



VILLAGE OF NORTH PALM BEACH REGULAR SESSION AGENDA

VILLAGE HALL COUNCIL CHAMBERS
501 U.S. HIGHWAY 1

THURSDAY, MAY 26, 2022
7:00 PM

Deborah Searcy
Mayor

David B. Norris
Vice Mayor

Susan Bickel
President Pro Tem

Darryl C. Aubrey
Councilmember

Mark Mullinix
Councilmember

Andrew D. Lukasik
Village Manager

Leonard G. Rubin
Village Attorney

Jessica Green
Village Clerk

INSTRUCTIONS TO JOIN MEETING ELECTRONICALLY

To join meeting by computer (video & audio) click or type the following link in address bar:

https://us02web.zoom.us/j/83191392320?pwd=MW7z8EgzDzs4p1vS4Jr_w05yWKNdjN.1

Meeting ID: 831 9139 2320

Passcode: 445271

To join meeting by phone (voice only):

877 853 5257 US Toll-free

888 475 4499 US Toll-free

Meeting ID: 831 9139 2320

Passcode: 445271

ROLL CALL

INVOCATION - MAYOR

PLEDGE OF ALLEGIANCE - VICE MAYOR

AWARDS AND RECOGNITION

1. Proclamation - National Gun Violence Awareness Day

APPROVAL OF MINUTES

2. Minutes of Regular Session held May 12, 2022

COUNCIL BUSINESS MATTERS

STATEMENTS FROM THE PUBLIC, PETITIONS AND COMMUNICATIONS

Members of the public may address the Council concerning items on the Consent Agenda or any non agenda item under Statements from the Public. **Time Limit: 3 minutes**

Members of the public who wish to speak on any item listed on the Regular Session or Workshop Session Agenda will be called on when the issue comes up for discussion. **Time Limit: 3 minutes**

Anyone wishing to speak should complete a Public Comment Card (on the table at back of Council Chambers) and submit it to the Village Clerk prior to the beginning of the meeting.

DECLARATION OF EX PARTE COMMUNICATIONS

PUBLIC HEARINGS AND QUASI-JUDICIAL MATTERS

3. **PUBLIC HEARING AND 2ND READING OF ORDINANCE 2022-11 – CODE AMENDMENT – UTILITY TRAILERS PARKING REGULATIONS** Consider a motion to adopt and enact on second reading Ordinance 2022-11 amending Article III, "Stopping, Standing and Parking," of Chapter 18, "Motor Vehicles and Traffic," of the Village Code of Ordinances by amending Section 18-33, "Definitions," and Section 18-34, "Parking Restricted," to regulate the parking of utility trailers in residential zoning districts.

CONSENT AGENDA

The Consent Agenda is for the purpose of expediting issues of a routine or pro-forma nature. Councilmembers may remove any item from the Consent Agenda, which would automatically convey that item to the Regular Agenda for separate discussion and vote.

4. **RESOLUTION** – Approving an Agreement with Phillips and Jordan, Inc. for Hurricane/Disaster Debris Removal, Reduction and Disposal Services; and authorizing execution of the Agreement.
5. Receive for file Minutes of the Environmental Committee meeting held 3/7/22.
6. Receive for file Minutes of the Golf Advisory Board meeting held 4/25/22.

OTHER VILLAGE BUSINESS MATTERS

7. **RESOLUTION – SOLID WASTE TRUCK PURCHASE** Consider a motion to adopt a resolution approving the purchase of one 2022 Mack TE64 Front Load Truck from Nextran Corporation d/b/a Nextran Truck Center of Riviera Beach at a total cost of \$307,939; authorizing all necessary documents to effectuate the purchase; and authorizing execution of a Budget Amendment to fund the purchase.
8. **DISCUSSION** – Options for Single-Family Residential Stormwater Fees

COUNCIL AND ADMINISTRATION MATTERS

- 9.** MOTION – Designating a voting delegate for the Florida League of Cities Conference

MAYOR AND COUNCIL MATTERS/REPORTS

VILLAGE MANAGER MATTERS/REPORTS

REPORTS (SPECIAL COMMITTEES AND ADVISORY BOARDS)

ADJOURNMENT

If a person decides to appeal any decision by the Village Council with respect to any matter considered at the Village Council meeting, he will need a record of the proceedings, and for such purpose he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based (F.S. 286.0105).

In accordance with the Americans with Disabilities Act, any person who may require special accommodation to participate in this meeting should contact the Village Clerk's office at 841-3355 at least 72 hours prior to the meeting date.

This agenda represents the tentative agenda for the scheduled meeting of the Village Council. Due to the nature of governmental duties and responsibilities, the Village Council reserves the right to make additions to, or deletions from, the items contained in this agenda.



DRAFT MINUTES OF THE REGULAR SESSION
VILLAGE COUNCIL OF NORTH PALM BEACH, FLORIDA
MAY 12, 2022

Present:

Deborah Searcy, Mayor
David B. Norris, Vice Mayor
Susan Bickel, President Pro Tem
Darryl C. Aubrey, Sc.D., Councilmember
Mark Mullinix, Councilmember
Andrew D. Lukasik, Village Manager
Len Rubin, Village Attorney
Jessica Green, Village Clerk

ROLL CALL

Mayor Searcy called the meeting to order at 7:00 p.m. All members of Council were present. All members of staff were present.

INVOCATION AND PLEDGE OF ALLEGIANCE

Mayor Searcy asked Ms. Denise Behr, Chaplain for the Village's Police and Fire Departments to give the invocation.

Ms. Behr gave the invocation and Vice Mayor Norris led the public in the Pledge.

AWARDS AND RECOGNITION

Mayor Searcy presented a Proclamation for Asian American and Pacific Islander Heritage Month to Mrs. Shirley Koo.

Mayor Searcy presented a Proclamation for National Public Works Week to the Director and staff of Public Works.

APPROVAL OF MINUTES

The Minutes of the Regular Session held April 28, 2022 were approved as written.

STATEMENTS FROM THE PUBLIC

These residents addressed the Council with their concerns regarding the proposed 200 Yacht Club Drive Planned Unit Development:

Merle Tausig, 60 Yacht Club Drive
Carolyn Liss, 52 Yacht Club Drive
Frank Seidmam, 36 Yacht Club Drive
Deborah Berman, 44 Yacht Club Drive
Diane Smith, 37 Yacht Club Drive

William Rose, 36 Yacht Club Drive
Frank Rendulic, 36 Yacht Club Drive
Lucy Karas, 37 Yacht Club Drive
Donna Harshaw, 143 Yacht Club Drive
Cheryl Rose, 36 Yacht Club Drive

STATEMENTS FROM THE PUBLIC *continued*

Chris Ryder, 118 Dory Road S, expressed his concerns with the proposed project at the Anchorage Park north canal.

Pat Friedman, 1208 Marine Way, thanked Mayor Searcy and President Pro Tem Bickel for the Monday night phenomenal performance by the North Palm Beach Symphony Orchestra. Ms. Friedman recommended that the orchestra continue performing concerts at the Country Club.

Mayor Searcy explained to the audience that no plans have been re-submitted from the developers of the proposed 200 Yacht Club Drive project and therefore the Council had nothing before them to consider.

Mr. Lukasik stated he has given guidance to the developers based on feedback given from Council and from residents and that he has no idea what they plan to re-submit.

PUBLIC HEARINGS AND QUASI-JUDICIAL MATTERS

ORDINANCE 2022-11 CODE AMENDMENT – UTILITY TRAILERS PARKING REGULATIONS

A motion was made by Vice Mayor Norris and seconded by President Pro Tem Bickel to adopt on first reading Ordinance 2022-11 entitled:

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA, AMENDING ARTICLE III, “STOPPING, STANDING AND PARKING,” OF CHAPTER 18, “MOTOR VEHICLES AND TRAFFIC,” OF THE VILLAGE CODE OF ORDINANCES BY AMENDING SECTION 18-33, “DEFINITIONS,” AND SECTION 18-34, “PARKING RESTRICTED,” TO REGULATE THE PARKING OF UTILITY TRAILERS IN RESIDENTIAL ZONING DISTRICTS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Lukasik explained the purpose of the code amendment. Mr. Lukasik gave a brief history of the changes that were requested by Council. The amendment would provide a definition of utility trailer, would give requirements for parking, storage, screening, height, ownership, registration and licensing. Mr. Lukasik stated that there would be a grandfathering or exception process for trailers on a resident’s site before March 24th. Mr. Lukasik explained the criteria for the exception.

John Samadi, 512 Marlin Road, expressed his concerns with a portion of the code related to utility trailers.

Lisa Jensen, 606 Shore Road, expressed her support for the amendment to regulate utility trailers.

Discussion ensued between Council and Mr. Rubin regarding the proposed ordinance.

Thereafter the motion to adopt Ordinance 2022-11 on first reading passed unanimously.

ORDINANCE 2022-10 CODE AMENDMENT – DEFINITION OF DWELLING UNIT

A motion was made by Councilmember Mullinix and seconded by Councilmember Aubrey to adopt and enact on second reading Ordinance 2022-10 entitled:

ORDINANCE 2022-10 CODE AMENDMENT – DEFINITION OF DWELLING UNIT *continued*

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA, AMENDING ARTICLE I, “IN GENERAL,” OF APPENDIX C (CHAPTER 45) OF THE VILLAGE CODE OF ORDINANCES BY AMENDING SECTION 45-2, “DEFINITIONS,” TO MODIFY THE DEFINITION OF THE TERM DWELLING UNIT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Mr. Rubin explained the purpose of the code amendment. The amendment would modify the definition of dwelling unit by removing the allowance of units with no bedrooms or one bedroom with commercial zoning districts that allow mixed uses to be counted as one-half of a dwelling unit.

Mayor Searcy opened the public hearing.

Chris Ryder, 118 Dory Road S, expressed his concerns regarding the changes that were previously made to the code regarding the definition of a dwelling unit and other allowances that were previously inserted into the code.

There being no further comments from the public, Mayor Searcy closed the public hearing.

Thereafter the motion to adopt and enact Ordinance 2022-10 on second passed unanimously.

CONSENT AGENDA APPROVED

Vice Mayor Norris moved to approve the Consent Agenda. Councilmember Aubrey seconded the motion, which passed unanimously. The following items were approved with all present voting aye:

Resolution approving a proposal from Brightview Golf Maintenance, Inc. for the purchase and installation of an irrigation pipe at the North Palm Beach Country Club Golf Course at a total cost of \$66,268.78, authorizing execution of the Contract and waiving the Village’s purchasing policies and procedures.

Resolution approving an Amendment to the Contract with Brightview Golf Maintenance, Inc. for pond repair and stabilization at the North Palm Beach Country Club Golf Course to increase the scope of the project by 250 linear feet at an additional cost of \$22,469.25 bringing the total cost to \$117,554; and authorizing execution of the Amendment.

Resolution approving an Agreement with Thompson Consulting Services, LLC for Disaster Debris Management and Support Services; and authorizing execution of the Agreement.

Resolution approving a proposal from M & M Asphalt Maintenance, Inc. d/b/a All County Paving for the renovation of the Osborne Park basketball court at a total cost of \$29,997; authorizing execution of the Contract and authorizing a Budget Amendment to the Recreation Grant Fund to facilitate the purchase.

Receive for file Minutes of the General Employees Pension Board meeting held 2/1/22.

Receive for file Minutes of the Police & Fire Pension Board meeting held 2/8/22.

Receive for file Minutes of the Environmental Committee Meeting held 4/11/22.

Receive for file Minutes of the Recreation Advisory Board Meeting held 4/12/22.

Receive for file Minutes of the Business Advisory Board Meeting held 4/19/22.

RESOLUTION 2022-40 – STORMWATER MASTER PLAN MODELING AND DESIGN IMPLEMENTATION SERVICES

A motion was made by President Pro Tem Bickel and seconded by Councilmember Aubrey to adopt Resolution 2022-40 entitled:

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA, APPROVING A CONSULTING CONTRACT WITH HAZEN AND SAWYER, P.C. FOR STORMWATER MASTER PLAN MODELING AND DESIGN IMPLEMENTATION SERVICES AND AUTHORIZING THE MAYOR AND VILLAGE CLERK TO EXECUTE THE CONTRACT; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Lukasik explained the purpose of the resolution. Mr. Lukasik gave a history and background of the establishment of the Village’s Stormwater Utility and Stormwater Fund. Mr. Lukasik explained that a Stormwater Master Plan was identified as a priority by Council. The plan would complete the necessary evaluation of the existing stormwater system to identify vulnerabilities and recommend the most economical approach to addressing the needs of the system. Village staff initiated the process of selecting a consultant to develop the Stormwater Master Plan through the Consultants’ Competitive Negotiation Act process. Five (5) firms submitted qualifications and two (2) out of the five (5) were selected to present to the Selection Committee. The Selection Committee recommended that Council authorize Village staff to begin negotiations with Hazen and Sawyer, P.C. for completion of the Stormwater Master Plan.

John Samadi, 512 Marlin Road, expressed his concerns regarding the stormwater system in the Village and how it had been neglected.

Chris Ryder, 118 Dory Road S, expressed his concerns regarding the Village’s Stormwater Utility and Stormwater Fund and Stormwater Master Plan.

Deborah Cross, 2560 Pepperwood Circle, expressed her concerns regarding the Village’s Stormwater Utility and Stormwater Fund and discussed possible instances where they may be lack of greenspace.

Mr. Lukasik stated that Hazen and Sawyer should have recommendations ready at the next Council meeting scheduled for May 26th.

Thereafter, the motion to adopt Resolution 2022-40 passed unanimously.

RESOLUTION 2022-41 – INTERLOCAL AGREEMENT FOR SUMMER CAMP SERVICES

A motion was made by Vice Mayor Norris and seconded by President Pro Tem Bickel to adopt Resolution 2022-41 entitled:

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA, APPROVING AN INTERLOCAL AGREEMENT WITH THE TOWN OF LAKE PARK PERTAINING TO THE VILLAGE’S SUMMER CAMP PROGRAM AND AUTHORIZING THE MAYOR AND VILLAGE CLERK TO EXECUTE THE AGREEMENT ON BEHALF OF THE VILLAGE; AND PROVIDING FOR AN EFFECTIVE DATE.

RESOLUTION 2022-41 – INTERLOCAL AGREEMENT FOR SUMMER CAMP SERVICES
continued

Director of Leisure Services Zak Sherman discussed and explained the purpose of the agreement. Mr. Sherman stated that the Town of Lake Park was unable to hire a new Recreation Supervisor to oversee their summer camp program. The agreement would allow Lake Park residents to participate in the Village's Summer Camp at the Village resident rate.

Discussion ensued between Council and staff regarding additional programs at the Country Club that the Lake Park residents could also participate in.

Mr. Lukasik stated that he would look at different options and bring back recommendations to Council.

Thereafter, the motion to adopt Resolution 2022-41 passed unanimously.

MAYOR AND COUNCIL MATTERS/REPORTS

Councilmember Aubrey expressed his concerns regarding the current Advisory Board appointment process and stated changes to the process were needed. Councilmember Aubrey distributed a document to Council which gave his recommendations for changing the process. Councilmember Aubrey discussed and explained his recommendations.

Discussion ensued between Councilmembers regarding the Advisory Board appointment process.

Council agreed to have a discussion at a future Council meeting to discuss possible changes to the Advisory Board appointment process.

Councilmember Mullinix asked for the status of the installation of a ship's wheel at the entrance to the Yacht Club North edition at the North Anchorage entry point.

Mr. Lukasik stated that the installation of one (1) ship wheel would be started and the another easement will need to be secured before installing a second ship wheel.

Councilmember Mullinix recommended having a peer review or another estimate for the proposed undergrounding project.

Discussion ensued between Councilmembers regarding the proposed undergrounding project.

Mr. Lukasik gave an update on the proposed undergrounding project.

Discussion continued between Councilmembers and staff regarding the proposed undergrounding project.

President Pro Tem Bickel asked about the water pressure issue that was brought up by Yacht Club residents and if it was a Seacoast Utility issue or a Village issue.

MAYOR AND COUNCIL MATTERS/REPORTS *continued*

Mr. Lukasik stated that this was his first time hearing about an issue with water pressure along Yacht Club Drive and that it would be a problem that would need to be addressed by Seacoast Utilities. Mr. Lukasik stated that he would investigate the complaint and have it addressed by Seacoast Utility if necessary.

Councilmember Mullinix addressed Yacht Club residents regarding their comments on density bonuses. Councilmember Mullinix explained what type density bonuses would be considered and what types he would be in support of.

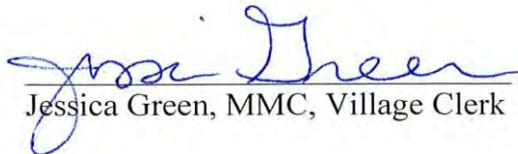
Mayor Searcy asked Solid Waste Manager Mark Halloway to explain the Village's new recycling procedures.

Mr. Halloway explained the past and new recycling procedures. Glass and plastic recycling would be picked up for the entire Village on Tuesdays and paper recycling would be picked up for the entire Village on Thursdays. In addition, residents' recycling containers could now be placed next to their garbage cans instead of out in the swale. The changes would begin on June 6th.

Mr. Halloway announced that he would be speaking about recycling at the Country Club on Saturday, May 14th at 10 a.m.

ADJOURNMENT

There being no further business to come before the Council, the meeting was adjourned at 8:44 p.m.


Jessica Green, MMC, Village Clerk

**VILLAGE OF NORTH PALM BEACH
VILLAGE ATTORNEY'S OFFICE**

TO: Honorable Mayor and Council
THRU: Andrew D. Lukasik, Village Manager
FROM: Leonard G. Rubin, Village Attorney
DATE: May 26, 2022
SUBJECT: **ORDINANCE 2nd Reading – Amending Chapter 18 of the Village Code of Ordinances to regulate the parking of utility trailers in residential zoning districts.**

At the Village Council's direction, Staff has drafted an Ordinance regulating the parking of utility trailers within the Village's residential zoning districts. The proposed Ordinance amends Chapter 18 by amending Section 18-33, "Definitions," to define the term utility trailer and by amending Section 18-34, "Parking Restricted," to add a new subsection (g) outlining the terms and conditions under which utility trailers may be stored on residential property.

Specifically, the Ordinance provides as follows:

- A. Defines the term utility trailer as "an enclosed or open trailer intended to be towed by a motorized vehicle in order to transport cargo and/or provide a product or service at a remote location."
- B. Requires that utility trailers within a residential zoning district be stored within a fully enclosed garage or within the rear or side yard of a residential lot within the R-1 or R-2 zoning district subject to the following additional requirements:
 - The utility trailer shall be visually screened from abutting properties and alleyways in the form of a wall, fence or gate or a hedge or other living vegetation, each with a minimum opacity of ninety percent. The use of chain link fencing with windscreens is prohibited, and trailers are not required to be screened from the right-of-way providing access to the rear or side yard if such equipment is located behind a gate at least six (6) feet in height and no more than twenty (20) feet high.
 - Only one utility trailer may be stored on a lot, and the height of the trailer is limited to ten (10) feet, exclusive of fixed mechanical equipment.
 - Utility trailers are not permitted within the parking area or common area of any multi-family or mixed-use residential community unless specifically approved through the site plan and appearance review process.
 - The utility trailer must be owned or exclusively used by the resident of the property.
 - Utility trailers shall not extend beyond the front building line and utility trailers parked in the rear yard shall be located at least five feet from the property line.

- The trailer shall be currently registered and licensed (with a plate and registration sticker) and shall **not** be used for living or sleeping quarters or for the storage of household goods or personal property unrelated to the use of the utility trailer for commercial purposes.

C. A resident who demonstrates that he or she cannot meet the screening or setback requirements for the parking a utility trailer on a lot within the R-1 or R-2 residential zoning districts may apply for an exemption provided that the resident:

- Stored the utility trailer on the property on or before **March 24, 2022**; and
- The utility trailer is necessary for the commercial livelihood of the resident.

The application shall be filed with the Community Development Department and all exemption requests shall be considered by the Planning Commission. The exemption shall not run with the property and a change in occupancy shall terminate the approval.

There is no fiscal impact.

The proposed Ordinance has been drafted by this office and reviewed for legal sufficiency.

At its May 12, 2022 meeting, the Village Council unanimously adopted the Ordinance on first reading without modification.

Recommendation:

Village Staff recommends Council consideration on second and final reading of the attached Ordinance regulating the parking of utility trailers in residential zoning districts in accordance with Village policies and procedures.

1 **ORDINANCE NO. 2022-_____**

2
3 AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH
4 PALM BEACH, FLORIDA, AMENDING ARTICLE III, "STOPPING, STANDING
5 AND PARKING," OF CHAPTER 18, "MOTOR VEHICLES AND TRAFFIC," OF
6 THE VILLAGE CODE OF ORDINANCES BY AMENDING SECTION 18-33,
7 "DEFINITIONS," AND SECTION 18-34, "PARKING RESTRICTED," TO
8 REGULATE THE PARKING OF UTILITY TRAILERS IN RESIDENTIAL ZONING
9 DISTRICTS; PROVIDING FOR CODIFICATION; PROVIDING FOR
10 SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN
11 EFFECTIVE DATE.

12
13 WHEREAS, the Village of North Palm Beach, as a duly organized Florida municipality,
14 possesses the Home Rule Authority conferred upon it by the Florida Constitution and Chapter 166,
15 Florida Statutes, including the regulation of parking within its corporate limits; and
16

17 WHEREAS, the Village Council wishes to amend Article III, "Stopping, Standing and
18 Parking," of Chapter 18, "Motor Vehicles and Traffic," of the Village Code of Ordinance to regulate
19 the parking of commercial utility trailers in residential districts; and
20

21 WHEREAS, the Village Council determines that the adoption of this Ordinance is in the best
22 interests of the residents of the Village of North Palm Beach.
23

24 NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF
25 NORTH PALM BEACH, FLORIDA as follows:
26

27 Section 1. The foregoing "Whereas" clauses are hereby ratified as true and correct and are
28 incorporated herein.
29

30 Section 2. The Village Council hereby amends Chapter 18, "Motor Vehicles and Traffic," of the
31 Village Code of Ordinances by amending Article III, "Stopping, Standing and Parking," to read as
32 follows (additional language is underlined and deleted language is ~~stricken through~~):
33

34 **ARTICLE III. - STOPPING, STANDING AND PARKING**

35 **Sec. 18-33. Definitions.**
36
37

38 For the purposes of this article, whenever the following words or terms are
39 used herein they shall have the meanings ascribed to them in this section, except
40 where the context requires otherwise:
41

42 *Boat* means any vessel, with or without motor propulsion, commonly used
43 for private recreation activities, designed for travel over water, and for which a trailer
44 is required for transportation over land. The definition of boat shall specifically
45 include a personal watercraft as defined by state statute and shall specifically exclude
46 those vessels not required to be titled with the state pursuant to state statute.
47

1 *Recreational vehicle* means any vehicle or portable structure designed
2 primarily to provide temporary living quarters for recreation, camping or travel use,
3 other than a light van; either a vehicular structure mounted on wheels, self-powered
4 or designed to be pulled by another vehicle or a structure designed to be mounted
5 upon and carried by another vehicle.
6

7 *Trailer* means a vehicular structure mounted on wheels designed to be pulled
8 by another vehicle.
9

10 *Utility trailer* means an enclosed or open trailer intended to be towed by a
11 *motorized vehicle in order to transport cargo and/or provide a product or service at a*
12 *remote location.*
13

14 **Sec. 18-34. Parking restricted.**
15

- 16 (a) Between the hours of 2:00 a.m. and 6:00 a.m. on streets where no curbing is
17 provided, the parking of a vehicle shall not usurp more than twelve (12) inches
18 of the paved portion of the street.
19
- 20 (b) No person shall leave any truck, trailer, boat or any vehicle of a similar type
21 parked upon any public street or highway within the village between the hours
22 of 12:30 a.m. and 6:00 a.m.
23
- 24 (c) No truck with a payload or carrying capacity (truck model rating) in excess of
25 one-ton shall be parked upon a public street or highway inclusive of swale area
26 within the village; provided, however, commercial vehicles making deliveries
27 or pickups or otherwise servicing residential, commercial or industrial property
28 within the village shall have the right, if necessary, to temporarily park in such
29 areas during normal business hours.
30
- 31 (d) No truck with a payload or carrying capacity (truck model rating) in excess of
32 one-ton shall be parked at any time upon private property within the village
33 unless such truck is being utilized as part of an existing business on the private
34 property; provided, however, commercial vehicles making deliveries or
35 pickups or otherwise servicing residential, commercial or industrial property
36 within the village shall have the right, if necessary to temporarily park upon
37 private property during normal business hours.
38
- 39 (e) The following vehicles shall not be parked overnight (from 11:00 p.m. to 7:00
40 a.m.) in any residential zoning district, unless parked within a fully enclosed
41 garage:
42
- 43 (1) Tractor trailers, and semi-trailer trucks;
44
- 45 (2) Tow trucks, wreckers or flat bed vehicle carriers;
46
- 47 (3) Commercial buses, school buses, or vans accommodating more than
48 sixteen (16) passengers;

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- (4) Dump trucks;
- (5) Construction equipment and vehicles, including farm tractors, backhoes, front-end loaders, cranes, cement mixers, pitch buckets or similar items;
- (6) Step vans, panel trucks or other vehicles with rectangular bulk and a payload or carrying capacity in excess of one-ton;
- (7) Any vehicle used and designed for the commercial sale of food or beverages;
- (8) More than one (1) taxi, car service vehicle, or limousine;
- (9) Stretch limousines (i.e., any automobile, sport utility vehicle or van for hire, and of original manufacture or remanufacture, that exceeds a seating capacity of eight (8) persons);
- (10) Boom or bucket trucks;
- (11) Swamp buggies and half-tracks;
- (12) Tandem wheel pick up trucks (dooley type); and
- (13) Vehicles that exceed eight (8) feet in height, inclusive of attached equipment and accessories.

(f) In addition to the foregoing, vehicles with commercial advertising or markings that occupy more than ten (10) square feet of any given side of the vehicle shall not be parked overnight (from 11:00 p.m. to 7:00 a.m.) in any residential zoning district unless:

- (1) The vehicle is covered with a fitted vehicle cover specifically manufactured for that purpose;
- (2) The vehicle is parked within a fully enclosed garage or otherwise screened from view from adjacent properties and rights-of-way; or
- (3) The vehicle's commercial advertising or markings are completely covered by magnetic signs affixed to the vehicle that have no markings whatsoever and are the same color as the base paint of the vehicle.

(g) Utility trailers shall not be parked in any residential zoning district unless parked within a fully enclosed garage or within a rear or side yard of a residential lot within the R-1 or R-2 zoning district, subject to the following requirements:

- 1 (1) The utility trailer shall be visually screened from the view of abutting
2 properties and alleyways. Screening shall be in the form of a properly
3 anchored wall, fence or gate (meeting all building code requirements)
4 or a hedge or other living vegetation, each with a minimum opacity of
5 ninety percent (90%). Walls, fences and gates shall be constructed in
6 accordance with section 45-36(D), and the use of chain link fencing
7 with windscreens is prohibited. Hedges or other living vegetation shall
8 be planted in the ground and shall be of sufficient height to screen such
9 equipment. Utility trailers are not required to be screened from the
10 right-of-way providing access to the rear or side yard if such equipment
11 is located behind a gate at least six (6) feet in height and not more than
12 twenty (20) feet wide.
- 13
14 (2) Only one (1) utility trailer shall be located on any residential lot, and
15 the height of the trailer is limited to ten (10) feet, as measured from the
16 ground, exclusive of fixed mechanical equipment.
- 17
18 (3) Utility trailers shall not be permitted within the parking area or
19 common area of any residential multi-family or mixed-use community
20 unless specifically approved through the site plan and appearance
21 review process.
- 22
23 (4) The utility trailer must be owned or exclusively used by the resident of
24 the property upon which it is parked.
- 25
26 (5) Utility trailers parked in the side yard shall not project beyond the front
27 building line and utility trailers parked in the rear yard shall be located
28 at least five (5) feet from the rear property line.
- 29
30 (6) The utility trailer shall, at all times, be currently registered and licensed
31 as required by state law and shall display a current registration sticker
32 and have attached a current vehicle license plate.
- 33
34 (7) When parked on residential property, the utility trailer shall not be used
35 for living or sleeping quarters or for the storage of household goods or
36 any personal property unrelated to the use of the utility trailer for
37 commercial purposes.
- 38
39 (8) Any resident who demonstrates that he or she cannot meet the
40 screening or setback requirements for parking a utility trailer on a lot
41 within the R-1 or R-2 residential zoning districts may apply for an
42 exemption from such requirements provided that the resident stored the
43 utility trailer on the property on or before March 24, 2022 and the utility
44 trailer is necessary for the commercial livelihood of the resident. The
45 application shall be accompanied by documentation demonstrating the
46 date the resident began storing the utility trailer on the property and
47 detailing the use of the utility trailer. The application shall be filed with
48 the community development department, and the department shall

1 review the application to ensure it is complete and prepare the
2 necessary documentation for review by the planning commission. The
3 planning commission shall approve, approve with conditions or deny
4 the application, and the decision shall be set forth in a written order.
5 The exemption shall not run with the property and a change in
6 residency shall terminate the approval.

7
8 * * *

9
10 Section 4. The provisions of this Ordinance shall become and be made part of the Code of
11 Ordinances for the Village of North Palm Beach, Florida.

12
13 Section 5. If any section, paragraph, sentence, clause, phrase or word of this Ordinances is for
14 any reason held by a court of competent jurisdiction to be unconstitutional, inoperative or void, such
15 holding shall not affect the remainder of the Ordinance.

16
17 Section 6. All ordinances and resolutions, or parts of ordinances and resolutions, in conflict
18 herewith are hereby repealed to the extent of such conflict.

19
20 Section 7. This Ordinance shall be effective immediately upon adoption.

21
22 PLACED ON FIRST READING THIS _____ DAY OF _____, 2022.

23
24 PLACED ON SECOND, FINAL READING AND PASSED THIS _____ DAY OF _____,
25 2022.

26
27
28
29 (Village Seal)

MAYOR

30
31
32 ATTEST:

33
34 _____
35 VILLAGE CLERK

36
37 APPROVED AS TO FORM AND
38 LEGAL SUFFICIENCY:

39
40 _____
41 VILLAGE ATTORNEY

**VILLAGE OF NORTH PALM BEACH
PUBLIC WORKS DEPARTMENT**

TO: Honorable Mayor and Council

THRU: Andrew Lukasik, Village Manager

DATE: May 26, 2022

FROM: Chuck Huff, Director Public Works

SUBJECT: **RESOLUTION – Approval of Agreement with Phillips and Jordan, Inc. for Disaster Debris Removal Services**

Village Staff is seeking Council consideration and approval of an Agreement with Phillip and Jordan, Inc. for Disaster Debris Removal Services. The existing agreement between the Village and Phillips and Jordan expired on May 7, 2022.

The Solid Waste Authority of Palm Beach County (SWA) recently completed a competitive solicitation (RFP No. 22-201C) for Hurricane/Disaster Debris Removal, Reduction and Disposal Services and awarded a new contract to Phillips and Jordan, Inc. The term of this contract is from May 8, 2022 through May 7, 2025. Village Staff is seeking authority to entering into an Agreement with Phillips and Jordan utilizing the terms, conditions and pricing of the recently executed SWA contract.

Phillip and Jordan, Inc. is experienced in disaster debris removal and has a thorough understanding of the applicable FEMA requirements. The scope of work under this Agreement would include removing large volumes of disaster-generated debris from the Village in a timely and cost-effective manner and performing all work in accordance with FEMA guidelines in order to maximize recovery of reimbursable expenses.

There is no cost for this Agreement unless the Village declares an emergency and mobilizes Phillips and Jordan, Inc. to provide assistance.

The attached Resolution and Agreement have been prepared and/or reviewed by the Village Attorney for legal sufficiency.

Recommendation:

Village Staff recommends Council consideration and approval of the attached Resolution approving an Agreement for Hurricane/Disaster Debris Removal, Reduction and Disposal with Phillips and Jordan, Inc. utilizing the pricing, terms and conditions of an existing contract with the Solid Waste Authority of Palm Beach County and authorizing the Mayor and Village Clerk to execute the Agreement in accordance with Village policies and procedures.

RESOLUTION 2022-_____

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA, APPROVING AN AGREEMENT WITH PHILLIPS AND JORDAN, INC. FOR HURRICANE/DISASTER DEBRIS REMOVAL, REDUCTION AND DISPOSAL IN ACCORDANCE WITH THE TERMS, CONDITIONS AND PRICING SET FORTH IN AN EXISTING AGREEMENT WITH THE SOLID WASTE AUTHORITY OF PALM BEACH COUNTY; AUTHORIZING THE MAYOR AND VILLAGE CLERK TO EXECUTE THE AGREEMENT ON BEHALF OF THE VILLAGE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village wishes to obtain debris removal, reduction and disposal services in the event of a hurricane or disaster; and

WHEREAS, in obtaining such services, the Village wishes to piggy-back an existing agreement between Phillips and Jordan, Inc. (“Contractor”) and the Solid Waste Authority of Palm Beach County (Agreement No. 22-201C) (“SWA Contract”); and

WHEREAS, Contractor has agreed to provide the Village with debris removal, reduction and disposal services under the same terms and conditions as the SWA Contract; and

WHEREAS, the Village determines that the execution of an Agreement with Contractor, incorporating the terms and conditions of the SWA Contract, is in the best interests of the public health, safety and welfare.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA, as follows:

Section 1. The foregoing recitals are ratified as true and incorporated herein.

Section 2. The Village Council of the Village of North Palm Beach, Florida, hereby approves an Agreement between the Village and Phillips and Jordan, Inc. to provide hurricane/disaster debris removal, reduction and disposal services and authorizes the Mayor and Village Clerk to execute the Agreement on behalf of the Village. A copy of the Agreement is attached hereto and incorporated herein by reference.

Section 3. All resolutions or parts of resolutions in conflict with this Resolution are hereby repealed to the extent of such conflict.

Section 4. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED THIS _____ DAY OF _____, 2022.

(Village Seal)

MAYOR

ATTEST:

VILLAGE CLERK

**AGREEMENT FOR HURRICANE/DISASTER DEBRIS
REMOVAL, REDUCTION AND DISPOSAL**

THIS AGREEMENT is made as of this _____ day of _____, 2022, by and between the VILLAGE OF NORTH PALM BEACH, 501 U.S. Highway One, North Palm Beach, Florida 33408, a Florida municipal corporation (“VILLAGE”), and Phillips and Jordan, Inc., 10142 Parkside Drive, Suite 500, Knoxville, Tennessee 37922, a foreign corporation authorized to do business in the State of Florida (“CONTRACTOR”), whose Federal Employer Identification Number is 56-0694573.

RECITALS

WHEREAS, the VILLAGE is in need of a contractor to provide debris removal, reduction and disposal services in the event of a hurricane or other natural disaster; and

WHEREAS, the Solid Waste Authority of Palm Beach County (“SWA”), through its competitive selection process, awarded County Contract No. 22-201C to CONTRACTOR for the County’s debris removal, reduction and disposal (“SWA Contract”); and

WHEREAS, CONTRACTOR has agreed to provide such services to the VILLAGE based on the terms and conditions, including pricing, set forth in the SWA Contract; and

WHEREAS, the VILLAGE desires to accept CONTRACTOR’s proposal by piggy-backing the SWA Contract as authorized by the VILLAGE’s purchasing policies and procedures.

NOW THEREFORE, in consideration of the mutual promises set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Recitals.

The parties agree that the recitals set forth above are true and correct and are fully incorporated herein by reference.

2. Solid Waste Authority of Palm Beach County Contract.

The parties agree and acknowledge that this Agreement incorporates and includes all of the terms and conditions, including pricing, set forth in Hurricane/Disaster Debris Removal, Reduction and Disposal Agreement No. 22-201C dated May 4, 2022 between the Solid Waste Authority of Palm Beach County and CONTRACTOR (“SWA Contract”), a copy of which is attached hereto as Exhibit “1” and incorporated herein by this reference.

3. CONTRACTOR's Performance

CONTRACTOR shall provide those services set forth in the Scope of Services incorporated into the SWA Contract as may be specifically requested upon written notice from the VILLAGE.

4. Compensation to CONTRACTOR.

A. Payments by the VILLAGE to CONTRACTOR under this Agreement shall not exceed the Fee Schedule set forth in the SWA Contract.

B. For work performed pursuant to this Agreement, CONTRACTOR shall submit invoices to the VILLAGE on at least a monthly basis for review and approval by the VILLAGE's representative, indicating that the services have been provided and rendered in conformity with this Agreement. The invoices shall be transmitted to the Finance Department for payment.

C. Invoices will normally be paid within thirty (30) days following the VILLAGE representative's approval. CONTRACTOR waives consequential or incidental damages for claims, disputes or other matters in question arising out of or relating to this Agreement. In order for both parties herein to close their books and records, CONTRACTOR will clearly state "final invoice" on CONTRACTOR's final/last billing to the VILLAGE. This certifies that all services have been properly performed and all charges have been invoiced to the VILLAGE. Since this account will thereupon be closed, any and other further charges if not properly included in this final invoice are waived by CONTRACTOR. The VILLAGE will not be liable for any invoice from CONTRACTOR submitted thirty (30) days after the provision of all services.

5. Period and Renewals.

This Agreement shall be for the term as indicated in the SWA Contract, effective upon execution by both parties. Extensions or renewals to the SWA Contract or any modification including new products, terms, or price changes to the SWA Contract shall be submitted by CONTRACTOR to the VILLAGE for approval. In the SWA Contract expires and no new contract is let by the County, the VILLAGE reserves the right, upon written agreement with CONTRACTOR to renew this Agreement under the same terms and conditions for an additional period of one (1) year. All prior Agreements between the VILLAGE and CONTRACTOR are hereby repealed as of the effective date of this Agreement.

6. Insurance.

CONTRACTOR shall obtain and maintain during the term of this Agreement all insurance required under the SWA Contract, with the VILLAGE named as an additional insured.

7. Indemnification.

To the fullest extent permitted by applicable laws and regulations, CONTRACTOR shall indemnify and save harmless and defend the VILLAGE, its officials, agents, servants, and employees from and against any and all claims, liability, losses, and/or causes of action arising out

of or in any way related to the services furnished by CONTRACTOR pursuant to this Agreement, including, but not limited to, those caused by or arising out of any act, omission, negligence or default of CONTRACTOR and/or its subcontractors, agents, servants or employees. CONTRACTOR shall not be required to indemnify the VILLAGE, its officials, agents, servants and employees when the occurrence results solely from the wrongful acts or omissions of the VILLAGE, its officials, agents, servants and employees. The terms of this Section shall survive completion of all services provided for in this Agreement as well as the termination of this Agreement for any reason. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the VILLAGE or CONTRACTOR, nor shall this Agreement be construed a waiver of sovereign immunity beyond the limited waiver provided in § 768.28, Florida Statutes.

8. Contract Administration.

The services of CONTRACTOR shall be under the general direction of the VILLAGE's Director of Public Works, who shall act as the VILLAGE's representative during the terms of this Agreement.

9. Conflict of Terms and Conditions.

In the event of any conflict between the terms and conditions of this Agreement and the terms and conditions of the SWA Contract, the terms and conditions of this Agreement shall control.

10. Miscellaneous Provisions.

A. Failure of a party to enforce or exercise any of its right(s) under this Agreement shall not be deemed a waiver of that parties' right to enforce or exercise said right(s) at any time thereafter.

B. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

C. If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all expenses (including taxes) even if not taxable as court awarded costs (including, without limitation, all such fees, costs and expenses incident to appeals), incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.

D. All notices, demands, communications or requests required or permitted under this Agreement shall be in writing and delivered in person or sent by certified mail, postage prepaid, to the addresses appearing on the first page of this Agreement.

E. The VILLAGE and CONTRACTOR agree that this Agreement sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto. Any provision of this Agreement which is of a continuing nature or imposes an obligation which extends beyond the term of this Agreement shall survive its expiration or earlier termination.

F. In performing services pursuant to this Contract, CONTRACTOR shall comply with all relevant provisions of Chapter 119, Florida Statutes. **IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: (561) 841-3355; NPBCLERK@VILLAGE-NPB.ORG; OR 501 U.S. HIGHWAY ONE, NORTH PALM BEACH, FL 33408.**

As required by Section 119.0701, Florida Statutes, CONTRACTOR shall:

- (1) Keep and maintain public records required by the VILLAGE to perform the service.
- (2) Upon request from the VILLAGE's custodian of public records, provide the VILLAGE with a copy 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 in Chapter 119, Florida Statutes, or as otherwise provided by law.
- (3) 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 Contract term and following completion of the Contract if CONTRACTOR does not transfer the records to the VILLAGE.
- (4) Upon completion of the Contract, transfer, at no cost, to the VILLAGE all public records in possession of CONTRACTOR or keep and maintain public records required by the VILLAGE to perform the services. If CONTRACTOR transfers all public records to the VILLAGE upon completion of the Contract, CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If CONTRACTOR keeps and maintains public records upon completion of the Contract, CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the VILLAGE, upon request from the VILLAGE's custodian of public records, in a format that is compatible with the information technology systems of the VILLAGE.

IN WITNESS WHEREOF, the VILLAGE and CONTRACTOR hereto have made and executed this Agreement for Disaster Debris Management and Support Services for the Village of North Palm Beach as of the day and year first above written.

CONTRACTOR:

PHILLIPS AND JORDAN, INC.

BY: _____

Print Name: _____

Position: _____

VILLAGE:

VILLAGE OF NORTH PALM BEACH

BY: _____

DEBORAH SEARCY
MAYOR

ATTEST:

BY: _____

JESSICA GREEN,
VILLAGE CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

BY: _____

LEONARD G. RUBIN
VILLAGE ATTORNEY



YOUR PARTNER FOR
SOLID WASTE SOLUTIONS

AGREEMENT FOR

HURRICANE/DISASTER DEBRIS REMOVAL, REDUCTION AND DISPOSAL

BETWEEN

SOLID WASTE AUTHORITY OF PALM BEACH COUNTY

AND

PHILLIPS AND JORDAN, INC.

AGREEMENT NO. 22-201C

**SOLID WASTE AUTHORITY OF PALM BEACH COUNTY
7501 NORTH JOG ROAD
WEST PALM BEACH, FLORIDA 33412
(561) 640-4000**

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AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement is made and entered into as of MAY 4th, 2022, (hereinafter referred to as the Agreement) by and between **Solid Waste Authority of Palm Beach County**, a dependent special district created by Chapter 2001-331, Laws of Florida, as amended, (hereinafter referred to as AUTHORITY) and **PHILLIPS AND JORDAN, INC.**, (hereinafter referred to as CONTRACTOR and when referred to collectively with AUTHORITY, the Parties), a Corporation, whose Federal Employer ID Number is **56-0694573**;

Whereas, in accordance with the AUTHORITY's Request for Proposals No. 22-201/DL, solicited to employ the services of the CONTRACTOR for the purpose of providing Hurricane/Disaster Debris Removal, Reduction and Disposal, and;

Whereas, CONTRACTOR represents it is qualified, capable and prepared to provide such services.

Now, therefore, in consideration of the promises contained herein and other good and valuable consideration, the receipt of which is acknowledged by the other, the parties hereto agree as follows:

ARTICLE 1 - EFFECTIVE DATE AND INCORPORATION OF RECITALS

The foregoing recitals are hereby incorporated herein by reference.

- 1.1 The Effective Date of this Agreement shall be **May 8, 2022** and the Initial Term of this Agreement is for three (3) years and shall expire on **May 7, 2025**, unless terminated earlier as provided for herein.
- 1.2 The AUTHORITY shall have the option of extending this Agreement for three (3) additional years, as approved by the AUTHORITY's Board or designee, in its sole and unfettered discretion, on the same terms and conditions. Such extension shall be in the form of a written Amendment to the Agreement executed by both Parties.
- 1.3 The continuance of this Agreement from year-to-year is contingent upon successful annual recertification of the CONTRACTOR's capabilities. The recertification process will be a review of the fiscal (bankruptcy, etc.), logistical (equipment availability, etc.), and moral (conviction for environmental crime, conviction for crime against a public entity, etc.) responsibility of the CONTRACTOR and a determination by the AUTHORITY, based on this review, of whether or not the CONTRACTOR continues to be a viable firm to provide the services described in this Agreement.

ARTICLE 2 - SERVICES TO BE PERFORMED BY CONTRACTOR

CONTRACTOR shall perform the services as specifically stated in the Scope of Work, attached hereto and made a part hereof as Exhibit A, and/or as may be specifically designated and authorized by the AUTHORITY. Such authorizations will be referred to as Task Orders. Each Task Order shall set forth a specific scope of services, rate/amount of compensation, completion date, and other pertinent details of the task being authorized. The AUTHORITY, by virtue of this Agreement, gives the CONTRACTOR no guarantee of any work/services or any specific amount of work/services that may be accomplished during the period this Agreement is in full force and effect.

ARTICLE 3 - COMPENSATION

- 3.1 The AUTHORITY shall pay CONTRACTOR in accordance with the Fee Schedule, attached hereto and made a part hereof as Exhibit B. In addition, the Parties may negotiate a lump sum or not-to-exceed amount

on a per-project basis on an individual Task Order.

- 3.2 The CONTRACTOR shall submit semi-monthly invoices for services rendered. All invoices must reference the Task Order number. Invoices shall include a statement of progress and appropriate audit quality detail to satisfy the Federal Emergency Management Agency (FEMA) requirements.
- 3.3 Payment of CONTRACTOR by AUTHORITY is not contingent upon the AUTHORITY being reimbursed by the Federal Emergency Management Agency (FEMA). Payment to CONTRACTOR will be made for any work directed by the AUTHORITY which is determined by Federal and State agencies to be ineligible for reimbursement.
- 3.4 Payment of invoices shall be within thirty (30) days after receipt of a correct, fully documented invoice. All invoices shall be delivered to:

Solid Waste Authority of Palm Beach County
7501 North Jog Road
West Palm Beach, Florida 33412
Attn: Accounts Payable

- 3.5 CONTRACTOR will clearly mark its final/last billing with the words "Final Invoice". This will certify that all services have been fully performed under this Agreement and that all charges and costs have been invoiced to the AUTHORITY. Thereupon, this account will be closed and any additional charges or costs, not included in the Final Invoice, shall be waived by CONTRACTOR. The AUTHORITY shall not be liable for the payment of any such additional charges or costs not included in the Final Invoice.
- 3.6 The AUTHORITY will retain 5% of the payment under each Task Order until such time as the entire project is completed to the AUTHORITY's satisfaction and all subcontractors and any material suppliers verify that they have been paid.

ARTICLE 4 - INSURANCE

- 4.1 During the performance of the Services under this Agreement, CONTRACTOR shall maintain the following insurance policies written by an insurance company authorized to do business in Florida and acceptable to the AUTHORITY.
 1. **General Liability** Insurance with bodily injury limits of not less than \$1,000,000 for each occurrence, and with property damage limits of not less than \$1,000,000 for each occurrence.
 2. **Automobile Liability** Insurance with bodily injury limits of not less than \$5,000,000 for each person and not less than \$5,000,000 for each accident and with property damage limits of not less than \$5,000,000 for each accident.
 3. **Workers' Compensation** Insurance in accordance with statutory requirements and Employer's Liability Insurance with limits of not less than \$500,000 for each accident, \$500,000 for each disease, and \$500,000 aggregate.
 4. **Excess Liability** Insurance with limits of not less than \$10,000,000 for each occurrence and annual aggregate.
- 4.2 Deductible amounts shall not exceed 5% of the total amount of required insurance in each category. Should any policy contain any unusual exclusions, said exclusions shall be so indicated on the certificate(s) of insurance.
- 4.3 CONTRACTOR shall furnish AUTHORITY **Certificates of Insurance**, which shall include a provision that

policy cancellation, non-renewal or reduction of coverage will not be effective until at least **thirty (30) days** after written notice has been given to the AUTHORITY. CONTRACTOR shall include AUTHORITY as an **Additional Insured** on the General Liability and Automobile Liability insurance policy required by this Agreement. All of CONTRACTOR'S subcontractors shall be required to include AUTHORITY and CONTRACTOR as **Additional Insureds** on all of their liability insurance policies.

- 4.4 CONTRACTOR shall ensure that CONTRACTOR's naming of the AUTHORITY as an additional insured on its General Liability and Automobile Liability insurance policies pursuant to this Agreement shall afford coverage for the negligent, reckless, intentionally wrongful or willful acts of CONTRACTOR and other persons employed or utilized by the CONTRACTOR in the performance of this Agreement.
- 4.5 In the event that subcontractors used by the CONTRACTOR do not have insurance, or do not meet the required insurance limits herein, CONTRACTOR shall indemnify and hold harmless the AUTHORITY for any claim(s) in excess of the subcontractor's insurance coverage.
- 4.6 The CONTRACTOR shall not commence work under this Agreement until all insurance required as stated herein has been obtained and such insurance has been approved by the AUTHORITY.

ARTICLE 5 - STANDARD OF CARE

- 5.1 The CONTRACTOR shall exercise the same degree of care, skill, and diligence in the performance of the Services performed pursuant to this Agreement as is ordinarily provided by comparable, qualified professionals under similar circumstances. The CONTRACTOR shall, at no additional cost to AUTHORITY, re-perform services which fail to satisfy the foregoing standard of care.
- 5.2 The CONTRACTOR warrants that all services shall be performed by skilled and competent personnel to the highest professional standards in the field.

ARTICLE 6 - INDEMNIFICATION

6.1 GENERAL

Having considered the risks and potential liabilities that may exist during the performance of the services and in consideration of the promises included herein, AUTHORITY and CONTRACTOR agree to allocate such liabilities in accordance with this Article 6.

6.2 INDEMNIFICATION

The CONTRACTOR shall indemnify and hold harmless the AUTHORITY, and its officers and employees, from all liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the CONTRACTOR and other persons employed or utilized by the CONTRACTOR in the performance of the Agreement.

6.3 SURVIVAL

Upon completion of all services, obligations and duties provided for in this Agreement, or in the event of termination of this Agreement for any reason, the terms and conditions of this Article shall survive.

ARTICLE 7 - INDEPENDENT CONTRACTOR

- 7.1 The CONTRACTOR is, and shall be, in the performance of all work services and activities performed under this Agreement, an Independent Contractor, and not an employee, agent, or servant of the AUTHORITY. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to the CONTRACTOR'S sole direction, supervision, and control. The CONTRACTOR shall exercise control over the means and manner in which it and its employees perform the

work, and in all respects the CONTRACTOR'S relationship and the relationship of its employees to the AUTHORITY shall be that of an Independent Contractor and not as employees or agents of the AUTHORITY.

- 7.2 The CONTRACTOR does not have the power or authority to bind the AUTHORITY in any promise, agreement or representation other than specifically provided for in this Agreement.

ARTICLE 8 - AUTHORITY TO CONDUCT BUSINESS

The CONTRACTOR hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business and perform all requirements in this Agreement.

ARTICLE 9 - COMPLIANCE WITH LAWS

In performance of the Services, the CONTRACTOR will comply with applicable regulatory requirements including federal, state, special district, and local laws, rules, regulations, orders, codes, criteria, and standards.

ARTICLE 10 - SUB-CONTRACTING

- 10.1 The AUTHORITY reserves the right, in its sole and unfettered discretion, to accept the use of a subcontractor or to reject the selection of a particular subcontractor under this Agreement.
- 10.2 If a subcontractor fails to perform or make progress, as required by this Agreement, and it is necessary to replace the subcontractor to complete the work in a timely fashion, the CONTRACTOR shall promptly do so, subject to acceptance of the new subcontractor by the AUTHORITY.

ARTICLE 11 - FEDERAL AND STATE TAXES

The AUTHORITY is exempt from Federal Tax and State Sales and Use Taxes. Upon request, the AUTHORITY will provide an exemption certificate to CONTRACTOR. The CONTRACTOR shall not be exempted from paying sales tax to its suppliers for materials to fulfill contractual obligations with the AUTHORITY, nor shall the CONTRACTOR be authorized to use the AUTHORITY'S Tax Exemption Number in securing such materials.

ARTICLE 12 - AVAILABILITY OF FUNDS

The obligations of the AUTHORITY under this Agreement are subject to the availability of funds lawfully appropriated for its purpose by the Board of the Solid Waste Authority of Palm Beach County.

ARTICLE 13 - AUTHORITY'S RESPONSIBILITIES

AUTHORITY shall be responsible for providing access to all project sites, and providing information on hand required by CONTRACTOR, including existing reports, studies, financial information, and other required data that are available in the files of the AUTHORITY.

ARTICLE 14 - DEFAULT

- 14.1 The AUTHORITY may, by written notice of default to the CONTRACTOR, terminate the Agreement in whole or in part if the CONTRACTOR: a) fails to satisfactorily perform any provisions of this Agreement; or b) fails to make progress so as to endanger performance under the terms and conditions of this Agreement; or c) repeatedly fails to perform; or d) does not remedy any such failure within a period of ten (10) days (or such period as the Director of Purchasing Services may authorize in writing) after receipt of notice from the Director of Purchasing Services specifying such failure. In the event the AUTHORITY terminates this Agreement in whole or in part because of default of the CONTRACTOR, the AUTHORITY may, in its sole

and unfettered discretion, procure goods and/or services similar to those required under this Agreement and the CONTRACTOR shall be liable for any excess costs incurred due to this action.

- 14.2 If it is determined that the CONTRACTOR was not in default or that the default was excusable (e.g., failure due to causes beyond the control of, or without the fault or negligence of the CONTRACTOR), the rights and obligations of the parties shall be those provided in Article 15 – Termination for Convenience.

ARTICLE 15 – TERMINATION FOR CONVENIENCE

- 15.1 The Director of Purchasing Services may, whenever the interests of the AUTHORITY so require, terminate this Agreement, in whole or in part, for the convenience of the AUTHORITY. The Director of Purchasing Services shall give five (5) business days prior written Notice of Termination to the CONTRACTOR, specifying the portions of the Agreement to be terminated and when the termination is to become effective. If only portions of the Agreement are terminated, the CONTRACTOR has the right to withdraw, without adverse action by the AUTHORITY, from the entire Agreement.
- 15.2 Unless directed differently in the Notice of Termination, the CONTRACTOR shall incur no further obligations in connection with the terminated work and shall stop work to the extent specified on the date given in the Notice of Termination. Additionally, unless directed differently, the CONTRACTOR shall terminate outstanding orders and/or subcontracts related to the terminated work.
- 15.3 Unless the CONTRACTOR is in breach of this Agreement, the CONTRACTOR shall be paid for services rendered to the AUTHORITY'S satisfaction through the date of termination specified in the Notice of Termination.

ARTICLE 16 - UNCONTROLLABLE FORCES

- 16.1 Neither the AUTHORITY nor CONTRACTOR shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to Uncontrollable Forces, the effect of which, by the exercise of reasonable diligence, the non-performing party could not avoid. The term "Uncontrollable Forces" shall mean any event which results in the prevention or delay of performance by a party of its obligations under this Agreement and which is beyond the reasonable control of the nonperforming party. It includes, but is not limited to fire, flood, earthquakes, storms, lightning, epidemic, pandemic, war, riot, civil disturbance, sabotage, and governmental actions.
- 16.2 Neither party shall, however, be excused from performance if nonperformance is due to forces which are preventable, removable, or remediable and which the nonperforming party could have, with the exercise of reasonable diligence, prevented, removed or remedied with reasonable dispatch. The non-performing party shall, within a reasonable time of being prevented or delayed from performance by an uncontrollable force, give written notice to the other party describing the circumstances and uncontrollable forces preventing continued performance of the obligations of this Agreement.

ARTICLE 17 – JURISDICTION, VENUE, WAIVER OF JURY TRIAL AND REMEDIES

This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement shall be in a State court of competent jurisdiction located exclusively in Palm Beach County. With the exception of the choice of law and venue provisions contained herein, no remedy conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity. No single or partial failure by any party to exercise any right, power, or remedy hereunder, shall preclude that party from exercising that right, power or remedy in the future. **THE AUTHORITY AND CONSULTANT FREELY AND VOLUNTARILY AGREE TO WAIVE ITS RESPECTIVE RIGHT TO A JURY TRIAL ON ANY ISSUE(S) SO TRIABLE.**

ARTICLE 18 – COMMERCIAL NON-DISCRIMINATION POLICY

As a condition of entering into this Agreement, the CONTRACTOR represents and warrants that it will comply with the AUTHORITY's Commercial Non-Discrimination Policy, as described in Section 6.3 of the AUTHORITY's Purchasing Manual, including subsequent amendments thereto, if any. As part of such compliance, the CONTRACTOR shall not discriminate on the basis of race, color, religion, ancestry or national origin, gender, age, marital status, familial status, sexual orientation, gender identity or expression, disability, or genetic information in the solicitation, selection, hiring or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall the CONTRACTOR retaliate against any person for reporting instances of such discrimination. The CONTRACTOR shall provide equal opportunity for subcontractors, vendors and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the AUTHORITY's relevant marketplace in Palm Beach County. The CONTRACTOR understands and agrees that a material violation of this clause shall be considered a material breach of this Agreement and may result in termination of this Agreement, disqualification or debarment of the CONTRACTOR from participating in AUTHORITY contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party. The CONTRACTOR agrees and understands that the provisions of Section 6.3 of the AUTHORITY's Purchasing Manual are incorporated herein by reference and that the CONTRACTOR is familiar with the contents of same.

ARTICLE 19 - WAIVER

A waiver by either AUTHORITY or CONTRACTOR of any breach of this Agreement shall not be binding upon the waiving party unless such waiver is in writing. In the event of a written waiver, such a waiver shall not affect the waiving party's rights with respect to any other or further or subsequent breach. The making or acceptance of a payment by either party with knowledge of the existence of a default or breach shall not operate or be construed to operate as a waiver of any further or subsequent default or breach.

ARTICLE 20 - SEVERABILITY

20.1 The invalidity, illegality, or unenforceability of any provision of this Agreement, or the occurrence of any event rendering any portion or provision of this Agreement void, shall in no way affect the validity or enforceability of any other portion or provision of the Agreement. Any void provision shall be deemed severed from the Agreement and the balance of the Agreement shall be construed and enforced as if the Agreement did not contain the particular portion or provision held to be void. The parties further agree to reform the Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision.

20.2 The provisions of this section shall not prevent the entire Agreement from being void if a provision which is of the essence of the Agreement is determined to be void.

ARTICLE 21 - ENTIRETY OF AGREEMENT AND MODIFICATION

The AUTHORITY and the CONTRACTOR agree that this Agreement, including Exhibits and Attachments, and any matters incorporated by specific reference set forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. This Agreement supersedes all prior agreements, contracts, proposals, representations, negotiations, letters or other communications between the AUTHORITY and CONTRACTOR pertaining to the services, whether written or oral. None of the provisions or terms and conditions contained in this Agreement may be added to, amended, modified, superseded or otherwise altered except by written instrument executed by the parties thereto.

ARTICLE 22 - SUCCESSORS AND ASSIGNS

AUTHORITY and CONTRACTOR each binds itself and its partners, successors, executors, administrators, assigns and legal representatives to the other party and its partners, successors, executors, administrators, assigns and legal representative. CONTRACTOR shall not assign this Agreement without the prior express written approval of the AUTHORITY in its sole discretion via executed amendment.

ARTICLE 23 - CONTINGENT FEES

The CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee 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 working solely for the CONTRACTOR, any fee, commission, percentage, gift or any other consideration contingent upon or resulting from the award or making of this Agreement.

ARTICLE 24 - TRUTH-IN-NEGOTIATION CERTIFICATE

- 24.1 Execution of this Agreement by the CONTRACTOR shall act as the execution of a truth-in-negotiation certificate certifying that the wage rates and costs used to determine the compensation provided for in this Agreement are accurate, complete, and current as of the Effective Date of the Agreement.
- 24.2 The said rates and costs shall be adjusted to exclude any significant sums should the AUTHORITY determine that the rates and costs were increased due to inaccurate, incomplete or noncurrent wage rates or due to inaccurate representations of fees paid to outside consultants. The AUTHORITY shall exercise its rights under this "Certificate" within one (1) year following payment.

ARTICLE 25 - OWNERSHIP OF DOCUMENTS

CONTRACTOR shall be required to cooperate with other consultants relative to providing information requested in a timely manner and in the specified form. Any and all documents, records, disks, original drawings, or other information shall become the property of the AUTHORITY for its use and/or distribution as may be deemed appropriate by the AUTHORITY in its sole and unfettered discretion.

ARTICLE 26 - PUBLIC RECORDS, ACCESS AND AUDITS

- 26.1 It is the intent of this Article to maintain compliance with the Florida Public Records Law, Ch. 119, Florida Statutes, as amended.

26.2 **DESIGNATED RECORDS CUSTODIAN CONTACT INFORMATION:**

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

RECORDS MANAGER

SOLID WASTE AUTHORITY OF PALM BEACH COUNTY

7501 NORTH JOG ROAD

WEST PALM BEACH, FL 33412

561-640-4000 EXT. 4606

RECORDSCUSTODIAN@SWA.ORG

- 26.3 The CONTRACTOR shall maintain records related to all charges, expenses, and costs incurred in estimating and performing the work, in accordance with the timeframes and classifications for records retention as per the General Records Schedule GS1-SL for State and Local Government Agencies (see: <https://dos.myflorida.com/library-archives/records-management/general-records-schedules/>) after completion or termination of this Contract. Upon AUTHORITY'S request, CONTRACTOR shall provide AUTHORITY with access to such records during normal business hours at a location within Palm Beach County for purposes of inspection or audit.
- 26.4 Notwithstanding anything herein to the contrary, the CONTRACTOR expressly acknowledges that: i) it is providing a specific service to the AUTHORITY in the performance of this Contract; ii) acting on behalf of the AUTHORITY in the performance of this Contract; iii) that it has read and is familiar with the Florida Public Records Law, Ch. 119, Florida Statutes, as amended, and both understand its responsibility and obligation to comply with this law; and iv) to the extent any question(s) arise regarding its duties to produce public records, it shall contact the Records Manager with same.
- 26.5 Any public records requests directed to, or related in any way to this contract shall be directed solely to the Records Manager. If the requested records are not in the possession of the Records Manager, they shall immediately notify the CONTRACTOR and the CONTRACTOR must provide the records or allow access to the records within a reasonable time. A CONTRACTOR who fails to provide the records to the public agency within a reasonable time may be subject to penalties under Florida Statutes (F.S) §119.10, and §119.10(2) provides that a person who willfully and knowingly violates the Public Records Act commits a misdemeanor of the first degree, which is punishable by up to a year in jail and a fine not to exceed \$1,000.
- 26.6 Therefore, the CONTRACTOR is required to:
- 1) Keep and maintain public records that ordinarily and necessarily would be required by the AUTHORITY in order to perform the service;
 - 2) Upon AUTHORITY's request from the AUTHORITY's Records Manager, provide the AUTHORITY with a copy of the requested records to allow the records to be inspected or copied within a reasonable time on the same terms and conditions that the AUTHORITY would provide the records at a cost that does not exceed the cost provided by Florida law;
 - 3) 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 term and following the completion of the Agreement if the CONTRACTOR does not transfer the records to the AUTHORITY; and
 - 4) Upon completion of the Agreement, transfer at no cost to the AUTHORITY, all public records in possession of the CONTRACTOR or keep and maintain public records to the AUTHORITY upon completion or termination of the Agreement; the CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONTRACTOR keeps and maintains public records upon completion of the Agreement, the CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the AUTHORITY, upon request from the AUTHORITY's Records Manager, either during performance of the Agreement or after termination or completion of the Agreement in a format that is compatible with the information technology systems of the AUTHORITY.
- 26.7 Failure of the CONTRACTOR to comply with these requirements shall be a material breach of this Contract.

- 26.8 CONTRACTOR shall maintain financial and program records to justify all charges and costs incurred in performing the work for at least three (3) years following final payment by the AUTHORITY as Federal Emergency Management Agency (FEMA) sub-grantee as required by 2 CFR 200.333. The AUTHORITY shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit.
- 26.9 In the event records retention requirements in Florida Statutes Chapter 119 and 257 exceed those of FEMA, the records shall be retained to comply with the State of Florida requirements.

ARTICLE 27 - INSPECTOR GENERAL

Palm Beach County has established the Office of the Inspector General (OIG), Ordinance No. 2009-049 which is authorized and empowered to review past, present and proposed county contracts, transactions, accounts and records. The AUTHORITY has entered into an Interlocal Agreement (ILA) for Inspector General Services. This agreement provides for the Inspector General to provide services to the AUTHORITY in accordance with the authority, functions and powers set out in the Palm Beach County Office of Inspector General Ordinance. All parties doing business with the AUTHORITY and receiving AUTHORITY funds shall fully cooperate with the Inspector General including providing access to records relating to this agreement. The Inspector General has the power to subpoena witnesses, administer oaths, require the production of records, and audit, investigate, monitor, and inspect the activities of the CONTRACTOR, its officers, agents, employees, and lobbyists in order to ensure compliance with contract specifications and detect corruption and fraud. Failure to cooperate with the Inspector General or interference or impeding any investigation shall be in violation of Ordinance 2009-049, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second-degree misdemeanor.

ARTICLE 28 - NOTICE

Any notice, demand, communication, or request required or permitted hereunder shall be in writing and delivered in person or sent by certified mail, postage prepaid as follows:

AS TO AUTHORITY

Solid Waste Authority of Palm Beach County
7501 North Jog Road
West Palm Beach, Florida 33412
Attention: Executive Director
Office No.: 561-640-4000 Fax No.: 561-640-3400

AS TO CONTRACTOR

Phillips and Jordan, Inc.
10142 Parkside Drive
Suite 500
Knoxville, TN. 37922

Attention: Tommy Webster, Program Manager – Disaster Services
Office No.: 865-392-3013 Fax No.: 865-688-8369 E-Mail: twebster@pandj.com

Notices shall be effective when received at the addresses as specified above. Changes in the respective addresses to which such notice is to be directed may be made from time to time by either party by written notice to the other

party. Facsimile transmission is acceptable notice effective when received, however, facsimile transmissions received (i.e.; printed) after 5:00 p.m. or on weekends or holidays, will be deemed received on the next business day. The original of the notice must additionally be mailed as required herein.

Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of CONTRACTOR and AUTHORITY.

ARTICLE 29 - CONTRACT ADMINISTRATION

Services of CONTRACTOR shall be under the general direction of the **Chief Operations Officer**, or designee, who shall act as the AUTHORITY'S representative during the term of the Agreement.

ARTICLE 30 - KEY PERSONNEL

CONTRACTOR shall notify AUTHORITY in the event of key personnel changes which might affect this Agreement. Notification shall be made within ten (10) days of said changes. AUTHORITY has the right to reject any proposed changes in key personnel. The following personnel shall be considered key personnel:

Tommy Webster – Contract Manager, Operations/Project Manager
Cell No.: 828-644-3222 E-Mail: twebster@pandj.com

Morgan Pierce – Mission Executive
Cell No.: 919-740-3250 E-Mail: mpierce@pandj.com

Eric Hedrick – Mission/Operations Manager
Cell No.: 813-714-9471 E-Mail: ehedrick@pandj.com

Matthew Mooneyham – Client/Project Manager
Cell No.: 850-530-7151 E-Mail: matthew.mooneyham@phillipsih.com

Heath Stone – Operations/Project Manager
Cell No.: 865-392-3057 E-Mail: hstone@phillipsih.com

ARTICLE 31 – EQUAL BUSINESS OPPORTUNITY PROGRAM:

The Governing Board of the AUTHORITY has implemented the Economic Inclusion Policy administered by the Equal Business Opportunity (EBO) Program Office to ensure that all segments of its business population, including, but not limited to local, small, minority, and women-owned businesses, have an equitable opportunity to participate in the AUTHORITY'S procurement process, in accordance with Section 6.1 through 6.4 of the Purchasing Manual. Program tools and solicitation incentives are hereby referred to as the Affirmative Procurement Initiatives (API).

31.1 Affirmative Procurement Initiative (API):

The AUTHORITY has NOT applied an Affirmative Procurement Initiative to this Agreement.

ARTICLE 32 - SCRUTINIZED COMPANIES

32.1 As provided in F.S. 287.135, by entering into this Agreement or performing any work in furtherance hereof, the CONTRACTOR certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies With Activities in Sudan List or Scrutinized Companies With Activities in The Iran Petroleum Energy Sector List created pursuant to F.S. 215.473, or is engaged in business operations in Cuba or Syria.

If the AUTHORITY determines, using credible information available to the public, that a false certification has been submitted by CONTRACTOR, this Agreement may be terminated and a civil penalty equal to the greater of \$2 million or twice the amount of this Agreement shall be imposed, pursuant to F.S. 287.135. Said certification must also be submitted at the time of renewal of this Agreement.

- 32.2 As provided in F.S. 287.135, by entering into this Agreement or performing any work in furtherance hereof, this Agreement certifies that it, its affiliates, suppliers, subcontractors, and consultants who will perform hereunder, have not been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel, pursuant to F.S. 215.4725.

If the AUTHORITY determines, using credible information available to the public, that a false certification has been submitted by CONTRACTOR, this may be terminated and a civil penalty equal to the greater of \$2 million or twice the amount of this shall be imposed, pursuant to F.S. 287.135. Said certification must also be submitted at the time of renewal of this Agreement.

ARTICLE 33 - AGREEMENTS WITH OTHER GOVERNMENTAL ENTITIES

- 33.1 The CONTRACTOR agrees that this Agreement constitutes an offer to all State and local government agencies of the State of Florida under the same terms and conditions, for the same prices and for the same effective period as specified in this Agreement should the CONTRACTOR deem it in the best interest of their business to do so.
- 33.2 The Agreement in no way restricts or interferes with any State or local government agencies of the State of Florida from re-solicitation.

ARTICLE 34 – THIRD PARTY BENEFICIARY DISCLAIMER

It is not the intention of these documents to create third party beneficiary status in any person or entity that is not a direct party to this Agreement, and no language in this Agreement should be construed or interpreted as creating a third party beneficiary.

ARTICLE 35 – E-VERIFY – EMPLOYMENT ELIGIBILITY

- 35.1 The CONTRACTOR certifies, warrants and represents that it is in compliance with Section 448.095, Florida Statutes, as may be amended and that CONTRACTOR shall: (1) register with and use the E-Verify System (E-Verify.gov) to electronically verify the employment eligibility of all newly hired workers; and (2) has verified that all of the CONTRACTOR'S subcontractors performing the duties and obligations of this Agreement are registered with and use the E-Verify System to electronically verify the employment eligibility of all newly hired workers. CONTRACTOR shall obtain from each of its subcontractors an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an Unauthorized Alien, as that term is defined in Section 448.095(1)(k), Florida Statutes, as may be amended. CONTRACTOR shall maintain a copy of any such affidavit from a subcontractor for, at a minimum, the duration of the subcontract and any extension thereof. This provision shall not supersede any provision of this Agreement which requires a longer retention period.
- 35.2 AUTHORITY shall terminate this Agreement if it has a good faith belief that CONTRACTOR has knowingly violated Section 448.09(1), Florida Statutes, as may be amended. If AUTHORITY has a good faith belief that one of CONTRACTOR'S subcontractor(s) has knowingly violated Section 448.09(1), Florida Statutes, as may be amended, AUTHORITY shall notify CONTRACTOR to terminate its contract with the subcontractor and CONTRACTOR shall immediately terminate its contract with the subcontractor. If AUTHORITY terminates this Agreement pursuant to the above, CONTRACTOR shall be barred from being awarded a future contract by AUTHORITY for a period of one (1) year from the date on which the Agreement was terminated. In the event of such contract termination, CONTRACTOR shall also be liable for any additional costs incurred by AUTHORITY as a result of the termination.

ARTICLE 36 – CONFIDENTIALITY

No reports, information, computer programs, documentation, and/or data given to, or prepared or assembled by the CONTRACTOR under this Agreement shall be made available to any individual or organization by the CONTRACTOR without prior written approval of the AUTHORITY.

ARTICLE 37 – PAYMENT ADJUSTMENT SCHEDULE

37.1 The AUTHORITY acknowledges the fluctuating nature of prices.

37.2 Annual Non-Fuel: The Non-Fuel Adjustment shall be applied to those rates subject to adjustment and as provided within this Agreement. For the purpose of this Agreement, the Non-Fuel component is assumed to represent 90% of the CONTRACTOR's costs. Therefore, 90% of the approved rates shall be so adjusted:

The rates shall be adjusted as follows:

The rates shall be adjusted annually, commencing on the first anniversary date, by the change in the Water and Sewer and Trash Collection Services Index, Series ID CUSR0000SEHG, as published by the United States Department of Labor, Bureau of Labor Statistics (www.bls.gov). The change in the index shall be calculated by dividing the average of the index over the twelve-month period ending the December preceding the effective date of the adjustment (January – December 2022) by the average of the index over the twelve-month period from January 2021 through December 2021. The first Annual Non-Fuel adjustment shall be effective May 7, 2023 to May 6, 2024.

For example:

For the Contract year beginning May 7, 2023, the average of the index over the twelve-month period from January 2022 through December 2022 shall be divided by the average of the index over the twelve-month period from January 2021 through December 2021, multiplying the result by ninety (90) percent of the contract or AUTHORITY established price, and subtracting ninety (90) percent of the contract or AUTHORITY established price.

The surcharge/credit shall be rounded to the nearest cent.

Formula:

Most Recent Year Average / Prior Year Average x .90 x Rate – (.90 x Rate) = Annual Adjustment

Calendar:

Annual Payment Adjustment Calendar

April 2023	April 2024
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Extension Clause Annual Payment Adjustment Schedule

April 2025	April 2026	April 2027
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37.3 Activation Fuel Adjustment (Fuel Surcharge/Credit)

The rates subject to adjustment shall be subject to a fuel price surcharge/credit for fluctuations in the price of fuel. For the purpose of this Agreement, fuel is assumed to represent 10% of the Contractor's costs therefore 10% of the approved rates shall be so adjusted. Fuel adjustment shall be calculated and effective upon activation.

The rates shall be adjusted as follows:

For the rates subject to adjustment, a fuel surcharge/credit shall be charged/credited basis based on the percentage change in the average price of fuel as published by the Oil Price Information Service (OPIS) and measured by the OPIS Standard Rack, OPIS No. 2 Distillate Gross Prices, Unbranded Average for Miami, Florida between the month of **January 2022 (Base)** and the most recent month available upon activation.

Fuel Adjustment does not use a floor or ceiling and provides adjustments in either direction without limit.

The surcharge/credit shall be rounded to the nearest cent.

Formula:

Most recent OPIS (at activation) / Base x .10 x Rate – (.10 x Rate) = Fuel Adjustment (for duration of activation)

For example:

Should activation occur October 2023, the fuel surcharge/credit shall be calculated by dividing the reported unbranded average price for September 2023 by the Base (unbranded average price for January 2022), multiplying the result by ten (10) percent of the contract or Authority established price, and subtracting ten (10) percent of the contract or Authority established price.

- 37.4 In the event that either of these indices is no longer available, the parties shall mutually agree to a replacement index. The value of the adjustment will be determined by the AUTHORITY.

ARTICLE 38 – ORDER OF AGREEMENT ACTIVATION/LOCATION ASSIGNMENT

The CONTRACTOR has entered into a contingent Agreement with the AUTHORITY for Hurricane/Disaster Debris Removal, Reduction, and Disposal. The Agreement awarded will be activated on an as-needed basis as solely determined by the AUTHORITY. The AUTHORITY may activate, assign/reassign any or all CONTRACTORS at any time as may be deemed appropriate depending upon the circumstance(s), the event, or any other condition which may warrant such action as it determines in its sole and unfettered discretion.

ARTICLE 39 – TASK ORDER/PERFORMANCE

Task Orders shall be executed bilaterally, and the scope of services and format of Task Orders shall be mutually agreed to by the CONTRACTOR and AUTHORITY. Performance will be measured by the metrics established in each Task Order. After 1/3 and again after 2/3 of the stipulated number of days of work in the Task Order have elapsed, the CONTRACTOR(S) shall provide a written progress report to the AUTHORITY for review and acceptance. The AUTHORITY shall have the right to correct for CONTRACTOR default or underperformance by any means it deems in its best interest. CONTRACTOR will be required to provide a daily report of quantity of work performed under each Task Order. The daily report shall be submitted by 11:00 a.m. or earlier the following morning.

ARTICLE 40 – BONDS

CONTRACTOR shall maintain a Proposal Bond in the sum of \$500,000. The CONTRACTOR's Proposal Bond will be

returned to the CONTRACTOR in exchange for and acceptance of an appropriate size bond as determined by the AUTHORITY after assessment of damage and definition of the CONTRACTOR's scope of service. In case of hurricane caused damage, a Category 1 storm would require a \$2,000,000 Bond, a Category II would require a \$4,000,000 Bond, a Category III would require a \$6,000,000 Bond, a Category IV would require an \$8,000,000 Bond, and a Category V would require a \$10,000,000 Bond. The Bond required would be a Performance and Payment Bond, Attachment G. The cost of the Bond is included in the unit rates in the Fee Schedule, Exhibit B. The CONTRACTOR shall maintain the Proposal Bond in effect until the Performance and Payment Bond is submitted to and accepted by the AUTHORITY. If the CONTRACTOR fails to supply a Performance and Payment Bond, the AUTHORITY shall be entitled to retain the Proposal Bond to rectify the CONTRACTOR's unacceptable performance. Pending successful annual CONTRACTOR recertification, the Proposal Bond shall be in effect for the entire term of the Agreement, except for period(s) of time when a Performance and Payment Bond is in effect.

ARTICLE 41 – FLORIDA HIGHWAY ADMINISTRATION (FHWA) FORM 1273

- 41.1 This Agreement incorporates all of the provisions set forth in the document commonly known as FHWA Form 1273, Attachment E, which is attached hereto and incorporated by reference as part of this Agreement. The term "contractor" as used in Attachment E shall apply to and mean the CONTRACTOR who may be referred to in Attachment E as the "prime contractor", "bidder", "proposer", "prospective primary participant", "prospective participant", "participant" or the like. The CONTRACTOR will perform the duties and obligations of the other contracting party regardless of the description or label used in Form 1273, Attachment E.
- 41.2 The CONTRACTOR shall comply with the Davis-Bacon wages rates to the extent applicable to the work performed under this Agreement. The provisions of the Davis-Bacon Act do not apply to debris removal work unless such work is done in conjunction with a construction project or "linked" to a particular Federal Highway. Wage rate tables may be found at <http://www.dot.state.fl.us/construction/wage.shtm>. Said wage rate tables are incorporated into and made part of this Agreement by reference.

ARTICLE 42 – BUY AMERICA REQUIREMENTS

The CONTRACTOR agrees to comply with the requirements of the Federal Buy America law (See 23 U.S.C. 313, ISTEA Sections 1041(a) and 1048(a), as they may be amended from time to time) as they relate to Federal-aid contracts and the use of steel and iron produced in the United States. A description of the requirements of Buy America is set forth in Attachment F, which is attached hereto and incorporated by reference as part of this Agreement. CONTRACTOR shall provide a certification statement regarding the origin of all materials or products covered under the Buy America provisions and used in its performance of the Agreement in accordance with the requirements of law and the AUTHORITY, FDOT, and FEMA, to the extent applicable.

ARTICLE 43 – DISADVANTAGED BUSINESS ENTERPRISES

- 43.1 This provision shall supplement Article 31 "Equal Business Opportunity Program" of the Agreement. The Agreement is subject to the requirements of 49 CFR Part 26. The CONTRACTOR shall not discriminate on the basis of race, color, national origin, or sex in the performance of the Agreement. The CONTRACTOR shall carry out the applicable requirements of 49 CFR Part 26 in the award and administration of this U.S. DOT-assisted contract. Failure by the CONTRACTOR to carry out these requirements is a material breach of Agreement, which may result in the termination of this Agreement or such other remedy as the AUTHORITY deems appropriate, including but not limited to the withholding of payments. Each subcontract the CONTRACTOR signs with a subcontractor must include the assurance in this paragraph. (See 49 CFR 26.13). Upon request, the CONTRACTOR will provide the AUTHORITY with a copy of each subcontract it enters into.
- 43.2 The CONTRACTOR is required to pay its subcontractors performing work related to this Agreement for satisfactory performance of that work no later than thirty (30) days after the CONTRACTOR's receipt of

payment for that work from the AUTHORITY. The CONTRACTOR may not hold any retainage from its subcontractors unless pursuant to an agreement approved by the AUTHORITY. The CONTRACTOR shall return all retainage payments withheld within thirty (30) days after the subcontractor's work has been satisfactorily completed.

- 43.3 The CONTRACTOR shall, on a monthly basis, submit payment certifications, including a certification regarding their truth and accuracy, for all payments it is seeking and certifications from all subcontractors indicating who has been paid and how. The certifications shall comply with all Federal and State requirements regarding the reporting of DBE participation. The CONTRACTOR shall, if required by the AUTHORITY or FDOT, report its DBE participation monthly on the Equal Opportunity Reporting System located on the Florida Department of Transportation's (FDOT) website found at www.bipincwebapps.com/bizwebflorida/. Audits may be conducted to review payments to DBE subcontractors. The CONTRACTOR will fully cooperate with the AUTHORITY, FDOT, or FEMA regarding the monitoring of subcontractors and payments made thereto.

ARTICLE 44 – CERTIFICATION REGARDING SUSPENSION AND DEBARMENT

- 44.1 This Agreement is a covered transaction for purposes of 49 CFR Part 29. Accordingly, the CONTRACTOR shall verify that neither the CONTRACTOR, nor its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified from participation in this Agreement as defined at 49 CFR 29.940 and 29.945.
- 44.2 The CONTRACTOR agrees to comply with the requirements of 49 CFR 29, Subpart C throughout the term of this Agreement. The CONTRACTOR must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into. CONTRACTOR's certification is a material representation of fact relied upon by the AUTHORITY. If it is later determined that the CONTRACTOR knowingly rendered an erroneous certification, in addition to remedies available to the AUTHORITY, the State or Federal government may pursue any available remedies, including but not limited to suspension and/or debarment. The CONTRACTOR further agrees that it will include a provision requiring such compliance in all of its subcontracts or lower tier covered transactions.

ARTICLE 45 – ACCESS TO RECORDS AND THEIR RETENTION

- 45.1 This provision shall supplement Article 26 of this Agreement. The CONTRACTOR shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the Agreement for at least five (5) years after completion or termination of this Agreement or FDOT's closure of an "emergency event" with the Florida Division of Emergency Management, whichever comes last, except in the event of litigation or settlement of claims arising from the performance of the Agreement, the CONTRACTOR agrees to maintain said records until all litigation, claims, appeals or exceptions related thereto have been resolved. The records shall be maintained at a location in Palm Beach County, Florida or such other location in Florida approved by the AUTHORITY.
- 45.2 The CONTRACTOR shall make all of its books, records, and other documents related, in any manner to its or its subcontractors' performance of the Agreement, available to the AUTHORITY and any other funding entity (e.g. FDOT, FEMA, the Comptroller General of the U.S. or any of their authorized representatives) for the purpose of examination, audit, reproduction, excerpts and transcripts, during normal business hours, at the CONTRACTOR's place of business or if CONTRACTOR's place of business is not located in Palm Beach County, then at the location for maintenance of records referenced above. The CONTRACTOR shall also require its subcontractors to make their books, records and documents available for examination, audit, reproduction, excerpts, and transcripts, for the same duration and in the same manner, and at or near the same locations required herein of CONTRACTOR.

ARTICLE 46 – AUDIT REQUIREMENTS

This provision shall supplement Article 26 of this Agreement. The CONTRACTOR agrees that audits may be undertaken of its records related to its performance of the Agreement as may be authorized or required under OMB Circular A-133, as revised. The CONTRACTOR agrees that it will comply, execute any necessary documents and fully cooperate with the AUTHORITY and any State and/or Federal funding agency(ies), including but not limited to FDOT, Florida's Auditor General, FEMA, or any of their authorized representatives, in any audit or monitoring procedures or processes any such entity(ies) may undertake related to CONTRACTOR's performance of the Agreement in order to properly and satisfactorily complete the audit, if any.

ARTICLE 47 – NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

The CONTRACTOR shall cooperate with the AUTHORITY, FDOT, and FEMA so as to assure that all activities related to the performance of this Agreement comply with the requirements of the National NEPA of 1969, as amended, and the regulations and guidance related thereto.

ARTICLE 48 – AMERICANS WITH DISABILITIES ACT

The CONTRACTOR does hereby represent and certify that it will comply with all the requirements of the Americans with Disabilities Act of 1990 (42 USC 12102, et seq.), as it may be amended, and all applicable impending regulations of the U.S. DOT, FEMA, and other Federal-aid agencies.

ARTICLE 49 – COMPLIANCE WITH TITLE VI, TITLE VII, AND OTHER FEDERAL LAWS AND REGULATIONS

The CONTRACTOR does hereby represent and certify that it will comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 and Title VII of the Civil Rights Act of 1968, as they have been and may be modified from time to time (42 USC 2000d et. Seq. and 3601 et seq.) and the Age Discrimination and Employment Act of 1967 and Section 303 of the Age Discrimination Act of 1975, as amended (42 USC 6102), and all applicable Federal laws and regulations, policies, procedures, and directives of the U.S.DOT, FEMA and/or other Federal-aid agencies, as they may be promulgated and amended from time to time.

ARTICLE 50 – CONVICT LABOR PROHIBITION

The CONTRACTOR does hereby represent and certify that it will comply with the convict labor prohibition in 23 U.S.C. 114, and all implementing regulations thereto.

ARTICLE 51 – CERTIFICATION REGARDING LOBBYING ACTIVITIES

A Bidder or Proposer for an award of certain Federal-Aid contracts in the amount of \$100,000 or more, must file the certification required by 49 CFR Part 2. The CONTRACTOR confirms that by signing and submitting a Bid or Proposal for the work covered by this Agreement, it made the certification described in Section X1 of the Attachment F herein.

ARTICLE 52 – DEPARTMENT OF HOMELAND SECURITY (DHS) SEAL, LOGO, AND FLAGS

The CONTRACTOR shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

ARTICLE 53 – NO OBLIGATION BY FEDERAL GOVERNMENT

The Federal Government is not a party to this Agreement and is not subject to any obligations or liabilities to the AUTHORITY, CONTRACTOR, or any other party pertaining to any matter resulting from this Agreement.

ARTICLE 54 – PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

The CONTRACTOR acknowledges that 31 U.S.C Chapter 38 (Administrative Remedies for False Claims and Statements) applies to the CONTRACTOR's actions pertaining to this Agreement.

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In Witness Whereof, AUTHORITY, and CONTRACTOR have made and executed this Agreement all as of the day and year first above written.

SOLID WASTE AUTHORITY OF PALM BEACH COUNTY:

WITNESS:

- 1. [Signature]
- 2. [Signature]

By:

[Signature]
Daniel Pellowitz
Executive Director

(SEAL)

APPROVED AS TO LEGAL SUFFICIENCY:

By: Howard J. Falcon III
Howard J. Falcon, III
General Counsel

APPROVED AS TO TERMS AND CONDITIONS:

[Signature]
Signature
Patrick D. Carroll
Print Name
COO
Title

ATTEST:

Jason Garner
Corporate Secretary

PHILLIPS AND JORDAN, INC.:

Morgan Pierce
Authorized Signature

WITNESS:

- 1. Paul JenSKI
- 2. Tommy Webster

Morgan Pierce
Print Name
President, Power
Title
4/18/2022
Date

Approved by Authority Board on April 13, 2022, Item No.: 9. C.1

Agreement No. 22-201C



EXHIBIT "A"**SCOPE OF WORK****1. PROJECT DESCRIPTION AND REQUIREMENTS:**

- A. The AUTHORITY seeks COINTRACTOR to remove and lawfully dispose of disaster-generated debris (other than hazardous materials and household putrescible garbage) from public property and public rights-of-way, and to setup and operate Temporary Debris Management Site(s) (TDMS) in Palm Beach County, Florida, immediately after a hurricane or other disaster.
- B. The objective of this RFP and subsequent contracting activity is to secure the services of an experienced CONTRACTOR who is capable of efficiently removing large volumes of disaster-generated debris from a large area in a safe, timely and cost-effective manner and lawfully disposing of all debris. CONTRACTOR must be capable of assembling, directing, and managing a work force that can complete the debris management operations in 120 days or less. The duration of effort/completion dates of all tasks will be determined jointly by the AUTHORITY and CONTRACTOR. This determination will be set in writing in appropriate Task Order(s).
- C. The CONTRACTOR shall perform all work in strict accordance with Federal Emergency Management Agency (FEMA) guidelines in order to maximize recovery of reimbursable expenses. This task shall include the provision of audit quality documentation as required by and acceptable to FEMA for all work accomplished.
- D. The CONTRACTOR may be required, at the AUTHORITY'S discretion, to be under the direction of an agent of the AUTHORITY.
- E. While intended to cover debris management needs in any major disaster scenario, the primary focus is on the threat of hurricane damage to Palm Beach County, Florida. The planning standards used for this project are based on the anticipated impacts of a named storm event or major flood impacting Palm Beach County, Florida. The AUTHORITY intends to enter into contingency Agreement(s) as further defined herein, to provide emergency debris removal and disposal services as required by the AUTHORITY.

2. INTRODUCTION:

- A. The AUTHORITY'S disaster recovery planning includes considerations for removing and processing the volumes and types of debris expected to be generated by a major disaster such as a hurricane or major flood and includes procedures for disposing of that debris. The planning approach is formulated in part on the concept of strategic pre-positioning of plans and resources necessary for timely, safe, coordinated recovery operations, including removal of debris from public property and rights-of-way throughout Palm Beach County using a combination of county, municipal, and CONTRACTOR forces.
- B. If activation is required, the AUTHORITY intends to activate contracts on an as-needed basis as solely determined by the AUTHORITY. The AUTHORITY intends to activate the CONTRACTORS in the order of final ranking as best meets the needs of the AUTHORITY. The AUTHORITY reserves the right in its sole and unfettered discretion, to assign/reassign any or all CONTRACTORS at any time as may be deemed appropriate depending upon the

EXHIBIT "A"

circumstance(s), the event, or any other condition which may warrant such action.

- C. The AUTHORITY envisions the need for four (4) CONTRACTORS to carry out the debris removal and disposal work throughout Palm Beach County. The CONTRACTOR must have the experience and capability to manage a major workforce with multiple subcontractors and to cover the expenses associated with a major recovery operation prior to the initial AUTHORITY payment and between subsequent payments, as well as the capacity to provide the necessary bonds and insurance. The CONTRACTOR must also have an established management team, an established network of resources to provide the necessary equipment and personnel, comprehensive debris removal, volume reduction operations plan, and demonstrable experience in major disaster recovery projects.
- D. The Agreement(s) to be awarded under this RFP will be contingency Agreement(s) that will be activated only in the face of an emergency. As such, no compensation will accrue to the CONTRACTOR unless and until the Agreement is activated either in anticipation of a natural disaster or immediately after such disaster.
- E. The CONTRACTOR who receives an Agreement for the work, will be required to participate in certain AUTHORITY directed disaster recovery training and/or exercises, 1 to 2 days each year, at no cost to the AUTHORITY.
- F. The AUTHORITY does not guarantee a CONTRACTOR will be activated if awarded an Agreement.

3. PLANNING STANDARD FOR DEBRIS REMOVAL AND DISPOSAL:

The AUTHORITY'S goal is to complete the debris removal and disposal process in 120 days following the storm event. This assumes that the entire area of the county will be accessible within that period. Due to the low elevation and potential for flooding, some areas might not be accessible for several weeks after a major natural disaster. The CONTRACTOR must be aware that it might not be possible to initiate operations in all parts of the county simultaneously immediately after a storm.

4. DEBRIS MANAGEMENT:

- A. Planning for debris management operations is a function of the AUTHORITY as a supporting agency to the Palm Beach County Department of Engineering and Public Works. The AUTHORITY'S Emergency Management Coordinator will direct the debris removal and disposal operations.
- B. In addition to using AUTHORITY forces and equipment, the AUTHORITY intends to execute four (4) debris removal and disposal Agreements on a contingency basis for the purpose of having CONTRACTOR(S) immediately available and committed to assisting the AUTHORITY in the aftermath of a major disaster. Each CONTRACTOR holding a debris removal and disposal Agreement will serve as a General CONTRACTOR for the purpose of debris removal and disposal operations and will be able to use his/her own and subcontractor resources to meet the obligations of the Agreement. It is anticipated, but not required, that the CONTRACTOR will use both local and non-local subcontractors.

EXHIBIT "A"

- C. When a major disaster occurs or is imminent, the AUTHORITY intends to contact the highest two (2) or three (3) ranked CONTRACTORS holding debris removal and disposal Agreements to advise them of the AUTHORITY'S intent to activate the Agreement(s). Debris removal will generally be limited to debris in, upon, or brought to county residential private and public streets and roads, rights-of-way, municipal properties and facilities, and other public sites (this includes debris from customers assessed for residential solid waste and recycling collection services by the AUTHORITY). The CONTRACTOR will be responsible for determining the method and manner of debris removal and lawful disposal operations. Disposal of debris will be at AUTHORITY approved TDMS or landfill sites. The CONTRACTOR will be responsible for the lawful disposal of all debris and debris-reduction by-products generated at all TDMS.
- D. When a major disaster occurs or is imminent, the AUTHORITY will initially send out an Alert to the selected CONTRACTOR(S). This Alert will serve to activate the lines of communication between the CONTRACTOR representatives and the AUTHORITY. Subsequently, the AUTHORITY will issue the first Task Order which will authorize the CONTRACTOR to send an Operations Manager to the AUTHORITY within 24 hours of receiving such Task Order, to begin planning for the operations and mobilizing the personnel and equipment as necessary to perform the stipulated work. This first Task Order will also direct the CONTRACTOR to execute the required Performance and Payment Bond. The CONTRACTOR should anticipate receiving this first Task Order 24 to 72 hours before projected landfall of a hurricane or major flood. Depending on the nature of the storm and circumstances, the AUTHORITY may activate more than one (1) CONTRACTOR. CONTRACTOR(S) will generally be activated in order of final ranking.
- E. Specific task orders will be issued to select CONTRACTORS based on the best interest of Palm Beach County. The AUTHORITY reserves the right to assign work or task orders to various CONTRACTORS based on capability. The AUTHORITY does not guarantee a cradle to grave pricing arrangement but reserves the right to pick and choose CONTRACTORS based on ranking.
- F. The general concept of debris removal operations includes multiple, scheduled passes of each site, location, or right-of-way. This will allow residents to return to their properties and bring debris to the private and public right-of-way as recovery progresses. The AUTHORITY will prescribe the specific schedule to be used after ascertaining the scope and nature of the disaster's impacts.
- G. The AUTHORITY will make every effort to identify strategically located public and private TDMS throughout the county prior to a natural disaster. Depending upon the severity of the natural disaster, additional public and private TDMS will be identified as needed.
- H. The CONTRACTOR will operate the public and private TDMS and only CONTRACTOR vehicles and others specifically authorized by the AUTHORITY will be allowed to use the sites. Only one (1) level of subcontractor will be allowed to operate the sites. There will be no multi-tiered subcontractors (sub of a sub) allowed to operate TDMS. The CONTRACTOR is responsible for all activity at TDMS operated by their subcontractor and must have an employee on site at all times to oversee daily operations. **The locations of both publicly and privately owned sites currently under consideration are shown on Attachment B.** Additional public and privately owned TDMS may become available as plans develop. The availability of both private and public TDMS may change during the term of the Agreement.

EXHIBIT "A"

- I. The AUTHORITY may also establish designated homeowner drop-off sites on a public right-of-way (PROW) for communities. The CONTRACTOR will be responsible for removing all eligible debris from those approved designated locations at the direction of the Emergency Management Coordinator or designee.
- J. Curbside segregation of debris and disaster-generated or related wastes will be an element of the AUTHORITY'S disaster recovery program. The debris removal and disposal CONTRACTOR will be required to aid in the segregation and waste stream management processes. Any Household Hazardous Waste (HHW) encountered by the debris removal CONTRACTOR is to be set aside. HHW disposal will be the responsibility of the resident. The AUTHORITY will designate HHW drop-off locations.
- K. The following items are considered HHW for the purpose of this Agreement:
 - 1. Used Oil
 - 2. Batteries
 - 3. Paint
 - 4. Aerosol spray cans
 - 5. Pesticides
 - 6. Antifreeze
 - 7. Fluorescent light bulbs
 - 8. Propane tanks (household size)
- L. The CONTRACTOR will setup a lined containment area and separate any HHW inadvertently delivered to a TDMS.
- M. Commercial and industrial hazardous waste such as chemicals, gas containers, transformers, and any other form of hazardous or toxic matter will be set aside for collection and disposal by a Hazardous Materials Removal and Disposal Contractor who will be selected by the AUTHORITY.
- N. Putrescible residential garbage will be collected by AUTHORITY franchise waste haulers and is not to be collected or transported by CONTRACTOR forces. The AUTHORITY may enter into a separate emergency debris removal agreements with each franchise hauler to operate their dedicated self-loading collection equipment within their Service Area for FEMA eligible storm debris removal.

5. SCOPE OF WORK/OVERVIEW:

This section is divided into three (3) subsections:

- 5.1 **Debris Removal and Disposal Operations** from residential public and private streets, roads and rights-of-way and delivered to a TDMS designated by the Authority.
- 5.2 **TDMS Operations** which includes daily operations as well as reclamation of the site to its pre-storm condition or as directed by the AUTHORITY Emergency Management Coordinator
- 5.3 **Processing, Loading and Hauling Material** from TDMS to final destination.

EXHIBIT "A"

- A. Specific work authorizations by the AUTHORITY will be through written Task Orders. Task Orders will define the job to be accomplished, location of job, timeframe for completion, rates to be used, etc. Any job with requirements or rates not covered by this Proposal will be negotiated. The AUTHORITY reserves the right to extend operations on a weekly basis. Task Orders will be executed bilaterally. Performance will be by the metrics established in the Task Order(s). After 1/3 and again after 2/3 of the stipulated number of days of work in the Task Order have elapsed, the CONTRACTOR(S) shall provide written progress report to the AUTHORITY for review and acceptance. The AUTHORITY shall have the right to correct for CONTRACTOR'S default or underperformance by any means it deems in its best interest at the CONTRACTOR'S expense.
- B. The CONTRACTOR shall commence mobilization immediately upon receipt of the mobilization Task Order meeting the following progress patterns: 48 hours- collection activity within assigned Collection Service Area. Within ten (10) calendar days CONTRACTOR shall have 100% of all necessary equipment operating within all Collection Service Areas. This represents a minimum response schedule and does not restrict an earlier response. Subsequently, the AUTHORITY may issue additional Task Orders to define more precisely the work to be accomplished or to authorize additional work. The CONTRACTOR shall perform in accordance with each Task Order in all designated Collection Service Areas established by the AUTHORITY. Each Task Order will be uniquely and sequentially numbered.
- C. The CONTRACTOR is authorized to collect debris during daylight hours, seven (7) days per week. Any deviations from this schedule will require AUTHORITY approval.
- D. The CONTRACTOR must be duly licensed to perform the work in accordance with the State of Florida statutory requirements. The CONTRACTOR shall obtain all permits necessary to complete the work. The CONTRACTOR shall be responsible for determining what permits are necessary to perform under the Agreement. Copies of all permits shall be submitted to the AUTHORITY's Director, Customer Information Services prior to issuance of the first Task Order.
- E. The quantity of work required to complete the Agreement resulted from this RFP is estimated. The actual effort required may be more or less than the estimated amount shown in the Proposal Form 3 – Price Proposal. Payment will be made at the unit rates proposed. The output will be verified by the AUTHORITY's Director, Customer Services in the daily operational report. Should hourly rates be used to pay for certain equipment other than preventative maintenance, not in excess of fifteen (15) minutes in a normal workday, will be paid at the regular hourly rate. Preventative maintenance or down time resulting from equipment failure, routine maintenance and fueling that exceeds fifteen (15) minutes will be considered unacceptable work and non-payment of that time will be rounded off to the half hour of all hours where delays occur. Preventative maintenance is defined as the usual field maintenance to keep equipment in operating condition without the use of extensive shop equipment. Fueling of equipment will be considered as part of preventative maintenance.

EXHIBIT "A"

- F. The CONTRACTOR shall be responsible for correcting any notices of violations issued as a result of the CONTRACTOR'S or any subcontractor's actions or operations during the performance of this Agreement. Corrections for any such violations shall be at no additional cost to the AUTHORITY.
- G. The CONTRACTOR shall conduct the work so as not to interfere with the disaster response and recovery activities of federal, state or local governments or agencies, or of any public utilities or other private contractor.
- H. The CONTRACTOR shall provide contact information for all key personnel to the AUTHORITY that shall include name, phone number, cellular phone number and email address. The CONTRACTOR and its agents shall respond in a timely manner to all AUTHORITY inquiries at all times.

6. DEBRIS REMOVAL AND DISPOSAL OPERATIONS

6.1 General:

- A. The purpose of this section is to define the requirements for debris removal and disposal operations after any catastrophic disaster within Palm Beach County. The AUTHORITY may designate zones for collection and disposal locations for debris collected. CONTRACTORS will be tasked with a service area(s) for this specific work immediately after the activation of the Agreement.
- B. For work performed on a Time and Materials basis, all hourly equipment rates shall include the cost of the maintenance, fuel, repairs, overhead, profit, insurance, and all other costs associated with the equipment including labor and operator.

6.2 Services:

- A. The CONTRACTOR shall provide equipment, operators, and laborers for debris removal operations. The CONTRACTOR shall provide all labor and materials necessary to fully operate and maintain (including fuel, oil, grease, and repairs) all equipment under this Agreement.
- B. All rates are to include the cost of protective clothing (to include hardhats and steel-toed boots), fringe benefits, hand tools, supervision, transportation, lodging, meals, and all other costs.
- C. The work shall consist of clearing and removing disaster generated debris as directed by the AUTHORITY Emergency Management Coordinator. CONTRACTOR shall provide collection equipment the day following a natural disaster or as directed by the AUTHORITY and shall provide equipment sufficient to collect a minimum of 50,000 cubic yards of debris per day within ten (10) calendar days of collection commencement (Past AUTHORITY natural disaster cleanup records show that ten (10) days' following disaster, 95,000-126,000 cubic yards of debris collected per day). Failure to provide sufficient equipment necessary to collect required amount may result in the AUTHORITY entering into a separate agreement with another contractor for collection services.

EXHIBIT "A"**6.2.1 Removal of Hazardous Leaning Trees and Hanging Limbs**

- a) Under this contract, work shall consist of all labor, equipment, fuel, and miscellaneous costs necessary to remove all hazardous trees twelve inches (12") or greater in diameter, measured three feet (3') from the base of the tree or chest height and hanging limbs two inches (2") or greater in diameter existing in private and public right-of-way. Further, debris generated from the removal of hazardous trees and hanging limbs two inches (2") or greater existing in private and public right-of-way will be placed at the public right-of-way for removal as vegetative debris. Hazardous leaning trees less than twelve inches (12") in diameter, measured three feet (3') from the base of the tree or at chest height, will be flush cut, and placed on the public right-of-way to be removed as vegetative debris. The AUTHORITY will not compensate the CONTRACTOR for leaning trees less than twelve inches (12") in diameter on a unit rate basis.
- b) Removal and transportation of hazardous trees twelve inches (12") or greater in diameter and hanging limbs two inches (2") or greater in diameter existing in private and public right-of-way will be performed as identified by the AUTHORITY. All disaster specific eligibility guidelines regarding size and diameter of leaning trees will be communicated to the CONTRACTOR, in writing, by the AUTHORITY. In order for leaning or hazardous trees to be removed and eligible for reimbursement, the tree must satisfy a minimum of one (1) of the following requirements:
 - i) The tree is leaning in excess of 30° degrees in a direction that poses an immediate threat to public health, welfare, and safety.
 - ii) The tree is dead, twisted, or mangled as a direct result of the storm and a certified arborist can attest to the fact that the tree will die and potentially create a falling hazard to the public.

6.2.2 Removal of Hazardous Stumps

- a) Under this contract, work shall consist of all labor, equipment, fuel, and miscellaneous costs necessary to remove all hazardous uprooted stumps 24 inches or greater in diameter, measured 24 inches from the base of the tree existing in private and public right-of-way. Further, debris generated from the removal of uprooted stumps existing in private and public right-of-way will be placed at the public right-of-way for removal as vegetative debris. Stumps measured 24 inches from the base of the tree and less than 24 inches in diameter will be considered normal vegetative debris and removed in accordance with 3.1.2. The AUTHORITY will not compensate hazardous stumps less than 24 inches in diameter on a unit rate basis and instead will be considered normal vegetative debris. The diameter of stumps less than 24 inches will be converted into a cubic yardage volume based on the published FEMA stump conversion table (In accordance with current FEMA public assistance guidelines) and removed under the terms and conditions of 2.6.2.
- b) Removal and transportation of hazardous uprooted stumps existing in the

EXHIBIT "A"

private and public right-of-way and private property will be performed as identified by the AUTHORITY. All disaster specific eligibility guidelines regarding size and diameter of hazardous stumps will be communicated to the CONTRACTOR, in writing, by the AUTHORITY. In order for hazardous stumps to be removed and eligible for reimbursement, the stump must satisfy the following requirement:

- (i) Over 50% of the tree crown is damaged or broken and heartwood is exposed.
- (ii) Tree stumps that are not attached to the ground will be considered normal vegetative debris and subject to removal under the terms and conditions of 2.1. The cubic yard volume of the unattached stump will be based off of the diameter conversion using the published FEMA stump conversion table (In accordance with current FEMA public assistance guidelines).

The AUTHORITY or its representative will measure and certify all stumps before removal.

6.2.3 Collection of Storm Generated Residential Vegetation and Construction and Demolition Debris:

- a) It is the AUTHORITY'S goal to ensure that Vegetation and Construction/Demolition debris remain separate task orders for the collection of Vegetation and Construction loads. Mixing of loads by the CONTRACTOR at the road right of way will not be tolerated.

Work may include:

- (i) First pass to clear debris from emergency evacuation routes, access roads to critical facilities and all primary roadways.
 - (ii) Clearing debris from residential private and public road right of ways.
 - (iii) Loading the debris.
 - (iv) Hauling the debris to an approved AUTHORITY TDMS or an authorized private construction demolition debris recycling facility or landfill.
 - (v) Dumping the debris at the TDMS or direct haul to an Authority permitted approved private Construction and Demolition Debris (C&D) recycling facility or Authority authorized landfill.
- b) Debris delivered to a TDMS, private C&D recycling facility or authorized landfill will be paid based on the per cubic yard price according to the Proposal Form 3 – Price Proposal.

6.2.4 Hourly Rate Clearing:

- a) From 0-70 hours following a disaster CONTRACTOR, as designated by the AUTHORITY, shall provide the clearing services on an hourly rate that shall include the following:
 - (i) Clear debris from emergency evacuation routes, access roads to critical facilities, and primary roadways.

EXHIBIT "A"

- (ii) Perform emergency removal of debris if needed for life-saving measures.
 - (iii) Conduct daily briefings with debris managers and other officials to update progress and discuss issues.
 - (iv) Develop a traffic control plan along potential haul routes and at debris management and disposal sites.
- b) The CONTRACTOR shall not move from one designated Collection Zone to another area without prior approval from the AUTHORITY's Director, Customer Information Services or designee. CONTRACTORS and/or subcontractors that move to a designated Collection Service Area without prior AUTHORITY approval may be terminated immediately. The AUTHORITY reserves the right to relocate CONTRACTOR to other Collection Service Areas based on need and ability to perform required work at an acceptable level. The AUTHORITY reserves the right to immediately terminate CONTRACTOR and any subcontractor who fails to provide service in strict accordance with guidelines set forth by FEMA and the AUTHORITY.
- c) The AUTHORITY or designee shall forward all claims of damage to the CONTRACTOR daily. CONTRACTOR shall provide all contact information, including name, phone number, cellular phone number, fax number and email address, for personnel responsible for resolving all claims of damage. CONTRACTOR must respond to all claims of damage within 24 hours and resolve within ten (10) calendar days. Mailboxes must be repaired or replaced within two (2) calendar days. CONTRACTOR is responsible for all damage caused by his crew and/or subcontractors in the performance of debris removal.
- d) In the event the CONTRACTOR fails to repair damages as a result of the Contractor's equipment failure or negligence within the time provided in this Agreement, the AUTHORITY or designee may arrange for the repairs and assess the CONTRACTOR for the cost of the repairs and any applicable administrative charges. Any disputes as to damage responsibility will be presented to the Director, Customer Information Services or designee for review. The decision of the Director, Customer Information Services or designee will be final.

6.3 Equipment:

- A. All trucks and equipment must be in compliance with all applicable federal, state, and local rules and regulations. Trucks used to haul debris must be capable of rapidly dumping their load without the assistance of other equipment, be equipped with a tailgate that will effectively contain the debris during transport that will permit the trucks to be filled to capacity. Cyclone fence may be used as temporary tailgates if they comply with the following specifications:
- 1. Fencing must be permanently attached to one side of the truck bed.
 - 2. After loading, the fencing must be tied to the other side of the truck bed at two places with heavy gauge wire.
 - 3. Fencing must extend to the bottom of the bed.

EXHIBIT "A"

4. After loading, bottom of fencing shall be tight against the bed of the truck and secured at a minimum of two locations.
 5. Solid iron metal bars must be secured to both sides of the fencing.
 6. There shall be no hand loaded equipment allowed.
- B. The AUTHORITY or designee shall complete certifications indicating the type of vehicle, make and model, license plate number, equipment number, and measured maximum volume, in cubic yards, of the load bed of each piece of equipment utilized to haul debris. The measured volume of each piece of equipment shall be calculated from actual internal physical measurement performed and certified by the CONTRACTOR. Maximum volumes may be rounded up to the nearest cubic yard. The reported measured maximum volume of any load bed shall be the same as shown on the placards affixed to each piece of equipment. The AUTHORITY reserves the right to re-measure trucks and trailers at any time to verify reported capacity. If a truck and/or trailer are re-measured and the yardage capacity is determined to be lower, the lower yardage volume will be retroactive to the initial load and total volume adjusted accordingly.
- C. All trucks and trailers utilized in hauling debris shall be equipped with a tailgate that will permit the vehicle to be loaded to capacity and effectively contain the debris on the vehicle while hauling. If installed, all sideboard extensions must remain in place throughout the operation, or the vehicle must be re-measured and remarked. All extensions to the bed are subject to acceptance or rejection at the sole discretion of the AUTHORITY or designee.
- D. Trucks or equipment designated for use under this Agreement shall not be used for any other work during working hours. The CONTRACTOR shall not solicit work from private citizens or others to be performed in the designated Collection Service Area during the period of this Agreement. Under no circumstance will the CONTRACTOR mix debris hauled for others with debris hauled under this Agreement. Failure to comply will result in no payment to CONTRACTOR and the operator and vehicle will be declared ineligible to provide any additional emergency debris collection services. Any and all unapproved changes to placard will result in no payment to CONTRACTOR and the operator and vehicle will be declared ineligible to perform any additional emergency debris collection services.

6.4 Securing Debris

The CONTRACTOR shall be responsible for properly and adequately securing debris on each piece of equipment utilized to haul debris. Prior to leaving the loading site, the CONTRACTOR shall ensure that each load is secure and trimmed so that no debris extends horizontally beyond the bed of the equipment in any direction. All loose debris shall be reasonably compacted during loading and secured during transport. Tarps or other coverings shall be provided by the CONTRACTOR to prevent materials from falling or being blown from the bed. Loads not properly tarped or otherwise covered will not be allowed to dispose at any AUTHORITY approved TDMS which may result in non-payment to CONTRACTOR.

EXHIBIT "A"**6.5 Equipment Signage**

Prior to commencing operations, the AUTHORITY or designee shall affix to each piece of equipment, signs or markings indicating the Owner Operator's name and a unique equipment identification number. One sign shall be placed on each side of the equipment. For those trucks, trailers and other equipment intended to haul debris, the maximum volume, in cubic yards, of the load bed shall also be shown. Each operator shall keep AUTHORITY certification with them at all times. Placards must remain on both sides of equipment.

6.6 Other Considerations

- A. The CONTRACTOR shall assign and provide an Operations Manager (OM) to the AUTHORITY TDMS to serve as the principal liaison between the AUTHORITY Director, Customer Services or designee and the CONTRACTOR'S forces. The assigned OM must be knowledgeable of all facets of the CONTRACTOR'S operations and have authority in writing to commit the CONTRACTOR. The OM shall be on call 24 hours per day, seven (7) days per week and shall have electronic linkage capability for transmitting and receiving relevant contractual information and make arrangements for onsite accommodations. This linkage shall provide immediate contact via cell phone, Fax machine, and have Internet capabilities. The OM will participate in daily meetings and disaster exercises, functioning as a source to provide essential element information. The OM will report to the AUTHORITY Director, Customer Services or designee. This position will not require constant presence; rather the OM will be required to be physically capable of responding to the AUTHORITY Emergency Management Coordinator within 30 minutes of notification.
- B. The CONTRACTOR shall be responsible for control of pedestrian and vehicular traffic in the work area. At a minimum, one flag person should be posted at each approach to the work area.
- C. The CONTRACTOR shall supervise and direct the work, using skilled labor and proper equipment for all tasks. Safety of the CONTRACTOR'S personnel and equipment is the responsibility of the CONTRACTOR. Additionally, the CONTRACTOR shall pay for all materials, personnel, taxes, and fees necessary to perform under the terms of this contract.
- D. Payment for debris hauled will be based on the quantity of debris hauled in cubic yards. Debris hauled to a TDMS will require a validated load ticket. Drivers will be given an electronic load tickets at the loading site by an AUTHORITY loading site monitor. The quantity of debris hauled will be estimated in cubic yards at the TDMS by an AUTHORITY TDMS monitor. The estimated quantity will be recorded on the electronic load ticket. The AUTHORITY TDMS monitor will retain one copy of the paper load ticket and the driver will retain the remaining copies of the load ticket. Debris being hauled to a permanent landfill will be paid based on cubic yards recorded on an approved electronic or paper load ticket. Payment will be made against the CONTRACTOR'S invoice once site monitor and CONTRACTOR load tickets and/or scale tickets match. Load tickets not properly completed and signed will not be paid.

EXHIBIT "A"**7. TEMPORARY DEBRIS MANAGEMENT SITES (TDMS) OPERATIONS****7.1 General**

- A. The purpose of this section is to define the requirements for TDMS Operations after any catastrophic disaster within Palm Beach County.
- B. The CONTRACTOR shall use only TDMS designated by the AUTHORITY Emergency Management Coordinator.
- C. The TDMS foreman shall direct all vehicular traffic and load drop-off operations. Different types of debris shall be kept in separate piles at the TDMS. At a minimum, one flag person shall be posted at each TDMS for traffic control and to direct unmixed loads to proper location (by debris type) to be offloaded. CONTRACTOR shall be responsible for sorting and proper placement of all loads not dumped in appropriate location which results in mixing the once separated debris at no charge to the AUTHORITY.
- D. The CONTRACTOR shall begin grinding vegetative debris within five (5) calendar days of TDMS opening date and removing mulch/wood chips within ten (10) calendar days of site opening date. It is very important your plan provides specific information for the final disposal destination location of the mulch / wood chips removed from the public or private TDMS. The CONTRACTOR shall begin removal of Construction and Demolition/mixed debris from TDMS to an approved final destination within five (5) days of site opening date.

7.2 TDMS Services

7.2.1 Site Setup/Preparation and Site Closeout/Restoration Site setup/preparation and site closeout/restoration shall be compensated on a time and materials basis in accordance with the hourly rates provided in the Proposal Form 3 – Price Proposal. Site set-up/preparation/closeout/restoration includes: clearing, stripping, hauling, fill placement, constructing/deconstructing processing pads, limerock or crushed concrete access roads, seeding, and any other similar activity necessary to make the site usable for its intended purposes and to return the site to its original condition. Do not include any materials in calculating the hourly rates in the Proposal Form 3 - Price Proposal. Important- Phase I TDMS Reclamation is included in the 2.0 cubic yard price. Phase I Reclamation requires the contractor to remove all debris from the TDMS including small particles mixed with soil and grading the entire area. The only site closeout cost will be removal of road base material and seeding as approved by the Authority.

7.2.2 TDMS Operations and Material Processing

- a. TDMS operations and material processing shall be compensated in accordance with the unit prices provided in the Proposal Form 3 - Price Proposal. The CONTRACTOR shall provide equipment, operators, and laborers for TDMS operations as specified by Task Order. Unit prices provided in the Proposal Form 3 - Price Proposal, shall include all labor and materials necessary to fully operate and maintain (including fuel, oil, grease, repairs, operator, mobilization, demobilization, overhead, profit, lodging and insurance)

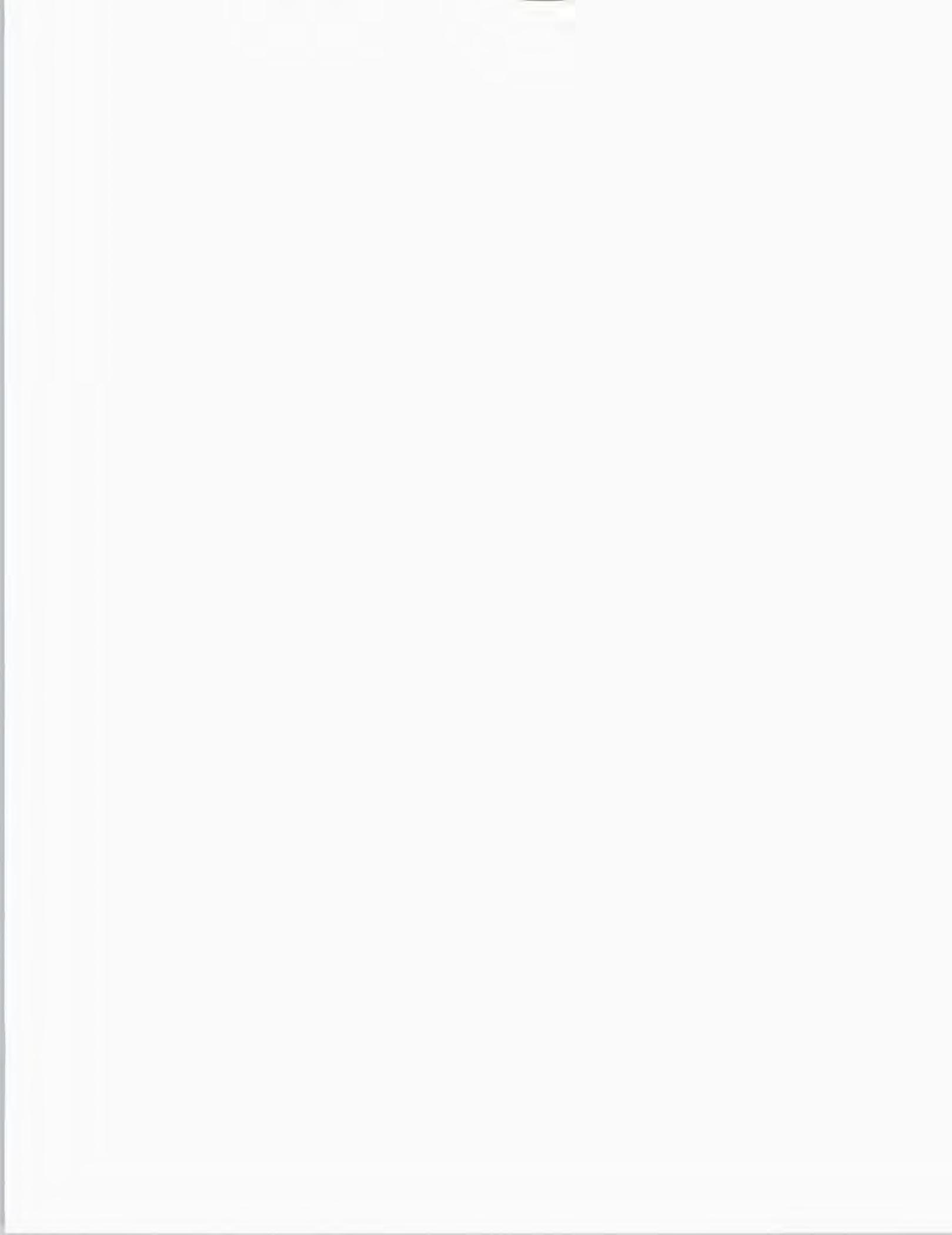


EXHIBIT "A"

all equipment under this Agreement. Each Inspection Tower shall be equipped with two (2) portable toilets. Toilets shall be provided immediately upon completion of tower assembly. CONTRACTOR shall provide a water truck for the purpose of applying to site surface to minimize dust. The AUTHORITY shall provide a front-load garbage container and collection service of the container at each TDMS. CONTRACTOR shall be responsible for cleaning up all trash and litter generated on the site from daily operations and depositing into the container for collection. The entrance roadway and surrounding area within ½ mile of the site's entrance shall be cleaned daily by the CONTRACTOR. All pre-storm identified sites shall be opened by the CONTRACTOR within three (3) calendar days after receiving approval from the AUTHORITY to operate the TDMS. Failure to open sites with proper equipment and necessary personnel will result in liquidated damages of \$10,000 per day. All rates shall include the cost of protective clothing (to include hardhats and steel-toed boots), fringe benefits, hand tools, supervision, transportation, lodging, meals, and any other costs. The work shall consist of managing the operations of a TDMS and performing debris reduction by air curtain incineration and/or grinding of storm generated debris as directed by the AUTHORITY Emergency Management Coordinator

- b. The AUTHORITY plans to use two types of TDMS.
 1. Vegetative TDMS will be devoted to the reduction of clean woody debris by either burning or grinding. The AUTHORITY expects the material to be recycled and or beneficially re-used if processed by grinding. It is important to provide a detailed plan on how this material will be recycled or beneficially reused after grinding / reduction.
 2. Depending upon the size and type of devastation the AUTHORITY may require a separate Construction & Demolition (C&D) staging area, mixed debris staging area and a separate Household Hazardous Waste staging area. The AUTHORITY requests that PROPOSER implements recycling and or reduction programs to minimize the quantity of construction debris material to be land filled.
- c. Material coming into the Vegetative or C&D TDMS will be measured and paid for by the cubic yard according to the Proposal Form 3 – Price Proposal. Material removed and transported from a C&D TDMS will be measured and paid by the cubic yard according to the Proposal Form 3 – Price Proposal.
- d. Locations of all TDMS will be approved by the AUTHORITY. The AUTHORITY Emergency Management Coordinator must approve site improvements before work begins and any costs, other than those in the Proposal Form 3 – Price Proposal, that might have been negotiated under a Task Order shall be documented for payment.
- e. Material processed at a TDMS by either grinding or burning will be measured using cubic yards from incoming load tickets. Material entering a TDMS will be

EXHIBIT "A"

deposited in manageable piles.

7.3 Reporting

The CONTRACTOR shall submit a report to the AUTHORITY Emergency Management Coordinator or designee by close of business each day of the term of the Task Order. Each report shall contain, at a minimum, the following information:

1. Contractor's Name
2. Contract Number
3. Daily and cumulative hours for each piece of equipment, *if appropriate*
4. Daily and cumulative hours for personnel, by position, *if appropriate*
5. Volumes of debris handled

Failure to provide audit quality information by 5:00 p.m. of the following day of operation will subject CONTRACTOR to non-payment in each instance at the sole discretion of the AUTHORITY.

7.4 Other Considerations

- A. The CONTRACTOR shall supervise and direct the work, using skilled labor and proper equipment for all tasks. Safety of the Contractor's personnel and equipment is the responsibility of the CONTRACTOR. Additionally, the CONTRACTOR shall pay for all materials, personnel, taxes, and fees necessary to perform under the terms of this contract.
- B. The CONTRACTOR shall be responsible for control of pedestrian and vehicular traffic in the work area. In the event a TDMS must be closed due to CONTRACTOR equipment or operational failures, CONTRACTOR shall be liable for liquidated damages in the amount of \$25,000.00 per day for every day the site has to remain closed.

7.5 Debris Clearance (for access) from Right-of-Ways and Public Property

- A. The AUTHORITY provides support to Palm Beach County Government for Debris Management, including the clearance (moving debris from the middle of the road, etc.) of debris from right-of- ways and public property. Palm Beach County intends to perform debris clearance for access with its own forces or under existing contractual Agreements between the County and local firms. However, in a significant disaster, these resources may be insufficient to perform the clearance activities in a timely manner.
- B. This debris clearance is to be considered supplemental and optional service. It is anticipated that debris clearance activities would be conducted, if needed, on a time and material basis using the rates in the Proposal Form 3 – Price Proposal.

EXHIBIT "A"**8. PROCESSING, LOADING AND HAULING MATERIAL:**

CONTRACTOR shall provide all necessary labor, material and equipment to process, load and haul wood chips from TDMS in Palm Beach County to final destination for disposal. CONTRACTOR shall provide all necessary labor, material and equipment to load and haul construction and demolition debris and/or mixed debris from TDMS as directed by the AUTHORITY. The AUTHORITY reserves the right to contract with other firms to process, load and haul wood chips and construction and/or mixed debris to a final destination as may best meet the needs of the AUTHORITY. All wood chips, construction and/or mixed debris shall be disposed of in accordance with all Local, State of Florida and Federal guidelines.

CONTRACTOR will provide detailed listing to the AUTHORITY of the following:

1. Quantity (loads and cubic yards)
2. Owner information
3. Site where mulch / reduced yard waste material generated at TDMS is disposed, to include address/GPS location.
4. AUTHORITY will determine final private or public Construction/Demolition debris disposal/recycling facility.

9. MISCELLANEOUS REQUIREMENTS**9.1 TDMS Foreman**

- A. The TDMS foreman must be an employee of the CONTRACTOR and is responsible for management of all operations of the site to include, traffic control, dumping operations, segregation of debris, burning, grinding, and safety.
- B. The TDMS foreman will be responsible for monitoring and documenting equipment and labor time and providing the daily operational report to the AUTHORITY Director, Customer Services or designee.

9.2 TDMS Night Foreman

- A. The TDMS night foreman must be an employee of the CONTRACTOR and is responsible for managing all night operations approved by the AUTHORITY.
- B. The TDMS night foreman will be responsible for monitoring and documenting equipment and labor time and providing the daily operational report to the AUTHORITY Director, Customer Information Services or designee.

9.3 TDMS Management Plan

- A. Once the TDMS is identified by the AUTHORITY, the CONTRACTOR will provide a Site Management Plan.
- B. Three (3) copies of the plan are required. The plan shall be drawn to a scale of 1" = 50' and address the following functions:
 1. Access to site
 2. Site preparation -clearing, erosion control, and grading
 3. Traffic control procedures

EXHIBIT "A"

4. Safety
5. Segregation of debris
6. Location of ash disposal area, hazardous material containment area, CONTRACTOR work area, and inspection tower
7. Location of incineration operations, grinding operation (if required). Burning operations require a 100-foot clearance from the stockpile and a 1000-foot clearance from structures.
8. Specific plan including and location for the final disposal destination of the mulch/wood chips generated at the public or private TDMS.

9.4 Inspection Tower

The CONTRACTOR shall construct an inspection tower at each TDMS within three (3) calendar days of natural disaster. The tower shall be constructed using pressure treated wood or steel scaffold. The floor elevation of the tower shall be 10-feet above the existing ground elevation. The floor area shall be a minimum 8' by 8', constructed of 2"x 8" joists, 16" O.C. with 3/4" plywood supported by a minimum of four 6" x 6" posts. A 4-foot high wall constructed of 2" x 4" studs and 1/2" plywood shall protect the perimeter of the floor area. The floor area shall be covered with a roof. The roof shall provide a minimum of 6'-6" of headroom below the support beams. Steps with a handrail shall provide access to the tower. Inspection towers must provide a dry area for employees and meet all FEMA and OSHA requirements.

9.5 Grinding Operation

The CONTRACTOR shall have grinder(s) on site and in operation within five (5) calendar days following a natural disaster. Failure to provide sufficient grinding capacity to accommodate expected incoming volumes and allow site to operate in an efficient manner within five (5) calendar days shall result in liquidated damages of \$10,000 per day. There shall be no period longer than 24 hours in which grinding activity may stop due to equipment or operational failure. Failure to provide back-up equipment within 24 hours shall result in liquidated damages of \$2,000 per hour per approved hours of grinding operation per day until grinding activity resumes.

9.6 Household Hazardous Waste Containment Area

The CONTRACTOR shall construct a hazardous material containment area at each TDMS. The area shall be 30' x 30'. The perimeter shall be lined with hay bales and staked in place. The area shall be lined with a heavy gage plastic to provide a waterproof barrier. Additional plastic sufficient to cover the area is required to prevent rain from entering the containment area. Site run-off must be redirected from the containment area by site grading.

10. PERFORMANCE OF CONTRACTOR

- A. It is the intent of this Agreement to ensure that the CONTRACTOR provides a timely quality level of services. To this end, all complaints received by the Emergency Management Coordinator or designee and reported to the CONTRACTOR shall be promptly resolved pursuant to the provisions of this Agreement.

EXHIBIT "A"

- B. The Emergency Management Coordinator or designee may levy administrative charges for the following infractions:
 - 1. Failure to open pre-storm identified sites within three (3) calendar days of after being tasked by the AUTHORITY liquidated damages of \$10,000 per day for each day not opened.
 - 2. Closure of TDMS due to CONTRACTOR equipment or operational failures liquidated damages of \$25,000 per day, for each day site must remain closed.
- C. Failure to provide back-up grinder(s) within 24 hours of equipment breakdown liquidated damages of \$2,000 per hour per approved grinding hours of operation per day.
- D. CONTRACTOR may also be subject to non-payment and liquidated damages of \$200 for each occurrence of the following infractions:
 - 1. Failure to provide audit quality information by 5:00 p.m. of the following day of operation.
 - 2. Loads not properly tarped or otherwise covered.
 - 3. Mixing debris hauled from other sources with debris hauled under this Agreement.
 - 4. Mixing vegetation debris with C & D material.
- E. CONTRACTOR may be immediately terminated and not paid for the following:
 - 1. Collection of any non-eligible, non-AUTHORITY approved stumps or debris.
 - 2. Moving to another designated Collection Service Area without prior AUTHORITY approval.
 - 3. Failure to provide service in accordance with guidelines set forth by FEMA and the AUTHORITY.
 - 4. Soliciting work from private citizens or others to be performed in the designated Collection Service Area during the period of this Agreement.
 - 5. Alteration of placards placed on certified trucks and/or trailers.

Any disputes regarding Performance of Contractor will be presented to the Emergency Management Coordinator or designee for review. The Emergency Management Coordinator or designee shall complete review and make determination within three (3) calendar days. Decisions of the Emergency Management Coordinator or designee shall be final.

FEE SCHEDULE

PROPOSAL FORM 3 – PRICE PROPOSAL

PART A – VOLUME BASED PRICING FOR 3,000,000 CUBIC YARD (CY) DEBRIS DISASTER

ITEM/DESCRIPTION	ESTIMATED QUANTITY	UNIT	PRICE PER CY	EXTENSION
1.0 Public Property and Right of Way Collection, Loading and Hauling to a designated TDMS.				
A. Vegetation	2,500,000	CY	9.90	24,750,000
B. Construction Debris / Mixed Debris	500,000	CY	9.90	4,950,000
2.0 TDMS operation to include placement of monitoring towers, portable toilets, keeping on-site and adjacent roads area clean of trash and garbage, debris acceptance, pile management, and Phase I Reclamation.	3,000,000	CY	2.35	7,050,000
3.0 Processing of debris through grinding and/or chipping.	2,500,000	CY	2.70	6,750,000
4.0 Loading, hauling and disposing wood chips to final destination. <i>(This rate includes disposal cost)</i>	1,000,000	CY	9.60	9,600,000
5.0 Volume reduction through air curtain incineration.	2,500,000	CY	2.40	
6.0 Loading and hauling of construction debris and/or mixed debris from TDMS to a permitted C&D recycling facility or any other designated Disposal Facility. <i>(This rate shall not include disposal cost). Based on miles from TDMS to final destination– 1 way.</i>				
A. 0 ≤ 20 miles	500,000	CY	4.80	
B. > 20 ≤ 50 miles	500,000	CY	6.60	
C. > 50 ≤ 100 miles	500,000	CY	8.70	
AVERAGE: (Item 6.0 A-C)			6.70	
AVERAGE: (Item 6.0 A-C) X 500,000 CY =				\$ 3,350,000
TOTAL PROPOSAL PRICE: (Items 1.0 - 4.0; 6.0)				\$ 56,450,000

PROPOSER MUST PROVIDE PRICE FOR ALL LINE ITEMS 1 THRU 6. FAILURE TO DO SO MAY RENDER YOUR PROPOSAL TO BE DEEMED NON-RESPONSIVE.

Unit Prices, unless otherwise indicated, shall include all labor (operators, laborers, supervisors) and materials including but not limited to: supplies, equipment maintenance, repairs, repair parts, fuels, lubricants, cellular phones, transportation, and housing, if required, necessary to accomplish the project. The quantities and distributions are estimated for the purpose of making an award. Locations of sites, debris quantities, destinations, material densities, etc. may differ substantially in an actual disaster.

Assumptions: 3,000,000 cubic yards of debris consisting of 2,500,000 cubic yards of vegetation debris and 500,000 cubic yards of mixed debris.

EXHIBIT "B"

PROPOSAL FORM 3 – PRICE PROPOSAL

PART B – HOURLY RATES

TDMS SET-UP AND CLOSURE AND DEBRIS CLEARANCE FOR ACCESS - OPTIONAL USE BY COUNTY AND OTHER GOVERNMENTAL ENTITIES			
EQUIPMENT AND LABOR RATES			
EQUIPMENT TYPE	HOURLY EQUIPMENT RATE	HOURLY LABOR RATE	TOTAL HOURLY RATE
Bobcat Loader	46.31	50.21	96.52
Crew Foreman w/ Cell Phone and Pickup	13.19	63.60	76.79
Dozer, Tracked, D5 or similar	54.45	50.21	104.66
Dozer, Tracked, D6 or similar	81.39	50.21	131.60
Dozer, Tracked, D7 or similar	115.88	50.21	166.09
Dozer, Tracked, D8 or similar	145.56	50.21	195.77
Dump Truck, 18 CY-20 CY	54.88	41.84	96.72
Dump Truck, 21CY-30 CY	62.92	41.84	104.76
Generator and Lighting	11.69	N/A	11.69
Grader w/ 12' Blade	85.50	50.21	135.71
Hydraulic Excavator, 1.5 CY	67.61	50.21	117.82
Hydraulic Excavator, 2.5 CY	98.13	50.21	148.34
Kruckleboom Loader	175.25	50.21	225.46
Laborer w/ Chain Saw	4.25	42.17	46.42
Laborer w/ small tools, traffic control, flag person	11.50	33.48	44.98
Lowboy Trailer w/ Tractor	85.44	41.84	127.28
Operations Manager w/ Cell Phone and Pickup	13.19	108.80	121.99
Pickup Truck, 5 Ton	13.19	N/A	13.19
Soil Compactor 81 HP+	60.19	50.21	110.40
Soil Compactor to 80 HP	53.00	50.21	103.21
Soil Compactor, Towed Unit	51.88	50.21	102.09
Truck, Flatbed	32.59	41.84	74.43
Tub Grinder, 800 to 1,000 HP	523.57	50.21	573.78
Water Truck	67.13	41.84	108.97
Wheel Loader, 2.5 CY, 950 or similar	71.45	50.21	121.66
Wheel Loader, 3.5-4.0 CY, 966 or similar	136.88	50.21	187.09
Wheel Loader, 4.5 CY, 980 or similar	149.00	50.21	190.21
Wheel Loader-Backhoe, 1.0-1.5 CY	55.13	50.21	105.34
Other – Please List			

Attach additional sheet with equipment type and labor rates, if needed

EXHIBIT "B"

PROPOSAL FORM 3 – PRICE PROPOSAL

PART C – UNIT COST SCHEDULE

ITEM	HAZARDOUS STUMP REMOVAL, HAULING, AND DISPOSAL	UNIT	UNIT COST
1.	24-inch diameter to 48.99-inch diameter	Stump	450.00
2.	49-inch diameter and greater	Stump	675.00
3.	Stump Fill Dirt – Fill dirt for stump holes after removal	CY	25.00
HAZARDOUS HANGING LIMBS (HANGERS), AND HAULING To include removal of all hanging limbs. Limbs to be cut and placed on the right of way for collection as vegetative debris.			
4.	2-inch diameter and greater	Tree	110.00
HAZARDOUS TREE REMOVAL, AND HAULING Trees to be flush cut at ground level and placed on the right of way for removal as vegetative debris.			
5.	6-inch diameter to 12.99-inch diameter	Tree	100.00
6.	13-inch diameter to 24.99-inch diameter	Tree	200.00
7.	25-inch diameter to 48.99-inch diameter	Tree	375.00
8.	49-inch diameter and greater	Tree	525.00

NOTE:

The following is information only and will NOT be considered in the evaluation of this RFP

The AUTHORITY reserves the right to use this contract to handle small quantities of debris removal and as support for our Franchise Contracts as needed. Below is a daily rate to remove debris. The AUTHORITY will pay for the disposal cost. There is no requirement to provide a rate, however if you do, we expect your company to honor this special service and respond within 48 hours at the rate below.

COLLECTION SERVICE ONLY	
EQUIPMENT	DAILY RATE (10 HRS/DAY)
Knuckleboom Loader and Operator	\$ 2,750.00

ATTACHMENT "A"

**SOLID WASTE AUTHORITY
OF PALM BEACH COUNTY**

7501 North Jog Road
West Palm Beach, Florida 33412
Telephone: 561-640-4000 • Fax: 561-640-3400



**TASK ORDER
DISASTER DEBRIS MANAGEMENT**

TO _____
Task Order No.

In accordance with _____ (Contractor) contract, with the Solid Waste Authority of PBC, Florida, (AUTHORITY) Agreement No. _____ for Hurricane/Disaster Debris Removal, Reduction, and Disposal dated _____ the AUTHORITY hereby requests and authorizes the services to be performed on the project as described below:

Project: _____

Specific Work to be performed: _____

Duration of Work (Include Start Date, End Date and Total Calendar Days): _____

Method of Payment: _____

Estimated Cost of this Task Order: \$ _____

Contractor Signature: _____ Date: _____

AUTHORITY Signature: _____ Date: _____

SWA Use Only		
SWA Requestor/Monitor: _____		Date: _____
SWA Dept. Director: _____		Date: _____
Vendor No.: _____	Account No.: _____	Project: _____
Purchasing: _____	Budget: _____	Accounting: _____

ATTACHMENT "C"

PUBLIC ASSISTANCE PROGRAM AND POLICY GUIDE

The Public Assistance Program and Policy Guide, Version 4, Effective June 1, 2020 (see hyperlink below) is the most recent reference material that will provide additional information:

https://www.fema.gov/sites/default/files/documents/fema_pappg-v4-updated-links_policy_6-1-2020.pdf

PROJECT MANAGEMENT

Project management begins when a disaster occurs and does not end until an applicant has received final payment for the project. Good project management ensures successful recovery from the disaster, expedited payment of funds, and more efficient close-outs of PA Program grants.

Record Keeping

It is critical that the applicant establish and maintain accurate records of events and expenditures related to disaster recovery work. The information required for documentation describes the "who, what, when, where, why, and how much" for each item of disaster recovery work. The applicant should have a financial and record keeping system in place that can be used to track these elements. The importance of maintaining a complete and accurate set of records for each project cannot be over-emphasized. Good documentation facilitates the project formulation, validation, approval, and funding processes.

All of the documentation pertaining to a project should be filed with the corresponding *PW* and maintained by the applicant as the permanent record of the project. These records become the basis for verification of the accuracy of project cost estimates during validation of small projects, reconciliation of costs for large projects, and audits.

Applicants should begin the record keeping process before a disaster is declared by the President. To ensure that work performed both before and after a disaster declaration is well documented, potential applicants should:

- designate a person to coordinate the compilation and filing of records;
- establish a file for each site where work has been or will be performed; and
- maintain accurate disbursement and accounting records to document the work performed and the costs incurred.

The Federal Office of Management and Budget requires grant recipients to maintain financial and program records on file for three years following final payment. Records of grant recipients may be subject to the provisions of the Single Audit Act, as described on page 117 of this guide. Applicants may refer to the Applicant Handbook, FEMA 323, for additional information regarding record-keeping.

ATTACHMENT "D"**MOBILIZATION SCHEDULE**

CONTRACTOR shall commence mobilization of equipment, operators, and laborers immediately upon receipt of a Mobilization Task Order to meet the progress pattern set below.

	Category 1 & 2	Category 3	Category 4	Category 5
Within 24 hours	25%	25%	20%	15%
Within 48 hours	30%	30%	30%	25%
Within 72 hours	40%	40%	40%	40%
Within 96 hours	60%	60%	50%	50%
Within 5 days	100%	80%	60%	60%
Within 10 days		100%	80%	70%
Within 14 days			100%	80%
Within 20 days				100%

ATTACHMENT "E"

FHWA-1273

FHWA-1273 – Revised May 1, 2012

REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety; Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Governmentwide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate supervision and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. **Equal Employment Opportunity:** Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under

this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are

applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar

with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor

will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions

of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein. Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or

will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program. Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-

Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency.

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL)

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly

rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL)

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contacting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;
- (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
- (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is

evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented.

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.

2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this

covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which

this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contractor). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the

department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS
PREFERENCE FOR APPALACHIAN DEVELOPMENT
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS
ROAD CONTRACTS**

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

ATTACHMENT "F"

BUY AMERICA REQUIREMENTS

Source of Supply – Steel and Iron (Federal Aid Contracts Only): For Federal-aid contracts, the Contractor will only use steel and iron produced in the United States, in accordance with the buy America provisions of 23 CFR 635.410. Contractor will ensure that all manufacturing processes for these materials occur in the United States. A manufacturing process is any process that modifies the chemical content, physical shape, size or final finish of a product, beginning with the initial melding and mixing and continuing through the bending and coating stages. A manufactured steel or iron product is complete only when all grinding, drilling, welding, finishing and coating have been completed. If a domestic product is taken outside the United States for any process, it becomes foreign source material. When using steel and iron as a component of any manufactured product incorporated into the project (*e.g.*, concrete pipe, pre-stressed beams, corrugated steel pipe, etc.), these same provisions apply, except that the manufacturer may use minimal quantities of foreign steel and iron when the cost of such foreign materials does not exceed 0.1% of the compensation or \$2,500, whichever is greater. These requirements are applicable to all steel and iron materials incorporated into the finished work, but are not applicable to steel and iron items that the Contractor uses but does not incorporate into the finished work. The Contractor shall provide a certification from the producer of steel or iron, or any product containing steel or iron as a component, stating that all steel or iron furnished or incorporated into the finished product was manufactured in the United States in accordance with the requirements of this provision. Such certification shall also include: (1) a statement that the product was produced entirely within the United States, or (2) a statement that the product was produced with the United States except for minimal quantities of foreign steel and iron and specify the actual value of the product. Each such certification shall be furnished to the AUTHORITY prior to incorporating the material into the project. When FHWA allows the use of foreign steel on a project, Contractor shall furnish invoices to document the costs of such material, and obtain the AUTHORITY'S written approval prior to incorporating the material into the project.

ATTACHMENT "G"

PERFORMANCE AND PAYMENT BOND

BY THIS BOND, WE, _____, Inc., as Principal and _____ a Corporation, as Surety, are bound to the Solid Waste Authority of Palm Beach County, hereinafter referred to as "Authority", in the sum of _____ Dollars (up to \$10,000,000), for payment of which we bind ourselves, our heirs, personal representatives, successors, and assigns, jointly and severally.

THE CONDITION OF THIS BOND is that if Principal:

1. Performs the Agreement dated _____, 20____ between Principal and Authority for Proposal of Hurricane/Disaster Debris Removal, Reduction and Disposal, **Agreement No. 22-201**, the Agreement being made a part of this bond by reference, in the time and in the manner prescribed in the Agreement, and;
2. Promptly makes payment to all claimants, as defined in Section 255.05(1), Florida Statutes, supplying Principal with labor, materials and supplies, used directly or indirectly by Principal in the prosecution of the work provided for in the Agreement, and;
3. Pays Authority all loss, damages, expenses, costs, and attorney's fees, including appellate proceedings, that Authority sustains because of a default by Principal under the Agreement, and;
4. Performs the guarantee of all work and materials furnished under the Agreement for the time specified in the Agreement, and;
5. At completion of all work covered by Agreement and Final Payment by Authority to Principal then Principal will replace this Performance and Payment Bond with a Proposal Bond, in the amount of 5% of this Performance and Payment Bond, to be held by the Authority as a guarantee that Principal will provide to the Authority a Performance and Payment Bond in the amount of up to \$10,000,000 on the occasion of a subsequent Task Order in accordance with the above referenced Agreement;

then this bond is void; otherwise it remains in full force.

Surety shall be responsible for any and all liquidated damages imposed by the Authority for the referenced Agreement.

Any changes in or under the Agreement Documents and compliance or noncompliance with any formalities connected with the Agreement or the changes does not affect Surety's obligation under this bond. Any increase in the total Agreement amount as authorized by the Authority shall accordingly increase the Surety's obligation by the same dollar amount of said increase. CONTRACTOR shall be responsible for notification to Surety of all such changes.

See subsection (2) of Section 255.05, Florida Statutes as amended for the notice and time limitations for claimants.

Signed and sealed this ____ day of _____, 20__.

PRINCIPAL: _____

By: _____
Signature

Name: _____

Title: _____

Address: _____

Telephone: _____

SURETY: _____

By: _____
Signature

Name: _____

Title: _____

Address: _____

Telephone: _____

WITNESS:

1. _____

2. _____

WITNESS:

1. _____

2. _____

NOTE:

Date of Bond must not be prior to date of Agreement. If CONTRACTOR is a Partnership, all partners must execute bond.

IMPORTANT:

Surety companies executing bonds **must** appear and remain on the Treasury Department's most current list (Circular 570 as amended) during construction, guarantee and warranty periods, and be authorized to transact business in the State of Florida, and be pre-approved by the Authority.



Village of North Palm Beach
501 U.S. Highway 1
North Palm Beach, FL 33408

RE: Mutual Aid Agreement for Hurricane/Disaster Debris Removal, Reduction and Disposal between Solid Waste Authority of Palm Beach County, and Phillips and Jordan, Inc.

Phillips and Jordan, Inc. (P&J) and the Solid Waste Authority of Palm Beach County have executed an Agreement for Hurricane/Disaster Debris Removal, Reduction and Disposal, Agreement No. 22-201C effective May 8, 2022, through May 7, 2025.

Article 33 (Agreements with other Government Entities) of Agreement No. 22-201C states:

The CONTRACTOR agrees that this Agreement constitutes an offer to all State Agencies and local government agencies of the State of Florida under the same terms and conditions, for the same prices and for the same effective period as specified in this Agreement; should the CONTRACTOR deem it in the best interest of their business to do so.

The Agreement in no way restricts or interferes with any State Agency or local government agencies of the State of Florida from re-solicitation.

I would like to offer to the Village of North Palm Beach, FL, to enter into this agreement with Phillips & Jordan, Inc. per Article 33 of Agreement No. 22-201C. This offer is made at the same terms and conditions stated in the referenced agreement.

Please return one fully executed original letter upon acceptance.

PHILLIPS & JORDAN, INC.

ACCEPTED: VILLAGE OF NORTH PALM BEACH

Name: _____

Name: _____

Printed Name: Morgan Pierce

Printed Name: _____

Title: President, Power

Title: _____

Date: _____

Date: _____



THE VILLAGE OF
NORTH PALM BEACH
Village Manager's Office

"THE BEST PLACE TO LIVE UNDER THE SUN"

Environmental Committee Meeting

MINUTES

Anchorage Park

Monday, March 7, 2022

6:00 pm

1. Call to Order: Chairperson Karen Marcus called the meeting to order at 6:00 pm.
2. Roll Call:
Present: Karen Marcus, Lisa Interlandi, Mary Phillips, Camille Carroll, Kendra Zellner, Ellen Allen, Shawn Woods
Also Present: Andy Lukasik, Village Manager; Ken Hern, Streets & Stormwater Manager
3. Public Comments: None.
4. The Minutes of the February 7, 2022 regular meeting were approved.
5. Projects/Program Updates/Discussion:
 - a. Anchorage Park Dry Storage:
 - i. Committee requested fence planting not be boxed trimmed and look natural.
 - ii. Committee requested base material be discussed with Brad (Eakins) to recommend a pervious material.
 - b. Community Greening:
 - i. Tree Canopy Survey:
 1. Committee requested a return visit from Mark Cassini, Community Greening, to discuss goals and objectives of a tree canopy survey.
 2. Committee requested copies of the following city's tree canopy surveys:
 - a. Boynton Beach
 - b. West Palm Beach
 - ii. Grant Opportunities - Village staff are communicating with Ryan Ruskay, RMPK Funding to identify funding sources for tree surveys, tree giveaways and sea level rise.
 - iii. Heritage Day Tree Giveaway - Committee was informed that funding sources would need to be identified.

- iv. Tree Planting Parties:
 - 1. Committee recommended Sea grapes at Lakeside Park.
 - 2. Committee was informed that funding sources would need to be identified.
- c. Community Garden - Grand Opening is on March 12 at 10:00 am.
- d. Water Quality Initiatives:
 - i. Committee was informed that the Storm Water Master Plan selection process is underway with Kimberly-Horn and Hazen and Sawyer presentations on March 30, 2022.
 - ii. Grant opportunities regarding sea level rise studies and assessments – no update.
 - iii. Ken Hern stated the lita traps continue to be monitored.
 - iv. Committee requested lita traps be installed in several areas where the water drains into the Earman River.
 - v. Also discussed was a request to review utilization of a water filtration systems in Village facilities in place of bottled water.
- e. Lakeside Park Berm - Committee requested Zak Sherman attend next meeting to discuss project.
- f. Clean Up Events - “Keep America Beautiful” is now called “Great American Cleanup”, which will be on April 23 at Anchorage Park at 8:00 am.
- g. FPL Car Charging Stations at the Country Club:
 - i. Ken Hern stated that FPL is still working on design and engineering.
- h. Ban on Plastics - Business Promotion – Draft House:
 - i. Committee advised that Randy Epstein is having supplier issues which is resulting in shipping delays of “green” products.
 - ii. Committee also advised that consumables used by Farmer’s Table appear environmentally friendly and Ken Hern will pass on the supply source to Randy Epstein.
 - iii. Committee recommended this item be renamed, “Green Business Initiatives”?
 - iv. Committee requested Marc Holloway attend the next meeting to discuss recyclables.
- i. Anchorage Park Oyster Beds:
 - i. Chairperson Marcus mentioned that she has spoken with others who have been in communication with the Schwencke family.
 - ii. Committee also discussed consideration be given to the north side of the park, during dry storage project.
 - iii. Committee requested this item be discussed at the next meeting.
- j. Speaker Series:
 - i. Chairperson Marcus offered to contact Solid Waste Authority for a presentation in May.
 - ii. Committee expressed interest in a climate change awareness event.
- k. Watering Ordinance - Committee requested the proposed new watering ordinance be discussed at the next meeting.

- l. Natural Shoreline Protection: code language – Ken Hern stated that there is no update at this time.
 - m. Golf Course Ponds: littoral planting plans – Ken Hern stated that staff are still waiting for test results.
 - n. Lagoon Drive Cul-de-sac Island Improvements - Committee will prepare planting material recommendations for discussion at the next meeting.
6. Next meetings: the next meeting will be on April 11, 2022 at 6:00 pm in the Anchorage Park building.
7. Adjournment: the meeting adjourned at 7:30 pm.

VILLAGE OF NORTH PALM BEACH

GOLF ADVISORY BOARD

Minutes of April 25, 2022

I. CALL TO ORDER

A. The meeting was held in the Village Council Chambers and was called to order by Chairman Steve Mathison at 6:00 p.m.

II. ROLL CALL

A. Present:

Stephen Mathison – Chairman

Rich Pizzolato – Vice Chairman

Curtis Witters – Secretary

Orlando Puyol – Member

Sandra Felis – Member

Jeff Egizio – Member

Landon Wells - Member

Absent:

X

B. Staff Members Present:

Allan Bowman, Director of Golf

Beth Davis, General Manager

C. Council Members Present:

David Norris-Council member present.

D. Public Present:

Numerous residents from the public attended the meeting.

III. APPROVAL OF MEETING MINUTES

A discussion was held regarding disposition of tee time allocation and responsibility of the Head of Golf as to a consensus as to what should have been included in the minutes for the March GAB meeting. After input from the GAB members, it was agreed upon that the following excerpt from the NPBCC Rules and Regulation for Membership Year 2021-2022, be part of the GAB record. Ref. page 7, Section IV, para. C.: *The Head Golf Professional has sole authority over all tee times and is responsible to ensure the following:*

- a. *That enough tee times are available to allow for an adequate number of non-member rounds (recommended minimum of 2 per hour and maximum of 3).*
- b. *Tee time allocation is equitable to all members and the unrestricted times are on a first come first serve basis.*

After it was agreed upon that this verbiage was the consensus of the GAB the Minutes of the November 16, 2020 GAB Meeting were then approved 5-0.

IV. BOARD BUSINESS MATTERS

1. Financial Report – Head of Golf Allan Bowman delivered the financial reports for the past month. The course once again experienced a record month in both rounds played and revenue generated. Forecasted almost 55,000 this was compared to past years where we were doing rounds in the low 40,000. The increase in rounds put a tremendous amount of pressure on the tee sheet. The budget for this coming year will be in June. It was pointed out that tee sheet management drives our revenue and that some shifting or non-member rounds can positively effect our ability to fund course improvements.
2. Golf Course Project Update-Estimated almost \$400,000 for improvements in next years budget.
3. Driving range update and improvement specifically around where the mats to improve the visual improvements and improved range maintenance.
4. Pump house improvements were discussed. The scope of the project is still in in development with the goal to add sprinklers and improve overall course irrigation.

5. Clock – Has arrived and is scheduled to be installed on 4/28.
6. Aeration schedule is published. Member will be given priority. Alternative play location will be available during course closures.
7. Pond stabilization – schedule to begin in June of this year
8. Golf Maintenance Building
9. Looking at expanding some tee boxes (#5 and #7) to relieve where divots are concentrated.
10. Parking was brought up as an on going problem. Beth indicated that the water aerobics hours will be modified to an earlier time to relieve some of the parking pressure. Staff parking continues to be an issue. Beth is looking into some additional parking in the tennis course area.
11. A discussion was had about a branding nickname for our last 3 to 4 holes. An approach similar to the Bear Trap at PGA. The overall idea seemed to have appeal and it was decided that further investigation was warranted.

COMMENTS FROM THE PUBLIC

The comments from the public centered on the group play as defined by our Head professional. It was stated that only certain groups of at least 16 members will be given reserved times. Groups that get reserved times need to have a minimum of 88% must be members. A number of groups that received reserved tee times this past year will be eliminated as being eligible from getting reserved time going forward. Additionally looking at fitting in non-member NPB residents into reserve time before the general public.

Eric Talbott- resident stated that the policy on groups as stated was unfair to those groups that while meeting the defined criteria as a group will be denied group status. He felt it was discriminatory since only certain groups are allowed and membership with those groups is restricted. The result is some members will have to make tee times while other will not. He went on to suggest that all reserved group tee times should be eliminated so that all time are on a first come serve basis.

Collieen Koller-Part of groups that will have reserved tee times, thought that the need for 4 tee time to be a group was too much to ask. Suggest that Allan consider to allow members to lower the group threshold to two times or 8 players.

Allan stated that last year's group policy was a test and failed due to demand. The policy going forward is also a test and may be changed as it's deemed necessary.

V. ADJOURNMENT

The meeting was adjourned at 6:59 p.m.

The next meeting will be May 16th, 2022.

Minutes by Rich Pizzolato, Vice Chairman.

**VILLAGE OF NORTH PALM BEACH
PUBLIC WORKS DEPARTMENT**

TO: Honorable Mayor and Council

THRU: Andrew D. Lukasik, Village Manager

FROM: Marc Holloway, Solid Waste Manager

DATE: May 26, 2022

SUBJECT: **RESOLUTION – Approving the purchase of one (1) 2022 Mack TE64 Front Load truck from Nextran Corporation d/b/a/ Nextran Truck Center of Riviera Beach in the amount of \$307,939.00.**

Village Staff is seeking Council consideration and adoption of a Resolution approving the purchase of one (1) 2022 Front Load Truck.

Background:

After assessing the commercial operations and quantity/quality of service, Staff determined that three (3) front load trucks are required to effectively service the Village's multi-family residents and commercial customers. The Village currently has three (3) front-load vehicles for this purpose, but has traditionally used one exclusively as a spare.

Following the implementation of new solid waste collection software, evaluating data and refining processes, Staff adjusted this practice and now incorporates the third front-loader into the Village's day-to-day operations. On average, the Solid Waste division makes 126 multi-family/commercial stops each day. This level of activity demands the regular, although not every day of the week, use of a third truck to provide for safe and efficient operations for the drivers and the equipment.

At this time, staff does not intend to surplus any of the Village's existing front-load vehicles. This will bring the complement of front-load trucks to four (4). However, Staff's intent is to make this a short-term condition while the implementation of a more robust vehicle preventative maintenance program is completed. The use of four (4) front-load vehicles will better ensure uninterrupted service delivery through the continued implementation a scheduled maintenance rotation program. Staff intends to reduce the complement of front-load vehicles back to three (3) within the next two (2) years.

Purchasing:

This vehicle will be purchased through Nextran Corporation d/b/a/ Nextran Truck Center of Riviera Beach, utilizing pricing established in an existing Florida Sheriff's Association Contract (FSA 20-VEH18.0 ITEM 105), at a total cost not to exceed \$307,939.00.

A quote from Peterbilt is included as backup for this item to demonstrate the competitive price from Nextran.

Funding:

This purchase was identified as one that can be funded using the FY2021 General Fund Net Income (see the attached memo for information about this budget policy). Those monies are now

held in the Village's CIP Fund and will be transferred to the project account when the item is ready for purchase.

The following budget amendment uses \$307,939.00 in CIP funds for this purchase. A CIP Fund Recap, as well as all supporting documentation, has been included in your agenda backup material for review:

Budget Amendment:

Account	Description	Use	Source
Capital Projects Fund:			
K7020-66410	Solid Waste - Automotive	\$307,939	
K5541-66000	Reserve Expenses - Capital		\$307,939
Total Capital Projects Fund		\$307,939	\$307,939

The attached Resolution has been prepared and/or reviewed by the Village Attorney for legal sufficiency.

Recommendation:

Village Staff requests Council consideration and approval of the attached Resolution approving the purchase of one (1) 2022 Mack TE64 Front Load Truck from Nextran Corporation d/b/a/ Nextran Truck Center of Riviera Beach, utilizing pricing established in an existing Florida Sheriff's Association Contract at a total cost not to exceed \$307,939.00., with funds expended from Account No. K7020-66410 (Solid Waste – Automotive); authorizing the Village Manager to execute the necessary Purchase Agreements and related documents; and authorizing the Mayor and Village Clerk to execute the required budget amendment for this capital purchase in accordance with Village policies and procedures.

RESOLUTION 2022-_____

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA APPROVING THE PURCHASE OF ONE 2022 MACK TE64 FRONT LOAD TRUCK FROM NEXTRAN CORPORATION D/B/A NEXTRAN TRUCK CENTER OF RIVIERA BEACH PURSUANT TO PRICING ESTABLISHED IN AN EXISTING FLORIDA SHERIFF'S ASSOCIATION CONTRACT; AUTHORIZING THE MAYOR AND VILLAGE CLERK TO TRANSFER \$307,939 FROM THE CAPITAL RESERVE ACCOUNT TO THE SOLID WASTE – AUTOMOTIVE CAPITAL ACCOUNT; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Public Works Department is requesting approval of the purchase of a Front Load Truck utilizing CIP funds; and

WHEREAS, Village Staff recommended the purchase of one 2022 Mack TE64 Front Load Truck from Nextran Corporation d/b/a Nextran Truck Center of Riviera Beach pursuant to pricing established in an existing Florida Sheriff's Association Contract (FSA 20-VEH 18.0 – Heavy Trucks); and

WHEREAS, the Village Council seeks to amend the current capital projects fund budget to transfer \$307,939.00 from the Capital Reserve Account to the Solid Waste – Automotive Capital Account to fund the purchase of the vehicle; and

WHEREAS, the Village Council determines that the adoption of this Resolution is in the best interests of the residents of the Village of North Palm Beach.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF NORTH PALM BEACH, FLORIDA as follows:

Section 1. The foregoing recitals are ratified as true and incorporated herein.

Section 2. The Village Council hereby approves the purchase of one 2022 Mack TE64 Front Load Truck from Nextran Corporation d/b/a Nextran Truck Center of Riviera Beach pursuant to pricing established in an existing Florida Sheriff's Association Contract (FSA 20-VEH 18.0 – Heavy Trucks) at a total cost of \$307,939.00, with funds expended from Account No. K7020-66410 (Solid Waste – Automotive). The Village Council further authorizes the Village Manager to execute all necessary documents to effectuate the purchase, subject to review by the Village Attorney.

Section 3. In order to fund this expenditure, the Village Council hereby approves a budget amendment for the transfer of funds as indicated below and authorizes and directs the Mayor and Village Clerk to execute the budget amendment for and on behalf of the Village of North Palm Beach:

Budget Amendment:

Account	Description	Use	Source
Capital Projects Fund:			
K7020-66410	Solid Waste - Automotive	\$307,939	
K5541-66000	Reserve Expenses - Capital		\$307,939
Total Capital Projects Fund		\$307,939	\$307,939

Section 4. All resolutions or parts of resolutions in conflict with this Resolution are hereby repealed to the extent of such conflict.

Section 5. This Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED THIS ____ DAY OF _____, 2022.

(Village Seal)

MAYOR

ATTEST:

VILLAGE CLERK



Village of North Palm Beach

Village Manager's Office

TO: Chairman Magill and Audit Committee Members

FROM: Andrew D. Lukasik, Village Manager

DATE: March 4, 2022

SUBJECT: Recommendations for Deployment of FY2021 General Fund Net Income Funds

As you know, Village staff is estimating that the FY2021 General Fund Net Income will be approximately \$2.2m. Generally, this surplus would be rolled into the General Fund Unassigned Fund Balance. However, given that the Fund Balance amount is healthy, Village staff believes that it is prudent to invest the net income amount in needed capital improvements and equipment acquisition. Staff's recommendation includes projects that have been in the CIP, can be implemented – or begin to be implemented -- within the next year and have funding shortfalls.

Staff is requesting input from the Audit Committee before finalizing a recommendation to the Village Council. The following is a list of recommended investments as prioritized by staff for the use of \$2m of the Net Income:

Public Safety Uninterruptible Power Supply (UPS) System: \$90,000

Currently, the replacement of the UPS System at the Public Safety Building is included in the Capital Improvement Plan (CIP) as part of a large-scale project that was developed to secure grant funding. Unfortunately, funding for the grant program is limited and the Village's project didn't receive any funding. No matching funds from the Village were included in the CIP for this equipment.

Essentially, the UPS System is a battery backup power system that supplies power long enough for equipment to properly shut down when utility power fails. It prevents the loss of data and minimizes the stress a hard shutdown causes on electronic equipment. The UPS is also a surge protector that protects connected devices from power problems, like surges or abnormal voltages, which can damage, reduce lifespan, or affect performance of electronic equipment and devices.

Although the Building is equipped with a generator, the UPS is important to protect equipment during power outages – especially during the arrival of a storm event.

Cardiac Monitors and Power Stretchers: \$240,000

Cardiac monitor/defibrillator are a major component in providing high quality emergency medical services. Technology advances require replacement every five (5) years. Four (4) of the Village's cardiac monitors/defibrillators are scheduled to be replaced in FY2023. However, the Assistance to Firefighters Grant Program, which wasn't funded, this year, was expected to fund the bulk of the expense. The CIP included a Village match amount of \$40,000 to fund the \$160,000 acquisition. If net income is used, the Village share in the CIP will be reprogrammed for other projects – in other words, we'll redeploy it for other infrastructure needs over the next year or two.

Additionally, Fire Rescue requires the replacement of two (2) power stretchers that will have reached the end of their useful life and will no longer be supported by the manufacturer by 2023. The power stretchers, and their associated loading systems, provide a safer method of loading and off-loading patients reducing both the possibility of dropping the patient or causing injury to the caregiver. The CIP included a Village match amount of \$20,000 to fund the \$80,000 acquisition. If net income is used, the Village share in the CIP will be reprogrammed for other projects.

Anchorage Park Playground: \$125,000

The playground at Anchorage Park is heavily used. It is reaching the end of its useful life (installed in 2009) and needs to be replaced with a more modern structure that will provide shade. \$250,000 is currently budgeted (\$125,000 from the General Fund and \$125,000 from a LWCF grant).

Increasing the Village's contribution by \$75,000, for a total match of \$200,000, will allow the Village to get the maximum grant match of \$200,000 for a total project cost of \$400,000.

An additional \$50,000, however, will allow the Village to secure a playground with greater shade and amenities. This would take the use of net income to **\$125,000** for a total project cost of \$450,000.

Air Handlers/Chiller Replacement: \$440,000

Three of the Village's facilities (Village Hall, the Library and the Public Safety Building) are in critical need of investments in their air conditioning infrastructure.

The Village Hall is in need of new air handlers (installation) and a chiller. The total project cost is \$190,000. No Village funding is currently allocated for this work as grants were anticipated to fund the work. However, Village staff intends to pay for the air handler/air purification system using ARPA funding (\$10,000). Net income in the amount of **\$180,000** would be used to purchase and install the new chiller and install the air handler.

Please note that staff is recommending for using the ARPA funds for the purchase of the air handler/air purification system and NOT the installation of the equipment in order to facilitate the single audit process that will be required due to the use of federal funding. The Village intends to program ARPA funds for use on projects or equipment that are clearly eligible under Treasury's guidance and avoid any instances of ambiguity.

In saying this, and at the risk of creating some confusion, it should be noted that the US Treasury developed its final rule for the use of ARPA funding and it results in greater flexibility for the use of those funds. The final rule allows municipal jurisdictions to spend a standard amount, up to \$10 million (the Village is receiving \$6.5 million), within the revenue loss category—even if they did not actually experience a revenue loss. Municipalities have broad latitude to use their entire standard allocation to support local government services and avoid many of the other categories' additional requirements. The purpose of this new assumption is most likely to eliminate the need for Treasury to review a flood of single audits.

While the final rule creates flexibility in the use of the ARPA funding, staff is not suggesting deviating from the general policy guidelines that Council established for their use (water quality, air quality, software application for Community Development to allow electronic submittal and review of development and permit applications).

Village staff is proposing to replace five (5) condensing units at the Library with the purchase of a new chiller along with replacement of the existing air handlers. The entire project is anticipated to cost \$600,000. The CIP currently has \$400,000 allocated for this project. The new system will replace the originally installed system (1968). At this time, we're continuing to evaluate the design to determine the number of handlers needed. Because of the uncertainty related to the air handlers, staff is recommending allocating **\$200,000** of the net income amount towards this project.

The Public Safety Building is in need of three (3) air handlers. The work is identified in the CIP, but has been anticipated to be funded solely by grants. Staff recommends allocating **\$60,000** from net income for the installation of the air handlers.

In summary, staff is recommending the use of net income for the municipal facilities air handler/chiller replacement project be used for 1) the purchase and installation of a chiller and air handler at Village Hall in the amount of \$180,000, 2) the purchase and installation of air handlers at the Library in the amount of \$200,000 and 3) the installation of air handlers at the Public Safety Building in the amount of \$60,000. Total use of net income for this project, then, is \$440,000.

Work Order Software for Public Works: \$100,000

The Department of Public Works maintains a system of disconnected software systems that are used to track activities and inventory. These separate systems have made it difficult to manage data to fully understand workload and activities, supply and inventory use and control, and asset management. Additionally, these software components are not tied to the Village's financial software.

To improve record keeping and data gathering, it is recommended that Public Works secure a comprehensive work order software system. This proposed software acquisition is not included in the Village's CIP. The redefined leadership positions in the Department have led to a new perspective regarding operational needs – the software was not previously identified as a needed work tool but has grown in importance as resource management, decision making and efforts to work efficiently are being hindered by the lack of data integration.

Front Load Solid Waste Vehicle: \$330,000

The Village's Solid Waste Division operates three (3) front loaders to service commercial and multi-family accounts. Two trucks are used for daily operations with the third being used as a spare. Although not the Village's past practice, those three trucks are being rotated in and out of service so that the spare doesn't sit idle for long periods of time.

One front load truck is set for replacement in 2023 due to consistent mechanical and electronic failures requiring frequent repairs. Currently, the time between ordering a vehicle and delivery is generally over one year. Staff is recommending that funding be dedicated for this purpose now in order to begin the process to acquire a new front load garbage truck.

Lighthouse Traffic Calming/Bridge Design: \$115,000

The Lighthouse Bridge was constructed in 1958 and needs to be reconstructed as its nearing the end of its useful life. Although it's "health index" is good (at 92.8) it is functionally obsolete in that it does not adequately accommodate pedestrians and bicyclists and its weight bearing capacity is limited. Regarding the "health index", a score between 80 – 90 is generally considered to be "fair" while a score that is less than 80 is considered "poor".

Design and engineering expenses are funded in the CIP in the amount of \$100,000 in FY2022. Staff is recommending that the amount be increased by \$115,000 (for a total of \$215,000) to address preliminary engineering activities associated with the bridge as well as planning services associated with the introduction of traffic calming solutions on Lighthouse Drive. It should be noted that traffic calming on Lighthouse Drive was identified as a "High Priority" action item in the Citizens' Master Plan. Additionally, members of the Village Council and Village staff receive many complaints about speeding on Lighthouse Drive (and other local streets). Evidence of these concerns from the public can be found on Nextdoor as a petition is currently being circulated requesting the installation of speed humps in order to reduce speeds on Lighthouse Drive.

Additional funding for engineering services are included in FY2023. \$250,000 has been programmed to fund additional engineering associated with the design of the bridge.

East Alleyway Resurfacing and Wall Replacement and/or Anchorage Park Dry Storage: \$560,000

These two projects have funding in the CIP but have been delayed and/or may experience shortfalls. Staff would recommend reserving the sum of **\$560,000** from net income to apply towards one or both of these projects. Staff would anticipate having the Village Council make a final policy decision once additional project information is available.

East Alleyway:

The Village will pursue the resurfacing and design/replacement of the walls in the alley east of US1. Funding is available in the CIP but has been delayed due to other obligations. Additionally, the funding is limited to \$100,000 annually in fiscal years 2024, 2025 and 2026.

If this project is determined to be a priority by the Village Council, it is anticipated that the additional funding from net income will be able to be combined with some operating and capital expenditure savings from FY2022. Delaying construction until the availability of additional funds at the beginning of the next fiscal year will allow staff time to secure feedback on wall designs from residents, Planning Commission and Council and coordinate planning and implementation of the work with residents adjacent to the alley (the project will touch several residents' back yards – so communication regarding the scope and coordination of activities is more sensitive than many other projects).

Staff proposes to complete milling and resurfacing of the alley and the wall replacement concurrently. The section that has deteriorated more than the others is between Yacht Club Drive and Anchorage Drive North – most likely due to problems with the underlying stormwater infrastructure system. It is recommended that the Village complete work on this section first.

Dry Storage:

This project does have funding in the CIP but costs, depending upon the materials selected and scope of work (fencing, storage lot surface, etc), could exceed the budgeted amount. There continue to be policy decisions to be

made by the Village Council prior to finalizing the design. Those decisions could impact the budget. Staff is recommending including this as a project for possible funding from FY2021 net income due to the uncertainty regarding the project budget.

Summary:

The recommended list of capital investments identified above will expend most of the net income amount from FY 2021. With the exception of the Public Works Work Order Software Project and purchase of the Front End Loader, all projects are currently included in the Village's CIP (copies of the CIP project sheets are attached for your information). Most of the projects were eligible for grant funding but those grants have been limited and have delayed implementation of these important investments. As it relates to the Alley and Dry Storage Projects, the funding will allow the Village Council flexibility to work on those projects based upon their priority.

Other Potential Projects for Funding:

Although the projects identified above represent staff recommendations, there are a number of other projects that are currently in the CIP that could be considered as well:

- Additional street resurfacing projects: there are a number of streets that have been completed with more scheduled soon. There are other streets that require milling and resurfacing as well, but the CIP has funding from the infrastructure surtax proceeds for the next four years. It is possible, however, that infrastructure surtax funding will end early.
 - *On November 8, 2016, Palm Beach County voters approved a ballot issue to levy a One-Cent Infrastructure Sales Surtax to pay for the acquisition or improvements to public infrastructure. Collections began on January 1, 2017 and will end on or before December 31, 2026. It will sunset if the proceeds exceed \$2.7 billion on or before September 1 of any year. Based upon County reports, it is likely that collection of the surtax will end on December 31, 2025.*
- Seawall replacement: seawalls at Lakeside Park and Anchorage Park are in poor condition.
 - Lakeside Park would be able to be replaced quickly as engineering plans have already been developed. The CIP anticipates a project in 2025 using grant funding for 50% of the anticipated \$750,000 cost.
 - No engineering plans have been developed for Anchorage Park – and no decisions have been made with respect to a Village Council policy question related to the replacement of the existing docks with floating docks or boat lifts. Funding could be used to develop plans for the seawall (\$137,000 is included in the CIP in FY2023).
- Tennis Court Lighting and Fence Replacement (\$350,000): may be some grant funding available in the future.
- Anchorage Park Path/Site Lighting: a \$230,000 project is anticipated in FY2023 with 80% of the funding from the Recreation Trails Program Grant.
- Fire Rescue Bathroom and Kitchen Remodel: improvements are needed, but it is a lower priority (\$90,000).

Village of North Palm Beach			
CIP Fund Recap			
Fiscal Year 2022			
Beginning Balance			\$88,407
Transfers in:	<u>Resolution / Ordinance</u>	<u>Amount</u>	<u>Total</u>
FY 2022 Transfer in (transfer during budget process)	Ordinance # 2021-17	660,000	
FY 2022 Transfer in (use of FY21 Net Income)	Ordinance # 2022-08	2,000,000	
Total Transfers in			\$2,660,000
Less: Purchases			
<u>Description</u>	<u>Resolution #</u>	<u>Amount</u>	<u>Total</u>
<u>Fiscal Year 2022</u>			
Community Center Playground Equipment	Resolution # 2022-08	3,315	
Boat Engine Replacement	Resolution # 2022-12	44,500	
Webstreaming	Resolution # 2022-15	39,690	
Increase in Grapple Truck Purchase Price	Resolution # 2022-18	7,750	
Lighthouse Drive Bridge Conceptual Designs	Resolution # 2022-33	91,288	
Village Hall Air Handler & Chiller Replacement	Resolution # 2022-34	203,868	
Anchorage Park Playground Replacement	Resolution # 2022-35	250,000	
Solid Waste Front Load Truck	on 5/26/22 agenda	307,939	
Total Purchases			(948,350)
CIP Fund Available Balance			\$1,800,057



ISUZU



FLORIDA SHERIFF’S ASSOCIATION BID SHEET

CUSTOMER: VILLAGE OF NORTH PALM BEACH
BID NUMBER: FSA 20-VEH18.0 ITEM NUMBER 105
DATE: 5 5 2022
DESCRIPTION: MACK TE64 FEL REFUSE TRUCK
QUOTE# VONPB TE FEL 5 6 22A

BASE PRICE: INCLUDING UPDATED PRICING 149,645

PUBLISHED OPTIONS:

1001759	MP7355HP	1,100
3180010	BATTERY DISCONNECT	90
20F46R	66,000 GVW PACKAGE	2,648
HLB-LED	LED HEADLIGHTS	357
BBAPK7	BB AIRLINES	180
2LCA1X	CORNER PROTECTION	213
FEPTO-PKG	FR ENGINE PTO PACKAGE	1,071
NEW	NEW TAG	330

CHASSIS TOTAL: 155,634

UNPUBLISHED OPTIONS:

EP2+EATS 5 250K 3,040

BODY: 149,265

TOTAL: 307,939

Bid Award**Contract:** FSA20-VEH18.0, Heavy Trucks**Group:** REFUSE TRUCK: 60,000 LB GVWR Cab & Chassis Only 4x6**Item:** 105, Mack, TE Series, TE Series

Zone	Rank	Vendor	Price	Percent:	Build File	Options File
Western	Primary	Nextran Truck Centers	\$149,645.00	0.00%	Build	Options
Northern	Primary	Nextran Truck Centers	\$149,645.00	0.00%	Build	Options
Central	Primary	Nextran Truck Centers	\$149,645.00	0.00%	Build	Options
Southern	Primary	Nextran Truck Centers	\$149,645.00	0.00%	Build	Options

Mack TE Series (Item #105)

Option Code	Option Description - (Discounted 10%+ off of MSRP/List)	Total
1001759	MP7 355 HP with 1260 ftlbs of Torque	\$1,100.00
2931000	DAVCO 382 Fuel Filter (Fluid Heated)	\$383.00
3180010	Battery Disconnect Switch " Flaming River" with config. Light	\$90.00
20F46R	66,000 GVWR package, Front 425 Tires (900-1411)/ Front wheels steel: 22.5x12.25(531-1531)/ static load cushions FA (BUMPSFS)/ 46,000 MACK Rear Axle(2681032)/SS462 Camelback suspension (1861077)	\$2,648.00
1862406	Rear Suspension - 46,000lb Meritor RT46-160 with Hendrickson HN462 Suspension	\$1,957.00
1861610	46,000 LB. Mack Mride Suspension	\$1,916.00
2540401	Driver Controlled Differential lock - Inter wheel Differential Lock (Both Axles)	\$956.00
2416311	Front and Rear Disc Brakes (Must include 46,000 LB. Mride Suspension Option Code 1861610)	\$3,135.00
9011415	F+R (10) 315/80R22.5 M870 Bridgestone all position tires (Or Equivalent Manufacturer) on steel wheels	\$2,422.00
OPT-315	Rear Tires (8) 315/80R22.5 M870 Bridgestone (Or Equivalent Manufacturer), for all rear tires	\$1,936.00
5313802	All Aluminum Wheels	\$1,623.00
MCL2001	Dual Flat Electrical Operated & Heated Mirrors	\$275.00
HLB-LED	LED Headlamps	\$357.00
BBA-PK7	Body Builder Air lines, Factory installed for pneumatic joy stick controls	\$180.00
8FXG1X	Drop Frame Modifications for LCF Chassis	\$14,412.00
2LCA1X	Cab Front Corner Protection/ Reinforcement for LCF Chassis	\$213.00
GUARD-RL	Skid Plate under Bumper + Radiator	\$250.00
BLVR-PK3	Pre Wire Video Safety System	\$916.00
Single Axle	Single Axle Option - (Credit)	-\$7,200.00
1003107	CNG Prep - 64R G with Cummins ISL-G 320 HP, Fuel tanks not included, base chassis upgrade	\$6,161.00
1442103	RH and LH Sit down, RH Drive Only	\$5,805.00
1442100	LCF Low Profile With left hand steer	\$5,640.00
1442102	LCF Low Profile with dual steer - Model LR64R with dual sitdown, dual steering	\$7,231.00
1442101	LCF Low Profile with dual steer and right hand stand up - Model LR64R Standard Config.	\$6,509.00
FEPTO-PKG	Front Engine PTO Provision (FEPTO) - Front Frame Extension (FFE330), 1350 Series Flange (1830002), Pump Mouting Kit (8260004), Skid Plate under Bump/Rad (GUARD-RL)	\$1,071.00
MFG List	We furnish bodies from the following, Bridgeport, E-Z Pack, Galbreath, Heil, Loadmaster, McNeilus, New Way, Pac-Mac, Palfinger, Wayne, Labrie, and others.	\$0.00
NEX 60 174/RP 4500	60,000 Roll off hoist and Tarp	Request
60K AFR	60,000 Above Frame Roll Off Hoist and Tarp	Request
NEX 20 RRL LM	20 CU YD Refuse Rear Loader	Request
NEX 25 RRL LM	25 CU YD Refuse Rear Loader	Request
NEX 32 RRL MCN	32 CU YD Refuse Rear Loader	Request
NEX 40 RFL H	40 CU YD Refuse Front Loader	Request
NEX 28 RASL MCN	28 CU YD Refuse Automated Side Loader	Request
NEX 31 RASL	31 CU YD Refuse Automated Side Loader	Request
NEX 20 RDA	Rigid Lift Axle: Pusher/20,000lb rating air lift to include 11R22.5 tires with steel wheels	\$10,000.00
NEX 20 SDA	Steerable Lift Axle: Pusher/20,000 rating air lift to include 11R22.5 tires with steel wheels	\$11,000.00
Transfer	Trasfer Existing Registration	\$110.00
New	New State Tag	\$330.00



4/21/22

The Village of No. Palm Beach
Keith Davis Fleet Mgr.
645 Prosperity Farms Rd.
North Palm Beach, FL 33408
Ref: Sourcewell Contract # 081-716-PMC
CY2021-2024

(1) 2023 Peterbilt model 520 Wittke FEL Chassis (List) Vin# 115664		\$256,288
	Sourcewell 35% discount	(\$89,700)
• Frame Layout		\$3,500
• Commodity Surcharge		\$5,000
• Doc Fee		\$635
• Floor Plan		\$3,600
• Paccar MX11 Ext. PP1 5yr./300K		\$1,700
• Paccar Ext. Aftertreatment 5yr./300K		\$990
	Total unit price	\$182,013
(1) Wittke FEL as per The Village of No. Palm Beach specs (see attached)		\$151,000
	Total Price	\$333,103

Approx. Delivery will be Q1 '23 with a letter of intent or PO to be issued within 30 days. This is current schedule. Actual delivery subject to change.

This is pricing which is subject to change with Global shortages in supply chain and due to possible Covid -19 labor issues.

We are pleased to quote The Village of No Palm Beach a sanitation vehicle and look forward to supplying your future needs.

The above dates can be shorter if present production improves with the Factories, which we are hoping will happen. This should only be worst case scenario.

Prepared By:

John DeMarco

THEPETESTORE.COM



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**VILLAGE OF NORTH PALM BEACH
VILLAGE MANAGER'S OFFICE**

TO: Honorable Mayor and Members of the Village Council
FROM: Andrew D. Lukasik, Village Manager
DATE: May 26, 2022
SUBJECT: **DISCUSSION** – Options for Single-Family Residential Stormwater Fees

Due to concerns about the condition of the Village's aging stormwater system and the lack of funding available to address such concerns, the Village Council determined that it was necessary to establish a dedicated funding stream to address stormwater system needs. To that end, on July 8, 2021, the Village Council created a Stormwater Management Utility and a Stormwater Management Utility Fund and provided for the adoption of Stormwater Management Utility Assessments, to be levied by future Resolution against real property in the Village. Further, on September 8, 2021, the Village Council established a non-ad valorem assessment roll to fund stormwater system improvements.

During the September 8, 2021 hearing to establish the non-ad valorem assessment roll, the Village Council received comments from residents who questioned the equity of using a flat rate for all single family residential properties. Specifically, residents questioned the use of a flat fee for the single-family residential class when there are large and small parcels as well as greater amounts of pervious and impervious surfaces throughout the Village's residential neighborhoods. Village Council directed staff to reevaluate the fee levied on the single-family stormwater customer class to address the concerns raised by residents during the hearing.

On February 24, 2022, the Village Council approved an agreement with Hazen & Sawyer to develop options that will make distinctions between single-family parcels within the Village's stormwater assessment roll. During this evening's meeting, Hazen & Sawyer will present strategies for Council's consideration and discussion.

Recommendation:

Staff recommends that the Village Council provide policy direction regarding the stormwater utility rate methodology to produce greater equity amongst the Single Family Residential rate class. Further, staff recommends that the Village use the suggested methodology based upon parcel size and creates three (3) rate tiers: Small, Medium and Large. This recommendation, which is identified as Scenario 3 in Hazen & Sawyer's report, maintains a stormwater utility rate that is almost the same as the rate charged in FY2022 for most Single Family Residential property owners, but allows a reduction or increase for those outliers with smaller or larger parcels respectively. Additionally, the revenue generated by this proposed rate structure will only be \$3,000 more than in FY2022 and does not result in an increase in administrative burden.

Based upon Village Council policy direction, an ordinance will be prepared for consideration at a future meeting to implement a new stormwater utility fee rate structure for the Single Family Residential customer class.

History: the Village's Stormwater Utility and the Non-Ad Valorem Assessment

In 2016, the Village Council adopted the Citizens' Master Plan. The Plan was the result of a citizen engagement process and intended to guide the next era of growth and development in the Village of North Palm Beach. One of the priority projects identified by the Plan was the creation of a stormwater

utility that would finance repairs and improvements, including enhancement of water quality, to the Village's stormwater system. At this time, it was recognized that the Village's aging system needed to be maintained to deliver reliable protection of property and enhance the quality of stormwater runoff into the Village's canals and the Lake Worth Lagoon.

Based upon the Citizens' Master Plan recommendation, the Village conducted an exploratory study to provide information and data related to the establishment of a stormwater fee structure to fund needed stormwater activities and improvements within the Village. To accomplish this task, the Village Council approved a proposal from Hazen & Sawyer, P.C. to complete a Stormwater Management Study through the adoption of Resolution 2018-59 on July 12, 2018.

On March 14, 2019, the Village Council held a workshop on the exploratory study and directed Village Staff to continue to evaluate stormwater funding options. During strategic planning and preparation for the FY2020 budget, a stormwater funding mechanism continued to be identified as a high priority for the Village Council. As a result, \$100,000 was budgeted and approved for the next phase of the stormwater study.

Through the adoption of Resolution No. 2019-114 on October 10, 2019, the Village Council approved a proposal from Hazen & Sawyer, P.C. to provide stormwater utility fee development and implementation services.

On June 25, 2020, Hazen & Sawyer, P.C. presented its Stormwater Utility Study Final Report to the Village Council. During that meeting, Village Council provided policy direction on the following issues: establishing the Fee Methodology (weighted average of Single Family Residential Impervious Area and average Impervious Area per condominium unit); identifying a fee amount based upon a need to establish a Videoing, Cleaning, Rehabilitation and Maintenance Program (which represented a baseline level of service); creation of a Credit Program (anticipating that 3% of SFR parcels and 10% of all other parcels receive credit averaging 50% of the stormwater fee) and selecting the utility billing method.

On November 12, 2020, Hazen & Sawyer, P.C. updated the analysis of the stormwater fees and Village Council provided policy direction to impose a non-ad valorem assessment on the property tax bill as the method of funding the stormwater utility. Village Council direction was based upon the following information from the study:

- The method to determine the Equivalent Residential Units (ERU) in the Village:
 - An ERU is based upon the average of Single-Family Residential (SFR) Parcel Impervious Area (IA) in the Village.
 - ERU= 5,550 sq ft IA
 - Flat Rate
 - SFR = 1.0 ERU
 - Condo = 0.22 ERU
 - Variable Rate: all other property classes based on measured Impervious Area
- The desired Level of Service to be provided by the Stormwater Utility will include:
 - Stormwater system videoing and cleaning of the system within 5 years
 - Emergency repairs
 - 15-year rehabilitation and maintenance to address findings from video/cleaning. Assumes that:
 - 20% of the system will need manhole to manhole slip lining
 - 5% of the system will need to be replaced.
 - It is important to note that this level of service was to establish a baseline level for the fee only. It is anticipated that, in the first year, repairs to severely damaged sections of the system will be made and a Stormwater Master Plan will be completed to identify and prioritize infrastructure, including green infrastructure, projects.

On December 10, 2020, Village Council adopted Resolution 2020-84 stating the Village's intent to levy a non-ad valorem assessment to collect a Stormwater Utility Fee on the 2021 Tax Bill. To that end, Section 197.3632(2), Florida Statutes, requires the Village to execute standard agreements with both the Palm Beach County Property Appraiser and the Palm Beach County Tax Collector in order to proceed with the collection of the stormwater non-ad valorem assessment on the property tax bill. The Village Council approved those agreements on January 28, 2021 in order to continue the process of establishing the Stormwater Utility Fee.

Stormwater Management Utility:

The Village has an antiquated Stormwater collection system with failures occurring at an alarming rate. Recently, the Village has been reacting to these failures by funding repairs through the use of unbudgeted emergency funding. Further, there is a need to address water quality issues identified by the Citizens' Master Plan.

A reliable and consistent source of funding is required to appropriately maintain the Village's stormwater management system. The cost of operating and maintaining the stormwater management system should, to the extent practicable, be allocated in relationship to the contribution to the need for services.

By Ordinance, the Village established stormwater management as a Village utility enterprise in accordance with F.S. §403.0893 and established utility assessments for stormwater management services to be levied against all developed properties that benefit from the Village's stormwater management system. These functions include, but are not limited to, maintenance, planning, design, construction, regulation, surveying, and inspection as they relate to stormwater management facilities of the Village. The stormwater utility assessments will be levied as a non-ad valorem special assessment on the tax bill using the Uniform Method of Collection as authorized by state statute.

To implement the Stormwater Fee contemplated by past Village Council actions, the Village Council adopted a non-ad valorem assessment roll on September 8, 2021. The Stormwater Utility Fee was anticipated to generate approximately \$518,000 annually for the improvement and maintenance of the Village's stormwater system. During the first year of the program, funding will be used to repair significantly deficient sections of the existing system and provide for the completion of a Stormwater Master Plan that will plan for and prioritize future infrastructure repairs and improvements that will take into consideration the need to improve the quality of stormwater flowing from the system into the Lake Worth Lagoon and the impacts of sea level rise as well as storm surge vulnerability.

Non-Ad Valorem Stormwater Fee:

Often times, municipalities will levy stormwater fees on landowners based on the potential for their property to generate runoff (e.g. based on the size of the property and the amount of development on the property). Unlike general tax revenue, revenues generated via stormwater fees must be dedicated solely to stormwater management programs and projects. A stormwater fee allows the Village to not only address the collective impact of non-point source pollution caused by stormwater runoff, but make immediate repairs to sections of the Village's existing stormwater system that are deteriorating to the point that sinkholes are being formed in our streets and on private property.

The fee adopted by the Village in 2021 is based upon a unit of measure called an Equivalent Residential Unit (ERU). An ERU is commonly defined as the average measured Impervious Area (IA) per parcel of one or more residential billing classes, usually the average impervious area on a single-family residential parcel. Billing rates can be flat or variable, with flat fees traditionally assigned to property classes with relatively homogenous property use, such as single-family residences, and variable fees assigned to classes with more property development variability, such as commercial properties. An ERU is a unit of measure used to equate non-residential or multi-family residential properties to a specific number of single-family residences.

To calculate the ERU, data from the Village and Palm Beach County were analyzed and used to estimate impervious area coverage by property use class including single-family residences (a random sample of

5% of all single-family properties was used), multifamily residences, condominiums, commercial and industrial enterprises, government, and institutional facilities. All land parcels other than public schools and rights-of-way are subject to the proposed stormwater utility fee.



Single-Family Residential Property Class Evaluation

The Village has asked Hazen to further investigate the variation of impervious area within the Single Family Residential (SFR) classification and the possible correlation with other property attributes. The purpose of this is to evaluate the potential of improving rate structure equity by increasing granularity in this property classification. This investigation comes in response to the SFR rate structure assigning all properties (in the SFR classification) the same stormwater assessment based on one equivalent residential unit (the origin of which is the average impervious area of a statistically significant sample of hand-measured SFR parcels).

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Introduction

In 2021 the Village of North Palm Beach (the Village), after conducting both a feasibility study and a stormwater utility management study, established and implemented a non-ad valorem assessment to operate and maintain its stormwater utility services. While the initial feasibility and rate studies analyzed the distribution of properties and their impervious area by customer class, analysis of property diversity was not conducted within the classes. Due to the rate structure established, single-family residential (SFR) properties were assessed one (1) equivalent residential unit (ERU). This ERU was developed by calculating the average impervious area (IA) based on a statistically significant sample of randomly selected and individually measured SFR parcels (132 out of 2,537).

Through the public notification and hearing process the Village learned of some concern regarding the perceived equity of the constant assessment for SFR properties. Previous to the non-ad valorem assessment, the Village funded stormwater utility needs from general fund revenues (largely ad-valorem taxes). This method of revenue generation was based on the value of the property, whereas a non-ad valorem assessment does not differentiate based on property value but some other measurement, in this case IA, relevant to the levy. This task will evaluate and summarize different measures of variation within the SFR customer class relevant to a parcel's impact on the stormwater system. This project is not scoped to manually measure all SFR properties within the Village, rather to investigate the variation of SFR property attributes (lot area, living area, etc.) as they relate to a statistically significant sample of manually measured impervious areas (IA) within the SFR property class.

Methodology

As a statistically significant portion of the SFR properties were measured as part of the development of the ERU value in the Feasibility Study, these values were used in conjunction with Palm Beach County Property Appraiser (PBCPA) data and parcel GIS shapefiles for the 2021 tax year obtained from the Florida Department of Revenue (FDOR) website. These data were reviewed to determine if any of the collected metrics could relate to a SFR parcel's stormwater utility usage. In consultation with the Village the following variables, presented in order of increasing administrative complexity and cost, were selected for further examination and potential SFR ERU scenarios:

- Parcel Area
- Living Area
- Impervious Area

Each variable above was selected for its potential correlation with impervious area overall and evaluated using scatter plots and correlation. SFR parcels with measured IA were matched to their respective parcel area and total living area for correlation analysis to confirm the positive correlation assumption. Summary statistics and correlations were developed in Microsoft Excel using the Data Analysis add-in.

Once summary statistics were collected on the population (all SFR parcels), they were used to group the statistically significant samples of measured IA and their respective parcel areas or living areas into potential ERU distribution scenarios. These groups were determined by averaging the measured IA of the sample parcels within each potential parcel area or living area grouping as decided after analysis.

Analysis

Summary statistics were produced to determine how closely the means and standard deviations matched between population and the measured IA sample parcels. Variables (parcel area, living area) were matched to their IA sample parcels, Table 1 shows summary statistics for the IA sample, SFR parcel size below:

Table 1: SFR Property Class Summary Statistics (ft²)

Metric	Mean	Median	Max	Min	Std. Deviation	Sample Size
Impervious Area Sample	5,550	5,061	13,393	2,146	2,118	132
SFR Parcel Size (sample)	11,460	10,800	40,487	3,748	4,290	132
SFR Parcel Size (all)	11,276	10,306	53,718	3,704	4,197	2,537

Within the SFR property class, IA varies greatly within the sample with a minimum of 2,146 and a maximum of 13,393 square feet (ft²) respectively. In addition to statistical significance, summary statistics between sample size and all SFR parcels were compared to ensure a representative sample. The smallest lots within the Village are approximately 3,700 square feet, but the average IA for the Village based on the sample is approximately 5,550 ft².

Parcel Area

Parcel Area is the area in square feet of a SFR parcel. It was assumed that parcel area would correlate positively with IA. The assumption was confirmed by plotting parcel areas with their respective matching measured IA values in Figure 1:

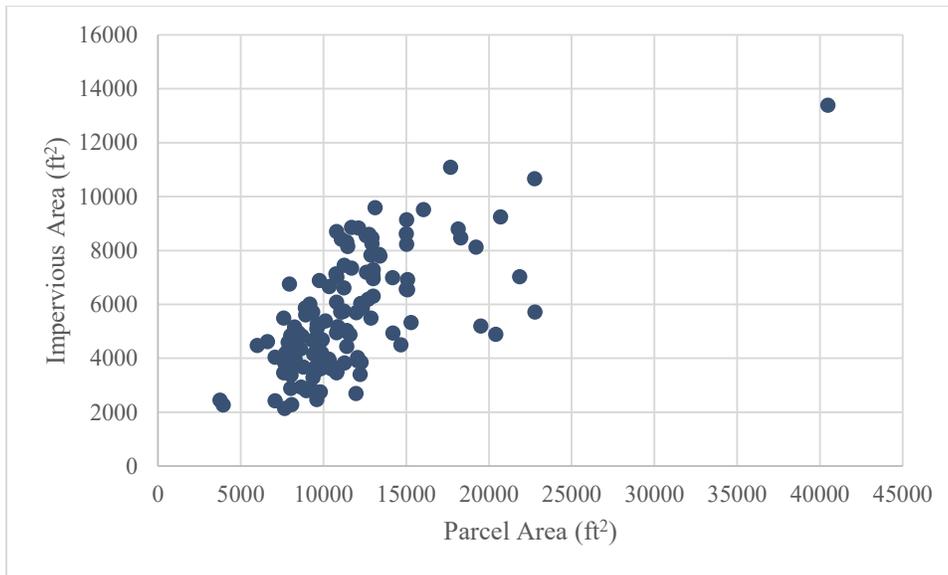


Figure 1: SFR Parcel Area and IA

Parcel area shows a strong positive correlation with IA. This approach to creating multiple tiers is also the least administratively burdensome because it utilizes data which is already a part of the PBCPA data collection process and can be automatically included in future tax rolls without any additional effort. Parcel area rarely changes and when it does, it will be updated by the property appraiser without any additional effort from the Village.

A cluster of SFR parcels within the sample skew towards the lower end (bottom left of blot) of the spectrum when it comes to IA as compared to total parcel square footage. This indicates that some alternative tier scenarios could be appropriately more equitable, particularly related to owners of smaller SFR properties. Any such scenarios should be developed with consideration of total revenue collected.

Total Living Area

Total living area measures the livable area of a property. Total living area was obtained by summing the living area data set by parcel ID and joining it with the measured IA sample in GIS. Matches are approximate due to available data. Figure 2 shows a scatter plot with IA on the y-axis and total living area on the x-axis. While it is positively correlated with SFR IA, it is not as strong of a relationship as shown by parcel area in the preceding analysis based on parcel area.

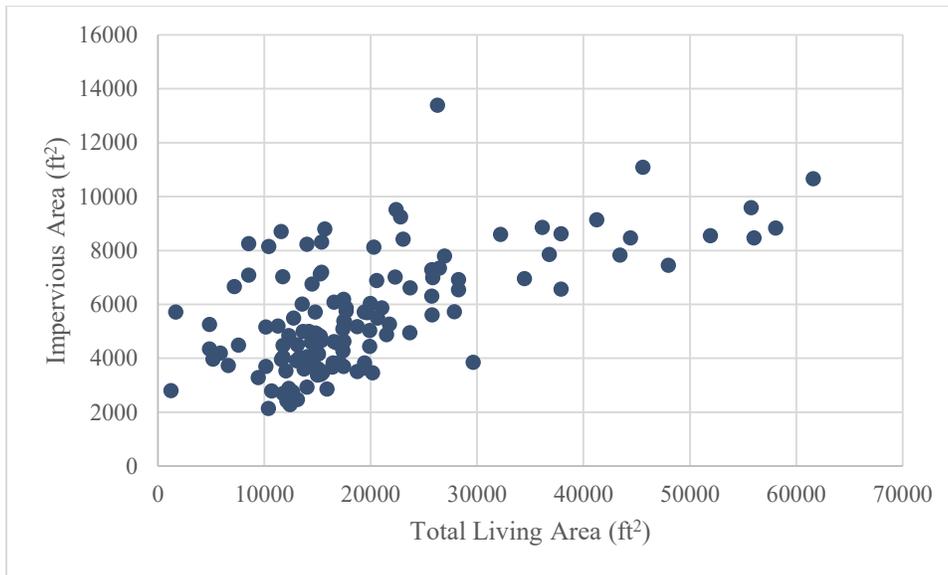


Figure 2: SFR Total Living Area and IA

It was also observed that it is possible to have a greater total living area than parcel area, which makes it hard to argue it is not counting space twice in buildings with multiple stories. Living area only measures the habitable area of a dwelling interior and may include vertical area (ex. two-story houses). Vertical living area could overrepresent the relationship to IA. Driveways, paved patios, garages and pool enclosures, which constitute a large portion of SFR property IA, are also excluded from the living area metric.

Advantages to this measurement include that it encompasses all livable area within a parcel, including potential extra buildings or development on the parcel. Disadvantages include that it will need to be updated annually to account for changes in property owner development in order to maintain consistency. Living area by parcel is not readily available and requires extra data processing to sum living area by parcel number and match it to the appropriate parcel location in GIS for quality assurance.

Impervious Area

Determining each parcel's unique IA is the most equitable way to determine a parcel's contribution to the stormwater utility system. Unfortunately, it is the most administratively burdensome and cost prohibitive. In order to implement a SFR stormwater assessment based on unique IA, every SFR parcel would need to be measured manually and updated annually. This includes the verification of IA against aerial imagery (or updating through building permit processes) to ensure properties adding or removing IA by way of permitted or unpermitted renovations or development are assessed correctly. This annual update also includes the repetition of the public notification process should parcels' rates change from the previous year. In addition, each property would have an individual/unique assessment rate which could spark debate among neighbors who perceive their impacts to be similar.

Scenarios

While there is a correlation between total living area and IA, and unique IA is the most equitable option, they are not the most efficient when administrative burden and cost are considered. That said, there are other ways that this analysis can be applied to alleviate some of the perceived inequity. Given existing data, the most efficient way to group SFR parcels, other than by using a single ERU based on a statistically significant sample, is to group parcels statistically based on parcel area. It is impossible for a parcel to contain more IA than the parcel area, which may explain why the correlation between total living area and IA is positive but much weaker than the correlation between parcel area and IA. Due to weak correlation and the high administrative burden, living area was ruled out as a potential metric for grouping IA in favor of parcel area. Two potential parcel area driven scenarios are outlined below in addition to the scenario of measuring all SFR IA:

- Scenario 1: Manually Measured SFR IA
 - All SFR parcels are measured individually. This approach is not recommended based on the previously discussed administrative difficulties.
- Scenario 2: Parcel Area Driven Two-tier SFR
 - Small Tier – All parcels with less than or equal to mean (less than or equal to 11,277 ft²) SFR parcel area are assigned an ERU that is equal to the average IA of measured sample parcels falling within the Small Tier divided by the ERU Unit (5,550 ft²).
 - Large Tier - All parcels with greater than mean (greater than 11,277 ft²) SFR parcel area are assigned an ERU that is equal to the average IA of measured sample parcels falling within the Large Tier divided by the ERU Unit (5,550 ft²).
- Scenario 3: Parcel Area Driven Three-tier SFR
 - Small Tier - All lots with less than or equal to mean SFR parcel area minus one standard deviation (less than or equal to 7,079 ft²) are assigned an ERU that is equal to the average IA of measured sample parcels falling within the Small Tier divided by the ERU Unit (5,550 ft²).
 - Medium Tier - All lots within plus or minus one standard deviation of mean (greater than 7,079 ft² but less than 15,475 ft²) SFR parcel area are assigned an ERU that is equal to the average IA of measured sample parcels falling within the Medium Tier divided by the ERU Unit (5,550 ft²).
 - Large Tier - All lots greater than plus one standard deviation (greater than or equal to 15,475 ft²) of mean SFR parcel area are assigned an ERU that is equal to the average IA of measured sample parcels falling within the Large Tier divided by the ERU Unit (5,550 ft²).

Table 2 below shows that the impact of reevaluating the ERU to match the average IA of the tiers described above redistributes the estimated annual revenue. While Scenario 2 would cause a revenue shortfall of \$3,780 annually compared to the Current Scenario, Scenario 3 would increase annual revenue by \$3,092.

Table 2: Parcel Area Driven Scenario Revenue Estimates with Added Tiers (ft²)

Scenario	Tier	Average IA	ERU Unit (ft ²)	ERU (Average IA/ERU)	Rate per ERU	Annual Cost per Parcel	Parcel Count	Estimated Annual Revenue
Current Scenario	N/A	5,550	5,550	1.00	\$7.78	\$93.36	2,537	\$236,854
Estimated Current Scenario Revenue								\$236,854
Scenario 2	Tier 1 ¹	4,525	5,550	0.82	\$7.78	\$76.12	1,604	\$122,095
	Tier 2 ²	7,071	5,550	1.27	\$7.78	\$118.95	933	\$110,979
Estimated Scenario 2 Revenue								\$233,074
Scenario 3	Tier 1 ³	3,380	5,550	0.61	\$7.78	\$56.86	101	\$5,743
	Tier 2 ⁴	5,357	5,550	0.97	\$7.78	\$90.11	2,159	\$194,553
	Tier 3 ⁵	8,509	5,550	1.53	\$7.78	\$143.14	277	\$39,651
Estimated Scenario 3 Revenue								\$239,946

¹ Parcel area is less than or equal to 11,277 ft².

² Parcel area is greater than 11,277 ft².

³ Parcel area is less than or equal to 7,079 ft².

⁴ Parcel area is greater than 7,079 ft² but less than 15,475 ft².

⁵ Parcel area is greater than 15,475 ft².



To: Key Official

From: Eryn Russell, Florida League of Cities

Date: May 11, 2022

Subject: 96th Annual Conference Voting Delegate Information

The Florida League of Cities' Annual Conference will be held at the Diplomat Beach Resort in Hollywood, Florida on August 11-13, 2022. This conference will provide valuable educational opportunities to help Florida's municipal officials serve their citizenry more effectively.

It is important that each member municipality sending delegates to the Annual Conference of the Florida League of Cities, designate one of their officials to cast their votes at the Annual Business Session. Election of League leadership and adoption of resolutions are undertaken during the business meeting. One official from each municipality will make decisions that determine the direction of the League.

In accordance with the League's by-laws, each municipality's vote is determined by population, and the League will use the Estimates of Population from the University of Florida.

Conference registration materials were sent to each municipality via the League's e-newsletter and are also available online at flcities.com.

If you have any questions on voting delegates, please email erussell@flcities.com. **Voting delegate forms must be received by the League no later than July 29, 2022.**

Attachments: Form Designating Voting Delegate

**96th Annual Conference
Florida League of Cities, Inc.
August 11-13, 2022
Hollywood, Florida**

It is important that each member municipality sending delegates to the Annual Conference of the Florida League of Cities, designate one of their officials to cast their votes at the Annual Business Session. League By-Laws requires that each municipality select one person to serve as the municipalities voting delegate. *Municipalities do not need to adopt a resolution to designate a voting delegate.*

Please fill out this form and return it to the League office so that your voting delegate may be properly identified. **Voting delegate forms must be received by the League no later than July 29, 2022.**

Designation of Voting Delegate

Name of Voting Delegate: _____

Title: _____

Delegate Email: _____

Municipality of: _____

AUTHORIZED BY:

Name

Title

Return this form to:
Eryn Russell
Florida League of Cities, Inc.
Post Office Box 1757
Tallahassee, FL 32302-1757
Fax: (850) 222-3806
Email: erussell@flcities.com

