The Village of Biscayne Park
640 NE 114th St., Biscayne Park, FL 33161
Telephone: 305 899 8000 Facsimile: 305 891 7241

AGENDA
REGULAR COMMISSION MEETING
Ed Burke Recreation Center - 11400 NE 9th Court
Biscayne Park, FL 33161
Tuesday, July 7, 2015 at 7:00pm

Indicates back up documents are provided.

1 Call to Order

2 Roll Call

3 Pledge of Allegiance

4 Presentations

4.a Introduction of new Reserve Police Officers

4.b Pablo Llerenas, GLSC & Company, PLLC - Audit report for fiscal year ending 09/30/2014

4.c Biscayne Park Foundation - Recreation Center Lighting Project

5 Additions, Deletions or Withdrawals to the Agenda

At this time, any member of the Village Commission or the Village Manager may request to add, change, or delete items from the agenda.

6 Public Comments Related to Agenda Items / Good & Welfare

Comments from the public relating to topics that are on the agenda, or other general topics.

7 Information / Updates

7.a FY 2015-16 Updated Budget Schedule

7.b FY 2014-15 Monthly Financials ending 05/31/2015

7.c 2015 Legislative Session Update

8 Consent Agenda

Items listed under Consent Agenda are viewed to be routine, and the recommendation will be enacted by ONE MOTION in the form listed below. If discussion is desired, then the item(s) will be removed from the Consent Agenda and will be considered separately.

8.a Approval of Minutes

- June 2, 2015 Regular Commission Meeting

8.b Acceptance of Board Minutes

- Parks & Parkway Advisory Board - January 21, 2015
- Parks & Parkway Advisory Board - March 18, 2015
- Recreation Advisory Board - May 26, 2015
- Planning & Zoning - June 1, 2015
- Planning & Zoning - June 15, 2015
- Public Art Advisory Board - June 10, 2015

8.c **Resolution 2015-36**

A RESOLUTION OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA AUTHORIZING THE APPROPRIATE VILLAGE OFFICIALS **TO EXECUTE THE AMENDMENT TO THE CONTRACT BETWEEN THE VILLAGE OF BISCAYNE PARK AND BEJAR CONSTRUCTION, INC.** FOR THE CONSTRUCTION OF THE PUBLIC SAFETY AND ADMINISTRATION ANNEX EXTENDING THE TERM OF THE CONTRACT FOR A PERIOD OF THIRTY (30) DAYS; PROVIDING FOR AN EFFECTIVE DATE

8.d **Resolution 2015-37**

A RESOLUTION OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, **AUTHORIZING THE VILLAGE MANAGER TO EXECUTE A LICENSE AND HOLD HARMLESS AGREEMENT FOR THE USE OF THE MEDLEY POLICE FIREARMS TRAINING CENTER**; PROVIDING FOR AN EFFECTIVE DATE

< End of Consent >

9 Public Hearing

9.a Variance Request - Gary & Jovita Nalepa, 775 NE 113th Street
Front set back for accessory structure (Pool)

10 Ordinances

< None >

11 Resolutions

11.a **Resolution 2015-38**

RESOLUTION OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK **DESIGNATING THE VOTING DELEGATE FOR THE FLORIDA LEAGUE OF CITIES 89TH ANNUAL CONFERENCE** TO BE HELD ON **AUGUST 13-15, 2015**, IN ORLANDO, FLORIDA; PROVIDING FOR AN EFFECTIVE DATE

12 Old Business

These items are generally discussion items that have been previously discussed by the Commission and new information or updates are available by either a member of the Commission or the Administration.

12.a Chapter 5 Proposed Changes

12.b Discussion of the Fiscal Year 2015-16 Budget Goals

13 New Business

These items are generally discussion items that have been requested by members of the Commission or the Administration.

13.a Discussion of garbage disposal ("tipping") options

13.b Fine Reduction Request - 1000 NE 119th Street, Biscayne Park, FL

13.c Commissioner Ross: Discussion on Storm Water and Road Repair/Improvements assessment next steps/

13.d Board Appointments - Recreation Advisory Board / Planning & Zoning Board

14 Request for placement of items on next meeting agenda

Through general consensus a member of the Commission may request an item be placed on the next agenda for discussion (New Business) or as a Resolution/Ordinance.

15 Reports

15.a Village Manager

- Annexation update
- Village Hall Log Cabin restoration & Public Safety & Administration Annex construction update

15.b Village Attorney

15.c Board / Committee Reports:

- Biscayne Park Foundation
- Code Review Board

- Ecology Board
- Parks & Parkway Advisory Board
- Public Art Advisory Board
- Recreation Advisory Board

15.d Commissioner Comments

- Vice Mayor Anderson
- Commissioner Jonas
- Commissioner Ross
- Commissioner Watts
- Mayor Coviello

16 Announcements

Wednesday, July 8th - Public Art Advisory Board at 6:00pm
Monday, July 13th - Code Compliance Board at 7:00pm
Monday, July 13th - Biscayne Park Foundation at 7:00pm
Wednesday, July 15th - Parks & Parkway Advisory Board at 6:00pm
Monday, July 20th - Planning & Zoning Board at 6:30pm
Monday, July 20th - Ecology Board at 6:30pm
Wednesday, July 22nd - Special Commission Meeting at 6:30pm
Tuesday, July 28th - Recreation Advisory Board at 7:00pm

Our next regular Commission meeting is Tuesday, August 4, 2015, at 7:00pm

17 Adjournment

In accordance with the provisions of F.S. Section 286.0105, should any person seek to appeal any decision made by the Commission with respect to any matter considered at this meeting, such person will 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.

In accordance with the Americans with Disabilities Act of 1990, persons needing special accommodation to participate in the proceedings should call Village Hall at (305) 899 8000 no later than four (4) days prior to the proceeding for assistance.

DECORUM - All comments must be addressed to the Commission as a body and not to individuals. Any person making impertinent or slanderous remarks, or who becomes boisterous while addressing the Commission, shall be barred from further audience before the Commission by the presiding officer, unless permission to continue or again address the commission is granted by the majority vote of the Commission members present. No clapping, applauding, heckling or verbal outbursts in support or in opposition to a speaker or his/her remarks shall be permitted. No signs or placards shall be allowed in the Commission Chambers. Please mute or turn off your cell phone or pager at the start of the meeting. Failure to do so may result in being barred from the meeting. Persons exiting the Chamber shall do so quietly.

Biscayne Park Foundation
640 NE 114th St., Biscayne Park, FL 33161

RECREATION CENTER LIGHTING PROJECT

FUND RAISING BY BISCAYNE PARK FOUNDATION

	Estimated
ESTIMATE	$4,000.00
MONEY RAISED	$2,000.00
BALANCE REMAINING	$2,000.00

FY 2015-16 BUDGET CALENDAR **VILLAGE OF BISCAYNE PARK**

DUE DATES		RESPONSIBLE PARTY	TASK
May 4	MON	Each Department	Memorandum to the Manager with objectives, goals, programs for FY 2015-16. Should not include personnel/staffing at this time.
May 5	TUE		Regular Commission Meeting - Resolutions setting the non-advalorem assessments.
May 4 - 8	Week	Manager / Departments	Heidi will meet with each department to discuss and negotiate.
May 11-15	Week	Manager / Finance Director	Meet to discuss department objectives, general budget.
May 11-15	Week	Each Department	All Village Departments review/enter their budgets: To date postings; consider projections through September 2014; project 2015-16 budget amounts.
May 12	TUE		Special Commission Meeting
May 18-22	*Week*	*Clerk*	*OUT OF OFFICE*
May 25-29	*Week*	*Manager*	*OUT OF OFFICE*
June 1	**MON**	**Property Appraiser**	**Delivers an estimate of the total assessed value of nonexempt property to the taxing authority.**
June 2	TUE		Regular Commission Meeting
June 3	WED	Manager / Departments	Group budget meeting (time/location to be set)
June 5	FRI	Finance/Clerk	Submit Salary projections for FY 2015-16
June 9	Tue	Departments	Submit FY 2015-16 Goals to the Manager
June 10	WED	Clerk	Submit files to Property Appraiser with non-advalorem assessments.
June 15-18	Mon-Thu	Departments	Input entire department budget (not include salary/benefits) into BS&A
June 15-18	Mon-Thu	Finance Manager	Input salary/benefits data for each department into BS&A
June 19-26	Fri-Fri	Manager / Finance Manager / Financial Consultant	Meet to review department entries.
June 29-Jul 1	Mon-Wed	Manager / Departments	Manager meets with each department to review budget in preparation for submitting draft to the Commission.
July 1	**WED**	**Property Appraiser**	**Certifies to the taxing authority the taxable value within the jurisdiction on Form DR-420.**
July 3	FRI	Village of Biscayne Park	Independence Day Holiday, Village Offices Closed
JULY		Florida Dept of Revenue	Expected availability for FY 2015-16 Revenue Estimates
July 7	TUE	Manager	Regular Commission Meeting
July 10	FRI	Clerk	Submit final non-advalorem assessment notice to Property Appraiser
July 17	FRI	Clerk	Final data files for non-advalorem assessment submitted to Property Appraiser for TRIM notices.
July 20	**MON**	**Property Appraiser**	**Provides delivery date for inserts**
July 22	WED	Manager	Special Commission Meeting: Resolution to set the tentative millage rate. Manager submits 2015-16 Draft Budget to Commission
July 29	**WED**	**School Board**	**Miami Dade County Public Schools First Public Budget Hearing**

FY 2015-16 BUDGET CALENDAR **VILLAGE OF BISCAYNE PARK**

DUE DATES		RESPONSIBLE PARTY	TASK
Aug 4	**TUE**	**Village of Biscayne Park**	**Within 35 days of the Certification of Taxable Value, each taxing authority certifies the completed DR-420 and any additional forms to the Property Appraiser**
Aug 4	TUE	Manager	Regular Commission Meeting - Manager submits 2015-16 updated Draft Budget to Commission
Aug 11	**Tue**	***1st Budget Workshop Village of Biscayne Park***	***Managers Budget Message*** ***Review: Fund 001 - General Fund Revenues & Expenditures*** ***Review: Fund 001 - General Government, Comprehensive Planning*** ***Review: Fund 001 - Administrative, Legal, Commission*** ***Review: Fund 001 - Finance*** ***Review: Fund 001 - Parks and Recreation*** ***Review: Fund 001 - Public Works*** ***Review: Fund 001 - Building***
Aug 18	**Tue**	***2nd Budget Workshop Village of Biscayne Park***	***Review: Fund 001 - Police*** ***Review: Fund 001 - Code Enforcement*** ***Review: Fund 105 - Police Forfeiture Fund*** ***Review: Fund 001 - Public Works*** ***Review: Fund 101 - Road Fund*** ***Review: Fund 103 - CITT Fund*** ***Review: Fund 301 - Capital Projects Fund***
Aug 24	**MON**	**Property Appraiser**	**Mails the TRIM Notice to Taxpayers**
Sept 1	TUE	Village of Biscayne Park	Regular Commission Meeting
Sept 3	**THU**	**Miami Dade County**	**Miami Dade County First Public Hearing FY 2015-16 Budget**
Sept 7	MON	Village of Biscayne Park	Labor Day Holiday, Village Offices Closed
Sept 9	**WED**	**School Board**	**Dade County Public Schools Second Public Budget Hearing**
Sept 10	**THU**	**Village of Biscayne Park**	**First Public Hearing on the Proposed Millage Rate and Tentative Budget (Information is on TRIM Notice) (day 65 to 80)**
Sept 14	MON	Clerk	Submit final roll for tax bill to the Property Appraiser.
Sept 17	**THU**	**Miami Dade County**	**Miami Dade County Second Public Budget Hearing FY 2015-16 Budget**
Sept 17	**THU**	**Village of Biscayne Park**	**Within 15 days after the tentative budget hearing, the taxing authority advertises its intent to adopt a final millage and budget using the appropriate advertisement. (Before day 90, Sept 28)**
Sept 24	**THU**	**Village of Biscayne Park**	**Second Public hearing to adopt the final millage rate and budget within 2 to 5 days after the advertisement is published.**
Sept 25	**FRI**	**Village of Biscayne Park**	**Within 3 days of the final budget hearing, send a copy of the ordinance adopting the final millage rate to the property appraiser, tax collector and the DOR.**
Sept 28	**MON**	**Village of Biscayne Park**	**Within 3 days of the receipt of the Form DR-422 the taxing authority completes and certifies final millage to the Property Appraiser.**
Oct 1	**THU**	**Village of Biscayne Park**	**Budget Year Begins - Oct 1, 2015 to Sept 30, 2016**
Oct 29	**THU**	**Village of Biscayne Park**	**Within 30 days following adoption of the millage and budget ordinances, each taxing authority uses Form DR-487, Certification of Compliance, to certify compliance with the provisions of Chapter 200 F.S. to the Property Tax Oversight Program.**

TRIM COMPLIANCE REQUIREMENTS ARE HIGHLIGHTED IN BLUE BOLD LETTERS

OTHER AGENCY REQUIREMENTS ARE HIGHLIGHTED IN RED BOLD LETTERS

REVENUE AND EXPENDITURE REPORT FOR VILLAGE OF BISCAYNE PARK

PERIOD ENDING 05/31/2015 **% Of Year Completed 66.67%**

DEPARTMENT	2014-15 ORIGINAL BUDGET	PERIOD BALANCE YTD	% BDGT USED
Village Commission	23,718.00	12,723.49	53.64%
Administration	206,082.00	125,940.36	61.11%
Finance	147,327.00	111,770.04	75.87%
Planning & Zoning	42,000.00	28,000.00	66.67%
General Government	430,781.00	262,891.44	61.03%
Police	1,081,851.00	624,254.12	57.70%
Building Department	109,256.00	89,063.25	81.52%
Code Enforcement	61,987.00	38,472.36	62.07%
Public Works	187,626.00	114,503.86	61.03%
Parks and Recreation	167,483.00	99,220.55	59.24%
Transfer Out	35,000.00	0.00	
TOTAL REVENUES	**2,493,111.00**	**2,116,250.99**	**84.88%**
TOTAL EXPENDITURES	**2,493,111.00**	**1,506,839.47**	**60.44%**

Village of Biscayne Park
Commission Agenda Report

Village Commission Meeting Date:	**July 7, 2015**
Subject:	**2015 Legislative Session Update**
Prepared By:	**Heidi Siegel, AICP, Village Manager**
Sponsored By:	**Staff**

BACKGROUND

Please see the attached legislative summary from David Caserta, Government Relations, Inc.

During the 2015 Legislative Session the Village three items pending legislative approval:

1. A "Water Projects" request for $150,000 for a Storm Water Master Plan;
2. A Historic Preservation Special Category Grant for $100,000; and
3. A request for an emergency management vehicle.

Storm Water Master Plan Request

Initially, there were over one billion in requests for water projects throughout the State. This list was reduced by both the Senate and House to fund only $78 million in projects. The Biscayne Park project remained on this list. Finally, the Governor reviewed the list and further reduced the list to $50 million. Fortunately, the Village of Biscayne Park's request for $150,000 to complete a Storm Water Master Plan remained on the list. Staff is currently awaiting an agreement from the State of Florida to proceed with work (also see Item 13c on this agenda).

Historic Preservation Special Category Grant

On October 31, 2014 the Village applied for a Special Category grant from the Florida Division of Historical Resources in the amount of $100,000 to be matched with $50,000 from the Village for the additional restoration of the exterior and porch components (Village of Biscayne Park Resolution 2014-69). The award of the grant was contingent of the grant program being funded as part of the State budget during the legislative session. While the Florida Historical Commission recommended full funding of the Village's grant application, the project was ranked #34 out of 55. Upon final approval of the State budget by the House and Senate, the Special Category grant list was only funded to cover up to the project that was ranked #32; therefore, the Village will not receive funds for their grant application.

This grant, and the required $50,000 match from the Village, would have funded the restoration of the porch, log restoration to include chinking and stain, shutters, lighting and a percentage of general condition costs.

The portion of the project that was to be covered by this Special Category grant was not included in the original contract with McKenzie Construction and was to be presented as a change order to the original contract.

At the May 19, 2015 Village Commission Meeting, the Commission was informed that should the Village not receive the Special Category grant the Village may need to address the shortfall through Village funding. As the Village Staff is still preparing the draft Fiscal Year 2015/16 budget, we are reviewing the savings and excess revenues during this fiscal year and identifying possible funds from next year's budget. It should be noted, that the Village is still obligated to match a portion, $25,000, of the current year's Special Category grant during the next budget year.

Emergency Management Vehicle

At the suggestion of a member of the Legislature, a request was made for a SUV to be used for emergency management response. This request was not funded.

FISCAL/BUDGET IMPACT

The Storm Water Master Plan will be able to proceed.

As stated above, Village Staff will continue to review the current and next years' budget and report back to the Village Commission as soon as possible on a recommended plan of action for the final phase of the historic Log Cabin restoration.

STAFF RECOMMENDATION

Allow the Village Manager an opportunity to study the current and next years' budget for funding of the final phase of the historic Log Cabin.

ATTACHMENT

- End of Session 2015 Report from David Caserta, Government Relations, Inc.
- Special Session 2015 Report from David Caserta, Government Relations, Inc.

From: flagovernment@aol.com [mailto:flagovernment@aol.com]
Sent: Wednesday, June 24, 2015 2:11 PM
To: Maria Camara
Subject: Special session 2015 report

Heidi

I hope all is well.

As you already know, the 2015 Regular Session came to a controversial conclusion on Tuesday, April 28, 2015, the Florida House of Representatives surprisingly chose to sine die and end all formal business before the chamber. The controversial issue was the House's refusal to provide any offer to expand Medicaid. Instead they proposed using some state dollars to fund a portion of the deficit in the Low Income Pool (LIP) program. The Senate countered the House offer with an increased contribution of general revenue funds for LIP, and enactment of its market-based insurance plan (PHIX) to expand health insurance coverage to some 800,000 Floridians. With little sign of compromise, the House chose to end session. This maneuver took some house members and the entire Senate by surprise. The Senate worked until Wednesday afternoon, but never reconvened thereafter and was considered as having adjourned, sine die, at 11:59 PM, Friday, May 1, 2015. You were provided with a end of session report on our efforts with regards to bills impacting municipal government that both passed and failed.

Shortly thereafter, both the Senate and House agreed to reconvene on June 1st through June 19th in hopes of approving a state budget as required by law as well as deal with several other priority issues left unsettled in the regular session. Both the House and Senate also supported an almost $400 million tax cut package. As a result the House and Senate finally came to an agreement with the remaining Health and Human Services issues and a final budget was approved, which was officially signed yesterday morning.

Considering the financial impacts presented by the differences of each respective House on key budget issues, funds for many substantive programs within the State budget in the areas of education, health, transportation, government and natural resources suffered some loss. However, in what was considered one of the most difficult budget years and the fact that there was over a billion dollars in water requests and only 50 million allocated, I am proud to announce that the Village of Biscayne park was able to secure $150,000 in funding for its storm water master plan project, which is of critical importance to the Biscayne park community. The budget has been sign by the Governor and includes our funding of which can be found in line 1662A Grants and Aids to local Governments...water projects.

If you have any questions please feel free to contact me.

David Caserta

David T. Caserta Government Relations, Inc.
7855 N.W. 12th Street #202
Doral, Florida 33126

305-463-8808 Off
305-401-3006 Cell
800-579-0383 Fax

flagovernment@aol.com

Village of Biscayne Park

Commission Agenda Report

Village Commission Meeting Date: **July 7, 2015**

Subject: **Approval of Minutes**

Prepared By: **Maria C. Camara, Village Clerk**

Sponsored By: **Staff**

Background

The Minutes as listed below are being provided for the Commission's review and approval.

Fiscal/Budget Impact

None.

Staff Recommendation

Approval

Attachments

- June 2, 2015 Regular Commission Meeting

The Village of Biscayne Park
640 NE 114th St., Biscayne Park, FL 33161
Telephone: 305 899 8000 Facsimile: 305 891 7241

MINUTES
REGULAR COMMISSION MEETING
Ed Burke Recreation Center - 11400 NE 9th Court
Biscayne Park, FL 33161
Tuesday, June 2, 2015 at 7:00pm

1 Call to Order

Village Clerk Maria Camara called the meeting to order at 7:02pm.

Clerk Camara introduced Commissioner Anderson as the Vice Mayor for the next six months, and thanked Commissioner Jonas for his service as Vice Mayor for the past six months.

2 Roll Call

Mayor David Coviello - absent
Vice Mayor Anderson - present
Commissioner Fred Jonas - present
Commissioner Roxanna Ross - present
Commissioner Barbara Watts - absent

Present from staff were:
Village Manager Heidi Siegel
Village Clerk Maria C. Camara
Village Attorney John Hearn
Public Services Manager Krishan Manners
Police Chief Cornelius McKenna
Parks & Recreation Manager Shelecia Bartley
Assistant Public Works Manager Cesar Hernandez

3 Pledge of Allegiance

4 Presentations

4.a Manager Siegel introduced Claude Charles, newly hired as the Finance Manager.

4.b Code Compliance Officer Reginald White was recognized as presented with a Proclamation for Code Enforcement Week.

5 Additions, Deletions or Withdrawals to the Agenda

Manager Siegel added item 7.b, a presentation from WastePro.

Vice Mayor Anderson defers item 11.a, Discussion on Chapter 5, to the July meeting, and there was consensus.

6 Public Comments Related to Agenda Items / Good & Welfare

Dan Keys: On Chapter 5, still not ready. Needs more work. Some items are still problematic. Has issues with retrofitting gravel borders; generally, structure of code needs work; amalgamation of years of stuff to make it work; would like to see a quality code section from start to finish; vet it against the real conditions and how it will affect people; recommend to do workshops instead of discussion at commission meetings and get public comment. On 12.d, do not agree with giving away municipal property - tread lightly on this.

Chester Morris: To the Manager, when will they come down 119th street to take away the utility poles.

Milton Hunter: Thank you to Krishan Manners and Public Works staff for removal of problematic tree at the log cabin. Thanks to the Manager for seeking efficiencies in regards to Finance. On 12.d, make sure we think it through fully.

Dan Samaria: Seeking permission to put his 9/11 collection at the Recreation Center for the month of September. Spoke with Golden Gates to have children do drawings regarding 9/11. On September 11th of this year, look to have an event with color guard at Griffing Park, then walk to the Recreation Center and have a proclamation, video, and readings of people's personal stories of 9/11. Will reach out to other cities. For the future, looks to have a sculpture honoring 9/11.

Chuck Ross: Welcome Claude Charles. After May 19th meeting, had a well attended Crime Watch meeting. In August, will have a National Night Out event and will coordinate with Police. The Manager and Chief attended a county meeting regarding our annexation application. Was very impressed by their representation.

Janey Anderson: Thank you Chuck for increased activity on Crime Watch. On 12.d, share concerns already mentioned. Not the time to take on additional expenses. No way to predict what revenue would generate, and what issues that can come up and the expenses to settle these issues.

David Young: Former judge and TV personality. Running in November 2016 for Miami Dade Circuit Judge.

7 Information / Updates

7.a Manager Siegel provided a recap on the monthly financials as of April 30, 2015.

7.b Russell Mackie, Regional Vice President for Waste Pro spoke on the increase of servicing issues on the collection of waste in the Village. Recognizes the service consistency issues and explained there have been issues with employees. Confident on their ability to provide the service promised and committed to performing at a higher standard.

8 Consent Agenda

On the consent agenda:

8.a Approval of Minutes
May 5, 2015 Regular Commission Meeting
May 12, 2015 Special Commission Meeting
May 19, 2015 Special Commission Meeting

8.b Acceptance of Board Minutes
Ecology Board - April 20, 2015
Planning & Zoning Board - May 4, 2015
Planning & Zoning Board - May 18, 2015
Code Compliance Board - May 11, 2015
Public Art Advisory Board - May 13, 2015

8.c **Resolution 2015-35**
A RESOLUTION OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA; **AUTHORIZING THE VILLAGE MANAGER TO ENGAGE THE PROFESSIONAL SERVICES OF ESTRADA HINOJOSA & COMPANY, INC.**; PROVIDING FOR AN EFFECTIVE DATE

Commissioner Jonas makes a motion to approve the consent agenda and it is seconded by Commissioner Ross.

All in favor: Vice Mayor Anderson, Commissioner Jonas and Commissioner Ross.

Opposed: None
Motion carries: 3/0

Manager Siegel thanks the Commission for their approval of Resolution 2015-35, and introduces Lourdes Abadin from Estrada Hinojosa & Company, Inc.

9 Ordinances

< None >

10 Resolutions

< None >

11 Old Business

< None >

12 New Business

12.a FY 2015-16 Budget Goals - Discussion: Manager Siegel informed the Commission that the estimated 2015 assessment roll estimate came in at $159,000,000, an increase of 10% over last year. For the upcoming budget, looks to increase municipal services and reduce the millage rate.

Vice Mayor Anderson concurs with looking to reduce the millage rate.

Commissioner Ross will be looking for the Village to continue to meet its contractual obligations; to complete the log cabin restoration project including landscaping; continued tree trimming and improved medians; commit to reserves and lower the millage; continue to engage the services of legislative consultant in Tallahassee; find funding for planning for street improvements and drainage mitigation; improved lighting at the recreation center; improved security and cameras at the recreation center; master plan to repurpose certain areas of the recreation center.

Commissioner Jonas looks to continue to improve the general conditions of the Village in every way we can.

Vice Mayor Anderson asks to continue the discussion at the July meeting. Also asks that a certain amount of days is provided between the budget workshops and to schedule accordingly.

12.b Board Appointments - Public Art Advisory Board

Commissioner Ross makes a motion to accept the applications of Amy Raymond and Larry Newberry and are selected as board members of the Public Art Advisory Board. The motion is seconded by Commissioner Jonas.

All in favor: Vice Mayor Anderson, Commissioner Jonas and Commissioner Ross.

Opposed: None
Motion carries: 3/0

12.c Board Appointments - Planning & Zoning Board

Commissioner Ross makes a motion to accept the application of Jacqueline Pallango and is selected as a board member of the Planning & Zoning Board. The motion is seconded by Commissioner Jonas.

All in favor: Vice Mayor Anderson, Commissioner Jonas and Commissioner Ross.

Opposed: None
Motion carries: 3/0

12.d Giving land to property owners - Discussion: Commissioner Jonas explains that the Village owns three types of tracks of land, pathways that connect streets; excessively large swales; and alleys behind properties, approximately four blocks. What is the need for the Village to own? Better to be used by the property owner. Will increase their property value. They will take pride and take better care and improve. Added revenue to the Village.

Attorney Hearn briefly explained that per state law, would need to determine there is no value; determine the size of swale to be maintained; obtain legal surveys and determine who would pay for the survey. Recommends working with a planning company.

Recommendation to continue the conversation, possible workshop, and discussion during budget.

13 Request for Placement of Items on Next Meeting Agenda

No additional items are added to the next agenda except for item 11.a, Discussion on Chapter 5.

14 Reports

14.a Village Manager:

Manager Siegel, Chief McKenna and Public Services Manager Manners attended the County's regional hurricane meeting. Working with staff to develop a hurricane/emergency preparedness plan.

On annexation, Manager Siegel and Chief McKenna attended the County's Planning Advisory Board meeting where both the Village's and North Miami's applications were heard. After discussion and hearing all testimonies, the PAB recommended approval by the Board of Commissioners of the Village's application and to deny North Miami's application. Still cannot be finalized as long as the conflict exists. Best solution is for North Miami to withdraw and will continue to work with them.

Commissioner Ross commends the Manager, the Chief, and representatives of Becker & Poliakoff for their representation of the Village at the PAB meeting.

Restoration on the log cabin has started and most of the perimeter landscaping has been removed to allow for demolition. Some asbestos remediation. Construction fence to be added and will start work on careful removal of wood floors.

On Public Safety & Administration Annex, windows are in and the mechanical, electric and plumbing to be finished this week. Next is sheet rock. Septic and drainage is on-going. Completion of roof by next week. Will schedule a walk-through with staff in the coming week.

The CAFR for year ending September 30, 2014 has been completed and provided to the Commission. Auditors will attend July 7th meeting to present. Village financial condition has improved. Our reserve balance was increased by approximately $120,000.

14.b Village Attorney:

Continue to monitor Florida Legislature which is currently in session.

14.c Board / Committee Reports:

Dan Samaria, Recreation Advisory Board: Provided update on 1st Annual Bike Race in August at the Back to School/Children's Safety Day event.

Dan Keys, Parks & Parkway Advisory Board: Board is concerned with the proposed takeover of the athletic fields for other purposes, i.e., exercise path.

15 Announcements

Monday, June 8th - Code Compliance Board at 7:00pm
Wednesday, June 10th, Public Art Advisory Board at 6:00pm
Saturday, June 13th - Quarterly Trash Pick-Up
Monday, June 15th - Ecology Board at 6:30pm
Monday, June 15th - Planning & Zoning Board at 6:30pm
Wednesday, June 17th - Parks & Parkway Advisory Board at 6:00pm
Tuesday, June 23rd - Recreation Advisory Board at 7:00pm
Friday, July 3rd - All Village Departments are closed for Independence Day
Sunday, July 5th - Bark of July/Dogs in the Park Day
Monday, July 6th - Planning & Zoning Board at 6:30pm

The next regular commission meeting is Tuesday, July 7, 2015, at 7:00pm.

16 Adjournment

The meeting was adjourned at 8:34pm.

Commission approved on _____.

Attest:

_____ _____

David Coviello, Mayor Maria Camara, Village Clerk

Village of Biscayne Park

Commission Agenda Report

Village Commission Meeting Date: **July 7, 2015**

Subject: **Acceptance of Board Minutes**

Prepared By: **Maria C. Camara, Village Clerk**

Sponsored By: **Staff**

Background

The Board Minutes as listed below are being provided for the Commission's review and acceptance. If the minutes provided have not yet been approved by the Board, they are noted as DRAFT.

Staff Recommendation: Acceptance at Consent

Attachments

- Parks & Parkway Advisory Board - January 21, 2015 - DRAFT
- Parks & Parkway Advisory Board - March 18, 2015 - DRAFT
- Recreation Advisory Board - May 26, 2015 - DRAFT
- Planning & Zoning Board - June 1, 2015
- Planning & Zoning Board - June 15, 2015 - DRAFT
- Public Art Advisory Board - June 10, 2015 - DRAFT

The Village of Biscayne Park
640 NE 114th St., Biscayne Park, FL 33161
Telephone: 305-899-8000 Facsimile: 305 891 7241

PARKS & PARKWAY ADVISORY BOARD

Dan Keys
Chairman

Barbara Kuhl
Robert Silverman
Randy Wagoner

MINUTES
PARKS & PARKWAY ADVISORY BOARD
Ed Burke Recreation Center 11400 NE 9th Court
Wednesday, January 21, 2015 at 6:00 PM

1. CALL TO ORDER AND ROLL CALL – Barbara Kuhl, Randy Wagoner and Dan Keys were present; Robert Silverman was absent. Krishan Manners, represented Staff.

2. AGENDA ADDITIONS AND DELETIONS – Recommendation for tree planting in the 700 blk of 114 Street to replace Ficus tree that was removed.

3. PUBLIC COMMENT (PERMITTED FOR EACH AGENDA ITEM) -

4. APPROVAL OF MINUTES – The Board unanimously approved the minutes of 12.17.2014 as circulated.

5. OLD BUSINESS
   A. VILLAGE STAFF REPORT
      1. **General median maintenance –** No mention.

      2. **Tree removal and tree trimming issues –** Mr. Manners advised that Raydell Landscaping was producing a plan of action for tree trimming.

      3. **Athletic field turf maintenance –** No news.

      4. **Athletic field irrigation system maintenance –** No news.

      5. **Highway Beautification Grant Proposal made for median of NE 6th Ave** – Members expressed the opinion that the landscaping was not looking good regarding the lack of trimming to train the hedge materials (Green Island ficus). Progress towards repairing the irrigation system was discussed and the suggestion that staff look to see if any of the broken pieces of the system (Vacuum breaker and timer) had been saved at the Public Works Facility. The Bid for the work related to the Grant had not gone out as of this meeting.

      6. **Sixth Ave. Bridge Grant –** Krishan advised that the new bridge landscaping had been mulched.

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7. **Discussion of path forward for design and construction of secondary entrance signage related to grant funding –** Krishan advised that the $50,000.00 grant had indeed been granted by the County. The Grant is for community signage and landscaping. The intersections of 6th, 8th, 10th Avenues and Griffing Boulevard with 121 Street and107 Street at the Railroad tracks were mentioned. The Board suggested that the intersections of 11th Place, 7th Ave and 9th ave with at 121st Street be considered moving forward as sufficient funding should be available.

8. **Tree Fertilization** – No progress was reported on the suggestion for a tree fertilization program. Krishan asked for a suggestion for a fertilizer and Dan Keys advised he would provide one.

9. **Million Orchid Project of Fairchild Garden –** Barbara Kuhl asked staff if they could provide space in the next Village Bulletin for a blurb regarding this project. Oncidiums, dendrobiums and Cateleya's were mentioned as good candidates fro placing in trees.

10. **New proposed swale ordinance –** A joint meeting of the Parks and Parkways Board and the Code Review Board had taken place on January 15, at 6:30 PM. Much progress had taken place.

6. NEW BUSINESS

A. **Tree recommendation for the 700 blk of 114 Street** – Staff requested that the Board provide a recommendation for replacing the ficus tree that was removed for the median of 114 Street in the 700 Block. After discussing the suggestion by Mr. Keys that the tree didn't need to be replaced due to the fact that a large oak tree East of the location provided a better focal point for median and the fact that the Poinciana would compete with the growth of any trees that were planted to finish out the edge plantings, **the Board Voted 2 to 1, with Mr. Keys dissenting, to recommend that a Poinciana tree be planted in place of the ficus. Staff did not propose the moving forward at this time with planting several needed oak trees on the sides of the median.**

NEXT MEETING DATE – Not discussed.

ADJOURNMENT – the meeting adjourned.

The Village of Biscayne Park
640 NE 114th St., Biscayne Park, FL 33161
Telephone: 305-899-8000 Facsimile: 305 891 7241

Minutes of January 21, 2015 were approved on _____

By: _____
Dan Keys, Chair

The Village of Biscayne Park
640 NE 114th St., Biscayne Park, FL 33161
Telephone: 305-899-8000 Facsimile: 305 891 7241

PARKS & PARKWAY ADVISORY BOARD

Dan Keys
Chairman

Barbara Kuhl
Kimberly Misek
Robert Silverman
Randy Wagoner

MINUTES
PARKS & PARKWAY ADVISORY BOARD
Ed Burke Recreation Center 11400 NE 9th Court
Wednesday, March 18, 2015 at 6:00 PM

1. CALL TO ORDER AND ROLL CALL – Barbara Kuhl, Randy Wagoner and Dan Keys were present; Kimberlee Misek and Robert Silverman? were absent. Krishan Manners, represented Staff.

2. AGENDA ADDITIONS AND DELETIONS – None

3. PUBLIC COMMENT (PERMITTED FOR EACH AGENDA ITEM) - Non

4. APPROVAL OF MINUTES – None.

5. ELECTION OF CHAIR AND VICE CHAIR – Postponed for full board attendance.

6. OLD BUSINESS
   A. VILLAGE STAFF REPORT
      1. **General median maintenance –** Routine.

      2. **Tree removal and tree trimming issues –** Mr. Manners advised that the contract with Raydell Landscaping was renewed and trimming could proceed. Barbara mentioned trimming of lower limbs. And around guy wires.

      3. **Athletic field turf maintenance –** Goose grass is heavy – staff will be weeding by hand and will check why previous herbicide treatment did not work.

      4. **Highway Beautification Grant Proposal made for median of NE 6th Ave** – In the works

      5. **Sixth Ave. Bridge Grant –** No news.

      6. **Discussion of path forward for design and construction of secondary entrance signage related to grant funding –** Landscape Architect, Sovino/Miller ranked highest by evaluation committee. Their presentation materials were presented to the Board for review. Staff would move project forward. A joint meeting

between Parks and Parkways and Art Advisory was scheduled for April second in order for members to hear a presentation and make comments and recommendations.

7. **Tree Fertilization** – Staff advised that this would commence soon.

8. **Million Orchid Project of Fairchild Garden –** Barbara Kuhl reported that Fairchild garden is looking for communities with trees and particularly oaks. She wants to start our project with donations around the Recreation Center. Gary Kuhl has 12 orchids to donate and Bob and Randy have some as well. May is apparently a good time to plant. Two visitors were in attendance and advised that they had some orchids to donate and have had success with placing them in trees.

9. **New proposed swale ordinance –** Mandatory driveways have been proposed by the Commission. Issues will be taken one at a time. Barbara Kuhl made a motion, seconded by Randy Wagoner: **Recommend that the Commission have a workshop with pertinent Boards on a Saturday in order to clarify intent and scope of various proposals and to provide Commission with answers to issues from their knowledge base. Motion passed 3-0.**

7. NEW BUSINESS

A. **Discussion of landscaping for new administration building** – mention was made of the need for planning for this.

NEXT MEETING DATE – Set for April 8, 2015

ADJOURNMENT – the meeting adjourned at 7:35 PM.

Minutes of March 18, 2015 were approved on _____

By: _____
Dan Keys, Chair

The Village of Biscayne Park
640 NE 114th St., Biscayne Park, FL 33161
Telephone: 305-899-8000 Facsimile: 305 891 7241

RECREATION ADVISORY BOARD

Dan Samaria
Chairman

Ivette Corredero
Elizabeth Goldman
Andrew Hahn
Rosemary Wais

MINUTES
RECREATION ADVISORY BOARD
Ed Burke Recreation Center 11400 NE 9th Court
Tues May 26, 2015 at 7:00PM

1. **CALL TO ORDER-** Meeting was called to order at 7:08 pm

2. **ROLL CALL-Present**- Dan Samaria, Andrew Hahn, Elizabeth Goldman, Rosemary Wais. Village Clerk Maria Camara and Park Manager Shelecia Bartley
Absent -Ivette Corredero

3. **ADDITIONS, DELETIONS OR WITHDRAWALS TO ORDER OF BUSINESS**
Addition- 6B. 9/11 Event
Deletions- 5a. Request by Biscayne Park Foundation to fund raiser at Rec. Board Events- It was already discussed.

4. **APPROVAL OF MINUTES-** Motion Made by Andrew Hahn, Seconded by Elizabeth Goldman, All in favor 4-0 from April 26th 2015.

5. **OLD BUSINESS**

5a. Request by Biscayne Park Foundation to fund raise at Rec. Board Events- Removed

5b. Donations raised by Rec. Board to go to Village or Foundation-Chairman Samaria inquired about funds that are donated to the Village on behalf of the RAB. Village Clerk clarified that it is best to donate all funds through the Foundation and have the BPF earmark the monies donated for the RAB. Discussions took place and it was clarified that any money collected or donated for Recreation Advisory Board (RAB) it would be given to Biscayne Park Foundation (BPF) to hold in their account for the RAB to use.
Chairman Informed the board members that he attended the Ecology Board Meeting- stated that if something was created regarding allowing boards to fundraise to present to the commission they would participate.
Chairman Samaria also attended Parks & Parkways Board Meeting stated only two members were interested in the fundraising idea.
Chairman Samaria stated that Board Member Silverman suggested a list be created for the fundraising ideas and what the money will be used for.
Chairman Samaria stated that Chairman Keys asked Chairman Samaria "Why they don't fundraise through the foundation?". Chairman Samaria stated that Barbara Kuhl agreed with Chairman Samaria to not fundraise through the BPF. Chairman Samaria missed the Public Art Advisory Board missed meeting. Chairman Samaria stated he will attend the boards' entire meeting once

again to revisit the fundraising idea.

5c. Bike race event sponsored by Rec. Board- Rosemary explained Bike Race Package (See Attachment). Three age groups will be participating in the race. Chairman Samaria motioned to approve the 10 Ft Banner, Seconded by Elizabeth Goldman Passed 4-0.
Andrew Hahn contact to Bike Nerds for sponsorship opportunity. Also discussed advertising in The Egret, the Miami Shores Chamber of Commerce website, the Biscayne Park (BP) Newsletter. Motion was made by Rosemary Wais to advertise in Miami Shores Chamber of Commerce .Seconded by Andrew Hahn. All in favor 3-1, Chairman Samaria opposed. Elizabeth Goldman volunteered to make the flyers and will bring the final draft to the June 23rd meeting.

5d. Movie night- Chairman Samaria stated that he was disappointed at the lack of board member participation at the last movie night event. Board members Elizabeth was apologetic about not attending. Discussion was had that the Movie Night was no the correct event to have a table.

6. NEW BUSINESS

6a. Changing order on agenda and minutes-Chairman Samaria informed everyone that he changed the order of the agenda. The changes that were made are switching the order of Old Business and New Business.

6b. 9/11 Event-Chairman Samaria introduces the 9/11 Event to RAB and planned event. Chairman Samaria made a motion for the RAB to sponsor the 9/11 memorial event on September 11th from 7pm-9pm. Second by Andrew Hahn. All in favor 4-0. Discussion was had about the event and a motion was made by Rosemary Wais to have Chairman Samaria in charge of the 9/11 Event. Second by Andrew Hahn. All in Favor 4-0.

7. PUBLIC COMMENT- No Public Comment

8. FUTURE CALENDAR OF EVENTS

8a. Calendar for upcoming year-Not Discussed

9. FURTURE FUND RAISING

9a**.** Calendar for upcoming year-Not Discussed

10. ANNOUNCEMENTS / SCHEDULE OF NEXT MEETING – The next meeting of the Recreation Advisory Board is **Tuesday June 23, 2015**, at 7:00PM.

11. ADJOURNMENT- Motion to Adjourn Rosemary Wais Seconded by Dan Samaria ALL IN FAVOR 4-0. Meeting Adjourned at 8:45pm.

Minutes approved on: _____

The Village of Biscayne Park
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Telephone: 305-899-8000 Facsimile: 305 891 7241

PLANNING & ZONING BOARD

Gage Hartung
Chairman

Andrew Olis
Vice Chairman

Elizabeth Hornbuckle
Doug Tannehill

MINUTES
PLANNING & ZONING BOARD MEETING
Ed Burke Recreation Center
11400 NE 9th Court – Biscayne Park, FL
Monday, June 1st, 2015 at 6:30pm

1. CALL TO ORDER

This meeting was called to order at 6:30 p.m.

2. ROLL CALL

Gage Hartung – Chair Member – present
Andrew Olis – Vice Chair – present
Elizabeth Hornbuckle – Board Member – present
Doug Tannehill – Board Member – absent
Shanesa Mykoo, Krishan Manners and Sal Annese – Staff attendance - present

3. ADDITIONS, DELETIONS OR DISCUSSIONS TO ORDER OF BUSINESS

Elect new chair and vice chair member

Chairman – Gage Hartung
Vice Chair – Andrew Olis

4. APPROVAL OF MINUTES

May 18th, 2015
Motion by E. Hornbuckle, seconded A. Olis and approved 3-0

5. PAINT PERMITS

a.Church of Resurrection
Motion by A. Olis, seconded by E. Hornbuckle and approved 3-0
b.Obregon – 1106 NE 118th St
Motion by E. Hornbuckle, seconded by A. Olis and approved 3-0

6. BUILDING PERMITS

a.Bergquist – 1105 NE 116th St – Reroof
Motion by A. Olis, seconded by E. Hornbuckle and approved 3-0
b.Garcia – 441 NE 119th St – Shed (after the fact)
Motion by A. Olis, seconded by E. Hornbuckle and approved 3-0
c.Strowbridge – 11633 NE 11th Pl – Replace windows
Motion by A. Olis, seconded by E. Hornbuckle and approved 3-0
d.Mainade – 11711 Griffing Blvd – Replace windows
Motion by A. Olis, seconded E. Hornbuckle and approved 3-0
e.Rawson – 1012 NE 116th St – Remodel driveway
Motion by E. Hornbuckle, seconded by A. Olis and approved 3-0
f. Simpson – 1004 NE116th St – Replace windows
Motion by A. Olis, seconded by E. Hornbuckle, and approved 3-0
g.Larsen – 868 NE 119th St – Replace windows
Motion by E. Hornbuckle, seconded by A. Olis and approved 3-0
h.Latta – 922 NE 109 St - Reroof
Motion by E. Hornbuckle, seconded by A. Olis and approved 3-0
i.Romano – 725 NE 114th St – New screen porch
Motion by A. Olis, seconded by E. Hornbuckle and approved 3-0
j.Bowen – 12025 Griffing Blvd – Replace windows
Motion by A. Olis, seconded by E. Hornbuckle and approved 3-0

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k.Dietermann Group LLC – 11900 Griffing Blvd – Renovation
Motion by A. Olis, seconded by E. Hornbuckle and approved 3-0
*pending revision plans
l.Amsler – 860 NE 109 St – Replace windows
Motion by E. Hornbuckle, seconded by A. Olis, and approved 3-0
m.Nevarez – 11311 NE 8th Ave – Reroof
Motion by E. Hornbuckle, seconded by A. Olis and approved 3-0
n.Ferstle – 11220 NE 8th Ct – Replace gate
Motion by A. Olis, seconded by E. Hornbuckle and approved 3-0
o.Sweetland Real estate – 10706 NE 9th Ave – Install pavers
Motion by A. Olis, seconded by E. Hornbuckle and approved 3-0
p. Goehl – 925 NE 115 St – Replace windows
Motion by A. Olis, seconded by E. Hornbuckle and approved 3-0

7. Administrative Variance

None

8. Variance

a.Nalepa – 775 NE 113th St –New swimming pool
Motion by A. Olis, seconded by E. Hornbuckle and approved 3-0

The next meetings of the Planning & Zoning Board are Monday, June 15th and Monday, July 6th, 2015.

8. ADJOURNMENT

This meeting was adjourned at 7:20 p.m.

Minutes approved on: 6/15/15
(Date)

By: _____
Gage Hartung, Chair Planning & Zoning Board

The Village of Biscayne Park

640 NE 114th St., Biscayne Park, FL 33161
Telephone: 305-899-8000 Facsimile: 305 891 7241

PLANNING & ZONING BOARD

Gage Hartung
Chairman

Andrew Olis
Vice Chairman

Elizabeth Hornbuckle
Doug Tannehill
Jacqueline Pallango

MINUTES
PLANNING & ZONING BOARD MEETING
Ed Burke Recreation Center
11400 NE 9th Court – Biscayne Park, FL
Monday, June 15th, 2015 at 6:30pm

1. CALL TO ORDER

This meeting was called to order at 6:30 p.m.

2. ROLL CALL

Gage Hartung – Chair Member – present
Andrew Olis – Vice Chair – present
Elizabeth Hornbuckle – Board Member - absent
Doug Tannehill – Board Member – present
Jacqueline Pallango – Board Member – present
Shanesa Mykoo, Krishan Manners and Sal Annese – Staff attendance - present

3. ADDITIONS, DELETIONS OR DISCUSSIONS TO ORDER OF BUSINESS

4. APPROVAL OF MINUTES

June 1st, 2015.
Motion by A. Olis, seconded by G. Hartung and approved 4-0

5. PAINT PERMITS

None

6. BUILDING PERMITS

a.Martins – 10880 NE 9th Ave – Replace windows
Motion by A. Olis, seconded by D. Tannehill and approved 4-0
b.Byer – 841 NE 118th St – Reroof
Motion by D. Tannehill, seconded by A. Olis and approved 4-0
c.Baloyra – 1012 NE 117th St – Reroof
Tabled – Pending more information
d.Villar – 11237 NE 8th Ave – Resurface driveway
Motion by D. Tannehill, seconded by A. Olis and approved 4-0
e.Parizo – 820 NE 109th St – Replace windows
Motion by A. Olis, seconded by D. Tannehill and approved 4-0
f. Ambrosino – 735 NE 113th St – Replace windows
Motion by D. Tannehill, seconded by A. Olis and approved 4-0
g.Gonzales – 11315-17 NE 11th Pl – Backyard fence
Motion by A. Olis, seconded by D. Tannehill and approved 4-0
h.Ramirez – 11015 NE 8th Ct – Replace windows
Motion by A. Olis, seconded by D. Tannehill and approved 4-0
i.Curzo – 11503 NE 11th Pl – Change wood deck (after the fact)
Motion by A. Olis, seconded by D. Tannehill and approved 4-0
i.a.Curzo – 11503 NE 11th Pl – Install wood gate (after the fact)
Motion by D. Tannehill, seconded by A. Olis and approved 4-0
j.Chen – 1016 NE 117th St – Replace garage door
Motion by A. Olis, seconded by D. Tannehill and approved 4-0
k.Orellana – 11001 NE 9th Ave – Replace windows
Motion by A. Olis, seconded by D. Tannehill and approved 4-0
l.Ely – 800 NE 118th St – Replace garage door
Motion by A. Olis, seconded by D. Tannehill and approved 4-0

The Village of Biscayne Park
640 NE 114th St., Biscayne Park, FL 33161
Telephone: 305-899-8000 Facsimile: 305 891 7241

7. Administrative Variance

None

The next meetings of the Planning & Zoning Board are Monday, July 6th, 2015 and Monday, July 20th, 2015.

8. ADJOURNMENT

This meeting was adjourned at 7:03 p.m.

Minutes approved on: _____
(Date)

By: _____
Gage Hartung, Chair Planning & Zoning Board

The Village of Biscayne Park
640 NE 114th St., Biscayne Park, FL 33161
Telephone: 305-899-8000 Facsimile: 305 891 7241

PUBLIC ART ADVISORY BOARD

Ximena Datorre
Karen Marinoni
Larry Newberry
Amy Raymond
Susan Weiss

MINUTES
PUBLIC ART ADVISORY BOARD
Ed Burke Recreation Center, 11400 NE 9th Ct., Biscayne Park, FL
Wednesday, June 10, 2015 at 6:00PM

1. CALL TO ORDER AND ROLL CALL – The meeting was called to order at 6:03pm. Present were board members Karen Marinoni, Amy Raymond and Susan Weiss. Ximena Datorre and Larry Newberry were absent. Also present was Village Clerk Maria Camara.

2. AGENDA ADDITIONS AND DELETIONS – None

3. PUBLIC COMMENT (PERMITTED FOR EACH AGENDA ITEM) – None

4. APPROVAL OF MINUTES – Karen Marinoni makes a motion to approve the minutes of May 13, 2015, and it was seconded by Susan Weiss. All in favor. Motion carries 3-0.

5. OLD BUSINESS –

    a. Status of sculpture for pet waste station locations: Amy Raymond will follow up with Larry Newberry and other artists to provide costs and mock design.

    b. Call to Artists: The board members discussed the following:

        i. Who it will be sent to which includes artists the members are familiar with and universities/schools.
        ii. Include that the artist may be responsible for the installation.
        iii. An entry fee, non-refundable.
        iv. Judging/jury utilizing art professionals.
        v. Limiting the piece to a certain representation, for example, having to do with nature.

    Susan Weiss to draft the Call to Artists to discuss at next meeting.

    c. Photo Contest: Update the flyer to coincide with the Bark of July event on July 5th. Clerk Camara to discuss with Parks & Recreation Manager and update the flyer. Photos will be geared towards pets.

640 NE 114th St., Biscayne Park, FL 33161
Telephone: 305-899-8000 Facsimile: 305 891 7241

6. NEW BUSINESS

    a. Karen Marinoni provided a picture of papier mache art as an example of what could be exhibited in new Administration Annex, Village Hall log cabin, if space available.

7. NEXT MEETING DATE – Wednesday, July 8, 2015, at 6:00pm.

8. ADJOURNMENT – Meeting was adjourned at 6:30pm.

Minutes approved on _____.

Village of Biscayne Park
Commission Agenda Report

Village Commission Meeting Date:	**July 7, 2015**
Subject:	**Resolution 2015-36 An Amendment to the Contract between the Village of Biscayne Park and Bejar Construction, Inc. for the Construction of the Public Safety and Administration Annex Extending the Term of the Contract for a Period of Thirty (30) Days**
Prepared By:	**Heidi Siegel, AICP, Village Manager**
Sponsored By:	**Staff**

BACKGROUND

On December 9, 2014 the Village Commission approved a contract with Bejar Construction for the construction of the Public Safety and Administrative Annex (Resolution 2014 –96). The contract stipulates that all work shall be completed by June 1, 2015. This deadline was set to correlate with the State of Florida grant requirements.

As previously reported to the Village Commission, due to Miami-Dade County site drainage requirements the issuance of the final civil site plan was delayed until May 12, 2015. This delay caused the contractor to delay site work including drainage, septic system installation and drain field, parking and sodded areas. Throughout the project the contractor has kept the Village Manager informed of his progress and has been attentive to the time constraints of this project, including work on Saturdays. The delay of the civil permit delayed other aspects of the project include water service and permanent power to the site. The contractor provided the Village with an updated project schedule on June 25, 2015 and has given assurances that substantial completion will be met by July 30, 2015.

FISCAL / BUDGET IMPACT

While the agreement with the State required all work to be completed by June 30, 2015, the Village has been verbally assured that any work started, but not completed, by June 30th will be funded through the first quarter of the State's fiscal year (September 2015). On June 24, 2015 the Village Manager received this assurance in writing (See attached letter from Jeannie Russell, Contract Manager). The granting of

an extension to Bejar Construction will allow the Village to meet the September 15, 2015 deadline with the State since the Village has already started a task in the final phases of the project.

STAFF RECOMMENDATION

Due to the extenuating circumstance of the permitting process and the contractor's diligent effort at the site, Staff supports this extension.

ATTACHMENTS

- Resolution 2015-36
- Contract between the Village of Biscayne Park and Bejar Construction with General Conditions
- Amendment to the Contract between the Village of Biscayne Park and Bejar Construction, Inc. for the Construction of the Public Safety and Administration Annex Extending the Term of the Contract for a Period of Thirty (30) Days
- Letter dated June 24, 2015 from Jeannie Russell, Contract Manager at the State of Florida Department of Economic Opportunity

RESOLUTION NO. 2015-36

A RESOLUTION OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA AUTHORIZING THE APPROPRIATE VILLAGE OFFICIALS TO EXECUTE THE AMENDMENT TO THE CONTRACT BETWEEN THE VILLAGE OF BISCAYNE PARK AND BEJAR CONSTRUCTION, INC. FOR THE CONSTRUCTION OF THE PUBLIC SAFETY AND ADMINISTRATION ANNEX EXTENDING THE TERM OF THE CONTRACT FOR A PERIOD OF THIRTY (30) DAYS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, On December 9, 2014, the Village of Biscayne Park and Bejar Construction, Inc. entered into a Contract for the construction of the Public Safety and Administration Annex, which Contract is incorporated herein by reference as Exhibit "1" (hereinafter the "Contract"); and

WHEREAS, Paragraph 3.1 of the Contract states that the work shall be completed no later than June 30, 2015; and

WHEREAS, both parties are desirous of extending the term of the Contract; and

WHEREAS, the Village Commission has found it to be in the best interests of the Village and its residents to extend the Contract;

NOW THEREFORE IT IS HEREBY RESOLVED BY THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, AS FOLLOWS:

Section 1. The foregoing "WHEREAS" clauses are hereby ratified as true and correct and incorporated herein by this reference.

Section 2. The appropriate Village officials are hereby authorized to execute the Amendment to the Contract between the Village of Biscayne Park and Bejar Construction, Inc.

for the construction of the Public Safety and Administration Annex, extending the Contract for a period of thirty (30) days, up to and including July 30, 2015.

Section 3. This Resolution shall take effect upon adoption.

PASSED AND ADOPTED this ___day of _____, 2015.

The foregoing resolution upon being put to a vote, the vote was as follows:

Mayor Coviello: ___
Vice Mayor Anderson: ___
Commissioner Jonas: ___
Commissioner Ross: ___
Commissioner Watts: ___

_____
David Coviello, Mayor

Attest:

_____
Maria C. Camara, Village Clerk

Approved as to form:

_____
John J. Hearn, Village Attorney

Exhibit 1

CONTRACT

This CONTRACT, made and entered into this 9th day of December, 2014, by and between:

VILLAGE OF BISCAYNE PARK
640 NE 114th Street
Biscayne Park, Florida 33161
(hereinafter referred to as "OWNER")

&

BEJAR CONSTRUCTION, INC.
6326 S.W. 191st Avenue
Pembroke Pines, Florida 33332
(hereinafter referred to as "CONTRACTOR")

W I T N E S S E T H:

IN CONSIDERATION of the mutual covenants and conditions as herein expressed and of the faithful performance of all such covenants and conditions, the parties do mutually agree as follows:

ARTICLE 1

THE CONTRACT DOCUMENTS

1.1 The Contract Documents, attached hereto and made a part hereof, consist of the Invitation to Bid, Instructions to Bidders, Construction Services Agreement General Conditions, Drawings, Plans, Specifications, Bid Form, Bid Security, CONTRACTOR'S Bid (including documentation accompanying Bid and post Bid documentation submitted prior to the Notice of Award), Qualifications Statement, Contract, Addenda, the record of the Contract award by OWNER'S Village Commission, the Notice of Award, Notice to proceed, Payment and Performance Bonds, and any additional documents which are required to be submitted under the Contract, and all amendments, modifications and supplements issued on or after the effective date of the Contract.

ARTICLE 2

SCOPE OF THE WORK

2.1 The CONTRACTOR shall furnish all of the labor, materials, equipment, transportation, supplies and services necessary to perform all of the work required by the Contract Documents for:

PUBLIC SAFETY AND ADMINISTRATION ANNEX CONSTRUCTION

ARTICLE 3

CONTRACT TIME

3.1 **TIME IS OF THE ESSENCE OF THIS CONTRACT.** The work to be performed under this Contract shall be commenced upon the date of Contract Commencement specified in the Notice to Proceed and, subject to authorized adjustments, shall be substantially complete and ready for final payment within one hundred sixty-five (165) calendar days from the date of Contract Commencement. Final completion of the work will be thirty (30) calendar days after Substantial Completion, and no later than June 30, 2015. Failure to achieve timely final completion shall be regarded as a breach of this Contract and subject to the appropriate remedies including but not limited to, liability for liquidated damages in accordance with Paragraph 11.4 of the Construction Services General Conditions.

ARTICLE 4

CONTRACT SUM

4.1 The OWNER shall pay the CONTRACTOR in current funds for the performance of the work, subject to additions and deductions by Change Order as provided in the Contract Documents, the Contract Sum of Eight Hundred Thirty Three Thousand Four Hundred Seventy Eight Dollars ($833,478.00).

ARTICLE 5

PROGRESS PAYMENTS

5.1 The CONTRACTOR may requisition payments for work completed during the project at intervals of not more than once a month in accordance with Article 13 of the Construction Services General Conditions. The CONTRACTOR's requisition shall show a complete breakdown of the project components, the quantities completed and the amount due, together with properly executed Releases of Liens by all subcontractors, suppliers and materialmen who were included in the CONTRACTOR's current and previous applications for payment and any other supporting documentation as may be required by the OWNER'S

Representative or Contract Documents. Each requisition shall be submitted in triplicate to the OWNER'S Representative for approval. The OWNER shall make payment to the CONTRACTOR within thirty (30) calendar days after approval by the OWNER'S Representative of the CONTRACTOR's requisition for payment.

5.2 Ten percent (10%) of all monies earned by the CONTRACTOR shall be retained by the OWNER until the work is totally completed as specified and accepted by the OWNER except that after fifty percent (50%) of the work has been completed, the OWNER may reduce the retainage to five percent (5%) of all monies earned.

5.3 The OWNER may withhold in whole or in part, payment to such extent as may be necessary to protect itself from loss on account of:

5.3.1 Defective work not remedied.

5.3.2 Claims filed or reasonable evidence indicating the probable filing of claims by other parties against the CONTRACTOR.

5.3.3 Failure of the CONTRACTOR to make payment to subcontractors or suppliers for materials or labor.

5.3.4 Damage to another contractor not remedied.

5.3.5 Liability for liquidated damages that has been incurred by the CONTRACTOR.

5.3.6 Reasonable evidence that the work cannot be completed for the unpaid balance of the Contract Sum.

5.3.7 Reasonable evidence that the work will not be completed within the Contract Time.

5.3.8 Persistent failure to carry out the work in accordance with the Contract Documents.

When the above grounds are removed or resolved or the CONTRACTOR provides a surety bond or consent of surety satisfactory to the OWNER, which will protect the OWNER in the amount withheld, payment may be made in whole or in part.

ARTICLE 6

FINAL PAYMENT

6.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be paid by the OWNER to the CONTRACTOR in accordance with the provisions of Article 13 of the Construction Services General Conditions when the work has been completed, the Contract fully performed, and a final Certificate for Payment has been issued by the OWNER'S Representative.

ARTICLE 7

MISCELLANEOUS PROVISIONS

7.1 Terms used in this Agreement which are defined in the Construction Services General Conditions of the Contract shall have the meanings designated in those Conditions.

7.2 The validity, construction and effect of this Agreement shall be governed by the laws of the State of Florida. Any claim, objection or dispute arising out of this Agreement shall be litigated in the Seventeenth Judicial Circuit in and for Miami-Dade County, Florida.

7.3 Should any part, term or provision of this Agreement be by the courts decided to be invalid, illegal or in conflict with any law of the State, the validity of the remaining portion or provision shall not be affected thereby.

7.4 The OWNER reserves the right to issue separate Purchase Orders for the procurement of material, supplies and equipment in connection with this project if it is beneficial to the OWNER. CONTRACTOR shall be responsible for all OWNER-furnished equipment from date CONTRACTOR receives and takes possession of equipment furnished by the OWNER until items are installed and the project is completed. CONTRACTOR shall be responsible for the installation of any OWNER-furnished equipment.

7.5 CONTRACTOR shall not assign or transfer the Contract or its rights, title or interests therein without OWNER'S prior written approval. The obligations undertaken by CONTRACTOR pursuant to the Contract shall not be delegated or assigned to any other person or firm unless OWNER shall first consent in writing to the assignment. Violation of the terms of this Paragraph shall constitute a breach of Contract by CONTRACTOR and the OWNER may, at its discretion, cancel the Contract and all rights, title and interest of CONTRACTOR shall thereupon cease and terminate.

IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed this Contract in duplicate.

THIS AGREEMENT will be effective on December 9th, 2014.

VILLAGE OF BISCAYNE PARK, FLORIDA

David Coviello, Mayor

ATTEST:

Maria C. Camara, Village Clerk

APPROVED AS TO FORM:

John J. Hearn
Village Attorney

CONTRACTOR

For Bejar Construction, Inc.

State of: Florida

County of: Miami Dade

On this, the 18th day of Dec, 2014, before me, the undersigned Notary Public of the State of Florida, the foregoing instrument was acknowledged by Benny Bejar (name of corporate officer), President (title), of Bejar Construction, Inc (name of corporation), a FL (state of corporation) corporation, on behalf of the corporation.

WITNESS my hand
and official seal

Maria C. Camara
Notary Public, State of Florida

MARIA C. CAMARA
MY COMMISSION # FF 143623
EXPIRES: November 21, 2016
Bonded Thru Notary Public Underwriters

Printed, typed or stamped name of Notary Public exactly as commissioned

☒ Personally known to me, or
☐ Produced identification:

(Type of identification produced)

CONSTRUCTION SERVICES AGREEMENT
GENERAL CONDITIONS

ARTICLE 1 - DEFINITIONS

Wherever used in these Construction Services Agreement General Conditions or in the other Contract Documents the following terms have the meanings indicated which are applicable to both the singular and plural thereof:

Addenda - Written or graphic instruments issued prior to the opening of Bids which clarify, correct or change the bidding Documents or the Contract Documents.

Agreement - The written agreement between OWNER and CONTRACTOR covering the Work to be performed including other Contract Documents that are attached to the Agreement or made a part thereof.

Application for Payment - The form accepted by OWNER'S REPRESENTATIVE and/or OWNER which is to be used by CONTRACTOR in requesting progress or final payment and which is to include such supporting documentation as is required by the Contract Documents.

Bid - The offer or proposal of the bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

Bonds - Bid, performance and payment bonds and other instruments of security.

Change Order - A document recommended by Contractor, OWNER'S REPRESENTATIVE, or Owner which is signed by CONTRACTOR, OWNER'S REPRESENTATIVE and OWNER and authorizes an addition, deletion or revision in the Work, or an adjustment in the Contract Price or the Contract Time, issued on or after the Effective Date of the Agreement.

Contract Documents - The Contract Documents consist of the Drawings, Plans and Specifications, Bid Form, Instructions to Bidders, CONTRACTOR'S Bid, including documentation accompanying Bid and post Bid documentation submitted prior to the Notice of Award, Qualifications Statement, Contract, Addenda, and Notice of Award, Notice to Proceed, Payment and Performance Bonds, the Construction Services General Conditions, Supplementary Conditions, any additional documents which are required to be submitted under the Contract, and all amendments, modifications and supplements issued on or after the effective date of the contract.

Contract Price - The moneys payable by OWNER to CONTRACTOR under the Contract Documents as stated in the Agreement (subject to the provisions of the Contract in the case of Unit Price Work).

Contract Time - The date stated in the Agreement for the completion of the work.

CONTRACTOR - The person, firm or corporation with whom OWNER has entered into the Agreement.

Defective - An adjective which when modifying the Work refers to Work that is unsatisfactory, faulty or deficient, or does not conform to the Contract Documents, or does not meet the requirements of any inspection, reference standard, test or approval referred to in the Contract Documents, or has been damaged prior to OWNER'S REPRESENTATIVE and/or OWNER'S recommendation of final payment.

Drawings - The drawings which show the character and scope of the Work to be performed and which have been prepared or approved by OWNER'S REPRESENTATIVE and/or OWNER and are referred to in the Contract Documents.

Field Order - A written order issued by OWNER'S REPRESENTATIVE and/or OWNER which orders minor changes in the Work but which does not involve a change in the Contract Price or the Contract Time.

Notice of Award - The written notice by OWNER to the apparent successful bidder stating that upon compliance by the apparent successful bidder with the conditions precedent enumerated therein, within the time specified OWNER will sign and deliver the Agreement.

Notice to Proceed - A written notice given by OWNER to CONTRACTOR (with a copy to OWNER'S REPRESENTATIVE and/or OWNER) fixing the date on which the Contract Time will commence to run and on which CONTRACTOR shall start to perform CONTRACTOR'S obligations under the Contract Documents. This written notice will also state the dates of substantial and final completion of the project.

OWNER - The Village Commission and their representative, the Village Manager of the Village of Biscayne Park, Florida with whom CONTRACTOR has entered into the Agreement and for whom the Work is to be provided.

OWNER'S REPRESENTATIVE – The consulting company representing the Village of Biscayne Park, Florida, throughout the project.

Shop Drawings - All drawings, diagrams, illustrations, schedules and other data which are specifically prepared by or for CONTRACTOR to illustrate some portion of the Work and all illustrations, brochures, standard schedules, performance charts, instructions, diagrams and other information prepared by a Supplier and submitted by CONTRACTOR to illustrate material or equipment for some portion of the Work.

Specifications - Those portions of the Contract Documents consisting of written technical descriptions of materials, equipment, construction systems, standards and Workmanship as applied to the Work and certain administrative details applicable thereto.

Subcontractor - An individual, firm or corporation having a direct Contract with CONTRACTOR or with any other Subcontractor for the performance of a part of the Work at the site.

Supplier - A manufacturer, fabricator, supplier, distributor, materialman or vendor.

Underground Facilities - All pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels or other such facilities or attachments, and any encasements containing such facilities which have been installed underground to furnish any of the following services or materials: electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television sewage and drainage removal, traffic or other control systems or water, and all irrigation systems on or contiguous to the worksite.

Work - The entire completed construction or the various separately identifiable parts thereof required to be furnished under the Contract Documents. Work is the result of performing services, furnishing labor and furnishing and incorporating materials and equipment into the construction, all as required by the Contract Documents.

Work Allowance: A pre-set amount of funds added to the bid form pricing page. These moneys are only to be used for additional work that may be needed due to change orders and unforeseen conditions that increase the submitted bid amount, as approved by the Village. This work allowance will not be made part of the contract sum as shown in the contract documents.

Work Directive Change - A written directive to CONTRACTOR, issued on or after the Effective Date of the Agreement and signed by OWNER and recommended by OWNER'S REPRESENTATIVE and/or OWNER ordering an addition, deletion or revision in the Work, or responding to differing or unforeseen physical conditions under which the Work is to be performed as provided in Paragraph 4.2 or 4.3 or to emergencies under Paragraph 5.13. A Work Directive Change may not change the Contract Price or the Contract Time, but is evidence that the parties expect that the change directed or documented by a Work Directive Change will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Time as provided in Paragraph 9.3.

Written Amendment - A written amendment of the Contract Documents, signed by OWNER and CONTRACTOR on or after the Effective Date of the Agreement and normally dealing with the non-engineering or non-technical aspects rather than strictly Work related aspects of the Contract Documents.

ARTICLE 2 - PRELIMINARY MATTERS

2.1 Delivery of Bonds and Insurance:

Prior to award of the Contract by OWNER, CONTRACTOR shall deliver to OWNER copies of the certificate(s) of insurance evidencing the coverages required hereunder and specifically providing that the Village of Biscayne Park is an additional named insured or additional insured. Payment and performance bonds which CONTRACTOR is required to furnish in accordance with this Contract must be provided to OWNER within fifteen (15) days after issuance of Notice of Award.

2.2 Commencement of Contract Time; Notice to Proceed:

The Work shall commence subsequent to the execution of this Contract by all parties and upon a written Notice to Proceed from OWNER. No Work shall be done at the site prior to the date on which the Contract Time commences to run.

OWNER shall furnish to CONTRACTOR up to three (3) copies of the Contract Documents. Additional copies will be furnished upon request, at the cost of reproduction.

2.3 Preconstruction Conference:

Within twenty (20) days after the Effective Date of the Agreement, but before CONTRACTOR starts the Work at the site, a conference attended by CONTRACTOR, OWNER'S REPRESENTATIVE and/or OWNER and others as appropriate will be held to discuss the schedules referred to in Paragraph 2.4, to discuss procedures for handling Shop Drawings and other submittals and for processing Applications for Payment, and to establish a Working understanding among the parties as to the Work.

2.4 Finalizing Schedules:

At least ten (10) days before submission of the first Application for Payment a conference attended by CONTRACTOR, OWNER'S REPRESENTATIVE and/or OWNER, and others as appropriate will be held to finalize the schedules and procedures to establish a Working understanding among the parties. The finalized progress schedule will be acceptable to OWNER'S REPRESENTATIVE and/or OWNER as providing an orderly progression of the Work to completion within the Contract time, but such acceptance will neither impose on OWNER'S REPRESENTATIVE and/or OWNER'S responsibility for the progress or scheduling of the Work nor relieve CONTRACTOR from full responsibility therefor. The finalized schedule of Shop Drawing submissions will be acceptable to OWNER'S REPRESENTATIVE and/or OWNER as providing a Workable arrangement for processing the submissions. The finalized schedule of values will be acceptable to OWNER'S REPRESENTATIVE and/or OWNER as to form and substance.

ARTICLE 3 - CONTRACT DOCUMENTS; INTENT, AMENDING, REUSE

3.1 Entire Agreement:

The Contract Documents comprise the entire agreement between OWNER and CONTRACTOR concerning the Work. The Contract Documents are complimentary; what is called for by one is as binding as if called for by all. The Contract Documents will be construed in accordance with the law of the State of Florida.

3.2 Intent:

It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents. Any Work, materials or equipment that may reasonably be inferred from the Contract Documents as being required to produce the intended result will be supplied whether or not specifically called for. When words which have a well known technical or trade meaning are used to describe Work, materials or equipment, such words shall be interpreted in accordance with that meaning. Reference to standard specifications, manuals or codes of any technical society, organization or association, or to the laws or regulations of any

governmental authority, whether such reference be specific or by implication, shall mean the latest standard specification, manual, code or laws or regulations in effect at the time of opening of Bids, except as may be otherwise specifically stated. However, no provision of any referenced standard specification, manual or code (whether or not specifically incorporated by reference in the Contract Documents) shall be effective to change the duties and responsibilities of OWNER, CONTRACTOR, or OWNER'S REPRESENTATIVE, or any of their consultants, agents or employees from those set forth in the Contract Documents.

3.3 Conflict, Error or Discrepancy:

If, during the performance of the Work, CONTRACTOR finds a conflict, error or discrepancy in the Contract Documents, CONTRACTOR shall so report to OWNER'S REPRESENTATIVE and/or OWNER in writing at once and before proceeding with the Work affected thereby shall obtain a written interpretation or clarification from OWNER'S REPRESENTATIVE and/or OWNER.

3.4 Amending and Supplementing Contract Documents:

The Contract Documents may be amended to provide for additions, deletions and revisions in the Work or to modify the terms and conditions thereof in one or more of the following ways:

3.4.1 A Change Order; or

3.4.2 A formal written amendment.

3.5 Supplements, Minor Variations or Deviations:

In addition, the requirements of the Contract Documents may be supplemented and minor variations and deviations in the Work may be authorized in one or more of the following ways:

3.5.1 OWNER'S REPRESENTATIVE and/or OWNER'S approval of a Shop Drawing or sample; or

3.5.2 OWNER'S REPRESENTATIVE and/or OWNER'S written interpretation or clarification.

3.5.3 A field order.

3.6 Reuse of Documents:

Neither CONTRACTOR nor any subcontractors or Supplier or other person or organization performing or furnishing any of the Work under a direct or indirect Contract with OWNER shall have or acquire any title to or ownership rights in any of the Drawings, Specifications or other Documents (or copies of any thereof) prepared by or bearing the seal of the OWNER'S REPRESENTATIVE and/or OWNER; and they shall

not reuse any of them on extensions of the Project or any other project without written consent of OWNER.

ARTICLE 4 - AVAILABILITY OF LANDS; PHYSICAL CONDITIONS; REFERENCE POINTS

4.1 Availability of Lands:

OWNER shall furnish, as indicated in the Contract Documents, the lands upon which the Work is to be performed, rights-of-way and easements for access thereto, and such other lands which are designated for the use of CONTRACTOR. CONTRACTOR shall provide at CONTRACTOR'S own expense and without liability to OWNER any and all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment. CONTRACTOR shall furnish to OWNER copies of written permission that is obtained from the owners of such facilities. It is the responsibility of the CONTRACTOR to leave the additional lands in the same condition as prior to work startup. Any damages caused by CONTRACTOR will be remedied at CONTRACTORS expense.

4.2 Physical Conditions:

4.2.1 Shown or Indicated: The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the site is based on information and data furnished to OWNER or OWNER'S REPRESENTATIVE by the owners of such Underground Facilities or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:

4.2.1.1 OWNER and OWNER'S REPRESENTATIVE shall not be responsible for the accuracy or completeness of any such information or data; and

4.2.1.2 CONTRACTOR shall have full responsibility for reviewing and checking all such information and data, for locating all Underground Facilities shown or indicated in the Contract Documents, for coordination of the work with the owners of such Underground Facilities during construction, for the safety and protection thereof and repairing any damage thereto resulting from the work, the costs of all of which will be considered as having been included in the Contract Price.

4.2.2 Not Shown or Indicated: If an Underground Facility is uncovered or revealed at or contiguous to the site which was not shown or indicated in the Contract Documents and which CONTRACTOR could not reasonably have been expected to be aware of, CONTRACTOR shall, promptly after becoming aware thereof and before performing any work affected thereby (except in an emergency as permitted by paragraph 5.13), identify the owner of such Underground Facility and give written notice thereof to that owner and to OWNER and OWNER'S REPRESENTATIVE. OWNER'S REPRESENTATIVE and/or OWNER will

promptly review the Underground Facility to determine the extent to which the Contract Documents should be modified to reflect and document the consequences of the existence of the Underground Facility, and the Contract Documents will be amended or supplemented to the extent necessary. During such time, CONTRACTOR shall be responsible for the safety and protection of such Underground Facility. CONTRACTOR shall be allowed an extension of the Contract Time to the extent that any delay is attributable to the existence of any Underground Facility that was not shown or indicated in the Contract Documents and of which existence CONTRACTOR could not reasonably have been expected to be aware. If the parties are unable to agree as to the appropriate length of delay, CONTRACTOR may make a claim therefore as provided in this Contract.

4.3 Reference Points:

OWNER shall provide engineering surveys to establish reference points for construction which in OWNER'S REPRESENTATIVE and/or OWNER'S judgment are necessary to enable CONTRACTOR to proceed with the Work. CONTRACTOR shall be responsible for laying out the Work to protect and preserve the established reference points and shall make no changes or relocations without the prior written approval of OWNER. CONTRACTOR shall report to OWNER'S REPRESENTATIVE and/or OWNER whenever any reference point is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points by professionally qualified personnel.

ARTICLE 5 - CONTRACTOR'S RESPONSIBILITIES

5.1 Supervision and Superintendence:

CONTRACTOR shall supervise and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. CONTRACTOR shall be solely responsible for the means, methods, techniques, sequences and procedures of construction. CONTRACTOR shall be responsible to see that the finished Work complies accurately with the Contract Documents.

5.2 Dedicated Superintendent

CONTRACTOR shall keep on the worksite at all times during its progress a competent dedicated superintendent and any necessary assistants who shall not be replaced without written notice to OWNER and OWNER'S REPRESENTATIVE unless the superintendent proves to be unsatisfactory to CONTRACTOR and ceases to be in his employ. The superintendent will be CONTRACTOR'S representative at the site and shall have authority to act on behalf of CONTRACTOR. All communications given to the superintendent shall be as binding as if given to CONTRACTOR.

5.3 Labor, Materials and Equipment:

CONTRACTOR shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. CONTRACTOR shall at all times maintain good discipline and order at the site. Except in connection with the safety or protection of persons or the Work or property at the site or adjacent thereto, and except as otherwise indicated in the Contract Documents, all Work at the site shall be performed during regular working hours, and CONTRACTOR will not permit overtime Work or the performance of Work on Sunday or any legal holiday without OWNER'S written consent given after prior written notice to OWNER'S REPRESENTATIVE and/or OWNER.

5.3.1 Unless otherwise specified in the bid documents, CONTRACTOR shall furnish and assume full responsibility for all materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities and all other facilities and incidentals necessary for the furnishing, performance, testing, start-up and completion of the Work.

5.3.2 All materials and equipment shall be of good quality and new, except as otherwise provided in the Contract Documents. If required by OWNER'S REPRESENTATIVE and/or OWNER, CONTRACTOR shall furnish satisfactory evidence (including reports of required tests) as to the kind and quality of materials and equipment. All materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable Supplier except as otherwise provided in the Contract Documents; but no provision of any such instructions will be effective to assign to OWNER'S REPRESENTATIVE and/or OWNER, or any of OWNER'S REPRESENTATIVE and/or OWNER'S consultants, agents or employees, any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of Articles 8 and 9.

5.4 Substitutes or "Or Equal" Items

5.4.1 Whenever materials or equipment are specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier the naming of the item is intended to establish the type, function and quality required. Unless the name is followed by words indicating that no substitution is permitted, materials or equipment of other Suppliers may be accepted by OWNER'S REPRESENTATIVE and/or OWNER if sufficient information is submitted by CONTRACTOR to allow OWNER'S REPRESENTATIVE and/or OWNER to determine that the material or equipment proposed is equivalent or equal to that named. Requests for review of substitute items of material and equipment will not be accepted by OWNER'S REPRESENTATIVE and/or OWNER from anyone other than CONTRACTOR. If CONTRACTOR wishes to furnish or use a substitute item of material or equipment, CONTRACTOR shall make written application to OWNER'S

REPRESENTATIVE and/or OWNER for acceptance thereof, certifying that the proposed substitute will perform adequately the functions and achieve the results called for by the general design, be similar and of equal substance to that specified and be suited to the same use as that specified. The application must state that the evaluation and acceptance of the proposed substitute will not prejudice CONTRACTOR'S achievement of Substantial Completion on time, whether or not acceptance of the substitute for use in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct Contract with OWNER for Work on the Project) to adapt the design to the proposed substitute and whether or not incorporation or use of the substitute in connection with the Work is subject to payment of any license fee or royalty. All variations of the proposed substitute from that specified will be identified in the application and available maintenance, repair and replacement service will be indicated. The application will also contain an itemized estimate of all costs that will result directly or indirectly from acceptance of such substitute, including costs of redesign and claims of other CONTRACTORS affected by the resulting change, all of which shall be considered by OWNER'S REPRESENTATIVE and/or OWNER in evaluating the proposed substitute. OWNER'S REPRESENTATIVE and/or OWNER may require CONTRACTOR to furnish at CONTRACTOR'S expense additional data about the proposed substitute.

5.4.2 If a specific means, method, technique, sequence or procedure of construction is indicated in or required by the Contract Documents, CONTRACTOR may furnish or utilize a substitute means, method, sequence, technique or procedure of construction acceptable to OWNER'S REPRESENTATIVE and/or OWNER, if CONTRACTOR submits sufficient information to allow OWNER'S REPRESENTATIVE and/or OWNER to determine that the substitute proposed is equivalent to that indicated or required by the Contract Documents. The procedure for review by OWNER'S REPRESENTATIVE and/or OWNER will be similar to that provided in Paragraph 5.4.1 as applied by OWNER'S REPRESENTATIVE and/or OWNER and as may be supplemented in the Contract Documents.

5.4.3 OWNER'S REPRESENTATIVE and/or OWNER will be allowed a reasonable time within which to evaluate each proposed substitute. OWNER'S REPRESENTATIVE and/or OWNER will be the sole judge of acceptability, and no substitute will be ordered, installed or utilized without OWNER'S REPRESENTATIVE and/or OWNER'S prior written acceptance which will be evidenced by either a Change Order or an approved Shop Drawing. OWNER may require CONTRACTOR to furnish at CONTRACTOR'S expense a special performance guarantee or other surety with respect to any substitute.

5.5 Concerning Subcontractors, Suppliers and Others:

5.5.1 CONTRACTOR shall be fully responsible to OWNER and OWNER'S REPRESENTATIVE for all acts and omissions of the Subcontractors, Suppliers and other persons directly or indirectly employed by his Subcontractors, Suppliers and of persons for whose acts any of them may be liable and any other persons

and organizations performing or furnishing of the Work under a direct or indirect Contract with CONTRACTOR to the same extent that CONTRACTOR is responsible for the acts and omissions of persons directly employed by him. Nothing in the Contract Documents shall create any Contractual relationship between OWNER or OWNER'S REPRESENTATIVE and any such Subcontractor, Supplier or other person or organization, nor shall it create any obligation on the part of OWNER or OWNER'S REPRESENTATIVE to pay or to see to the payment of any moneys due any such Subcontractor, Supplier or other person or organization except as may otherwise be required by laws and regulations.

5.5.2 All Work performed for CONTRACTOR by a Subcontractor will be pursuant to an appropriate agreement between CONTRACTOR and the Subcontractor which specifically binds the Subcontractor to the applicable terms and conditions of the Contract Documents for the benefit of OWNER and OWNER'S REPRESENTATIVE.

5.6 Patent Fees and Royalties:

CONTRACTOR shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product or device which is the subject of patent rights or copyrights held by others.

5.7 Permits:

CONTRACTOR shall obtain and pay for all permits and licenses. CONTRACTOR shall pay all government charges and inspection fees as required by OWNER. OWNER reserves the right to waive as it deems appropriate all municipal permit fees related to this contract. However, OWNER shall require that CONTRACTOR to pay all fees relative to inspections and re-inspections, as they may be required from time to time.

5.8 Laws and Regulations:

5.8.1 CONTRACTOR shall give all notices and comply with all laws and regulations applicable to furnishing and performance of the Work. Neither OWNER nor OWNER'S REPRESENTATIVE shall be responsible for monitoring CONTRACTOR'S compliance with any laws and regulations.

5.8.2 If CONTRACTOR observes that the Specifications or Drawings are at variance with any laws or regulations, CONTRACTOR shall give OWNER'S REPRESENTATIVE and/or OWNER prompt written notice thereof, and any necessary changes will be authorized by one of the methods indicated in Paragraph 3.4. If CONTRACTOR performs any Work knowing or having reason to know that it is contrary to such laws or regulations, and without such notice to OWNER'S REPRESENTATIVE and/or OWNER, CONTRACTOR shall bear all costs arising therefrom.

5.9 Taxes:

5.9.1 CONTRACTOR shall pay all sales, consumer, use and other similar taxes required to be paid by CONTRACTOR in accordance with the laws and regulations of the State of Florida and its political subdivisions which are applicable during the performance of the Work.

5.10 Use of Premises:

5.10.1 CONTRACTOR shall confine construction equipment, the storage of materials and equipment and the operations of Workers to the Project site and areas identified in and permitted by the Contract Documents and other land and areas permitted by laws and regulations, rights-of-way, permits and easements and shall not unreasonably encumber the premises with construction equipment or other materials or equipment. CONTRACTOR shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof or of any land or areas contiguous thereto, resulting from the performance of the Work. Should any claim be made against OWNER or OWNER'S REPRESENTATIVE by any such owner or occupant because of the performance of the Work, CONTRACTOR shall promptly attempt to settle with such other party by agreement or otherwise resolve the claim. The general indemnification provided elsewhere in this Contract specifically applies to claims arising out of CONTRACTOR'S use of the premises.

5.10.2 During the progress of the Work, CONTRACTOR shall keep the premises free from accumulations of waste materials, rubbish and other debris resulting from the Work. At the completion of the Work CONTRACTOR shall remove all waste materials, rubbish and debris from and about the premises as well as all tools, appliances, construction equipment and machinery, and surplus materials, and shall leave the site clean and ready for occupancy by OWNER. CONTRACTOR shall restore to original condition all property not designated for alteration by the Contract Documents.

5.10.3 CONTRACTOR shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall CONTRACTOR subject any part of the Work or adjacent property to stresses or pressures that will endanger it.

5.11 Record Documents:

CONTRACTOR shall maintain in a safe place at the site one record copy of all Drawings, Specifications, Addenda, Written Amendments, Change Orders, Work Directive Changes, Field Orders and written interpretations and clarifications in good order and annotated to show all changes made during construction. These record Documents together with all approved samples and a counterpart of all approved Shop Drawings will be available to OWNER'S REPRESENTATIVE and/or OWNER for reference. Upon completion of the Work, these record Documents, samples and Shop Drawings will be delivered to OWNER'S REPRESENTATIVE for OWNER.

5.12 Safety and Protection:

5.12.1 CONTRACTOR shall provide a construction fence on lots 19 and 20.

5.12.2 CONTRACTOR shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work to prevent damage, injury or loss to all employees on the worksite and other persons and organizations who may be affected thereby; all the Work and materials and equipment to be incorporated therein, whether in storage on or off the site; and other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, irrigation systems, roadways, structures, utilities and Underground Facilities not designated for removal, relocation or replacement in the course of construction.

5.12.3 CONTRACTOR shall furnish watchmen, flagmen, warning signs, cones, barricades, flashing lights and other necessary safeguards in sufficient numbers and at appropriate locations to protect and divert vehicular and pedestrian traffic from working areas closed to traffic, or to protect any new Work. Such watchmen and flagmen shall be furnished on a twenty-four (24) hour basis when conditions require. CONTRACTOR and all Subcontractors shall take all necessary precautions to guard against and eliminate all possible fire hazards and prevent injury to persons or fire damage to any construction, building materials, equipment, temporary field offices, storage sheds, and all other property, both public and private, particularly when gas or arc welding and cutting is taking place. Open flames including the use of flambeaux are strictly prohibited. No additional payment will be made for signs, barricades, lights, flags, watchmen, flagmen, required fire extinguishing apparatus and personnel, and other protective devices. CONTRACTOR shall not use explosives on the site, nor allow explosives of any type or nature to be brought upon the site of the construction, without the express written approval of OWNER and OWNER’S REPRESENTATIVE. When the use of explosives is authorized by OWNER and OWNER’S REPRESENTATIVE, CONTRACTOR shall exercise the utmost care in handling and usage of such explosives for the protection of life and property. All explosives shall be stored in a safe manner and storage places shall be clearly marked - "DANGEROUS - EXPLOSIVES" and placed in the care of competent watchmen. When such use of explosives becomes necessary, CONTRACTOR shall furnish to OWNER, proof of insurance coverage, adequately providing public liability and property damage insurance as a rider attached to CONTRACTOR'S policies unless otherwise included.

5.12.4 CONTRACTOR shall comply with all applicable laws and regulations of any public body having jurisdiction for the safety or persons or property or to protect them from damage, injury or loss; and shall erect and maintain all necessary safeguards for such safety and protection. CONTRACTOR shall notify owners of Underground Facilities and utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation and replacement of their property. All damage, injury or loss to any property

caused directly or indirectly by workers employed by and of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable, shall be remedied by CONTRACTOR. CONTRACTOR'S duties and responsibilities for the safety and protection of the Work shall continue until such time as all the Work is completed and OWNER'S REPRESENTATIVE has issued a notice to OWNER and CONTRACTOR in accordance with Paragraph 13.8 that the Work is acceptable (except as otherwise expressly provided in connection with substantial Completion).

5.12.5 CONTRACTOR shall designate a responsible representative at the worksite whose duty shall be the prevention of accidents. This person shall be CONTRACTOR'S superintendent unless otherwise designated in writing by CONTRACTOR to OWNER.

5.13 Emergencies:

5.13.1 In emergencies affecting the safety or protection of persons or the Work or property at the worksite or adjacent thereto, CONTRACTOR, without special instruction or authorization from OWNER'S REPRESENTATIVE to OWNER, is obligated to act to prevent threatened damage, injury or loss. CONTRACTOR shall give OWNER'S REPRESENTATIVE and/or OWNER prompt written notice if CONTRACTOR believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby. If OWNER'S REPRESENTATIVE and/or OWNER determines that a change in the Contract Documents is required because of the action taken in response to an emergency, a Change Order will be issued or an amendment made through proper procedures to document the consequences of the changes or variations.

5.13.2 CONTRACTOR shall be required to remove all materials from the job site and provide safe storage for the same, that may be blown about or become a hazard during a hurricane or windstorm. CONTRACTOR shall also take necessary precautions to remove bulkheads, dams or other structures blocking drains in the event of the threat of flooding condition. No extra pay will be allowed for this Work.

5.14 Shop Drawings and Samples:

5.14.1 After checking and verifying all field measurements and after complying with applicable procedures specified in the Project Specifications or plans, CONTRACTOR shall submit to OWNER'S REPRESENTATIVE and/or OWNER for review and approval in accordance with the accepted schedule of Shop Drawing submissions or for other appropriate action if so indicated, five (5) copies of all Shop Drawings, which will bear a stamp or specific written indication that CONTRACTOR has satisfied CONTRACTOR'S responsibilities under the Contract Documents with respect to the review of the submission. All submissions will be identified as OWNER'S REPRESENTATIVE and/or OWNER may require. The data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria,

materials and similar data to enable OWNER'S REPRESENTATIVE and/or OWNER to review the information as required.

5.14.2 CONTRACTOR shall also submit to OWNER'S REPRESENTATIVE and/or OWNER for review and approval with such promptness as to cause no delay in the Work, all samples required by the Contract Documents. All samples will have been checked by and accompanied by a specific written indication that CONTRACTOR has satisfied CONTRACTOR'S responsibilities under the Contract Documents with respect to the review of the submission and will be identified clearly as to material, Supplier, pertinent data such as catalog numbers and the use for which intended.

5.14.3 Before submission of each Shop Drawing or sample CONTRACTOR shall have determined and verified all quantities, dimensions, specified performance criteria, installation requirements, materials, catalog numbers and similar data with respect thereto and reviewed or coordinated each Shop Drawing or sample with other Shop Drawings and samples and with the requirements of the Work and the Contract Documents.

5.14.4 At the time of each submission, CONTRACTOR shall give OWNER'S REPRESENTATIVE and/or OWNER specific written notice of each variation that the Shop Drawings or samples may have from the requirements of the Contract Documents, and, in addition, shall cause a specific notation to be made on each Shop Drawing submitted to OWNER'S REPRESENTATIVE and/or OWNER for review and approval of each such variation. Failure to point out such departures shall not relieve CONTRACTOR from his responsibility to comply with the Contract Documents.

5.15 Continuing the Work

CONTRACTOR shall carry on the Work and adhere to the progress schedule during all disputes or disagreements with OWNER. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, or as CONTRACTOR and OWNER may otherwise agree in writing.

5.16 Indemnification:

5.16.1 General Indemnification: The parties agree that one percent (1%) of the total compensation paid to CONTRACTOR for the work of the Contract shall constitute specific consideration to CONTRACTOR for the indemnification to be provided under the Contract. To the fullest extent permitted by laws and regulations, CONTRACTOR shall indemnify, save and hold harmless OWNER, its officers, agents and employees, from or on account of all claims, damages, losses, liabilities and expenses, direct, indirect or consequential, including, but not limited to, fees and charges of OWNER'S REPRESENTATIVE and/or OWNER, architects, attorney's, consultants and other professionals and court and arbitration costs arising out of or resulting from the performance of the Work excluding the

sole negligence of OWNER. Such indemnification shall specifically include but not be limited to claims, damages, losses and expenses arising out of or resulting from (a) any and all bodily injuries, sickness, death, disease; (b) injury to or destruction of tangible personal property, including the loss of use resulting therefrom; (c) other such damages, liabilities or losses received or sustained by any person or persons during or on account of any operations connected with the construction of this project including the warranty period; (d) the use of any improper materials; (e) any construction defect including patent defects; (f) any act or omission of CONTRACTOR or his Subcontractors, agents, servants or employees; (g) the violation of any federal, state, county or Village laws, by-laws, ordinances or regulations by CONTRACTOR, his Subcontractors, agents, servants or employees; (h) the breach or alleged breach by CONTRACTOR of any term of the Contract, including the breach or alleged breach of any warranty or guarantee.

5.16.2 Patent and Copyright Indemnification: CONTRACTOR agrees to indemnify, save and hold harmless OWNER, its officers, agents and employees, from all such claims and fees, and from any and all sites and actions of every name and description that may be brought against OWNER, its officers, agents and employees, on account of any claims, fines, fees, royalties, or costs for any invention or patent, and from any and all suits and actions that may be brought against OWNER, its officers, agents and employees for the infringement of any and all copyrights or patent rights claimed by any person, firm, or corporation.

5.16.3 Pursuant to the requirements of Florida Statute 752.06, as amended, the indemnification from liability for damages caused in whole or in part by any act, omission or default by OWNER as contained in Paragraph 5.16.1 above, shall be limited to the monetary amount of comprehensive general liability insurance which CONTRACTOR is required to obtain under the Contract. All other indemnification required hereunder shall not be limited to the amount of required comprehensive general liability insurance or any required excess insurance.

5.16.4 CONTRACTOR shall pay all claims, losses, liens, settlements or judgments of any nature whatsoever, excluding only those in which the damages arose out of the sole negligence of OWNER, in connection with the foregoing indemnifications, including, but not limited to, reasonable attorney's fees and costs to defend all claims or suits in the name of OWNER when applicable.

5.16.5 OWNER reserves the right to select its own legal counsel to conduct any defense in any such proceeding and all costs and fees associated therewith including any costs or fees of an appeal shall be the responsibility of CONTRACTOR under the indemnification agreement. Such indemnification shall not be limited to the amount of comprehensive general liability insurance which CONTRACTOR is required to obtain under the Contract. Nothing contained herein is intended nor shall it be construed to waive OWNER'S rights and immunities under the common law or Florida Statute 768.28 as amended from time to time. This obligation shall not be construed to negate, abridge, or otherwise reduce any other

right or obligation of indemnity which would otherwise exist as to any party described in this Paragraph 5.16 and its subparts.

5.17 Liability for Use of Work for Intended Purposes:

As an inducement for OWNER'S Commission to enter into this agreement, CONTRACTOR has represented an expertise in the construction of and completion of like projects as described in these bid specs. In reliance upon those representations, OWNER hired CONTRACTOR for specified construction services and documents. CONTRACTOR understands and agrees that OWNER intends to utilize said plans for the stated purposes and therefore CONTRACTOR shall be liable for any defective or negligent design, whether patent or latent, as such may be found by a court of competent jurisdiction.

ARTICLE 6 - OTHER WORK

6.1 Related Work at Site:

OWNER may perform other Work related to the Project at the site by OWNER'S own forces, have other Work performed by utility owners or let other direct Contracts thereof which shall contain General Conditions similar to these. Written notice thereof will be given to CONTRACTOR prior to starting any such other Work not previously noticed to CONTRACTOR; and, if CONTRACTOR believes that performance of Work other than that already noticed will involve additional expense to CONTRACTOR or requires additional time and the parties are unable to agree as to the extent thereof, CONTRACTOR may make a claim therefor as provided in this Contract.

ARTICLE 7 - OWNER'S RESPONSIBILITIES - GENERALLY

7.1 OWNER shall issue all communications to CONTRACTOR through OWNER'S REPRESENTATIVE and/or OWNER.

7.2 OWNER shall furnish the data required of OWNER under the Contract Documents promptly and shall make payments to CONTRACTOR promptly after they are due.

7.3 OWNER'S duties in respect of providing lands and easements and providing engineering surveys to establish reference points are set forth in Article 4. Article 4 also refers to OWNER'S identifying and making available to CONTRACTOR copies of reports of explorations and tests of subsurface conditions at the site which are known and readily available to OWNER.

7.4 OWNER is obligated to execute Change Orders as indicated in Articles 9, 10 & 11.

7.5 OWNER shall have such other responsibilities and rights as are expressed in the Contract Documents.

ARTICLE 8 – OWNER'S REPRESENTATIVE STATUS DURING CONSTRUCTION

8.1 OWNER'S Representative:

OWNER'S REPRESENTATIVE will be OWNER'S representative during the construction period and until final payment is due. The duties and responsibilities and the limitations of authority of OWNER'S REPRESENTATIVE as OWNER'S representative during construction are set forth in the Contract Documents and shall not be extended without written consent of OWNER.

8.2 Visits to Site:

OWNER'S REPRESENTATIVE and/or OWNER will make visits to the site at intervals appropriate to the various stages of construction to observe the progress and quality of the executed Work and to determine, in general, if the Work is proceeding in accordance with the Contract Documents. OWNER'S REPRESENTATIVE and/or OWNER'S efforts will be directed toward providing for OWNER a greater degree of confidence that the completed Work will conform to the Contract Documents. On the basis of such visits and on-site inspections, OWNER'S REPRESENTATIVE shall keep OWNER informed of the progress of the Work and shall endeavor to guard OWNER against defects and deficiencies in the Work.

8.3 Technical Clarifications and Interpretations:

OWNER'S REPRESENTATIVE and/or OWNER will issue with reasonable promptness such written clarifications or interpretations of the technical requirements of the Contract Documents as OWNER'S REPRESENTATIVE and/or OWNER may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Contract Documents. If CONTRACTOR believes that a written clarification or interpretation justifies an increase in the Contract Price or an extension of the Contract Time and the parties are unable to agree to the amount or extent thereof, CONTRACTOR may make a claim therefor as provided in this Contract. Should CONTRACTOR fail to request interpretation of questionable items in the Contract Documents neither OWNER nor OWNER'S REPRESENTATIVE and/or OWNER will thereafter entertain any excuse for failure to execute the Work in a satisfactory manner.

8.4 Authorized Variations in Work:

OWNER'S REPRESENTATIVE and/or OWNER may authorize minor variations in the Work from the technical requirements of the Contract Documents which do not involve an adjustment in the Contract Price or the Contract Time and are consistent with the overall intent of the Contract Documents. These may be accomplished by a field order and will be binding on OWNER, and also on CONTRACTOR who shall perform the Work involved promptly. If CONTRACTOR believes that a field order justifies an increase in the Contract Price or an extension of the Contract Time and the parties are unable to agree as to the amount or extent thereof, CONTRACTOR may make a claim therefor as provided elsewhere in this Contract.

8.5 Rejecting Defective Work:

OWNER'S REPRESENTATIVE and/or OWNER will have the authority to disapprove or reject Work which OWNER'S REPRESENTATIVE and/or OWNER believes to be defective, and will also have authority to require special inspection or testing of the Work whether or not the Work is fabricated, installed or completed.

8.6 Decisions on Disputes:

OWNER'S REPRESENTATIVE and/or OWNER will be the initial interpreter of the technical requirements of the Contract Documents and the acceptability of the Work thereunder. Claims, disputes and other matters relating to the acceptability of the Work or the interpretation of the requirements of the Contract Documents pertaining to the performance and furnishing of the Work and claims under Articles 10 and 11 in respect of changes in the Contract Price or Contract Time will be referred initially to OWNER'S REPRESENTATIVE and/or OWNER in writing with a request for a formal decision in accordance with this Paragraph, which OWNER'S REPRESENTATIVE and/or OWNER will render in writing within a reasonable time. Written notice of each such claim, dispute and other matter will be delivered by the claimant to OWNER'S REPRESENTATIVE and OWNER promptly, but in no event later than three (3) days after the occurrence of the event giving rise thereto, and written supporting data will be submitted to OWNER'S REPRESENTATIVE and OWNER within seven (7) calendar days after such occurrence unless OWNER'S REPRESENTATIVE and/or OWNER allows an additional period of time to ascertain more accurate data in support of the claim. The rendering of a decision by OWNER'S REPRESENTATIVE and/or OWNER with respect to any such claim, dispute or other matter (except any which have been waived by the making or acceptance of final payment as provided in Paragraph 13.8) will be a condition precedent to any exercise by OWNER or CONTRACTOR of such rights or remedies as either may otherwise have under the Contract Documents or by Laws or Regulations in respect of any such claim, dispute or other matter.

8.7 Limitations on OWNER'S REPRESENTATIVE and/or OWNER'S Responsibilities:

8.7.1 Neither OWNER'S REPRESENTATIVE and/or OWNER'S authority to act under this Article 8 or elsewhere in the Contract Documents nor any decision made by OWNER'S REPRESENTATIVE and/or OWNER in good faith either to exercise or not exercise such authority shall give rise to any duty or responsibility of OWNER'S REPRESENTATIVE and/or OWNER or CONTRACTOR, any Subcontractor, any supplier, or any other person or organization performing any of the Work, or to any surety for any of them except as such duties and responsibilities are included within the Contract Documents.

8.7.2 OWNER'S REPRESENTATIVE and/or OWNER will not be responsible for the acts or omissions of CONTRACTOR or of any subcontractor, any supplier, or of any other person or organization performing or furnishing any of the Work.

OWNER'S REPRESENTATIVE and/or OWNER shall not be responsible for safety measures on the project. This is the responsibility of the CONTRACTOR.

ARTICLE 9 - CHANGES IN THE WORK

9.1 OWNER, without invalidating the Agreement, may order changes in the work which do not materially alter the scope and character of the work of the Agreement or the completion date. All such changes in the work shall be authorized by a Change Order. Any individual Change Order which decreases the cost of the work to OWNER or increases the cost of the work by an amount not in excess of ten thousand and xx/100 dollars ($10,000.00) must be authorized and approved by the Village Manager prior to their issuance. Any individual Change Order which increases the cost of the work to OWNER by an amount which exceeds ten thousand and xx/100 dollars ($10,000.00) must be formally authorized and approved by the OWNER'S Commission prior to their issuance and before work may begin. No claim against OWNER for extra work in furtherance of such Change Order shall be allowed unless prior approval has been obtained.

9.2 If OWNER and CONTRACTOR are unable to agree as to the extent, if any, of an increase or decrease in the Contract Price or an extension or shortening of the Contract Time that should be allowed as a result of a Work Directive Change, a claim may be made therefor as provided in Article 10 or Article 11.

9.3 CONTRACTOR shall not be entitled to an increase in the Contract Price or an extension of the Contract Time with respect to any Work performed that is not required by the Contract Documents as amended, modified and supplemented except in the case of an emergency and except in the case of uncovering Work as those situations are addressed herein.

9.4 OWNER and CONTRACTOR shall execute appropriate change orders or written amendments covering:

9.4.1 Changes in the Work which are ordered by OWNER pursuant to Paragraph 9.1, and are required to correct defective Work or are agreed to by the parties; and

9.4.2 Changes in the Contract Price or Contract Time which are agreed to by the parties.

Provided that, in lieu of executing any such change order, an appeal may be taken from any such decision in accordance with the provisions of the Contract Documents and applicable laws and regulations, but during any such appeal, CONTRACTOR shall carry on the Work and adhere to the progress schedule. Proposed change orders shall be prepared by CONTRACTOR on forms approved by OWNER. When submitted for approval to OWNER they shall carry the signature of the applicable Department Director, OWNER'S REPRESENTATIVE, and CONTRACTOR.

9.5 If notice of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Time) is

required by the provisions of any Bond to be given to a surety, the giving of any such notice shall be CONTRACTOR'S sole responsibility, and the amount of each applicable bond shall be adjusted accordingly.

ARTICLE 10 - CHANGE OF CONTRACT PRICE

10.1 The Contract Price constitutes the total compensation (subject to authorized adjustments) payable to CONTRACTOR for performing the Work. All duties, responsibilities and obligations assigned to or undertaken by CONTRACTOR shall be at his expense without change in the Contract Price.

10.2 The Contract Price may only be changed by a Change Order or by a written amendment. Any claim for an increase or decrease in the Contract Price shall be based on written notice delivered to OWNER'S REPRESENTATIVE and/or OWNER promptly (but in no event later than three (3) days after the occurrence of the event giving rise to the amount of the claim with supporting data to be delivered within seven (7) days and shall be accompanied by claimant's written statement that the amount claimed covers all known amounts (direct, indirect and consequential) to which the claimant is entitled as a result of the occurrence of said event. No resolution of a claim for adjustment in the Contract Price shall be effective until approved by OWNER in writing. No claim for an adjustment in the Contract Price will be valid if not submitted in accordance with this Paragraph.

10.3 The value of any Work covered by a change order or of any claim for an increase or decrease in the Contract Price shall be determined in one of the following ways:

10.3.1 Where the Work involved is covered by unit prices contained in the Contract Documents, by application of unit prices to the quantities of the items involved.

10.3.2 By mutual acceptance of a lump sum (which may include an allowance for overhead and profit including any subcontractor fees) which shall not exceed 25% <u>of the original contract price as defined herein or contract price as modified by an acceptable change order or written amendment executed by all parties</u>.

10.3.3 On the basis of the cost of the Work (determined as provided in Paragraphs 10.4 and 10.5) plus a CONTRACTOR'S Fee for overhead and profit (determined as provided in Paragraphs 10.6 and 10.7).

10.4 Cost of the Work

The term "Cost of the Work" means the sum of all direct costs necessarily incurred and paid by CONTRACTOR in the proper performance of the work. Except as otherwise may be agreed to in writing by OWNER such costs shall be in amounts no higher than those prevailing in the locality of the project, shall include only the following items and shall not include any of the costs itemized in Paragraph 10.5:

10.4.1 Payroll costs for employees in the direct employ of CONTRACTOR in the performance of the work under schedules of job classifications agreed upon by

OWNER and CONTRACTOR. Payroll costs for employees not employed full time on the work shall be apportioned on the basis of their time spent on the work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits which shall include social security contributions, unemployment, excise and payroll taxes, Worker's compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. Such employees shall include superintendents and foremen at the site. The expenses of performing work after regular working hours, on Saturday, Sunday or legal holidays, shall not be included in the above unless authorized in writing by OWNER.

10.4.2 Cost of all materials and equipment furnished and incorporated in the work, including costs of transportation and storage thereof, and suppliers field services required in connection therewith. All cast discounts, rebates and refunds and all returns from sale of surplus materials and equipment shall accrue to OWNER, and CONTRACTOR shall make provisions so that they may be obtained.

10.4.3 Supplemental costs including the following:

10.4.3.1 Cost, including transportation and maintenance of all materials, supplies, equipment, machinery, appliances, office and temporary facilities at the site and hand tools not owned by the brokers, which are consumed in the performance of the work.

10.4.3.2 Rentals of all construction equipment and machinery and the parts thereof, whether rented from CONTRACTOR or others in accordance with rental agreements approved by OWNER with the advice of OWNER'S REPRESENTATIVE and/or OWNER, and the costs, of transportation, loading, unloading, installation, dismantling and removal thereof - all in accordance with terms of said rental agreements. The rental of any such equipment, machinery or parts shall cease when the use thereof is no longer necessary for the work.

10.4.3.3 Sales, consumer, use or similar taxes related to the work and for which CONTRACTOR is liable, imposed by laws and regulations.

10.4.3.4 Royalty payments and fees for permits and licenses.

10.4.3.5 The cost of utilities, fuel and sanitary facilities at the site.

10.4.3.6 Minor expenses such as telegrams, long distance telephone calls, telephone service at the site, expressage and similar petty cash items in connection with the work.

10.4.3.7 Cost of premiums for additional bonds and insurance required because of changes in the work.

10.5 Not Included in the Cost of the Work:

The term cost of the work shall not include any of the following.

10.5.1 Payroll costs and other compensation of CONTRACTOR'S officers, executives, principals (of partnership and sole proprietorships), general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expediters, timekeepers, clerks and other personnel employed by CONTRACTOR whether at the site or in CONTRACTOR'S principal or a branch office for general administration of the work and not specifically included in the agreed upon schedule of job classifications referred to in paragraph 10.4.1 - all of which are to be considered administrative costs covered by CONTRACTOR'S fee.

10.5.2 Expenses of CONTRACTOR'S principal and branch offices other than CONTRACTOR'S office at the site.

10.5.3 Any part of CONTRACTOR'S capital expenses, including interest on CONTRACTOR'S capital employed for the work and charges against CONTRACTOR for delinquent payments.

10.5.4 Costs due to the negligence of CONTRACTOR, any subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective work, disposal of materials or equipment wrongly supplied and making good any damage to property.

10.5.5 Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 10.4.

10.6 CONTRACTOR'S Fee:

CONTRACTOR'S fee allowed to CONTRACTOR for overhead and profit shall be determined as follows:

10.6.1 A mutually acceptable negotiated fee:

10.6.1.1 For costs incurred under Paragraphs 10.4.1 and 10.4.2, CONTRACTOR'S fee shall not exceed ten percent (10%).

10.6.1.2 No fee shall be payable on the basis of costs itemized under Paragraphs 10.4.3.1, 10.4.3.2, 10.4.3.3, 10.4.3.4, 10.4.3.5, 10.4.3.6, 10.4.3.7, 10.5, 10.5.1, 10.5.2, 10.5.3, 10.5.4, 10.5.5 and 10.5.6.

10.6.1.3 The amount of credit to be allowed by CONTRACTOR to OWNER for any such change which results in a net decrease in cost will be the amount of the actual net decrease plus a deduction in CONTRACTOR'S fee by an amount equal to ten percent (10%) for the net decrease.

10.6.1.4 When both additions and credits are involved in any one change the combined overhead and profit shall be figured on the basis of net increase if any, however, profit will not be paid on any work not performed.

10.7 Cost Breakdown Required:

Whenever the cost of any work is to be determined pursuant to Paragraphs 10.4 or 10.5 CONTRACTOR will submit in a form acceptable to OWNER'S REPRESENTATIVE and/or OWNER an itemized cost breakdown together with supporting data.

ARTICLE 11 - CONTRACT TIME

11.1 Commencement:

The date of commencement of the Work is the date established in the Notice to Proceed.

11.2 Time of Substantial Completion:

The date of substantial completion of the Work or designated portion thereof is the date certified by OWNER'S REPRESENTATIVE and/or OWNER when construction is sufficiently complete, in accordance with the Contract Documents, so OWNER can occupy or utilize the Work or designated portion thereof for the purposes for which it is intended.

11.3 Change of Contract Time:

11.3.1 All time limits stated in the Contract Documents are of the essence of the Agreement. NO CLAIM FOR DAMAGES OR ANY CLAIM OTHER THAN FOR AN EXTENSION OF TIME SHALL BE MADE OR ASSERTED AGAINST THE OWNER BY REASON OF ANY DELAYS. CONTRACTOR shall not be entitled to an increase in the Contract Price or payment or compensation of any kind from OWNER for direct, indirect, consequential, impact or other costs, expenses or damages including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference or hindrance from any cause whatsoever, whether such delay, disruption, interference be reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable; provided, however, that this provision shall not preclude recovery of damages by CONTRACTOR for hindrances or delays due solely to fraud, bad faith or active interference on the part of OWNER or its agents. Otherwise, CONTRACTOR shall be entitled only to extensions of the Contract Time as the sole and exclusive remedy for such resulting delay, in accordance with and to that extent specifically provided above. No extension of time shall be granted for delays resulting from normal weather conditions prevailing in the area as defined by the average of the last ten (10) years of weather data as recorded by the United States Department of Commerce, National Oceanic and Atmospheric Administration at the Fort Lauderdale Weather Station.

11.3.2 **NO RECOVERY FOR EARLY COMPLETION.** If the CONTRACTOR submits a schedule or expresses an intention to complete the Work earlier than any required milestone or completion date, the OWNER shall not be liable to the CONTRACTOR for any costs incurred because of delay or hindrance should the CONTRACTOR be unable to complete the Work before such milestone or completion date. The duties, obligations and warranties of the OWNER to the CONTRACTOR shall be consistent with and applicable only to the completion of the work and completion dates set forth in these Construction Services General Conditions.

11.3.3 The Contract Time may only be changed by a change order or a written amendment. Any claim for extension of time shall be made in writing to OWNER'S REPRESENTATIVE and/or OWNER not more than three (3) days after the detection or beginning of the occurrence of the event giving rise to the delay and stating the general nature of the claim; otherwise, it shall be waived. In the case of a continuing delay only one claim is necessary. CONTRACTOR shall provide an estimate of the probable effect of such delay on the progress of the Work.

11.4 Liquidated Damages:

Upon failure of CONTRACTOR to complete the Work within the time specified for final completion, (plus approved extensions if any) CONTRACTOR shall pay to OWNER the sum of five hundred dollars ($500.00) for each calendar day that the substantial completion of the Work is delayed beyond the time specified in the Contract for substantial completion, as fixed and agreed liquidated damages and not as a penalty. After substantial completion, if CONTRACTOR neglects, fails or refuses to complete the remainder of the Work within the Contract Time or any approved extension thereof, CONTRACTOR shall pay to OWNER the sum of one hundred dollars ($100.00) for each calendar day (plus approved extensions if any) after the time specified in the Contract for final completion and readiness for final payment as fixed and agreed liquidated damages and not as a penalty. Liquidated damages are hereby fixed and agreed upon between the parties, recognizing the impossibility of precisely ascertaining the amount of damages that will be sustained by OWNER as a consequence of such delay and both parties desiring to obviate any question of dispute concerning the amount of said damages and the cost and effect of the failure of CONTRACTOR to complete the Contract on time. Regardless of whether or not a single Contract is involved, the above-stated liquidated damages shall apply separately to each portion of the Work for which a time of completion is given. OWNER shall have the right to deduct from and retain out of moneys which may be then due or which may become due and payable to CONTRACTOR, the amount of such liquidated damages and if the amount retained by OWNER is insufficient to pay in full such liquidated damages, the CONTRACTOR shall pay in full such liquidated damages. CONTRACTOR shall be responsible for reimbursing OWNER, <u>in addition to liquidated damages</u> or other per day damages for delay, for all costs of engineering, architectural fees, and inspection and other costs incurred in administering the construction of the project beyond the completion date specified or beyond an approved extension of time granted to CONTRACTOR whichever is later.

ARTICLE 12 - WARRANTY AND GUARANTEE; TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

12.1 Warranty and Guarantee:

CONTRACTOR warrants and guarantees to OWNER and OWNER'S REPRESENTATIVE that all Work will be in accordance with the Contract Documents and will not be defective. Prompt notice of all defects shall be given to CONTRACTOR. All defective Work, whether or not in place, may be rejected, corrected or accepted. CONTRACTOR warrants to OWNER that the consummation of the Work provided for in the Contract Documents will not result in the breach of any term or provisions of, or constitute a default under any indenture, mortgage, Contract, or agreement to which CONTRACTOR is a party. CONTRACTOR warrants that there has been no violation of copyrights or patent rights in connection with the Work of the Contract.

12.2 Access to Work:

OWNER'S REPRESENTATIVE and other representatives of OWNER, testing agencies and governmental agencies with jurisdictional interests shall have access to the Work at reasonable times for their observation, inspecting and testing. CONTRACTOR shall provide proper and safe conditions for such access.

12.3 Tests and Inspection:

12.3.1 CONTRACTOR shall give OWNER'S REPRESENTATIVE and/or OWNER or Village Building Division Inspector timely notice of readiness of the Work for all required inspections, tests or approvals.

12.3.2 CONTRACTOR shall assume full responsibility, pay all costs in connection therewith and furnish OWNER'S REPRESENTATIVE and/or OWNER the required certificates of inspection, testing or approval for all materials, equipment or the Work or any part thereof unless otherwise specified herein.

12.3.3 If any Work (including the Work of others) that is to be inspected, tested or approved is covered without written concurrence of OWNER'S REPRESENTATIVE and/or OWNER, it must, if requested by OWNER'S REPRESENTATIVE and/or OWNER, be uncovered for examination and properly restored at CONTRACTOR'S expense. Such uncovering shall be at CONTRACTOR'S expense unless CONTRACTOR has given OWNER'S REPRESENTATIVE and/or OWNER timely notice of CONTRACTOR'S intention to cover the same and OWNER'S REPRESENTATIVE and/or OWNER has not acted with reasonable promptness in response to such notice.

12.3.4 Neither observations by OWNER'S REPRESENTATIVE and/or OWNER nor inspections, tests or approvals by others shall relieve CONTRACTOR from CONTRACTOR'S obligations to perform the Work in accordance with the Contract Documents.

12.4 Uncovering the Work:

12.4.1 If any work is covered contrary to the written request of OWNER'S REPRESENTATIVE and/or OWNER, it must, if requested by OWNER'S REPRESENTATIVE and/or OWNER, be uncovered for OWNER'S REPRESENTATIVE and/or OWNER'S observation and replaced at CONTRACTOR'S expense.

12.4.2 If OWNER'S REPRESENTATIVE and/or OWNER considers it necessary or advisable that covered work be observed by OWNER'S REPRESENTATIVE and/or OWNER of inspected or tested by others, CONTRACTOR, at OWNER'S REPRESENTATIVE and/or OWNER'S request, shall uncover, expose or otherwise make available for observation, inspection or testing as OWNER'S REPRESENTATIVE and/or OWNER may require, that portion of the work in question, furnishing all necessary labor, material and equipment. If it is found that such work is defective, CONTRACTOR shall bear all direct, indirect and consequential costs of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction (including but not limited to fees and charges of engineers, architects, attorneys and other professional(s), and OWNER shall be entitled to an appropriate decrease in the contract price, and if the parties are unable to agree as to the amount thereof, may make a claim therefore as provided in the contract documents. If, however, such work is found to be defective, CONTRACTOR shall be allowed an increase in the contract price or an extension of the contract time, or both, directly attributable to such uncovering and, if the parties are unable to agree as to the amount or extent thereof, CONTRACTOR may make a claim therefore as provided in the contract documents.

12.5 OWNER May Stop the Work:

If the Work is defective, or CONTRACTOR fails to supply sufficient skilled Workers or suitable materials or equipment, or fails to furnish or perform the Work in such a way that the completed Work will conform to the Contract Documents, OWNER may order CONTRACTOR to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of OWNER to stop the Work shall not give rise to any duty on the part of OWNER to exercise this right for the benefit of CONTRACTOR or any other party.

12.6 Correction or Removal of Defective Work:

If required by OWNER'S REPRESENTATIVE and/or OWNER, CONTRACTOR shall promptly, as directed, either correct all defective Work, whether or not fabricated, installed or completed, or, if the Work has been rejected by OWNER'S REPRESENTATIVE and/or OWNER, remove it from the site and replace it with non-defective Work. CONTRACTOR shall bear all direct, indirect and consequential costs of such correction or removal (including but not limited to fees and charges of engineers, architects, attorneys and other professionals) made necessary thereby.

12.7 One Year Correction Period:

If within one (1) year after the date of completion or such longer period of time as may be prescribed by laws or regulations or by the terms of any applicable special guarantee required by the Contract Documents or by any specific provision of the Contract Documents, any Work is found to be defective, CONTRACTOR shall promptly, without cost to OWNER and in accordance with OWNER'S written instructions, either correct such defective Work, or, if it has been rejected by OWNER, remove it from the site and replace it with non-defective Work. If CONTRACTOR does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, OWNER may have the defective Work corrected or the rejected Work removed and replaced, and all direct, indirect and consequential costs of such removal and replacement (including but not limited to fees and charges of engineers, architects, attorneys and other professionals) will be paid by CONTRACTOR. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications or by written amendment.

ARTICLE 13 - PAYMENTS TO CONTRACTOR AND COMPLETION

13.1 Schedule of Values:

The schedule established as provided in Paragraph 2.4 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to OWNER’S REPRESENTATIVE and/or OWNER.

13.2 Application for Progress Payment:

At least ten (10) days before each progress payment is scheduled (but not more often than once a month), CONTRACTOR shall submit to OWNER’S REPRESENTATIVE and/or OWNER for review an Application for Payment filled out and signed by CONTRACTOR covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice or other documentation warranting that OWNER has received the materials and equipment free and clear of all liens, charges, security interests and encumbrances (which are hereinafter in these Construction Services General Conditions referred to as "Liens") and evidence that the materials and equipment are covered by appropriate property insurance and other arrangements to protect OWNER'S interest therein, all of which will be satisfactory to OWNER. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

13.3 CONTRACTOR'S Warranty of Title:

CONTRACTOR warrants and guarantees that title to all Work, materials and equipment covered by an Application for Payment, whether incorporated in the Project or not, will pass to OWNER no later than the time of final payment free and clear of all Liens.

13.4 Review of Applications for Progress Payments:

OWNER'S REPRESENTATIVE and/or OWNER will, within ten (10) days after receipt of each Application for Payment, either indicate in writing a recommendation of payment, or return the Application to CONTRACTOR indicating in writing OWNER'S REPRESENTATIVE and/or OWNER'S reasons for refusing to recommend payment. In the latter case, CONTRACTOR may make the necessary corrections and resubmit the Application. OWNER shall make payment to CONTRACTOR within thirty (30) calendar days after approval by the OWNER'S REPRESENTATIVE and/or OWNER of CONTRACTOR'S requisition for payment.

13.5 Grounds for Refusal:

OWNER'S REPRESENTATIVE and/or OWNER may refuse to recommend the whole or any part of any payment if, in OWNER'S REPRESENTATIVE and/or OWNER's opinion, it would be incorrect to make such representation to OWNER. OWNER'S REPRESENTATIVE and/or OWNER may also refuse to recommend any such payment, or, because of subsequently discovered evidence or the results of subsequent inspections or tests, nullify any such payment previously recommended, to such extent as may be necessary in OWNER'S REPRESENTATIVE'S opinion to protect OWNER from loss because:

13.5.1 The Work is defective, or completed Work has been damaged requiring correction or replacement.

13.5.2 The Contract Price has been reduced by Written Amendment or Change Order.

13.5.3 Of OWNER'S REPRESENTATIVE and/or OWNER'S actual knowledge of the occurrence of any of the events outlined elsewhere in the Contract Documents that represent grounds for refusal of payment in whole or part. OWNER may refuse to make payment of the full amount recommended by OWNER'S REPRESENTATIVE because claims have been made by OWNER on account of CONTRACTOR'S performance or furnishing of the Work or Liens have been filed in connection with the Work or there are other items entitling OWNER to a set-off against the amount recommended, but OWNER must give CONTRACTOR written notice stating the reasons for such action within a reasonable time from receipt of OWNER'S REPRESENTATIVE and/or OWNER'S recommendation for payment on that matter.

13.6 Final Inspection:

Upon written notice from CONTRACTOR that the entire Work or an agreed portion thereof is complete, OWNER'S REPRESENTATIVE and/or OWNER will make a final inspection with OWNER and CONTRACTOR and will notify CONTRACTOR in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. CONTRACTOR shall immediately take such measures as are necessary to remedy such deficiencies.

13.7 Final Application for Payment:

After CONTRACTOR has completed all such corrections to the satisfaction of OWNER'S REPRESENTATIVE and OWNER and delivered all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, marked up record Documents and other Documents - all as required by the Contract Documents, and after OWNER'S REPRESENTATIVE and/or OWNER has indicated that the Work is acceptable, CONTRACTOR may make application for final payment following the procedure for progress payments. The final Application for Payment shall be accompanied by all documentation called for in the Contract Documents, together with complete and legally effective releases or waivers (satisfactory to OWNER) of all Liens arising out of or filed in connection with the Work. In lieu thereof and as approved by OWNER, CONTRACTOR may furnish receipts or releases in full; an affidavit of CONTRACTOR that the releases and receipts include all labor, services, material and equipment for which a Lien could be filed, and that all payrolls, material and equipment bills, and other indebtedness connected with the Work for which OWNER or OWNER'S property might in any way be responsible, have been paid or otherwise satisfied; and consent of the surety, if any, to final payment. If any Subcontractor or supplier fails to furnish a release or receipt in full, CONTRACTOR may furnish a bond or other collateral satisfactory to OWNER to indemnify OWNER against any lien. In addition, CONTRACTOR shall also submit with the final application for payment, the completed set of "As-Built" prints for review and approval. Final payment to CONTRACTOR shall not be made until said prints have been reviewed and approved by OWNER'S REPRESENTATIVE and/or OWNER. Prior to approval, if necessary, the prints may be returned to CONTRACTOR for changes or modifications and if in the opinion of OWNER'S REPRESENTATIVE and/or OWNER they do not represent correct or accurate "AS-BUILTS".

13.8 Final Payment and Acceptance:

13.8.1 If, on the basis of OWNER'S REPRESENTATIVE and/or OWNER'S observation of the Work during construction and final inspection, and OWNER'S REPRESENTATIVE and/or OWNER'S review of the final Application for Payment and accompanying documentation - all as required by the Contract Documents, OWNER'S REPRESENTATIVE and/or OWNER is satisfied that the Work has been completed and CONTRACTOR'S other obligations under the Contract Documents have been fulfilled, OWNER'S REPRESENTATIVE and/or OWNER will, within ten (10) days after receipt of the final Application for Payment, indicate in writing OWNER'S REPRESENTATIVE and/or OWNER'S

recommendation of payment and present the Application to OWNER for payment. Thereupon OWNER'S REPRESENTATIVE and/or OWNER will give written notice to OWNER and CONTRACTOR that the Work is acceptable. Otherwise, OWNER'S REPRESENTATIVE and/or OWNER will return the Application to CONTRACTOR, indicating in writing the reasons for refusing to recommend final payment, in which case CONTRACTOR shall make the necessary corrections and resubmit the Application. Thirty (30) days after presentation to OWNER of the Application and accompanying documentation, in appropriate form and substance, and with OWNER'S REPRESENTATIVE and/or OWNER'S recommendation and notice of acceptability, the amount recommended by OWNER'S REPRESENTATIVE and/or OWNER will become due and will be paid by OWNER to CONTRACTOR.

13.8.2 If, through no fault of CONTRACTOR, final completion of the Work is significantly delayed and if OWNER'S REPRESENTATIVE and/or OWNER so confirms, OWNER shall, upon receipt of CONTRACTOR'S final Application for Payment and recommendation of OWNER'S REPRESENTATIVE and/or OWNER, and without terminating the Agreement, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance to be held by OWNER for Work not fully completed or corrected is less than the retainage stipulated in the Agreement, and if bonds have been furnished as required, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by CONTRACTOR to OWNER'S REPRESENTATIVE and/or OWNER with the Application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

13.8.3 Any moneys not paid by OWNER when claimed to be due to CONTRACTOR under this Contract shall <u>not</u> be subject to interest, including but not limited to pre-judgment interest.

13.9 CONTRACTOR'S Continuing Obligation:

CONTRACTOR'S obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. Neither recommendation of any progress or final payment by OWNER'S REPRESENTATIVE and/or OWNER, nor any payment by OWNER to CONTRACTOR under the Contract Documents, nor any use or occupancy of the Work or any part thereof by OWNER, nor any act of acceptance by OWNER nor any failure to do so, nor any review and approval of a Shop Drawing or sample submission, nor the issuance of a notice of acceptability by OWNER'S REPRESENTATIVE and/or OWNER, nor any correction of defective Work by OWNER will constitute an acceptance of Work not in accordance with the Contract Documents or a release of CONTRACTOR'S obligation to perform the Work in accordance with the Contract Documents.

13.10 Waiver of Claims:

The acceptance of final payment shall constitute a waiver of all claims by CONTRACTOR against OWNER other than those previously made in writing and still unsettled as of the date of final payment.

13.11 OWNER May Suspend Work:

OWNER may, at any time and without cause, suspend the Work or any portion thereof for a period of not more than ninety (90) days by notice in writing to CONTRACTOR and OWNER'S REPRESENTATIVE and/or OWNER which will fix the date on which Work will be resumed. CONTRACTOR shall resume the Work on the date so fixed. CONTRACTOR shall be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to any suspension if CONTRACTOR makes an approved claim therefor as provided in the Contract Documents.

13.12 OWNER May Terminate:

Upon the occurrence of any one or more of the following events:

13.12.1 If CONTRACTOR commences a voluntary case under any chapter of the Bankruptcy Code as now or hereafter in effect, or if CONTRACTOR takes any equivalent or similar action by filing a petition or otherwise under any other federal or state law in effect at such time relating to the bankruptcy or insolvency.

13.12.2 If a petition is filed against CONTRACTOR under any chapter of the Bankruptcy Code as now or hereafter in effect at the time of filing, or if a petition is filed seeking any such equivalent or similar relief against CONTRACTOR under any other federal or state law in effect at the time relating to bankruptcy or insolvency.

13.12.3 If CONTRACTOR makes a general assignment for the benefit of creditors.

13.12.4 If a trustee, receiver, custodian or agent of CONTRACTOR is appointed under applicable law or under Contract, whose appointment or authority to take charge of property of CONTRACTOR is for the purpose of enforcing a Lien against such property or for the purpose of general administration of such property for the benefit of CONTRACTOR'S creditors.

13.12.5 If CONTRACTOR admits in writing an inability to pay its debts generally as they become due.

13.12.6 If CONTRACTOR persistently fails to perform the Work in accordance with the Contract Documents (including but not limited to, failure to supply sufficient skilled Workers or suitable materials or equipment or

failure to adhere to the progress schedule as same may be revised from time to time).

13.12.7 If CONTRACTOR disregards laws or regulations of any public body having jurisdiction.

13.12.8 If CONTRACTOR disregards the authority of OWNER'S REPRESENTATIVE and/or OWNER.

13.12.9 If CONTRACTOR otherwise violates in any substantial way any provisions of the Contract Documents.

OWNER may, after giving CONTRACTOR and the surety seven (7) days written notice and to the extent permitted by laws and regulations, terminate the services of CONTRACTOR, exclude CONTRACTOR from the site and take possession of the Work and of all CONTRACTOR'S tools, appliances, construction equipment and machinery at the site and use the same to full extent they could be used by CONTRACTOR (without liability to CONTRACTOR for trespass or conversion), incorporate in the Work all materials and equipment stored at the site or for which OWNER has paid CONTRACTOR but which are stored elsewhere, and finish the Work as OWNER may deem expedient. In such case CONTRACTOR shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Price exceeds the direct, indirect and consequential costs of completing the Work (including but not limited to fees and charges of engineers, architects, attorneys and other professionals and court and arbitration costs) such excess will be paid to CONTRACTOR. If such costs exceed such unpaid balance, CONTRACTOR shall pay the difference to OWNER. Such costs incurred by OWNER will be approved as to reasonableness by OWNER'S REPRESENTATIVE and/or OWNER and incorporated in a Change Order, but when exercising any rights or remedies under this Paragraph OWNER shall not be required to obtain the lowest price for the Work performed.

13.12.10 Where CONTRACTOR'S services have been so terminated by OWNER, the termination will not affect any rights or remedies of OWNER against CONTRACTOR then existing or which may thereafter accrue. Any retention or payment of moneys due CONTRACTOR by OWNER will not release CONTRACTOR from liability.

13.13 Termination for Convenience of OWNER:

Upon seven (7) days written notice delivered by certified mail to CONTRACTOR, OWNER may, without cause and without prejudice to any other right or remedy, terminate the agreement for OWNER'S convenience whenever OWNER determines that such termination is in the best interests of OWNER. Where the agreement is terminated for the convenience of OWNER, the notice of termination to CONTRACTOR must state

that the Contract is being terminated for the convenience of the OWNER under the termination clause, the effective date of the termination and the extent of termination. Upon receipt of the notice of termination for convenience, CONTRACTOR shall promptly discontinue all Work at the time and to the extent indicated on the notice of termination, terminate all outstanding Subcontractors and purchase orders to the extent that they relate to the terminated portion of the Contract, and refrain from placing further orders and subcontracts, except as they may be necessary, and complete any continued portions of the work.

13.14 Termination by CONTRACTOR:

If the Work should be stopped under an order of any court of other public authority for a period of more than ninety (90) days through no act or fault of CONTRACTOR or of anyone employed by him, or if OWNER'S REPRESENTATIVE and/or OWNER fails to review and approve or state in writing reasons for non-approval of any application for payment within thirty (30) days after it is submitted or if OWNER fails to pay CONTRACTOR within thirty (30) days after presentation by OWNER'S REPRESENTATIVE and/or OWNER of any sum determined to be due, then CONTRACTOR may, upon ten (10) days written notice to OWNER and OWNER'S REPRESENTATIVE stop Work or terminate this Contract and recover from OWNER, payment for all Work executed and any expense sustained. The provisions of this Paragraph shall not relieve CONTRACTOR of the obligations to carry on the Work in accordance with the progress schedule and without delay during disputes and disagreements with OWNER.

ARTICLE 14 - NOTICES & COMPUTATION OF TIME

14.1 Giving Notice:

All notices required by any of the Contract Documents shall be in writing and shall be deemed delivered upon mailing by certified mail, return receipt requested to the following:

CONTRACTOR:

The business address of CONTRACTOR is: as stated in contract

OWNER: **Village of Biscayne Park**

The business address of OWNER is: Village Hall
640 NE 114th Street
Biscayne Park, FL 33161

14.2 Computation of Time:

When any period of time is referred to in the Contract Documents by days it will be calendar days and it will be computed to exclude the first and include the last day of such period. If the last day of the final amended contract time falls on a Saturday or Sunday or

on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation. A calendar day of twenty-four (24) hours measured from midnight to the next midnight shall constitute a day.

ARTICLE 15 – MISCELLANEOUS

15.1 Should OWNER or CONTRACTOR suffer injury or damage to person or property because of any error, omission or act of the other party or of any of the other party's employees or agents or others for whose acts the other party is legally liable, claim will be made in writing to the other party within a reasonable time of the first observance of such injury or damage. The provisions of this Paragraph 15.1 shall not be construed as a substitute for or a waiver of the provisions of any applicable statute of limitations or repose.

15.2 The duties and obligations imposed by these Construction Services General Conditions and the rights and remedies available hereunder to the parties hereto, and, in particular but without limitation, the warranties, guaranties and obligations imposed upon CONTRACTOR and all of the rights and remedies available to OWNER and OWNER'S REPRESENTATIVE thereunder, are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available to any or all of them which are otherwise imposed or available by laws or regulations, by special warranty or guarantee or by other provisions of the Contract Documents, and the provisions of this Paragraph will be as effective as if repeated specifically in the Contract Documents, and the provisions of this Paragraph will survive final payment and termination or completion of the Agreement.

15.3 CONTRACTOR shall not assign or transfer the Contract or its rights, title or interests therein without OWNER'S prior written approval. The obligations undertaken by CONTRACTOR pursuant to the Contract shall not be delegated or assigned to any other person or firm unless OWNER shall first consent in writing to the assignment. Violation of the terms of this Paragraph shall constitute a breach of Contract by CONTRACTOR and the OWNER may, at its discretion, cancel the Contract and all rights, title and interest of CONTRACTOR shall thereupon cease and terminate.

15.4 OWNER reserves the right to audit the records (pertaining to this project) of CONTRACTOR at any time during the performance and term of the Contract and for a period of three (3) years after completion and acceptance by OWNER. If required by OWNER, CONTRACTOR agrees to submit to an audit by an independent certified public accountant selected by OWNER. CONTRACTOR shall allow OWNER to inspect, examine and review the records of CONTRACTOR at any and all times during normal business hours during the term of the Contract.

ARTICLE 16 - BONDS AND INSURANCE

16.1 Construction, Payment and Performance Bonds:

Within fifteen (15) calendar days after issuance of Notice of Award, but in any event prior to commencing Work, CONTRACTOR shall execute and furnish to OWNER a

performance bond and a payment bond, each written by a corporate surety authorized to do business in the State of Florida and having been in business with a record of successful continuous operation for at least five (5) years. The surety shall hold a current certificate of authority from the Secretary of Treasury of the United States as an acceptable surety on federal bonds in accordance with United States Department of Treasury Circular No. 570. If the amount of the Bond exceeds the underwriting limitation set forth in the circular, in order to qualify, the net retention of the surety company shall not exceed the underwriting limitation in the circular and the excess risks must be protected by coinsurance, reinsurance, or other methods, in accordance with Treasury Circular 297, revised September 1, 1978 (31 DFR, Section 223.10, Section 223.11). Further, the surety company shall provide OWNER with evidence satisfactory to OWNER, that such excess risk has been protected in an acceptable manner. The surety company shall have at least the following minimum qualifications in accordance with the latest edition of A.M. Best's Insurance Guide, published by Alfred M. Best Company, Inc., Ambest Road, Oldwick, New Jersey 08858:

Financial Stability A
Financial Size VIII

Two (2) separate bonds are required and both must be approved by the Village Commission. The penal sum stated in each bond shall be the amount equal to the total amount payable under the Contract. The performance bond shall be conditioned that CONTRACTOR perform the Contract in the time and manner prescribed in the Contract. The payment bond shall be conditioned that CONTRACTOR promptly make payments to all persons who supply CONTRACTOR with labor, materials and supplies used directly or indirectly by CONTRACTOR in the prosecution of the Work provided for in the Contract and shall provide that the surety shall pay the same in the amount not exceeding the sum provided in such bonds, together with interest at the maximum rate allowed by law; and that they shall indemnify and save and hold harmless OWNER to the extent of any and all payments in connection with the carrying out of said Contract which OWNER may be required to make under the law.

16.2 Bonds, Reduction After Final Payment:

Such bonds shall continue in effect for one (1) year after final payment becomes due except as otherwise provided by law or regulation or by the Contract Documents with the final sum of said bonds reduced after final payment to an amount equal to twenty five percent (25%) of the Contract Price, or an additional bond shall be conditioned that CONTRACTOR shall correct any defective or faulty Work or material which appears within one (1) year after final completion of the Contract, upon notification by the OWNER except in Contracts which are concerned solely with demolition Work, in which case the twenty five percent (25%) shall not be applicable.

16.3 Duty to Substitute Surety:

If the surety on any Bond furnished by CONTRACTOR is declared bankrupt or becomes insolvent or its right to do business is terminated in the State of Florida or it ceases to meet the requirements of other applicable laws or regulations, CONTRACTOR shall

within five (5) days thereafter substitute another bond and surety, both of which must be acceptable to OWNER.

16.4 INSURANCE

16.4.1 Bidders must submit copies of their current certificate(s) of insurance together with the Bid. Failure to do so may cause rejection of the Bid.

16.4.2 PRIOR TO AWARD OF THE CONTRACT, THE SUCCESSFUL BIDDER SHALL SUBMIT CERTIFICATE(S) OF INSURANCE EVIDENCING THE REQUIRED COVERAGES AND SPECIFICALLY PROVIDING THAT THE VILLAGE OF BISCAYNE PARK IS AN ADDITIONAL NAMED INSURED OR ADDITIONAL INSURED WITH RESPECT TO THE REQUIRED COVERAGE AND THE OPERATIONS OF THE SUCCESSFUL BIDDER UNDER THE CONTRACT. Insurance Companies selected must be acceptable the VILLAGE. All of the policies of insurance so required to be purchased and maintained shall contain a provision or endorsement that the coverage afforded shall not be canceled, materially changed or renewal refused until at least thirty (30) calendar days written notice has been given to VILLAGE by certified mail.

16.4.3 The Successful Bidder shall procure and maintain at its own expense and keep in effect during the full term of the Contract a policy or policies of insurance which must include the following coverage and minimum limits of liability:

(a) Worker's Compensation Insurance for statutory obligations imposed by Worker's Compensation or Occupational Disease Laws, including, where applicable, the United States Longshoremen's and Harbor Worker's Act, the Federal Employer's Liability Act and the Homes Act. Employer's Liability Insurance shall be provided with a minimum of One Hundred Thousand and xx/100 dollars ($100,000.00) per accident. Successful Bidder shall agree to be responsible for the employment, conduct and control of its employees and for any injury sustained by such employees in the course of their employment.

(b) Comprehensive Automobile Liability Insurance for all owned, non-owned and hired automobiles and other vehicles used by the Successful Bidder in the performance of the work with the following minimum limits of liability:

$1,000,000.00	Combined Single Limit, Bodily Injury and Property Damage Liability per occurrence

(c) Comprehensive General Liability with the following minimum limits of liability:

$1,000,000.00	Combined Single Limit, Bodily Injury and Property Damage Liability per occurrence

Coverage shall specifically include the following with minimum limits not less than those required for Bodily Injury Liability and Property Damage:

1. Premises and Operations;
2. Independent Contractors;
3. Product and Completed Operations Liability;
4. Broad Form Property Damage;
5. Broad Form Contractual Coverage applicable to the Contract and specifically confirming the indemnification and hold harmless agreement in the Contract; and
6. Personal Injury coverage with employment contractual exclusions removed and deleted.

16.4.4 CONTRACTOR shall maintain the Products/Completed Operations Liability Insurance for a period of at least two (2) years after final payment for the Work and furnish OWNER with evidence of continuation of such insurance at final payment.

16.4.5 The required insurance coverage shall be issued by an insurance company authorized and licensed to do business in the State of Florida, with the following minimum qualifications in accordance with the latest edition of A.M. Best's Insurance Guide:

Financial Stability B+ to A+

16.4.6 The Successful Bidder shall require each of its sub-contractors of any tier to maintain the insurance required herein (except as respects limits of coverage for employers and public liability insurance which may not be less than $1,000,000.00 for each category), and the Successful Bidder shall provide verification thereof to VILLAGE upon request of VILLAGE.

16.4.7 All required insurance policies shall preclude any underwriter's rights of recovery or subrogation against VILLAGE with the express intention of the parties being that the required insurance coverage protects both parties as the primary coverage for any and all losses covered by the above described insurance.

16.4.8 The Successful Bidder shall ensure that any company issuing insurance to cover the requirements contained in this Contract agrees that they shall have no recourse against VILLAGE for payment or assessments in any form on any policy of insurance.

16.4.9 The clauses "other Insurance Provisions" and "Insurers Duties in the Event of an Occurrence, Claim or Suit" as it appears in any policy of insurance in which VILLAGE is named as an additional named insured shall not apply to VILLAGE. VILLAGE shall provide written notice of occurrence within fifteen (15) working days of VILLAGE's actual notice of such an event.

16.4.10 The Successful Bidder shall not commence work under the Contract until after he has obtained all of the minimum insurance herein described.

6.4.11 The Successful Bidder agrees to perform the work under the Contract as an independent contractor, and not as a sub-contractor, agent or employee of VILLAGE.

16.4.12 Violation of the terms of this paragraph and its sub-parts shall constitute a breach of the Contract and VILLAGE, at its sole discretion, may cancel the Contract and all rights, title and interest of the Successful Bidder shall thereupon cease and terminate.

16.5 OWNER'S Liability and Insurance:

OWNER shall not be responsible for purchasing and maintaining any insurance to protect the interests of CONTRACTOR, subcontractors or others on the Work. OWNER specifically reserves all statutory and common law rights and immunities and nothing herein is intended to limit or waive same including, but not limited to, the procedural and substantive provisions of Florida Statute 768.28 and Florida Statute 95.11.

AMENDMENT TO CONTRACT BETWEEN
THE VILLAGE OF BISCAYNE PARK AND
BEJAR CONSTRUCTION, INC.

WHEREAS, On December 9, 2014, the Village of Biscayne Park (hereinafter the "Village") and Bejar Construction, Inc. (hereinafter the "Contractor") entered into a Contract for the construction of the Public Safety and Administration Annex, which Contract is incorporated herein by reference as Exhibit "1" (hereinafter the "Contract"); and

WHEREAS, Paragraph 3.1 of the Contract states that the work shall be completed no later than June 30, 2015; and

WHEREAS, both parties are desirous of extending the term of the Contract; and

NOW THEREFORE, in consideration of the premises hereof, the mutual promises and agreements contained herein, and the payments to be made to Contractor for services rendered to the Village hereunder, the parties hereby agree as follows:

Section 1. The above recitals are acknowledged and incorporated herein.

Section 2. The Agreement shall be extended for a period of thirty (30) days, up to and including July 30, 2015.

Section 3. All Other Conditions and Terms: All conditions and terms of the Contract between the Village of Biscayne Park and Bejar Construction, Inc. executed on December 9, 2014 not specifically amended herein remain in full force and effect. In the event of any conflict, this Amendment will supersede all other terms. In the event of ambiguity, the most conservative interpretation consistent with the public interest is intended.

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

ATTEST:

VILLAGE OF BISCAYNE PARK, FLORIDA

_____
Maria Camara, Village Clerk

_____
David Coviello, Mayor

APPROVED AS TO FORM:

_____
John J. Hearn, Village Attorney
BEJAR CONSTRUCTION, INC.

BY: _____

_____
(Print Name)

_____
(Title)

State of _____
County of _____

On this, the _____ day of _____, 2015, before me, the undersigned Notary Public of the State of Florida, the foregoing instrument was acknowledged by _____ (name of authorized signer), _____ (title of authorized signer), of BEJAR CONSTRUCTION, INC. on behalf of the corporation.

WITNESS my hand and official seal this ____ day of _____, 2015.

_____
Notary Public, State of

_____
Printed, typed or stamped name of Notary Public exactly as commissioned
Personally known to me, or
Produced identification:

_____
(type of identification produced)

Rick Scott
GOVERNOR

FLORIDA DEPARTMENT of ECONOMIC OPPORTUNITY

Jesse Panuccio
EXECUTIVE DIRECTOR

June 24, 2015

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Ms. Heidi Shafran, Village Manager
Village of Biscayne Park
640 NE 114th Street
Biscayne Park, Florida 33161

Dear Ms. Shafran,

Please be advised that contract #HL018 did not receive continuation funding through the General Appropriations Act for FY2015/2016. Therefore, pursuant to the terms of the referenced agreement and state law, all tasks should be completed by June 30, 2015. Please invoice DEO as soon as possible for work that has been completed to date.

If you have: 1) begun a task prior to June 30, 2015, 2) incurred liabilities related to that task, and 3) will complete the task prior to September 15, 2015, the certified forward period will typically allow for reimbursement for any work on that task. In order to qualify for the certified forward period, tasks must be completed and invoiced by no later than September 15, 2015. Please be advised that no task started after June 30 can be paid or reimbursed under any circumstances.

Thank you for your attention to this matter. If you have any questions, please contact me as soon as possible.

Sincerely,

Jeannie Russell

Jeannie Russell, FCCM
Contract Manager

JMR

An equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. All voice telephone numbers on this document may be reached by persons using TTY/TDD equipment via the Florida Relay Service at 711.

Village of Biscayne Park

Commission Agenda Report

Village Commission Meeting Date: **July 7, 2015**

Subject: **Resolution 2015-37**

Prepared By: **Chief Cornelius McKenna**

Sponsored By: **Staff**

Background

A revised Hold Harmless Agreement for the use of the Medley Police Firearms training Center between the Town of Medley and the Village of Biscayne Park is needed to continue the long term practice of the Town allowing the Village to utilize their facility for firearms training.

Fiscal / Budget Impact: N/A

Recommendation: Approval of Resolution 2015-37

Attachments:

- Resolution 2015-37
- Hold Harmless Agreement

RESOLUTION NO. 2015-37

A RESOLUTION OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, AUTHORIZING THE VILLAGE MANAGER TO EXECUTE A LICENSE AND HOLD HARMLESS AGREEMENT FOR THE USE OF THE MEDLEY POLICE FIREARMS TRAINING CENTER; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS the Village of Biscayne Park Police Department has effectively utilized the Town of Medley's firearms training range for police firearms training for over twenty (20) years; and

WHEREAS, the Town of Medley has provided and continues to provide valuable assistance in classroom and practical training, as well as valuable support and equipment and supplies; and,

WHEREAS, in consideration of the benefits provided by the Town of Medley to the Biscayne Park Police Department, the Village desires to renew the Town of Medley License and Hold Harmless Agreement For Use of the Medley Police Firearms Training Center.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA

Section 1. The foregoing "WHEREAS" clauses are true and correct and hereby ratified and confirmed by the Village Commission.

Section 2. The Village Manager is authorized to execute the Town of Medley License and Hold Harmless Agreement For Use of the Medley Police Firearms Training Center. The agreement, in substantial form, is attached and incorporated by reference into this resolution as exhibit 1.

Section 3. This Resolution shall become effective upon adoption.

PASSED AND ADOPTED this ___day of _____, 2015.

The foregoing resolution upon being put to a vote, the vote was as follows:

_____
David Coviello, Mayor

Mayor Coviello: ____
Vice Mayor Anderson: ____
Commissioner Jonas: ____
Commissioner Ross: ____
Commissioner Watts: ____

Attest:

_____
Maria C. Camara, Village Clerk

Approved as to form:

_____
John J. Hearn, Village Attorney

TOWN OF MEDLEY
TEMPORARY LICENSE AND HOLD HARMLESS AGREEMENT
FOR USE OF THE MEDLEY POLICE FIREARMS TRAINING CENTER

THIS TEMPORARARY LICENSE AND HOLD HARMLESS AGREEMENT (this "Agreement") is made by and between the **THE TOWN OF MEDLEY**, a Florida municipal corporation, herein referred to as the LICENSOR, and The Village of Biscayne Park hereinafter referred to as the LICENSEE, which term shall include, if applicable, the LICENSEE'S officers, agents, employees or representatives and who address is 640 NE 114th St Biscayne Park, FL 33161.

WHEREAS, the LICENSEE desires to use the facilities operated and maintained by the LICENSOR for the purpose of conducting firearms and other related training for its officers, agents, employees or representatives, and the LICENSOR has the appropriate facilities for such, which facilities are known as the MEDLEY POLICE FIREARMS TRAINING CENTER located at 9700 N.W. 97th Avenue, Medley, Florida 33178 (hereinafter the "Facility" or "Premises").

THEREFORE, the parties agree as follows:

1. **GRANT OF TEMPORARY LICENSE.** The LICENSOR hereby grants to the LICENSEE a temporary and revocable license to occupy and use, subject to all terms and conditions stated or referenced herein, and further subject to any other rules and regulations for use of the Facility as the LICENSOR may establish from time to time, the Premises, including available parking areas.

2. **TERM/USE OF PREMISES.** The Facility, its appurtenances and fixtures, may be temporarily occupied and used by the LICENSEE to conduct firearms training and other related activities during such days and dates as are mutually agreeable to the LICENSOR and LICENSEE. All dates and types of training shall be coordinated in advance with the LICENSOR who expressly reserves the right to restrict or modify the use, type, activity, duration or date of any such training as the LICENSOR deems reasonably necessary and/or appropriate.

3. **PAYMENT.** For the license granted by this Agreement, the LICENSEE will p y the LICENSOR the agreed upon rate as set forth in the MEDLEY POLICE FIREAR S

TRAINING CENTER FEE SCHEDULE (the "Range Usage Fee Schedule") attached hereto and incorporated herein. Appropriate payment pursuant to the Range Usage Fee Schedule shall be promptly remitted and made payable to the Town of Medley Police Department's Office without demand. Failure to remit payment within 30 days of use of the facility may result in the accrual of interest at the approved statutory rate and may result in the immediate suspension and/or termination of LICENSEE'S privileges herein.

4. **CONDITION OF PREMISES.** The LICENSEE acknowledges and agrees that it is temporarily using and occupy the Premises without any warranties or representations by LICENSOR as to the condition or suitability of the Premises for the uses intended, and agrees to maintain the Premises in a clean and usable condition and will be responsible for all reasonable necessary and/or appropriate clean up and restoration of the Premises after each use by the LICENSEE. If the Premises are not returned to a clean and usable condition, as determined in the sole discretion of the LICENSOR, the LICENSOR reserves the right to restore the Premises and the cost of such shall be paid by the LICENSEE.

5. **INDEMNITY/HOLD HARMLESS.**

a. If LICENSEE is a county, state or federal governmental entity, LICENSEE agrees to the extent permitted by F.S. § 768.28 or the Federal Tort Claims Act, 28 U.S.C. 2671 et seq. (FTCA) to indemnify and hold LICENSOR harmless from any damages sustained as a result of the LICENSEE's use of the Premises and the negligent or wrongful act or omission of LICENSEE's officers, agents, employees or representatives arising out of its use or occupancy of the Premises.

b. If the LICENSEE is a private or non-governmental agency, LICENSEE agrees, with the respect to its use and occupancy of the Premises to defend LICENSOR, its agents, servant, employees, officers and directors, against any, all and every demand, claim, assertion of liability, or action arising or alleged to have arisen out of any act or omission of LICENSEE, its officers, agents, employees or representatives, and to indemnify and hold LICENSOR harmless for any damages sustained as a result of LICENSEE'S use or occupancy of the Premises, including bodily injury and property damage .

c. The LICENSEE agrees to repair or replace any damage to the Premises and to any real or personal property of the LICENSOR or third parties caused by the acts or omissions of the LICENSEE and occurring while the Premises are under the control and use of LICENSEE, and further agrees to be solely responsible for any award or payment

and expenses (including any right of subrogation) of any workers' compensation claim by any of the LICENSEE'S officers, employees or appointees that may result from the use of the Premises or activities thereon.

6. **THIRD PARTY.** LICENSEE shall not and is expressly prohibited from introducing, inviting or allowing any third parties into the Premises or Facility without the express consent of the LICENSOR. In the event LICENSEE does in fact allow or invite a third party or utilizes the services of a third party for training purposes, LICENSEE agrees to indemnify and hold harmless the LICENSOR from any damage or claims which may result from the acts or omissions of the third party. LICENSOR reserves the right to deny access to any third party, who, in the opinion of LICENSOR, is not qualified to provide such training.

7. **ASSUMPTION OF THE RISK.** Participation in the training and use of the Facility contemplated by this Agreement may carry certain inherent risks or dangers of which a reasonably prudent person would be aware. To that extent, LICENSEE acknowledges, agrees and hereby assumes the risks associated with all training and other related activities contemplated herein and the use of the Facility. LICENSEE agrees to indemnify and hold LICENSOR harmless for any injuries that occur as a result of LICENSEE's use of the Facility. LICENSEE further acknowledges and agrees that LICENSOR does not and shall not provide supervision or control of the Premises during LICENSEE's use of and operations at the Facility, and that LICENSEE shall be solely responsible for all supervision, control, activities and safety of its officers, agents, employees or representatives during such use.

8. **TERMINATION.** This Agreement shall remain in full force and effect until terminated by any party hereto. This Agreement may be terminated, at will, by a party hereto giving written notice thereof to the other party. In the event that LICENSEE terminates this Agreement, LICENSEE shall remain responsible for payment of any outstanding amounts already due and payable to LICENSOR.

9. **REGULATION; COMPLIANCE WITH LAWS; PROHIBITION OF USE OF REAL PHOTOS OR IMAGES.** During the performance of this Agreement, the LICENSEE agrees to and shall comply with any and all administrative, operational and safety rules and regulations established by the LICENSOR, its agents, and/or employees, and all applicable federal, state and local laws, at all times during the use and operation of the Premises by the LICENSEE.

The use or application by LICENSEE, or its officers, agents, employees or representatives, of photographic investigative lineups or mug shots of suspects for training or other related activities, including target or shooting practice, shall be specifically and expressly prohibited at the Facility.

Any breach of any rule or regulation established by the LICENSOR, or applicable laws, shall result in the immediate termination of LICENSEE's use of the Premises and in the LICENSOR'S sole discretion, termination of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Temporary License and Hold Harmless Agreement for use of the Medley Police Firearms Training Center on the day and year stated below.

LICENSOR:

TOWN OF MEDLEY, a Florida municipal corporation

By: _____

Jeanette Said-Jinete, Chief of Police

Date: _____

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged and sworn before me this ____ day of _____, 2015 by Jeanette Said-Jinete, as Chief of Police, of the Town of Medley, Florida, a Florida municipal corporation, who is personally known to me or who has produced his/her driver's license and who did/did not take an oath.

_____

Notary Public, State of Florida at Large

LICENSEE:

_____

By: _____
Signature

Print Name: _____

Date: _____

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged and sworn before me this ____ day of _____, 2015 by _____ [insert name of agency], as _____ [insert title], of _____ [Insert name of agency] who is personally known to me or who has produced his/her driver's license and who did/did not take an oath.

_____
Notary Public, State of Florida at Large

Medley Police Firearm Training Center
2015 - Fee Chart

Range Usage	Day Time Fee 07:00 - 15:00	Night Time Fee 15:00 - 23:00	Minimum Usage
Full Day	$360.00	$360.00	8 hours
Half Day	$180.00	$180.00	4 hours
Weekends	$500.00	$500.00	4/8 hours
Cancellation	$75.00	$75.00	Two Day Notice
Classroom	$75.00	$75.00	4/8 hours
No Show	$75.00	$75.00	No Call

Village of Biscayne Park

Commission Agenda Report

Village Commission Meeting Date: **July 7, 2015**

Subject: **Public Hearing - Variance Request**

Prepared By: **Maria C. Camara, Village Clerk**

Sponsored By: **Staff**

Background

Property owners Gary & Jovita Nalepa at 775 NE 113th St. have submitted a request for a variance of the zoning code of the Village of Biscayne Park. The section of the code to be appealed is as follows:

11.1.2(c) – Accessory structures should not be located in a required setback. Table A, Zone B – Minimum setback – street property line is 30'.

The variance being requested is to allow an accessory structure (pool) to be located 11.9' into side front setback.

The property owners filled out the Variance Application and paid the fee for the variance, advertising and notices. Along with the application, they have provided their letter of intent addressing the four required criterias, a recent survey, and architect's plans.

On June 1, 2015, the variance request was heard before the Planning & Zoning Board. Property owners in the immediate area were notified of the meeting by mail. The Board approved the request, 3/0.

Next the variance request was placed on the agenda for the July 7th Commission meeting. Property owners within a 500' radius of the property were noticed (65 properties). A notice was also published twice in the newspaper during the month of June.

Attachments

- Variance Application
- Permit Application
- Letter of Intent
- Survey (2 pages)
- Architect drawings (3 pages)
- Impervious & Pervious Space Calculation Form
- Copy of notification of P&Z meeting on June 1st
- Copy of Notification of Commission meeting on July 7th
- Copy of two (2) ads placed in the DBR

VILLAGE OF BISCAYNE PARK
640 NE 114th St. Biscayne Park, FL 33161
Tel: 305 899 8000 Fax: 305 891 7241

VARIANCE APPLICATION

Pursuant to Section 15.3 of the Code of Ordinances of the Village of Biscayne Park, Florida, a property owner may request a variance of the zoning code.

Date: 4-21-15

PROPERTY ADDRESS: 775 NE 113 Street **BISCAYNE PARK, FL 33161**

PROPERTY OWNER

Name: Jovita (FIRST) Nalepa (LAST) (MI)

Mailing Address: 775 NE 113 ST City: Biscayne Park ST: Fl Zip: 33161

Telephone: (786) 277 - 0389 ☐ Home ☑ Cell ☐ Work

E-Mail Address: JovitaNalepa@gmail.com

Application is made for (type of variance requested): Request to allow placement of swimming pool + patio on side yard of corner lot

OWNER AFFIDAVIT

I, Jovita Nalepa, being first duly sworn, depose and say that I am the legal owner of record of the property described and which is the subject of the proposed variance, and that all statements and representations made are true and correct.

I acknowledge that I am subject to penalties of law, including the laws on perjury, and to possible revocation of this variance for any false or misleading statements in this application.

Signature of Property Owner

State of Florida

County of Dade

On this 21st day of April, 2015 before me, the undersigned notary public, personally appeared Jovita Nalepa, known to me to be the person whose name is subscribed to the within instrument and acknowledged that he/she executed the same for the purposes therein contained.

✓ Personally Known -OR-

___ Produced ID - Type of ID: _____

Notary Public

YORLENY M. HERNANDEZ
MY COMMISSION # FF 022108
EXPIRES: September 27, 2017
Bonded Thru Notary Public Underwriters

Date: 4-21-15

PROPERTY ADDRESS: 775 NE 113 ST **BISCAYNE PARK, FL 33161**

PLANNING & ZONING BOARD REVIEW

Section(s) of the Code to be appealed for the variance request:

11.1.2(c) Accessory structures should not be located in a required setback. Table A - Zone B - Minimum setback - Street property line 30 ft. Variance Request: Allow pool 11'9 ft into side front setback.

Date of Meeting: 6/1/15

APPROVAL: ☐ ☐ ☐ ☐ ☐ ☐

DENIED: ☐ ☐ ☐ ☐ ☐

REASON FOR DECISION:

PAID
CK. NO 4001
DATE 5-15-15

Tel: 305 899 8000
Fax: 305 891 7241

VILLAGE OF BISCAYNE PARK

PERMIT APPLICATION

Village of Biscayne Park
640 NE 114th Street
Biscayne Park, FL 33161
building@biscayneparkfl.gov

DATE:

PERMIT #:

JOB ADDRESS: 775 NE 113 ST

PROPERTY OWNER INFORMATION

Name: GARY AND JOVITA NALEPA
Address: 775 NE 113 ST
City: BISCAYNE PARK ST FL Zip: 33161
Telephone: 786 - 277 - 0389
E-Mail:

CONTRACTOR INFORMATION

Name: ESSIG POOLS, INC
Address: 1800 NE 151 ST
City: NORTH MIAMI ST FL Zip: 33162
Telephone: 305 - 949 - 0000
License No.: CPC052505

PERMIT TYPE (Check ONLY one)

- [x] BUILDING
- [ ] ELECTRICAL
- [ ] MECHANICAL
- [ ] PLUMBING/GAS
- [ ] PAVING/DRAINAGE
- [ ] ROOFING
- [ ] CHANGE CONTRACTOR
- [ ] EXTENSION
- [ ] RENEWAL
- [ ] SHOP DRAWING
- [ ] PAINTING (exterior only)
- [ ] FENCE

TYPE OF WORK (Check ONLY one)

- [ ] NEW CONSTRUCTION
- [x] ADDITION DETACHED
- [ ] ALTERATION EXTERIOR
- [ ] REPAIR / REPLACE
- [ ] ALTERATION INTERIOR
- [ ] ADDITION ATTACHED

ESTIMATED JOB COST: $25,000

SQUARE FOOTAGE: 1113

ARCHITECT / ENGINEER INFORMATION

Name: PFEIFFER ENGINEERING
Address: 8754 SW 206 LANE
City: CUTLER BAY ST FL Zip: 33189
Telephone: 786 - 235 - 2435
License No.: 12292

PROPERTY INFORMATION

FOLIO NO: 17 - 2231 - 003 - 0620

- [x] SINGLE FAMILY
- [ ] DUPLEX
- [ ] OTHER:

DESCRIPTION OF WORK

NEW SWIMMING POOL AND PAVER DECK

APPLICATION IS HEREBY submitted to obtain a PERMIT to do work and installations as indicated. I certify that no work has commenced prior to the issuance of a permit and that all work will be performed to meet the standards of all laws regulating construction in the Village of Biscayne Park. If work has commenced without such permit, a double fee will be applied to the permit cost. I understand that separate permits must be secured for each permit type. **OWNER'S AFFIDAVIT:** I certify that all the foregoing information is accurate, and that all work will be done in compliance with all applicable laws regulating construction and zoning. Furthermore, I authorize the above-named contractor to do the work stated. **AGENT'S AFFIDAVIT:** If an agent is representing the owner, a separate affidavit must be completed and attached herewith authorizing this substitution. A tenant can submit on behalf of the owner with a notarized letter of acknowledgement. **WARNING TO OWNER: Your failure to record a Notice of Commencement may result in paying twice for improvements to your property. If you intend to obtain financing, you must consult with your lender or an attorney BEFORE recording your Notice of Commencement.**

Signature of Owner or Agent — Date: 4/23/15
Print Name (Owner or Agent): Jovita Nalepa
STATE OF FLORIDA, COUNTY OF Dade
Sworn to and subscribed before me this 23 day of April 20 15.
NOTARY FOR OWNER OR AGENT
Personally Known OR Provided ID
YORLENY M. HERNANDEZ MY COMMISSION # FF 022108 EXPIRES: September 27, 2017 Bonded Thru Notary Public Underwriters

Signature of Qualifier — Date: 4/23/15
Print Name (Qualifier): DANIEL ESSIG
STATE OF FLORIDA, COUNTY OF DADE
Sworn to and subscribed before me this 23 day of April 20 15.
NOTARY FOR QUALIFIER
Personally Known OR Provided ID
YORLENY M. HERNANDEZ MY COMMISSION # FF 022108 EXPIRES: September 27, 2017 Bonded Thru Notary Public Underwriters

PLANNING & ZONING BOARD
Date: 5/14/15
- [ ] Approved
- [x] Not Approved
By

BASE FEE: $

INSP FEE: $

Discipline	AP	DAP
Electrical		
Mechanical		
Plumbing		
Roofing		
Bldg Official		

April 21, 2015

TO: Village of Biscayne Park

RE: Letter of Intent
Variance Request for
775 NE 113 St, Biscayne Park
New Swimming Pool and Paver Patio

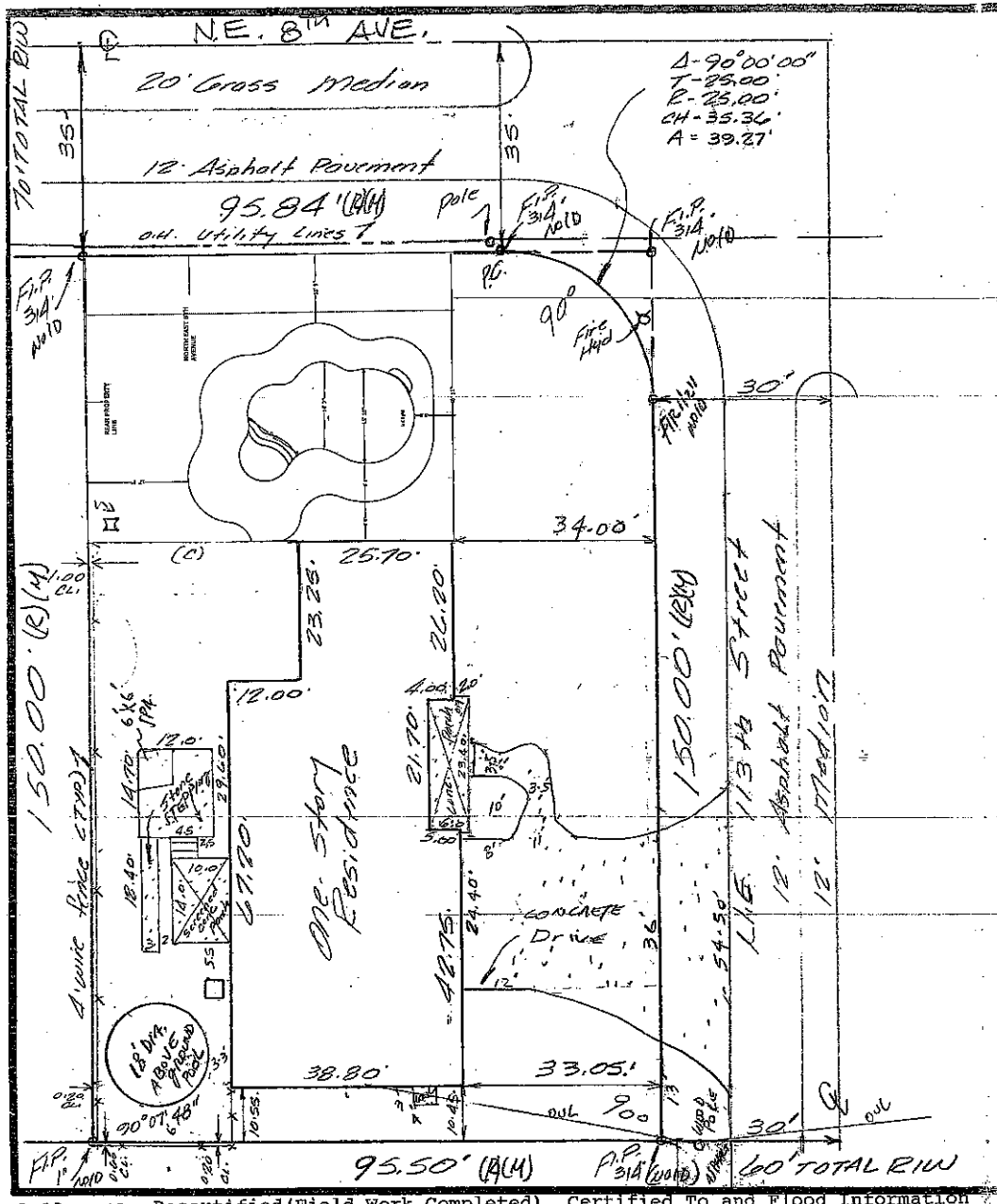
1. Request is to allow swimming pool and patio installation on corner lot. Lot size and house placement does not allow pool and patio to be placed behind house structure.

2. Approval of said request will not impair nor be detrimental to the public welfare of the community and will allow applicant the enjoyment of property as others are allowed in community.

Signature of home owner

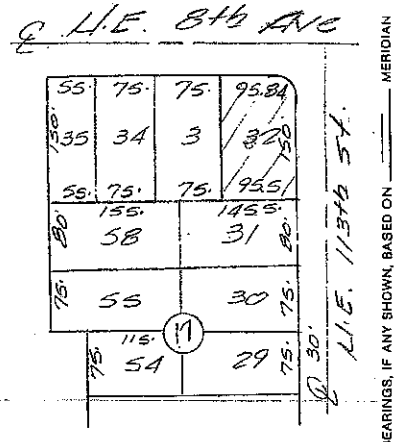
04/21/15
Date

attachments:
Application
Survey with improvements indicated
Dimensional Drawing of improvements



This property described as:
Lot 32, Block 17 GRIFFING BISCAYNE PARK ESTATES, according to the plat thereof, as recorded in Plat Book 14, Page 1 of the Public Records of Miami-Dade County, Florida.

Note:
Page 1 of 2 is not complete without Page 2 of 2 with corresponding Survey #.



BEARINGS, IF ANY SHOWN, BASED ON ____ MERIDIAN

NOTE:
L.F. ELEV. = 7.23 denotes lowest habitable floor elevation.
Elevations shown refer to N.G.V.D. 1929.
Lowest Adjacent Grade Elev. = 5.50
B.M. # B-52-R ELEV. = 4.20
(MIAMI-DADE COUNTY)
Garage Elev. = 5.59
E.R.P. N/A

A BOUNDARY SURVEY
We hereby certify that this survey conforms to the Minimum Technical Standards for Land Surveying in the State of Florida, as outlined in Rules 5J-17,(Florida Administrative Code),as adopted by the Department of Agriculture and Consumer Services, Board of Professional Surveyors and Mappers in September,1981, as amended, pursuant to Chapter 472.027 of the Florida Statutes,and is true and correct to the best of my knowledge and belief.

Francisco F. Fajardo
FL. PROF. SURVEYOR & MAPPER NO. 4767

PROPERTY OF: Nalepa, Gary and Jovita, 775 N.E. 113th Street Biscayne Park, Florida 33161-

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF FLORIDA LICENSED SURVEYOR AND MAPPER.

A BOUNDARY SURVEY
I hereby certify that the survey represented hereon meets the minimum technical standards set forth by the Board of Land Surveyors in chapter 61G17-6 Florida Administrative Code pursuant to Section 472.027, Fla. Statutes. There are no encroachments, overlaps, easements appearing on the Plat other than as shown hereto.

Fl. Reg. Land Surveyor No. 4327
RENE AIGUESVIVES

LANNES and GARCIA, INC. 7239
PROFESSIONAL SURVEYING AND MAPPING
LANNES & GARCIA, INC
L.B. #2098
FRANCISCO F. FAJARDO PSM #4767 (QUALIFIER)
385 Alhambra Circle, Suite #C, Coral Gables, Florida 33134
PH (305) 666-7909 FAX (305) 442-2530
lannesgarcia@yahoo.com

DATE	SCALE	DRAWN BY	DRWG. NO
7-8-96	1"=20'	F.J.	43793

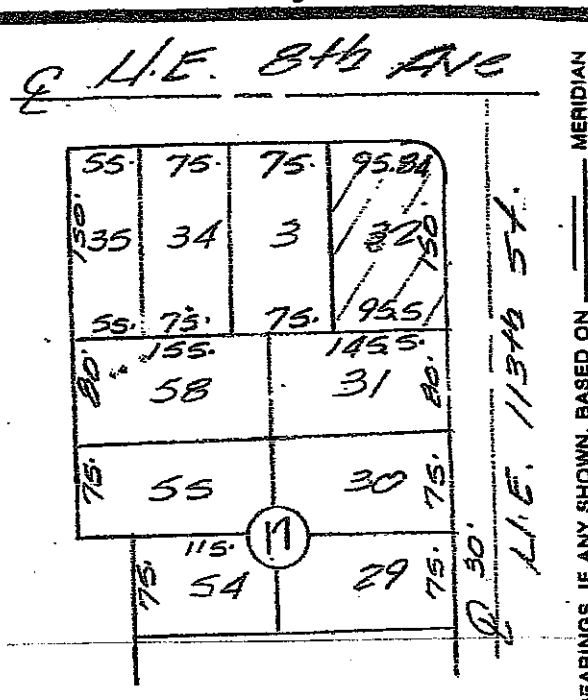
3-23-2012 Recertified(Field Work Completed), Certified To and Flood Information Revised. F.F. #4767

11-11-96 washer slab added. RA-RLS#4327

222699

This property described as:
Lot 32, Block 17 GRIFFING BISCAYNE PARK ESTATES, according to the plat thereof, as recorded in Plat Book 14, Page 1 of the Public Records of Miami-Dade County, Florida.

Note:
Page 1 of 2 is not complete without Page 2 of 2 with corresponding Survey #.



Location Map
Scale 1" = 150'
North

BEARINGS, IF ANY SHOWN, BASED ON _____ MERIDIAN

NOTE:
L.F. ELEV. = 7.23 denotes lowest habitable floor elevation.
Elevations shown refer to N.G.V.D. 1929.
Lowest Adjacent Grade Elev. = 5.50
B.M. # B-52-R ELEV. = 4.20
(MIAMI-DADE COUNTY)
Garage Elev. = 5.59
E.R.P. N/A

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FRANCISCO F. FAJARDO
FL. PROF. SURVEYOR & MAPPER NO. 4767

PROPERTY OF: Nalepa, Gary and Jovita, 775 N.E. 113th Street Biscayne Park, Florida 33161-7239

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF FLORIDA LICENSED SURVEYOR AND MAPPER.

A BOUNDARY SURVEY
I hereby certify that the survey represented hereon meets the minimum technical standards set forth by the Board of Land Surveyors in chapter 61G17-6 Florida Administrative Code pursuant to Section 472.027, Fla. Statutes. There are no encroachments, overlaps, easements appearing on the Plat other than as shown hereto.

Fl. Reg. Land Surveyor No. 4327
RENE AIGUESVIVES

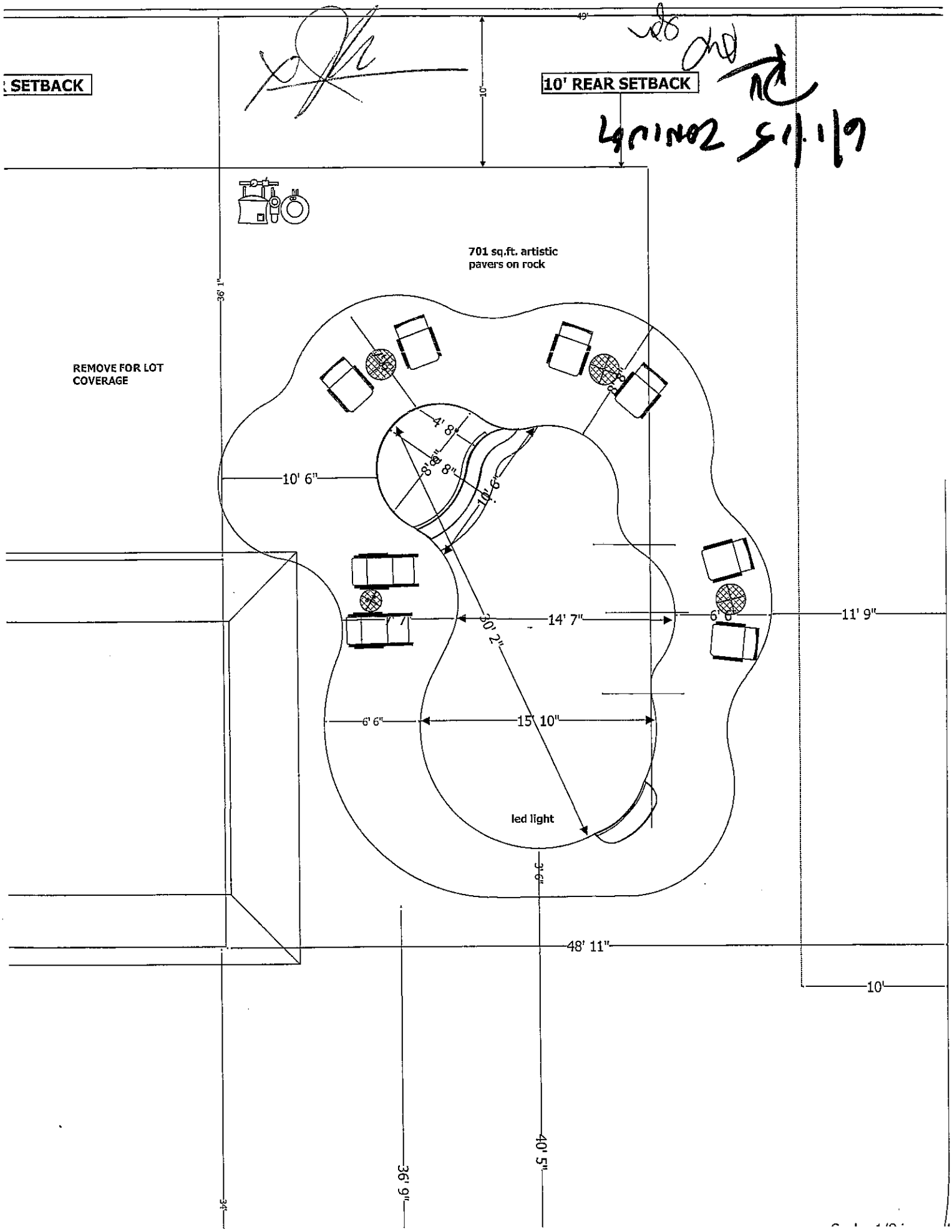
LANNES and GARCIA, INC.

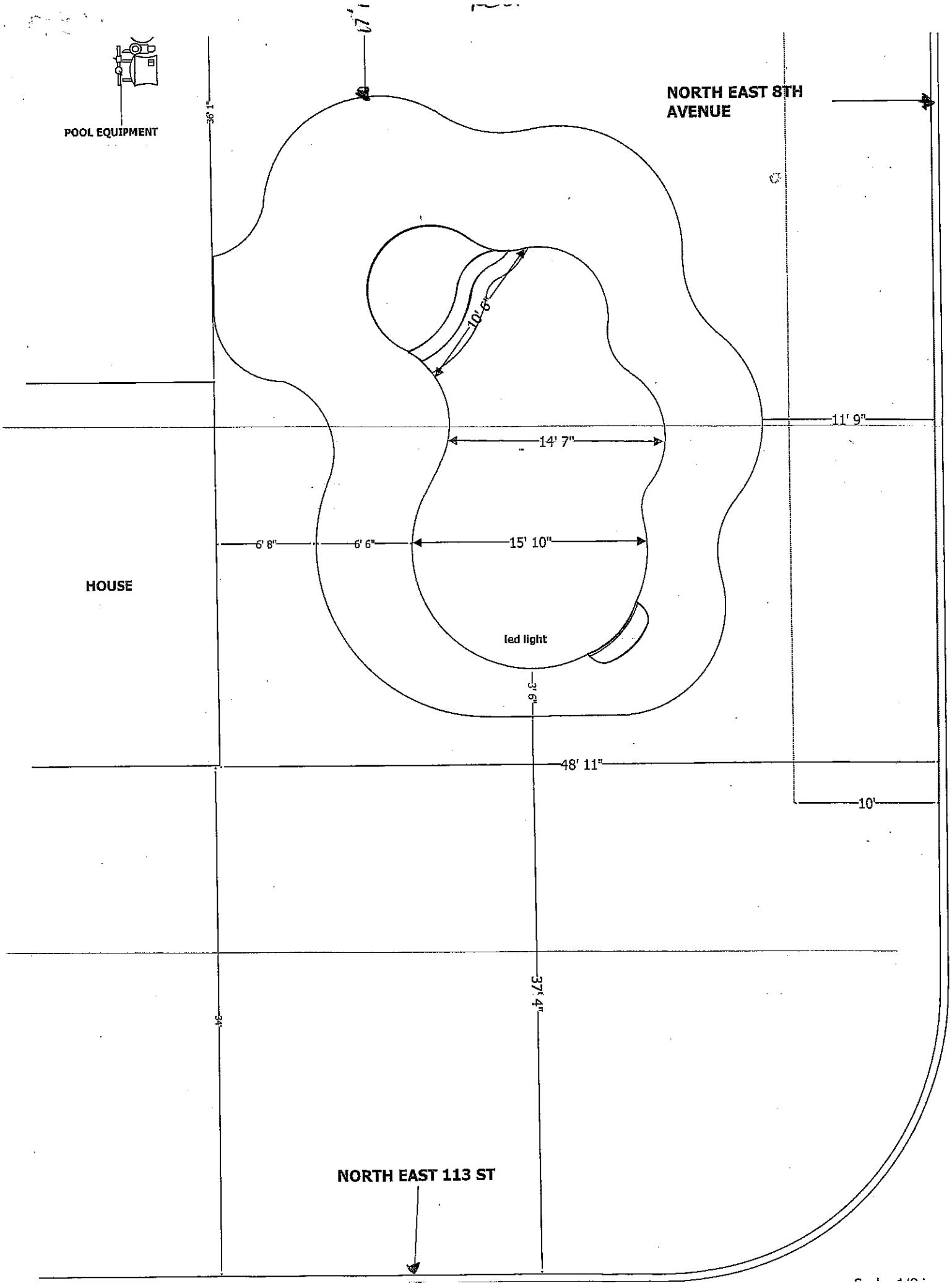
PROFESSIONAL SURVEYING AND MAPPING
LANNES & GARCIA, INC
L.B. #2098
FRANCISCO F. FAJARDO PSM #4767 (QUALIFIER)
385 Alhambra Circle, Suite #C, Coral Gables, Florida 33134
PH (305) 666-7909 FAX (305) 442-2530
lannesgarcia@yahoo.com

DATE	SCALE	DRAWN BY	DRWG. NO
7-8-96	1" = 20'	K.J.	43793

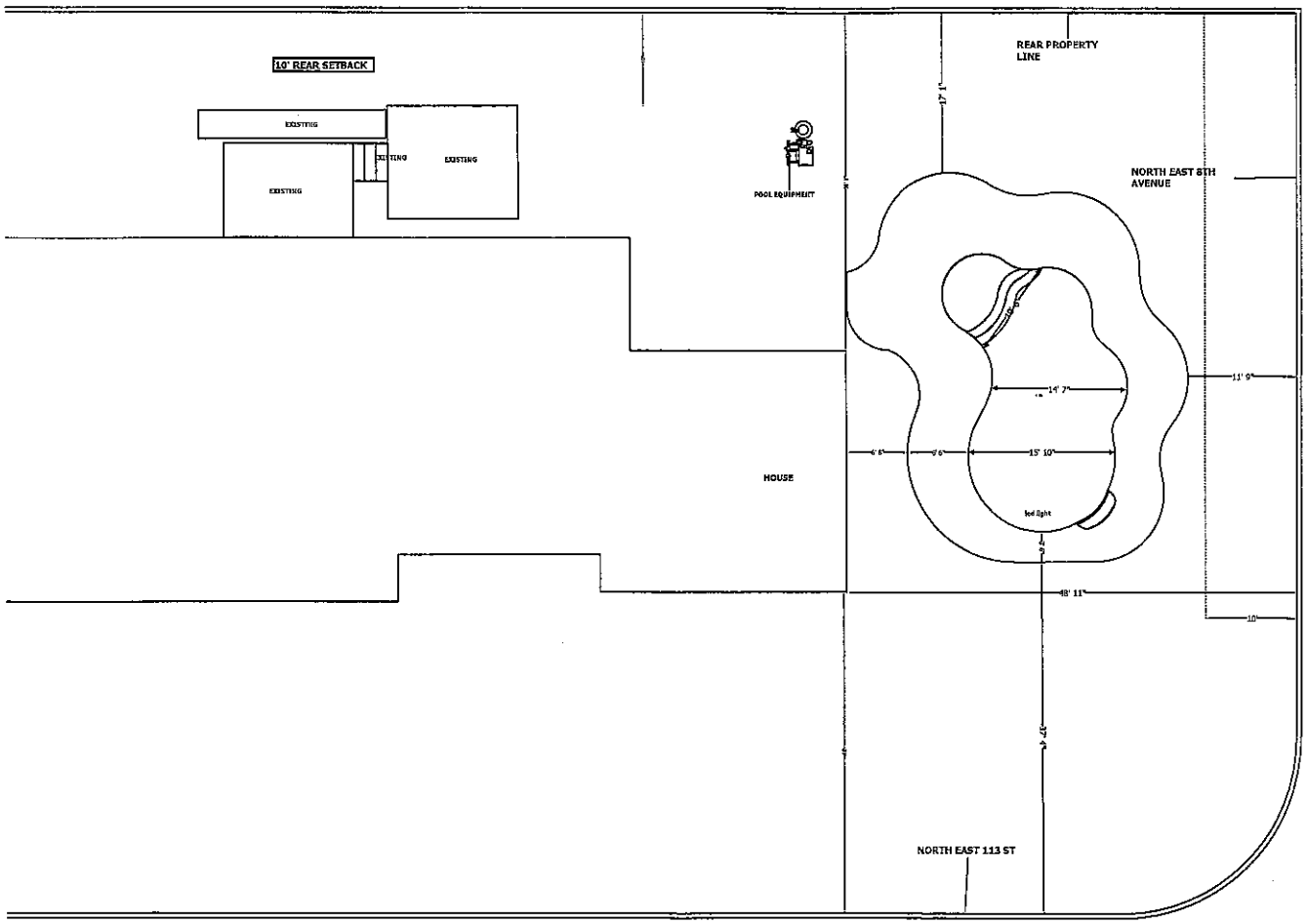
11-11-96 washer slab added. RA RLS #4327

222699


SETBACK
10' REAR SETBACK
49'
10'
701 sq.ft. artistic pavers on rock
REMOVE FOR LOT COVERAGE
36' 1"
10' 6"
4' 8"
8' 8"
8' 8"
10' 6"
14' 7"
30' 2"
6' 6"
11' 9"
6' 6"
15' 10"
led light
3' 6"
48' 11"
10'
40' 5"
36' 9"
34'


POOL EQUIPMENT
NORTH EAST 8TH AVENUE
36' 1"
10' 6"
11' 9"
14' 7"
6' 8"
6' 6"
15' 10"
HOUSE
led light
3' 6"
48' 11"
10'
37' 4"
34'
NORTH EAST 113 ST

1/20 Scale


10' REAR SETBACK
EXISTING
EXISTING
EXISTING
EXISTING
POOL EQUIPMENT
REAR PROPERTY LINE
17' 1"
NORTH EAST 8TH AVENUE
14' 7"
11' 9"
6' 6"
9' 6"
15' 10"
HOUSE
Pool light
48' 11"
10
37' 6"
NORTH EAST 113 ST

The Village of Biscayne Park
640 NE 114th St., Biscayne Park, FL 33161
Telephone: 305-899-8000 Facsimile: 305 891 7241

IMPERVIOUS & PERVIOUS SPACE CALCULATION
(Impervious section cannot exceed **40%**)

TYPE OF IMPROVEMENT ☐ PAVING ☐ ADDITION ☑ POOL ☑ DECK/PATIO ☐ SLAB

Owner Name: Jovita Nalepa

Contractor Name: Essig Pools

Job Address: 775 NE 113 ST

	AREA (SQ. FT.)
TOTAL LOT AREA:	14,325
PRIMARY BUILDING (HOUSE):	3108
PORCHES/PATIOS/WALKWAYS/CONCRETE SLABS (NO WOOD DECKS:	594
DRIVEWAYS (CIRCULAR/BACKOUT):	905
POOL:	412
OTHER: - Patio - Pavers	701
TOTAL IMPERVIOUS AREA =	5720

TOTAL IMPERVIOUS AND PERVIOUS PERCENTAGES
[(TOTAL IMPERVIOUS / TOTAL LOT AREA) X 100 = IMPERVIOUS %]

Impervious % = 39.93%

IMPERVIOUS SECTION CANNOT EXCEED **40%**
Biscayne Park Code Section 8.4.1 (c)

Pervious % = 60.06%

I certify that all the foregoing information is accurate and that all work will be done in compliance with all applicable laws regulating construction and zoning.

Property Owner Signature (required) — Date 04/21/15

Essig Pools — Contractor Signature — Date 4/21/15

The Village of Biscayne Park
640 NE 114th St., Biscayne Park, FL 33161
Telephone: 305-899-8000 Facsimile: 305 891 7241

May 25, 2014

Property Owner
769 NE 113th St
Biscayne Park, FL 33161

NOTICE OF PUBLIC HEARING
NON-USE VARIANCE REQUEST

Notice is hereby given that the Planning & Zoning Board of the Village of Biscayne Park, Florida, will hear the following non-use variance request at the Planning & Zoning Board Meeting to be held on **Monday, June 1, 2015, at 6:30** at the Ed Burke Recreation Center, 11400 NE 9th Court, Biscayne Park, FL 33161.

Gary & Jovita Nalepa – 775 NE 113th St
Variance Request: Accessory Structure (Pool) in the Setback

All documentation pertaining to this notice may be inspected by the public at the Office of the Village Clerk in Village Hall, 640 NE 114th Street. Interested parties may appear at the meeting and be heard with respect to the proposed Ordinances.

In accordance with the provision of F.S. Section 286.0105, should any person seek to appeal any decision made by the Board with respect to any matter considered at this meeting, such person will 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.

In accordance with the Americans with Disabilities Act of 1990, persons who require special accommodation to participate in the proceedings should call the Village Clerk's office at (305) 899-8000 no later than (4) days prior to the proceeding for assistance. On day of meeting, if called in by 11:00am, we will do our best to accommodate your request.

The Village of Biscayne Park
640 NE 114th St., Biscayne Park, FL 33161
Telephone: 305-899-8000 Facsimile: 305 891 7241

June 8, 2015

Property Owner
702 NE 114th St
Biscayne Park, FL 33161

NOTICE OF PUBLIC HEARING
NON-USE VARIANCE REQUEST

Notice is hereby given that the Village Commission of the Village of Biscayne Park, Florida, will hear the following non-use variance request at the regular Commission Meeting to be held on **Tuesday, July 7, 2015, at 7:00pm** at the Ed Burke Recreation Center, 11400 NE 9th Court, Biscayne Park, FL 33161.

Gary & Jovita Nalepa – 775 NE 113th St
Variance Request: Accessory Structure (Pool) in the Setback

All documentation pertaining to this notice may be inspected by the public at the Office of the Village Clerk in Village Hall, 640 NE 114th Street. Interested parties may appear at the meeting and be heard with respect to the proposed Ordinances.

In accordance with the provision of F.S. Section 286.0105, should any person seek to appeal any decision made by the Board with respect to any matter considered at this meeting, such person will 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.

In accordance with the Americans with Disabilities Act of 1990, persons who require special accommodation to participate in the proceedings should call the Village Clerk's office at (305) 899-8000 no later than (4) days prior to the proceeding for assistance. On day of meeting, if called in by 11:00am, we will do our best to accommodate your request.

Pieter A. Bockweg, Executive Director
Omni and Midtown Redevelopment District
Community Redevelopment Agencies
15-181/2450792M

MI-DADE COUNTY, FLORIDA
PUBLIC NOTICE
SUNSHINE NOTICE

EN that a **Sunshine Meeting** between Bianca Caviglia
, Office of the Honorable Juan C. Zapata, Miami-Dade
ssioner, District 11; and Sean McCrackine and Adele
f the Honorable Daniella Levine Cava, Miami-Dade
ssioner, District 8, is scheduled to take place on
**me 10, 2015, at 9:00 AM, to discuss Miami-Dade
lc Plan.** This meeting is scheduled to take place at the
k Center, 111 N.W. First Street, 3rd Floor Conference
orida 33128.

ties may appear at the time and place specified.

decides to appeal any decision made by any board,
mission with respect to any matter considered at its
g, will need a record of proceedings. Such persons may
that a verbatim record of the proceedings is made,
timony and evidence upon which the appeal is to be

unty provides equal access and equal opportunity in
l does not discriminate on the basis of disability in its
vices. For material in alternate format, a sign language
er accommodations, please call 305-375-1293 or send
@miamidade.gov.

HARVEY RUVIN, CLERK
CHRISTOPHER AGRIPPA, DEPUTY CLERK
15-172/2450760M

General Notices

MONS
CONSIN CIRCUIT
AUKEE COUNTY
CV000601
inity
1 –

Hialeah, FL 33016
Individually,
Defendant.
To each person named above as a Defendant:
You are hereby notified that the Plaintiff named above has filed a

email to: clerkocc@miamidade.gov

HARVEY RUVIN, CLERK
CHRISTOPHER AGRIPPA, DEPUTY CLERK
6/10 15-184/2450861M

NOTICE

Public Notice is hereby given that the following items have been received by the Miami Beach Police Department as Lost/Abandoned Property. If the owner does not come forth and make a claim within 45 days of this notice's publication, said items will be disposed of according to Florida Statute 705.103 which may include retention for use by the unit of Government, donation to a charitable organization, sale of property, or trade with another unit of local Government or State Agency.

1. Blue cell phone found in the vicinity of 1850 COLLINS AVE DORCHESTER HOTEL.
2. Black Apple I Phone in a white case found in the vicinity of the MIAMI BEACH POLICE DEPARTMENT.
3. Silver and Black I Phone found in the vicinity of 12 ST & PENN AV.
4. Black Sony cell phone in Black case found in the vicinity of 10 ST & OCEAN DR.
5. Black/Blue Samsung Cell phone found in the vicinity of DADE BLVD & MERIDIAN AVE.
6. Black/Blue LG Cell phone found in the vicinity of the MIAMI BEACH POLICE DEPARTMENT.
7. Black I-Phone 4 found in the vicinity of 7ST & BEACH.
8. White Cell Phone found in the vicinity of 1100 WASHINGTON AVE.
9. Black Samsung Galaxy Star GT-S7262 Cell Phone found in the vicinity of 1001 OCEAN DR.
10. Black LG Flip Phone found in the vicinity of the MBPD JAIL.
11. Olive and Green Electra Cruiser Bicycle found in the vicinity of 11TH ST & PENNSYLVANIA AVE.

If the owner wishes to make a claim, that individual should contact the below listed Supervisor.

Proof of ownership is required!

Miami Beach Police Department
Property & Evidence Unit
Sergeant Jorge Alessandri
305-673-7960

Monday through Friday (0700 - 1530) Excluding Weekends and Holidays
6/10-17 15-139/2450243M

NOTICE OF PUBLIC HEARING
VILLAGE OF BISCAYNE PARK

NOTICE IS HEREBY GIVEN that the Village Commission of the Village of Biscayne Park, Florida will hear the following non-use variance request at the Regular Commission Meeting to be held on **Tuesday, July 7, 2015, at 7:00PM,** at the **Ed Burke Recreation Center located at 11400 NE 9th Court, Biscayne Park, FL 33161.**

Pursuant to Section 15.3 of the Code of Ordinances of the Code of Biscayne Park, Florida, the property owners hereby seek the following variance from the Village Code for their property located at:

Gary & Jovita Nalepa - 775 NE 113th St
Variance Request: Accessory Structure (Pool) in the Setback

All documentation pertaining to this notice may be inspected by the public at the Office of the Village Clerk in Village Hall, 640 NE 114th Street. Interested parties may appear at the meeting and be heard with respect to the proposed Ordinance.

In accordance with the provision of F.S. Section 286.0105, should any person seek to appeal any decision made by the Commission with respect to any matter considered at this meeting, such person will 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.

In accordance with the Americans with Disabilities Act of 1990, persons who require special accommodation to participate in the proceedings should call the Village Clerk's office at (305) 899-8000 no later than 48 hours prior to the proceeding for assistance. On day of meeting, if called in by 11:00am, we will do our best to accommodate your request.

Maria Camara, Village Clerk
6/10-17 15-179/2450783M

NOTICE OF PUBLIC HEARING
VILLAGE OF BISCAYNE PARK

NOTICE IS HEREBY GIVEN that the Village Commission of the Village of Biscayne Park, Florida will hear the following non-use variance request at the Regular Commission Meeting to be held on **Tuesday, July 7, 2015, at 7:00PM,** at the **Ed Burke Recreation Center located at 11400 NE 9th Court, Biscayne Park, FL 33161.**

Pursuant to Section 15.3 of the Code of Ordinances of the Code of Biscayne Park, Florida, the property owners hereby seek the following variance from the Village Code for their property located at:

Gary & Jovita Nalepa - 775 NE 113th St
Variance Request: Accessory Structure (Pool) In the Setback

All documentation pertaining to this notice may be inspected by the public at the Office of the Village Clerk in Village Hall, 640 NE 114th Street. Interested parties may appear at the meeting and be heard with respect to the proposed Ordinance.

In accordance with the provision of F.S. Section 286.0105, should any person seek to appeal any decision made by the Commission with respect to any matter considered at this meeting, such person will 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.

In accordance with the Americans with Disabilities Act of 1990, persons who require special accommodation to participate in the proceedings should call the Village Clerk's office at (305) 899-8000 no later than 48 hours prior to the proceeding for assistance. On day of meeting, if called in by 11:00am, we will do our best to accommodate your request.

Maria Camara, Village Clerk

6/10-17 15-179/2450783M

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Village of Biscayne Park

Commission Agenda Report

Village Commission Meeting Date: **July 7, 2015**

Subject: **Resolution 2015-38**

Prepared By: **Maria C. Camara, Village Clerk**

Sponsored By: **Staff**

Background

The Florida League of Cities will hold its Annual Conference on August 13-15, 2015, in Orlando, Florida. The League stresses the importance of having each municipality designate one official to be the voting delegate for the election of League leadership, and the adoption of resolutions that are undertaken during the conference.

The League requires that each municipality submit their voting delegate by no later than August 7, 2015.

Fiscal/Budget Impact

None.

Recommendation

For the Commission to discuss and appoint a voting delegate to represent the Village of Biscayne Park at the FLC Annual Conference on August 13-15, 2015, in Orlando, Florida.

Attachments

- Resolution 2015-38
- May 20, 2015 Letter from Michael Sittig, Executive Director of the Florida League of Cities

RESOLUTION 2015-38

RESOLUTION OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK DESIGNATING THE VOTING DELEGATE FOR THE FLORIDA LEAGUE OF CITIES 89TH ANNUAL CONFERENCE TO BE HELD ON AUGUST 13-15, 2015, IN ORLANDO, FLORIDA; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Village of Biscayne Park ("Village") is a member municipality of the Florida League of Cities ("FLC"); and,

WHEREAS, the FLC will hold its 89th Annual Conference on August 13-15, 2015, in Orlando, Florida; and

WHEREAS the FLC requests that each municipality designate one official to be the voting delegate for purposes of election of FLC leadership and adoption of resolutions undertaking during the business meeting section of the conference; and

WHEREAS, the designated voting delegate attending the conference shall make decisions that determine the direction of FLC.

NOW, THEREFORE, BE IS RESOLVED BY THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA:

Section 1: That the above recitals are true and correct and are incorporated herein by this reference.

Section 2: _____ is appointed as the voting delegate representing the Village at the FLC 89th Annual Conference, August 13-15, 2015, in Orlando, Florida.

Section 3: This resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED this ____day of _____ 2015.

The foregoing resolution upon being put to a vote, the vote was as follows:

Mayor Coviello: ___
Vice Mayor Anderson: ___
Commissioner Jonas: ___
Commissioner Ross: ___
Commissioner Watts: ___

_____
David Coviello, Mayor

Attest:

_____
Maria C. Camara, Village Clerk

Approved as to form:

_____
John J. Hearn, Village Attorney

301 South Bronough Street • Suite 300 • P.O. Box 1757 • Tallahassee, FL 32302-1757 • (850) 222-9684 • Fax (850) 222-3806 • www.floridaleagueofcities.com

TO: Municipal Key Official

FROM: Michael Sittig, Executive Director

DATE: May 20, 2015

SUBJECT: 89th Annual FLC Conference – *Florida Cities: A Public Conversation*
VOTING DELEGATE INFORMATION
August 13-15, 2015 – World Center Marriott, Orlando

As you know, the Florida League of Cities' Annual Conference will be held at the World Center Marriott, Orlando, Florida on August 13-15. This year the theme for this year's conference is *Florida Cities: A Public Conversation*, which will provide valuable educational opportunities to help Florida's municipal officials serve their citizenry more effectively.

It is important that each municipality designate one official to be the voting delegate. Election of League leadership and adoption of resolutions are undertaken during the business meeting. Voting delegates will also adopt the FLC 2016 Legislative Action Agenda because the 2016 Legislative Session will begin early next year. 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 for 2014.

Conference registration materials will be sent to each municipality in the month of June. Materials will also be posted on-line. Call us if you need additional copies.

If you have any questions on voting delegates, please call Gail Dennard at the League (850) 701-3619 or (800) 616-1513, extension 3619. **Voting delegate forms must be received by the League no later than August 7, 2015.**

Attachments: Form Designating Voting Delegate

President **Matthew D. Surrency,** Mayor, Hawthorne
First Vice President **Susan Haynie,** Mayor, Boca Raton • Second Vice President **Vacancy**
Executive Director **Michael Sittig** • General Counsel **Harry Morrison, Jr.**

89th Annual Conference
Florida League of Cities, Inc.
August 13-15, 2015
Orlando, 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.

Designation of Voting Delegate

Name of Voting Delegate: _____

Title: _____

Municipality of: _____

AUTHORIZED BY:

_____
Name

_____
Title

Return this form to:

Gail Dennard
Florida League of Cities, Inc.
Post Office Box 1757
Tallahassee, FL 32302-1757
Fax to Gail Dennard at (850) 222-3806 or email *gdennard@flcities.com*

Village of Biscayne Park

Commission Agenda Report

Village Commission Meeting Date: July 7, 2015

Subject: Chapter 5 Proposed Changes

The draft of the proposed changes to Chapter 5 is provided which include the changes approved by the Commission at the May 12th commission meeting:

5.6.1 (a) (2): Take out the five (5) year and ten (10) year limitations and work in the 50% substantial repair concept. *Existing non-conforming driveways permitted by the Village may remain unless a substantial portion, 50% or greater, requires repair, or an addition to the driveway occurs.*

5.6.8 (a): *All driveways shall be of approved materials except as otherwise provided below.*

On section 5.3 Rights-of-way: Amend the language to state that the adjoining property owner is responsible for not only the maintenance of the trees, but also for the removal of dead, fallen or diseased trees.

Changes included are through those approved by the Commission as of May 12, 2015.

NOTE: Code Review Board Proposed Language as of February 18, 2015 is underlined in black.
****

CHAPTER 5. TRANSPORTATION (As amended as of August 2014, update Nov 19, 2014)

5.1. General provisions.

5.1.1 *Purpose.* This chapter establishes minimum requirements applicable to the transportation system, including public and private streets, bikeways, pedestrian ways, parking, and access control from public streets. The standards in this chapter are intended to minimize the traffic impacts of development, and to assure that all developments adequately and safely provide for the storage and movement of vehicles with good engineering and development design practices.

5.1.2 *Compliance with technical construction standards manual.* All required elements of the transportation system shall be provided in compliance with the engineering design and construction standards of the Public Works Manual, ~~Metro-~~ Miami-Dade County

5.1.3 Definitions. These definitions supplement Chapter 2 of these Code of Ordinances.

(a) Front Yard -- the area on a property between the front lot line and the front of the building on the property.

(b) Clear Trunk Height -- Clear trunk height (CT). The height of a tree measured from the ground to the bottom of the canopy.

(c) Diameter Breast Height -- diameter of a tree trunk measured at four and one-half (4.5) feet above grade. In the case of multi-stemmed trees, the D.B.H. shall be measured at four and one-half (4.5) feet above grade on each stem and added together to count as one (1) tree.

(d) Off-Street Parking – Parking that is confined to the area within the lot line of a property and does not include the public right-of-way or swale.

(e) Mulch – Natural materials customarily used in landscape design to retard erosion, weed infestation, and retain moisture and for use in planting areas.

(f) Right-of-Way – The area not contained within property lines and is for public use and is measured from lot line to lot line.

(g) Sod – turf grass that is used to cover the ground.

DRAFT

NOTE: Code Review Board Proposed Language as of February 18, 2015 is underlined in black.
****

(h) Street Frontage -- the part of the boundary of the lot next to a street

(i) Swale -- the area between the pavement edge and the property line which includes the sidewalk adjacent and contiguous to the property lots. The swale is located within the right-of-way.

5.2. Streets.

5.2.1 *Street classification system established.* Streets in the village are classified and mapped according to function served in order to allow for regulation of access and appropriate design and construction standards. Streets dedicated to the village and private streets are classified in a street hierarchy system with design tailored to function. The street hierarchy system shall be defined by road function and average daily traffic (ADT), calculated by trip generation rates prepared by the Institute of Transportation Engineers. The following street hierarchy is established: Residential, collector, and arterial. Each street type is divided into subcategories.

5.2.2 *Residential streets (local roads).* Residential streets are primarily suited to providing direct access to residential development and are designed to minimize unnecessary and/or speeding traffic. Each residential street shall meet the minimum standards for one (1) of the following street types:

(a) *Residential access street.* This is the lowest order street in the hierarchy. A residential access street is a frontage street which provides direct access to abutting properties and should not carry more traffic than is generated on the street itself. Residential access streets may take access from any higher order street type. Both ends of a residential loop street must take access from a single higher order street. Residential access streets shall have a maximum ADT of five hundred (500). Loop streets shall have a maximum of four hundred (400). Cul-de-sacs shall have a maximum ADT of two hundred (200).

(b) *Residential subcollector street.* This is the middle order street in the residential street hierarchy. It will collect traffic from residential access streets and provide direct access to abutting properties. Residential subcollector streets may take access from any higher order street type and may give access to residential access streets and may provide direct access to nonresidential uses. Residential subcollector streets shall have a maximum ADT of one thousand (1,000).

(c) *Residential collector street.* This is the highest order street that can be classified as residential. It will collect traffic from residential access and subcollector streets and may provide direct access to nonresidential uses. Residential collector streets shall have a maximum ADT of two thousand (2,000).

NOTE: Code Review Board Proposed Language as of February 18, 2015 is underlined in black.
****

5.2.3 *Collector roads (county collectors).* Collector roads connect lower order streets to other collector streets and to arterial streets, provide access to nonresidential uses, and serve through traffic. Collector streets shall have an average daily traffic volume of no greater than seven thousand (7,000).

5.2.4 *Arterial roads (state minor arterials).* There are three (3) types of arterial roads, minor, major, and freeways but there is only a minor type in the village. The minor arterial links community districts to regional and state highways and may give access to any lower order street type.

5.2.5 *Special purpose roadways.*

(a) *Alley.* Alleys are not considered part of the street hierarchy system as they are generally unpaved thoroughfares for the purpose of service to adjacent properties.

(b) *Divided streets.* Divided streets are for the purpose of protecting environmental features or avoiding excessive grading. In such a case, the standards shall be applied to the aggregate dimensions of the two (2) street segments.

5.2.6 *Future traffic circulation map.* The future traffic circulation map and any amendments thereto, adopted by the village as part of the comprehensive plan (Map 3.4), is hereby made a part of this code. Roadways within the village are either designated in the future traffic circulation map or may be classified according to function, design, and use by the village upon request. The map shall be the basis for all decisions regarding required road improvements or access.

5.3. Rights-of-way.

5.3.1 *Right-of-way widths.* The right-of-way shall be measured from lot line to lot line.

5.3.2 *Protection and use of rights-of-way.*

(a) No encroachment shall be permitted into existing rights-of-way, except for temporary use authorized by the village.

(b) Use of the right-of-way for public or private utilities, including, but not limited to, potable water, telephone wires, cable television wires, gas lines, sanitary sewer, or electricity transmission, shall be allowed subject to the placement specifications in the Public Works Manual, ~~Metro~~Miami-Dade County, and other applicable county regulations.

DRAFT

NOTE: Code Review Board Proposed Language as of February 18, 2015 is <u>underlined in black.</u>
****

(c) All vehicles of any type parked on any street, alley, or public right-of-way in the Village of Biscayne Park shall have at all times attached a current license plate.

(d) Sidewalks and bicycle ways shall be placed within the right-of-way.

5.3.3 *Parking of trucks, etc., prohibited in the right-of-way.*

(a) It shall be unlawful to park or cause to be parked upon any public street or in the public right-of-way in the village any truck, trailer, semitrailer, bus (public or private owned) except while loading or unloading or when such vehicle is parked in connection with and in the aid of the performance of a service to or on the property being serviced.

(b) Nothing herein contained shall be deemed to prohibit the parking of one (1) truck in front of any one property not exceeding three-fourths ton net weight that contains no lettering or advertising and is owned or leased by the occupant of the property, when it is proven to be physically impossible to park it off of the public right-of-way.

(c) It shall be unlawful to park or store any boat, boat trailer, air boat, any self-propelled or nonself-propelled mobile home, motor home or camper upon any public street or in the public right-of-way in the village.

Cross references: Truck overnight parking permit, § 16.11.

~~5.3.4 *Objects in the right-of-way.*~~
~~(a) *Markers.* Dome type markers only may be placed within dedicated right-of-way provided that they are placed not closer than eighteen (18) inches to the nearest edge of the paved surface of the designated roadway. All markers must be at least twenty-four (24) inches apart. Markers placed in the right-of-way shall not exceed twelve (12) inches in diameter nor be more than six (6) inches in height and shall be white in color.~~
~~(b) *Landscaping.* Nothing shall be planted or allowed to grow in such a manner so as to obstruct the right-of-way clear zone at a level between three (3) feet and six (6) feet above the grade, measured at the centerline of right-of-way. Trees or palms, however, having trunks and foliage trimmed in such a manner that no branches or foliage extend into the right-of-way area clear zone shall be allowed, provided they are so located so as not to create a traffic hazard.~~
~~(c) *Paving and drainage.* Pervious pavers shall be allowed but any impervious paving shall be adequately drained to prevent the buildup of stormwater in the right-of-way.~~
~~(d) *Other objects prohibited.* It shall be unlawful to install, place or maintain within the dedicated right-of-way, parkway or swale area of the village any pointed concrete or other unapproved hard materials such as rocks, stones, bricks, metal objects or other similar obstructions.~~

<u>5.3.4 Landscaping and objects in the swale area of the right–of-way.</u>

NOTE: Code Review Board Proposed Language as of February 18, 2015 is underlined in black.
****

(a) *Use of the swale area of the right of way:* The swale area of the Village's right-of-way is public property. ~~All objects and landscaping, with the exception of mailboxes, shall be considered the property of the Village whether existing at the time of the enactment of this ordinance or thereafter.~~ No object or landscaping shall be allowed in the swale, except as provided for in this section, with the exception of mailboxes. All other signage, including political signs, shall be consistent with Chapter 12 of these Code of Ordinances.

(b) *Minimum standard:* Sod coverage that is well maintained shall be provided in the swale unless other plant materials or approved driveway surfaces are installed in accordance with this section. The contiguous adjacent property owner is responsible for the maintenance of all permitted objects, landscaping and sod in the swale unless otherwise specified by these Code of Ordinances. The height of sod shall be consistent with Section 8.4 (Property Maintenance).

(c) *Markers:* Only dome type markers may be placed within the swale provided that they are placed not closer than eighteen (18) inches to the nearest edge of the paved surface of the designated roadway. All markers must be at least (24) inches apart. Markers placed in the swale shall not exceed twelve (12) inches in diameter nor be more than six (6) inches in height and shall be white in color.

(d) *Mailboxes:* May be located within the swale provided no part of the mailbox is closer than two (2) feet from the edge of the paved surface of the designated roadway. Non conforming mailboxes shall have one (1) year from date of enactment of this ordinance to come into compliance.

(e) *Restrictions on the placement of landscaping in the swale:* Landscaping in the swale adjacent to front lot lines and exterior side lot lines, as defined in Chapter 2 of these Code of Ordinances, shall conform to the following restrictions:

(i) *Clear Zone***:** An area five (5) feet deep, parallel with and immediately adjacent to the edge of the paved road shall be maintained as a clear zone. All landscaping in the swale installed after the enactment of this ordinance must be located a minimum of five (5) feet from the edge of pavement of the nearest roadway. Any landscaping installed previous to the enactment of this ordinance within the clear zone must be removed once it dies or is damaged and cannot be replaced. If existing landscaping is deemed a safety hazard by the Village, it must be immediately removed ~~CAN'T READ – CUT OFF PAGE~~ . Sod is always a permitted material in the clear zone.

NOTE: Code Review Board Proposed Language as of February 18, 2015 is underlined in black.
****

(a) Approved Driveway Surface is also permitted within the clear zone in accordance with Section 5.6.8 of this Code of Ordinances.

~~(a)~~(b) Clear Trunk Height: Plant materials of unlimited height shall be permitted such that they do not intrude in any way into the clear zone at a height lower than eight (8) feet. All landscape overhangs into the street are subject to applicable local, county and state laws.

(ii) *Installation of trees in the swale:* The installation of trees within the swale shall require a permit from the Village. A dimensional plan and indication of the proposed species, grade and size of the proposed tree(s) shall be submitted. Trees installed in the public right-of-way without a permit shall be subject to immediate removal after a thirty (30) day written notice to the property owner. Permits shall not be issued for trees within the clear zone.

(iii) *Mulch in the swale:* Only natural materials with the exception of cypress mulch and mulch with chemical compounds shall be permitted in the swale. THIS NEEDS TO BE CLARIFIED. NOT SURE WHAT IS EXCLUDED/INCLUDED BY THIS SECTION.

(f) A combination of paving and sodding of rights-of-way shall be permitted provided the impervious section does not exceed forty (40) percent of the total area and such paved areas shall be kept ~~on~~ in good condition.

(g) *Removal of obstructions by the Village:* In the event any object or tree placed in the swale creates an emergency situation involving potential danger to the health, safety, and welfare of the community, the Village may perform removal operations immediately, thus eliminating the emergency, and may assess the cost of such removal against the adjacent property owner.

(h) *Removal of trees in the swale by the abutting property owner:* Property owners must obtain a permit from the Village ~~Biscayne Park~~ and Miami-Dade County to remove trees in the swale.

(i) *Property owner's responsibilities for maintenance:* The property owner or resident living in the property shall be jointly and severally responsible for the maintenance of the Swale area contiguous to their property. Maintenance shall include but not be limited to mowing the sod and performing general edging, weeding, trimming, pruning and cleanup activities. The landscaping and sod shall be maintained in good plant health.

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The landscaping shall be kept free of dead limbs and branches. No Swale landscaping shall be maintained in such manner as to constitute a nuisance.

1. ~~Property owners shall be responsible for the removal of dead and diseased trees, with the exception of dead and diseased trees that are sixty (60) inches or more in diameter breast height (DBH) there will be a 50%/50% share between the Village and property owner for the cost of removal, depending on the availability of budgeted Village funds. Any permitted tree planted by the property owner after the enactment of this ordinance shall be the full responsibility of the property owner. If a tree is on both the swale and the property, there is no share with the Village. Property owners shall be responsible for the removal of dead, diseased or fallen trees.~~

5.3.5 *Vacation of rights-of-way.* Applications to vacate a right-of-way may be approved upon a finding that all the following requirements are met:

(a) The requested vacation is consistent with the traffic circulation element of the village comprehensive plan.

(b) The right-of-way does not provide the sole access to any property. Remaining access shall not be by easement.

(c) The vacation would not imperil the current or future location of any utility.

(d) The proposed vacation is not detrimental to the public interest, and provides a benefit to the village.

Cross references: Right-of-way permit, § 16-8.1; fees for right-of-way permits, § 17.5.1.

5.4. Street standards.

5.4.1 *Clear visibility triangle.* In order to provide a clear view of intersecting streets to the motorist, there shall be a triangular area of clear visibility formed by two (2) intersecting streets or the intersection of a driveway and a street. The following standards shall be met:

~~(a) For street intersections the clear visibility triangle shall be formed by a line along~~
~~the street pavement edge fifteen (15) feet long from the street corner perpendicular, generally, to a second line of the street pavement edge of~~

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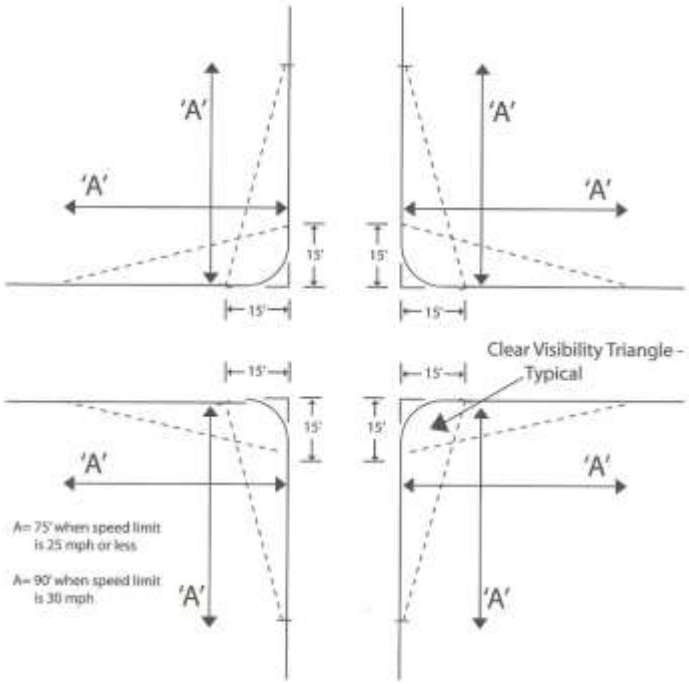
~~approaching traffic, connected by a third line that measures three (3) times the speed limit of the street.~~

(a) (ii) Nothing shall be erected, placed, parked, planted or allowed to grow in such a manner that it would restrict visibility above a height of three (3) feet above grade, measured at the centerline of the intersection within the area of the visibility triangles.

~~(a)~~(b) For street intersections the clear visibility triangle shall be formed by connecting points on the edge of each street and the intersection point. Beginning at point one, the intersection, point two shall be located Fifteen (15) feet from the intersection on one street and point three on the second street shall be located at a distance from the intersection, measured in feet equal to ~~T~~three (3) times the streets speed limit. A line connecting the three points shall create the triangle. This triangle applies to both directions from the intersection. See Diagram 5.4.1 (a)



Clear Visibility Triangle at Road Intersections
Diagram 5.4.1(a)

~~(b)~~(c) For driveways two (2) clear visibility triangles shall be formed by connecting, in each case, a point on the edge of the street pavement and a point on the edge of the driveway, each to be located at a distance of twenty

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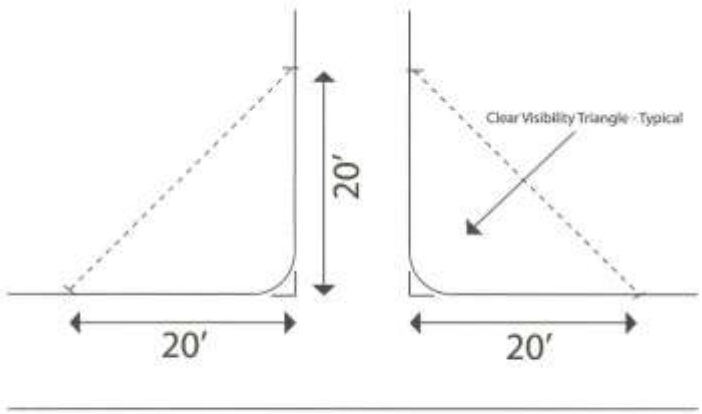
(20) feet from the intersection of the street and driveway lines, and a third line joining the two (2) points. See Diagram 5.4.1 (b)



Clear Visibility Triangle at Driveways
Diagram 5.4.1(b)

~~(c)~~(d) Nothing shall be erected, placed, parked, planted, or allowed to grow in such a manner so as to obstruct cross-visibility at a level between three (3) feet and six (6) feet above the grade, measured at the centerline of the intersection. Trees or palms, however, having trunks and foliage trimmed in such a manner that no trunks or foliage extend into the cross-visibility area shall be allowed, provided they are so located so as not to create a traffic hazard.

5.5. Sidewalks and bikeways.

5.5.1 *Design and construction standards.* Design and construction of sidewalks, bikeways, or other footpaths shall conform to the requirements of the Public Works Manual, ~~Metro~~ Miami-Dade County, including provision for access by physically handicapped persons.

5.6. Off-street parking.

5.6.1 *Applicability.* Off-street parking facilities shall be provided within the lot of all ~~development~~ properties ~~within~~ in the village pursuant to the requirements of this code. The facilities shall be maintained as long as the use exists that the facilities were designed to serve.

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(a) All vehicles must be parked on an approved driveway surface subject to the design standards set forth in Section 5.6.8.

1. Non-conforming properties that do not have an approved driveway surface shall have ~~one (1) year~~ two (2) years from the date of enactment of this ordinance to ~~come into compliance.~~ have the compliant driveway installed and permitted.

2. ~~If the existing driveway has been permitted by the Village during the last five (5) years prior to the enactment of this ordinance, the non-conforming surface may remain for a period of ten (10) years or unless and until a substantial repair and/or addition to the driveway occurs.~~Existing non-conforming driveways permitted by the Village may remain unless a substantial portion, 50% or greater, requires repair, or an addition to the driveway occurs.

3. When an approved driveway surface does exist all vehicles shall park on said driveway upon enactment of this ordinance.

~~(b) Where this requirement cannot be met by multi-family properties while still without maintaining a ten (10) foot landscape area in front of the building, a variance may be obtained from the Planning Board. For the purposes of this section, multi-family refers to units that are two-family duplexes or more.~~

5.6.2 *Computation.* In the village hall, recreation area, church, the occupancy shall be based on the maximum capacity rating given the building by the fire marshal. Gross floor area shall be the sum of the gross horizontal area of all floors of a building measured from the exterior faces of the exterior walls.

5.6.3 *Number of parking spaces required.* The table below specifies the required minimum number of off-street automobile parking spaces. The number of off-street parking spaces for uses not listed in the table shall be determined by the planning board. The term "tandem parking space" means a parking space that abuts a second parking space in such a manner that vehicular access to the second space can be made only through the abutting (tandem) space.
TABLE INSET:

Use		Minimum Off-Street Parking Requirement	
(a)	Residential	Resident Parking	Visitor Parking
	Detached one-family:		

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	1, 2 and 3 bedrooms	2 spaces/unit*	1 space/unit**
	4 bedrooms	3 spaces/unit*	1 space/unit**
	Detached two-family:		
	2, 3 or more bedrooms	2 spaces/unit*	0.5 spaces/unit**
(b)	Recreation.		
	Parks, Clubs: determined by the planning board.		
(c)	Public assembly.		
	Church: 1 space/3 seats or 1 space/35 square feet of gross auditorium floor area		

* Resident parking spaces may be tandem.
** If on-street parking is not permitted or is restricted on the unit's street frontage, then one visitor parking space shall be required. The visitor space shall be located not more than one hundred (100) feet from the unit's street frontage.

5.6.4 *Handicapped parking spaces.* Any parking area to be used by the general public shall provide suitable, marked and paved parking spaces for handicapped persons. The number, design, and location of these spaces shall be consistent with the requirements of F.S. §§ 316.1955, and 316.1956, or succeeding provisions. No parking spaces required for the handicapped shall be counted as a parking space in determining compliance with subsection 5.6.3, public uses, above, but ~~optional~~ supplemental spaces for the handicapped shall be counted. The parking and related features contained in the Department of Community Affairs, Florida Board of Building, Codes and Standards, Accessibility Requirements Manual are hereby incorporated by reference into the village code.

5.6.5 *Parking in medians prohibited.* No parking shall be allowed in median open spaces or median parkways.

5.6.6 *Existing nonconforming minimum off-street parking requirements.* The number of off-[street] parking spaces existing on properties at the time of the adoption of this code, although such number does not conform to the minimum off-street parking requirements hereof, may be lawfully continued. However, all vehicles must be parked on an approved driveway surface consistent with Section 5.6.1.

5.6.7 *Historic preservation exemption.* The preservation of any property that has been placed on the county or national register of historic places, shall be grounds for a grant by the planning review board of a reduction in, or complete exemption from, the parking requirements in subsection 5.6.3 of this chapter.

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5.6.8 *Design standards for off-street parking.* Except as provided herein, all required off-street parking spaces and the use they are intended to serve shall be located on the same parcel. The size and layout of these spaces shall be according to the Miami-Dade County Code and Public Works Manual, ~~Metro~~ Miami-Dade County. Vehicles shall be parked on impervious or pervious surfaces but impervious areas shall not exceed forty (40) percent of the front yard, excluding the right-of-way. Off-street parking (within the lot lines of all properties) shall only be permitted on approved surfaces by the Village of Biscayne Park. In no circumstances shall grass or sod be an approved surface.

a. ~~All driveways shall be of a similar material and design element.~~ All driveways shall be of approved materials except as otherwise provided below.

~~a.~~b. All driveways must have an improved approach across the swale which shall meet the minimum standard of gravel construction.

~~b.~~c. All driveways shall be no closer than thirty (30) inches from side property line.

~~c.~~d. All non-conforming driveways, as related to setback, shall come into compliance when there is a change in driveway material or the installation of a new driveway. If a determination is made by the Village Manager that adhering to the setback would make the driveway non-functional as determined by an engineer, the Village Manager may waive this requirement in writing.

~~d.~~e. Driveways shall only be constructed with the following materials; concrete, paver, brick, gravel, asphalt, cut stone or turf block.

~~e.~~f. Gravel driveways shall be built with a permanent perimeter border consisting of suitable material as approved by Village staff ~~and shall be~~ a minimum of four (4) inches deep with the width of the border being sixteen inches (16") immediately adjacent to ~~along~~ the road perimeter and ~~eight~~ four inches (~~8~~4") along the entire length of both edges ~~edge~~ of the driveway.

~~f.~~g. Road rock shall not be used as a finished driveway material.

~~g.~~h. Construction of a portion of a driveway in the swale or right-of-way, such as the apron and driveway approach, shall require the property owner to indemnify, hold harmless, and defend the Village from any and all actions, caused by, resulting from, or in any way associated with the

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proposed work within the Village right-of-way on a form provided by the Village.

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Village of Biscayne Park
Commission Agenda Report

Village Commission Meeting Date:	**July 7, 2015**
Subject:	**A Discussion of the Fiscal Year 2015/16 Budget Goals**
Prepared By:	**Heidi Siegel, AICP, Village Manager**
Sponsored By:	**Staff**

BACKGROUND

The Village Manager is wishing to engage in a discussion with the Village Commission regarding goals and priorities for the upcoming year. Once these goals are communicated by the Village Commission, the Village Manager will work with each department to develop a budget that meets the Village Commission's goals and maintains the day-to-day operations of the Village.

FISCAL/BUDGET IMPACT

This discussion will allow Village Staff to prepare a budget for future Village Commission consideration.

STAFF RECOMMENDATION

Provide the Village Manager with input and consensus.

Village of Biscayne Park
Commission Agenda Report

Village Commission Meeting Date:	**July 7, 2015**
Subject:	**Discussion of Garbage Disposal Options**
Prepared By:	**Heidi Siegel, AICP, Village Manager**
Sponsored By:	**Staff**

BACKGROUND

The Village entered into a twenty-year Interlocal Agreement with the County for use of the County Solid Waste Management System (dumping of trash and garbage) on September 26, 1995. This agreement obligated the Village to the County dumping system, even when the collection of solid waste was handled by a contract provider. There was an additional amendment clarifying the use of another facility as it affected some other municipalities.

If the Village wishes to renew their Interlocal Agreement with the County, it must do so on, or before, October 1, 2015. The Second Amendment to the Interlocal Agreement is for twenty additional years. Discussions with County staff have found that the Amendment could be for a minimum of ten years.

Additionally, the Village's third party contract provider, WastePro, has indicated that if the Village did not renew its Interlocal Agreement, they would be willing seek alternative disposal options as part of an amendment to their franchise agreement which currently specifies that WastePro must use the County facility.

The Village's franchise agreement with WastePro stipulates that WastePro is responsible for all disposal fees. The Interlocal Agreement with the County began at a fee of $45.00 per ton in 1995 and is currently $66.34 per ton due to Consumer Price Index (CPI) increases. The proposed Second Amendment would begin at $66.34 plus CPI per ton and may be increased or decreased per the CPI.

Staff has invited both the County and WastePro to the Village Commission meeting to allow the Commission to explore all available options prior to making a final decision at the September 2015 Commission meeting.

ATTACHMENTS

- Interlocal Agreement between Metropolitan Dade County and Contract Cities for City use of the County Solid Waste Management System dated September 26, 1995
- First Amended and Restated Interlocal Agreement between the County and Contract Cities for Use of the County Solid Waste Management System dated June 18, 1996
- Proposed Second Amended and Restated Interlocal Agreement between Miami-Dade County and Contract Cities for Use of the County Solid Waste Management System to be effective October 1, 2015.

Interlocal Agreement between Metropolitan Dade County and Contract Cities for City use of the County Solid Waste Management System dated September 26, 1995

BISCAYNE PARK

INTERLOCAL AGREEMENT BETWEEN METROPOLITAN DADE COUNTY AND CONTRACT CITIES FOR CITY USE OF THE COUNTY SOLID WASTE MANAGEMENT SYSTEM

This Interlocal Agreement ("**Agreement**") is made and entered into this 26 day of Sept., 1995, by and between Metropolitan Dade County by and through its Board of County Commissioners ("**County**") and those municipalities whose names appear in Exhibit "A", attached hereto and made part hereof, their successors and assigns, hereinafter referred to as **Contract Cities**, to provide for use of the County Solid Waste Management System by **Contract Cities** for their Solid Waste disposal and transfer needs.

BACKGROUND RECITALS

Whereas, the Metropolitan Dade County Board of **County** Commissioners (the "Board") hereby finds and declares that it is necessary to the health, safety and welfare of the citizens of Dade County to provide for Solid Waste disposal and management facilities and services; and

Whereas, the **County** desires to maximize the use of its Resources Recovery facility processes and to extend the life of its landfills; and

Whereas, the **Contract Cities** desire to use the County Solid Waste Management System for their Solid Waste disposal needs (and transfer needs, as applicable), at an agreed-upon Disposal Fee rate (and Transfer Fee rate as applicable); and

Whereas, the **Contract Cities** desire to reestablish or continue their reliance on the County Solid Waste Management System to satisfy Concurrency requirements of the Local Government Comprehensive Planning and Land Development Regulation Act (Chapter 163, Part II, F.S.) only as it applies to Solid Waste disposal capacity for the Solid Waste which each **Contract City** collects for disposal, or that which is collected for it by third parties under contract with the **Contract City** for disposal, and which is committed to the **County** for disposal in the County Solid Waste Management System in accordance with this **Agreement,** and actually disposed of therein; and

Whereas, the **County** and the **Contract Cities** desire to formalize their relationship regarding Solid Waste disposal responsibilities consistent with the provisions of Section 403.706, Florida Statutes.

NOW THEREFORE, in consideration of the foregoing premises, and the mutual considerations contained herein, the parties hereto, intending to be legally bound, do hereby agree as follows:

DEFINITIONS

For the purposes of this **Agreement,** the following capitalized words and phrases shall be given the following respective meanings:

Board - the Metropolitan Dade County Board of County Commissioners.

Change in Law - after the date of execution of this **Agreement**, (a) the adoption, promulgation, issuance, modification, or change in interpretation of any federal, state or local law, regulation, rule, requirement, ruling or ordinance, of the United States or any state or territory thereof, unless (i) such law, regulation, rule, requirement, ruling or ordinance was on or prior to such date duly adopted, promulgated, issued or otherwise officially modified or changed in interpretation, in each case in final form, to become effective without any further action by any governmental entity or official having jurisdiction, (provided, that it shall not constitute a Change in Law if an administrative regulation existed on the date of execution of this **Agreement** in temporary or proposed form and was treated as generally applicable to transactions of the type contemplated hereby), or (ii) compliance with such law, regulation, rule requirement, ruling or ordinance was provided for in the **Agreement**; (b) the issuance of an order and/or judgment of any governmental entity or official having jurisdiction, to the extent such order and/or judgment constitutes a reversal of a prior applicable order and/or judgment, or an overturning of prior administrative policy or judicial precedent; or (c) the suspension, termination, interruption or failure of renewal of any permit, license, consent, authorization or approval essential to the acquisition, design, construction, equipping, start-up, operation, ownership or possession of the County Solid Waste Management System facilities or the facilities sites, to the extent such suspension, termination, interruption or failure of renewal is not caused by any action or inaction of the **County** or its contractors (provided that, for the purposes of determining whether a suspension, termination, interruption or failure of renewal was so caused, any reason or finding set forth in writing by the agency responsible for issuance of such permit, license, consent, authorization or approval shall be accorded the rebuttal presumption of accuracy), provided that no change in tax law, change to the Internal Revenue Code of 1954 effected by the Tax Reform Act of 1986 (to the extent applicable on the date of this **Agreement**), change in foreign law, Change In Law which adversely affects the **County's** legal rights as a licensee, grantee, owner, or user of any patent or other "know-how" in respect of proprietary technology intended to be utilized by it in performing its obligations under this **Agreement** shall constitute a change in law for any purposes of this **Agreement**.

Concurrency - provision of certain public facilities specified in the State of Florida Local Government Comprehensive Planning and Land Development Regulation Act ("the Act") (specifically, Chapter 163, Part II, Section 163.3180 F.S.) by (a) county (ies), or (a) municipality (ies) or a combination thereof, at a specified level-of-service stated in the Capital Improvements Element of the comprehensive plan for the applicable jurisdiction(s), adopted pursuant to the Act.

Contract City (ies) - the municipal corporation or corporations existing under the laws of the State of Florida, that enter into this **Agreement** with the **County** and whose names appear in Exhibit "A" to this **Agreement**. For the purpose of this **Agreement**, the unincorporated areas of Dade County, as delineated in Exhibit "D", shall be considered a **Contract City**.

County - Metropolitan Dade County, Florida by and through its Board of County Commissioners.

County Disposal Fee - the fee charged to dispose of Solid Waste at County-owned Solid Waste disposal facilities or facilities operated under contract with the **County** for Solid Waste disposal.

County Solid Waste Management System - The aggregate of those Solid Waste management facilities owned by or operated under contract with Dade County, which shall include the North Dade Landfill, South Dade Landfill, Resources Recovery Facility, Waste Management of Florida, Inc. Landfill in the City of Medley, Florida, Northeast Transfer Station, Central Transfer Station, West Transfer Station, and other such facilities as may be added to or deleted from this listing from time to time, by the County Manager at his sole discretion. Such additions or deletions may be made by use of an attachment hereto without need for formal amendment to this **Agreement**.

Director - the Director of the Department of Solid Waste Management or his/her designee.

Exclusive Franchise or License - (a) contract(s) between a **Contract City** and a (limited number of) third party contractor(s) for the right and privilege to collect Solid Waste from either residential units or commercial establishments, or both residential units and commercial establishments, within (a) designated service area(s) under the terms of which the contractor(s) pay(s) the **Contract City** a fee.

Fiscal Year - the period beginning October 1 of each year and ending September 30 of the subsequent year.

Force Majeure - an act of God, epidemic, lightning, earthquake, fire, explosion, storm, hurricane, flood or similar occurrence, strike, and act of a public enemy, or blockade, insurrection, riot, general arrest or restraint of government and people, civil disturbance or similar occurrence, which has had or may reasonably be expected to have a material adverse effect on the rights or obligations under this **Agreement**, which by the exercise of due diligence the party relying thereon as justification for not performing any obligation under this **Agreement** shall not have been able to avoid, and which is not the result of a willful or negligent action or omission of such party.

Municipal Solid Waste (MSW) or **Solid Waste** or **Waste** - all discarded materials or substances, exclusive of Source-Separated Recyclable Materials, which each **Contract City** collects for disposal, or that which is collected for it by third parties under contract with the **Contract City** for disposal, including, but not limited to, garbage, trash, litter, refuse, rubbish, ashes, incinerator residue, recycling process residue, or other materials allowed by the State Department of Environmental Protection for disposal in a Class I landfill which result from domestic, commercial, industrial, mining, agricultural or governmental activities, but not including sewage or other highly-diluted, water-carried materials or substances, or those in gaseous form.

Non-Exclusive Franchise or License - a regulatory program under which an unlimited number of Solid Waste haulers are given the right and privilege to collect Waste from either residential units or commercial establishments, or both residential units and commercial establishments, under the terms of which each hauler pays the **Contract City** a fee.

Short-Term Disposal - delivery of Solid Waste to the County Solid Waste Management System for disposal without having a minimum ten (10) year Waste disposal agreement with the **County**.

Short-Term Disposal Fee(s) - the fee(s) paid by private haulers or municipalities for Short-Term Disposal of Solid Waste in the County Solid Waste Management System.

Source-Separated Recyclable Materials - materials separated from MSW at their source of generation which are set-out for collection at their source of generation. Such materials shall be limited to: clean yard trash, newspapers, telephone books, household batteries, glass containers, plastic containers, steel cans, aluminum cans, and other Source-Separated Recyclable Materials as may be added to this listing from time to time by the County Manager, at his sole discretion; such additions may be made by use of an attachment hereto without need for formal amendment to this **Agreement.**

Transfer Fee - the fee charged to transfer Solid Waste from County Solid Waste Management System transfer stations to County Solid Waste Management System disposal facilities.

ARTICLE 1
CONSTRUCTION OF INTERLOCAL AGREEMENT

The word "shall" as used in this **Agreement** shall in all cases be construed to be mandatory and to require the action so modified by the word "shall" to be taken without regard to the exercise of discretion.

ARTICLE 2
RESPONSIBILITIES OF THE COUNTY

A. **Provision of Disposal Capacity.** The **County** shall provide MSW disposal capacity (and transfer, as applicable) for the Solid Waste which each **Contract City** collects for disposal, or that which is collected for it by third parties under contract with the **Contract City** for disposal, and which is committed to the **County** for disposal in the County Solid Waste Management System in accordance with this **Agreement**. The provision of Solid Waste disposal services under this **Agreement** shall comply with all applicable state and federal laws.

B. **Disposal Capacity for Concurrency.** The **County** shall maintain sufficient MSW disposal capacity in the County Solid Waste Management System to comply with Concurrency requirements of the Local Government Comprehensive Planning and Land Development Regulation Act (Chapter 163, Part II, F.S.) only as it applies to Solid Waste disposal capacity for the Solid Waste which each **Contract City** collects for disposal, or that which is collected for it by third parties under contract with the **Contract City** for disposal, and which is committed to the **County** for disposal in the County Solid Waste Management System in accordance with this **Agreement**, and actually disposed of therein.

C. **Standardization of Agreement.** The terms of this **Agreement** shall be substantially the same for all Contract Cities.

ARTICLE 3
RESPONSIBILITIES OF THE CONTRACT CITIES

A. **Delivery of MSW to County.** Each **Contract City** shall deliver all the MSW it collects for disposal, or cause delivery of that MSW which is collected for it by third parties under contract with the **Contract City** for disposal, excluding Source-Separated Recyclable Materials, to (a) County Solid Waste Management System facility(ies), at Disposal Fee rates as specified herein.

Contract Cities which have entered into Solid Waste disposal agreements with third party contractors prior to July 28, 1995, the terms of which extend into the term of this **Agreement** for a portion of Fiscal Year 1995-96, are not obligated to deliver Solid Waste to the **County** for that portion of Fiscal Year 1995-96 covered by the third party agreements, copies of which are incorporated herein as Exhibit "C". Such **Contract Cities** shall otherwise adhere to all terms of this **Agreement.** Area(s) of unincorporated Dade County, as delineated in Exhibit "D", which incorporate subsequent to the date of this **Agreement** shall comply with all terms of this **Agreement,** unless expressly relieved from doing so by resolution of the Board.

The Director may identify particular facilities to which each **Contract City** shall deliver its Waste. Any **Contract City** may deliver its Waste to a **County** transfer facility if the applicable Transfer Fee is paid to the **County**. At no time during the term of this **Agreement** shall any **Contract City** be required to deliver MSW to a **County** transfer facility unless the County Disposal Fee is the same at all County Solid Waste Management System facilities. No **Contract City** shall be directed to deliver its Waste to a disposal facility which is farther from that **Contract City's** boundaries than the closest county-owned disposal facility. No **Contract City** shall be directed to deliver its Waste to a transfer facility which is farther from that **Contract City's** boundaries than the closest county-owned transfer facility. In no case shall a **Contract City** be required to deliver its Waste to a County Solid Waste Management System facility which is farther than twenty (20) miles from that **Contract City's** nearest boundary in order to take full advantage of it rights under this **Agreement.**

B. **Use of Other Facilities Prohibited.** Each **Contract City** shall not deliver any MSW it collects for disposal, or cause or suffer delivery of that MSW which is collected for it by third parties under contract with the **Contract City** for disposal, excluding Source-Separated Recyclable Materials, to a Solid Waste disposal or transfer facility other than a County Solid Waste Management System facility for the term of this **Agreement**. No **Contract City** shall deliver any MSW it collects, or cause or suffer delivery of that MSW which is collected for it by third parties under contract with the **Contract City** for disposal, other than Source-Separated Recyclable Materials, to a materials recovery or recycling facility for the term of this **Agreement.**

C. **Hauler Contracts.** Each **Contract City** shall include in any contracts with Solid Waste haulers, or amendments to such contracts, which it executes, renews or extends after the date of this **Agreement,** a provision that all Solid Waste collected for the **Contract City** shall be delivered to a specified County Solid Waste Management System facility for disposal. This provision shall apply to Exclusive Franchise or License agreements with Solid Waste haulers. This provision shall not apply to a Non-Exclusive Franchise or License to haul Solid Waste.

D. Disposal and Transfer Fees. Each **Contract City** shall pay a Disposal Fee (and a Transfer Fee, as applicable) for each ton of MSW delivered to the County Solid Waste Management System for disposal. Each **Contract City** shall pay a maximum Disposal Fee of forty-five dollars ($45.00) per ton to the **County** for disposal of MSW delivered to County Solid Waste Management System facilities for Fiscal Years 1995-96, 1996-97, and 1997-98. This Disposal Fee shall be established by separate administrative order, which shall not become effective until approved by the Board. As applicable, each **Contract City** shall pay a maximum Transfer Fee of nine dollars ($9.00) per ton to the **County** for transfer of MSW delivered to County Solid Waste Management System transfer facilities for Fiscal Years 1995-96, 1996-97, and 1997-98. This Transfer Fee shall be established by separate administrative order, which shall not become effective until approved by the Board. The Disposal Fee and Transfer Fee may be increased or decreased for inflation or deflation beginning on October 1, 1998, and on the first day of each Fiscal Year thereafter, relative to increases or decreases in the U.S. Government Consumer Price Index for All Urban Consumers for the Southeast Region of the United States (CPI) for the prior period of July 1 through June 30. Such CPI increases or decreases shall be capped at five percent (5%) per year for the term of this **Agreement.** In the event that the actual CPI increase or decrease exceeds the five percent (5%) cap in a given Fiscal Year, the amount of CPI increase or decrease above or below the five percent (5%) cap shall be applied to CPI increases or decreases in future years when the CPI increase or decrease is less than five percent (5%). The Disposal Fee and Transfer Fee shall not otherwise increase, unless as required by Change in Law, as defined herein, which may occur at any time during the term of this **Agreement.** The **County** shall notify each **Contract City** of proposed Disposal Fee and Transfer Fee adjustments on the basis of Change In Law. The Disposal Fee or Transfer Fee increase based on Change in Law shall fully compensate the **County** for its increased costs. Each **Contract City** shall pay prevailing disposal fees for Waste materials for which the **County** charges other than the County Disposal Fee for the entire term of this **Agreement,** including, without limitation, tires, asbestos, construction and demolition debris, and clean yard trash, if provided to the **County** for disposal.

E. Terms of Payment. The **County** shall invoice the **Contract Cities** for Disposal Fees, based on **County** weighing records, by means of First Class U.S. Mail, within five (5) days of the last day of each month, commencing in the first month after the effective date of this **Agreement,** and continuing monthly thereafter for the term of this **Agreement.** In accordance with Section 218.74(2), Florida Statutes, as amended from time to time, payment of Disposal Fees owed to the **County** shall be due from, and payment shall be made by, each **Contract City** forty-five (45) days from the date of receipt of the **County's** monthly invoice.

F. Dispute On Invoicing. In the event of a dispute on invoicing, the **Contract City** shall first pay the full amount of the disputed charges when due and shall, within thirty (30) days from the date of receipt of the disputed invoice, give written notice of the disputed invoice to the **County.** The notice of dispute shall identify the disputed invoice, state the amount in dispute and set forth a full statement of grounds on which such dispute is based. The County Manager or his designee shall confer with the **Contract City** and the County Manager or his designee shall resolve the dispute not later than sixty (60) days after the date upon which the disputed invoice was received. Should a **Contract City** disagree with the determination of the County Manager or his designee, it may pursue any remedy at law except withholding payment.

ARTICLE 4
WEIGHING RECORDS

The **County** shall cause all **County** Solid Waste Management System facilities to operate and maintain motor truck scales calibrated to the accuracy required by Florida law and to weigh all vehicles delivering MSW. Each vehicle delivering MSW from a **Contract City**, or its contract hauler, shall have its tare weight and cubic yard capacity permanently and conspicuously displayed on the exterior of the vehicle. The **County** or its contractor may, from time to time, require revalidation of the tare weight of any vehicle. Each **Contract City** shall provide the **County** with information about each private hauler delivering MSW on its behalf to include: name and address, make, body type and motor vehicle registration number of each vehicle used for such purpose. All such haulers shall have and maintain a valid **County** Solid Waste hauler permit in accordance with Section 15-17 of the Code of Metropolitan Dade County, as amended from time to time.

The **County** will supply each **Contract City** with monthly weighing records as may be reasonably required by the **Contract City** to administer its Waste collection program. Copies of all transaction tickets will be maintained by the **County** for at least two (2) years. If weighing scales are inoperable or are being tested, the facility operator shall estimate the quantity of MSW delivered using a schedule of estimated Waste material weights in accordance with Section 15-25, Subsections (b) and (d) of the Metropolitan Dade County Code, as amended from time to time. The estimates shall take the place of actual weighing records, when the scales are not operational. The **County** shall use reasonable efforts to maintain the scales in an operable condition.

ARTICLE 5
SHORT-TERM DISPOSAL

The **Contract Cities** agree that the County Solid Waste Management System may accept MSW on a Short-Term Disposal basis from private or municipal haulers, so long as the capacity to receive Solid Waste delivered on behalf of any **Contract City** is not impaired, and provided that such haulers shall pay (a) Short-Term Disposal Fee(s) of at least ten percent (10%) above that charged to **Contract Cites.** The (a) Short-Term Disposal Fee(s) shall be established by separate administrative order, which shall not become effective until approved by the Board. All Disposal Fee revenues generated pursuant to this **Agreement** shall be used to pay County Solid Waste Management System costs. This provision shall not inhibit the **County** from entering into agreements with private haulers for delivery of Waste to **County** disposal facilities (with the exception of agreements for delivery of Waste collected by (a) private hauler(s) under contract with any municipality that is not a party to this **Agreement,** which shall be prohibited), the minimum duration of which shall be ten (10) years, provided that the **County** shall not offer (a) Disposal Fee(s) less than that agreed to herein by the **Contract Cities** to any private hauler for the term of this **Agreement.**

ARTICLE 6
RELATIONSHIPS OF THE PARTIES

Nothing in this **Agreement** shall be deemed to constitute any party a partner, agent or local representative of the other party or to create any type of fiduciary responsibility of any kind whatsoever between the parties. The obligations to this **Agreement** are not joint; the obligations are separate and several between each of the **Contract Cities** and **County.**

ARTICLE 7
HEADINGS

Captions and headings in this **Agreement** are for ease of reference only and do not constitute a part of this **Agreement** and shall not affect the meaning or interpretation of any provisions herein.

ARTICLE 8
DURATION OF AGREEMENT

The term of MSW deliveries by each **Contract City** to the **County** under this **Agreement** shall commence with the date of execution and shall remain in effect up to and including October 1, 2015. The **Agreement** shall be executed and approved by resolution of each **Contract City's** governing body on or before September 30, 1995, unless a standard letter of intent to enter into this **Agreement** is received by the **County** before October 1, 1995, in which case, the **Agreement** shall be executed and approved by resolution of each **Contract City's** governing body on or before December 1, 1995, and shall become effective upon execution by the **County.** A copy of the resolution of approval shall be transmitted to the County Manager within five (5) days following the date of each **Contract City's** approval.

ARTICLE 9
AGREEMENT GOVERNS; ENTIRE AGREEMENT

This **Agreement** shall govern and supersede any other Interlocal agreement between the **Contract Cities** and the **County** with regard to use of the County Solid Waste Management System. This writing embodies the entire **Agreement** and understanding between the parties hereto, and there are no other agreements or understandings, oral or written with reference to the subject matter hereof that are not merged herein and superseded hereby.

ARTICLE 10
REPRESENTATIONS OF THE COUNTY

The **County** represents that (A) this **Agreement** has been duly authorized, executed and delivered by the Board of County Commissioners as the governing body of the **County**, and (B) it has the required power and authority to perform this **Agreement**.

ARTICLE 11
REPRESENTATIONS OF THE CONTRACT CITIES

Each **Contract City** represents that (A) this **Agreement** has been duly authorized, executed and delivered by the Governing Body of the **Contract City**, and (B) it has the required power and authority to perform this **Agreement.**

ARTICLE 12
APPROVALS AND NOTICES

All notices, consents and other communications required, permitted or otherwise delivered under this **Agreement** shall be in writing and be delivered either by hand with proof of delivery or mailed by first class United States certified or registered mail, with return receipt requested, postage prepaid, and in any case shall be addressed as provided in Exhibit "B", attached hereto and made part hereof.

Changes in the respective addresses of **Contract Cities** provided in Exhibit "B" and of **County** provided on the signature page may be made from time to time by either party by notice to the other party. Notices and consents given by mail in accordance with this section shall be deemed to have been given five (5) business days after the day of dispatch, notices and consents given by any other means shall be deemed to have been given when received.

ARTICLE 13
AMENDMENT TO AGREEMENT

This **Agreement** may be modified, altered or amended only by a written amendment duly executed by the parties hereto, and approved by the governing body of each party. Any oral representations or modifications concerning this **Agreement** shall be of no force or effect.

ARTICLE 14
NON-ASSIGNMENT

In no case shall a **Contract City** assign, transfer, convey or otherwise hypothecate any interest, rights, duties, or obligations hereunder, or any part thereof. In the event a **Contract City** attempts to assign, transfer, convey or otherwise hypothecate this **Agreement** or the **Contract City's** rights, duties or obligations hereunder, or any part thereof, the **County** may at its option, terminate this **Agreement** with respect to that **Contract City.**

ARTICLE 15
RIGHTS OF OTHERS

Nothing in this **Agreement,** either express or implied, is intended to confer upon any person other than the parties hereto any rights or remedies under or by reason of this **Agreement.**

ARTICLE 16
WAIVER

There shall be no waiver of any right related to this **Agreement** unless that such waiver is in writing signed by the party waiving such right. No delay or failure to exercise a right under this **Agreement** shall impair such right or shall be construed to be a waiver thereof. Any waiver shall be limited to the particular rights waived and shall not be deemed a waiver of the same right at a later time, or of any other right under this **Agreement.**

ARTICLE 17
FORCE MAJEURE

Neither party hereto shall be liable for its failure to carry out its obligations under this **Agreement** during any period when such party is rendered unable, in whole or in part, by Force Majeure to carry out such obligations, but the obligations of the party relying on such Force Majeure shall be suspended only during the continuance of any inability so caused and for no longer period, and such cause shall, so far as possible, be remedied with all reasonable dispatch. It is further agreed and stipulated that the right of any party hereto to excuse its failure to perform by reason of Force Majeure shall be conditioned upon such party giving, to the other party, written notice of its assertion that a Force Majeure delay has commenced within five (5) working days after such commencement. If there exists good cause for failure to give such notice, such failure shall not prejudice any party's right to justify any non-performance as caused by Force Majeure, unless the failure to give timely notice causes material prejudice to the other party.

ARTICLE 18
COUNTY EVENT OF DEFAULT

The failure by the **County** to substantially fulfill any of its material obligations in accordance with this **Agreement,** unless excuses are justified by Force Majeure, shall constitute a "**County** event of default". If a **County** event of default should occur, the affected **Contract City(ies)** shall have all of the following rights and remedies which each may exercise singly or in combination: 1. the right to declare that this **Agreement** as it applies to the **Contract City(ies)** together with all rights granted to the **County** hereunder are terminated, effective upon such date as is designated by the **Contract City(ies);** 2. any and all other rights provided under federal laws and the laws of the State of Florida. 3. in any event, the **County** shall maintain responsibility for any debts owed to each **Contract City** for services provided under the terms of this **Agreement.** Notwithstanding any other provision of this article, the **Contract City(ies)** shall not terminate this **Agreement** for a "**County** event of default" unless the **Contract City(ies)** first give(s) the **County** written notice of intent to terminate specifying the alleged default, and providing the **County** a period of sixty (60) days from receipt of notice within which to cure such default.

ARTICLE 19
CONTRACT CITY EVENT OF DEFAULT

Without limitation, the failure by a **Contract City** to substantially fulfill any of its material obligations in accordance with this **Agreement**, unless excuses are justified by Force Majeure, shall constitute a "**Contract City** event of default". If a **Contract City** event of default should occur, the **County** shall have all of the following rights and remedies which it may exercise singly or in combination: 1. the right to declare that all rights granted to the **Contract City** hereunder are terminated, effective upon such date as is designated by the **County**; 2. any and all rights provided under federal laws and the laws of the State of Florida. 3. in any event, the **Contract City** shall maintain responsibility for any debts owed to the **County** for services provided under the terms of this **Agreement**. Notwithstanding any other provision of this article, the **County** shall not terminate this **Agreement** for a "**City** event of default" unless the **County** first gives the **Contract City** written notice of intent to terminate specifying the alleged default, and providing the **Contract City** a period of sixty (60) days from receipt of notice within which to cure such default.

ARTICLE 20
FLORIDA LAW GOVERNS; VENUE IN DADE COUNTY, FLORIDA

This **Agreement**, regardless of where executed, shall be governed by and construed according to the laws of the State of Florida, and venue shall be in Dade County, Florida.

ARTICLE 21
TERMINATION

This **Agreement** may be terminated upon mutual consent, in writing, between any **Contract City** and the **County** .

ARTICLE 22
COUNTERPARTS

This **Agreement** may be executed in one or more counterpart(s), each of which shall be deemed an original.

ARTICLE 23
INVALIDITY OF PROVISIONS

Should any provision, paragraph, sentence, word or phrase contained in this **Agreement** be determined by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable under the laws of the State of Florida, such provision, paragraph, sentence, word or phrase shall be deemed modified to the extent necessary in order to conform with such laws, and this **Agreement** shall remain in full force and effect.

IN WITNESS WHEREOF, Metropolitan Dade County, Florida, has caused this **Agreement** to be executed in its name by the County Manager or his designee, attested by the Clerk of the Board of County Commissioners and has caused the seal of the Board of County Commissioners to be hereto attached; and the **Contract Cities** named in Exhibit "A", have caused this **Agreement** to be executed in theirs names by the Manager of each **Contract City** or his designee, attested by the Clerk of each **Contract City's** governing body and has caused the seal of each **Contract City's** governing body to be hereto attached, all on the day and year first written above.

METROPOLITAN DADE COUNTY,
FLORIDA, BY ITS BOARD OF
COUNTY COMMISSIONERS

Attest:
Harvey Ruvin,
Clerk of the Board

By: _____
for County Manager
Metropolitan Dade County Florida
111 N.W. 1st Street, 29th Floor
Miami, FL 33128

By: _____
Deputy Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY BY:
Dade County Attorney's Office
Mr. Henry N. Gillman, Assistant County Attorney
111 N.W. 1st Street, 27th Floor
Miami, FL 33128

_____
Assistant County Attorney

CONTRACT CITY

WITNESS:

Name of Contract City

By:
Mayor-Commissioner

ATTEST:

By: _____
Contract City Manager

Contract City Clerk

[corporate seal]

26 day of September, 1995.

APPROVED AS TO FORM:

_____
Assistant Contract City Attorney

107.07-17A METRODADE/GSA-MA" MG"

MEMORANDUM

Agenda Item No. 6(A)(5)

O: Honorable Chairperson and Members
Board of County Commissioners

DATE: June 18, 1996

SUBJECT: First Amended and Restated Interlocal Agreement Between the County and Contract Cities for City Use of the County Solid Waste Management System

FROM: Armando Vidal, P.E.
County Manager

Recommendation

It is recommended that the Board of County Commissioners approve the attached resolution authorizing execution of a standard form of the First Amended and Restated Interlocal Agreement between Metropolitan Dade County and Contract Cities for City Use of the County Solid Waste Management System (System), in substantially the form attached hereto.

Background

On September 14, 1995, the Board approved a standard form of interlocal agreement between the County and Contract Cities for city use of the System. To date seventeen (17) Dade municipalities have entered into this agreement. The agreement was developed as a key component of Phase I of the Strategic Plan for Dade County Solid Waste Management, approved by the Board on April 4, 1995, which serves as a guidance document in the ongoing effort to stabilize the financial situation of the Department of Solid Waste Management.

The attached revised interlocal agreement clarifies the conditions under which Contract Cities may use the Waste Management Inc. of Florida (WMIF) landfill in the City of Medley, Florida. The existing interlocal agreement allows for Contract Cities to use the Medley Landfill, which is included in the definition of the County Solid Waste Management System, unless directed elsewhere by the Director. The proposed change explicitly states the criteria that will be used by the Director to determine whether or not a Contract City will be allowed to use the facility. Specifically, the County's contract with WMIF must be in effect, the facility must be accepting waste, and the Contract City's waste must not be needed at the Resources Recovery facility, as determined by the Director in his/her sole discretion.

The agreement also modifies the definition of Source Separated Recyclable Materials by adding specific materials and increasing flexibility with regard to the further addition of materials. Changes to the definition make it consistent with the County's Second Amended and Restated Agreement with Browning-Ferris Industries of Florida, Inc. for curbside recycling. Construction and demolition debris is included as a source separated recyclable material to encourage Contract Cities that currently dispose of this material to source separate and recycle it. A definition of construction and demolition debris is also included.

The amended agreement is available to all municipalities.

Agenda Item No. 6(A)(5)
6-18-96

RESOLUTION NO. R-711-96

RESOLUTION AUTHORIZING EXECUTION OF A STANDARD FORM OF THE FIRST AMENDED AND RESTATED INTERLOCAL AGREEMENT BETWEEN METROPOLITAN DADE COUNTY AND CONTRACT CITIES FOR CITY USE OF THE COUNTY SOLID WASTE MANAGEMENT SYSTEM

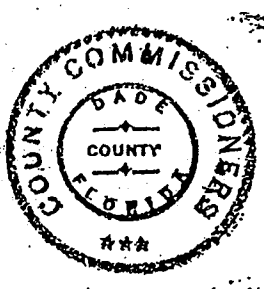
WHEREAS, This Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF DADE COUNTY, FLORIDA, that this Board finds that it is in the best interest of Dade County to approve a standard form of the First Amended and Restated Interlocal Agreement between Metropolitan Dade County and Contract Cities for city use of the county solid waste management system, in substantially the form attached hereto and made part hereof; and authorizes the County Manager to execute the same, for and on behalf of Dade County, following proper execution by Contract Cities.

The foregoing Resolution was offered by Commissioner Natacha S. Millan, who moved its adoption. The motion was seconded by Commissioner Arthur E. Teele Jr., and upon being put to a vote, the vote was as follows:

James Burke	aye	Miguel Diaz de la Portilla	absent
Betty T. Ferguson	aye	Maurice A. Ferre	aye
Bruce Kaplan	aye	Gwen Margolis	aye
Natacha S. Millan	aye	Dennis C. Moss	aye
Alexander Penelas	aye	Pedro Reboredo	aye
Katy Sorenson	aye	Javier D. Souto	aye
Arthur E. Teele, Jr.	aye		

The Chairperson thereupon declared the Resolution duly passed and adopted this 18th day of June, 1996.



DADE COUNTY, FLORIDA
BY ITS BOARD OF COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

Approved by County Attorney as to form and legal sufficiency.

By: KAY SULLIVAN
Deputy Clerk

FIRST AMENDED AND RESTATED INTERLOCAL AGREEMENT BETWEEN METROPOLITAN DADE COUNTY AND CONTRACT CITIES FOR CITY USE OF THE COUNTY SOLID WASTE MANAGEMENT SYSTEM

This First Amended and Restated Interlocal Agreement ("**Agreement**") is made and entered into this _____ day of _____, 1996, by and between Metropolitan Dade County by and through its Board of County Commissioners ("**County**") and those municipalities whose names appear in Exhibit "A", attached hereto and made part hereof, their successors and assigns, hereinafter referred to as **Contract Cities**, to provide for use of the County Solid Waste Management System by **Contract Cities** for their Solid Waste disposal and transfer needs.

BACKGROUND RECITALS

Whereas, the Metropolitan Dade County Board of **County** Commissioners (the "Board") hereby finds and declares that it is necessary to the health, safety and welfare of the citizens of Dade County to provide for Solid Waste disposal and management facilities and services; and

Whereas, the **County** desires to maximize the use of its Resources Recovery facility processes and to extend the life of its landfills; and

Whereas, the **Contract Cities** desire to use the County Solid Waste Management System for their Solid Waste disposal needs (and transfer needs, as applicable), at an agreed-upon Disposal Fee rate (and Transfer Fee rate as applicable); and

Whereas, the **Contract Cities** desire to reestablish or continue their reliance on the County Solid Waste Management System to satisfy Concurrency requirements of the Local Government Comprehensive Planning and Land Development Regulation Act (Chapter 163, Part II, F.S.) only as it applies to Solid Waste disposal capacity for the Solid Waste which each **Contract City** collects for disposal, or that which is collected for it by third parties under contract with the **Contract City** for disposal, and which is committed to the **County** for disposal in the County Solid Waste Management System in accordance with this **Agreement**, and actually disposed of therein; and

Whereas, the **County** and the **Contract Cities** desire to formalize their relationship regarding Solid Waste disposal responsibilities consistent with the provisions of Section 403.706, Florida Statutes; and

Whereas, by this first amended and restated agreement, the County desires to clarify the conditions under which **Contract Cities** may use the Waste Management Inc. of Florida landfill in Medley, Florida; modify the definition of Source Separated Recyclable Materials by adding specific materials and increasing flexibility with regard to the further addition of materials; and add a definition of construction and demolition debris; and

Whereas, the amended agreement as stated herein shall be available to all municipalities.

NOW THEREFORE, in consideration of the foregoing premises, and the mutual considerations contained herein, the parties hereto, intending to be legally bound, do hereby agree as follows:

DEFINITIONS

For the purposes of this **Agreement**, the following capitalized words and phrases shall be given the following respective meanings:

Board - the Metropolitan Dade County Board of County Commissioners.

Change in Law - after the date of execution of this **Agreement**, (a) the adoption, promulgation, issuance, modification, or change in interpretation of any federal, state or local law, regulation, rule, requirement, ruling or ordinance, of the United States or any state or territory thereof, unless (i) such law, regulation, rule, requirement, ruling or ordinance was on or prior to such date duly adopted, promulgated, issued or otherwise officially modified or changed in interpretation, in each case in final form, to become effective without any further action by any governmental entity or official having jurisdiction, (provided, that it shall not constitute a Change in Law if an administrative regulation existed on the date of execution of this **Agreement** in temporary or proposed form and was treated as generally applicable to transactions of the type contemplated hereby), or (ii) compliance with such law, regulation, rule requirement, ruling or ordinance was provided for in the **Agreement**; (b) the issuance of an order and/or judgment of any governmental entity or official having jurisdiction, to the extent such order and/or judgment constitutes a reversal of a prior applicable order and/or judgment, or an overturning of prior administrative policy or judicial precedent; or (c) the suspension, termination, interruption or failure of renewal of any permit, license, consent, authorization or approval essential to the acquisition, design, construction, equipping, start-up, operation, ownership or possession of the County Solid Waste Management System facilities or the facilities sites, to the extent such suspension, termination, interruption or failure of renewal is not caused by any action or inaction of the **County** or its contractors (provided that, for the purposes of determining whether a suspension, termination, interruption or failure of renewal was so caused, any reason or finding set forth in writing by the agency responsible for issuance of such permit, license, consent, authorization or approval shall be accorded the rebuttal presumption of accuracy), provided that no change in tax law, change to the Internal Revenue Code of 1954 effected by the Tax Reform Act of 1986 (to the extent applicable on the date of this **Agreement**), change in foreign law, Change In Law which adversely affects the **County's** legal rights as a licensee, grantee, owner, or user of any patent or other "know-how" in respect of proprietary technology intended to be utilized by it in performing its obligations under this **Agreement** shall constitute a change in law for any purposes of this **Agreement**.

Concurrency - provision of certain public facilities specified in the State of Florida Local Government Comprehensive Planning and Land Development Regulation Act ("the Act") (specifically, Chapter 163, Part II, Section 163.3180 F.S.) by (a) county (ies), or (a) municipality (ies) or a combination thereof, at a specified level-of-service stated in the Capital Improvements Element of the comprehensive plan for the applicable jurisdiction(s), adopted pursuant to the Act.

Construction and Demolition Debris - discarded materials generally considered not to be water-soluble or hazardous, including, without limitation, steel, concrete, glass, brick, roofing material, lumber, and gypsum wallboard which are generated from building repair, renovation, construction or demolition projects. Commingling construction and demolition debris with solid waste generated from other than building repair, renovation, construction or demolition projects will cause such waste to be classified as Municipal Solid Waste.

Contract City (ies) - the municipal corporation or corporations existing under the laws of the State of Florida, that enter into this **Agreement** with the **County** and whose names appear in Exhibit "A" to this **Agreement**. For the purpose of this **Agreement**, the unincorporated areas of Dade County, as delineated in Exhibit "D", shall be considered a **Contract City**.

County - Metropolitan Dade County, Florida by and through its Board of County Commissioners.

County Disposal Fee - the fee charged to dispose of Solid Waste at County-owned Solid Waste disposal facilities or facilities operated under contract with the **County** for Solid Waste disposal.

County Solid Waste Management System - The aggregate of those Solid Waste management facilities owned by or operated under contract with Dade County, which shall include the North Dade Landfill, South Dade Landfill, Resources Recovery Facility, Waste Management of Florida, Inc. Landfill in the City of Medley, Florida, Northeast Transfer Station, Central Transfer Station, West Transfer Station, and other such facilities as may be added to or deleted from this listing from time to time, by the County Manager at his sole discretion. Such additions or deletions may be made by use of an attachment hereto without need for formal amendment to this **Agreement**.

Director - the Director of the Department of Solid Waste Management or his/her designee.

Exclusive Franchise or License - (a) contract(s) between a **Contract City** and a (limited number of) third party contractor(s) for the right and privilege to collect Solid Waste from either residential units or commercial establishments, or both residential units and commercial establishments, within (a) designated service area(s) under the terms of which the contractor(s) pay(s) the **Contract City** a fee.

Fiscal Year - the period beginning October 1 of each year and ending September 30 of the subsequent year.

Force Majeure - an act of God, epidemic, lightning, earthquake, fire, explosion, storm, hurricane, flood or similar occurrence, strike, and act of a public enemy, or blockade, insurrection, riot, general arrest or restraint of government and people, civil disturbance or similar occurrence, which has had or may reasonably be expected to have a material adverse effect on the rights or obligations under this **Agreement**, which by the exercise of due diligence the party relying thereon as justification for not performing any obligation under this **Agreement** shall not have been able to avoid, and which is not the result of a willful or negligent action or omission of such party.

Municipal Solid Waste (MSW) or Solid Waste or Waste - all discarded materials or substances, exclusive of Source-Separated Recyclable Materials, which each **Contract City** collects for disposal, or that which is collected for it by third parties under contract with the **Contract City** for disposal, including, but not limited to, garbage, trash, litter, refuse, rubbish, ashes, incinerator residue, recycling process residue, or other materials allowed by the State Department of Environmental Protection for disposal in a Class I landfill which result from domestic, commercial, industrial, mining, agricultural or governmental activities, but not including sewage or other highly-diluted, water-carried materials or substances, or those in gaseous form.

Non-Exclusive Franchise or License - a regulatory program under which an unlimited number of Solid Waste haulers are given the right and privilege to collect Waste from either residential units or commercial establishments, or both residential units and commercial establishments, under the terms of which each hauler pays the **Contract City** a fee.

Short-Term Disposal - delivery of Solid Waste to the County Solid Waste Management System for disposal without having a minimum ten (10) year Waste disposal agreement with the **County**.

Short-Term Disposal Fee(s) - the fee(s) paid by private haulers or municipalities for Short-Term Disposal of Solid Waste in the County Solid Waste Management System.

Source-Separated Recyclable Materials - materials separated from MSW at their source of generation which are set-out for collection at their source of generation. Such materials shall be limited to: clean yard trash, construction and demolition debris, aseptic and gable-top containers, corrugated cardboard, magazines, mixed waste paper, newspapers, telephone books, household batteries, glass containers, plastic containers, steel cans, aluminum cans, and other Source-Separated Recyclable Materials as may be ~~added~~ approved for addition to this listing from time to time by the County Manager, which approval shall not be unreasonably withheld ~~at his sole discretion~~; such additions may be made by use of an attachment hereto without need for formal amendment to this **Agreement.**

Transfer Fee - the fee charged to transfer Solid Waste from County Solid Waste Management System transfer stations to County Solid Waste Management System disposal facilities.

ARTICLE 1
CONSTRUCTION OF INTERLOCAL AGREEMENT

The word "shall" as used in this **Agreement** shall in all cases be construed to be mandatory and to require the action so modified by the word "shall" to be taken without regard to the exercise of discretion.

ARTICLE 2
RESPONSIBILITIES OF THE COUNTY

A. Provision of Disposal Capacity. The **County** shall provide MSW disposal capacity (and transfer, as applicable) for the Solid Waste which each **Contract City** collects for disposal, or that which is collected for it by third parties under contract with the **Contract City** for disposal,

and which is committed to the **County** for disposal in the County Solid Waste Management System in accordance with this **Agreement**. The provision of Solid Waste disposal services under this **Agreement** shall comply with all applicable state and federal laws.

B. **Disposal Capacity for Concurrency.** The **County** shall maintain sufficient MSW disposal capacity in the County Solid Waste Management System to comply with Concurrency requirements of the Local Government Comprehensive Planning and Land Development Regulation Act (Chapter 163, Part II, F.S.) only as it applies to Solid Waste disposal capacity for the Solid Waste which each **Contract City** collects for disposal, or that which is collected for it by third parties under contract with the **Contract City** for disposal, and which is committed to the **County** for disposal in the County Solid Waste Management System in accordance with this **Agreement**, and actually disposed of therein.

C. **Standardization of Agreement.** The terms of this **Agreement** shall be substantially the same for all Contract Cities.

ARTICLE 3
RESPONSIBILITIES OF THE CONTRACT CITIES

A. **Delivery of MSW to County.** Each **Contract City** shall deliver all the MSW it collects for disposal, or cause delivery of that MSW which is collected for it by third parties under contract with the **Contract City** for disposal, excluding Source-Separated Recyclable Materials, to (a) County Solid Waste Management System facility(ies), at Disposal Fee rates as specified herein. Delivery of Waste by **Contract Cities** to the Waste Management Inc. of Florida landfill in Medley, Florida, shall be permitted for the term of this agreement; provided that, (1) the **County's** agreement with Waste Management Inc. of Florida, dated October 27, 1995, is in effect, (2) the landfill is accepting waste for disposal, and (3) waste from (a) **Contract City(ies)** is not needed at the Resources Recovery facility, as determined by the Director, in his/ her sole discretion.

Contract Cities which have entered into Solid Waste disposal agreements with third party contractors prior to July 28, 1995, the terms of which extend into the term of this **Agreement** for a portion of Fiscal Year 1995-96, are not obligated to deliver Solid Waste to the **County** for that portion of Fiscal Year 1995-96 covered by the third party agreements, copies of which are incorporated herein as Exhibit "C". Such **Contract Cities** shall otherwise adhere to all terms of this **Agreement**. Area(s) of unincorporated Dade County, as delineated in Exhibit "D", which incorporate subsequent to the date of this **Agreement** shall comply with all terms of this **Agreement**, unless expressly relieved from doing so by resolution of the Board.

The Director may identify particular facilities to which each **Contract City** shall deliver its Waste. Any **Contract City** may deliver its Waste to a **County** transfer facility if the applicable Transfer Fee is paid to the **County**. At no time during the term of this **Agreement** shall any **Contract City** be required to deliver MSW to a **County** transfer facility unless the County Disposal Fee is the same at all County Solid Waste Management System facilities. No **Contract City** shall be directed to deliver its Waste to a disposal facility which is farther from that **Contract City's** boundaries than the closest county-owned disposal facility. No **Contract City** shall be directed to deliver its Waste to a transfer facility which is farther from that

Contract City's boundaries than the closest county-owned transfer facility. In no case shall a **Contract City** be required to deliver its Waste to a County Solid Waste Management System facility which is farther than twenty (20) miles from that **Contract City's** nearest boundary in order to take full advantage of it rights under this **Agreement.**

B. **Use of Other Facilities Prohibited.** Each **Contract City** shall not deliver any MSW it collects for disposal, or cause or suffer delivery of that MSW which is collected for it by third parties under contract with the **Contract City** for disposal, excluding Source-Separated Recyclable Materials, to a Solid Waste disposal or transfer facility other than a County Solid Waste Management System facility for the term of this **Agreement.** No **Contract City** shall deliver any MSW it collects, or cause or suffer delivery of that MSW which is collected for it by third parties under contract with the **Contract City** for disposal, other than Source-Separated Recyclable Materials, to a materials recovery or recycling facility for the term of this **Agreement.**

C. **Hauler Contracts.** Each **Contract City** shall include in any contracts with Solid Waste haulers, or amendments to such contracts, which it executes, renews or extends after the date of this **Agreement,** a provision that all Solid Waste collected for the **Contract City** shall be delivered to a specified County Solid Waste Management System facility for disposal. This provision shall apply to Exclusive Franchise or License agreements with Solid Waste haulers. This provision shall not apply to a Non-Exclusive Franchise or License to haul Solid Waste.

D. **Disposal and Transfer Fees.** Each **Contract City** shall pay a Disposal Fee (and a Transfer Fee, as applicable) for each ton of MSW delivered to the County Solid Waste Management System for disposal. Each **Contract City** shall pay a maximum Disposal Fee of forty-five dollars ($45.00) per ton to the **County** for disposal of MSW delivered to County Solid Waste Management System facilities for Fiscal Years 1995-96, 1996-97, and 1997-98. This Disposal Fee shall be established by separate administrative order, which shall not become effective until approved by the Board. As applicable, each **Contract City** shall pay a maximum Transfer Fee of nine dollars ($9.00) per ton to the **County** for transfer of MSW delivered to County Solid Waste Management System transfer facilities for Fiscal Years 1995-96, 1996-97, and 1997-98. This Transfer Fee shall be established by separate administrative order, which shall not become effective until approved by the Board. The Disposal Fee and Transfer Fee may be increased or decreased for inflation or deflation beginning on October 1, 1998, and on the first day of each Fiscal Year thereafter, relative to increases or decreases in the U.S. Government Consumer Price Index for All Urban Consumers for the Southeast Region of the United States (CPI) for the prior period of July 1 through June 30. Such CPI increases or decreases shall be capped at five percent (5%) per year for the term of this **Agreement.** In the event that the actual CPI increase or decrease exceeds the five percent (5%) cap in a given Fiscal Year, the amount of CPI increase or decrease above or below the five percent (5%) cap shall be applied to CPI increases or decreases in future years when the CPI increase or decrease is less than five percent (5%). The Disposal Fee and Transfer Fee shall not otherwise increase, unless as required by Change in Law, as defined herein, which may occur at any time during the term of this **Agreement.** The **County** shall notify each **Contract City** of proposed Disposal Fee and Transfer Fee adjustments on the basis of Change In Law. The Disposal Fee or Transfer Fee increase based on Change in Law shall fully compensate the **County** for its increased costs. Each **Contract City** shall pay prevailing disposal fees for Waste materials for which the **County** charges other than the County

Disposal Fee for the entire term of this **Agreement**, including, without limitation, tires, asbestos, construction and demolition debris, and clean yard trash, if provided to the **County** for disposal.

E. Terms of Payment. The **County** shall invoice the **Contract Cities** for Disposal Fees, based on **County** weighing records, by means of First Class U.S. Mail, within five (5) days of the last day of each month, commencing in the first month after the effective date of this **Agreement**, and continuing monthly thereafter for the term of this **Agreement**. In accordance with Section 218.74(2), Florida Statutes, as amended from time to time, payment of Disposal Fees owed to the **County** shall be due from, and payment shall be made by, each **Contract City** forty-five (45) days from the date of receipt of the **County's** monthly invoice.

F. Dispute On Invoicing. In the event of a dispute on invoicing, the **Contract City** shall first pay the full amount of the disputed charges when due and shall, within thirty (30) days from the date of receipt of the disputed invoice, give written notice of the disputed invoice to the **County**. The notice of dispute shall identify the disputed invoice, state the amount in dispute and set forth a full statement of grounds on which such dispute is based. The County Manager or his designee shall confer with the **Contract City** and the County Manager or his designee shall resolve the dispute not later than sixty (60) days after the date upon which the disputed invoice was received. Should a **Contract City** disagree with the determination of the County Manager or his designee, it may pursue any remedy at law except withholding payment.

ARTICLE 4
WEIGHING RECORDS

The **County** shall cause all **County** Solid Waste Management System facilities to operate and maintain motor truck scales calibrated to the accuracy required by Florida law and to weigh all vehicles delivering MSW. Each vehicle delivering MSW from a **Contract City**, or its contract hauler, shall have its tare weight and cubic yard capacity permanently and conspicuously displayed on the exterior of the vehicle. The **County** or its contractor may, from time to time, require revalidation of the tare weight of any vehicle. Each **Contract City** shall provide the **County** with information about each private hauler delivering MSW on its behalf to include: name and address, make, body type and motor vehicle registration number of each vehicle used for such purpose. All such haulers shall have and maintain a valid **County** Solid Waste hauler permit in accordance with Section 15-17 of the Code of Metropolitan Dade County, as amended from time to time.

The **County** will supply each **Contract City** with monthly weighing records as may be reasonably required by the **Contract City** to administer its Waste collection program. Copies of all transaction tickets will be maintained by the **County** for at least two (2) years. If weighing scales are inoperable or are being tested, the facility operator shall estimate the quantity of MSW delivered using a schedule of estimated Waste material weights in accordance with Section 15-25, Subsections (b) and (d) of the Metropolitan Dade County Code, as amended from time to time. The estimates shall take the place of actual weighing records, when the scales are not operational. The **County** shall use reasonable efforts to maintain the scales in an operable condition.

ARTICLE 5
SHORT-TERM DISPOSAL

The **Contract Cities** agree that the County Solid Waste Management System may accept MSW on a Short-Term Disposal basis from private or municipal haulers, so long as the capacity to receive Solid Waste delivered on behalf of any **Contract City** is not impaired, and provided that such haulers shall pay (a) Short-Term Disposal Fee(s) of at least ten percent (10%) above that charged to **Contract Cites.** The (a) Short-Term Disposal Fee(s) shall be established by separate administrative order, which shall not become effective until approved by the Board. All Disposal Fee revenues generated pursuant to this **Agreement** shall be used to pay County Solid Waste Management System costs. This provision shall not inhibit the **County** from entering into agreements with private haulers for delivery of Waste to **County** disposal facilities (with the exception of agreements for delivery of Waste collected by (a) private hauler(s) under contract with any municipality that is not a party to this **Agreement,** which shall be prohibited), the minimum duration of which shall be ten (10) years, provided that the **County** shall not offer (a) Disposal Fee(s) less than that agreed to herein by the **Contract Cities** to any private hauler for the term of this **Agreement.**

ARTICLE 6
RELATIONSHIPS OF THE PARTIES

Nothing in this **Agreement** shall be deemed to constitute any party a partner, agent or local representative of the other party or to create any type of fiduciary responsibility of any kind whatsoever between the parties. The obligations to this **Agreement** are not joint; the obligations are separate and several between each of the **Contract Cities** and **County.**

ARTICLE 7
HEADINGS

Captions and headings in this **Agreement** are for ease of reference only and do not constitute a part of this **Agreement** and shall not affect the meaning or interpretation of any provisions herein.

ARTICLE 8
DURATION OF AGREEMENT

The term of MSW deliveries by each **Contract City** to the **County** under this **Agreement** shall commence with the date of execution and shall remain in effect up to and including October 1, 2015. The **Agreement** shall be executed and approved by resolution of each **Contract City's** governing body on or before September 30, 1995, unless a standard letter of intent to enter into this **Agreement** is received by the **County** before October 1, 1995, in which case, the **Agreement** shall be executed and approved by resolution of each **Contract City's** governing body on or before December 1, 1995, and shall become effective upon execution by the **County.** A copy of the resolution of approval shall be transmitted to the County Manager within five (5) days following the date of each **Contract City's** approval.

ARTICLE 9
AGREEMENT GOVERNS; ENTIRE AGREEMENT

This **Agreement** shall govern and supersede any other Interlocal agreement between the **Contract Cities** and the **County** with regard to use of the County Solid Waste Management System. This writing embodies the entire **Agreement** and understanding between the parties hereto, and there are no other agreements or understandings, oral or written with reference to the subject matter hereof that are not merged herein and superseded hereby.

ARTICLE 10
REPRESENTATIONS OF THE COUNTY

The **County** represents that (A) this **Agreement** has been duly authorized, executed and delivered by the Board of County Commissioners as the governing body of the **County**, and (B) it has the required power and authority to perform this **Agreement**.

ARTICLE 11
REPRESENTATIONS OF THE CONTRACT CITIES

Each **Contract City** represents that (A) this **Agreement** has been duly authorized, executed and delivered by the Governing Body of the **Contract City**, and (B) it has the required power and authority to perform this **Agreement**.

ARTICLE 12
APPROVALS AND NOTICES

All notices, consents and other communications required, permitted or otherwise delivered under this **Agreement** shall be in writing and be delivered either by hand with proof of delivery or mailed by first class United States certified or registered mail, with return receipt requested, postage prepaid, and in any case shall be addressed as provided in Exhibit "B", attached hereto and made part hereof.

Changes in the respective addresses of **Contract Cities** provided in Exhibit "B" and of **County** provided on the signature page may be made from time to time by either party by notice to the other party. Notices and consents given by mail in accordance with this section shall be deemed to have been given five (5) business days after the day of dispatch, notices and consents given by any other means shall be deemed to have been given when received.

ARTICLE 13
AMENDMENT TO AGREEMENT

This **Agreement** may be modified, altered or amended only by a written amendment duly executed by the parties hereto, and approved by the governing body of each party. Any oral representations or modifications concerning this **Agreement** shall be of no force or effect.

ARTICLE 14
NON-ASSIGNMENT

In no case shall a **Contract City** assign, transfer, convey or otherwise hypothecate any interest, rights, duties, or obligations hereunder, or any part thereof. In the event a **Contract City** attempts to assign, transfer, convey or otherwise hypothecate this **Agreement** or the **Contract City's** rights, duties or obligations hereunder, or any part thereof, the **County** may at its option, terminate this **Agreement** with respect to that **Contract City.**

ARTICLE 15
RIGHTS OF OTHERS

Nothing in this **Agreement,** either express or implied, is intended to confer upon any person other than the parties hereto any rights or remedies under or by reason of this **Agreement.**

ARTICLE 16
WAIVER

There shall be no waiver of any right related to this **Agreement** unless that such waiver is in writing signed by the party waiving such right. No delay or failure to exercise a right under this **Agreement** shall impair such right or shall be construed to be a waiver thereof. Any waiver shall be limited to the particular rights waived and shall not be deemed a waiver of the same right at a later time, or of any other right under this **Agreement.**

ARTICLE 17
FORCE MAJEURE

Neither party hereto shall be liable for its failure to carry out its obligations under this **Agreement** during any period when such party is rendered unable, in whole or in part, by Force Majeure to carry out such obligations, but the obligations of the party relying on such Force Majeure shall be suspended only during the continuance of any inability so caused and for no longer period, and such cause shall, so far as possible, be remedied with all reasonable dispatch. It is further agreed and stipulated that the right of any party hereto to excuse its failure to perform by reason of Force Majeure shall be conditioned upon such party giving, to the other party, written notice of its assertion that a Force Majeure delay has commenced within five (5) working days after such commencement. If there exists good cause for failure to give such notice, such failure shall not prejudice any party's right to justify any non-performance as caused by Force Majeure, unless the failure to give timely notice causes material prejudice to the other party.

ARTICLE 18
COUNTY EVENT OF DEFAULT

The failure by the **County** to substantially fulfill any of its material obligations in accordance with this **Agreement,** unless excuses are justified by Force Majeure, shall constitute a "**County** event of default". If a **County** event of default should occur, the affected **Contract City(ies)** shall have all of the following rights and remedies which each may exercise singly or in

combination: 1. the right to declare that this **Agreement** as it applies to the **Contract City(ies)** together with all rights granted to the **County** hereunder are terminated, effective upon such date as is designated by the **Contract City(ies);** 2. any and all other rights provided under federal laws and the laws of the State of Florida. 3. in any event, the **County** shall maintain responsibility for any debts owed to each **Contract City** for services provided under the terms of this **Agreement.** Notwithstanding any other provision of this article, the **Contract City(ies)** shall not terminate this **Agreement** for a "**County** event of default" unless the **Contract City(ies)** first give(s) the **County** written notice of intent to terminate specifying the alleged default, and providing the **County** a period of sixty (60) days from receipt of notice within which to cure such default.

ARTICLE 19
CONTRACT CITY EVENT OF DEFAULT

Without limitation, the failure by a **Contract City** to substantially fulfill any of its material obligations in accordance with this **Agreement,** unless excuses are justified by Force Majeure, shall constitute a "**Contract City** event of default". If a **Contract City** event of default should occur, the **County** shall have all of the following rights and remedies which it may exercise singly or in combination: 1. the right to declare that all rights granted to the **Contract City** hereunder are terminated, effective upon such date as is designated by the **County;** 2. any and all rights provided under federal laws and the laws of the State of Florida. 3. in any event, the **Contract City** shall maintain responsibility for any debts owed to the **County** for services provided under the terms of this **Agreement.** Notwithstanding any other provision of this article, the **County** shall not terminate this **Agreement** for a "**City** event of default" unless the **County** first gives the **Contract City** written notice of intent to terminate specifying the alleged default, and providing the **Contract City** a period of sixty (60) days from receipt of notice within which to cure such default.

ARTICLE 20
FLORIDA LAW GOVERNS; VENUE IN DADE COUNTY, FLORIDA

This **Agreement,** regardless of where executed, shall be governed by and construed according to the laws of the State of Florida, and venue shall be in Dade County, Florida.

ARTICLE 21
TERMINATION

This **Agreement** may be terminated upon mutual consent, in writing, between any **Contract City** and the **County** .

ARTICLE 22
COUNTERPARTS

This **Agreement** may be executed in one or more counterpart(s), each of which shall be deemed an original.

ARTICLE 23
INVALIDITY OF PROVISIONS

Should any provision, paragraph, sentence, word or phrase contained in this **Agreement** be determined by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable under the laws of the State of Florida, such provision, paragraph, sentence, word or phrase shall be deemed modified to the extent necessary in order to conform with such laws, and this **Agreement** shall remain in full force and effect.

IN WITNESS WHEREOF, Metropolitan Dade County, Florida, has caused this **Agreement** to be executed in its name by the County Manager or his designee, attested by the Clerk of the Board of County Commissioners and has caused the seal of the Board of County Commissioners to be hereto attached; and the **Contract Cities** named in Exhibit "A", have caused this **Agreement** to be executed in theirs names by the Manager of each **Contract City** or his designee, attested by the Clerk of each **Contract City's** governing body and has caused the seal of each **Contract City's** governing body to be hereto attached, all on the day and year first written above.

METROPOLITAN DADE COUNTY,
FLORIDA, BY ITS BOARD OF
COUNTY COMMISSIONERS

Attest:
Harvey Ruvin,
Clerk of the Board

By: _____
County Manager
Metropolitan Dade County Florida
111 N.W. 1st Street, 29th Floor
Miami, FL 33128

By: _____
Deputy Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY BY:
Dade County Attorney's Office
Mr. Henry N. Gillman, Assistant County Attorney
111 N.W. 1st Street, 27th Floor
Miami, FL 33128

_____
Assistant County Attorney

CONTRACT CITY

WITNESS:

_____
Name of Contract City

ATTEST:

By: _____
Contract City Manager

_____
Contract City Clerk

[corporate seal]

_____ day of _____, 199__.

APPROVED AS TO FORM:

_____
Contract City Attorney

EXHIBIT A

Names of Contract Cities

1. Bal Harbour Village
2. Town of Bay Harbor Islands
3. Village of Biscayne Park
4. City of Coral Gables
5. City of Homestead
6. City of Miami
7. City of Miami Beach
8. Village of Miami Shores
9. City of Miami Springs
10. City of North Bay Village
11. City of North Miami
12. City of North Miami Beach
13. City of Opa-Locka
14. City of South Miami
15. Town of Surfside
16. City of Sweetwater
17. City of West Miami
18. Unincorporated Dade County

EXHIBIT B
CONTRACT CITIES
ADDRESSES

1. Mayor
Bal Harbour Village
655-96th Street
Bal Harbour, FL 33154

2. Mayor
Town of Bay Harbor Islands
P.O. Box 546667
Bay Harbor Island, FL 33154

3. Mayor
Village of Biscayne I
640 N.E. 114th Stre
Biscayne Park, FL 3

4. Mayor
City of Coral Gables
P.O. Box 141549
Coral Gables, FL 33114

5. Mayor
City of Homestead
790 N. Homestead Blvd.
Homestead, FL 33030

6. Mayor
City of Miami
3500 Pan American
Miami, FL 33133

7. Mayor
City of Miami Beach
1700 Convention Ctr. Dr.
Miami Beach, FL 33139

8. Mayor
Village of Miami Shores
10050 N.E. 2nd Avenue
Miami Shores, FL 33138

9. Mayor
City of Miami Sprin
201 Westward Driv
Miami Springs, FL

10. Mayor
City of North Bay Village
7903 East Drive
North Bay Village, FL 33141

11. Mayor
City of North Miami
776 N.E. 125th Street
North Miami, FL 33161

12. Mayor
City of North Mi
17011 N.E. 19th A
North Miami Beach

13. Mayor
City of Opa-Locka
777 Sharazad Blvd.
Opa-Locka, FL 33054

14. Mayor
City of South Miami
6130 Sunset Drive
South Miami, FL 33143

15. Mayor
Town of Surfside
9293 Harding Aven
Surfside, FL 33154

16. Mayor
City of Sweetwater
500 S.W. 109th Avenue
Sweetwater, FL 33174

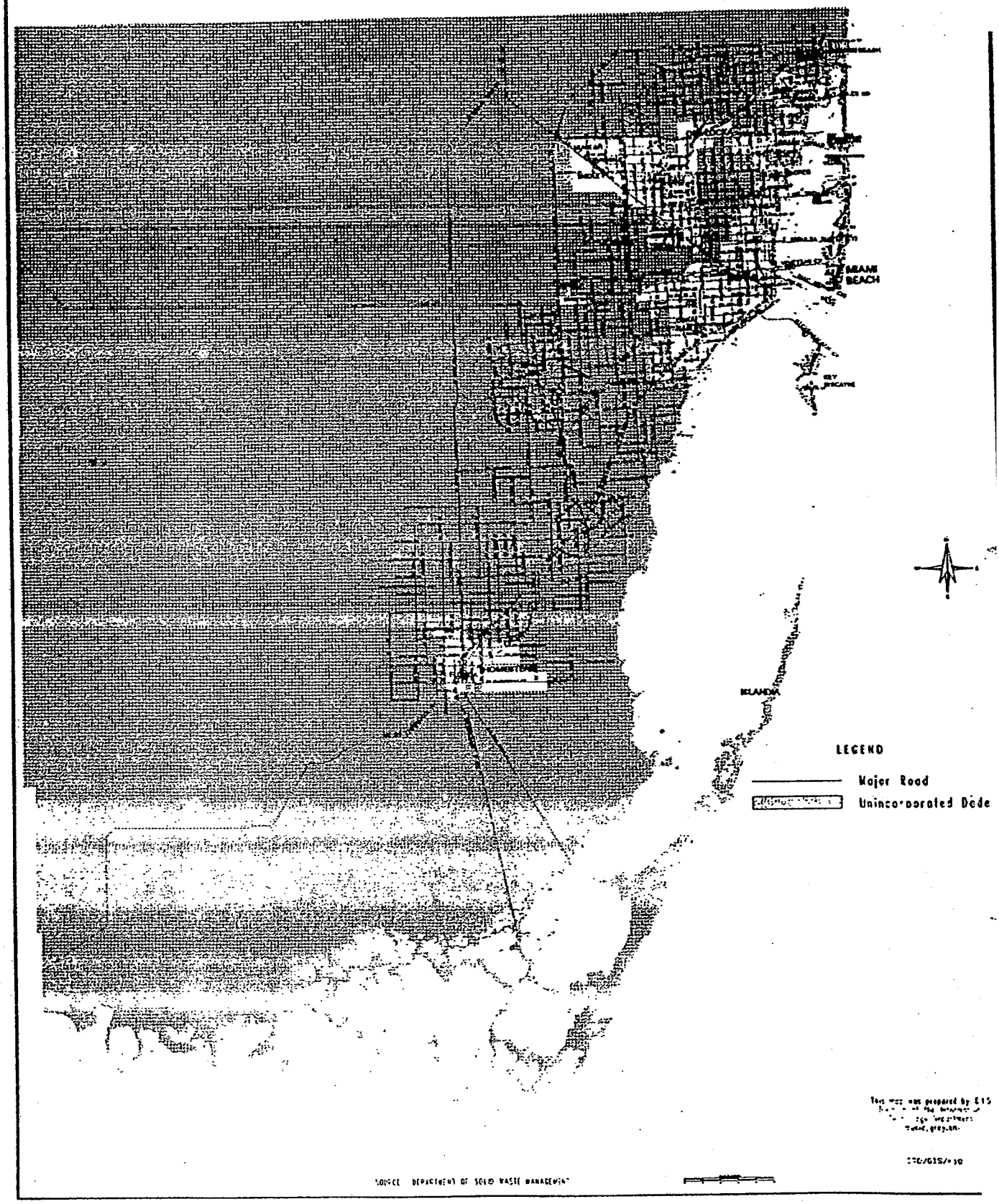
17. Mayor
City of West Miami
901 S.W. 62nd Avenue
West Miami, FL 33144

18. Manager
Dade County
111 N.W. 1st Street
Miami, FL 33128

EXHIBIT C

Disposal Contracts Executed Prior to July 28, 1995

UNINCORPORATED DADE COUNTY
Exhibit D



STATE OF FLORIDA)
) SS:
COUNTY OF DADE)

I, HARVEY RUVIN, Clerk of the Circuit Court in and for Dade County, Florida, and Ex-Officio Clerk of the Board of County Commissioners of said County, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Resolution No. R-711-96, adopted by the said board of County Commissioners at its meeting held on June 18 19 96.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this 25th day of June, A.D. 19 96.

HARVEY RUVIN, Clerk
Board of County Commissioners
Dade County, Florida

By _____
Deputy Clerk

COUNTY COMMISSIONERS DADE COUNTY SEAL FLORIDA

Board of County Commissioners
Dade County, Florida

CLK/CT 587 3/93

SECOND AMENDED AND RESTATED INTERLOCAL AGREEMENT BETWEEN MIAMI-DADE COUNTY AND CONTRACT CITIES FOR USE OF THE COUNTY SOLID WASTE MANAGEMENT SYSTEM

This Interlocal Agreement ("**Agreement**") is made and entered into this _____ day of _____, 20___, by and between Miami-Dade County by and through its Board of County Commissioners ("**County**") and _____ by and through its _____ hereinafter referred to as **Contract City**, to provide for use of the County Solid Waste Management System by the **Contract City** for its municipal solid waste disposal and transfer needs.

BACKGROUND RECITALS

Whereas, the Miami-Dade County Board of **County** Commissioners (the "Board") hereby finds and declares that it is necessary to the health, safety and welfare of the citizens of Miami-Dade County to provide for municipal solid waste disposal and management facilities and services; and

Whereas, the **County** desires to maximize the use of its Resources Recovery facility processes and to extend the life of its landfills; and

Whereas, the **Contract City** desires to use the County Solid Waste Management System for its municipal solid waste disposal needs (and transfer needs, as applicable), at an agreed-upon disposal fee rate (and transfer fee rate as applicable); and

Whereas, the **Contract City** desires to use the County Solid Waste Management System to satisfy Concurrency requirements of the Local Government Comprehensive Planning and Land Development Regulation Act (Chapter 163, Part II, F.S.) only as it applies to disposal capacity for municipal solid waste the **Contract City** collects for disposal and which is committed to the **County** for disposal in the County Solid Waste Management System in accordance with this **Agreement,** and actually disposed of therein; and

Whereas, the **County** and the **Contract City** desire to formalize their relationship regarding municipal solid waste disposal responsibilities consistent with the provisions of Section 403.706, Florida Statutes.

Whereas, the amended agreement as stated herein shall be available to all municipalities.

NOW THEREFORE, in consideration of the foregoing premises, and the mutual considerations contained herein, the parties hereto, intending to be legally bound, do hereby agree as follows:

DEFINITIONS

For the purposes of this **Agreement,** the following capitalized words and phrases shall be given the following respective meanings:

Board - the Miami-Dade County Board of County Commissioners.

Change in Law - after the date of execution of this **Agreement**, (a) the adoption, promulgation, issuance, modification, or change in interpretation of any federal, state or local law, regulation, rule, requirement, ruling or ordinance, of the United States or any state or territory thereof, unless (i) such law, regulation, rule, requirement, ruling or ordinance was on or prior to such date duly adopted, promulgated, issued or otherwise officially modified or changed in interpretation, in each case in final form, to become effective without any further action by any governmental entity or official having jurisdiction, (provided, that it shall not constitute a Change in Law if an administrative regulation existed on the date of execution of this **Agreement** in temporary or proposed form and was treated as generally applicable to transactions of the type contemplated hereby), or (ii) compliance with such law, regulation, rule requirement, ruling or ordinance was provided for in the **Agreement**; (b) the issuance of an order and/or judgment of any governmental entity or official having jurisdiction, to the extent such order and/or judgment constitutes a reversal of a prior applicable order and/or judgment, or an overturning of prior administrative policy or judicial precedent; or (c) the suspension, termination, interruption or failure of renewal of any permit, license, consent, authorization or approval essential to the acquisition, design, construction, equipping, start-up, operation, ownership or possession of the County Solid Waste Management System facilities or the facilities sites, to the extent such suspension, termination, interruption or failure of renewal is not caused by any action or inaction of the **County** or its contractors (provided that, for the purposes of determining whether a suspension, termination, interruption or failure of renewal was so caused, any reason or finding set forth in writing by the agency responsible for issuance of such permit, license, consent, authorization or approval shall be accorded the rebuttal presumption of accuracy), provided that no change in tax law, change to the Internal Revenue Code of 1954 effected by the Tax Reform Act of 1986 (to the extent applicable on the date of this **Agreement**), change in foreign law, change in law which adversely affects the **County's** legal rights as a licensee, grantee, owner, or user of any patent or other "know-how" in respect of proprietary technology intended to be utilized by it in performing its obligations under this **Agreement** shall constitute a change in law for any purposes of this **Agreement**.

Concurrency - provision of certain public facilities specified in the State of Florida Local Government Comprehensive Planning and Land Development Regulation Act ("the Act") (specifically, Chapter 163, Part II, Section 163.3180 F.S.) by (a) county (ies), or (a) municipality (ies) or a combination thereof, at a specified level-of-service stated in the Capital Improvements Element of the comprehensive plan for the applicable jurisdiction(s), adopted pursuant to the Act.

Contract Cities – a municipal corporation or corporations existing under the laws of the State of Florida, that enter into this **Agreement** with the **County**. For the purpose of this **Agreement,** the unincorporated areas of Miami-Dade County as geographically configured on February 16, 1996 shall be considered a **Contract City**.

County – Miami-Dade County, Florida by and through its Board of County Commissioners.

County Disposal Fee - the fee charged to dispose of municipal solid waste or solid waste at County-owned disposal facilities or facilities operated under contract with the **County** for municipal solid waste or solid waste disposal.

County Solid Waste Management System - The aggregate of those solid waste management facilities owned by or operated under contract with Miami-Dade County, which shall include the North Dade Landfill (21500 NW 47th Avenue), South Dade Landfill (23707 SW 97th Avenue), Resources Recovery Facility (6990 NW 97th Avenue), Waste Management of Florida, Inc. Landfill in the City of Medley, Florida (9350 NW 89th Avenue), Northeast Transfer Station (18701 NE 6th Avenue), Central Transfer Station (1150 NW 20th Street) and West Transfer Station (2900 SW 72nd Avenue), and other such facilities as may be added to or deleted from this listing from time to time, by the County Mayor at his/her sole discretion. Such additions or deletions may be made by use of an attachment hereto without need for formal amendment to this **Agreement**.

Director - the Director of the Public Works and Waste Management Department or his/her designee.

Exclusive Franchise or License - (a) contract(s) between a **Contract City** and a (limited number of) third party contractor(s) for the right and privilege to collect municipal solid waste or solid waste from either residential units or commercial establishments, or both residential units and commercial establishments, within (a) designated service area(s) under the terms of which the contractor(s) pay(s) the **Contract City** a fee.

Fiscal Year - the period beginning October 1 of each year and ending September 30 of the subsequent year.

Force Majeure - an act of God, epidemic, lightning, earthquake, fire, explosion, storm, tornado, hurricane, flood or similar occurrence, strike, and act of a public enemy, or blockade, insurrection, riot, general arrest or restraint of government and people, civil disturbance or similar occurrence, which has had or may reasonably be expected to have a material adverse effect on the rights or obligations under this **Agreement**, which by the exercise of due diligence the party relying thereon as justification for not performing any obligation under this **Agreement** shall not have been able to avoid, and which is not the result of a willful or negligent action or omission of such party.

Municipal Solid Waste (MSW) – all discarded materials or substances, exclusive of source-separated recyclable materials, which the **Contract City** collects for disposal or is collected for it by third parties under contract with the **Contract City** for disposal including, but not limited to, garbage, trash, litter, refuse, rubbish, ashes, incinerator residue, recycling process residue, or other materials allowed by the State Department of Environmental Protection for disposal in a Class I landfill which result from domestic, commercial, industrial, mining, agricultural or governmental activities, but not including sewage or other highly-diluted, water-carried materials or substances, or those in gaseous form. This definition is not intended to include any waste collected by any entity whose sole relationship with the Contract City is a franchise or license and which entity does not collect any waste on behalf of the Contract City. In addition, this definition is not intended to include waste collected at any city owned facility.

Non-Exclusive Franchise or License - a regulatory program under which an unlimited number of solid waste haulers are given the right and privilege to collect solid waste from either residential units or commercial establishments, or both residential units and commercial establishments, under the terms of which each hauler pays the **Contract City** a fee.

Short -Term Disposal - delivery of solid waste to the County Solid Waste Management System for disposal without having a minimum ten (10) year waste disposal agreement with the **County**.

Short -Term Disposal Fee(s) - the higher fee(s) paid by private haulers or municipalities for Short-Term disposal of solid waste in the County Solid Waste Management System.

Solid Waste – all discarded materials or substances, exclusive of source-separated recyclable materials, including, but not limited to, garbage, trash, litter, refuse, rubbish, ashes, incinerator residue, recycling process residue, or other materials allowed by the State Department of Environmental Protection for disposal in a Class I landfill which result from domestic, commercial, industrial, mining, agricultural or governmental activities, but not including sewage or other highly-diluted, water-carried materials or substances, or those in gaseous form, which materials or substances are not collected by or on behalf of a **Contract City**.

Source-Separated Recyclable Materials - materials separated from municipal solid waste or solid waste at their source of generation which are set-out for collection at their source of generation. Such materials shall be limited to: clean yard trash, aseptic and gable-top containers, corrugated cardboard, magazines, mixed waste paper, newspapers, telephone books, household batteries, glass containers, plastic containers, steel cans and aluminum cans, and other source-separated recyclable materials as may be approved for addition to this listing from time to time by the County Mayor or his/her designee, which approval shall not

be unreasonably withheld; such additions may be made by use of an attachment hereto without need for formal amendment to this **Agreement.**

Transfer Fee - the fee charged to transfer municipal solid waste or solid waste from County Solid Waste Management System transfer stations to County Solid Waste Management System disposal facilities.

ARTICLE 1
CONSTRUCTION OF INTERLOCAL AGREEMENT

The word "shall" as used in this **Agreement** shall in all cases be construed to be mandatory and to require the action so modified by the word "shall" to be taken without regard to the exercise of discretion.

ARTICLE 2
RESPONSIBILITIES OF THE COUNTY

A. **Provision of Disposal Capacity.** The **County** shall provide MSW disposal capacity (and transfer, as applicable) for the MSW which each **Contract City** collects or is collected for it for disposal and which is committed to the **County** for disposal in the County Solid Waste Management System in accordance with this **Agreement**. The provision of MSW disposal services under this **Agreement** shall comply with all applicable state and federal laws.

B. **Disposal Capacity for Concurrency.** The **County** shall maintain sufficient MSW disposal capacity in the County Solid Waste Management System to comply with Concurrency requirements of the Local Government Comprehensive Planning and Land Development Regulation Act (Chapter 163, Part II, F.S.) only as it applies to MSW disposal capacity for the MSW which the **Contract City** collects or is collected for it for disposal and which is committed to the **County** for disposal in the County Solid Waste Management System in accordance with this **Agreement**, and actually disposed of therein.

C. **Standardization of Agreement.** The terms of this **Agreement** shall be substantially the same for all Contract Cities.

ARTICLE 3
RESPONSIBILITIES OF THE CONTRACT **CITY**

A. **Delivery of MSW to County. The Contract City** shall deliver all the MSW it collects or is collected for it for disposal, to a County Solid Waste Management System facility(ies) at Disposal Fee rates as specified herein. Delivery of MSW by **Contract City** to the Waste Management Inc. of Florida landfill in Medley, Florida shall be permitted for the term of this agreement; provided that, (1) the **County's** agreement with Waste Management Inc. of Florida, dated July 31, 1998, is in effect, (2) the landfill is accepting MSW for disposal, and (3) MSW from (a) **Contract City(ies)** is not needed at the Resources Recovery facility, as determined by the Director, in his/her sole discretion.

The Director may identify particular facilities to which the **Contract City** shall deliver its MSW subject to the following:

(i) The **Contract City** may deliver its MSW to a **County** transfer facility(ies) if the applicable transfer fee is paid to the **County**.

(ii) At no time during the term of this **Agreement** shall a **Contract City** be required to deliver MSW to a **County** transfer facility unless the County Disposal Fee is the same at all County Solid Waste Management System facilities.

(iii) The **Contract City** shall not be directed to deliver its MSW to a disposal facility which is farther from the **Contract City's** boundaries than the closest county-owned disposal facility.

(iv) The **Contract City** shall not be directed to deliver its MSW to a transfer facility which is farther from the **Contract City's** boundaries than the closest county-owned transfer facility. In no case shall the **Contract City** be required to deliver its MSW to a County Solid Waste Management System facility which is farther than twenty (20) miles from the **Contract City**'s nearest boundary in order to take full advantage of it rights under this **Agreement.**

(v) Regardless of the operating status of the County's Resources Recovery Facility, the Contract City shall be entitled to dispose of MSW at the Facility and to pay the regular disposal rate that applies to Contract Cities, which shall be the County's lowest rate for MSW disposal, for the term of this Agreement.

B. **Use of Other Facilities Prohibited.** The **Contract City** shall not deliver any MSW it collects or is collected for it for disposal to a solid waste disposal or transfer facility other than a County Solid Waste Management System facility for the term of this **Agreement**. The **Contract City** shall not deliver any MSW it collects or is collected for it, to a materials recovery or recycling facility for the term of this **Agreement.**

Notwithstanding the foregoing, in the event that the **County** approves an operating permit for a solid waste disposal or transfer facility located within Miami-Dade County:

Other than:

(i) A facility that is a part of the County Solid Waste Management System;

(ii) A facility that is used exclusively to facilitate the delivery of MSW to County Solid Waste Management System facilities; or

(iii) A facility that is subject to a solid waste disposal agreement with the County, which agreement shall not allow acceptance of third party waste either by agreement or regulation;

Then in that case:

the **Contract City** shall have the option to either pursue a permit for operation of a solid waste disposal or transfer facility for all or a portion of its MSW disposal needs or deliver all or a portion of its MSW to the permitted solid waste disposal or transfer facility(ies) that meets the criteria established herein, provided however that any portion of the **Contract City's** MSW that is not so disposed must continue to be delivered to the **County** pursuant to the terms of this **Agreement**.

C. **Hauler Contracts.** The **Contract City** shall include in any MSW collection contracts with Solid Waste haulers, or amendments to such contracts, which it executes, renews or extends after the date of this **Agreement,** a provision that all MSW collected for the **Contract City** shall be delivered to a County Solid Waste Management System facility for disposal. This provision shall apply to exclusive franchise or license agreements with Solid Waste haulers to collect MSW on the **Contract City's** behalf. This provision shall not apply to a non-exclusive franchise or license to haul Solid Waste that is not collected on the **Contract City's** behalf.

D. **Disposal and Transfer Fees.** The **Contract City** shall pay a Disposal Fee (and a Transfer Fee, as applicable) for each ton of MSW delivered to the County Solid Waste Management System for disposal. As of October 1, 2012, the **Contract City** shall pay a Disposal Fee of sixty-three dollars and sixty-five cents ($63.65) per ton to the **County** for disposal of MSW delivered to County Solid Waste Management System facilities. This Disposal Fee shall be established by separate administrative order, which shall not become effective until approved by the Board. As applicable, as of October 1, 2012 the **Contract City** shall pay a Transfer Fee of twelve dollars and fifty-two cents ($12.52) per ton to the **County** for transfer of MSW delivered to County Solid Waste Management System transfer facilities. This Transfer Fee shall be established by separate administrative order, which shall not become effective until approved by the Board. The Disposal Fee and Transfer Fee may be increased or decreased for inflation or deflation beginning on October 1, 2013, and on the first day of each Fiscal Year thereafter, relative to increases or decreases in the U.S. Government Consumer Price Index for All Urban Consumers for the Southeast Region of the United States (CPI) for the prior period of July 1 through June 30. Such CPI increases or decreases shall be capped at four percent (4%) per year for the term of this **Agreement.** In the event that the actual CPI increase or decrease exceeds the four percent (4%) cap in a given Fiscal Year, the amount of CPI increase or decrease above or below the four percent (4%) cap shall be applied to CPI increases or decreases in future years when the CPI increase or decrease is less than four percent (4%). The Disposal Fee and Transfer Fee shall not otherwise increase, unless as required by Change in Law, as defined herein, which may occur at any time during the term of this **Agreement.** The **County** shall notify the **Contract**

City of proposed Disposal Fee and Transfer Fee adjustments on the basis of change in law. The disposal fee or Transfer Fee increase based on Change in Law shall fully compensate the **County** for its increased costs. Each **Contract City** shall pay prevailing disposal fees for waste materials for which the **County** charges other than the **County** Disposal Fee for the entire term of this **Agreement,** including, without limitation, tires and asbestos, if provided to the **County** for disposal.

E. **Terms of Payment**. The **County** shall invoice the **Contract City** for Disposal Fees, based on **County** weighing records, by means of First Class U.S. Mail, within five (5) days of the last day of each month, commencing in the first month after the effective date of this **Agreement,** and continuing monthly thereafter for the term of this **Agreement.** In accordance with Section 218.74(2), Florida Statutes, as amended from time to time, payment of Disposal Fees owed to the **County** shall be due from, and payment shall be made by, **the Contract City** forty-five (45) days from the date of receipt of the **County's** monthly invoice.

F. **Dispute on Invoicing**. In the event of a dispute on invoicing, the **Contract City** shall first pay the full amount of the disputed charges when due and shall, within thirty (30) days from the date of receipt of the disputed invoice, give written notice of the disputed invoice to the **County**. The notice of dispute shall identify the disputed invoice, state the amount in dispute and set forth a full statement of grounds on which such dispute is based. The County Mayor or his/her designee shall confer with the **Contract City** and the County Mayor or his/her designee shall resolve the dispute not later than sixty (60) days after the date upon which the disputed invoice was received. Should the **Contract City** disagree with the determination of the County Mayor or his/her designee, it may pursue any remedy at law except withholding payment.

ARTICLE 4
WEIGHING RECORDS

The **County** shall cause all **County** Solid Waste Management System facilities to operate and maintain motor truck scales calibrated to the accuracy required by Florida law and to weigh all vehicles delivering MSW. Each vehicle delivering MSW from the **Contract City,** or its contract hauler, shall have its tare weight and cubic yard capacity permanently and conspicuously displayed on the exterior of the vehicle. The **County** or its contractor may, from time to time, require revalidation of the tare weight of any vehicle. The **Contract City** shall provide the **County** with information about each private hauler delivering MSW on its behalf to include: name and address, make, body type and motor vehicle registration number of each vehicle used for such purpose. All such haulers shall have and maintain a valid **County** solid waste hauler permit in accordance with Section 15-17 of the Code of Miami-Dade County, as amended from time to time.

The **County** will supply the **Contract City** with monthly weighing records as may be reasonably required by the **Contract City** to administer its waste collection program. Copies

of all transaction tickets will be maintained by the **County** for at least two (2) years. If weighing scales are inoperable or are being tested, the facility operator shall estimate the quantity of MSW delivered using a schedule of estimated waste material weights in accordance with Section 15-25, Subsections (b) and (d) of the Miami-Dade County Code, as amended from time to time. The estimates shall take the place of actual weighing records, when the scales are not operational. The **County** shall use reasonable efforts to maintain the scales in an operable and accurate weighing condition.

ARTICLE 5
SHORT-TERM DISPOSAL

The **Contract City** agrees that the County Solid Waste Management System may accept Solid Waste on a Short-Term Disposal basis from private or municipal haulers, so long as the capacity to receive MSW delivered on behalf of the **Contract City** is not impaired, and provided that such haulers shall pay (a) Short-Term Disposal Fee(s) of at least ten percent (10%) above that charged to **Contract Cites.** The (a) Short-Term Disposal Fee(s) shall be established by separate administrative order, which shall not become effective until approved by the Board. All Disposal Fee revenues generated pursuant to this **Agreement** shall be used to pay County Solid Waste Management System costs. This provision shall not inhibit the **County** from entering into agreements with private haulers for delivery of Solid Waste to **County** disposal facilities (with the exception of agreements for delivery of Solid Waste collected by (a) private hauler(s) under contract with any municipality that is not a party to this **Agreement,** which shall be prohibited), the minimum duration of which shall be ten (10) years, provided that the **County** shall not offer (a) Disposal Fee(s) less than that agreed to herein by the **Contract City** to any private hauler for the term of this **Agreement.**

ARTICLE 6
RELATIONSHIPS OF THE PARTIES

Nothing in this **Agreement** shall be deemed to constitute any party a partner, agent or local representative of the other party or to create any type of fiduciary responsibility of any kind whatsoever between the parties. The obligations to this **Agreement** are not joint; the obligations are separate and several between the **Contract City** and **County.**

ARTICLE 7
HEADINGS

Captions and headings in this **Agreement** are for ease of reference only and do not constitute a part of this **Agreement** and shall not affect the meaning or interpretation of any provisions herein.

ARTICLE 8
DURATION OF AGREEMENT

The term of MSW deliveries by the **Contract City** to the **County** under this **Agreement** shall commence with the date of execution and shall remain in effect up to and including October 1, 20___. The **Agreement** shall be executed and approved by resolution of the **Contract City's** governing body and shall become effective upon execution by the **County**. A copy of the resolution of approval shall be transmitted to the County Mayor within five (5) days following the date of each **Contract City's** approval.

ARTICLE 9
AGREEMENT GOVERNS; ENTIRE AGREEMENT

This **Agreement** shall govern and supersede any other Interlocal agreement between the **Contract City** and the **County** with regard to use of the County Solid Waste Management System. This writing embodies the entire **Agreement** and understanding between the parties hereto, and there are no other agreements or understandings, oral or written with reference to the subject matter hereof that are not merged herein and superseded hereby.

ARTICLE 10
REPRESENTATIONS OF THE COUNTY

The **County** represents that (A) this **Agreement** has been duly authorized, executed and delivered by the Board of County Commissioners as the governing body of the **County**, and (B) it has the required power and authority to perform this **Agreement**.

ARTICLE 11
REPRESENTATIONS OF THE CONTRACT **CITY**

The **Contract City** represents that (A) this **Agreement** has been duly authorized, executed and delivered by the Governing Body of the **Contract City**, and (B) it has the required power and authority to perform this **Agreement.**

ARTICLE 12
APPROVALS AND NOTICES

All notices, consents and other communications required, permitted or otherwise delivered under this **Agreement** shall be in writing and be delivered either by hand with proof of delivery or mailed by first class United States certified or registered mail, with return receipt requested, postage prepaid, and in any case shall be addressed as follows:

To County -
Miami-Dade County
Office of the Mayor
Stephen P. Clark Center
111 NW 1st Street
Miami, Florida 33128

To Contract City -

_____

_____

_____

_____

_____

Changes in the respective addresses above may be made from time to time by either party by notice to the other party. Notices and consents given by mail in accordance with this section shall be deemed to have been given five (5) business days after the day of dispatch, notices and consents given by any other means shall be deemed to have been given when received.

ARTICLE 13
AMENDMENT TO AGREEMENT

This **Agreement** may be modified, altered or amended only by a written amendment duly executed by the parties hereto, and approved by the governing body of each party. Any oral representations or modifications concerning this **Agreement** shall be of no force or effect.

ARTICLE 14
NON-ASSIGNMENT

In no case shall the **Contract City** assign, transfer, convey or otherwise hypothecate any interest, rights, duties, or obligations hereunder, or any part thereof. In the event the a **Contract City** attempts to assign, transfer, convey or otherwise hypothecate this **Agreement** or the **Contract City's** rights, duties or obligations hereunder, or any part thereof, the **County** may at its option, terminate this **Agreement** with respect to the **Contract City.**

ARTICLE 15
RIGHTS OF OTHERS

Nothing in this **Agreement,** either express or implied is intended to confer upon any person other than the parties hereto any rights or remedies under or by reason of this **Agreement**.

ARTICLE 16
WAIVER

There shall be no waiver of any right related to this **Agreement** unless that such waiver is in writing signed by the party waiving such right. No delay or failure to exercise a right under this **Agreement** shall impair such right or shall be construed to be a waiver thereof. Any waiver shall be limited to the particular rights waived and shall not be deemed a waiver of the same right at a later time of any other right under this **Agreement.**

ARTICLE 17
FORCE MAJEURE

Neither party hereto shall be liable for its failure to carry out its obligations under this **Agreement** during any period when such party is rendered unable, in whole or in part, by Force Majeure to carry out such obligations, but the obligations of the party relying on such Force Majeure shall be suspended only during the continuance of any inability so caused and for no longer period, and such cause shall, so far as possible, be remedied with all reasonable dispatch. It is further agreed and stipulated that the right of any party hereto to excuse its failure to perform by reason of Force Majeure shall be conditioned upon such party giving, to the other party, written notice of its assertion that a Force Majeure delay has commenced within five (5) working days after such commencement. If there exists good cause for failure to give such notice, such failure shall not prejudice any party's right to justify any non-performance as caused by Force Majeure, unless the failure to give timely notice causes material prejudice to the other party.

ARTICLE 18
COUNTY EVENT OF DEFAULT

The failure by the **County** to substantially fulfill any of its material obligations in accordance with this **Agreement,** unless excuses are justified by Force Majeure, shall constitute a "**County** event of default". If a **County** event of default should occur, the **Contract City** shall have all of the following rights and remedies which each may exercise singly or in combination: 1. the right to declare that this **Agreement,** together with all rights granted to the **County,** hereunder are terminated, effective upon such date as is designated by the **Contract City;** 2. any and all other rights provided under federal laws and the laws of the State of Florida. 3. in any event, the **County** shall maintain responsibility for any debts owed to the **Contract City** for services provided under the terms of this **Agreement**. Notwithstanding any other provision of this article, the **Contract City** shall not terminate this **Agreement** for a "**County** event of default" unless the **Contract City** first give(s) the **County** written notice of intent to terminate specifying the alleged default, and providing the **County** a period of sixty (60) days from receipt of notice within which to cure such default.

ARTICLE 19
CONTRACT CITY EVENT OF DEFAULT

Without limitation, the failure by the **Contract City** to substantially fulfill any of its material obligations in accordance with this **Agreement**, unless excuses are justified by Force Majeure, shall constitute a "**Contract City** event of default". If a **Contract City** event of default should occur, the **County** shall have all of the following rights and remedies which it may exercise singly or in combination: 1. the right to declare that all rights granted to the **Contract City** hereunder are terminated, effective upon such date as is designated by the **County;** 2. any and all rights provided under federal laws and the laws of the State of Florida. 3. in any event, the **Contract City** shall maintain responsibility for any debts owed to the **County** for services provided under the terms of this **Agreement**. Notwithstanding any other provision of this article, the **County** shall not terminate this **Agreement** for a

"**City** event of default" unless the **County** first gives the **Contract City** written notice of intent to terminate specifying the alleged default, and providing the **Contract City** a period of sixty (60) days from receipt of notice within which to cure such default.

ARTICLE 20

FLORIDA LAW GOVERNS; VENUE IN MIAMI-DADE COUNTY, FLORIDA

This **Agreement**, regardless of where executed, shall be governed by and construed according to the laws of the State of Florida, and venue shall be in Miami-Dade County, Florida.

ARTICLE 21

TERMINATION

This **Agreement** may be terminated upon mutual consent, in writing, between the **Contract City** and the **County**.

ARTICLE 22

COUNTERPARTS

This **Agreement** may be executed in one or more counterpart(s), each of which shall be deemed an original.

ARTICLE 23

INVALIDITY OF PROVISIONS

Should any provision, paragraph, sentence, word or phrase contained in this **Agreement** be determined by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable under the laws of the State of Florida, such provision, paragraph, sentence, word or phrase shall be deemed modified to the extent necessary in order to conform with such laws, and this **Agreement** shall remain in full force and effect.

IN WITNESS WHEREOF, Miami-Dade County, Florida, has caused this **Agreement** to be executed in its name by the County Mayor or his/her designee, attested by the Clerk of the Board of County Commissioners and has caused the seal of the Board of County Commissioners to be hereto attached; and the **Contract City** has caused this **Agreement** to be executed in its name by the Manager/Mayor of the **Contract City** or his/her designee, attested by the Clerk of the **Contract City's** governing body and has caused the seal of the **Contract City's** governing body to be hereto attached, all on the day and year first written above.

Attest: HARVEY RUVIN,
Clerk of the Board

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

By: _____
Deputy Clerk

By: _____
County Mayor
Miami-Dade County Florida
111 N.W. 1st Street, 29th Floor
Miami, FL 33128

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY BY:
Miami-Dade County Attorney's Office
111 N.W. 1st Street
Miami, FL 33128

_____
Assistant County Attorney

CONTRACT CITY

_____,
a Florida Municipal Corporation

ATTEST:

_____

By:

_____

This day of _____, 20__

_____

[corporate seal]

APPROVED AS TO INSURANCE REQUIREMENTS:

_____

APPROVED AS TO FORM AND CORRECTNESS:

_____

Village of Biscayne Park

Commission Agenda Report

Village Commission Meeting Date: **July 7, 2015**

Subject: **Fine Reduction**

Prepared By: **Maria Camara**

Sponsored By: **Staff**

Background

On May 11, 2015, a lien search request was received for the following property:

- Folio No. 17 2232 025 0010
- Address: 1000 NE 119th St, Biscayne Park, FL
- Owner: Margaret Ashworth &H Steven

The result of the lien search is as follows:

- Municipal lien dated April 9, 1997 for $426.96 + $12.00 recording fees for collection and disposal of debris (annual waste fee). With interest at the rate of 18% per annum, the total due through May 2015 is $7,302.44. The name on the lien is Kelly Murphy, the owner during 1997.

  During the sale of the property in 2000, and again in 2001, the recorded lien was never satisfied. The current property owner is still responsible as the lien goes with the land, and not the original owners. This was explained to current property owner Margaret Ashworth.

During the subsequent conversations with the property owner, her attorney, and the realtor, an additional municipal lien was identified:

- Municipal lien dated November 28, 1995 for $437.93 + $12.00 recording fees for collection and disposal of debris (annual waste fee). With interest at the rate of 18% per annum, the total due through May 2015 is $7,501.34. The name on the lien is Kelly Murphy, the owner during 1995.

  This lien also was not satisfied during the sale of the property in 2000 and 2001.

The current sale of the property was scheduled to be closed on June 4th, and all parties were advised that if the closing could not be delayed until after the July 7th Commission meeting, the current amount due the Village of $14,803.78 would have to be held in escrow until after the Commission could consider their request for a fine reduction.

Mr. Nicolas Lampariello, Esq., is representing the current property owner, Margaret Ashworth (Secary) in the request for a fine reduction.

Fiscal / Budget Impact

Amount due to be considered for a fine reduction: $14,803.78 (Village Commission)

Recommendation

Commission to consider the fine reduction request for the 1995 and 1997 municipal liens.

Attachments

- Corrected lien search summary dated June 3, 2015
- Municipal lien dated November 28, 1995
- Municipal lien dated April 9, 1997
- Calculation amount due for each lien through May 2015

The Village of Biscayne Park
640 NE 114th St., Biscayne Park, FL 33161
Telephone: 305 899 8000 Facsimile: 305 891 7241

Date: June 3, 2015

CORRECTED

RELIABLE LIEN SEARCH, INC
12741 MIRAMAR PARKWAY 102
MIRAMAR, FL 33027

Phone: 866 717 5120 Fax: 866 717 5119

Sent via Fax
Pages: 5

Dear Sir or Madam:

We are in receipt of your request for a lien search for:

Address: **1000 NE 119TH Street, Biscayne Park, FL**
Folio No.: **17 2232 025 0010**

Please be advised of the following fees currently due on the property:

1 Municipal Liens:	17003 2456 (Recorded 11/28/1995)	$7,501.34
	17593 4129 (Recorded 4/9/1997)	$7,302.44
		$0.00
		$0.00
	Municipal Liens Total:	**$14,803.78**
2 Waste Fees (2006 and Prior):	**Waste Fees Total:**	**$0.00**
3 Special Pick ups:		$0.00
		$0.00
		$0.00
	Special Pick Up Total:	**$0.00**
4 Code Violations: *Amounts shown are calculated through the date on this form. Daily fines will continue to accrue.*		$0.00
		$0.00
		$0.00
		$0.00
		$0.00
	Code Violation Total:	**$0.00**
5 Building Dept.:	Permit #:	$0.00
	Permit #:	$0.00
	Open Permits Total:	**$0.00**
6 Landlord Permit:		$0.00
		$0.00
	Landlord Permit Total:	**$0.00**
	GRAND TOTAL	**$14,803.78**

Comments:

Re-Occupancy Certificate required before closing. For rental properties, landlord permit required.

All open and expired permits listed require a final inspection in order to be closed out. For inquiries regarding building permits, please call the Building Coordinator at 305 899 8000.

All payoffs must be accompanied with copy of settlement in order to update our records for all properties sold or refinanced. All amounts are due at time of property sale or refinance. Any delinquent balance constitutes a special assessment lien on the property. Interest continues to accrue until balance is paid in full.

IMPORTANT: Lien fee is only good for thirty (30) days after this notice. Please submit a new lien search fee if any payoffs are needed after thirty (30) days of notice.

OFF. REC. 17003 PG 2456

95R483725 1995 NOV 28 09:28

NOTICE OF MUNICIPAL

LIEN

To: Kelly Murphy
15463 86 Rd N
Loxahatchee, Florida 33470

PLEASE TAKE NOTICE that the Village of Biscayne Park, a municipal corporation organized under the laws of the State of Florida, does hereby file its lien by the authority set forth in Municipal Ordinance No. 188 (Collections and disposal of debris), against the following described real property situated and lying in Dade County, Florida, to-wit:

> Biscayne Lawn And Plat, Lot 1, according to the Plat thereof recorded in Plat Book 39 at Page 48 of the Public Records of Dade County, Florida, also known as 1000 N.E. 119 Street
>
> Folio # 17 2232 25 0010 0

That the Principal amount of the Lien is $437.93 plus $12.00 recording fee and attorney fees as of the fiscal year 1995, together with interest at the rate of Eighteen (18%) percent per annum.

WITNESS my hand and official seal at Village of Biscayne Park, Florida, this 20th day of October, 1995.

Jean Watson
Village Clerk

(Corporate Seal)

RECORDED IN OFFICIAL RECORDS BOOK OF DADE COUNTY, FLORIDA.
RECORD VERIFIED
HARVEY RUVIN,
Clerk of Circuit & County Courts

Sworn and subscribed before me

this 20th day of October, 1995.

This instrument prepared by:

Jean Watson
Village Clerk
Village of Biscayne Park
640 N.E. 114 Street
Biscayne Park, Florida 33161

Abigail Sanchez
NOTARY PUBLIC STATE OF FLORIDA.

OFFICIAL NOTARY SEAL
ABIGAIL SANCHEZ
NOTARY PUBLIC STATE OF FLORIDA
COMMISSION NO. CC451886
MY COMMISSION EXP. APR. 10,1999

OFF. REC. 17593 04129

NOTICE OF MUNICIPAL
LIEN

97R153171 1997 APR 09 09:55

To Kelly Murphy
15463 86 Road North
Loxahatchee, Florida 33470

PLEASE TAKE NOTICE that the Village of Biscayne Park, a municipal corporation organized under the laws of the State of Florida, does hereby file its lien by the authority set forth in Municipal Ordinance
No 188 (Collections and disposal of debris), against the following described real property situated and lying in Dade County, Florida, to-wit

Biscayne Lawn Amd Plat, Lot 1, according to the plat thereof recorded
in Plat Book 39 at Page 48 of the Public Records of Dade County, Florida,
also known as 1000 N E 119 Street
Folio No 17 2232 25 0010 0

That the principal amount of the lien is $426 96 plus $12 00 recording fee and attorney fees as of the fiscal year together with interest at the rate of Eighteen (18%) percent per annum

Witness my hand and official seal at Village of Biscayne Park, Florida, this 28 day of March, 1997

Jean Watson
Village Clerk

(Corporate Seal)

Sworn and subscribed before me this 28 day of March, 1997

NOTARY PUBLIC STATE OF FLORIDA

NOTARY PUBLIC STATE OF FLORIDA
GLENNADEE HERRON
COMMISSION NO CC 403891
MY COMMISSION EXPIRES
SEPT 21, 1998

This instrument prepared by
Jean Watson
Village Clerk
Village Of Biscayne Park
640 Northeast 114 Street
Biscayne Park, Florida 33161

RECORDED IN OFFICIAL RECORDS BOOK
OF DADE COUNTY, FLORIDA
RECORD VERIFIED
HARVEY RUVIN
CLERK CIRCUIT COURT

VILLAGE OF BISCAYNE PARK
640 NE 114TH STREET
BISCAYNE PARK, FL 33161
TEL: 305 899 8000 FAX: 305 891 7241
www.biscayneparkfl.gov

Municipal Lien Fees

Date: 05/28/15

Property Address: 1000 NE 119TH STREET

Balance as of 03/28/1997	$ 438.00

Year	18% Annual Penalty Assesment	New Balance
1999	$ 78.84	$ 516.84
2000	$ 93.03	$ 609.87
2001	$ 109.78	$ 719.65
2002	$ 129.54	$ 849.18
2003	$ 152.85	$ 1,002.04
2004	$ 180.37	$ 1,182.40
2005	$ 212.83	$ 1,395.24
2006	$ 251.14	$ 1,646.38
2007	$ 296.35	$ 1,942.73
2008	$ 349.69	$ 2,292.42
2009	$ 412.64	$ 2,705.06
2010	$ 486.91	$ 3,191.97
2011	$ 574.55	$ 3,766.52
2012	$ 677.97	$ 4,444.49
2013	$ 800.01	$ 5,244.50
2014	$ 944.01	$ 6,188.51
2015	$ 1,113.93	$ 7,302.44
	$ -	$ -
	$ -	$ -
	$ -	$ -
	$ -	$ -

New Balance: $ 7,302.44

VILLAGE OF BISCAYNE PARK
640 NE 114TH STREET
BISCAYNE PARK, FL 33161
TEL: 305 899 8000 FAX: 305 891 7241
www.biscayneparkfl.gov

Municipal Lien Fees

Date: 06/06/15

Property Address: 1000 NE 119TH STREET

Balance as of 10/20/1995	$ 449.93

Year	18% Annual Penalty Assesment	New Balance
1999	$ 80.99	$ 530.92
2000	$ 95.57	$ 626.48
2001	$ 112.77	$ 739.25
2002	$ 133.06	$ 872.31
2003	$ 157.02	$ 1,029.33
2004	$ 185.28	$ 1,214.61
2005	$ 218.63	$ 1,433.24
2006	$ 257.98	$ 1,691.22
2007	$ 304.42	$ 1,995.64
2008	$ 359.22	$ 2,354.86
2009	$ 423.87	$ 2,778.73
2010	$ 500.17	$ 3,278.91
2011	$ 590.20	$ 3,869.11
2012	$ 696.44	$ 4,565.55
2013	$ 821.80	$ 5,387.35
2014	$ 969.72	$ 6,357.07
2015	$ 1,144.27	$ 7,501.34
	$ -	$ -
	$ -	$ -
	$ -	$ -
	$ -	$ -

New Balance: $ 7,501.34

Village of Biscayne Park

Commission Agenda Report

Village Commission Meeting Date: **July 7, 2015**

Subject: **Follow up discussion of Stormwater And Roadway Improvements - Next Steps**

Prepared By: **Commissioner Roxanna Ross**

Sponsored By: **Commission**

Background

At the May 5, 2015 meeting the Commission enacted Ordinance 2015-02 establishing the base vehicle for future funding of stormwater and road improvement projects in the Village by assessment, the amount of which may be determined annually by majority vote of the Commission.

In this initial year, the Commission considered Resolution 2015-23 and 24, separate stormwater and road repair assessments to fund the cost of a master plan and future costs of repairs, improvements and maintenance to the Village's stormwater system and roads, respectively, as identified by a Master Plan. Having established the authority to assess, the Commission voted not to proceed with either assessment in the initial year. It was the consensus of the Commission to hold a future community workshop to review the scope of work and receive community input to inform the Village engineering consultant, Craig A. Smith, and to help identify particular areas of concern.

Fortunately, during the recent Legislative Session the Village was awarded $150,000 to complete the Stormwater Master Plan. The Village, as of this date, has not received the State agreement but the Village Manager advises that based on past practice, it can be assumed that all funded work will need to be completed by June 30, 2016.

Fiscal/Budgetary Impact

The soft costs associated with a workshop to receive community input are far outweighed by the benefits gained in this generous $150,000 appropriation from the State to secure a Stormwater Master Plan to guide future improvements in the Village. Little or no budgetary impact is contemplated in this proposal

Recommendation

I am recommending that a public workshop be held prior to the August Commission meeting, at 6:30PM, to allow interested residents and the Commission to discuss areas of concern. This will allow staff to move forward and meet State requirements in a timely manner.

Village of Biscayne Park

Commission Agenda Report

Village Commission Meeting Date: **July 7, 2015**

Subject: **Board Appointments**

Prepared By: **Maria C. Camara, Village Clerk**

Sponsored By: **Staff**

Background

At the March 2015 Commission meeting, the Village Commission appointed board members to the Village Boards based on applications received.

Applications have been received since the March meeting from:

- Bridgita Pallango to serve as an alternate on the Recreation advisory Board. Currently this Board has five (5) members and no alternate.

- Mario Rumiano to serve as an alternate on the Planning & Zoning Board, and Maximilian Deitermann to serve as an alternate on the Planning & Zoning Board. Currently this Board has five (5) members and no alternate.

Staff Recommendation

The Village Commission to consider the applications.

Attachments

- Board application - Bridgita Pallango
- Board application - Mario Rumiano
- Board application - Maximilian Deitermann
- Attendance records to date for all boards

Print Form

Village of Biscayne Park
Board Member Application

Last Name	First Name	M.I.
Pallango	Bridgita	

Home Address	City	State	Zip Code
845 NE 120 St.	Biscayne Park	FL	33161

Principal Business Address	City	State	Zip Code
700 NE 90 St.	Miami	FL	33161

Home Telephone Number	Cell Number	Work Number
N/A	954-918-2519	954-918-2519

E-Mail Address	Are you a registered voter? Yes or No
bridgita@georgeekluck.com gitagia2002@gmail.com	yes

What Board(s) are you interested in serving? (All Village Boards are listed on the reverse side of this form.) Please list in order of preference.

Recreation Board

List all Village Boards on which you are currently serving or have previously served. Please include dates.

N/A

Educational qualification.

Miami Dade College North Campus

List any related professional certifications and licenses which you hold.

Florida Real Estate Broker License - obtained by November 2015

Give your present, or most recent employer, and position.

Georgee and Company - Keller Williams Realty

Describe experiences, skills or knowledge which qualify you to serve on this board. (Please feel free to attach a brief resume.)

I originally applied for another board and attended the Meeting last week. I was advised that sisters could not sit on the same board so I had to withdraw my application. I was then told by Dan to apply for the Recreation Board as a substitute. Kindly consider my application.

☑ I understand that in accordance with Florida Sunshine Law, this information becomes public and may be subject to public review.

☑ I understand that, once appointed and annually thereafter, I may be required to complete a Financial Disclosure Affidavit in compliance with Florida Statutes.

Bridgita Pallango
Signature

6/4/15
Date

Print Form

Village of Biscayne Park
Board Member Application

Last Name	First Name	M.I.
Rumiano	Mario	L

Home Address	City	State	Zip Code
560 NE 118th Street	Biscayne Park	FL	33161

Principal Business Address	City	State	Zip Code
40 SW 13th Street	Miami	FL	33161

Home Telephone Number	Cell Number	Work Number
(305) 891-1575	(786) 417-3610	(305) 945-3919

E-Mail Address	Are you a registered voter? Yes or No
mrumiano@nuspacenetwork.com	y

What Board(s) are you interested in serving? (All Village Boards are listed on the reverse side of this form.) Please list in order of preference.

Planning and Zoning Board

List all Village Boards on which you are currently serving or have previously served. Please include dates.

Planning and Zoning Board

Educational qualification.

Masters in Architecture. Registered Architect in State of Florida.

List any related professional certifications and licenses which you hold.

Architect State of Florida. AR 0017106
Certified General Contractor CGC 062162

Give your present, or most recent employer, and position.

NuSpace Network LLC, Manager

Describe experiences, skills or knowledge which qualify you to serve on this board. (Please feel free to attach a brief resume.)

20+ years of experience as an architect and builder.

[x] I understand that in accordance with Florida Sunshine Law, this information becomes public and may be subject to public review.

[x] I understand that, once appointed and annually thereafter, I may be required to complete a Financial Disclosure Affidavit in compliance with Florida Statutes.

Signature

04.22.15
Date

Print Form

Village of Biscayne Park
Board Member Application

Last Name	First Name	M.I.
Deitermann	Maximilian	

Home Address	City	State	Zip Code
11900 Griffing Blvd	Biscayne Park	FL	33161

Principal Business Address	City	State	Zip Code
11900 Griffing Blvd	Biscayne Park	FL	33161

Home Telephone Number	Cell Number	Work Number
305 788-7200	305 788-7200	n

E-Mail Address	Are you a registered voter? Yes or No
max@deitermann.us	✓

What Board(s) are you interested in serving? (All Village Boards are listed on the reverse side of this form.) Please list in order of preference.

Planning and Zoning

List all Village Boards on which you are currently serving or have previously served. Please include dates.

1060 Brickell Condo Board 564 units currently Board President since 2011

Educational qualification.

BA Business Management Design and Planning University of London

List any related professional certifications and licenses which you hold.

Give your present, or most recent employer, and position.

President of City West Properties / Deitermann Group Leeds Management Corp.

Describe experiences, skills or knowledge which qualify you to serve on this board. (Please feel free to attach a brief resume.)

Real Estate Developer developed more than 30 residential units including 10 luxury single family residences over Miami-Dade County and Europe

☑ I understand that in accordance with Florida Sunshine Law, this information becomes public and may be subject to public review.

☑ I understand that, once appointed and annually thereafter, I may be required to complete a Financial Disclosure Affidavit in compliance with Florida Statutes.

Signature

5-15-15
Date

VILLAGE OF BISCAYNE PARK BOARD/COMMITTEE ATTENDANCE LOG							
Board	**Meeting Date**	Hartung	Bickel	Hornbuckle	Olis	Tannehill	Rumiano
Planning & Zoning	1/5/2015	☑	☑	N	☑	☑	N
Planning & Zoning	1/20/2015	☑	☑	N	☑	N	N
Planning & Zoning	2/2/2015	N	☑	☑	☑	☑	☑
Planning & Zoning	2/17/2015	N	☑	N	☑	☑	N
Planning & Zoning	3/2/2015	☑	☑	N	☑	☑	N
Board	**Meeting Date**	Hartung		Hornbuckle	Olis	Tannehill	Rumiano
Planning & Zoning	3/16/2015	☑		☑	☑	☑	N
Planning & Zoning	4/6/2015	☑		N	☑	☑	N
Planning & Zoning	4/20/2015	☑		☑	☑	☑	N
Planning & Zoning	5/4/2015	☑		☑	☑	N	☑
Board	**Meeting Date**	Hartung	Recondo	Hornbuckle	Olis	Tannehill	
Planning & Zoning	5/18/2015	☑	☑	☑	☑	N	
Board	**Meeting Date**	Hartung		Hornbuckle	Olis	Tannehill	
Planning & Zoning	6/1/2015	☑		☑	☑	N	
Board	**Meeting Date**	Hartung	Pallango	Hornbuckle	Olis	Tannehill	
Planning & Zoning	6/15/2015	☑	☑	N	☑	☑	
Planning & Zoning	7/6/2015						
Planning & Zoning	7/20/2015						
Planning & Zoning	8/3/2015						
Planning & Zoning	8/17/2015						
Planning & Zoning	9/8/2015						
Planning & Zoning	9/21/2015						
Planning & Zoning	10/5/2015						
Planning & Zoning	10/19/2015						
Planning & Zoning	11/2/2015						
Planning & Zoning	11/16/2015						
Planning & Zoning	12/7/2015						
Planning & Zoning	12/21/2015						

Key:

☑	Present
N	Absent
	Alternate Board Member
	No meeting

VILLAGE OF BISCAYNE PARK BOARD/COMMITTEE ATTENDANCE LOG							
Board	**Meeting Date**	Kuhl	Bilt	Beltran	Dillon	Blanton	Sardella
Code Compliance	1/13/2015	☑	☑	N	☑	☑	N
Code Compliance	2/10/2015	☑	N	☑	☑	☑	N
Board	**Meeting Date**	Kuhl	Bilt	Sardella	Dillon	Blanton	
Code Compliance	3/10/2015	☑	☑	N	☑	☑	
Code Compliance	4/13/2015	☑	☑	☑	☑	☑	
Code Compliance	4/27/2015	☑	N	N	☑	☑	
Board	**Meeting Date**	Kuhl	Bilt	Sardella	Dillon	Blanton	Graves
Code Compliance	5/11/2015	☑	☑	☑	☑	☑	☑
Code Compliance	6/8/2015	☑	☑	N	☑	☑	N
Code Compliance	7/13/2015						
Code Compliance	8/10/2015						
Code Compliance	9/14/2015						
Code Compliance	10/12/2015						
Code Compliance	11/9/2015						
Code Compliance	12/14/2015						

Key:

☑	Present
N	Absent
	Alternate Board Member
	No meeting

VILLAGE OF BISCAYNE PARK BOARD/COMMITTEE ATTENDANCE LOG							
Board	**Meeting Date**	Samaria	Huber	McGeehan		Pettis	Gibson
Recreation Advisory	1/9/2014	☑	N	☑		☑	N
Recreation Advisory	2/27/2014	☑	N	☑		☑	N
Board	**Meeting Date**	Samaria	McDonald	McGeehan	Espinoza	Pettis	
Recreation Advisory	3/25/2014	☑	N	☑	☑	☑	
Recreation Advisory	4/22/2014	☑	N	☑	☑	☑	
Recreation Advisory	5/27/2014	☑	☑	☑	☑	☑	
Recreation Advisory	No June Meeting	NO QUORUM					
Recreation Advisory	7/22/2014	☑	N	☑	N	☑	
Board	**Meeting Date**	Samaria	McDonald	Jacobs	Espinoza	Pettis	
Recreation Advisory	8/27/2014	**Meeting held. Minutes not submitted.**					
Board	**Meeting Date**	Samaria	McDonald	Jacobs		Pettis	
Recreation Advisory	No Sept Meeting	NO QUORUM					
Recreation Advisory	No Oct Meeting	NO QUORUM					
Board	**Meeting Date**	Samaria	Rodriguez	Jacobs	Goldman	Corredero	Wais
Recreation Advisory	11/25/2014	**Meeting held. Minutes not submitted.**					
Recreation Advisory	12/16/2014	**Meeting held. Minutes not submitted.**					

Recreation Advisory	1/27/2015	**Meeting held. Minutes not submitted.**					
Recreation Advisory	2/24/2015	**Meeting held. Minutes not submitted.**					
Board	**Meeting Date**	Samaria	Corredero	Goldman	Hahn	Wais	
Recreation Advisory	3/24/2015	☑	☑	☑	☑	☑	
Recreation Advisory	4/28/2015	☑	N	☑	☑	☑	
Recreation Advisory	5/26/2015	☑	N	☑	☑	☑	
Recreation Advisory	6/23/2015	☑	☑	N	☑	☑	
Recreation Advisory	7/28/2015						
Recreation Advisory	8/25/2015						
Recreation Advisory	9/22/2015						
Recreation Advisory	10/27/2015						
Recreation Advisory	11/24/2015						
Recreation Advisory	12/22/2015						

Key:

☑	Present
N	Absent
	Alternate Board Member
	No meeting

VILLAGE OF BISCAYNE PARK BOARD/COMMITTEE ATTENDANCE LOG							
Board		DeBernardi	Pliske	Smith	Strassberg		Bronzi
Ecology	1/20/2015	N	☑	☑	☑		☑
Ecology	2/18/2015	Meeting Cancelled					
Board		DeBernardi	Pliske	Ferstle	Strassberg	Bronzi	
Ecology	4/20/2015	N	☑	☑	☑	☑	
Ecology	4/20/2015	☑	N	N	☑	☑	
Ecology	5/18/2015	**Meeting held. Minutes not submitted.**					
Ecology	6/15/2015	**Meeting held. Minutes not submitted.**					
Ecology	7/20/2015						
Ecology	8/17/2015						
Ecology	9/21/2015						
Ecology	10/19/2015						
Ecology	11/16/2015						
Ecology	12/21/2015						

Key:

☑	Present
N	Absent
	Alternate Board Member
	No meeting

VILLAGE OF BISCAYNE PARK BOARD/COMMITTEE ATTENDANCE LOG							
Board	**Meeting Date**	Keys	Silverman	Kuhl	Wagoner		
Parks & Parkway	1/21/2015	☑	N	☑	☑		
Parks & Parkway	1/26/2015	☑	☑	☑	☑		
Parks & Parkway (Joint)	2/18/2015	☑	☑	☑	☑		
Board	**Meeting Date**	Keys	Silverman	Kuhl	Wagoner	Misek	
Parks & Parkway	3/18/2015	☑	N	☑	☑	N	
Parks & Parkway	4/2/2015	☑	☑	☑	☑	N	
Parks & Parkway	4/8/2015	**Meeting held. Minutes not submitted.**					
Parks & Parkway	5/20/2015	**Meeting held. Minutes not submitted.**					
Parks & Parkway	6/17/2015	**Meeting held. Minutes not submitted.**					
Parks & Parkway	7/15/2015						
Parks & Parkway	8/19/2015						
Parks & Parkway	9/16/2015						
Parks & Parkway	10/21/2015						
Parks & Parkway	11/18/2015						
Parks & Parkway	12/16/2015						

Key:

☑	Present
N	Absent
	Alternate Board Member
	No meeting

VILLAGE OF BISCAYNE PARK BOARD/COMMITTEE ATTENDANCE LOG							
Board	**Meeting Date**	Hartung	Blanton	Olis	Hamelburg	Kuhl	
Code Review	1/8/2014	☑	☑		☑	☑	
Code Review	1/15/2014	☑	☑	☑	☑	N	
Code Review	2/5/2014	*Minutes not yet provided.*					
Code Review	2/22/2014	*Minutes not yet provided.*					
Code Review	3/5/2014	*Minutes not yet provided.*					
Code Review	3/26/2014	☑	☑	☑	☑	☑	
Code Review	4/2/2014	☑	N	☑	☑	☑	
Code Review	4/16/2014	*Minutes not yet provided.*					
Code Review	6/4/2014	☑	☑	☑	☑	☑	
Code Review	6/15/2014	*Minutes not yet provided.*					
Code Review	7/2/2014	*Minutes not yet provided.*					
Code Review	7/16/2015	Meeting Cancelled					
Code Review	8/6/2014	*Minutes not yet provided.*					
Code Review	8/20/2014	Meeting Cancelled					
Code Review	9/3/2014	*Minutes not yet provided.*					
Code Review	9/17/2014	*Minutes not yet provided.*					
Code Review	10/1/2014	*Minutes not yet provided.*					
Code Review	10/15/2014	*Minutes not yet provided.*					
Code Review	11/5/2014	Meeting Cancelled					
Code Review	11/19/2014	☑	☑	N	☑	☑	
Code Review	12/3/2014	*Minutes not yet provided.*					
Code Review	12/17/2014	Meeting Cancelled					

Board	**Meeting Date**	Hartung	Blanton	Olis	Hamelburg	Kuhl	
Code Review	1/7/2015	*Minutes not yet provided.*					
Code Review	1/21/2015	Meeting Cancelled					
Code Review	1/26/2015	☑	☑	☑	☑	☑	
Code Review	2/4/2015	Meeting Cancelled					
Code Review	2/18/2015	☑	☑	☑	☑	☑	
Code Review	March 2015	Meetings Cancelled					
Code Review	April 2015	Meetings Cancelled					
Code Review	May 2015	Meetings Cancelled					
Code Review	June 2015	Meetings Cancelled					
Code Review							

Key:

☑	Present
N	Absent
	Alternate Board Member
	No meeting

VILLAGE OF BISCAYNE PARK BOARD/COMMITTEE ATTENDANCE LOG							
Board	**Meeting Date**		Fascie	Newberry	Weiss	Marinoni	
Public Art Advisory Board	1/14/2015		☑	☑	☑	☑	
Public Art Advisory Board	2/11/2015		☑	N	☑	☑	
Board	**Meeting Date**		Fascie		Weiss	Marinoni	
Public Art Advisory Board	3/11/2015		☑		☑	☑	
Public Art Advisory Board	4/2/2015	N	N	N	☑	☑	
Board	**Meeting Date**	Datorre			Weiss	Marinoni	
Public Art Advisory Board	4/8/2015	☑			☑	☑	
Public Art Advisory Board	5/13/2015	N			☑	☑	
Board	**Meeting Date**	Datorre	Raymond	Newberry	Weiss	Marinoni	
Public Art Advisory Board	6/10/2015	N	☑	N	☑	☑	
Public Art Advisory Board	7/8/2015						
Public Art Advisory Board	8/12/2015						
Public Art Advisory Board	9/9/2015						
Public Art Advisory Board	10/14/2015						
Public Art Advisory Board	11/11/2015						
Public Art Advisory Board	12/9/2015						

Key:

☑	Present
N	Absent
	Alternate Board Member
	No meeting