line; where Town Code provides that no fences shall be constructed within 25 feet of the property line.

The subject property, zoned B-1/RM-25, is located at 4341 Bougainvilla Drive and is currently used as a medical office. The subject property is located on the west side of Bougainvilla Drive, south of Commercial Boulevard.

The existing gate and fence were permitted in 1980, eight (8) years prior to when the Applicant purchased the subject property. The Applicant closes the gate after business hours to prevent the public from parking on the subject property. Over time, the existing gate and fence has deteriorated and is in severe disrepair. The current code does not allow installation of a replacement gate or fence within 25' of the front property line and therefore, the gate cannot be replaced.



Figure 2- Existing gate

The application is attached as **Exhibit 1**. A detailed explanation of the request is provided in the attached Board of Adjustment staff report (**Exhibit 2**).

The request has been reviewed by Staff. The Board of Adjustment reviewed the application at their April 3, 2019 meeting (**Exhibits 3 – Meeting Minutes**) and recommended approval of the request by a vote of 5-0 with the following conditions:

1. The fence shall remain open during business operating hours.
2. When open, the fence shall not encroach on to any public property.
3. The perimeter fencing installed in the front setback shall be of a picket style in type.
4. The fence shall not exceed 6 feet in height as outlined in the plan attached as **Exhibit 1**.
5. All applicable state and federal permits shall be obtained before commencement of construction.
6. Prior to issuance of a building permit, the Town Clerk shall certify that there are no outstanding fines, moneys, fees, taxes or other charges owed to the Town by the current or past owners or operators of the property in which the building permit is being issued. A building permit will not be issued until all outstanding debts to the Town are paid in full.

Staff sent the required notices to the surrounding public and received no comment. The property was properly posted and the notice was placed on the Town's website.

RECOMMENDATION: Staff recommends that the Commission approve the Variance request that is outlined in the attached Development Order (**Exhibit 4**)

Exhibits: 1. Application and Plans
2. Board of Adjustment Staff Report

Agenda Memorandum

Page 3



3. Board of Adjustment Minutes – 4-3-19

4. Variance Development Order

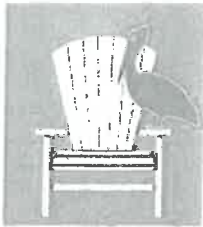
Reviewed by Town Attorney:

☐	Yes	☒	No
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U:\0 Properties\Bougainvilla\Bougainvilla 4341\2019-V-01 4341 Bougainvilla Drive\4-9-19 AM Variance 4341Bougainvilla Drive.docx

EXHIBIT 1

Application #: 2019-V-01



LAUDERDALE
BY THE SEA
RELAX YOURS HERE

TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA
Department of Development Services
4501 N. Ocean Boulevard Lauderdale-By-The-Sea, FL 33308
Phone: 954-640-4210 Fax: 954-640-4654
www.lbts-fl.gov

DEVELOPMENT APPLICATION

In accordance with Section 30.111-30.113 of the Town's Unified Land Development Regulations: Development applications are required to be provided before any development permit is issued. Please refer to the Town's website to obtain a copy of the corresponding Application Checklist. Please also refer to the Fee Schedule, updated annually by the Town, as provided on the website which will indicate the cost per application type. Please check the development approval being requested:

- ☐ Abandonment
- ☐ Administrative Adjustment-Level 1
- ☐ Administrative Adjustment-Level 2
- ☐ Architectural Review-Preliminary
- ☐ Architectural Review-Final
- ☐ Bicycle Racks
- ☐ Conditional Use
- ☐ Conditional Use Amendment-Level 1
- ☐ Conditional Use Amendment-Level 2

- ☐ Conditional Use-Sign
- ☐ Conditional Use-Transfer Fee
- ☐ Construction Time Extension
- ☐ Development Order Extension
- ☐ Encroachment Application
- ☐ Landscape Plan
- ☐ Landscape Plan Amendment
- ☐ Parking Reduction-Level 1
- ☐ Parking Reduction-Level 2

- ☐ Preliminary Site Plan
- ☐ Sidewalk Cafe
- ☐ Sidewalk Cafe Modification
- ☐ Site Plan
- ☒ Site Plan Modification-Level 1
- ☒ Site Plan Modification-Level 2
- ☐ Tree Removal
- ☐ Variance-Single Family
- ☒ Variance - Other
- ☐ Other _____

Based on approval being requested, refer to the corresponding checklist and supplemental requirements.

Project Name: Dermatology by the Sea

Folio Number(s): _____

Street Address: 4341 Bougainville Drive

Subdivision Name: Lauderdale by the Sea

Block(s): 2B

Lot(s): 49#50

Name of Property Owner: Thomas S. Breza

Address of Property Owner: 3309 NE 39th St. 33308

Property Owner's Phone Number: 954-492-8866

Property Owner's Email Address: breza.1@osu.edu

Name of Applicant: Thomas S. Breza

Address of Applicant: 3309 NE 39th St. 33308

Applicant Phone Number: 954-492-8866

Applicant Email Address: breza.1@osu.edu

Name of Agent (e.g. Contractor) Representing the Project: Robert J. Vortolomei (Robert John Construction)

Agent's Address: 6635 NW 72nd Pl. Parkland, FL

Agent's Phone: 954-609-0401

Email Address: rlcc0490@gmail.com

Land Use Plan Designation: _____ Zoning District: RM-25/B-1

Existing/Type of Use of the Subject Property: Commercial Office/Business

Proposed Use of the Subject Property: same

As applicable, answer the following:

Existing Number of Units: —

Proposed Number of Units: —

Existing Square Footage: —

Proposed Square Footage: —

- Renderings or perspectives of the proposed development
- Landscape Plans

SITE PLAN PROJECT CHARACTERISTICS

Application #: _____

Project Name: Dermatology by the Sea

Acres (gross): 0.287 Acres (net): 0.287

Zoning District: RM-25

EXISTING SITE CHARACTERISTICS:

Is this a modification to a previously approved site plan? X Yes or _____ No If yes, please provide the date and application number of the previous approval _____

Existing Land Use Plan Designation: _____

Proposed Land Use Designation: _____

Existing Use of property: Commercial Business

Is the site presently vacant? NO

How many units existing? N/A

The date last occupied -

Will any units be demolished? N/A

Number of units to remain - To be demolished -

For Residential: Plot Size: -

Density: - # of stories -

For Non-Residential: Gross Floor Area -

Plot Size: 12,500 s.f. # of stories 2

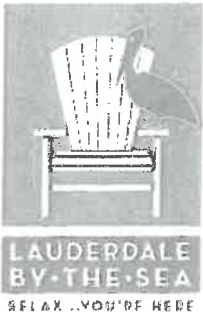
Please describe the request being made under this application (a separate letter may be required as part of a Site Plan Level 2 application)

Remove existing pedestrian plaza area and replace with new interlocking pavers for vehicle parking (292 s.f. Area)

Replace existing gate at entrance to existing parking lot.

Replace existing fence at southern property line

Additional Information: _____



DEVELOPMENT APPLICATION SIGNATURE PAGE

Print Name of Property Owner: _____

Thomas S. Breza

Date: 01/24/2019

Signature of Property Owner: _____

T. Breza

State of Florida: _____

County: Broward

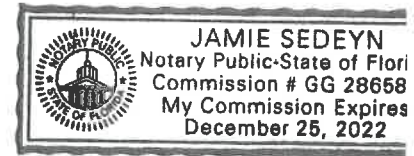
SWORN AND SUBSCRIBED before me this 24th day of January, 2019

The person signing is ✓ personally known to me or _____ has produced identification _____

Print Notary Name: Jamie Sedeyn

Notary Signature: J Sedeyn

My Commission expires: 12/25/22



Print Name of Applicant: _____

Thomas S. Breza

Date: 01/24/2019

Signature of Property Applicant: _____

T. Breza

State of Florida: _____

County: Broward

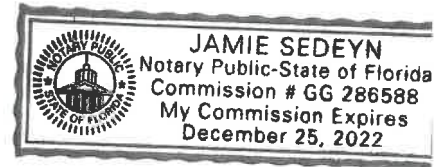
SWORN AND SUBSCRIBED before me this 24th day of January, 2019

The person signing is ✓ personally known to me or _____ has produced identification _____

Print Notary Name: Jamie Sedeyn

Notary Signature: J Sedeyn

My Commission expires: 12/25/22



FOR ADMINISTRATIVE USE ONLY:

Date Application submitted: _____

Date Application found complete: _____

Pre-Application meeting date: _____

Non-refundable Application Fee: _____

Cost Recovery Fee: _____

VARIANCE REQUIREMENTS

Code Section from which Variance is sought: RM-25

Description of your request: Replace current non-conforming ^{grandfathered} chain linked gate to parking lot with a new aluminum decorative sliding gate. Also replace current non-conforming grandfathered chain-linked fence at southern property line with a new aluminum decorative fence. Current gate setback is 6 inches which new gate would be the same. Code set back is 25 feet for RM-25.

Describe the existing special conditions and circumstances affecting the land, structure or building involved preventing the reasonable use of said land, structure, or building:

Due to the proximity of the property to the beach and that the business is closed at night and on weekends, without a gate, the property would become beach/restaurant parking posing a liability to the owner. Moving gate back ^{25 feet} would lose parking spaces.

Describe the circumstances, which cause the hardship to be peculiar to the property or to such

a small number of properties that they clearly constitute marked exception to other properties in the district: Without a gate, full time security would need to be hired to prevent beach parking. Moving gate back ^{25 feet} would result in a loss of several spaces on property. Leaving current grandfathered non-conforming gate as-is prevent above problems but is an eye sore to the property and neighborhood.

Describe why the literal interpretation of the provisions of the applicable would deprive the applicant of a substantial property right that is enjoyed by other property owners in the same district. It is of no importance whatever that the denial of the variance might deny to the property use in a more profitable way or to sell it at a greater profit than is possible under the terms of the regulations:

Current setback ^{of 25 feet} would result in loss of parking spaces and would also allow beach goers to park on part of property not protected by the gate. Current grandfathered gate prevents beach parking + loss of spaces reducing liability. Other nearby properties in RM-25 are residential.

Explain why the hardship is not self-created or the result of mere disregard for, or ignorance of, the provisions of the regulations:

Gate has been in location since building was built in 1972 before current codes. Current gate met previous zoning codes and can remain indefinitely.

Describe how the variance is the minimum variance that will make possible the reasonable use of the property and that the variance will be in harmony with the general purposes and intent of the applicable zoning regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare:

We will merely be replacing the current ugly, ~~old~~ chain-linked and grandfathered gate with a new decorative aluminum gate in the same location. It will result in an improvement to the property and neighborhood.

Supply copies of the following:

Two (2) Sealed Surveys of the entire property, completed within sixty (60) days of the date this application is filed. The survey must clearly identify and indicate distances between all structures, property lines, setbacks, easements, and adjacent rights of way.

One (1) copy of a Site Plan under Seal of a Florida licensed Architect or Engineer, which clearly depicts the proposed improvements, which necessitates the variance in relation to the above-delineated elements for survey. For single-family and duplex properties the site plan drawn to scale, which depict the proposed improvements, which necessitates the variance, does not need to be sealed.

Sec. 30-127. - Variances procedures and requirements.

(a) Purpose. The purpose of this section is to:

- (1)** Provide for minimum standards for consideration of variance applications;
- (2)** Provide for an orderly system of review of application for variances from the effect of zoning regulations on property within the Town in order to accord the owners and users of such property with the due process of law guaranteed by the Constitution of the United States of America and the State of Florida; and
- (3)** Provide for a set of procedures and standards to guide the DSD, Board of Adjustment and Town Commission in the review of an application for variance and the approval or denial thereof.

(b) Application. Application shall be made as provided in section 30-112.

(c) Recommendations of the Board of Adjustment.

- (1)** The Board of Adjustment shall review applications for variances from the Town's Land Development Regulations in accordance with the procedures set forth in article IV, division 1 of this chapter.
- (2)** After receiving all relevant materials and information, the Board of Adjustment recommendation shall be by vote of a simple majority of the quorum present and voting.
- (3)** Decisions of the Board of Adjustment are advisory to the Town Commission.
- (4)** A recommendation for approval by the Board of Adjustment confers no legal right to the applicant in the absence of subsequent approval by the Town Commission.

(d) Action by Town Commission.

- (1)** The Town Commission shall make express findings on the elements necessary for the granting of a variance as provided in subsection (e) below.
- (2)** The decision of the Town Commission is not final until the filing of a development order with the Town Clerk which shall be recorded in the official records of Broward County.

(e) Criteria for considering an "Application for a Variance." In considering an application for a variance, an application shall be evaluated by considering the following criteria:

- (1)** Special conditions and circumstances exist affecting the land, structure or building involved preventing the reasonable use of such land, structure or building.
- (2)** The circumstances which cause the hardship are peculiar to the property or to such a small number of properties that they clearly constitute a marked exception to other properties in the district.
- (3)** The literal interpretation of the provisions of the applicable regulation would result in a particular hardship upon the owner, as distinguished from a mere inconvenience.
- (4)** The hardship is not self-created or the result of mere disregard for, or ignorance of the provisions of the regulations.
- (5)** The variance is the minimum variance that will make possible the reasonable use of the property and that the variance will be in harmony with the general purposes and intent of the applicable zoning regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- (6)** The grant of the variance does not permit a use not generally permitted in the district involved or a use expressly or by implication prohibited by the terms of the regulations of the district in which the affected property lies.

- (7) Financial hardship is not a basis for granting a variance unless the failure to grant the variance will render the property unusable as a permitted use in the zoning district in which the property lies.

(f) *Duration.*

- (1) Such rights and privileges shall be terminated at such time as designated in the conditions of the approval of the variance, or upon any interruption or cessation of the use permitted by the variance for one year or more.
- (2) The Town shall have continuing jurisdiction over all variances and may revoke, modify or suspend the approval of the variance, after a public hearing before the Town Commission and notice given in the same manner as required for approval of a variance under article IV, division 9 of this chapter, under the following conditions:
 - a. The variance was obtained by fraud or misrepresentation:
 - b. The variance has been exercised contrary to the conditions of its approval; or
 - c. The exception permitted by the variance has been exercised so as to be detrimental to the public health, safety or welfare, so as to constitute a nuisance.

(Ord. No. 2014-08, § 3, 7-7-2014)

RETURN TO:
WITTE & CRAIG, P.A.
801 S.E. 84th AVENUE
POMPANO BEACH, FL 33068

98-172959 T#001
03-25-98 08:41AM

\$ 2940.00
DOCU. STAMPS-DEED

RECVD. BROWARD CNTY

COUNTY ADMIN.

Prepared By/Record & Return To:
Bruce Herman, Esquire
KILLEY & HERMAN
1401 E. Broward Boulevard
Suite 206
Fort Lauderdale, FL 33301

Parcel ID Number: 9318-01-354

Grantee #1 TIN:

Grantee #2 TIN:

Warranty Deed

This Indenture, Made this 18th day of March, 1998 A.D. Between
Richard E. Hipskind, Individually, and as Trustee of the Richard E.
Hipskind Revocable Trust Agreement Dated December 18, 1990
of the County of Broward, State of FL, grantor, and
Thomas S. Breza, M.D.

whose address is: 2833 N. Ocean Blvd., Suite 203, Fort Lauderdale, Florida

of the County of Broward, State of Florida, grantee.

Witnesseth that the GRANTOR, for and in consideration of the sum of
-----TEN DOLLARS (\$10)----- DOLLARS,
and other good and valuable consideration to GRANTOR in hand paid by GRANTEE, the receipt whereof is hereby acknowledged, has
granted, bargained and sold to the said GRANTEE and GRANTEE'S heirs, successors and assigns forever, the following described land, situate,
lying and being in the County of Broward, State of Florida to wit:

Lots 49 & 50, Block 28, of LAUDERDALE BY THE SEA, according to the
Plat thereof, as recorded in Plat Book 6, Page 2, of the Public
Records of Broward County, Florida.

The property herein conveyed DOES NOT constitute the HOMESTEAD
property of the Grantor or Grantor's family. The Grantor's HOMESTEAD
address is 4112 Palm Aire Drive West, #125B, Pompano Beach, Florida
33069 and Grantor has resided there for 9 years.

Subject To: Zoning, restrictions, prohibitions and other requirements
imposed by governmental authority; restrictions, easements and
matters appearing on the plat or otherwise common to the subdivision;
public utility easements of record which are located contiguous to
Real Property lines and not more than ten (10) feet in width as to
the rear or front lines and 7 1/2 feet in width as to the side lines;
taxes for the year 1998 and all subsequent years.

and the grantor does hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whomsoever.

In Witness Whereof, the grantor has hereunto set his hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

Printed Name: Bruce Herman
Witness

Richard E. Hipskind (Seal)
Richard E. Hipskind, Individually
and as Trustee
P.O. Address: 4345 Bougainvillea Dr., Lauderdale by the Sea, FL

Printed Name: Thomas S. Breza
Witness

RECORDED IN THE OFFICIAL RECORDS BOOK
OF BROWARD COUNTY, FLORIDA
COUNTY ADMINISTRATOR

STATE OF FL
COUNTY OF Broward

The foregoing instrument was acknowledged before me this 18th day of March, 1998 by
Richard E. Hipskind, Individually and as Trustee of the Richard E.
Hipskind Revocable Trust Agreement Dated December 18, 1990
who is personally known to me or who has produced his Florida driver's license as identification.

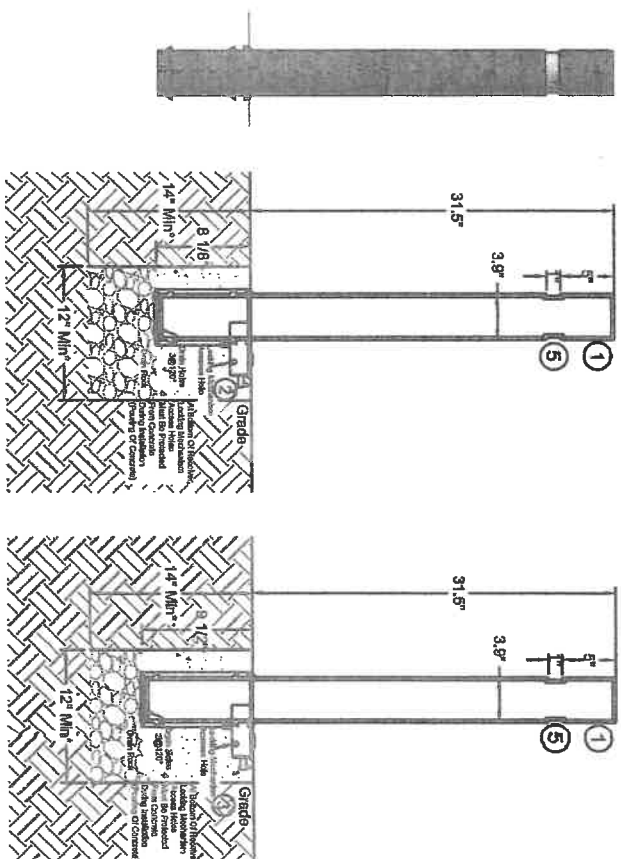
OFFICIAL NOTARY SEAL
BRUCE HERMAN
NOTARY PUBLIC STATE OF FLORIDA
COMMISSION NO. CC426417
MY COMMISSION EXPIRES FEB. 21, 1999

Printed Name: Bruce Herman
Notary Public
My Commission Expires:

HIPSKIND

Copyright © 1997 by T. Dupuy Systems, Inc. 1097 (041) 703-2555 Form FLW.D-1

8K27923P60002



Fatigue Resistance: Test of 500 impacts, bending the bollard through 45 degrees, at interval of 30 seconds

REV	DATE	DESCRIPTION	DR
			
		Unit 207, 6450 - 148 Street, Surrey, BC, Canada V3S 7G7 1-888-735-5680 - info@flexible-foundation.com www.flexible-foundation.com www.bollards.ca www.sike-art-in.ca	
SCALE	NTS	DRAWING NUMBER	SIZE
DESIGN			
DATE	01/30/2014	R-8303	A A

Bollard Post R-7902

General Description:

Make a pronounced statement on entry to your streetscape, business, park, school or stadium with the contemporary and practical design of the model R-7902 steel bollard. A staple of the product line, it will complement the aesthetics of almost any architectural style. It can be embedded in new concrete or surface-mounted on existing concrete. For locations where access needs fluctuate, it can also be installed with removable or fold down mountings. The model R-7902 can be finished in one of seven different powder-coated color options and it is kept in stock, available to ship immediately.

Specifications:

Height: 36" (Above Grade)
Base Diameter: 4 3/8"
Weight: 31 lbs (Bollard Post Full Length)
Material: Steel (ASTM A36)

Finish Options:

o Polyester Powder-coated

See Reliance Foundry's standard color options at:
www.reliancefoundry.com/BollardColors-colors

Installation Options:

- o Fixed - Embedded Mounting in New Concrete (see sheet 2 of 7)
- o Fixed - Flanged in Existing Concrete (see sheet 3 of 7)
- o Removable - Receiver with Lid in New Concrete (see sheet 4 of 7)
- o Removable - Receiver with Chain in New Concrete (see sheet 5 of 7)
- o Removable - Fold Down Mounting in Existing Concrete (see sheet 6 of 7)

For more information on bollard post installation, please visit:
www.reliancefoundry.com/bollard/installation-bollards

Accessory Options:

- o Optional - Chain Accessories Installation Details (see sheet 7 of 7)

Care and Maintenance:

Reliance's line of bollards are finished with a long-lasting powder-coating. Proper care and maintenance are required. Regularly-performed inspections and routine cleaning will ensure that a bollard retains its aesthetic appeal and does not become damaged by the elements.

See Reliance Foundry's maintenance guide at:
www.reliancefoundry.com/bollard/maintenance-bollards

5 Available Mounting Options

Fixed
Embedded
Mount
(for detail, see sheet 2 of 7)

Flanged
Surface
Mount
(for detail, see sheet 3 of 7)

Removable
Receiver
with Lid
(for detail, see sheet 4 of 7)

Removable
Receiver
with Chain
(for detail, see sheet 5 of 7)

Fold Down
Mount
(for detail, see sheet 6 of 7)

Optional Chain Accessories Available

5/16" Chain Accessories
Installation Sample
(for detail, see sheet 7 of 7)

Chain Eye 3/8"
(Powder Coated)

Quick Link Connector
(Powder Coated)

Bollard Chain 5/16"
(Powder Coated)

Bollard Post R-7902

Unit 207, 6450 - 148 Street, Surrey, BC V3S 7G7, Canada
1-877-789-3245 info@reliance-foundry.com
www.reliance-foundry.com

SIZE	DWG NO	REV
C	R-7902	C1

NOT TO SCALE

SHEET 1 OF 7

Bollard Post R-7902

General Description:

Make a pronounced statement on entry to your skyscraper, business, park, school or stadium with the contemporary and practical design of the model R-7902 steel bollard. A staple of the product line, it will complement the aesthetics of almost any architectural style. It can be embedded in new concrete or surface-mounted on existing concrete. For locations where access needs fluctuate, it can also be installed with removable or fold down mountings. The model R-7902 can be finished in one of seven different powder-coated color options and it is kept in stock, available to ship immediately.

Specifications:

Height: 36" (Above Grade)
Base Diameter: 4 3/8"
Weight: 31 lbs (Bollard Post Full Length)
Material: Steel (ASTM A36)

Finish Options:

○ Polyester Powdercoated
See Reliance Foundry's standard color options at:
www.reliance-foundry.com/bollard/colors-bollards

Installation Options:

- Fixed - Embedded Mounting in New Concrete (See sheet 2 of 7)
- Fixed - Flanged in Existing Concrete (See sheet 3 of 7)
- Removable - Bolted with L4 in New Concrete (See sheet 4 of 7)
- Removable - Bolted with Chain in New Concrete (See sheet 5 of 7)
- Removable - Fold Down Mounting in Existing Concrete (See sheet 6 of 7)

For more information on bollard post installation, please visit:
www.reliance-foundry.com/bollard/installation-bollards

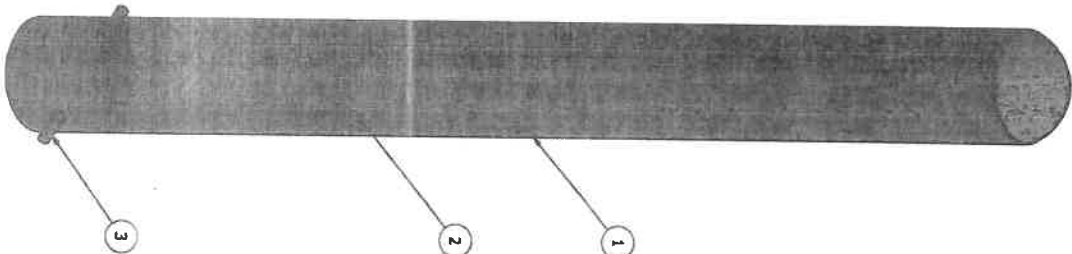
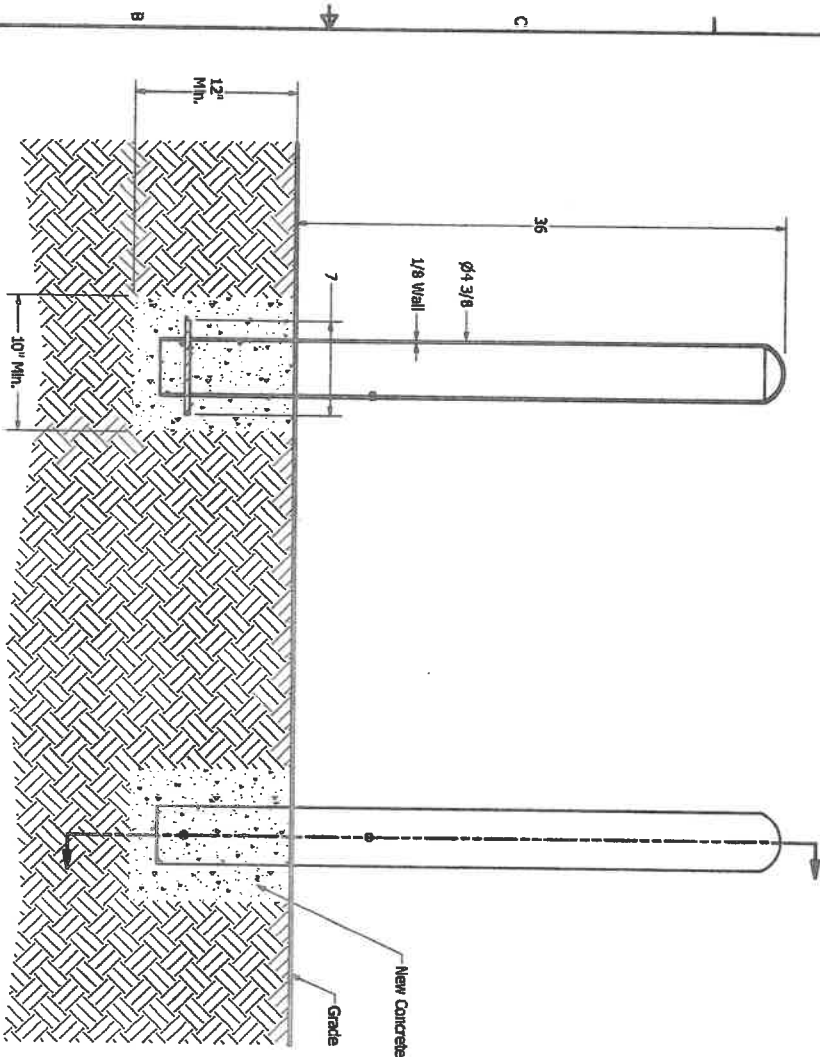
Accessory Options:

- Optional - Chain Accessories Installation Details (See sheet 7 of 7)

Care and Maintenance:

Reliance's line of bollards are finished with a long-lasting powder-coating. Proper care and maintenance are required. Regularly-performed inspections and routine cleaning will ensure that a bollard retains its aesthetic appeal and does not become damaged by the elements.

See Reliance Foundry's maintenance guide at:
www.reliance-foundry.com/bollard/maintenance-bollards



- Notes:
- 1) Embedment details are for reference illustration only. Minimum foundation sizes depend on local soil conditions, weather conditions, and engineering requirements.
 - 2) Bollard post is provided as shown. Concrete, foundation and/or installation ordered separately or provided by others.
 - 3) Minimum foundation sizes depend on local soil conditions, weather conditions, and engineering requirements.
 - 4) Dimensions provided herein is for reference only. Please consult Reliance Foundry sales professionals if any dimension is critical to your particular installation.
 - 5) Reliance Foundry reserves the right to amend design and specifications without prior notice for product improvement.

ITEM	QTY	PART NUMBER	DESCRIPTION	MATERIAL	WEIGHT
------	-----	-------------	-------------	----------	--------

1	1	R7902 Fixed Bollard			31 lbs
2	1	Polyethylene Plug 1/2"			
3	1	Steel Rebar			3/8 lbs

Bollard Post R-7902

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www.reliance-foundry.com

TITLE

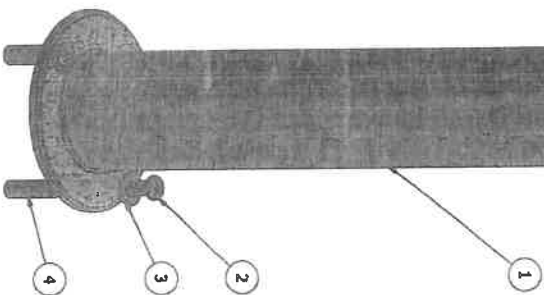
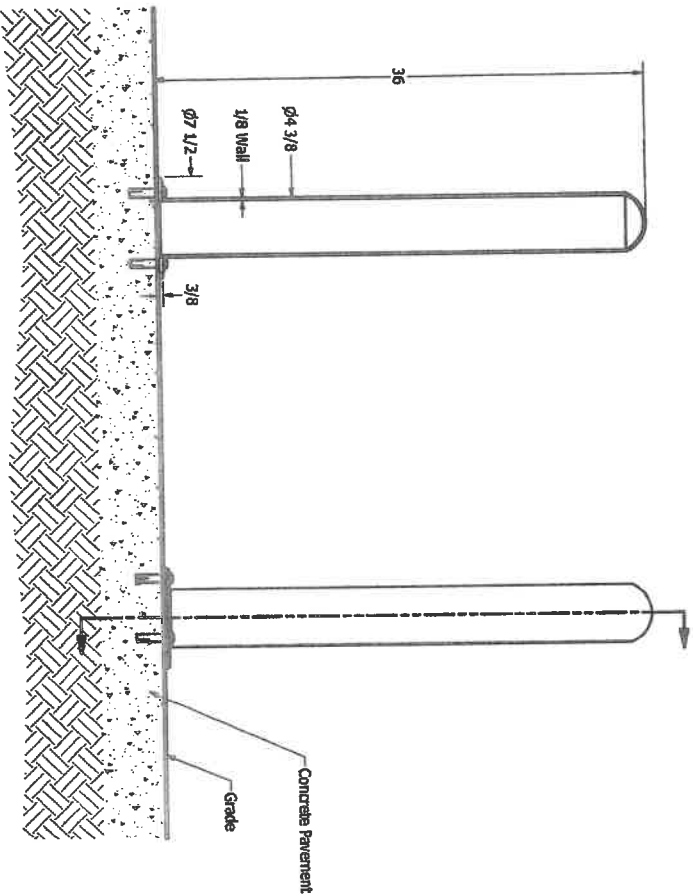
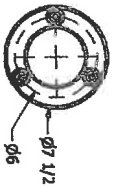
Bollard Post R-7902

SIZE C DWG NO R-7902 REV C1

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SHEET 2 OF 7

Bollard Post R-7902



General Description:

Make a pronounced statement on entry to your streetscape, business, park, school or stadium with the contemporary and practical design of the model R-7902 steel bollard. A staple of the product line, it will complement the aesthetics of almost any architectural style. It can be embedded in new concrete or surface-mounted on existing concrete. For locations where access needs fluctuate, it can also be installed with removable or fold down mountings. The model R-7902 can be finished in one of seven different powder-coated color options and it is kept in stock, available to ship immediately.

Specifications:

Height: 36" (Above Grade)
Base Diameter: 4 3/8"
Weight: 31 lbs (Bollard Post Full Length)
Material: Steel (ASTM A36)

Finish Options:

o Polyester Powdercoated
See Reliance Foundry's standard color options at:
www.reliance-foundry.com/bollard/post/bollards

Installation Options:

- o Fixed - Embedded Mounting in New Concrete (see sheet 2 of 7)
- o Fixed - Flanged in Existing Concrete (see sheet 3 of 7)
- o Removable - Receiver with Lid in New Concrete (see sheet 4 of 7)
- o Removable - Receiver with Chain in New Concrete (see sheet 5 of 7)
- o Removable - Fold Down Mounting in Existing Concrete (see sheet 6 of 7)

For more information on bollard post installation, please visit:
www.reliance-foundry.com/bollard/post/bollards

Accessory Options:

- o Optional - Chain Accessories Installation Details (see sheet 7 of 7)

Care and Maintenance:

Reliance's line of bollards are finished with a long-lasting powder-coating. Proper care and maintenance are required. Regularly performed inspections and routine cleaning will ensure that a bollard retains its aesthetic appeal and does not become damaged by the elements.

See Reliance Foundry's maintenance guide at:
www.reliance-foundry.com/bollard/maintenance-bollards

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www.reliance-foundry.com

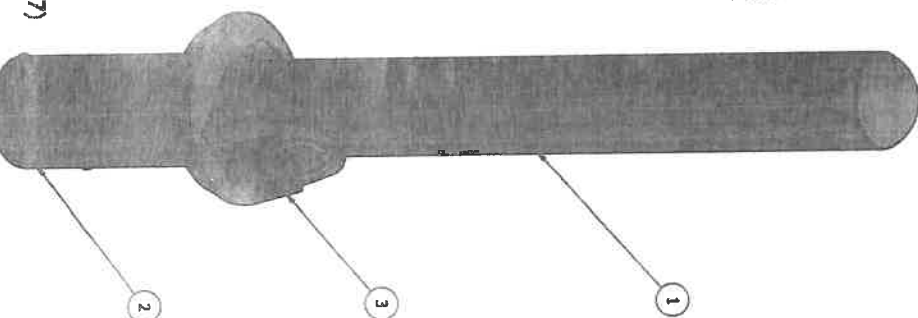
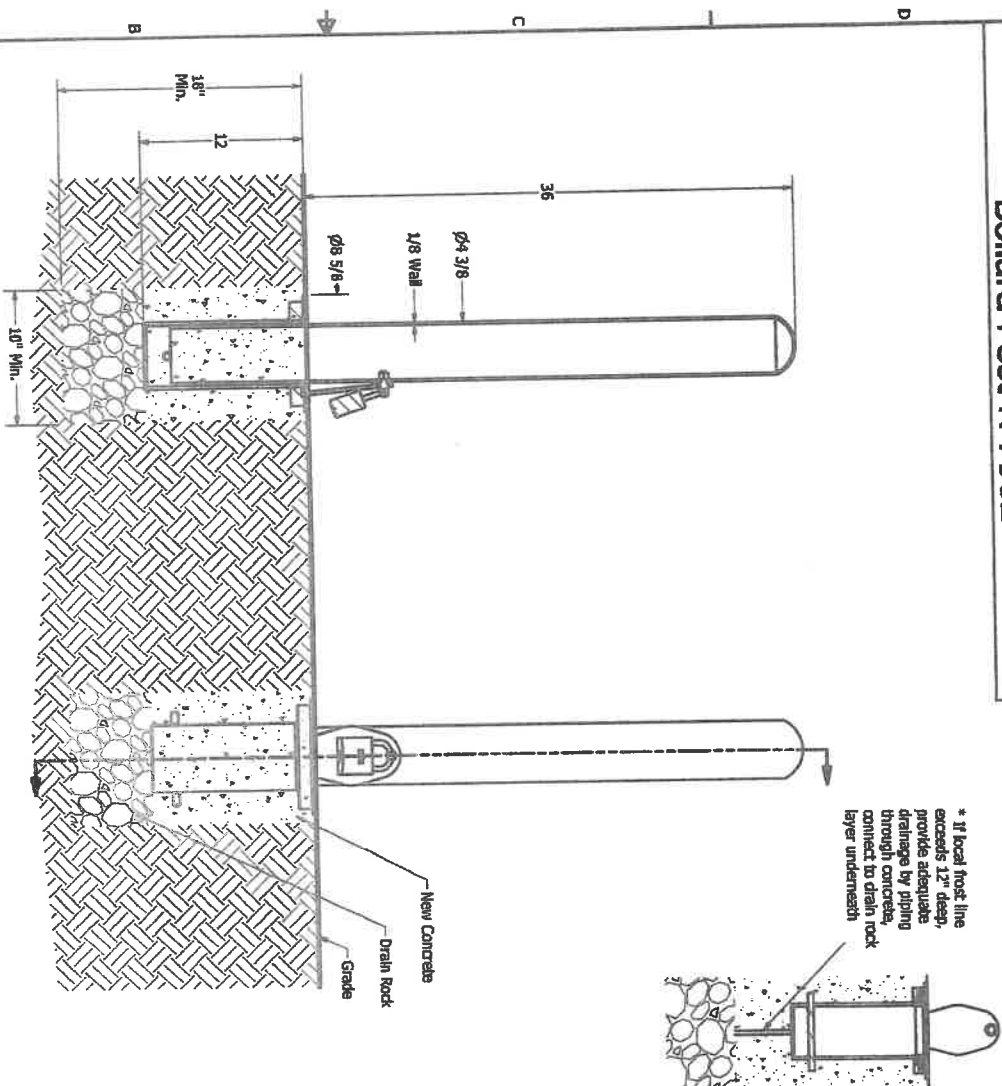
Bollard Post R-7902

PARTS LIST		PARTS LIST	
ITEM	QTY	PART NUMBER	DESCRIPTION
1	1	R7902 Flanged Bollard Body	
2	3	Hexagon Socket Button Head Cap 3/8" x 1 1/4" - requires 5/16" hex key	
3	3	Stainless Steel Washer 1/2" OD x 1 1/4" Thick .05"	
4	3	Drop-in Concrete Insert 1/2" - requires 5/8" x 2" hole (dia. x depth)	

MATERIAL		WEIGHT	
Steel Powder Coated	30 lbs	Stainless Steel	1/8 lbs
Stainless Steel	1/8 lbs	Stainless Steel	1/8 lbs
Steel Plated	1/8 lbs		

SIZE		DWG NO	
C		R-7902	
NOT TO SCALE		SHEET 3 OF 7	

Bollard Post R-7902



General Description:

Makes a pronounced statement on entry to your streetscape, business, park, school or stadium with the contemporary and practical design of the model R-7902 steel bollard. A staple of the product line, it will complement the aesthetics of almost any architectural style. It can be embedded in new concrete or surface-mounted on existing concrete. For locations where access needs fluctuate, it can also be installed with removable or fold down mountings. The model R-7902 can be finished in one of seven different powder-coated color options and it is kept in stock, available to ship immediately.

Specifications:

Height: 36" (Above Grade)
Base Diameter: 4 3/8"
Weight: 31 lbs (Bollard Post Full Length)
Material: Steel (ASTM A36)

Finish Options:

● Polyester Powdercoated
See Reliance Foundry's standard color options at www.reliance-foundry.com/bollard/colors-choices

Installation Options:

- Fixed - Embedded Mounting in New Concrete (see sheet 2 of 7)
- Fixed - Flanged in Existing Concrete (see sheet 3 of 7)
- Removable - Receiver with L4 in New Concrete (see sheet 4 of 7)
- Removable - Receiver with Chain in New Concrete (see sheet 5 of 7)
- Removable - Fold Down Mounting in Existing Concrete (see sheet 6 of 7)

For more information on bollard post installation, please visit: www.reliance-foundry.com/bollard/installation-bollards

Accessory Options:

- Optional - Chain Accessories Installation Details (see sheet 7 of 7)

Care and Maintenance:

Reliance's line of bollards are finished with a long-lasting powder-coating. Proper care and maintenance are required. Regularly-performed inspections and routine cleaning will ensure that a bollard retains its aesthetic appeal and does not become damaged by the elements.

See Reliance Foundry's maintenance guide at: www.reliance-foundry.com/bollard/maintenance-bollards

(For important detail regarding installation with OPTIONAL bollard chain accessories, refer to sheet 7 of 7)

- Notes:**
- 1) Embedment details are for reference illustration only. Minimum foundation sizes depend on local soil conditions, weather conditions, and engineering requirements.
 - 2) Bollard post is provided as shown. Concrete, foundation and/or installation ordered separately or provided by others.
 - 3) Minimum foundation sizes depend on local soil conditions, weather conditions, and engineering requirements.
 - 4) Dimensions provided herein is for reference only. Please consult Reliance Foundry sales professionals if any dimension is critical to your particular installation.
 - 5) Reliance Foundry reserves the right to amend design and specifications without prior notice for product improvement.

PARTS LIST		DESCRIPTION		MATERIAL		WEIGHT	
ITEM	QTY	PART NUMBER					
1	1	R7902 Removable	Bollard R7902 Removable Assembly	Steel Powder Coated	31 lbs		
2	1	R7901R Receiver	R7901R Receiver Assembly w/ L4	Galvanized Steel w/ 316 Stainless Steel Cover	24 lbs		
3	1	Padlock (Optional)	Optional Padlock (Brass or Stainless Steel)	Choice of Brass or Stainless Steel	5/8 lbs		

Bollard Post R-7902

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TITLE

SIZE

NOT TO SCALE

DWG NO

R-7902

REV

C1

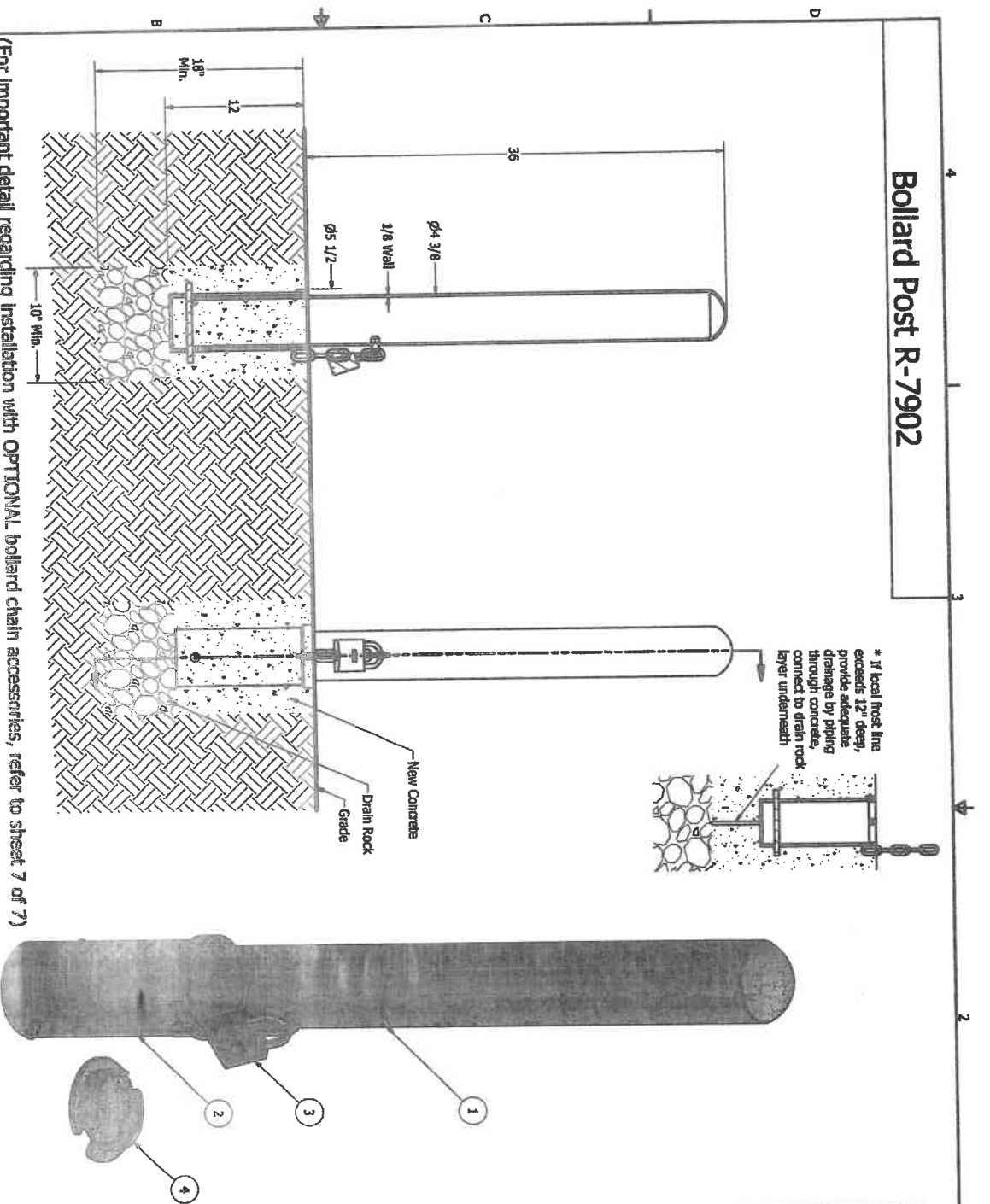
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2

1

Bollard Post R-7902



* If local frost line exceeds 12" deep, provide adequate drainage by piping through concrete, connect to drain rock layer underneath

General Description:

Make a pronounced statement on entry to your streetscape, business, park, school or stadium with the contemporary and practical design of the model R-7902 steel bollard. A staple of the product line, it will complement the aesthetics of almost any architectural style. It can be embedded in new concrete or surface-mounted on existing concrete. For locations where access needs fluctuate, it can also be installed with removable or fold down mountings. The model R-7902 can be finished in one of seven different powder-coated color options and it is kept in stock, available to ship immediately.

Specifications:

Height: 36" (Above Grade)
Base Diameter: 4 3/8"
Weight: 31 lbs (Bollard Post Full Length)
Material: Steel (ASTM A36)

Finish Options:

○ Polyester Powdercoated
See Reliance Foundry's standard color options at:
www.reliance-foundry.com/bollard/color-options

Installation Options:

- Fixed - Embedded Mounting in New Concrete (see sheet 2 of 7)
- Fixed - Flanged in Existing Concrete (see sheet 3 of 7)
- Removable - Receiver with Lid in New Concrete (see sheet 4 of 7)
- Removable - Receiver with Chain in New Concrete (see sheet 5 of 7)
- Removable - Fold Down Mounting in Existing Concrete (see sheet 6 of 7)

For more information on bollard post installation, please visit:
www.reliance-foundry.com/bollard/installation-bollards

Accessory Options:

- Optional - Chain Accessories Installation Details (see sheet 7 of 7)

Care and Maintenance:

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See Reliance Foundry's maintenance guide at:
www.reliance-foundry.com/bollard/maintenance-bollards

(For important detail regarding installation with OPTIONAL bollard chain accessories, refer to sheet 7 of 7)

Notes:

- 1) Embedment details are for reference illustration only. Minimum foundation sizes depend on local soil conditions, weather conditions, and engineering requirements.
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- 3) Minimum foundation sizes depend on local soil conditions, weather conditions, and engineering requirements.
- 4) Dimensions provided herein is for reference only. Please consult Reliance Foundry sales professionals if any dimension is critical to your particular installation.
- 5) Reliance Foundry reserves the right to amend design and specifications without prior notice for product improvement.

PARTS LIST		PARTS LIST	
ITEM	QTY	PART NUMBER	DESCRIPTION
1	1	R7902 Removable	Bollard R7902 Removable Assembly
2	1	R7902R Receiver	R7902R Receiver Assembly
3	1	Padlock (Optional)	Optional Padlock (Brass or Stainless Steel)
4	1	R7902RC Receiver Cover (Optional)	Optional R7902RC Receiver Cover

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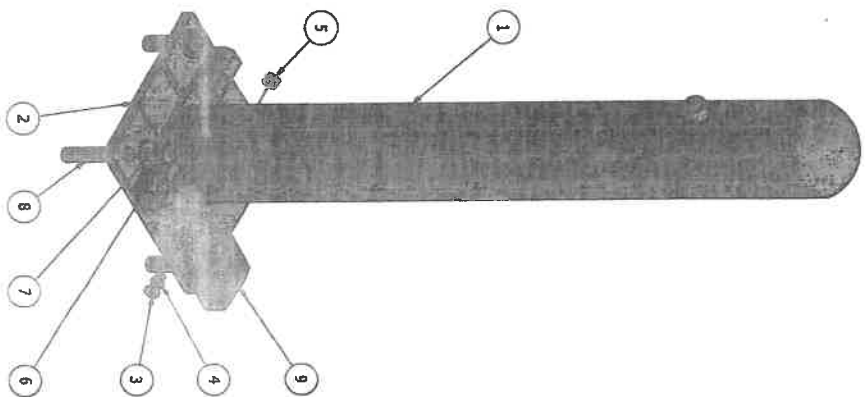
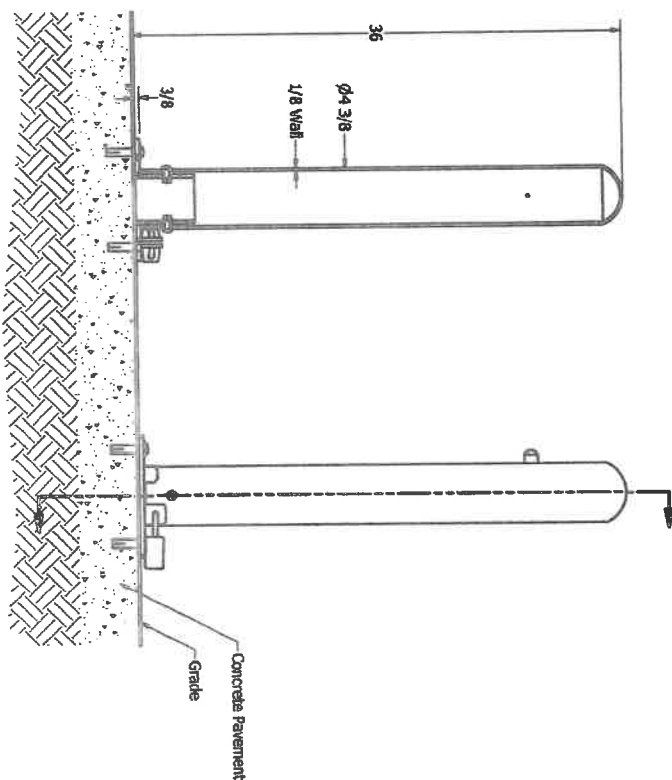
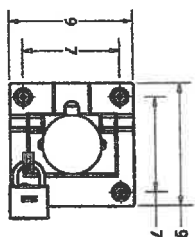
Bollard Post R-7902

SIZE	DWG NO	REV
C	R-7902	C1

NOT TO SCALE

SHEET 5 OF 7

Bollard Post R-7902



Approx. Ground Clearance 5 3/4"
at Fold Down Position



- Notes:
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 - 2) Bollard post is provided as shown. Concrete, foundation and/or installation ordered separately or provided by others.
 - 3) Minimum foundation sizes depend on local soil conditions, weather conditions, and engineering requirements.
 - 4) Dimensions provided herein are for reference only. Please consult Reliance Foundry series professionals if any dimension is critical to your particular installation.
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PARTS LIST

ITEM	QTY	PART NUMBER	DESCRIPTION	MATERIAL	WEIGHT
1	1	R7902 Fold Down Bollard	R7902 Fold Down Bollard Assembly	Steel Powder Coated	27 lbs
2	1	R7950A Fold Down Base	R7950A Fold Down Base Assembly	Steel HDG	15 lbs
3	2	Button Head Bolt 3/8" x 1"	Hexagon Socket Button Head Bolt 3/8" x 1" - requires 7 3/32" hex key	Stainless Steel	
4	2	O-Ring 3/8"	Nitrile Rubber O-Ring 3/8"	Nitrile Rubber	
5	2	Hex Nut Nylon Lock 3/8"	Hex Nut Nylon Lock 3/8" - requires 9/16" wrench	Steel Plated Nylon Lock	1/8 lbs
6	4	Button Head Bolt 1/2" x 1 1/4"	Hexagon Socket Button Head Bolt 1/2" x 1 1/4" - requires 5/16" hex key	Stainless Steel	
7	4	Stainless Steel Washer 1/2"	Stainless Steel Washer 1/2" OD 1 1/4" Thick .05"	Stainless Steel	1/8 lbs
8	4	Drop-In Concrete Insert 1/2"	Drop-In Concrete Insert 1/2" - requires 5/8" x 2" hole (dia x depth)	Steel Plated	1/8 lbs
9	1	Padlock (Optional)	Optional Padlock (Brass or Stainless Steel)	Choice of Brass or Stainless Steel	5/8 lbs

General Description:

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Specifications:

Height: 36" (Above Grade)
Base Diameter: 4 3/8"
Weight: 31 lbs (Bollard Post Full Length)
Material: Steel (ASTM A36)

Finish Options:

● Polyester Powdercoated
See Reliance Foundry's standard color options at:
www.reliance-foundry.com/bollard/colors-options

Installation Options:

- Fixed - Embedded Mounting in New Concrete (see sheet 2 of 7)
- Fixed - Rerigged in Existing Concrete (see sheet 3 of 7)
- Removable - Receiver with U-L in New Concrete (see sheet 4 of 7)
- Removable - Receiver with Chain in New Concrete (see sheet 5 of 7)
- Removable - Fold Down Mounting in Existing Concrete (see sheet 6 of 7)

For more information on bollard post installation, please visit:
www.reliance-foundry.com/bollard/installation-bollards

Accessory Options:

- Optional - Chain Accessories Installation Details (see sheet 7 of 7)

Care and Maintenance:

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See Reliance Foundry's maintenance guide at:
www.reliance-foundry.com/bollard/maintenance-bollards

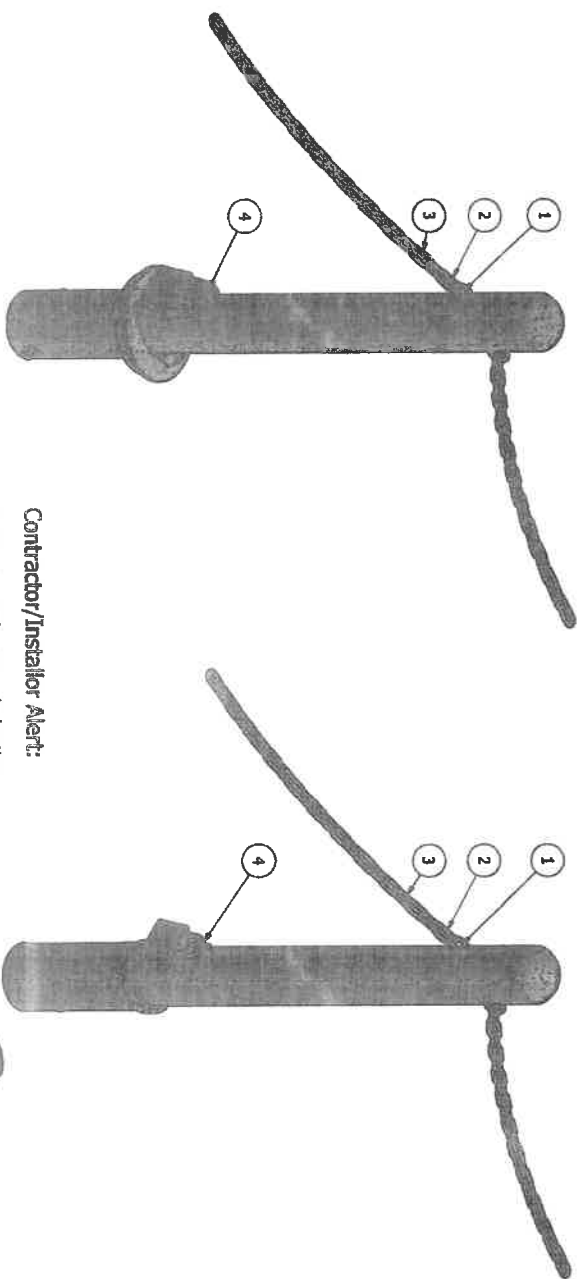
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Bollard Post R-7902

SIZE	DWG NO	REV
C	R-7902	C1

Bollard Post R-7902



Contractor/Installer Alert:

Please give consideration to the location of the chain eye and the padlock pin when installing removable bollard receiver. It is important that the removable bollard receiver padlock pin is oriented in the same direction as the chain is intended to flow.

Optional Chain Accessories Installation Details

PARTS LIST		MATERIAL	
ITEM	PART NUMBER	DESCRIPTION	
1	Chain Eye 3/8" (Optional)	Optional Chain Eye 3/8"	Steel Powder Coated
2	Quick Link Connector (Optional)	Optional Quick Link Connector	Steel Powder Coated
3	Chain 5/16" (Optional)	Optional Chain 5/16" (Sold by Length)	Steel Powder Coated
4	Padlock (Optional)	Optional Padlock (Brass or Stainless Steel)	Choice of Brass or Stainless Steel

General Description:

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Specifications:

Height: 36" (Above Grade)
Base Diameter: 4 3/8"
Weight: 31 lbs (Bollard Post Full Length)
Material: Steel (ASTM A36)

Finish Options:

• Polyester Powdercoated
See Reliance Foundry's standard color options at:
www.reliance-foundry.com/bollard/color-bollards

Installation Options:

- Fixed - Embedded Mounting in New Concrete (see sheet 2 of 7)
- Fixed - Flanged in Existing Concrete (see sheet 3 of 7)
- Removable - Receiver with Lid in New Concrete (see sheet 4 of 7)
- Removable - Receiver with Chain in New Concrete (see sheet 5 of 7)
- Removable - Fold Down Mounting in Existing Concrete (see sheet 6 of 7)

For more information on bollard post installation, please visit:
www.reliance-foundry.com/bollard/installation-bollards

Accessory Options:

- Optional - Chain Accessories Installation Details (see sheet 7 of 7)

Care and Maintenance:

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Bollard Post R-7902

TITLE		SIZE		NOT TO SCALE	
Bollard Post R-7902		DWG NO		R-7902	
SHEET 7 OF 7		REV		C1	

SCALE: 1/8" = 1'-0"

SITE PLAN



NEW 6 FOOT HIGH X 30 FOOT
LONG ALUMINUM FENCE PER
VARIANCE REQUEST APPROVAL

BOUGAINVILLEA DRIVE



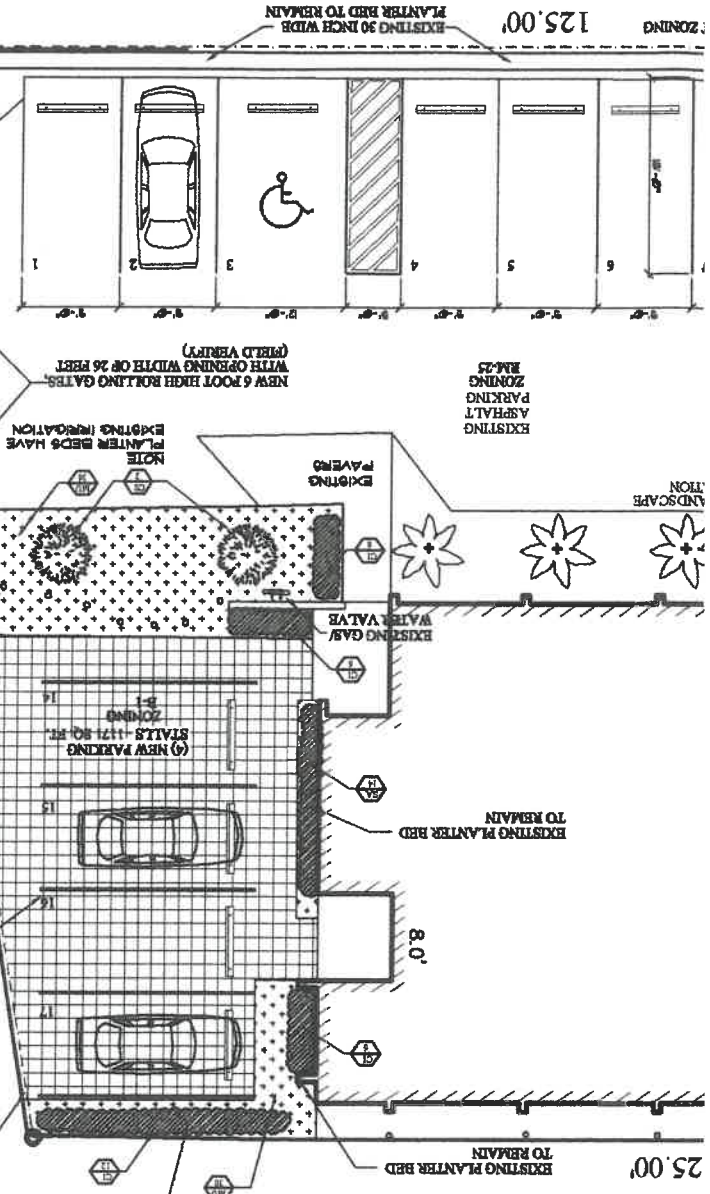
GATE AND POST LOCATION
PER VARIANCE REQUEST

EXISTING METAL BOLLARDS,
TYPICAL OF 8

REMOVE EXISTING PLAZA PAVEMENT AND
REPLACE WITH INTERLOCKING PAVERS ON
1-1/2 INCH SAND BED ON AGGREGATE BASE
FINISHED LEVEL TO MATCH ADJACENT AREAS
EXISTING TREES WERE DAMAGED FROM A PRIOR
STORM AND WILL BE REPLACED AND LOCATED
WITHIN THE EXISTING LANDSCAPE BED

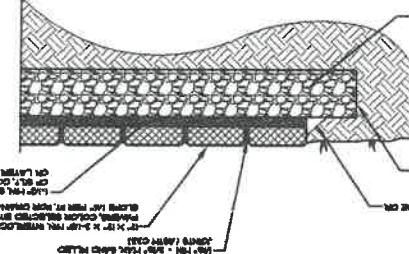
EXISTENT OR NEW PAVERS TO STOP
AT PROPERTY LINE, VERIFY WITH
SURVEYOR

EXISTING 3' CONC. WALK
EXISTING EDGE OF STREET

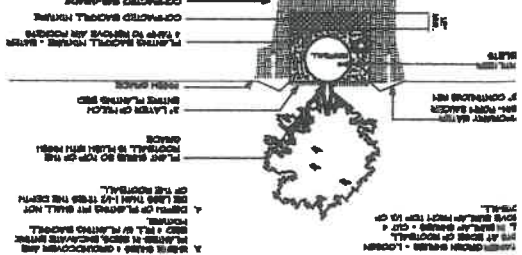


REMOVE EXISTING PLAZA PAVEMENT AND
REPLACE WITH INTERLOCKING PAVERS ON
1-1/2 INCH SAND BED ON AGGREGATE BASE
FINISHED LEVEL TO MATCH ADJACENT AREAS
EXISTING TREES WERE DAMAGED FROM A PRIOR
STORM AND WILL BE REPLACED AND LOCATED
WITHIN THE EXISTING LANDSCAPE BED

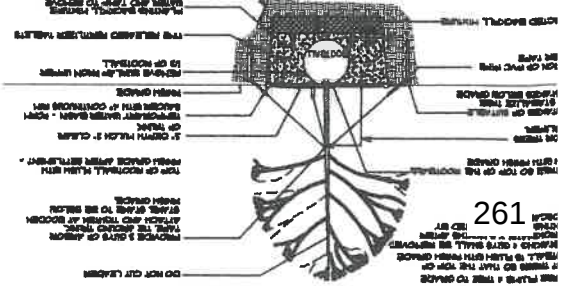
CONC. PAVER EDGE DETAIL



PLANTING DETAIL



STAKING DETAIL



PLANT LIST FOR PROPOSED PLANT MATERIAL

SYMBOL	QTY	BOTANICAL NAME (COMMON NAME)	SIZE	DATE	LOCATION
1	1	BOUGAINVILLEA DRUMMONDII (BOUGAINVILLEA)	10' H. x 4' W. CAL.	YES	HIGH
2	1	BOUGAINVILLEA DRUMMONDII (BOUGAINVILLEA)	10' H. x 4' W. CAL.	YES	HIGH
3	1	BOUGAINVILLEA DRUMMONDII (BOUGAINVILLEA)	10' H. x 4' W. CAL.	YES	HIGH
4	1	BOUGAINVILLEA DRUMMONDII (BOUGAINVILLEA)	10' H. x 4' W. CAL.	YES	HIGH
5	1	BOUGAINVILLEA DRUMMONDII (BOUGAINVILLEA)	10' H. x 4' W. CAL.	YES	HIGH
6	1	BOUGAINVILLEA DRUMMONDII (BOUGAINVILLEA)	10' H. x 4' W. CAL.	YES	HIGH
7	1	BOUGAINVILLEA DRUMMONDII (BOUGAINVILLEA)	10' H. x 4' W. CAL.	YES	HIGH
8	1	BOUGAINVILLEA DRUMMONDII (BOUGAINVILLEA)	10' H. x 4' W. CAL.	YES	HIGH
9	1	BOUGAINVILLEA DRUMMONDII (BOUGAINVILLEA)	10' H. x 4' W. CAL.	YES	HIGH
10	1	BOUGAINVILLEA DRUMMONDII (BOUGAINVILLEA)	10' H. x 4' W. CAL.	YES	HIGH

OF
SHEETS
A-1.0

DESIGNED
JOHN L.
DATE
1-22-19
SCALE
1/8" = 1'-0"
JOB NO.
218-118
SHEET



AN EXTERIOR PLAZA RENOVATION
DERMATOLOGY BY THE SEA
4341 BOUGAINVILLEA DRIVE
LAUDERDALE BY THE SEA, FLORIDA

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REVISIONS

NO.	DESCRIPTION
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Town of Lauderdale-By-The-Sea Development Services Department

To: Board of Adjustment

Thru: Linda Connors, Development Services Director

From: Jhanelle Campbell, Planner

Date: March 28, 2019

Meeting Date: April 3, 2019

New Business: Case Number 2019-V-01: Thomas Breza (Applicant) – Requests a Variance from Town Code Section 30-313 (d)(1)(h), “General Provisions,” to permit two (2) existing chain-linked fences to be replaced with one (1) aluminum fence and one (1) aluminum retractable gate, constructed six (6) inches from the property line; where Town Code provides that no fences shall be constructed within 25 feet of the property line.

The Applicant, Thomas Breza, has requested a Variance (**Exhibit 1**) from Town Code Section 30-313 (d)(1)(h), “General Provisions,” to permit two (2) existing chain-linked fences to be replaced with one (1) aluminum fence and one (1) aluminum retractable gate, constructed six (6) inches from the property line; where Town Code provides that no fences shall be constructed within 25 feet of the property line. It is important to note that the existing chain linked fences are located six (6) inches from the property line.



Figure 1- Location of property

The Applicant has paid the appropriate fee and submitted the required documents. Notice was sent to all property owners within 300 feet on March 22 2019. The property has been posted and the hearing has been advertised pursuant to Town Code Section 30-139 (**Exhibit 2**). To date, we have not received any responses to the notice.



Figure 2 – Existing Gate and Fence

Description of the Existing Site

The subject property is located at 4341 Bougainvilla Drive and is zoned RM-25 and B-1, which permit commercial and residential uses respectively. The current use of the subject property is a medical office. The subject property is located on the west side of Bougainvilla Drive, south of Commercial Boulevard.

Background

The existing gate and fence were permitted in 1980, eight (8) years prior to when the Applicant purchased the subject property. The Applicant closes the gate after business hours to prevent the public from parking on the subject property. Over time, the existing gate and fence has deteriorated and is in severe disrepair. The current code does not allow installation of a replacement gate or fence six (6) inches from the property line.

Variance Request – Setback Requirements

Section 30-127 of the Town's Code of Ordinances (**Exhibit 3**) establishes variance procedures and requirements to allow the Town Commission to grant relief from the effect of zoning regulations on the property.

The Applicant, Thomas Breza has requested a Variance from the requirements of Town Code Section 30-313 (d)(1)(h) "General Provisions," to permit two (2) existing chain-linked fences to be replaced with one (1) aluminum fence and one (1) aluminum retractable gate, constructed six (6) inches from the property line. It is important to note that the existing chain linked fences are located six (6) inches from the property line. The applicable code section is below.

- h. Visibility limitations. No fences or walls shall be constructed within 25 feet of the front property line or within 30 feet of the clear site triangle at the corner of the property on residential lots. No walls, fences, hedges or plantings shall be planted or maintained to a height exceeding 30 inches above the crown of the roadway within sight visibility triangles: within 25 feet of the intersection of the front and side street property lines, within ten feet of any driveway, within ten feet from the intersection point of the edge of a driveway and alley or street, and within 15 feet from the intersection point of the extended property lines at an alley and a street.

The Site Plan below shows the proposed location of the fence:

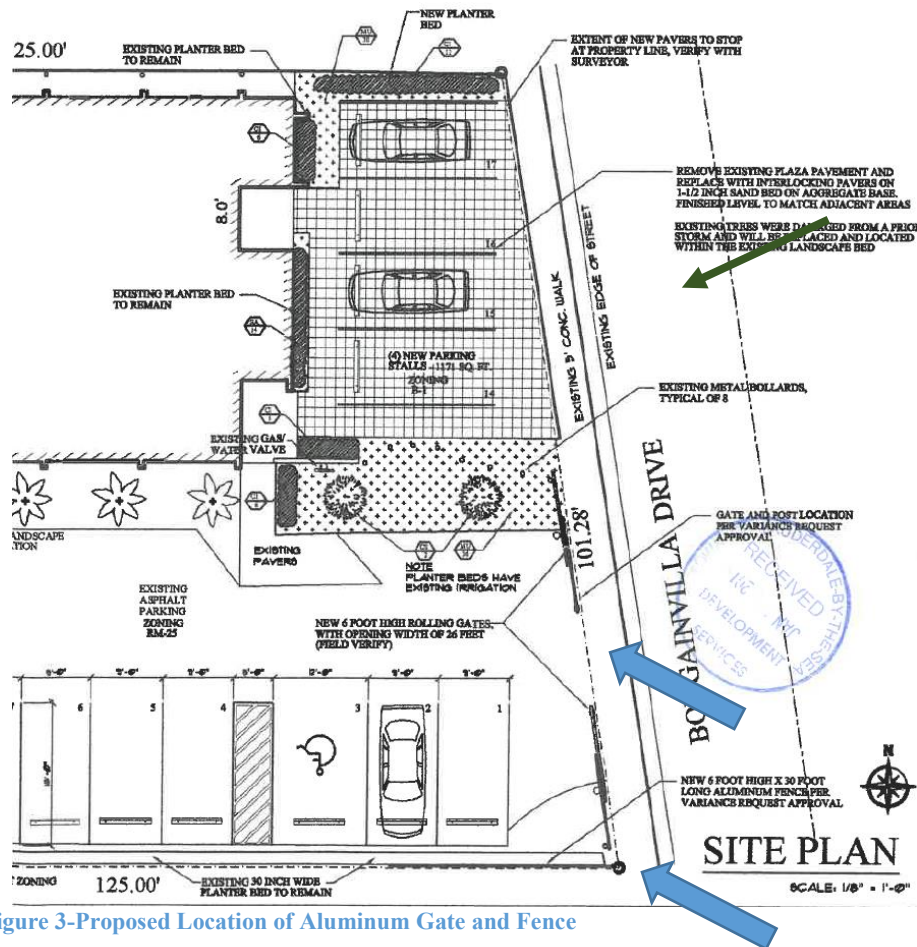


Figure 3-Proposed Location of Aluminum Gate and Fence

Criteria and Analysis

Section 30-127 of the Town Code provides that a variance application shall be evaluated by considering the following criteria. Please note that the "Applicant response" is taken directly from the application.

1. *Special conditions and circumstances exist affecting the land, structure or building involved preventing the reasonable use of such land, structure or building.*

Applicant response: Due to the proximity of the property to the beach and that the business is closed at night and on weekends, the gate is required to prevent the office parking lot from becoming beach and restaurant parking. Unauthorized beach and restaurant parking also poses a liability to the owner. In addition, the installation of a new gate 25 feet from the property line would cause the elimination of parking spaces.

Staff Findings: Staff agrees that the installation of a new gate 25 feet from the property line would reduce parking spaces on the subject property. Pursuant to Town Code Section 30-318 (l), the subject property currently is non-conforming, as it does not meet the threshold parking spaces for a medical office. The elimination of additional parking spaces would further increase the preexisting parking deficit. Therefore, installing the new gate to meet the code requirements is not advised.

This criterion has met.

2. *The circumstances which cause the hardship are peculiar to the property or to such a small number of properties that they clearly constitute a marked exception to other properties in the district.*

Applicant Response: Without a gate, full time security would need to be hired to prevent beach parking. Moving the gate back 25 feet would result in a loss of several parking spaces on property. In addition, leaving the current grandfathered non-conforming gate as is prevents the above problems but creates an eye sore to the property and the neighborhood.

Staff Findings: Town Code section 30-313 (d)(1)(h) requires that fences and gates be installed 25 feet from the property line. The existing gate is installed six (6) inches from the property line, making it non-conforming. Staff agrees that installation of a fence 25 feet from the property line would cause the elimination of several parking spaces. The subject property currently does not meet the Town's parking requirements for a medical office. Eliminating additional parking spaces would further increase the preexisting parking deficit.

This criterion has been met.

3. *The literal interpretation of the provisions of the applicable regulation would result in a particular hardship upon the owner, as distinguished from a mere inconvenience.*

Applicant Response: The current setback requirement of 25 feet would result in loss of parking spaces would also allow beach goers to park on the portion of the property that would not be protected by the gate. The current grandfathered gate prevents beach parking and loss of parking spaces thus reducing liability. In addition, the parking lot is located in the RM-25 zoning district. Properties nearby in the same zoning district are residential.

Staff Findings: Staff agrees that literal interpretation of the provisions of the applicable regulation would result in a hardship upon the owner. The property owner would be exposed to additional liability during non-business hours if portions of the subject property are left unprotected by a gate. Additionally, installation of a gate at a distance of 25 feet from the property line would eliminate several parking spaces, thus, increasing a preexisting parking deficit.

This criterion has been met.

4. *The hardship is not self-created or the result of mere disregard for, or ignorance of the provisions of the regulations.*

Applicant Response: The existing gate has been in its location since the building was constructed in 1972 before the current codes. The current gate met previous zoning codes and can remain indefinitely.

Staff Findings: According to the Town's permit records, the existing gate was approved for installation in 1980 (**Exhibit 5**), prior to the current code requirement of 25 feet. The Applicant purchased the property with the gate at its present location (6 inches from the front property line); thus, the Applicant did not create the hardship.

This criterion has been met.

5. *The variance is the minimum variance that will make possible the reasonable use of the property and that the variance will be in harmony with the general purposes and intent of the applicable zoning regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.*

Applicant Response: We will merely be replacing the current ugly, chain-linked and grandfathered gate with a new decorative aluminum gate in the same location. It will result in an improvement to the property and neighborhood.

Staff Findings: The proposed gate and fence is an improvement to the existing dilapidated gate. Replacement of the gate will result in an improvement to the overall look of the neighborhood where the subject property is located. Furthermore, installation of a new gate will provide needed security for the subject property when it is not in use.

This criterion has been met.

6. *The granting of the variance does not permit a use not generally permitted in the district involved or a use expressly or by implication prohibited by the terms of the regulations of the district in which the affected property lies.*

Applicant Response: N/A

Staff Findings: Fences and gates are permitted in the RM-25 zoning district. Staff believes that granting of the Variance does not permit a use generally not permitted in the district or a use expressly or by implication prohibited by the terms of the regulations of the district in which the affected property lies.

This criterion has been met.

7. *Financial hardship is not a basis for granting a variance unless the failure to grant the variance will render the property unusable as a permitted use in the zoning district in which the property lies.*

Applicant Response: N/A

Staff Findings: The Applicant has not asserted financial hardship as a basis for the request.

This criterion is not applicable.

STAFF RECOMMENDATIONS: Staff believes that the applicant has justified the grant of the Variance based on the requirements of the Town Code. The majority of the criteria to grant the request have been met.

The Board should list its findings and conclusions to support their recommendation to the Town Commission. Staff recommends that a condition be included in the Development Order that requires that the gate remain open during business hours. This condition will prevent stacking of cars entering and exiting the office parking lot during business hours.

The variance request is scheduled for the Town Commission meeting of April 9, 2019.

Exhibits:

1. Zoning Variance Application
2. Public Notice and Notice Requirements
3. Code of Ordinances- Variance Requirements
4. Aerial photo of area showing subject property
5. 1980 Gate permit

NON-APPROVED

**TOWN OF LAUDERDALE-BY-THE SEA
BOARD OF ADJUSTMENT MINUTES**

Jarvis Hall

Wednesday, April 3, 2019 at 6:00 P.M.

CALL TO ORDER

Vice Chair Ferrante called the Board of Adjustment (BOA) meeting for the Town of Lauderdale-By-The-Sea (L-B-T-S) to order at 6:00PM.

PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited.

ROLL CALL

Members present were Alan Bluestein, William Ferrante, Jeffrey Whyte, Bernard Petreccia, and 1st Alternate Howard Goldberg. Members absent were John Lanata and 2nd Alternate Emeline Savidge. Also present were Town Attorney James White, Development Services Director Linda Connors, Planner Jhanelle Campbell and Clerk Kaliah Lewis.

APPROVAL OF MINUTES

i. Previous BOA Meeting Minutes – March 19, 2019

Bernard Petreccia made a motion to approve the minutes of March 19, 2019. The motion was seconded by Jeffrey Whyte. The motion carried 5-0.

PUBLIC COMMENTS

The Vice Chair opened the meeting up to the public for comments not specific to the agenda item but there were no members of the public who wished to speak. The Vice Chair closed this public comments portion of the meeting at this time

NEW BUSINESS

- i. Case Number 2019-V-01: Thomas Breza. (Applicant) – Requests a Variance from Town Code Section 30-313 (d)(1)(h), “General Provisions,” to permit two (2) existing chain-linked fences to be replaced with one (1) aluminum fence and one (1) aluminum retractable gate, constructed six (6) inches from the property line: where Town Code provides that no fences shall be constructed within 25 feet of the property line. (Jhanelle Campbell, Planner)

The Vice Chair introduced Development Services Director Linda Connors who said that tonight is a variance request for 4341 Bougainvilla Drive which would be presented by Planner Jhanelle Campbell. Ms. Connors said that the applicant is in the audience to answer any questions after Ms. Campbell’s PowerPoint presentation. Ms. Campbell explained that the current use of the property is a medical office, Dermatology By-The-Sea. The request is to replace two existing chain link fences with one aluminum fence and one aluminum retractable gate to be constructed six inches from the property line where the Town Code provides that no fences shall be constructed within 25 feet of the property line. The property is split between two zoning districts (B-1 and RM-25). The existing gate and fence have been permitted since 1980 and the applicant purchased the property eight years later. The gate is closed after business hours prohibiting the public from parking on the property. The existing gate and fence have

deteriorated and are in severe disrepair. The current Code does not allow a replacement fence or gate six inches from the property line but the existing gate and fence are six inches from the property line now. Notice was sent to the property owners within 300 feet of the property on March 22, 2019. The property was posted and the notice was also posted on the Town website. To date, there have been no responses to the notice. She showed the board members the section of the Code from which the variance is requested. The planner explained the reason the fence could not be installed at the required twenty-five feet is because it would require the applicant to lose parking spaces he is already deficient in.

Ms. Campbell explained that there are seven criteria for each variance application. The Town feels that the applicant met all but one, number 7, because it was not applicable. Staff believes that the applicant has justified granting of the variance based on the requirements of the Town Code. The Town suggests a condition that the gate remains open during business hours so that stacking of cars during office business hours does not occur. The next step is that this application would go before the Town Commission on April 9, 2019. She called for any questions but before that, she spoke about a second condition that the Town suggests the fence should be a picket-style fence to cut down on any visibility issues when cars are backing up. Bernard Petreccia wanted to know that when the original permit was granted, if the street was not there and was the street was widened. Ms. Connors said that they would look into that.

Thomas Breza, one of the owners of the property, said that since they have owned the property there has not been an addition of a sidewalk and the street was not widened. He explained about the filling in recently of the middle turning lane on Bougainvillea Drive. Alan Bluestein asked if the reason this is being done is because the fence and gate are deteriorating. The owner answered that the gates are still functional and necessary but it is mainly being done for beautification. Instead of a cantilever gate, it would now become a sliding gate in an aluminum picket-style fence. Ms. Connors added that chain link fence is not allowed in this zoning district. This would remove a non-conforming issue. It would be in the setback but that is why he was requesting a variance. Mr. Breza explained about another chain link fence that would be replaced with the match to this aluminum picket-style fence.

Mr. Petreccia wanted to know the width of the entrance at the present time and would it be changed. Mr. Breza answered that the opening would remain the same but the south side gate would be shortened and the north side would be lengthened. Mr. Petreccia said that when the gate is open, the north side would cover the grass up to the first parking space. He also wanted to know what are the plans for the future with the parking on the street next to the grass – if the grass could be made any wider? Mr. Breza said that it is dirt right now because they removed the Chattahoochee which was creating a hazard. Through a separate permit, it would be replaced by pavers. Ms. Connors pointed out where they are adding new landscaping. Mr. Whyte thought this would look much better than the existing chain link fence.

Alan Bluestein made a motion to recommend approval of the variance to the Town Commission. The motion to recommend approval was seconded by 1st Alternate Howard Goldberg. The motion to recommend approval for 2019-V-01 to the Town Commission carried 5-0.

OLD BUSINESS

There was no old business to discuss.

UPDATES/BOARD MEMBER COMMENTS

Ms. Connors spoke about the next meeting (Planning and Zoning on Thursday, April 18, 2019) and the application for a multi-family project located on the vacant land across from the church. The site plan was approved and they were working on getting the building permit when it was realized that their site plan expired. She thanked the board members for their willingness to meet so the owner does not have to reschedule its contractor.

ADJOURNMENT

Jeffrey Whyte made a motion to adjourn at 6:15 PM. The motion to adjourn was seconded by 1st Alternate Howard Goldberg. The motion to adjourn carried 5-0.

Vice Chair William Ferrante

ATTEST:

Date Accepted: _____

LC



**VARIANCE DEVELOPMENT ORDER
TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA
Development Order 2019-V-01**

PROJECT NAME: Dermatology By The Sea Variance

ADDRESS OF PROPERTY: 4341 Bougainvilla Drive

FOLIO #: 494318013540

PROPERTY OWNERS: Thomas S. Breza

APPLICANT: Thomas S. Breza

APPLICANT ADDRESS: 3309 NE 39th Street, Fort Lauderdale, FL 33308

REQUEST: Pursuant to the requirements of Town Code Section 30-127, "Variances Procedures and Requirements," the Applicant has requested a Variance from Town Code Section 30-313 (d)(1)h, "General Provisions," to permit two (2) existing chain-linked fences to be replaced with one (1) aluminum fence and one (1) aluminum sliding gate, constructed six (6) inches from the property line; where Town Code provides that no fences shall be constructed within 25 feet of the property line.

SECTION 1. FINDINGS. THIS MATTER came before the TOWN Commission of the TOWN of LAUDERDALE- BY-THE-SEA, Florida, on April 9, 2019, following due public notice. The TOWN Commission having considered the public testimony, evidence in the record, the testimony of the applicant, and the recommendation of the TOWN Board of Adjustment and administrative staff, finds that the application, as conditioned herein, complies with the applicable standards and minimum requirements of Chapter 30 of the Town Code.

SECTION 2. APPROVAL. The request to approve a Variance to permit two (2) existing chain-linked fences to be replaced with one (1) aluminum fence and one (1) aluminum sliding gate, constructed six (6) inches from the property line is hereby approved as shown on the application materials submitted by Thomas Breza on January 25, 2019 and amended on February 20, 2019, attached as **Exhibit 1**, except as modifications may be required by this approval or the Building Official.

SECTION 3. CONDITIONS. The APPROVAL granted herein is subject to the following conditions:

1. The fence shall remain open during business operating hours.
2. When open, the fence shall not encroach onto any public property.
3. The perimeter fencing installed in the front setback shall be of a picket style in type.
4. The fence shall not exceed six (6) feet in height as outlined in the plan attached as **Exhibit 1**.
5. All applicable state and federal permits shall be obtained before commencement of construction.
6. Prior to issuance of a building permit, the Town Clerk shall certify that there are no outstanding fines, moneys, fees, taxes or other charges owed to the Town by the current or past owners or operators of the property in which the building permit is being issued. A building permit will not be issued until all outstanding debts to the Town are paid in full.

SECTION 4. VIOLATION OF CONDITIONS. Failure to adhere to the terms and conditions of this Development Order shall be considered a violation of the Town Code and persons found violating the conditions shall be subject to the penalties prescribed by the Town Code, including but not limited to, the revocation of any of the approval(s) granted in this Development Order. The Applicant understands and acknowledges that it must comply with all other applicable requirements of the Town Code before it may commence construction or operation, and that the foregoing approval in this Development Order may be revoked by the Town at any time upon a determination that the Applicant is in non-compliance with the Town Code or the conditions of this Approval.

SECTION 5. APPEAL. In accordance with Section 30-140(d)(11) of the Town Code, the Applicant, or any aggrieved property owner in the area, may appeal the decision of the Town Commission in the Circuit Court of Broward County, Florida, in accordance with the Florida Rules of Appellate Procedure.

SECTION 6. EFFECTIVE DATE. This Development Order shall become effective upon

Approval by the Commission.

APPROVED this ____ day of _____, 2019

		APPROVE	DENY
VOTE:	Mayor Vincent	_____	_____
	Vice Mayor Sokolow	_____	_____
	Commissioner Oldaker	_____	_____
	Commissioner Strauss	_____	_____
	Commissioner Malkoon	_____	_____

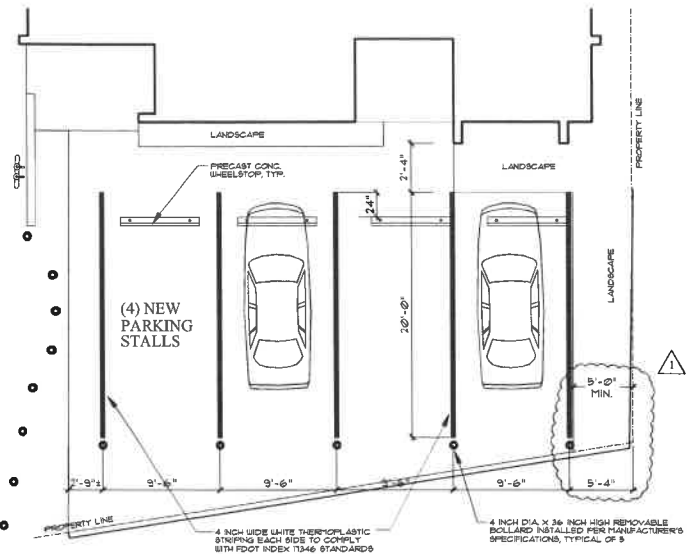
MAYOR CHRIS VINCENT

ATTEST:

Tedra Allen, Town Clerk, CMC

Approved as to form:

Susan L. Trevarthen, Town Attorney



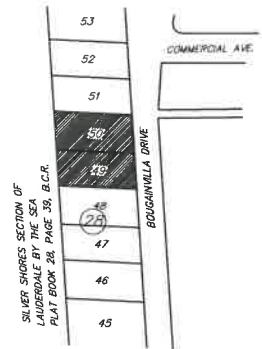
TYPICAL PARKING STALL DETAIL
NOT TO SCALE

SITE DATA TABLE		
ZONING CLASSIFICATION:		CURRENT USE
BUILDING + NEW PARKING AREA	B-1	MEDICAL OFFICE
EXISTING PARKING LOT	RM-25	PARKING
GROSS LOT AREA	12,500 SQ. FEET OR 0.287 ACRES	
TOTAL PERVIOUS AREA	12,500 X .25 = 3,125 SF	EXISTING
TOTAL IMPERVIOUS AREA	12,500 X .75 = 9,375 SF	
VILLA AREA (PAVED)	1,246 SF.	
VILLA LANDSCAPE AREA	1,246 SF. X 20% V.I.A. = 1,495 SF.	1,880 SF. PROVIDED
	REQUIRED/ALLOWED	EXISTING
BUILDING SETBACKS: B-1		
FRONT SETBACK	25 FEET	25 FEET
SIDE SETBACK	0 FEET	25 FEET/50 FEET
REAR SETBACK	10 FEET	25 FEET
TOTAL BUILDING AREA	5,155 SQ. FOOT	
	REQUIRED/ALLOWED	EXISTING
PARKING	9,155 SF. / 100 PER + 25 SPACES	11 SPACES PROVIDED
ACCESSIBLE SPACES	1 SPACE + 0.260% OF TOTAL	
STANDARD SPACES	13 SPACES + 0.16% OF TOTAL	
COMPACT SPACES	3 SPACES + 0.18% OF TOTAL	

RECEIVED
FEB 08 2019
BY:.....

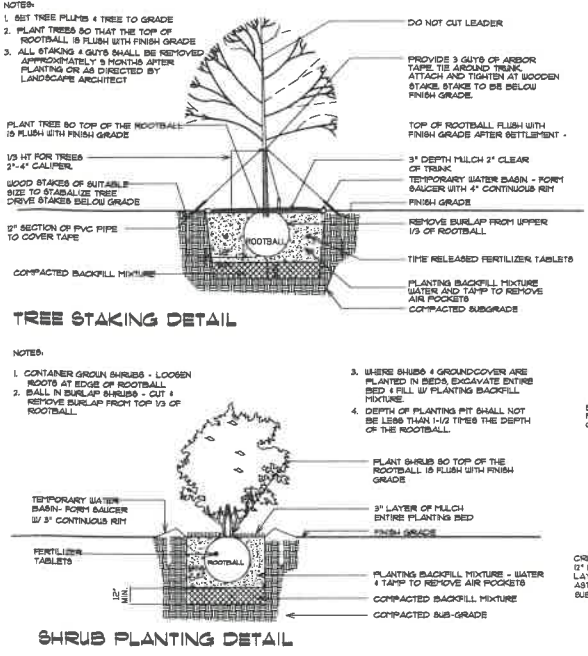


SITE MAP
NOT TO SCALE

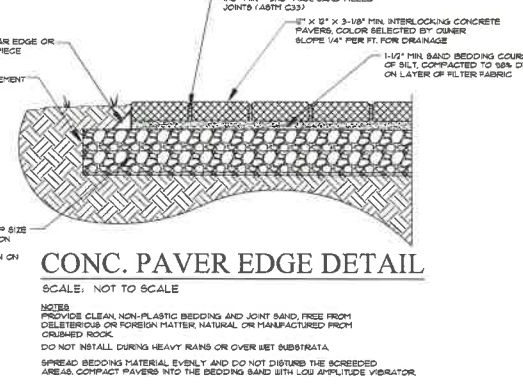


VICINITY PLAN
NOT TO SCALE

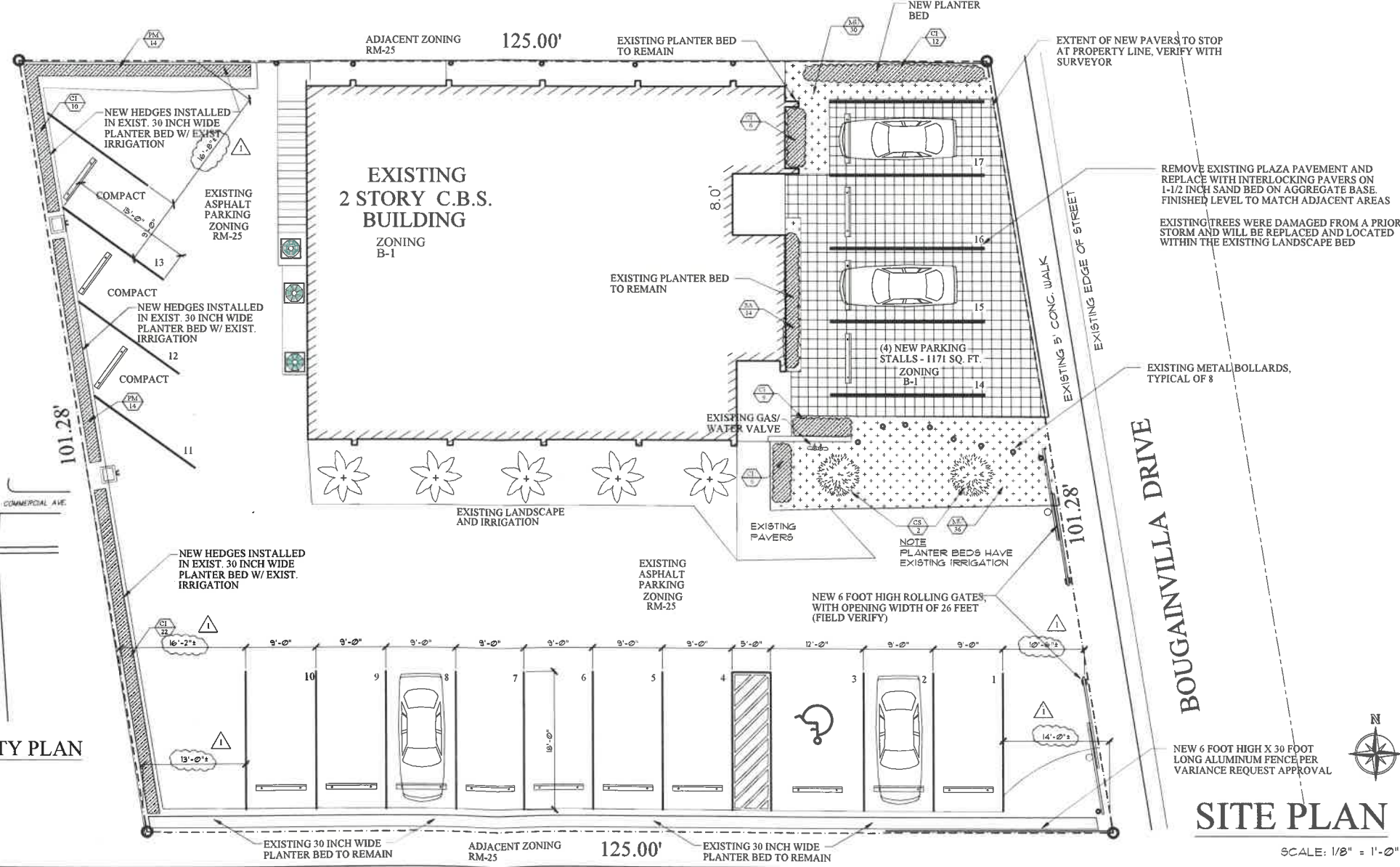
- General Notes:**
1. All plant material shall be Florida No. 1 or better as given in the current Florida Grading and Standards for Nursery Plants, 2015, Florida Department of Agriculture and Consumer Services.
 2. All plant materials shall be subject to inspection and approval by the Landscape Architect at place of growth and upon delivery for conformity to specification.
 3. All plants shall be true to species and variety and shall conform to measurements specified. All substitutions shall be submitted to the City and Landscape Architect for final approval.
 4. All plants shall be exceptionally heavy, symmetrical, tight knit and so trained in appearance as to be superior to form, branching and symmetry.
 5. Contractor shall notify Sunshine 811 (call 811) for locations of existing utility lines 48 hours prior to beginning work. Contractor shall verify location of all utility lines and easements prior to commencing any work. Excavation in the vicinity of underground utilities shall be undertaken with care and by hand, if necessary. The Contractor bears full responsibility for this work and disruption or damage to utilities shall be repaired immediately at no expense to Owner.
 6. Grade B+, shredded sterilized Metalaqua or Eucalyptus mulch shall be used in all mass planting beds and for individual tree pits. All trees shall have a mulch ring with a depth of 3" and a diameter of 3'-4" around their base. All mulch shall be kept 4" from base of all plant material. Mulch beds shall be a minimum of 12" wider than plants measured from outside edge of foliage.
 7. Sod shall be St. Augustine and free of weeds, insects, fungus and disease, laid with alternating and abutting joints.
 8. All trees and shrubs shall be backfilled with a suitable planting soil consisting of 50 percent sand and 50 percent approved compost. All plant materials shall be planted with a minimum of 6 to 18 inches of planting soil around the root ball. Refer to planting details. Planting soil to be backfilled into plant pits by washing in. Planting beds shall be free from road, pea, egg or colored rock, building materials, debris, weeds, noxious pests and disease.
 9. All sodded areas to have a minimum of 2" of planting soil as described in note #8.
 10. All trees shall be warranted by the Contractor and will be healthy and in flourishing condition of active growth one year from date of final acceptance.
 11. All shrubs, groundcovers, vines and sod shall be fully warranted for 90 days under same condition as above.
 12. All synthetic burlap, synthetic string or cords or wire baskets shall be removed before any trees are planted. All synthetic tape shall be removed from trunks, branches, etc before inspection. The top 1/3 of any natural burlap shall be removed or tuckled into the planting hole before trees are backfilled. Planting soil to be backfilled into pits by washing in.
 13. All trees and palms shall be planted with the top of their rootballs 1'-2" above finished grade. All other plants shall be planted with top of their rootballs no deeper than the final grade surrounding the planting area.
 14. In areas where paved surfaces about sod or mulch, the final level of both surfaces should be even.
 15. All planting shall be installed with fertilizer at time of planting.
 16. All planting shall be installed in a sound, workmanlike manner and according to good planting procedures. Installation shall include watering, weeding, fertilizing, mulching, selective pruning and removal of refuse and debris on a regular basis so as to prevent a neat and well kept appearance at all times.
 17. All landscape and sod areas shall have an automatic irrigation system installed. Coverage should be 100% with 100% minimum overlap using mist free water to all landscape and sod areas. Spray upon public sidewalks, streets and adjacent properties should be minimized. Sodded areas and shrub/groundcover beds should be on separate irrigation zones for a more efficient system. Irrigation system shall be installed with a rain-sensor device.
 18. All landscape and irrigation shall be installed in compliance with all local codes.
 19. The plan shall take precedence over the plant list, should there be any discrepancy between the two.



PLANT LIST FOR PROPOSED PLANT MATERIAL					
SYMBOL	QTY.	BOTANICAL NAME/COMMON NAME	SIZE	NATIVE	DROUGHT TOLERANT
CS	2	Cordia alliodora / ORANGE OIL TREE	10' HT. X 4" DBH., 2" CAL.	YES	HIGH
SHRUBS AND GROUND COVER					
CI	62	CHRYSOBALANUS ICAGO / COCOPLUM	24" X 24", 24" O.C.	YES	MOD
PM	28	PODOCARPUS MACROPHYLLUS / PODOCARPUS	24" X 24", 24" O.C.	NO	MOD
MU	80	MUHLENBERGIA CAPITATA / MUHLY GRASS	18" X 18", 24" O.C.	YES	MOD
SA	14	SCHLOERIA ARBORESCENS / TRIMETITE VARIEGATED ARBORESCENS	24" X 24", 24" O.C.	NO	MOD
SOD - ST. AUGUSTINE					
MULCH - SHREDDED EUCALYPTUS, MELALEUCA OR RECYCLED MULCH					
NOTES: CONTRACTOR TO CONTACT S.U.N.S.I.N.E. (1-800-432-4770) FOR LOCATIONS OF EXISTING UTILITY LINES 48 HOURS PRIOR TO BEGINNING WORK. REFER TO P.L. TREE PLANTING GUIDELINES PRIOR TO SELECTION AND PLANTING OF MATERIALS ADJACENT TO THE OVERHEAD POWERLINES.					



CONC. PAVER EDGE DETAIL
SCALE: NOT TO SCALE



SITE PLAN
SCALE: 1/8" = 1'-0"

REVISIONS	BY
1. SITE PLAN REVIEW COMMENTS	2-20-19

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AN EXTERIOR PLAZA RENOVATION
DERMATOLOGY BY THE SEA
4341 BOUGAINVILLE DRIVE
LAUDERDALE BY THE SEA, FLORIDA

ARCHITYPE
DESIGN
INC.
JAMES A. MARR
ARCHITECT
4341 BOUGAINVILLE DRIVE
LAUDERDALE, FLORIDA 33311

DRAWN	
CHECKED	JOHN L.
DATE	1-23-19
SCALE	AS NOTED
JOB NO.	218-118
SHEET	
A-1.0	
OF	SHEETS



Town Commission Agenda Item Report

Meeting Date: April 9, 2019

Submitted by: Linda Connors

Submitting Department: Development Services

Item Type: Discussion Item

Agenda Section: QUASI JUDICIAL PUBLIC HEARINGS

Subject Title:

Request for a Variance for 4433 Bougainvilla Drive (Community Church of Lauderdale-By-The-Sea)

Explanation:

The Applicant, the Town of Lauderdale-By-The-Sea (The "Town") on behalf of Community Church of Lauderdale-By-The-Sea (the "Church"), is requesting a Variance (Exhibit 1) from Town Code Section 30-507(g)(3) to permit a six (6)-foot setback from the right-of-way for a monument sign where the Town Code requires a minimum ten (10)-foot setback from the right-of-way for monuments signs. This variance will allow the monument sign to remain conforming after the Town acquires a small section of the church property adjacent to the sign.

The subject property, zoned RM-25, is located at 4433 Bougainvilla Drive and is currently used as a church. The subject property is bordered by Commercial Boulevard to the south, the Friedt Park playground to the north, Bougainvilla Drive to the east and Poinciana Street to the west. Parking is available on the grassed areas surrounding the subject property on Bougainvilla and Poinciana.

Currently, the Town is redesigning the vehicle circulation and parking areas located in the intersection of Commercial Boulevard, Bougainvilla Drive, and Poinciana Street (the "redesign"). As part of the redesign, the Town has arranged to acquire approximately 300 square feet of property from the Church to improve the above-described vehicular circulation and parking areas. By redesigning this area, the Church's existing monument sign will become non-conforming (Figure 4), since it will no longer be a minimum of ten (10) feet from the right-of way as required by Section 30-507(g)(3) of the Town Code. In order to preserve the sign in its existing location, the Applicant is applying for a Variance, as a condition of sale.

The application is attached as Exhibit 1. A detailed explanation of the project is provided in the attached Board of Adjustment staff report (Exhibit 2).

The plans have been reviewed by Staff. The Board of Adjustment reviewed the application at its March 19, 2019 meeting (Exhibits 3 – Meeting Minutes) and recommended approval of the request by a vote of 5-0.

Staff sent the required notices to the surrounding public and received no comment. The property was properly posted and the notice was placed on the Town's website.

Recommendation:

Staff recommends that the Commission approve the Variance request that is outlined in the attached Development Order (Exhibit 4).

Attachments:

[4-9-2019 AM 2019-V-02 4433 Bougainvilla Variance 3F18571.docx](#)

[Ex 1 2019-V-02 4433 Bougainvilla Application.pdf](#)

[Ex 2 2019-V-02 4433 Bougainvilla BofA Staff Report.pdf](#)

[Ex 3- BofAd 03.19. 2019 APPROVED.pdf](#)

[Ex 4 Development Order 2019-V-02 4433 Bougainvilla 3F1862802.pdf](#)



Item No. _____

Agenda Memorandum

Development Services

Department

Linda Connors

Director

COMMISSION MEETING DATE: April 9, 2019

ITEM CATEGORY: Quasi-Judicial

**SUBJECT TITLE: Request for a Variance for 4433 Bougainvilla Drive
(Community Church of Lauderdale-By-The-Sea)**



EXPLANATION: The Applicant, the Town of Lauderdale-By-The-Sea (The “Town”) on behalf of Community Church of Lauderdale-By-The Sea (the “Church”), is requesting a Variance (Exhibit 1) from Town Code Section 30-507(g)(3) to permit a six (6)-foot setback from the right-of-way for a monument sign where the Town Code requires a minimum ten (10)-foot setback from the right-of-way for monuments signs. This variance will allow the monument sign to remain conforming after the Town acquires a small section of the church property adjacent to the sign.

The subject property, zoned RM-25, is located at 4433 Bougainvilla Drive and is currently used as a church. The subject property is bordered by Commercial Boulevard to the south, the Friedt Park playground to the north, Bougainvilla Drive to the east and Poinciana Street to the west. Parking is available on the grassed areas surrounding the subject property on Bougainvilla and Poinciana.



Currently, the Town is redesigning the vehicle circulation and parking areas located in the intersection of Commercial Boulevard, Bougainvilla Drive, and Poinciana Street (the “redesign”). As part of the redesign, the Town has arranged to acquire approximately 300 square feet of property from the Church to improve the above-described vehicular circulation and parking areas. By redesigning this area, the Church’s existing monument sign will become non-conforming (Figure 4), since it will no longer be a minimum of ten (10) feet from the right-of way as required by Section 30-507(g)(3) of the Town Code. In order to preserve the sign in its existing location, the Applicant is applying for a Variance, as a condition of sale.

The application is attached as **Exhibit 1**. A detailed explanation of the project is provided in the attached Board of Adjustment staff report (**Exhibit 2**).

The plans have been reviewed by Staff. The Board of Adjustment reviewed the application at its March 19, 2019 meeting (**Exhibits 3 – Meeting Minutes**) and recommended approval of the request by a vote of 5-0.

Staff sent the required notices to the surrounding public and received no comment. The property was properly posted and the notice was placed on the Town’s website.

RECOMMENDATION: Staff recommends that the Commission approve the Variance request that is outlined in the attached Development Order (**Exhibit 5**).

- Exhibits:**
1. Application
 2. Board of Adjustment Staff Report
 3. Board of Adjustment Minutes – 3-19-19
 4. Variance Development Order

Reviewed by Town Attorney:

☒	Yes	☐	No
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U:\0 Properties\Bougainvilla\Bougainvilla 4433 Church\2019-V-02 Variance\4-9-2019 AM 2019-V-02 4433 Bougainvilla Variance 3F18571.docx

Exhibit 1

Application #: 2019-V-02
BTR#:



TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA
Department of Development Services
4501 N. Ocean Boulevard Lauderdale-By-The-Sea, FL 33308
Phone: 954-640-4210 Fax: 954-640-4654
www.lbts-fl.gov

DEVELOPMENT APPLICATION

In accordance with Section 30.111-30.113 of the Town's Unified Land Development Regulations: Development applications are required to be provided before any development permit is issued. Please refer to the Town's website to obtain a copy of the corresponding Application Checklist. Please also refer to the Fee Schedule, updated annually by the Town, as provided on the website which will indicate the cost per application type. Please check the development approval being requested:

- | | | |
|---|--|---|
| ☐ Abandonment | ☐ Conditional Use-Sign | ☐ Preliminary Site Plan |
| ☐ Administrative Adjustment-Level 1 | ☐ Conditional Use-Transfer Fee | ☐ Sidewalk Cafe |
| ☐ Administrative Adjustment-Level 2 | ☐ Construction Time Extension | ☐ Sidewalk Cafe Modification |
| ☐ Architectural Review-Preliminary | ☐ Development Order Extension | ☐ Site Plan |
| ☐ Architectural Review-Final | ☐ Encroachment Application | ☐ Site Plan Modification-Level |
| ☐ Bicycle Racks | ☐ Landscape Plan | ☐ 1 Site Plan Modification- |
| ☐ Conditional Use | ☐ Landscape Plan Amendment | ☐ Level 2 Tree Removal |
| ☐ Conditional Use Amendment-Level 1 | ☐ Parking Reduction-Level 1 | ☐ Variance-Single Family |
| ☐ Conditional Use Amendment-Level 2 | ☐ Parking Reduction-Level 2 | ☒ Variance-All Other |

Based on approval being requested, refer to the corresponding checklist and supplemental requirements.

Project Name: Church Sign Variance

Folio Number(s): 4943 1801 4040

Street Address: 4433 Bougainville Drive

Subdivision Name: LBTS Block(s): 29 Lot(s): All

Name of Property Owner: Community Church of LBTS Address of Property Owner: 4433 Bougainville Dr.

Property Owner's Phone Number: 954-776-5500 Property Owner's Email Address: welcomecommunity@comcast.net

Name of Applicant: _____ Address of Applicant: _____

Applicant Phone Number: _____ Applicant Email Address: _____

Name of Agent (E.G. Contractor) Representing the Project: _____

Agent's Address: _____ Agent's Phone Number: _____ Email Address: _____

Land Use Plan Designation: CF Zoning District: RM-25

Existing/Type of Use of the Subject Property: Church

Proposed Use of the Subject Property: Church

As applicable, answer the following:

Existing Number of Units: — Proposed Number of Units: —

Existing Square Footage: 10,000 SF +/- Proposed Square Footage: same



DEVELOPMENT APPLICATION SIGNATURE PAGE

Print Name of Property Owner: _____ Date: _____

Signature of Property Owner: _____

State of Florida: _____

County: _____

SWORN AND SUBSCRIBED before me this _____ day of _____, 20__

The person signing is ____ Personally known to me or ____ Has produced identification _____

Print Notary Name: _____ My Commission expires: _____

Notary Signature: _____

Print Name of Applicant: _____ Date: _____

Signature of Property Applicant: _____

State of Florida: _____

County: _____

SWORN AND SUBSCRIBED before me this _____ day of _____, 20__

The person signing is ____ Personally known to me or ____ Has produced identification _____

Print Notary Name: _____ My Commission expires: _____

Notary Signature: _____

FOR ADMINISTRATIVE USE ONLY:

Date Application submitted: _____

Date Application found complete: _____

Pre-Application meeting date: _____

Non-refundable Application Fee: _____

Cost Recovery Fee: _____



Town of Lauderdale-By-The-Sea

Development Services Department

To: Board of Adjustment

Thru: Linda Connors, Development Services Director

From: Susan M. Leven AICP, Planner

Date: March 14, 2019

Meeting Date: March 19, 2019

New Business: Case Number 2019-V-02: The Town of Lauderdale-By-The-Sea on behalf of the Community Church of Lauderdale-By-The-Sea – Requests a Variance from Section 30-507(g)(3) of the Town's Code Ordinances, to permit a six (6)-foot setback from the right-of-way for a monument sign where the Town Code requires a minimum ten (10)-foot setback from the right-of-way for monuments signs.

The Applicant, the Town of Lauderdale-By-The-Sea (The "Town") on behalf of Community Church of Lauderdale-By-The-Sea (the "Church"), is requesting a Variance (**Exhibit 1**) from Town Code Section 30-507(g)(3) to permit a six (6)-foot setback from the right-of-way for a monument sign where the Town Code requires a minimum ten (10)-foot setback from the right-of-way for monuments signs.

The subject property is zoned Apartments and Lodging (RM-25) and is depicted below:



Figure 1-Location

The Applicant has submitted the required documents and notice was sent to all property owners within 300 feet of the subject property on March 8, 2019. The subject property has been posted and the hearing has been advertised pursuant to Section 30-139 of the Code of Ordinances (**Exhibit 2**). To date, we have not received any responses to the notice.

Description of the Subject Property

The subject property, zoned RM-25, is located at 4433 Bougainville Drive and is currently used as a church. The subject property is bordered by Commercial Boulevard to the south, the Friedt Park playground to the north, Bougainville Drive to the east and Poinciana Street to the west. Parking is available on the grassed areas surrounding the subject property on Bougainville and Poinciana.

Background

Currently, the Town is redesigning the vehicle circulation and parking areas located in the intersection of Commercial Boulevard, Bougainville Drive, and Poinciana Street (Figure 2) (the “redesign”). As part of the redesign, the Town has arranged to acquire a small piece of property from the Church to improve the above-described vehicular circulation and parking areas (Figure 3).



Figure 2

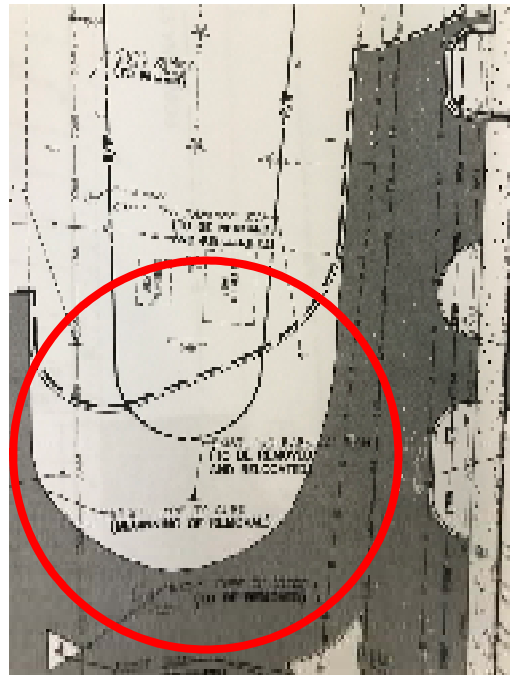


Figure 3

By redesigning this area, the Church's existing monument sign will become non-conforming (Figure 4), since it will no longer be a minimum of ten (10) feet from the right-of way as required by Section 30-507(g)(3) of the Town Code. In order to preserve the sign in its existing location, the Applicant is applying for a Variance, as a condition of sale.



Figure 4

Variance Request – Vehicular Use Area (VUA) Landscaping

The Applicant has requested a Variance to permit a monument sign to have a six (6)-foot setback from the right-of-way where the Town Code requires a ten (10)-foot setback from the right-of-way.

Criteria and Analysis

Section 30-127 of the Town Code provides that a Variance application shall be evaluated by considering the following criteria.

1. *Special conditions and circumstances exist affecting the land, structure or building involved preventing the reasonable use of such land, structure or building.*

Findings:

The purchase of a portion of the Church property to widen the area where Bougainvilla Drive and Poinciana Street connect will result in the existing monument sign being six (6) feet from the right-of way when a ten (10)-foot setback from the right-of-way is required by the Town Code. The creation of this non-conformance, as a result of the redesign, is a special condition.

This criterion has not been met.

2. *The circumstances which cause the hardship are peculiar to the property or to such a small number of properties that they clearly constitute a marked exception to other properties in the district.*

Findings:

The redesign makes the circumstances which cause the hardship peculiar to this property, as no other property will be affected by the redesign.

This criterion has been met.

3. *The literal interpretation of the provisions of the applicable regulation would result in a particular hardship upon the owner, as distinguished from a mere inconvenience.*

Findings:

The literal interpretation of the regulation requiring the ten (10)-foot setback for the monument sign would result in the Town being unable to complete the portion of the redesign that includes the Church's property. Two (2) utility boxes are located just a few feet behind the existing monument sign that prevents the monument sign from being relocated further back onto the subject property. As is, the monument sign is in a very visible location. Creating signage in a different location with the same level of visibility would likely require the installation of two (2) signs, resulting in additional expenses and work (the message on the existing sign is changed by hand).

This criterion has been met.

4. *The hardship is not self-created or the result of mere disregard for, or ignorance of the provisions of the regulations.*

Findings:

The hardship was created through the actions of the Town in acquiring the property, not through any action taken by the Church.

This criterion has been met.

5. *The variance is the minimum variance that will make possible the reasonable use of the property and that the variance will be in harmony with the general purposes and intent of the applicable zoning regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.*

Findings:

The need for the Variance is the result of the Town acquiring a portion of the Church's property to complete the redesign. The Variance is only being requested to address the non-conformance created by the acquisition of the piece of the property by the Town. The granting of the Variance will be in harmony with the general purposes and intent of the applicable zoning regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

This criterion has been met.

6. *The grant of the variance does not permit a use not generally permitted in the district involved or a use expressly or by implication prohibited by the terms of the regulations of the district in which the affected property lies.*

Finding: The use of the subject property is unchanged.

This criterion has been met.

7. *Financial hardship is not a basis for granting a variance unless the failure to grant the variance will render the property unusable as a permitted use in the zoning district in which the property lies.*

Staff Finding: Not applicable – the Applicant has not asserted financial hardship as a basis for granting the request.

STAFF RECOMMENDATIONS: Staff believes that the grant of the Variance has been justified based on the requirements of the Town Code. The majority of the criteria to grant the request have been met.

The Board should list its findings and conclusions to support their recommendation to the Town Commission.

The Variance request is scheduled for the Town Commission meeting of April 9, 2019.

Exhibits:

1. Zoning Variance Application
2. Survey
3. Public Notice and Notice Requirements
4. Code of Ordinances – Variance Requirements
5. Aerial photo of area showing subject property
6. Area photos

Exhibit 1

Application #: 2019-V-02
BTR#:



TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA
Department of Development Services
4501 N. Ocean Boulevard Lauderdale-By-The-Sea, FL 33308
Phone: 954-640-4210 Fax: 954-640-4654
www.lbts-fl.gov

DEVELOPMENT APPLICATION

In accordance with Section 30.111-30.113 of the Town's Unified Land Development Regulations: Development applications are required to be provided before any development permit is issued. Please refer to the Town's website to obtain a copy of the corresponding Application Checklist. Please also refer to the Fee Schedule, updated annually by the Town, as provided on the website which will indicate the cost per application type. Please check the development approval being requested:

- | | | |
|---|--|---|
| ☐ Abandonment | ☐ Conditional Use-Sign | ☐ Preliminary Site Plan |
| ☐ Administrative Adjustment-Level 1 | ☐ Conditional Use-Transfer Fee | ☐ Sidewalk Cafe |
| ☐ Administrative Adjustment-Level 2 | ☐ Construction Time Extension | ☐ Sidewalk Cafe Modification |
| ☐ Architectural Review-Preliminary | ☐ Development Order Extension | ☐ Site Plan |
| ☐ Architectural Review-Final | ☐ Encroachment Application | ☐ Site Plan Modification-Level |
| ☐ Bicycle Racks | ☐ Landscape Plan | ☐ 1 Site Plan Modification- |
| ☐ Conditional Use | ☐ Landscape Plan Amendment | ☐ Level 2 Tree Removal |
| ☐ Conditional Use Amendment-Level 1 | ☐ Parking Reduction-Level 1 | ☐ Variance-Single Family |
| ☐ Conditional Use Amendment-Level 2 | ☐ Parking Reduction-Level 2 | ☒ Variance-All Other |

Based on approval being requested, refer to the corresponding checklist and supplemental requirements.

Project Name: Church Sign Variance Folio Number(s): 4943 1801 4040

Street Address: 4433 Bougainville Drive

Subdivision Name: LBTS Block(s): 29 Lot(s): All

Name of Property Owner: Community Church of LBTS Address of Property Owner: 4433 Bougainville Dr.

Property Owner's Phone Number: 954-776-5500 Property Owner's Email Address: welcomecommunity@comcast.net

Name of Applicant: _____ Address of Applicant: _____

Applicant Phone Number: _____ Applicant Email Address: _____

Name of Agent (E.G. Contractor) Representing the Project: _____

Agent's Address: _____ Agent's Phone Number: _____ Email Address: _____

Land Use Plan Designation: CF Zoning District: RM-25

Existing/Type of Use of the Subject Property: Church

Proposed Use of the Subject Property: Church

As applicable, answer the following:

Existing Number of Units: — Proposed Number of Units: —

Existing Square Footage: 10,000 SF +/- Proposed Square Footage: same



DEVELOPMENT APPLICATION SIGNATURE PAGE

Print Name of Property Owner: _____ Date: _____

Signature of Property Owner: _____

State of Florida: _____

County: _____

SWORN AND SUBSCRIBED before me this _____ day of _____, 20__

The person signing is ____ Personally known to me or ____ Has produced identification _____

Print Notary Name: _____ My Commission expires: _____

Notary Signature: _____

Print Name of Applicant: _____ Date: _____

Signature of Property Applicant: _____

State of Florida: _____

County: _____

SWORN AND SUBSCRIBED before me this _____ day of _____, 20__

The person signing is ____ Personally known to me or ____ Has produced identification _____

Print Notary Name: _____ My Commission expires: _____

Notary Signature: _____

FOR ADMINISTRATIVE USE ONLY:

Date Application submitted: _____

Date Application found complete: _____

Pre-Application meeting date: _____

Non-refundable Application Fee: _____

Cost Recovery Fee: _____



Exhibit 2

LEGEND:

- P.O.B. - DENOTES POINT OF BEGINNING
- P.O.C. - DENOTES POINT OF COMMENCEMENT
- P.D.T. - DENOTES POINT OF TERMINATION
- L.B. - DENOTES LICENSED BUSINESS
- Ø - DENOTES DIAMETER
- (TYP.) - DENOTES TYPICAL
- B.C.R. - DENOTES BROWARD COUNTY RECORDS
- R - DENOTES RADIUS
- D - DENOTES CENTRAL (DELTA) ANGLE
- A - DENOTES ARC LENGTH
- DHL - DENOTES OVERHEAD UTILITY LINES
- ℄ - DENOTES CENTERLINE
- 17.20 - DENOTES SPOT ELEVATION

FLOOD ZONE DATA:

FLOOD ZONE	X
MAP NO.	12011C0209 F
COMMUNITY NO.	125123
PANEL NO.	0209
SUFFIX	F
DATE OF FIRM	AUGUST 18, 1992

"2C" COORDINATE DATA:

NAD 1927 VALUE
LATITUDE = 26°11'25.80" NORTH
LONGITUDE = 80°05'52.25" WEST

NAD 1983 VALUE
LATITUDE = 26°11'27.10" NORTH
LONGITUDE = 80°05'51.40" WEST
GROUND ELEVATION = 10.4 N.G.V.D. '29

PARENT TRACT LEGAL DESCRIPTION:

BLOCK 29, LAUDERDALE BY THE SEA, PLAT BOOK 6, PAGE 2 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

CONTAINING 22,282 SQUARE FEET OR 0.5138 ACRES, MORE OR LESS.

NEXTEL LEASE SITE LEGAL DESCRIPTION:

A PORTION OF BLOCK 29, LAUDERDALE BY THE SEA, AS RECORDED IN PLAT BOOK 6, PAGE 2, PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE INTERSECTION OF THE NORTH LINE AND THE EAST LINE OF SAID BLOCK 29; THENCE SOUTH 05° 04' 10" WEST, ALONG THE EAST LINE OF SAID BLOCK 29, A DISTANCE OF 296.62 FEET; THENCE SOUTH 84° 55' 50" EAST, A DISTANCE OF 10.26 FEET, TO THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED NEXTEL LEASE SITE:

THENCE SOUTH 01° 47' 44" WEST, A DISTANCE OF 45.00 FEET; THENCE NORTH 88° 12' 16" WEST, A DISTANCE OF 20.00 FEET; THENCE NORTH 01° 47' 44" WEST, A DISTANCE OF 45.00 FEET; THENCE SOUTH 88° 12' 16" EAST, A DISTANCE OF 20.00 FEET, TO THE POINT OF BEGINNING.

CONTAINING 900 SQUARE FEET OR 0.0207 ACRES, MORE OR LESS.

ACCESS EASEMENT LEGAL DESCRIPTION:

A STRIP OF LAND, 20.00 FEET IN WIDTH, FOR ACCESS EASEMENT PURPOSES, BEING A PORTION OF BLOCK 29, LAUDERDALE BY SEA, AS RECORDED IN PLAT BOOK 6, PAGE 2, PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, THE SIDELINES OF SAID ACCESS EASEMENT LYING 10.00 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCE AT THE NORTHEAST CORNER (POINT OF BEGINNING) OF THE PREVIOUSLY DESCRIBED NEXTEL LEASE SITE, THENCE SOUTH 01° 47' 44" EAST, ALONG THE EAST LINE OF SAID NEXTEL LEASE SITE, A DISTANCE OF 22.50 FEET, TO THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED CENTERLINE OF SAID ACCESS EASEMENT:

THENCE SOUTH 88° 12' 16" EAST, TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF BOUGAINVILLE DRIVE, AND THE POINT OF TERMINATION OF SAID CENTERLINE.

NOTES:

1) NOTE VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

CERTIFICATION:

I HEREBY CERTIFY THAT THE BOUNDARY AND TOPOGRAPHIC SURVEY SHOWN HEREON MEETS THE MINIMUM TECHNICAL STANDARDS FOR SURVEYING IN THE STATE OF FLORIDA AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 61G17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027 FLORIDA STATUTES.

W. L. FISH & COMPANY, INC.

BY: WAYNE LARRY FISH
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA STATE REG. NO. 3238

DATE OF LAST FIELD WORK: AUGUST 1, 2000



6700 N. ANDREWS AVENUE
SUITE 700
FT. LAUDERDALE, FLORIDA 33309
PHONE: (954) 275-2400
FAX: (954) 275-2416

GEM ENGINEERING COMPANY
2500 Wilcrest, Suite 100
Houston, Texas 77042-2752
Phone (713) 339-1550
Fax (713) 339-9922

THIS DRAWING IS COPYRIGHTED AND IS THE SOLE PROPERTY OF GEM ENGINEERING. IT IS PRODUCED FOR USE BY NEXTEL COMMUNICATIONS, INC. REPRODUCTION OR OTHER USE OF THIS DRAWING OR THE INFORMATION CONTAINED HEREIN WITHOUT THE WRITTEN PERMISSION OF GEM ENGINEERING IS PROHIBITED. ALL RIGHTS RESERVED.

DRAWN DATE:	08-11-00
DRAWN BY:	VT
CHECKED BY:	SJ/CDG

THIS SITE SURVEY WAS REPRODUCED FROM AN EXISTING SURVEY PERFORMED BY WILLIAMS, HATFIELD & STONER, INC. GEM ENGINEERING CLAIMS NO RESPONSIBILITY FOR THE CONTENTS OF THIS SURVEY AND ITS LEGAL DESCRIPTIONS. SEE ORIGINAL SIGNED & SEALED SURVEY FOR MORE INFORMATION.

APPROVALS

PROJECT MANAGER	DATE
NEXTEL	DATE
PROPERTY OWNER	DATE

0	9-25-00	ZONING
REV.	DATE	DESCRIPTION

SITE NUMBER

SITE FL-1631-C

SITE ADDRESS

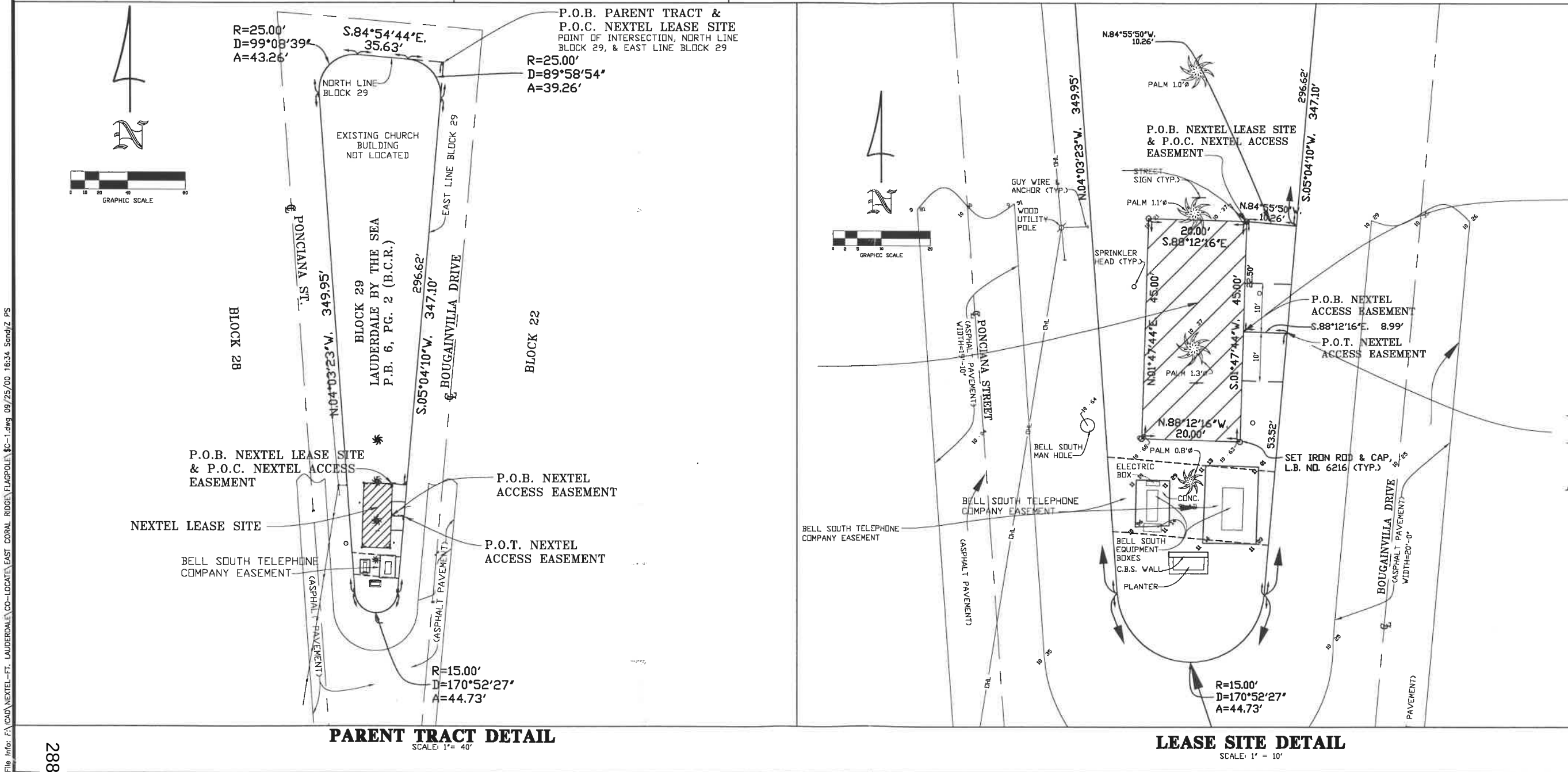
**EAST CORAL RIDGE
4433 BOUGAINVILLE DR.
LAUDERDALE-BY-THE-SEA,
FL 33308**

SHEET TITLE

SITE SURVEY

SHEET NUMBER

C-1





Notice of Public Hearing Town of Lauderdale-By-The-Sea, Florida

NOTICE IS HEREBY GIVEN that the Town of Lauderdale-By-The-Sea will hold public hearings on the request below at **Jarvis Hall, 4501 Ocean Drive, Lauderdale-By-The-Sea, Florida, 33308**, as follows:

Board of Adjustment	March 19, 2019	6:00 PM
Town Commission	April 9, 2019	6:30 PM

The following request shall be considered at a public hearing, which any person may attend and/or speak at, regarding:

Applicant Numbers:	2019-V-02
Applicant:	Town of Lauderdale-By-The-Sea on Behalf of the Community Church of Lauderdale-By-The-Sea
Legal Description:	LAUDERDALE BY THE SEA 6-2 B ALL BLK 29
Site Address:	4433 Bougainvilla Drive, Lauderdale-By-The-Sea
Zoning District:	RM-25
Variance Request:	Pursuant to the requirements of Section 30-127, Variances, the applicant is requesting a variance to Section 30-507(g)(3) of the Town's Code Ordinances, to allow a legally permitted, existing monument sign to have a setback of 6 feet from a right-of-way where 10 feet is required.

The agenda packet and related materials concerning these requests are available for review at the Town Clerk's Office, 4501 Ocean Drive, Lauderdale-By-The-Sea, Florida 33308.

PURSUANT TO SECTION 30-140, CODE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, THE APPLICATION WILL BE PRESENTED AND CONSIDERED AT THE MEETINGS ON THE DATES SET FORTH ABOVE. AFFECTED PERSONS WILL BE ALLOWED TO PRESENT EVIDENCE AT THE HEARING, BRING FORTH WITNESSES, AND CROSS EXAMINE WITNESSES PROVIDED NOTIFICATION AND FILING OF SUCH INFORMATION IS MADE WITH THE TOWN CLERK PRIOR TO THE ABOVE HEARING.

IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE WITH RESPECT TO ANY MATTER CONSIDERED AT THIS PUBLIC HEARING, HE/SHE WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSES MAY NEED TO INSURE THAT A VERBATIM RECORDING OF THE PROCEEDINGS IS MADE, WHICH RECORDS INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

IN ACCORDANCE WITH THE AMERICAN WITH DISABILITIES ACT AND FLORIDA STATUTE 286.26, PERSONS WITH DISABILITIES NEEDING SPECIAL ACCOMMODATIONS TO PARTICIPATE IN THESE PROCEEDINGS SHOULD CONTACT THE TOWN CLERK NO LATER THAN TWO DAYS PRIOR TO THE MEETING AT (954) 640-4210 FOR ASSISTANCE.

You may also submit written comments to:

Town Clerk
4501 Ocean Drive
Lauderdale-By-The-Sea, Florida 33308

DIVISION 10. - NOTICE OF PUBLIC HEARINGS

Sec. 30-139. - Notice of Public Hearings.

- (a) *Generally.* When an application for development approval is subject to a public hearing, the DSD shall ensure that the necessary public hearing is scheduled for the decision-making body reviewing the application and that proper notice of the public hearing is provided, as set forth herein. All notices for public hearings shall include the following information:
- (1) Applicant's name;
 - (2) The date, time, and place of the public hearing;
 - (3) A description of the property involved by street address or by legal description, and area of the subject property. A map may be substituted for the legal description or as required by State law;
 - (4) The nature, scope and purpose of the proposal being noticed;
 - (5) The Town departments where the public may inspect the application, staff report and related materials during normal business hours;
 - (6) A statement that affected parties may appear at the public hearing, be heard and submit evidence with respect to the application; and
 - (7) Other information as may be required by law.
- (b) *Mailed notice.*
- (1) Where mailed notice is required, pursuant to Table XXX, it shall be provided to all property owners within a 300 foot radius of the subject property, and shall include the subject property owner(s) and Town Development Services Department.
 - (2) Distances for purposes of mailed notice requirements shall be measured from the perimeter of the property subject to development approval, except that where the owner of the subject property owns contiguous property, the distance shall be measured from the perimeter of the boundary of the contiguous property.
 - (3) Property owners shall be determined by the ad valorem tax records of Broward County.
 - (4) The DSD shall prepare the written notice and provide said notice to the Town Clerk who shall be responsible for mailing the notices.
 - (5) Mailed notice shall be deemed given when a notice has been properly addressed, stamped and deposited in a U.S. Postal depository or collected by an employee of the U.S. Postal Service.
 - (6) Notice by mailing is a courtesy only and no action taken by the Town shall be voided by the failure of any individual property owner to receive such notice.
- (c) *Published notice.* When the provisions of this chapter require published notice, the DSD shall provide that the notice be:
- (1) Published in the non-legal section of the local newspaper of general circulation that has been selected by the Town and in accordance with applicable Florida Statutes.
 - (2) Follow the timelines and ad type established in Table XXX in this article.
 - (3) For the purposes of this section and Table XXX:
 - a. "Display ad" shall be no less than two columns wide by ten inches long and the headline of the required notice shall be in a type no smaller than 18 point font size. If the ad is for a zoning map amendment, it shall also include a map pursuant to Florida Statutes 166.041(3)(c)2.
 - b. "Standard ad" shall be in the legal ad section of the classified ads of the newspaper and shall be in a type no smaller than 5 point font size.

- (d) *Posted notice.* When the provisions of this chapter require that notice be posted on the property subject to the application, the DSD shall provide the required sign to the applicant who will be responsible for posting the property, as set forth below:
- (1) Signs shall be placed on the property that is the subject of the application in accordance with timelines prescribed in Table XXX in this article prior to a required or requested hearing.
 - (2) If the subject property fronts on more than one right-of-way, then a sign shall be posted facing each right-of-way.
 - (3) Signs shall be placed no more than five feet from the street or if there is a sidewalk, no more than two feet beyond the property side edge of the sidewalk, so that the lettering is visible from the street.
 - (4) If the sign is destroyed or removed from the property, the applicant is responsible for obtaining another sign from the Town and posting the new sign on the property.
 - (5) The sign shall remain on the property until final disposition of the application. This shall include any deferral, rehearing, appeal, or requirement for review or hearing by another body. The sign information shall be updated to include any additional public hearings or public hearing deferrals consistent with Table XXX.
 - (6) No less than five days prior to the public hearing, the applicant shall execute and submit to the Department an affidavit of proof of the posting of the public notice sign in accordance with the provisions of this section. Updates as provided in (5) above shall also require such affidavit. If the applicant fails to submit the required affidavit, the DSD may postpone the application until the next public hearing after the affidavit has been supplied.
- (e) *Town Website Posting.* Notice of all development applications shall be provided on the Town's Website no later than ten days prior to any public hearing related to the application. Website Notice is a courtesy only and no action taken by the Town shall be voided by the failure of such notice to be posted.
- (f) *Re-noticing.* All costs of re-noticing the public hearing shall be borne by the party failing to comply with the applicable notice requirements, requesting the deferral or continuance, or whose actions are responsible for the deferral or continuance which may require re-noticing of the hearing. Continuances to a date certain, announced at the originally noticed meeting, shall not require re-notice of the new public hearing date. Continuances to unspecified dates, substantive changes to an application request during the period an application has been continued, or more than two continuances on the application, shall require re-noticing for the new public hearing date.
- (g) *Development applications requiring public hearing.* Public hearings on applications for development permit approvals other than rezoning, including, but not limited to administrative adjustments, appeals from administrative decisions, conditional uses, plats, site plans, vacations and variances shall be noticed as follows in accordance with Table XXX.
- (h) *Applicant bears burden of costs.* When the provisions of this chapter require that notice be provided, the costs of Town staff preparing the content of the notice and providing such notice shall be billed through cost recovery.
- (i) *Provisions of Florida Statutes to prevail.* Where provisions of the Florida Statutes conflict with provisions of this chapter, the Florida Statutes shall prevail except where this chapter contains supplementary requirements not in conflicting with the Florida Statutes.

Table XXX. Notice Requirements

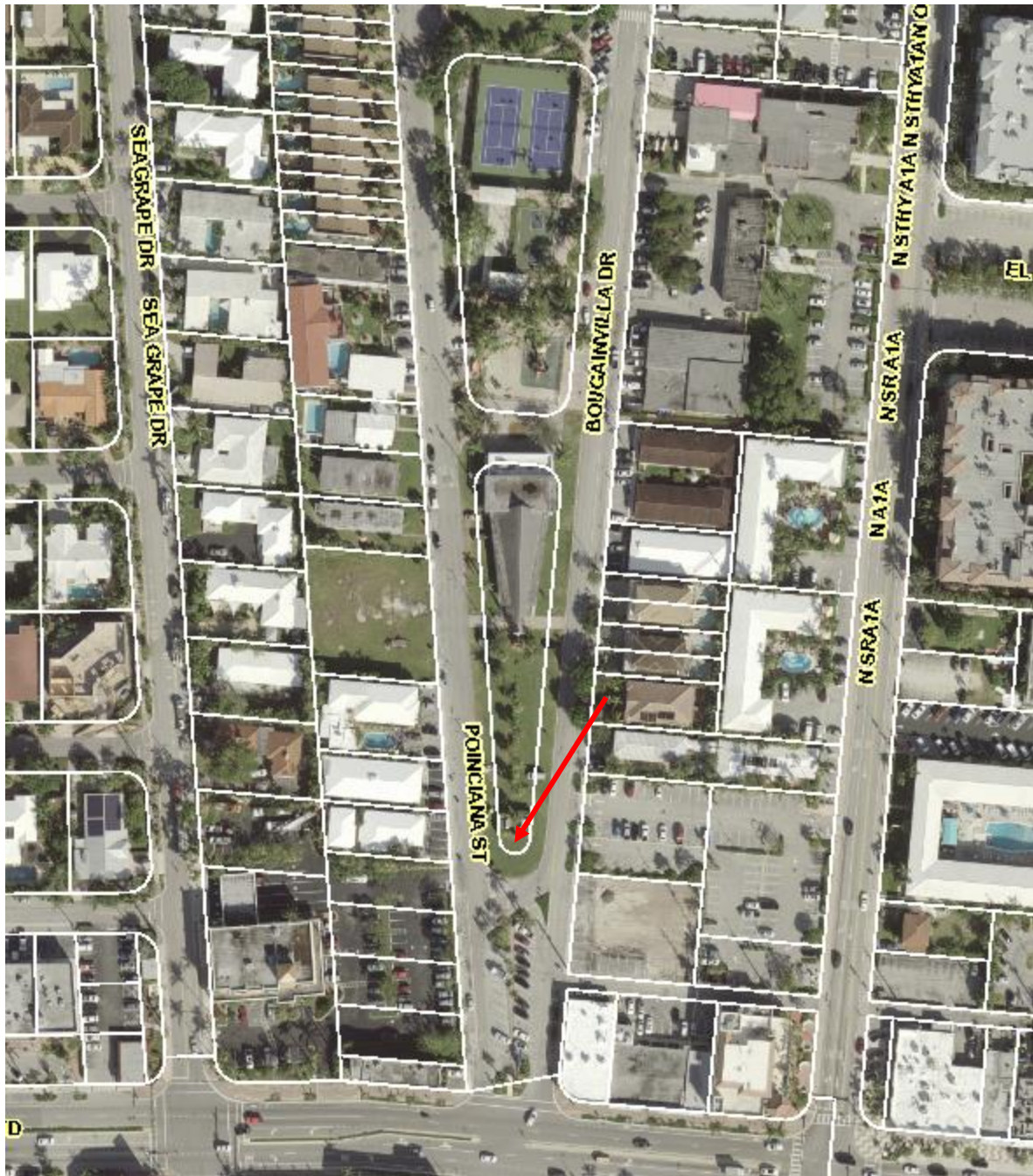
Application Type	Florida Statute Reference	Board Notice Date (as applicable)	Commission Notice Date	Type of Notice			
				Website	Posted	Mailed 300'	Published (Ad Type)
Other development permits: administrative adjustments, appeals from administrative decisions, conditional uses, plats, site plans, variances		10 days	10 days	X	X	X	n/a
Administrative decisions: Architectural Review, Conditional Use Level 1 Modification, Site Plan Level 1 Modification				n/a	n/a	n/a	n/a
Comprehensive Development Master Plan - Text	163.3184	10 days	7 days - 1st public hrg and 5 days - 2nd public hrg	X			X (Display)
Comprehensive Development Master Plan - Map	163.3184	10 days	7 days - 1st public hrg and 5 days - 2nd public hrg	X	X	X	X (Display)
Land Development Code - Text Amendments changes to actual list of permitted, conditional, or prohibited uses within a zoning category).	166.041(3)(c)2	10 days	7 days - 1st public hrg and 5 days - 2nd public hrg	X			X (Display)
Application Type	Florida Statute Reference	Board Notice Date (as applicable)	Commission Notice Date	Type of Notice			
				Website	Posted	Mailed 300'	Published (Ad Type)
Land Development Code - all other Text Amendments	166.041	10 days	10 days	X			X (Standard)
Zoning Map Change (chapter 30)—Town (less than 10 contiguous acres)	166.041(3)(c)1	10 days	30 days	X		X	X (Standard)
Zoning Map Change (chapter 30)—Town (10 or more contiguous acres)	166.041(3)(c)2	10 days	7 days - 1st public hrg 5 days - 2nd public hrg	X	X	X*	X* (Display, with map)
Zoning Map Change (chapter 30)—Owner	166.041(3)(a)	10 days	10 days	X	X	X	X (Standard)

Sec. 30-127. - Variances procedures and requirements.

- (a) *Purpose.* The purpose of this section is to:
 - (1) Provide for minimum standards for consideration of variance applications;
 - (2) Provide for an orderly system of review of application for variances from the effect of zoning regulations on property within the Town in order to accord the owners and users of such property with the due process of law guaranteed by the Constitution of the United States of America and the State of Florida; and
 - (3) Provide for a set of procedures and standards to guide the DSD, Board of Adjustment and Town Commission in the review of an application for variance and the approval or denial thereof.
- (b) *Application.* Application shall be made as provided in section 30-112.
- (c) *Recommendations of the Board of Adjustment.*
 - (1) The Board of Adjustment shall review applications for variances from the Town's Land Development Regulations in accordance with the procedures set forth in article IV, division 1 of this chapter.
 - (2) After receiving all relevant materials and information, the Board of Adjustment recommendation shall be by vote of a simple majority of the quorum present and voting.
 - (3) Decisions of the Board of Adjustment are advisory to the Town Commission.
 - (4) A recommendation for approval by the Board of Adjustment confers no legal right to the applicant in the absence of subsequent approval by the Town Commission.
- (d) *Action by Town Commission.*
 - (1) The Town Commission shall make express findings on the elements necessary for the granting of a variance as provided in subsection (e) below.
 - (2) The decision of the Town Commission is not final until the filing of a development order with the Town Clerk which shall be recorded in the official records of Broward County.
- (e) *Criteria for considering an "Application for a Variance."* In considering an application for a variance, an application shall be evaluated by considering the following criteria:
 - (1) Special conditions and circumstances exist affecting the land, structure or building involved preventing the reasonable use of such land, structure or building.
 - (2) The circumstances which cause the hardship are peculiar to the property or to such a small number of properties that they clearly constitute a marked exception to other properties in the district.
 - (3) The literal interpretation of the provisions of the applicable regulation would result in a particular hardship upon the owner, as distinguished from a mere inconvenience.
 - (4) The hardship is not self-created or the result of mere disregard for, or ignorance of the provisions of the regulations.
 - (5) The variance is the minimum variance that will make possible the reasonable use of the property and that the variance will be in harmony with the general purposes and intent of the applicable zoning regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
 - (6) The grant of the variance does not permit a use not generally permitted in the district involved or a use expressly or by implication prohibited by the terms of the regulations of the district in which the affected property lies.

- (7) Financial hardship is not a basis for granting a variance unless the failure to grant the variance will render the property unusable as a permitted use in the zoning district in which the property lies.
- (f) *Duration.*
 - (1) Such rights and privileges shall be terminated at such time as designated in the conditions of the approval of the variance, or upon any interruption or cessation of the use permitted by the variance for one year or more.
 - (2) The Town shall have continuing jurisdiction over all variances and may revoke, modify or suspend the approval of the variance, after a public hearing before the Town Commission and notice given in the same manner as required for approval of a variance under article IV, division 9 of this chapter, under the following conditions:
 - a. The variance was obtained by fraud or misrepresentation;
 - b. The variance has been exercised contrary to the conditions of its approval; or
 - c. The exception permitted by the variance has been exercised so as to be detrimental to the public health, safety or welfare, so as to constitute a nuisance.

(Ord. No. 2014-08, § 3, 7-7-2014)



Aerial view showing subject property



Looking south on Bougainville Drive



Intersection of Bougainville Drive and Poinciana Street with Church sign in background



Looking east from Poinciana Street



Looking north from Commercial Boulevard to Poinciana Street

APPROVED

TOWN OF LAUDERDALE-BY-THE SEA BOARD OF ADJUSTMENT MINUTES

Jarvis Hall

Tuesday, March 19, 2019 at 6:00 P.M.

CALL TO ORDER

Chair Lanata called the Board of Adjustment (BOA) meeting for the Town of Lauderdale-By-The-Sea (L-B-T-S) to order at 6:00PM.

PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited.

ROLL CALL

Members present were John Lanata, Alan Bluestein, William Ferrante, Jeffrey Whyte, Bernard Petreccia, 1st Alternate Howard Goldberg and 2nd Alternate Emeline Savidge. There were no absent members. Also present were Town Attorney James White, Development Services Director Linda Connors, Planner Jhanelle Campbell and Clerk Kaliah Lewis.

APPROVAL OF MINUTES

- i. Previous BOA Meeting Minutes – October 17, 2018

William Ferrante made a motion to approve the minutes of October 17, 2018. The motion was seconded by Bernard Petreccia. The motion carried unanimously 5-0.

PUBLIC COMMENTS

The Chair opened the meeting up to the public for comments not specific to the agenda item but there were no members of the public present. The Chair closed this public comments portion of the meeting at this time

NEW BUSINESS

- i. 2019-V-02: 4433 Bougainvilla Dr. (Applicant) is requesting a variance to Section 30-507 (g)(3) of the Town's Code of Ordinances, to allow a legally permitted, existing monument sign to have a setback of 6 feet from a right-of-way where 10 feet is required (Susan Leven, Planner)

The Chair introduced Development Services Director Linda Connors who would present this agenda item. She gave a PowerPoint presentation explaining that the Community Church of Lauderdale-By-The-Sea was requesting a variance from Town Code Section 30-507 (g)(3) to permit a six-foot setback from the right-of-way for a legally-permitted existing monument sign where ten feet are required from the right-of-way for monument signs. They are requesting a variance because the Town is in the process of designing upgrades and revisions to the intersection where Bougainvilla Drive is so that they can add additional parking spaces. She explained that the Town just purchased Majestic Apartments and demolished it which added to our A-1-A parking lot. This is the second phase of this project in which the area would be configured to add additional parking and would be able to widen the sidewalk for the commercial building in the corner of Commercial Boulevard and Bougainvilla Drive. In order to reconfigure the property, the Town is looking to acquire about 300 square feet of land. In doing so, the Town would be able to redesign the connection from Bougainvilla to Poinciana and make that a

little safer than what exists now. If the Town buys that property from the church, then the church's existing monument sign would be at less than the ten foot setback that is required by today's Code. To protect that sign in case there is a need for it in the future, Staff is recommending that they receive a variance on that property. Therefore, the applicant is requesting that the monument sign have a six-foot setback to the property line where ten feet are required. This would give the church the assurance that they could replace that sign if they would need to do so.

Ms. Connors explained that there are seven criteria for each variance application and this is an excellent example of a property that certainly meets the criteria requirements. She went over each of the seven criteria for the Board. Staff is asking the Board for their review and consideration of the variance and then they would forward the Board's recommendation to the Town Commission for their April 9th meeting. She called for Board questions and Howard Goldberg asked about making the street larger but moving the sign closer to the intersection. Ms. Connors explained that the street is getting reconfigured so the turn would not be as sharp. He agrees with the reconfiguration but feels the sign may be too close to the street. Chair Lanata said he went there and looked at the stakes in the ground. The reconfiguration that the Town will come up with will not be the same as we see there now. Ms. Connors said that the redesign will contain curbing and right now there is no curbing in the area. Curbing should prevent anyone from meandering off the street into the sign. Bernard Petreccia said that he too took a ride around the area and he agrees with granting the variance. He thanks the Community Church for allowing the Town to purchase the property.

Bernard Petreccia made a motion to recommend approval of the variance to the Town Commission. The motion to recommend approval was seconded by Alan Bluestein. The motion to recommend approval for 2019-V-02 to the Town Commission carried 5-0.

OLD BUSINESS

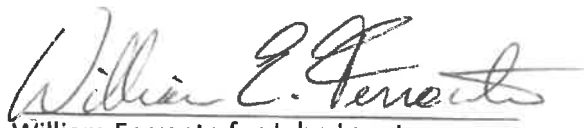
There was no old business to discuss.

UPDATES/BOARD MEMBER COMMENTS

Ms. Connors introduced James White as the new Town Attorney. She explained that Kathy Mehaffey has resigned from Weiss Serota and James White would be covering the Planning and Zoning Board and Board of Adjustment. He actually preceded Kathy Mehaffey as Town Attorney for L-B-T-S and is very familiar with our community. The Board Members welcomed James White.

ADJOURNMENT

Jeffrey Whyte made a motion to adjourn at 6:11 PM. The motion to adjourn was seconded by William Ferrante. The motion to adjourn carried unanimously 5-0.


William Ferrante for John Lanata

ATTEST:

Date Accepted: 4/3/19


LC



**VARIANCE DEVELOPMENT ORDER
TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA
Development Order 2019-V-01**

PROJECT NAME: Community Church of Lauderdale-By-The-Sea Variance

ADDRESS OF PROPERTY: 4433 Bougainvilla Drive

FOLIO #: 4943 18 01 4040

PROPERTY OWNERS: Community Church of Lauderdale-By-The-Sea

APPLICANT: Town of Lauderdale-By-The-Sea on behalf of Community
Community Church of Lauderdale-By-The-Sea

APPLICANT ADDRESS: 4433 Bougainvilla Drive, Lauderdale-By-The-Sea, FL 33308

REQUEST: Pursuant to the requirements of Section 30-127, Variances, the Applicant requests a Variance from Section 30-507(g)(3) of the Town's Code Ordinances, to permit a six (6)-foot setback from the right-of-way for a monument sign where the Town Code requires a minimum ten (10)-foot setback from the right-of-way for monuments signs.

SECTION 1. FINDINGS. THIS MATTER came before the TOWN Commission of the TOWN of LAUDERDALE- BY-THE-SEA, Florida, on April 9, 2019, following due public notice. The TOWN Commission having considered the public testimony, evidence in the record, the testimony of the applicant, and the recommendation of the TOWN Board of Adjustment and administrative staff, finds that the application, as conditioned herein, complies with the applicable standards and minimum requirements of Chapter 30 of the Town Code.

SECTION 2. APPROVAL. The request to approve a Variance to permit a six (6)-foot setback from the right-of-way for a monument sign where the Town Code requires a minimum ten (10)-foot setback from the right-of-way for monuments signs is hereby approved as shown on the application materials submitted by the Applicant, attached as **Exhibit 1**, except as modifications may be required by this approval or the Building Official.

SECTION 3. CONDITIONS. No conditions were imposed as part of the APPROVAL of the requested variance.

SECTION 4. VIOLATION OF TERMS. Failure to adhere to the terms of this Development Order shall be considered a violation of the Town Code and persons found violating the conditions shall be subject to the penalties prescribed by the Town Code, including but not limited to, the revocation of any of the approval(s) granted in this Development Order. The Applicant understands and acknowledges that it must comply with all other applicable requirements of the Town Code, and that the foregoing approval in this Development Order may be revoked by the Town at any time upon a determination that the Applicant is in non-compliance with the Town Code.

SECTION 5. APPEAL. In accordance with Section 30-140(d)(11) of the Town Code, the Applicant, or any aggrieved property owner in the area, may appeal the decision of the Town Commission in the Circuit Court of Broward County, Florida, in accordance with the Florida Rules of Appellate Procedure.

SECTION 6. EFFECTIVE DATE. This Development Order shall become effective upon Approval by the Commission.

APPROVED this ____ day of _____, 2019

	APPROVE	DENY
VOTE: Mayor Vincent	_____	_____
Vice Mayor Sokolow	_____	_____

Commissioner Oldaker	_____	_____
Commissioner Strauss	_____	_____
Commissioner Malkoon	_____	_____

MAYOR CHRIS VINCENT

ATTEST:

Tedra Allen, Town Clerk, CMC

Approved as to form:

Susan L. Trevarthen, Town Attorney

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