



# *The Village of Biscayne Park*

600 NE 114th St., Biscayne Park, FL 33161

Telephone: 305 899 8000 Facsimile: 305 891 7241

## **AGENDA**

### **VIRTUAL SPECIAL COMMISSION MEETING**

**LOG CABIN - 640 NE 114th Street**

**Biscayne Park, FL 33161**

**Tuesday, May 19, 2020 6:30 pm**

**Meeting ID: 922 2452 1103**



*Indicates back up documents are provided.*

#### **1 Call to Order**

#### **2 Roll Call**

Mayor O'Halpin

Vice-Mayor Tudor

Commissioner Kennedy

Commissioner Ross

Commissioner Samaria

#### **3 Pledge of Allegiance**

#### **4 Proclamation**



**4.a Memorial Day Proclamation - with presentation from Commissioner Samaria**

#### **5 Public Comments Related to Agenda Items / Good & Welfare**

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

#### **6 Ordinance**



Acceptance of REVISED minutes of Regular Commission Meeting of March 03, 2020 reflecting First Reading of Ordinance 2020-02 on the records.

##### **6.a Ordinance # 2020-02 - Second Reading**



AN ORDINANCE OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, REPEALING ORDINANCE 2019-05 AND AMENDING CHAPTERS 14 AND 15 OF THE BISCAYNE PARK LAND DEVELOPMENT CODE REGARDING THE POWERS AND DUTIES OF THE BISCAYNE PARK CODE ENFORCEMENT BOARD; PROVIDING FOR INCLUSION IN THE CODE AND SCRIVENER'S ERRORS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE

***Public Hearing on Ordinance # 2020-02***

#### **7 Resolutions**

**7.a Resolution 2020-24 - Renewal of Employee Benefit Plan w Humana**



A RESOLUTION OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, APPROVING THE RENEWAL OF THE EXISTING EMPLOYEE HEALTH INSURANCE BENEFITS PLAN BETWEEN HUMANA AND THE VILLAGE OF BISCAYNE PARK; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

## 8 Old Business

### 8.a Village Attorney Recruitment - by Commissioner Kennedy



### 8.b Village Manager Recruitment - by Commissioner Ross



### 8.c Whistleblower Protection - by Commissioner Samaria



### 8.d Gray Robinson Invoices - by Commissioner Samaria



## 9 New Business

### 9.a Waste Pro - Discussion and Ratification of Extension and Increase of Cost Kenneth Rivera, Division Manager of Waste Pro of Florida, Inc.



### 9.b Debris Removal and Debris Monitoring Contracts in Place - by David Hernandez, Interim Village Manager



### 9.c Discussion on Chief of Police contract - by Commissioner Samaria



### 9.d FEMA - Floodplain Management - by David Hernandez, Interim Village Manager



### 9.e CITT Audit - by David Hernandez, Interim Village Manager



### 9.f Discussion on Manager Reports - by Commission Kennedy



## 10 Reports

### 10.a Village Attorney

### 10.b Village Manager

### 10.c Board / Committee Reports

- 10.d Commission**
  - Mayor O'Halpin**
  - Vice-Mayor Tudor**
  - Commissioner Kennedy**
  - Commissioner Ross**
  - Commissioner Samaria**

## **11 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.

### **Village of Biscayne Park meeting on May 19, 2020 at 6:30 pm with Social Distancing Modifications**

The Village of Biscayne Park is using Zoom to hold the Virtual Public Meeting via communications media technology as authorized by Governor DeSantis' Executive Order 2-69. Members of the public may also use Zoom to view and participate in the meeting online. Zoom is a cloud platform for video and audio conferencing, collaboration, chat and webinars across mobile devices, laptops, desktops, telephones and room systems.

#### **Public Comment**

Anyone who wishes to provide public comment will be able to do so by participating in the City Council meeting via the Zoom platform and/or telephone by speaking during public comment portions of the meeting when recognized per the instructions below or by submitting written comments, evidence and/or written testimony in advance of 24 hours no later than two (2) hours before the meeting via email to the Village Clerk at villegaclerk@biscayneparkfl.gov.

#### **Instructions on How to Watch, Listen and/or Participate in the Virtual Meeting:**

To access the Zoom Virtual Public Meeting of May 19, 2020 at 6:30 pm, you have the following options:

Zoom meeting instructions for the public participants:

Download the “Zoom Client for Meetings” to your computer or laptop here:

<https://zoom.us> and click on Join a Meeting. . When prompted to join a meeting, enter the meeting ID. use the link below to join the meeting.

If you are using a tablet or smartphone, download zoom from the device’s app store.

For the May 19, 2020 meeting please use the meeting link

<https://zoom.us/j/92224521103>

to attend electronically and watch the meeting by computer, tablet or smartphone.

For additional information or assistance please contact the following prior to the meeting:

1. For public comment questions: Roseann Prado, Village Clerk, [villageclerk@biscayneparkfl.gov](mailto:villageclerk@biscayneparkfl.gov) or 305-899-8000
2. For questions on connecting to the meeting: Phone Doctor:305-301-0732.

Public Comment

1. Access audio of the Zoom meeting via phone:

You may access the audio from your phone by dialing: 305-893-4427. When the Meeting ID is requested, enter **922 2452 1103** followed by # key. When asked for a participant ID, press # key. If you would like to speak during public comment, please press \*9 on your phone to activate the “raise your hand” feature of Zoom. Comments will be limited to three (3) minutes.

2. Watch the meeting online and provide public comment during the meeting: Use the “raise your hand” feature and be recognized at the direction of the Chair. Comments will be limited to three (3) minutes.



# PROCLAMATION Memorial Day

**WHEREAS**, on Monday, May 25, 2020 in cities and towns throughout our nation Americans join together to honor the fallen heroes of our Armed Forces; and

**WHEREAS**, in May 1868. Major General John A. Logan called for a nationwide day of remembrance to pay tribute to those who gave their lives serving our country; and

**WHEREAS**, over 1.6 million veterans of the United States Armed Forces currently reside in Florida; and

**WHEREAS**, our men and women in uniform have sacrificed their lives to maintain the security of our great Nation and the liberties we hold so dear; and

**WHEREAS**, members of our Armed Forces continue to work toward peace and prosperity in the world; and

**WHEREAS**, we must pledge to never forget the men and women of the Armed Forces who gave the ultimate sacrifice in defending our freedoms; we should express our gratitude to the families of our fallen warriors; we must keep faith with all those who have died for our country in the fight for permanent peace; and we must honor our unwavering community to all members of the Armed Forces.

**NOW THEREFORE, BE IT RESOLVED** that the Village of Biscayne Park formally Proclaim Monday, May 25, 2020, as Memorial Day in recognition of all those who have made the ultimate sacrifice in service to our Nation and ask all residents of the Village of Biscayne Park to pause for a moment of silence at Today. Tuesday, May 19, 2020.



Dated this 19<sup>th</sup> Day of May of 2020  
**VILLAGE of BISCAYNE PARK**

\_\_\_\_\_  
Mayor Virginia O' Halpin

\_\_\_\_\_  
Vice-Mayor William Tudor

\_\_\_\_\_  
Commission MacDonalD Kennedy

\_\_\_\_\_  
Commissioner Roxanna Ross

\_\_\_\_\_  
Commissioner Dan Samaria



**VILLAGE OF BISCAYNE PARK**  
**Village Commission Agenda Report**  
**REGULAR MEETING**

**Item**

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**TO:** Honorable Mayor & Members of the  
Biscayne Park Village Commission

**FROM:** Roseann Prado, Village Clerk

**DATE:** May 19, 2020

**TITLE:** Acceptance of REVISED Commission Minutes

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**Background**

The REVISED minutes listed below are being provided for the Commissioner's review and acceptance including approved Ordinance 2020-02 on First Reading as recorded.

**Recommendation**

Acceptance as REVISED Minutes.

**Attachment**

- Regular Commission Meeting 03 03 2020

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Prepared by: Roseann Prado, Village Clerk

May 19, 2020  
Item #

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## *The Village of Biscayne Park*

600 NE 114th St., Biscayne Park, FL 33161

Telephone: 305 899 8000 Facsimile: 305 891 7241

### **MINUTES**

**Regular Commission Meeting  
Log Cabin - 640 NE 114th Street  
Biscayne Park, FL 33161  
Tuesday, March 03, 2020 at 7:00 pm**

**Revised**

**1 Call to Order**

Mayor O'Halpin called the meeting to order at 7:00 pm.

**2 Roll Call**

Mayor O'Halpin - present

Vice Mayor Tudor - present

Commissioner Kennedy - present

Commissioner Ross - present

Commissioner Samaria - present

Staff present:

Interim Village Manager David Hernandez

Interim Village Attorney John Herin

Village Clerk Roseann Prado

Recording: Cesar Hernandez

**3 Pledge of Allegiance**

**4 Additions, Deletions or Withdrawals to the Agenda**

Mayor O'Halpin requested to move item 9.a - Ordinance 2019-06 to discussion under Old Business.

Commissioner Samaria requested to introduce Chief of Police contract for discussion under New Business.

Commissioner Kennedy requested to introduce discussion on hiring a Village Manager to New Business.

Commissioner Ross motioned to approve agenda changes. Commissioner Kennedy seconded. **Motion passed 5 - 0.**

**5 Presentation**

**5.a Public Hearing - Krishan Manners**

Commissioner Samaria left the Chambers and provided form 8B, further attached to this Minutes.

Public Comments related to the agenda item. The following persons spoke on the records:

Ute Nitsch

Kate Eaton

Dan Keys

Barbara Kuhl

Chuck Ross

Dan Schneiger

Fred Jonas

Gary Kuhl

Bob Anderson

Barbara Watts

Rodolfo Barreto

Milton Hunter

Commissioner Ross motioned to ratify Resolution 2020-05 and approve Resolution 2020-15. Commissioner Kennedy seconded .

Commissioner Ross requested to change the language on page 2 of 4, Section 2 to rephrase as "testimony was given".

Commissioners voted as follows:

Mayor O'Halpin - Yes

Vice-Mayor Tudor - No

Commissioner Kennedy - Yes

Commissioner Ross - Yes

**Motion passed 3 - 1** (Vice-Mayor Tudor opposed)

## **6 Public Comments Related to Agenda Items / Good & Welfare**

The following persons spoke on the record:

- Amy Raymond - requested to schedule Mango Fest 2020 to June 16, 2020

Commissioner Samaria motioned to approve. Vice-Mayor Tudor seconded. **Motion passed 5 - 0.**

- David Raymond - requested permission to start a Civic Club first meeting on March 18, 2020 at the Recreation Center.

Commissioner Kennedy motioned to approve. Commissioner Samaria seconded.

**Motion passed 5 - 0.**

Nancy Davis

Bob Anderson

Chuck Ross

## **7 Information / Updates**

Charter Review Advisory Board's Final Report to the Commission

- Cover Memo from Chair

- Final Report

Commissioner Kennedy motioned to table the item indefinitely. Commissioner Ross seconded. **Motion passed 4 - 1** (Vice-Mayor Tudor opposed)

**Mayor O'Halpin called for a recess at 9:15 pm. Meeting resumed at 9:25 pm.**

## **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 Acceptance of Commission Minutes**

- Regular Commission Meeting February 04, 2020
- Special Commission Meeting February 11, 2020

### **8.b Acceptance of Boards Minutes**

- Parks & Parkway Advisory Board Meeting May 8, 2019
- Parks & Parkway Advisory Board Meeting May 10, 2019
- Parks & Parkway Advisory Board Meeting July 25, 2019
- Parks & Parkway Advisory Board Meeting August 22, 2019
- Parks & Parkway Advisory Board Meeting August 27, 2019
- Parks & Parkway Advisory Board Meeting September 26, 2019
- Parks & Parkway Advisory Board Meeting October 3, 2019
- Parks & Parkway Advisory Board Meeting October 21, 2019
- Parks & Parkway Advisory Board Meeting October 22, 2019
- Parks & Parkway Advisory Board Meeting October 25, 2019
- Parks & Parkway Advisory Board Meeting October 29, 2019
- Parks & Parkway Advisory Board Meeting October 30, 2019
- Parks & Parkway Advisory Board Meeting November 04, 2019
- Parks & Parkway Advisory Board Meeting November 07, 2019
- Parks & Parkway Advisory Board Meeting November 13, 2019
- Parks & Parkway Advisory Board Meeting November 21, 2019
- Biscayne Park Foundation Meeting December 10, 2019
- Biscayne Park Foundation Meeting January 15, 2020
- Public Art Advisory Board Meeting January 8, 2020
- Public Art Advisory Board Meeting February 12, 2020

### **8.c Resolution # 2020-11 - MOU Agreement w El Portal**

A RESOLUTION OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, AUTHORIZING THE VILLAGE MANAGER TO EXECUTE A MUTUAL AID AGREEMENT BETWEEN THE VILLAGE OF EL PORTAL POLICE DEPARTMENT AND THE VILLAGE OF BISCAYNE PARK POLICE DEPARTMENT; AND AUTHORIZING THE CHIEF OF POLICE TO EXECUTE THE JOINT DECLARATION; PROVIDING FOR AN EFFECTIVE DATE.

**8.d Resolution # 2020-12 - MOA Agreement w North Miami - Fuel**

A RESOLUTION OF THE MAYOR AND VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, AUTHORIZING THE VILLAGE MANAGER TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF NORTH MIAMI AND THE VILLAGE OF BISCAYNE PARK, AUTHORIZING THE CITY TO SELL AND DISPENSE DIESEL AND UNLEADED FUEL FOR SERVICE VEHICLES OWNED BY THE VILLAGE OF BISCAYNE PARK; PROVIDING FOR AN EFFECTIVE DATE .

**8.e Resolution # 2020-14 - Engagement Letter FoxRotschild Interim Village Attorney**

A RESOLUTION OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA; AUTHORIZING THE MAYOR TO EXECUTE THE ENGAGEMENT LETTER AGREEMENT FOR INTERIM VILLAGE ATTORNEY BETWEEN FOXROTSCHILD, LLP AND THE VILLAGE OF BISCAYNE PARK FOR PROFESSIONAL LEGAL SERVICES AND EXPEND BUDGETED FUNDS; PROVIDING FOR AN EFFECTIVE DATE.

Commissioner Ross moved to approve Consent Agenda. Commissioner Samaria seconded. **Motion passed 5 - 0.**

**9 Ordinances**

**9.a Ordinance 2019-06 - establishing Commission Meeting Procedures - Second Hearing**



AN ORDINANCE OF THE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, AMENDING SECTION 2-16 OF THE VILLAGE OF BISCAYNE PARK CODE OF ORDINANCES; ADOPTING COMMISSION RULES AND PROCEDURES FOR MEETINGS AND WORKSHOPS; PROVIDING FOR ORDINANCES IN CONFLICT, REPEALER, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE,

***Public Hearing on Ordinance # 2020-06***

***Item 9.a moved to Old Business***

**9.b Ordinance 2020-01 - Changing Language on Boards Members Resignation - Second Reading**



AN ORDINANCE OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, AMENDING ARTICLE III OF CHAPTER 2 OF THE CODE OF ORDINANCES, VILLAGE OF BISCAYNE PARK, ENTITLED "COMMISSIONS, BOARDS AND COMMITTEES" BY AMENDING SECTION 2-30(d)(3) REGARDING THE ONE YEAR RESTRICTION ON THE ELIGIBILITY OF APPOINTMENT OF MEMBERS OF BOARDS OR COMMITTEES THAT HAVE RESIGNED; PROVIDING FOR INCLUSION IN THE CODE AND SCRIVENER'S ERRORS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

***Public Hearing on Ordinance # 2020-01***

*The following person spoke on the record:*

Dan Keys

Commission Samaria moved to approve Ordinance 2020-01 on second reading.

Commissioner Ross seconded. Commission voted as follows:

Mayor O'Halpin - Yes

Vice-Mayor Tudor - Yes

Commissioner Kennedy - No

Commissioner Samaria - Yes

Commissioner Ross - Yes

Commissioner Kennedy requested to reconsider the vote on Ordinance # 2020-01.

Commission voted as follows:

Mayor O'Halpin - Yes

Vice-Mayor Tudor - Yes

Commissioner Kennedy - Yes

Commissioner Samaria - Yes

Commissioner Ross - Yes

**Ordinance approved 5 - 0.**

**9.c Ordinance # 2020-02 - First Reading**

AN ORDINANCE OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, REPEALING ORDINANCE 2019-05 AND AMENDING CHAPTERS 14 AND 15 OF THE BISCAYNE PARK LAND DEVELOPMENT CODE REGARDING THE POWERS AND DUTIES OF THE BISCAYNE PARK CODE ENFORCEMENT BOARD; PROVIDING FOR INCLUSION IN THE CODE AND SCRIVENER'S ERRORS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE

***Public Hearing on Ordinance # 2020-02***

*The following persons spoke on the record:*

Dan Keys

Janey Anderson

Commission Ross moved to approve Ordinance 2020-02 on first reading.

Commissioner Samaria seconded. Commission voted as follows:

Mayor O'Halpin - Yes

Vice-Mayor Tudor - No

Commissioner Kennedy - Yes

Commissioner Samaria - Yes

Commissioner Ross - Yes

**Ordinance approved 4 - 1 (Vice-Mayor Tudor opposed).**

**10 Resolutions**

**10.a Resolution # 2020-07 - Appointment of Board Members to Parks & Parkway Advisory Board**



RESOLUTION OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, RATIFYING THE SELECTION AND APPOINTMENT OF BOARD MEMBERS TO THE PARKS & PARKWAY ADVISORY BOARD; PROVIDING FOR AN EFFECTIVE DATE.

Commissioner Ross motioned to approve Resolution 2020-07 appointing the Board Members as follows:

- Barbara Kuhl, Member
- Lynn Fisher, Member
- David Raymond, Member
- Randal Wagoner, Member
- Audra McCollum, Member
- Michael Rawson, Alternate Member

Commissioner Samaria seconded. **Motion passed 5 -0.**

**10.b Resolution # 2020-08 - Appointment of Board Members to Public Art Advisory Board**



RESOLUTION OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, RATIFYING THE SELECTION AND APPOINTMENT OF BOARD MEMBERS TO THE PUBLIC ART ADVISORY BOARD; PROVIDING FOR AN EFFECTIVE DATE.

Commissioner Ross motioned to approve Resolution 2020-08 appointing the Board Members as follows:

- Amy Raymond, Member
- Karen Marinoni, Member
- Barbara Watts, Member
- Trevor Lafargue, Member
- Susan Weiss, Member
- Patrice Bertin, Alternate Member

Commissioner Samaria seconded. **Motion passed 5 -0.**

**10.c Resolution # 2020-09 - Appointment of Board Members to Public Safety Advisory Board**

RESOLUTION OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, RATIFYING THE SELECTION AND APPOINTMENT OF BOARD MEMBERS TO THE PUBLIC SAFETY ADVISORY BOARD; PROVIDING FOR AN EFFECTIVE DATE.

Commissioner Ross motioned to sunset the Public Safety Advisory Board. Commissioner Samaria seconded. **Motion passed 5 -0.**

**Mayor O'Halpin called to extend the meeting to 11:30 pm.**

**10.d Resolution # 2020-13 - Change of Compensation to Interim Village Manager**

A RESOLUTION OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE THE CHANGE OF COMPENSATION FOR INTERIM VILLAGE MANAGER BETWEEN THE VILLAGE OF BISCAYNE PARK AND DAVID HERNANDEZ; PROVIDING FOR AN EFFECTIVE DATE.

Commissioner Samaria motioned to approve Resolution 2020-13. Commissioner Ross seconded. **Motion passed 5 - 0.**

**11 Old Business**

**Ordinance 2019-06 - Commission Meeting Procedures**

Commissioner Ross motioned to lay the item on the table. Commissioner Samaria seconded. Commission voted as follows:

Mayor O'Halpin - Yes

Vice-Mayor Tudor - No

Commissioner Kennedy - Yes

Commissioner Ross - Yes

Commissioner Samaria - Yes

**Motion passed 4 - 1** (Vice-Mayor Tudor opposed)

**12 New Business**

**12.a Discussion on Change of Compensation to Commissioners - by Mayor O'Halpin**

Postponed to next Commission meeting.

**Commissioner Ross motioned to extend the meeting for 15 minutes. Commissioner Samaria seconded. Motion passed 5 - 0.**

**13 Request for placement of items on next meeting agenda**

Commissioner request for a Special Commission meeting on March 18, 2020 at 6:30 pm. Commissioner Ross motioned. Commissioner Samaria seconded. **Motion passed 5 - 0.**

**14 Reports**

**14.a** Village Attorney

**14.b** Village Manager

**14.c** Board / Committee Reports

**14.d Commission Comments:**

Mayor O'Halpin

Vice-Mayor Tudor

Commissioner Kennedy

Commissioner Ross

Commissioner Samaria

## 15 Announcements

- Biscayne Park Foundation Meeting, March 9, 2020 6:30 pm at Village Hall
- Public Art Advisory Board Meeting, March 11, 2020 6:00 pm at Village Hall
- Planning & Zoning Board Meeting, March 16, 2020 6:30 pm at Log Cabin
  
- Parks & Parkway Advisory Board Meeting, March 19, 2020 5:30 pm at Village Hall
  
- Public Safety Advisory Board Meeting, March 25, 2020 7:00 pm at Village Hall
- Planning & Zoning Board Meeting, April 6, 2020 6:30 pm at Log Cabin
  
- **Next Regular Commission Meeting - Tuesday, April 7, 2020 7:00 pm at Log Cabin**

## 18 Adjournment

Commission Kennedy motioned to adjourn the meeting. Commissioner Samaria seconded. Meeting adjourned at 11:38 pm.

Commission approved as REVISED Minutes on Special Commission

Meeting of May 05, 2020.

Attest:

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Virginia O'Halpin, Mayor

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Roseann Prado, Village Clerk



**VILLAGE OF BISCAYNE PARK**  
**Village Commission Agenda Report**  
**REGULAR MEETING**

**Item # 6.a.**

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**TO:** Honorable Mayor & Members of the  
Biscayne Park Village Commission

**FROM:** John R. Herin, Jr, Interim Village Attorney

**DATE:** May 19, 2020

**TITLE:** Ordinance 2020-02 - An Ordinance of the Village Commission of The Village of Biscayne Park, Florida, Repealing Ordinance 2019-05 and Amending Chapters 14 and 15 of the Biscayne Park Land Development Code Regarding the Powers and Duties of the Biscayne Park Code Enforcement Board; Providing for Inclusion in the Code and Scrivener's Errors; Providing for Conflicts; Providing for Severability and Providing for an Effective Date.

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**Recommendation**

Approve Ordinance 2020-02 on second reading.

**Background**

The Village Commission directed staff to prepare a proposed Ordinance repealing and replacing Ordinance 2019-05, which established the position of Code Compliance Special Magistrate and transferring most of the substantive code compliance powers from the Village's Code Compliance Board to the Special Magistrate. Consistent with that direction, Ordinance 2020-02 "rolls back" the Village's code compliance regulations to the way they were prior to the adoption of Ordinance 2019-05, as well as updating wording and requiring a violator to provide advance written notice to the Village if they intend to appear at the Code Board hearing with legal counsel. Finally, Ordinance 2020-02 delegates the authority of the Village Commission to hear and approve/deny requests to reduce code compliance fines exclusively to the Code Board.

**Resource Impact**

None

**Attachment(s)**

- Ordinance 2020-02

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Sponsored by: Village Commission

May 19, 2020

Item # 6.a.

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**ORDINANCE NO. 2020-02**

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**AN ORDINANCE OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, REPEALING ORDINANCE 2019-05 AND AMENDING CHAPTERS 14 AND 15 OF THE BISCAYNE PARK LAND DEVELOPMENT CODE REGARDING THE POWERS AND DUTIES OF THE BISCAYNE PARK CODE ENFORCEMENT BOARD; PROVIDING FOR INCLUSION IN THE CODE AND SCRIVENER'S ERRORS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE**

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**WHEREAS**, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

**WHEREAS**, Section 4.03 of the Village Charter of the Village of Biscayne Park empowers the Village Commission to adopt, amend, or repeal such ordinances as may be required for the proper governing of the Village; and

**WHEREAS**, the Village Commission desires to repeal Ordinance 2019-05 creating the position of Village Code Enforcement Special Magistrate and adopt regulations concerning the powers and duties of the Village Code Enforcement Board similar to the regulations in place prior to the adoption of Ordinance 2019-05;

**WHEREAS**, on March 3, 2020, the Village Commission held a first reading and public hearing on the adoption of Ordinance 2020-02; and

**WHEREAS**, on May 19, 2020, the Village Commission held a second reading and legally noticed public hearing on the adoption of Ordinance 2020-02.

**NOW, THEREFORE, BE ORDAINED BY THE VILLAGE OF BISCAYNE PARK, FLORIDA AS FOLLOWS:**<sup>1</sup>

**Section 1. Recitals.** The above recitals are true and correct, and incorporated herein by this reference and are hereby adopted as the legislative and administrative findings of the Village Commission.

**Section 2. Repeal of Ordinance 2019-05.** Ordinance 2019-05, a copy of which is attached hereto as Exhibit 1 and incorporated herein by this reference, is repealed in its entirety.

**Section 3. Land Development Code Amended.** Chapters 14 and 15 of the Land Development Code of the Village of Biscayne Park, Florida are amended to read as follows:

**CHAPTER 14. – CODE COMPLIANCE BOARD**

<sup>1</sup>/ Additions to existing text are shown by underline, changes to existing text on second reading are shown by double underline, and deletions are shown as ~~strikethrough~~.

1  
2 14.1. – Code compliance board—Generally.

3  
4 14.1.1 Purpose. This chapter sets forth the procedures of the code  
5 compliance board. When not expressly provided for in this chapter, article  
6 III, section 2-30 of the Biscayne Park Code shall apply.

7  
8 14.1.2 Intent. It is the intent of the village to provide an equitable,  
9 expeditious, effective, and inexpensive method of enforcing the codes and  
10 ordinances in force in the village by granting to the code compliance board  
11 the authority to impose administrative fines and other non-criminal  
12 penalties for violation(s) of said codes and ordinances. In addition to the  
13 enforcement and remedy powers provided herein, the Village may enforce  
14 any alleged violation of the Biscayne Park Code and Biscayne Park Land  
15 Development Code by any means authorized by law, including legal action  
16 in any court of competent jurisdiction.

17  
18 14.1.3 Composition.

19  
20 (a) Code compliance board.

21  
22 (1)Composition. The five-member board shall be appointed by the  
23 village commission.

24  
25 (2)Qualifications. Members of the code compliance board shall be  
26 property owners and residents of the Village of Biscayne Park.  
27 Residents who are not property owners in the Village of Biscayne  
28 Park may be appointed by the village commission by at least a four-  
29 fifths super majority vote. Appointments shall be made on the basis  
30 of experience or interest and, when possible, include the following  
31 individuals: an architect, an attorney, a business person, an engineer,  
32 a general contractor, a subcontractor and a licensed real estate  
33 person.

34  
35 14.1.4 Terms of office. The initial appointments to the code compliance board and  
36 the alternate members shall be as follows:

37  
38 (a) One (1) member appointed for a term of one (1) year.

39  
40 (b) Two (2) members appointed for a term of two (2) years.

41  
42 (c) Two (2) members appointed for a term of three (3) years.

43  
44 Thereafter, all appointments shall be made for a term of three (3) years and shall  
45 take effect on May 1 of the year the appointment is made. A member may be  
46 reappointed upon approval of the village commission. Appointments to fill any  
47 vacancy on the code compliance board shall be for the remainder of the unexpired  
48 term of office. For an excused absence, a board or committee member must advise  
49 the village clerk prior to the meeting of the fact that they will be absent and provide

1 a reason for that absence. The board or committee may vote to excuse the requested  
2 absence at the same meeting that the board or committee member is absent. The  
3 absence, and whether or not the absence is excused or unexcused, is to be reflected  
4 in the minutes. The members shall serve in accordance with the village charter and  
5 may be suspended and removed for cause as provided in the village code for  
6 removal of members of village boards.

7  
8 14.1.5 Procedures for code compliance board.

9  
10 (a) Chairperson. The members of the code compliance board shall elect a  
11 chairperson from among its members.

12  
13 (b) Quorum. The presence of three (3) members shall constitute a quorum  
14 of the code compliance board.

15  
16 (c) Expenses. Members shall serve without compensation, but may be  
17 reimbursed for such travel, mileage and per diem expenses as may be  
18 authorized by the village commission.

19  
20 14.1.6 Counsel. The village attorney shall either be counsel to the code  
21 compliance board or shall represent the village by presenting cases before the  
22 board, but in no case shall the village attorney serve in both capacities. If a violator  
23 or the owner of property that is subject to an enforcement proceeding is represented  
24 by counsel, the violator and/or property owner shall notify the Village in writing of  
25 such representation no less than 72 hours prior to the hearing on the violation before  
26 the code compliance board. If the violator or property owner fails to give the  
27 required notice, the hearing on the alleged violation shall be automatically  
28 continued to the next code board hearing, unless by a supermajority vote of the code  
29 board members present the code board elects to hear the case.

30  
31 14.1.7 Compliance procedure.

32  
33 (a) It shall be the duty of the code compliance officer to initiate  
34 enforcement proceedings of the various codes; provided, however, no  
35 member of the code compliance board shall have the power to initiate such  
36 enforcement proceedings.

37  
38 (b) Except as provided in subsections (c), (d) and (f), if a violation of the  
39 codes is found, the code compliance officer shall notify the violator and give  
40 the violator a reasonable time to correct the violation. Should the violation  
41 continue beyond the time specified for correction, the code compliance  
42 officer shall notify the code compliance board of the charges and request a  
43 hearing pursuant to procedure in section 14.1.8. Notice shall be provided  
44 pursuant to section 14.1.13.

45  
46 (c) If the violation is corrected and then recurs or if the violation is not  
47 corrected by the time specified for correction by the code compliance  
48 officer, the case may be presented to the code compliance board even if the  
49 violation has been corrected prior to the board hearing, and the notice shall

1 so state. If a repeat violation is found, the code compliance officer shall  
2 notify the violator but is not required to give violator a reasonable time to  
3 correct the violation. The code compliance officer, upon notifying the  
4 violator of a repeat violation, shall notify the code compliance board and  
5 request a hearing. The code compliance board shall schedule a hearing and  
6 shall provide notice pursuant to section 14.1.12. The case may be presented  
7 to the code compliance board even if the repeat violation has been corrected  
8 prior to the board hearing, and the notice shall so state. "Repeat violation"  
9 means a violation of a provision of a code or ordinance by a person who has  
10 been previously found, through a code compliance board or other quasi-  
11 judicial or judicial process, to have violated or has admitted violating the  
12 same provision within five (5) years prior to the violation.

13  
14 (d) If the code compliance officer has reason to believe a violation presents  
15 a serious threat to the public health, safety and welfare, the code compliance  
16 officer may proceed directly to the procedure in subsection 14.1.7(b)  
17 without notifying the violator.

18  
19 (e) If the owner of property that is subject to an enforcement proceeding  
20 before an enforcement board, or court transfers ownership of such property  
21 between the time the initial pleading was served and the time of the hearing,  
22 such owner shall:

23  
24 (1)Disclose, in writing, the existence and the nature of the  
25 proceeding to the prospective transferee.

26  
27 (2)Deliver to the prospective transferee a copy of the pleadings,  
28 notices, and other materials relating to the code enforcement  
29 proceeding received by the transferor.

30  
31 (3)Disclose, in writing, to the prospective transferee that the new  
32 owner will be responsible for compliance with the applicable code  
33 and with orders issued in the code enforcement proceeding.

34  
35 (4)File a notice with the code compliance department of the transfer  
36 of the property, with the identity and address of the new owner and  
37 copies of the disclosures made to the new owner, within five (5)  
38 days after the date of the transfer. A failure to make the disclosures  
39 described in this subsection before the transfer creates a rebuttable  
40 presumption of fraud. If the property is transferred before the  
41 hearing, the proceeding shall not be dismissed, but the new owner  
42 shall be provided a reasonable period of time to correct the violation  
43 before the hearing is held.

44  
45 (f) The village commission finds that aesthetics are paramount to  
46 maintaining an attractive and marketable community. The violations  
47 enumerated below severely damage the aesthetics and livability of the  
48 community immediately upon their commission. Such damage cannot be  
49 repaired or reversed. Therefore, the village commission hereby deems a

1 violation of this section an irreparable and irreversible violation. As a result,  
2 the Village of Biscayne Park adopts supplemental and alternative code  
3 enforcement procedures pursuant to F.S. §§ 162.13 and 162.22, as amended,  
4 to authorize code compliance officers to issue administrative citations for  
5 review before the code compliance board. A code compliance officer shall  
6 have the sole discretion in determining whether to issue an administrative  
7 citation or a notice of violation for the following offenses:

8  
9 (1)Open feeding that causes a gathering of more than four (4) dogs  
10 or four (4) cats or combination thereof totaling four (4), in violation  
11 of section 3-4 of the code;

12  
13 (2)Excessive barking or howling of dogs, in violation of section 3-  
14 21 of the code;

15  
16 (3)Parking not on an approved surface where there is an approved  
17 parking surface as required by section 5.6.1 of the Land  
18 Development Code;

19  
20 (4)Garbage cans and trash receptacles not placed behind face of  
21 building and screened from view, in violation of section 6.3.2 of the  
22 Land Development Code;

23  
24 (5)Domestic trash and recycling materials placed at the property line  
25 and/or not removed under the requirements of section 6.3.3 of the  
26 Land Development Code;

27  
28 (6)Trees and garden refuse placed at the property line and/or not  
29 removed under the requirements of section 6.3.4 of the Land  
30 Development Code;

31  
32 (7)Overgrown grass in violation of section 8.4.1 of the Land  
33 Development Code;

34  
35 (8)Offensive noise, in violation of section 10-1 of the code.

36  
37 In the issuance of an administrative citation, the following procedures shall  
38 be used:

39  
40 (1)For the offenses enumerated above, a code compliance officer  
41 who, upon personal investigation, has reasonable cause to believe  
42 that there is a violation, shall have the authority to issue an  
43 administrative citation to the alleged violator and/or owner of the  
44 property.

45  
46 (2)The administrative citation issued shall be in a form approved by  
47 the village manager and shall contain:

48  
49 a. The date and time of issuance.

- b. The name and address of the person to whom the administrative citation is issued.
- c. The facts constituting reasonable cause.
- d. The section of the code that is violated.
- e. The name of the code compliance officer.
- f. The procedure for the person to follow in order to pay or contest the administrative citation.
- g. The penalty, including administrative costs, if the person elects to contest the administrative citation and is found in violation.
- h. The penalty if the person elects to pay the administrative citation.
- i. A conspicuous statement that if the person fails to pay the penalty within the time allowed, or fails to appear before the ~~special magistrate or~~ code compliance board, that the person shall be deemed to have waived his or her right to contest the administrative citation and that, in such case, a final order and/or judgment may be entered against the person up to five hundred dollars (\$500.00).

(3) After issuing the administrative citation, the code compliance officer shall deposit an original with the village manager's designee.

(4) A person who has been served with an administrative citation may elect either to:

- a. Correct the violation immediately and pay within fourteen (14) days of service of the administrative citation the penalty in the manner indicated on the administrative citation; or
- b. Request a hearing before the code compliance board.

#### 14.1.8 Conduct of hearing.

(a) Upon request of the code inspector, or at such other times as may be necessary, the chair of an enforcement board may call a hearing of a code compliance board; a hearing also may be called by written notice signed by at least three members of a seven-member of the code compliance board or signed by at least two members of a five-member of the code compliance board.

1  
2  
3 Upon the request of the code inspector, the chairperson of the code  
4 compliance board may call hearings of the board, and hearings may also be  
5 called by written notice signed by at least three (3) members of the code  
6 compliance board. The board, at any hearing, may set a future hearing date.  
7 The board shall attempt to convene no less frequently than once every two  
8 (2) months, but it may meet more or less often as the demand necessitates.  
9 Minutes shall be kept of all hearings by the board, and all hearings and  
10 proceedings shall be open to the public. The village shall provide clerical  
11 and administrative personnel as may be reasonably required by the board  
12 for the proper performance of its duties.

13  
14 (b) Each case before the code compliance board shall be presented by the  
15 village attorney or a code compliance officer appointed by the village for  
16 that purpose.

17  
18 (c) The code compliance board shall proceed to hear the cases on the  
19 agenda for that day. All testimony shall be under oath and shall be recorded.  
20 The board shall take testimony from the code compliance officer, the  
21 alleged violator, and any witnesses called. Formal rules of evidence shall  
22 not apply, but fundamental due process shall be observed and govern said  
23 proceedings.

24  
25 (d) At the conclusion of the hearing, the ~~the special magistrate and~~ code  
26 compliance board shall issue findings of fact, based on evidence recorded  
27 and conclusions of law, and shall issue an order affording the proper relief  
28 consistent with powers granted herein. The finding shall be by motion  
29 approved by a majority of those present and voting, except that at least three  
30 (3) members of the code compliance board must vote for the action to be  
31 official. The order may include a notice that it must be complied with by a  
32 specified date and that a fine may be imposed if the order is not complied  
33 with by said date. A certified copy of such order may be recorded in the  
34 public records of the county and shall constitute notice to any subsequent  
35 purchasers, successors in interest, or assigns if the violation concerns real  
36 property, and the findings therein shall be binding upon the violator and, if  
37 the violation concerns real property, any subsequent purchasers, successors  
38 in interest, or assigns. If an order is recorded in the public records pursuant  
39 to this subsection and the order is complied with by the date specified in the  
40 order, the code compliance board shall issue an order acknowledging  
41 compliance that shall be recorded in the public records. A hearing is not  
42 required to issue such an order acknowledging compliance.

43  
44 14.1.9 Powers of the code compliance board. The code compliance board shall  
45 have the power to:

46  
47 (a) Adopt rules for the conduct of its hearings.  
48  
49

1 (b) Subpoena alleged violators and witnesses to its hearings. Subpoenas  
2 may be served by the police department.

3  
4 (c) Subpoena evidence to its hearings.

5  
6 (d) Take testimony under oath.

7  
8 (e) Issue orders having the force of law commanding whatever steps are  
9 necessary to bring a violation into compliance.

10  
11 14.1.10 Fines; liens.

12  
13 (a) The code compliance board, upon notification by the code  
14 compliance officer that a previous order of the board has not been  
15 complied with by the set time, or finding a person to be a repeat violator  
16 under subsection (c), may order the violator to pay a fine in an amount  
17 specified in this section for each day the violation continues past the date  
18 set by the code compliance board for compliance or, in the case of a repeat  
19 violation, for each day the repeat violation continues past the date of notice  
20 to the violator of the repeat violation. If a finding of a violation or a repeat  
21 violation has been made as provided in this part, a hearing shall not be  
22 necessary for issuance of the order imposing the fine.

23  
24 (b) Amount of fine.

25  
26 (1)The fine amount(s) are referenced in a resolution kept on file by  
27 the village clerk.

28  
29 (2)In determining the amount of the fine, if any, the code  
30 compliance board shall consider the following factors:

31  
32 a. The gravity of the violation;

33  
34 b. Any actions taken by the violator to correct the violation;  
35 and

36  
37 c. Any previous violations committed by the violator.

38  
39 d. Reduction of fine imposed pursuant to this section.

40  
41 (3) The code compliance board is hereby delegated the authority  
42 to hear requests for reduction of fines pursuant to this section and  
43 make the final decision on behalf of the village.

44  
45 (4) For all requests for reduction of fine, the code compliance  
46 officer shall submit a written recommendation to the code  
47 compliance board. In formulating the recommendation, the code  
48 compliance officer shall consider criteria, which includes, but is  
49 not limited to, the following:

- a. The cooperation of the respondent, including whether the respondent had appeared before the code compliance board at the original hearing;
- b. The documentation provided by the respondent in support of the request;
- c. Whether the respondent has new evidence or information, which could not be provided at the original hearing;
- d. Whether there was any extraordinary hardship, which existed or currently exists;
- e. Whether the respondent has come into compliance with the order of the code compliance board;
- f. The number of days that the violation existed;
- g. Whether the respondent has been deemed a repeat violator by the code compliance board;
- h. Whether the property is homestead or non-homestead property; and
- i. The total administrative cost to the village for the handling of the case, which cost will be inclusive of staff time and recording and release of lien fees.

(4)The code compliance board shall consider the same criteria as the code compliance officer.

(5)The code compliance board shall not waive administrative costs incurred by the Village in enforcing its codes. In addition, the code compliance board and the administrative panel shall not waive costs of any repairs incurred by the Village.

(c)A certified copy of an order imposing a fine, or a fine plus repair costs, may be recorded in the public records of Miami-Dade County, Florida and thereafter shall constitute a lien against the land on which the violation exists, or, if the violator does not own the land, upon any other real or personal property owned by the violator. Upon petition to the circuit court, such order shall be enforceable in the same manner as a court judgment by the sheriffs of this state, including execution and levy against the personal property of the violator but such order shall not be deemed otherwise to be a judgment of a court except for enforcement purposes. A fine imposed pursuant to this part shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit to foreclose on a lien filed pursuant to this section, whichever occurs first. After three

1 (3) months from the filing of any such lien, which remains unpaid, the  
2 code compliance board may authorize the village attorney to initiate court  
3 proceedings to foreclose upon the lien. No lien created pursuant to the  
4 provisions of this chapter may be foreclosed on real property, which is a  
5 homestead under the Florida Constitution, Art. X, § 4.

6  
7 14.1.11 Duration of lien. No lien provided for herein shall continue for a longer  
8 period than twenty (20) years after the certified copy of an order imposing a fine  
9 has been recorded, unless within that time an action to foreclose on the lien is  
10 commenced in a court of competent jurisdiction. In an action to foreclose on the  
11 lien, the prevailing party is entitled to recover all costs, including a reasonable  
12 attorney's fee that it incurs in the foreclosure. The continuation of the lien effected  
13 by the commencement of the action shall not be good against creditors or  
14 subsequent purchasers for valuable consideration without notice, unless a notice of  
15 lis pendens is recorded.

16  
17 14.1.12 Appeal.

18  
19 (a) An aggrieved party, including the Village, may appeal a final order  
20 of the code compliance board to the circuit court. Such an appeal shall not  
21 be a hearing de novo, but shall be limited to appellate review of the record  
22 created before the code compliance board.

23  
24 14.1.13 Notice and procedures.

25  
26 (a) All notices required by this part shall be provided to the alleged violator  
27 by:

28  
29 (1) Certified mail, return receipt requested, provided if such  
30 notice is sent under this subsection to the owner of the property in  
31 question at the address listed in the tax collector's office for tax  
32 notices, and at any other address provided to the village by such  
33 owner and is returned as unclaimed or refused, notice may be  
34 provided by posting as described in subsection (b) below, and by  
35 first class mail directed to the addresses furnished to the village with  
36 a properly executed proof of mailing or affidavit confirming the first  
37 class mailing; or

38  
39 (2) Hand delivery by the sheriff or other law enforcement officer,  
40 code compliance officer, or other person designated by the village;  
41 or

42  
43 (3) Leaving the notice at the violator's usual place of residence  
44 with any person residing therein who is above fifteen (15) years of  
45 age and informing such person of the contents of the notice.

46  
47 (4) In lieu of notice as described in subsection (a), such notice  
48 may be posted at least ten (10) days prior to the hearing, or prior to  
49 the expiration of any deadline contained in the notice, in at least two

1 (2) locations, one of which shall be the property upon which the  
2 violation is alleged to exist and the other of which shall be at the  
3 village hall.

4  
5 (5) Proof of posting shall be by affidavit of the person posting the  
6 notice, which affidavit shall include a copy of the notice posted and  
7 the date and places of its posting.

8  
9 (b) Evidence that an attempt has been made to hand deliver or mail notice  
10 as provided in subsection (a), together with proof of notice or posting as  
11 provided in subsection (b), shall be sufficient to show that the notice  
12 requirements of this chapter have been met, without regard to whether or  
13 not the alleged violator actually received such notice.

14  
15 14.1.14 Enforcement procedures by code compliance officer.

16  
17 (a) For the purposes of this chapter, a "code compliance officer" is  
18 defined to be any agent or employee of the village or Miami-Dade County  
19 whose duty is to assure the enforcement of and compliance with the village  
20 code, the Florida Building Code, or Miami-Dade County Code, as  
21 applicable. Prior to being provided the authority to initiate enforcement  
22 proceedings under this chapter, a code compliance officer shall be required  
23 to successfully complete a criminal background investigation as prescribed  
24 by administrative order of the county manager. Subject to the requirements  
25 of section 8CC 11, a "code compliance officer" is also defined to be any  
26 agent or employee of a municipality who has been authorized pursuant to  
27 that section to assure code compliance. Municipal employees shall also be  
28 required to successfully complete a criminal background investigation prior  
29 to being provided authority to initiate enforcement proceedings under this  
30 chapter.

31  
32 (b) For the purposes of this chapter, "violators" shall be deemed those  
33 persons or entities legally responsible for the violation of the Village's Code  
34 of Ordinances, Village Land Development Code, Village ordinance,  
35 applicable provision of the Miami-Dade County Code, or the Florida  
36 Building Code ("Codes"). Each day violation of any provision of the Codes  
37 or of any Village ordinance shall continue shall constitute a separate  
38 offense.

39  
40 (c) A code compliance officer who finds a violation of the Codes or of an  
41 ordinance shall determine a reasonable time period within which the  
42 violator must correct the violation. This determination shall be based on  
43 considerations of fairness; practicality; ease of correction; ability to correct;  
44 severity of violation; nature, extent and probability of danger or damage to  
45 the public; and other relevant factors relating to the reasonableness of the  
46 time period prescribed. A time for correction need not be specified if the  
47 violation is deemed to be an uncorrectable violation.

1 (d) Service shall be effected by delivering the civil violation notice to the  
2 violator or his agent, or by leaving the civil violation notice at the violator's  
3 usual place of abode with any person residing therein who is fifteen (15)  
4 years of age or older and informing that person of its contents. If such  
5 service cannot be effected, the notice may be sent by certified mail, return  
6 receipt requested, or by posting of the civil violation notice in a conspicuous  
7 place on the premises or real property upon which the violation has been  
8 observed or by mailing to or posting the civil violation notice at the property  
9 owner's mailing address as listed in the tax records of Miami-Dade County.  
10 Such posting of the notice or violation shall be deemed proper service, and  
11 the time for compliance, stated in the notice, shall commence with the date  
12 such notice is posted.

13  
14 (e) A code compliance officer is authorized to record in the public record  
15 the civil violation notice or a notice of violation, which is based upon the  
16 civil violation notice. The recording of the civil violation or a notice of  
17 violation under this section shall not act as or be a lien on the property and  
18 shall not act as a notice of a lien on the property but shall merely act as  
19 public notice of the existence of the violation.

20  
21 (f) A code compliance officer must have, at a minimum, a Florida  
22 Association of Code Enforcement (F.A.C.E.) Level 1 certification within  
23 one (1) year of hire.

## 24 25 CHAPTER 15. - ENFORCEMENT

### 26 27 15.1. - Generally.

28  
29 15.1.1 Enforcement of Land Development Code. The planning board and the  
30 code compliance board shall enforce the Land Development Code.

### 31 32 15.2. - Building official.

33  
34 15.2.1 Designation. The building official shall be designated by the appointing  
35 authority, whatever the official title, to enforce the provisions of the Florida  
36 Building Code and other applicable laws; provided, the official may act with the  
37 aid and through authorized assistants, including designated code compliance  
38 officers.

39  
40 15.2.2 Authority. The building official is hereby authorized and directed to  
41 interpret and enforce all of the provisions of the Florida Building Code and this  
42 code subject to the powers vested in the planning board and the code compliance  
43 board.

### 44 45 15.3. - Violations and general penalty.

46  
47 15.3.1 General penalty. Whenever in this code or in any ordinance of the village  
48 any act is prohibited or is made or declared to be unlawful or an offense, or  
49 whenever in such code or ordinance the doing of any act is required or the failure

1 to do any act is declared to be unlawful, where no specific penalty is provided  
2 therefor, the violation of any such provision of this code or any ordinance shall be  
3 punished by a fine not to exceed five hundred dollars (\$500.00), or imprisonment  
4 for a term not exceeding sixty (60) days, or by both a fine and imprisonment. Each  
5 day violation of any provision of this code or of any ordinance shall continue shall  
6 constitute a separate offense. The provisions of this code may also be enforced as  
7 provided for in Chapter 14.

8  
9 15.3.2 Continuation of violation. In addition to the penalties hereinabove  
10 provided, any condition caused or permitted to exist in violation of any of the  
11 provisions of this code or any ordinance shall be deemed a public nuisance and may  
12 be, by the village, abated as provided by law, and each day that such condition  
13 continues shall be regarded as a new and separate offense.

14  
15 15.4. - Other penalties and remedies.

16  
17 15.4.1 Civil remedies. If any building or structure is erected, constructed,  
18 reconstructed, altered, repaired, or maintained or any building, structure, land, or  
19 water is used in violation of this code, the village, through the village attorney, may  
20 institute any appropriate civil action or proceedings in any court to prevent, correct,  
21 or abate the violation.

22  
23 **Section 4. Inclusion in the Code & Scrivener's Errors.** The Village Commission intends that  
24 the provisions of this Ordinance be made a part of the Biscayne Park Code, and that sections herein may  
25 be renumbered or re-lettered and the words or phrases herein may be changed to accomplish codification;  
26 regardless, typographical errors that do not affect intent may be corrected with notice to and authorization  
27 of the Village Manager without further process.

28  
29 **Section 5. Conflicts.** Whenever the requirements or provisions of this Ordinance are in conflict  
30 with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive  
31 shall apply.

32  
33 **Section 6. Severability.** If any section, subsection, sentence, clause or phrase of this Ordinance is  
34 for any reason, declared by a court of competent jurisdiction to be unconstitutional or invalid, such  
35 decision will not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so  
36 declared.

37  
38 **Section 7. Effective Date.** This Ordinance shall become effective upon adoption by the Village  
39 Commission.

40  
41 PASSED AND ADOPTED upon first reading this 3<sup>rd</sup> day of March, 2020.

42  
43 PASSED AND ADOPTED upon second reading this 19<sup>th</sup> day of May, 2020.

1 The foregoing Ordinance was offered by \_\_\_\_\_, who moved its  
2 adoption. The motion was seconded by \_\_\_\_\_, and upon being put to a vote  
3 the vote was as follows:

4  
5 Virginia O’Halpin, Mayor \_\_\_\_\_  
6 William Tudor, Vice Mayor \_\_\_\_\_  
7 Macdonald Kennedy, Commissioner \_\_\_\_\_  
8 Roxanna Ross, Commissioner \_\_\_\_\_  
9 Dan Samaria, Commissioner \_\_\_\_\_

10  
11  
12 VILLAGE OF BISCAYNE PARK

13  
14  
15 \_\_\_\_\_  
16 Virginia O’Halpin, Mayor

17  
18 ATTEST:

19  
20  
21  
22 \_\_\_\_\_  
23 Roseann Prado, Village Clerk

24  
25 APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE  
26 USE AND RELIANCE OF THE VILLAGE OF BISCAYNE PARK ONLY:

27  
28  
29  
30 \_\_\_\_\_  
31 John R. Herin, Jr., Interim Village Attorney

**MIAMI-DADE COUNTY, FLORIDA  
SUNSHINE NOTICE**

NOTICE IS GIVEN that the **Addiction Services Board** will hold a **Virtual Sunshine Meeting** to discuss amendments to its bylaws and governing ordinance, Article XLIV of the Code of Miami-Dade County, Florida, on **Wednesday, May 13, 2020, at 9:30 am** via Zoom. The meeting will only be held virtually utilizing communications media technology made permissible pursuant to the Governor's Executive Orders.

All interested parties may:

- (1) register in advance online at <https://miamidade.zoom.us/join/joinMeeting?meetingid=92819363615>
- (2) call in live by phone to speak at US: 888 788 0099 (Toll Free) or 877 853 5247 (Toll Free); Webinar ID: 928 1936 3615; or
- (3) If you are hearing or speech impaired, you may join the meeting using Florida Relay Service by dialing 711 on your telephone.

A person who decides to appeal any decision made by any board, agency, or commission with respect to any matter considered at its meeting or hearing, will need a record of proceedings. Such persons may need to ensure that a verbatim record of the proceedings is made, including the testimony and evidence upon which the appeal is to be based.

Miami-Dade County provides equal access and equal opportunity in its programs, services and activities and does not discriminate on the basis of disability. For additional assistance with an accommodation please call 305-375-1293 or send email to [clerkbcc@miamidade.gov](mailto:clerkbcc@miamidade.gov) at least three days in advance of the meeting.

HARVEY RUVIN, CLERK  
MELISSA ADAMES, DEPUTY CLERK

5/12 20-28/0000470036M

**MIAMI-DADE COUNTY, FLORIDA  
PUBLIC NOTICE**

NOTICE IS GIVEN that pursuant to Section 2-1, Rule 3.01(b) of the Code of Miami-Dade County, Florida the **Zoning meeting** for Thursday, May 21, 2020, at 9:30 AM, is **CANCELLED** due to no action item has been placed on the agenda of a Zoning meeting in compliance notice requirements. The next Zoning meeting scheduled for **Thursday, June 18, 2020, at 9:30 AM.**

Miami-Dade County provides equal access and equal opportunity in its programs, services and activities and does not discriminate on the basis of disability. For material in alternate format, a sign language interpreter or other accommodation, please call 305-375-2035 or send email to: [agendco@miamidade.gov](mailto:agendco@miamidade.gov) at least five days in advance of the meeting.

HARVEY RUVIN, CLERK  
MELISSA ADAMES, DEPUTY CLERK

5/12 20-27/0000470038M

**HEARINGS**

**MIAMI-DADE COUNTY, FLORIDA  
CORRECTED NOTICE OF PUBLIC HEARINGS  
BEFORE MIAMI-DADE COUNTY BOARD OF  
COUNTY COMMISSIONERS**

NOTICE IS GIVEN that the meeting of the **Miami-Dade County Board of County Commissioners** previously scheduled to be held in the Miami-Dade Commission Chambers, located on the Second Floor of the Stephen P. Clark Center, 111 N.W. First Street, Miami, Florida, 33128, on **Tuesday, May 19, 2020, at 9:30 a.m.** will now **only** be held virtually utilizing communications media technology made permissible pursuant to the Governor's Executive Orders.

Interested parties may:

- (1) join a Zoom meeting to speak, where permissible, on an item by registering in advance of the meeting at <https://miamidade.live/BCCMeeting> (Zoom registration will be available beginning May 14, 2020);
- (2) call in live by phone to speak, where permissible, on an item at (305) 375-5777; to avoid delays you may, if possible, register in advance at <https://miamidade.live/BCCMeeting>;
- (3) call in live to listen to the meeting at (305) 375-5777;
- (4) view a live broadcast on Miami-Dade Television;
- (5) view a live webcast at <https://www.miamidade.gov/webcasting>;
- (6) after the meeting, view an archived copy of the meeting at [www.miamidade.gov/webcasting](http://www.miamidade.gov/webcasting); or
- (7) if you are hearing or speech impaired, you may join the meeting using Florida Relay Service by dialing 711 on your telephone.

A person who decides to appeal any decision made by any board, agency, or commission with respect to any matter considered at its meeting or hearing, will need a record of proceedings. Such persons may need to ensure that a verbatim record of the proceedings is made, including the testimony and evidence upon which the appeal is to be based.

Miami-Dade County provides equal access and equal opportunity in its programs, services and activities and does not discriminate on the basis of disability. For material in alternate format, a sign language interpreter or other accommodation, please call 305-375-2035 or send email to: [agendco@miamidade.gov](mailto:agendco@miamidade.gov) at least five days in advance of the meeting.

HARVEY RUVIN, CLERK  
MELISSA ADAMES, DEPUTY CLERK

5/12 20-26/0000470040M



**PUBLIC NOTICE  
NOTICE OF PUBLIC HEARING**

Notice is hereby given that the Village Commission of the Village of Biscayne Park, Florida will hear the following ordinance at a Public Hearing to be held beginning at **6:30 PM, Tuesday, May 19, 2020**

**VIA VIRTUAL COMMUNICATIONS MEDIA TECHNOLOGY**  
This meeting shall be held in accordance with the Governor's Executive Order 2020-69. Because of COVID-19 and the need to ensure the public health, safety and welfare, this meeting will be conducted remotely. Members of the public may watch, listen and provide public comment during the public hearing on the below Ordinance during the Virtual Public Meeting via the Zoom platform. Instructions to login and Meeting ID will be available at agenda of the meeting.

**ORDINANCE NO. 2020-02**

**AN ORDINANCE OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, REPEALING ORDINANCE 2019-05 AND AMENDING CHAPTERS 14 AND 15 OF THE BISCAYNE PARK LAND DEVELOPMENT CODE REGARDING THE POWERS AND DUTIES OF THE BISCAYNE PARK CODE ENFORCEMENT BOARD; PROVIDING FOR INCLUSION IN THE CODE AND SCRIVENER'S ERRORS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE**

All documentation pertaining to this notice may be inspected by the public at the Office of the Village Clerk in Village Hall, 600 NE 114th Street and at the Village's website [www.biscayneparkfl.com](http://www.biscayneparkfl.com). 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 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 (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. Roseann Prado, Village Clerk

5/12 20-29/0000470073M

**BID NOTICES & RFP'S**

**INVITATION TO BID**

The Hialeah Housing Authority is requesting sealed bids for the **Re-Roofing at Patterson Pavilion**  
1875 W 44th Place  
Hialeah, FL 33012  
#20-PP-002

Project Manuals will be available on **May 12, 2020** Obtain the **IFB Documents at our website: [HialeahHousing.org](http://HialeahHousing.org)**  
**Site Meeting: May 22, 2020 at 10:00 a.m.**  
1875 W 44 Pl, Hialeah, FL 33012  
**Deadline: Sealed Bids must be submitted no later than: June 10, 2020 at 11:00 A.M.**



**VILLAGE OF BISCAYNE PARK**  
**Village Commission Agenda Report**

**Item # 7.a**

**REGULAR MEETING**

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**TO:** Honorable Mayor & Members of the  
Biscayne Park Village Commission

**FROM:** David Hernandez, Interim Village Manager

**DATE:** May 19, 2020

**TITLE:** Resolution 2020-24 – A Resolution of the Village Commission of the  
Village of Biscayne Park, Florida approving the selection of Humana  
as the continuation of Village’s health plan provider; providing for an  
effective date.

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**Background**

The Village’s current health and welfare plan includes the following insurance carriers:  
Humana Health Plan, Solstice Dental and Vision, and Unum Life Insurance.

The following is an outline of the renewal action for plan year June 1, 2020:

- Humana issued a 14.1% increase
- Solstice Dental and vision, 0% renewal
- Unum Life Insurance 0% renewal

The Village administration reviewed the renewal rates from Humana along with three  
potential insurance carriers with our Benefits Consultants, EBS Advisors, Inc. Cigna  
and Aetna declined to quote.

- NHP: 15.17% increase
- AvMed: 11.94% increase
- Florida: Blue 11.35% increase

When considering renewing with Humana, the employer cost will increase as follows,  
(page 4 attached):

- Revert back to the original contribution strategy for dependents, the increase is \$  
21,822.00 or 14.11%.

Plan Year 2015 the Village implemented the following contribution strategy:

- Employee contribution of \$10 per pay period (employees that are not part of a  
collective bargaining unit)

- Option to “opt out” if they are eligible for and provide proof of health insurance through an alternate source, with a \$1,500 annual incentive paid to the employee.

### **Recommendation:**

Approval of Resolution 2020-24

Health Plan Options:

1. Renew with Humana with current benefit plan and revert back to our original dependent contribution strategy.
  - Due to carrier changes; various tier structures associated with each carrier; and maintaining payroll deductions since 2017, with The Village absorbing the entire health insurance increase, the result is an imbalance to the employer contribution toward the dependent coverage, which should be corrected.
2. Move to the lowest bid, Florida Blue, savings when compared to Humana employer renewal cost, \$ 4,279.00.
  - Proposed bids are not final in the small group market; a post enrollment accounting will be performed by Florida Blue underwriters and rates can either increase or decrease.
  - The Village moved to Humana last year due to a substantial savings when compared to Avmed renewal of 22%.
3. The Village has considered a Humana benefit change, increasing deductible from \$1k to \$2k:
  - Increase employer cost \$ 11,121.00 or 7.84%.

The current \$15,000 life insurance policy is with Unum Life Insurance. The monthly rate for employees is \$5.85. There is no increase in this rate. The rate is included in the employer health insurance cost outlined below.

A voluntary employee paid plan for dental and vision is also available through Solstice and the employee is responsible for the entire cost of those plans if they choose to select them. There are no increases in these rates.

### **Fiscal/Budget Impact**

Based on the current census of [18 employees] and adjusting back to our original contribution strategy:

- Current fiscal year 2020 annual health premium: employer portion equals \$154,710.00 (includes life insurance). Billed health premium equals \$179,761.32.
- Next fiscal year 2021 annual health premium: employer portion equals \$176,533.36 (includes life insurance). Billed health premium equals \$205,126.00.

**Attachments:**

4. Resolution 2020 - 24
5. Cost Calculation and Bids

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Prepared by: Roseann Prado, Village Clerk

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**RESOLUTION NO. 2020-24**

**A RESOLUTION OF THE VILLAGE COMMISSION OF THE  
VILLAGE OF BISCAYNE PARK, FLORIDA, APPROVING THE  
RENEWAL OF THE EXISTING EMPLOYEE HEALTH  
INSURANCE BENEFITS PLAN BETWEEN HUMANA AND THE  
VILLAGE OF BISCAYNE PARK; PROVIDING FOR  
SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

**WHEREAS**, The Village’s current health insurance benefits plan includes the following insurance carriers: Humana Health Plan (health insurance), Solstice Dental and Vision (dental and vision insurance), and Unum Life Insurance (life insurance); and

**WHEREAS**, Village administration has compared the renewal rates and benefits provided by the current health insurance benefits plan carriers along with other major carriers; and

**WHEREAS**, Village administration found that the most comparable health insurance benefits plan to the Village’s current health insurance benefits plan will increase the Village’s cost 14.11% ; and

**WHEREAS**, the renewal of the existing employee health insurance benefits plan will have little to no disruption with the network of doctor’s, and no change to their payroll deductions; and

**WHEREAS**, the Village Commission finds it to be in the best interests of the Village to approve the renewal of the existing employee health insurance benefits plan.

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

**Section 1. Recitals.** The above recitals are true and correct, and incorporated herein by this reference and are hereby adopted as the legislative and administrative findings of the Village Commission.

**Section 2. Renewal.** The renewal of the Village employee’s health insurance benefits plan provider is hereby approved. Said renewal will maintain the existing level of benefits with no increase in employee financial contributions.

**Section 3. Severability.** If any section, sentence, clause or phrase herein is held to be invalid by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Resolution.

**Section 4. Effective Date.** This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this 19<sup>th</sup> day of May, 2020.

1 The foregoing Resolution was offered by \_\_\_\_\_, who moved its  
2 adoption. The motion was seconded by \_\_\_\_\_, and upon being put to a vote  
3 the vote was as follows:

4  
5 Virginia O'Halpin, Mayor \_\_\_\_\_  
6 William Tudor, Vice Mayor \_\_\_\_\_  
7 Macdonald Kennedy, Commissioner \_\_\_\_\_  
8 Roxanna Ross, Commissioner \_\_\_\_\_  
9 Dan Samaria, Commissioner \_\_\_\_\_

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11  
12 VILLAGE OF BISCAYNE PARK

13  
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15 \_\_\_\_\_  
16 Virginia O'Halpin, Mayor

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19 ATTEST:

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23 \_\_\_\_\_  
24 Roseann Prado, Village Clerk

25  
26 APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE  
27 USE AND RELIANCE OF THE VILLAGE OF BISCAYNE PARK ONLY:

28  
29  
30  
31 \_\_\_\_\_  
32 John R. Herin, Jr., Interim Village Attorney



**Village of Biscayne Park - Health Plan Bids**  
 Effective June 1, 2020 - May 31, 2021

**Renewal**

		<b>Humana HMO</b>	<b>Humana HMO</b>	<b>Humana Plan Option 1</b>	<b>NHP HMO</b>	<b>AvMed HMO</b>	<b>Florida Blue HMO</b>
		\$30/60 copay, \$1k/\$4k-20% RX 10/40/75/25%/35% <b>OOP:\$5k/\$10k</b>	\$40/\$80 copay, \$1k/\$4k-20% RX 10/40/75/25%/35% <b>OOP:\$5k/\$10k</b>	\$30/60 copay, \$2k/\$4k RX \$5/\$15/\$75/\$150/\$450 <b>OOP:\$6.5k/\$13k</b>	\$30/\$55 copay, LH \$2k/\$4k RX \$10/35/70 <b>OOP:\$4k/\$k</b>	\$30/\$60 copay, \$1.5k + copay RX \$10/\$15/\$40/\$75/%0% AD <b>OOP \$6k/12k</b>	\$20/50 copay, LH \$1.5k/\$3k-20% RX \$4/\$15\$/50/\$150 <b>OOP \$5k/\$10k</b>
E only	16	\$ 718.47	\$ 819.86	\$ 774.95	\$ 836.01	\$ 804.26	\$ 800.05
E & Spouse	1	\$ 1,436.94	\$ 1,639.71	\$ 1,549.90	\$ 1,672.02	\$ 1,608.62	\$ 1,600.10
E & Child(ren)	0	\$ 1,329.17	\$ 1,516.73	\$ 1,433.65	\$ 1,546.62	\$ 1,487.88	\$ 1,480.09
Family	1	\$ 2,047.65	\$ 2,336.39	\$ 2,208.60	\$ 2,382.63	\$ 2,292.40	\$ 2,280.14
18							
18							
Monthly Premium		\$ 14,980.11	\$ 17,093.86	\$ 16,157.70	\$ 17,430.81	\$ 16,769.18	\$ 16,681.04
Annual Premium		\$ 179,761.32	\$ 205,126.32	\$ 193,892.40	\$ 209,169.72	\$ 201,230.16	\$ 200,172.48
Annual Difference		\$	\$ <b>25,365.00</b>	\$ <b>14,131.08</b>	\$ <b>29,408.40</b>	\$ <b>21,468.84</b>	\$ <b>20,411.16</b>
Annual Difference		%	<b>14.11%</b>	<b>7.86%</b>	<b>15.17%</b>	<b>11.94%</b>	<b>11.35%</b>

Decline to Quote:  
 Aetna  
 Cigna



<b>Staff</b>	96.98%	<b>Police/Union</b>	100.00%
	58.32%		60.02%
	32.41%		39.31%
	27.18%		28.37%

**Village of Biscayne Park**  
June 1, 2019-May 30, 2020

**Humana Current Rates 2019**

Current										EMPLOYER/EMPLOYEE ANNUAL COST			
Type	Coverage	Monthly Premium	Employer Contribution	Employee Monthly Contribution	2019 Employee Bi Weekly Contribution	2017 & 2018 Employee Bi Weekly Contribution	Life Insurance	GAP Insurance	TOTAL Employer Subsidy	Current Emp Count	Employer Health, Life Cost	Employee Health, Life Cost	Total Health, Life
<b>Deductible \$1k</b>													
HMO	E	\$ 718.47	\$ 696.80	\$ 21.67	\$ 10.00	\$ 10.00	\$ 5.85		\$ 702.65	7	\$ 59,022.88	\$ 1,820.00	\$ 60,842.88
HMO	E 1	\$ 1,436.94	\$ 838.03	\$ 598.91	\$ 276.42	\$ 276.42	\$ 5.85		\$ 843.88	0	\$ -	\$ -	\$ -
HMO	E 2	\$ 1,329.17	\$ 430.81	\$ 898.36	\$ 414.63	\$ 414.63	\$ 5.85		\$ 436.66	0	\$ -	\$ -	\$ -
HMO	E 3	\$ 2,047.65	\$ 556.49	\$ 1,491.16	\$ 688.23	\$ 688.23	\$ 5.85		\$ 562.34	0	\$ -	\$ -	\$ -
<b>Collective Bargaining</b>													
<b>Deductible \$1k</b>										7			
HMO	E	\$ 718.47	\$ 718.47	\$ -	\$ -	\$ -	\$ 5.85		\$ 724.32	9	\$ 78,226.56	\$ -	\$ 78,226.56
HMO	E 1	\$ 1,436.94	\$ 862.48	\$ 574.46	\$ 265.14	\$ 265.14	\$ 5.85		\$ 868.33	1	\$ 10,419.93	\$ 6,893.55	\$ 17,313.48
HMO	E 2	\$ 1,329.17	\$ 522.48	\$ 806.69	\$ 372.32	\$ 372.32	\$ 5.85		\$ 528.33	0	\$ -	\$ -	\$ -
HMO	E 3	\$ 2,047.65	\$ 580.94	\$ 1,466.71	\$ 676.94	\$ 676.94	\$ 5.85		\$ 586.79	1	\$ 7,041.46	\$ 17,600.54	\$ 24,642.00
										11			
(1) Employer portion of health insurance and life insurance											(1) Employer Portion	Employee Portion	(1) Total
When										2019	154,710.83	26,314.09	\$ 181,024.92
												(2)Total Health	
										2019	(2) Health Insurance Premium		\$ 179,761.32



<b>Staff</b>	97.36%	<b>Police/Union</b>	100.00%
	63.47%		64.97%
	40.77%		46.81%
	36.18%		37.22%

**Village of Biscayne Park**  
June 1, 2020 - May 31, 2021

**Humana Renewal 2020**  
**Maintain Payroll Deductions**

Maitain Payroll Deductions										EMPLOYER/EMPLOYEE ANNUAL COST			
Type	Coverage	Monthly Premium	Employer Contribution	Employee Monthly Contribution	2020 Employee Bi Weekly Contribution	2017/2018/2019 Employee Bi Weekly Contribution	Life Insurance	GAP Insurance	TOTAL Employer Subsidy	Current Emp Count	Employer Health, Life Cost	Employee Health, Life Cost	Total Health, Life
<b>Deductible \$1k</b>													
HMO	E	\$ 819.86	\$ 798.19	\$ 21.67	\$ 10.00	\$ 10.00	\$ 5.85		\$ 804.04	7	\$ 67,539.64	\$ 1,820.00	\$ 69,359.64
HMO	E 1	\$ 1,639.71	\$ 1,040.80	\$ 598.91	\$ 276.42	\$ 276.42	\$ 5.85		\$ 1,046.65	0	\$ -	\$ -	\$ -
HMO	E 2	\$ 1,516.73	\$ 618.37	\$ 898.36	\$ 414.63	\$ 414.63	\$ 5.85		\$ 624.22	0	\$ -	\$ -	\$ -
HMO	E 3	\$ 2,336.39	\$ 845.23	\$ 1,491.16	\$ 688.23	\$ 688.23	\$ 5.85		\$ 851.08	0	\$ -	\$ -	\$ -

**Collective Bargaining**

<b>Deductible \$1k</b>										7			
HMO	E	\$ 819.86	\$ 819.86	\$ -	\$ -	\$ -	\$ 5.85		\$ 825.71	9	\$ 89,176.68	\$ -	\$ 89,176.68
HMO	E 1	\$ 1,639.71	\$ 1,065.25	\$ 574.46	\$ 265.14	\$ 265.14	\$ 5.85		\$ 1,071.10	1	\$ 12,853.17	\$ 6,893.55	\$ 19,746.72
HMO	E 2	\$ 1,516.73	\$ 710.04	\$ 806.69	\$ 372.32	\$ 372.32	\$ 5.85		\$ 715.89	0	\$ -	\$ -	\$ -
HMO	E 3	\$ 2,336.39	\$ 869.68	\$ 1,466.71	\$ 676.94	\$ 676.94	\$ 5.85		\$ 875.53	1	\$ 10,506.34	\$ 17,600.54	\$ 28,106.88

- (1) Employer portion of health insurance and life insurance
- (2) Health Insurance excludes Life Insurance Premium

	(1) Employer Portion	Employee Portion	(1) Total
2020	180,075.83	26,314.09	\$ 206,389.92
2019	154,710.83	26,314.09	\$ 181,024.92
\$	25,365.00	0.00	\$ 25,365.00
%	16.40%	0.00%	14.01%

(2) Total Health		
2020	(2) Health Insurance Premium	\$ 205,126.32
2019	(2) Health Insurance Premium	\$ 179,761.32
		\$ 25,365.00
		14.11%



	Staff		Police/Union	
	2020	2019	2020	2019
	97.36%	96.98%	100.00%	100.00%
	48.68%	58.32%	50.00%	64.97%
	52.63%	32.41%	54.05%	46.81%
	34.16%	27.18%	35.09%	37.22%

Village of Biscayne Park  
June 1, 2020 - May 31, 2021

Humana Renewal 2020  
Change Contribution

Fix Contribution Strategy									EMPLOYER/EMPLOYEE ANNUAL COST			
Type	Coverage	Monthly Premium	Employer Contribution	Employee Monthly Contribution	2020 Employee Bi Weekly Contribution	2017 & 2018 Employee Bi Weekly Contribution	Life Insurance	TOTAL Employer Subsidy	Current Emp Count	Employer Health, Life Cost	Employee Health, Life Cost	Total Health, Life
<b>Deductible \$1k</b>												
HMO	E	\$ 819.86	\$ 798.19	\$ 21.67	\$ 10.00	\$ 10.00	\$ 5.85	\$ 804.04	7	\$ 67,539.64	\$ 1,820.00	\$ 69,359.64
HMO	E 1	\$ 1,639.71	\$ 798.19	\$ 841.52	\$ 388.39	\$ 276.42	\$ 5.85	\$ 804.04	0	\$ -	\$ -	\$ -
HMO	E 2	\$ 1,516.73	\$ 798.19	\$ 718.54	\$ 331.63	\$ 414.63	\$ 5.85	\$ 804.04	0	\$ -	\$ -	\$ -
HMO	E 3	\$ 2,336.39	\$ 798.19	\$ 1,538.20	\$ 709.94	\$ 688.23	\$ 5.85	\$ 804.04	0	\$ -	\$ -	\$ -
<b>Collective Bargaining</b>												
<b>Deductible \$1k</b>									7			
HMO	E	\$ 819.86	\$ 819.86	\$ -	\$ -	\$ -	\$ 5.85	\$ 825.71	9	\$ 89,176.68	\$ -	\$ 89,176.68
HMO	E 1	\$ 1,639.71	\$ 819.86	\$ 819.85	\$ 378.39	\$ 265.14	\$ 5.85	\$ 825.71	1	\$ 9,908.52	\$ 9,838.20	\$ 19,746.72
HMO	E 2	\$ 1,516.73	\$ 819.86	\$ 696.87	\$ 321.63	\$ 372.32	\$ 5.85	\$ 825.71	0	\$ -	\$ -	\$ -
HMO	E 3	\$ 2,336.39	\$ 819.86	\$ 1,516.53	\$ 699.94	\$ 676.94	\$ 5.85	\$ 825.71	1	\$ 9,908.52	\$ 18,198.36	\$ 28,106.88
									11			
									(1) Employer Portion	Employee Portion	(1) Total	
									2020	176,533.36	29,856.56	\$ 206,389.92
									2019	154,710.83	26,314.09	\$ 181,024.92
									\$	21,822.53	3,542.47	\$ 25,365.00
									%	14.11%	13.46%	14.01%
									(2) Total Health			
									2020	(2) Health Insurance Premium	\$ 205,126.32	
									2019	(2) Health Insurance Premium	\$ 179,761.32	
											\$ 25,365.00	
											14.11%	

- (1) Employer portion of health insurance and life insurance
- (2) Health Insurance excludes Life Insurance Premium



	Staff		Police/Union	
	2020	2019	2020	2019
	97.29%	96.98%	100.00%	100.00%
	48.65%	58.32%	50.00%	64.97%
	52.59%	32.41%	54.05%	46.81%
	34.14%	27.18%	35.09%	37.22%

**Village of Biscayne Park**  
June 1, 2020 - May 31, 2021

**Florida Blue 2020  
Change Benefits and Contribution Strategy**

Florida Blue -Change Benefits - \$1.5k Deductible									EMPLOYER/EMPLOYEE ANNUAL COST			
Type	Coverage	Monthly Premium	Employer Contribution	Employee Monthly Contribution	2020 Employee Bi Weekly Contribution	2017 & 2018 Employee Bi Weekly Contribution	Life Insurance	TOTAL Employer Subsidy	Current Emp Count	Employer Health, Life Cost	Employee Health, Life Cost	Total Health, Life
<b>Deductible \$1.5k</b>												
HMO	E	\$ 800.05	\$ 778.38	\$ 21.67	\$ 10.00	\$ 10.00	\$ 5.85	\$ 784.23	7	\$ 65,875.60	\$ 1,820.00	\$ 67,695.60
HMO	E 1	\$ 1,600.10	\$ 778.38	\$ 821.72	\$ 379.26	\$ 276.42	\$ 5.85	\$ 784.23	0	\$ -	\$ -	\$ -
HMO	E 2	\$ 1,480.09	\$ 778.38	\$ 701.71	\$ 323.87	\$ 414.63	\$ 5.85	\$ 784.23	0	\$ -	\$ -	\$ -
HMO	E 3	\$ 2,280.14	\$ 778.38	\$ 1,501.76	\$ 693.12	\$ 688.23	\$ 5.85	\$ 784.23	0	\$ -	\$ -	\$ -
<b>Collective Bargaining</b>												
<b>Deductible \$1.5k</b>									7			
HMO	E	\$ 800.05	\$ 800.05	\$ -	\$ -	\$ -	\$ 5.85	\$ 805.90	9	\$ 87,037.20	\$ -	\$ 87,037.20
HMO	E 1	\$ 1,600.10	\$ 800.05	\$ 800.05	\$ 369.25	\$ 265.14	\$ 5.85	\$ 805.90	1	\$ 9,670.80	\$ 9,600.60	\$ 19,271.40
HMO	E 2	\$ 1,480.09	\$ 800.05	\$ 680.04	\$ 313.86	\$ 372.32	\$ 5.85	\$ 805.90	0	\$ -	\$ -	\$ -
HMO	E 3	\$ 2,280.14	\$ 800.05	\$ 1,480.09	\$ 683.12	\$ 676.94	\$ 5.85	\$ 805.90	1	\$ 9,670.80	\$ 17,761.08	\$ 27,431.88
									11			
										(1) Employer Portion	Employee Portion	(1) Total
									2020	172,254.40	29,181.68	\$ 201,436.08
									2019	154,710.83	26,314.09	\$ 181,024.92
									\$	17,543.57	2,867.59	\$ 20,411.16
									%	11.34%	10.90%	11.28%
									(2) Total Health			
									2020	(2) Health Insurance Premium	\$ 200,172.48	
									2019	(2) Health Insurance Premium	\$ 179,761.32	
											\$ 20,411.16	
											11.35%	

- (1) Employer portion of health insurance and life insurance
- (2) Health Insurance excludes Life Insurance Premium

(4,278.96)



	Staff		Police/Union	
	2020	2019	2020	2019
	97.20%	96.98%	100.00%	100.00%
	48.60%	58.32%	50.00%	64.97%
	52.54%	32.41%	54.05%	46.81%
	34.11%	27.18%	35.09%	37.22%

**Village of Biscayne Park**  
June 1, 2020 - May 31, 2021

**Humana Renewal 2020  
Change Benefits and Contribution Strategy**

Humana Option 1-Change Benefits - \$2k Deductible									EMPLOYER/EMPLOYEE ANNUAL COST			
Type	Coverage	Monthly Premium	Employer Contribution	Employee Monthly Contribution	2020 Employee Bi Weekly Contribution	2017 & 2018 Employee Bi Weekly Contribution	Life Insurance	TOTAL Employer Subsidy	Current Emp Count	Employer Health, Life Cost	Employee Health, Life Cost	Total Health, Life
<b>Deductible \$2k</b>												
HMO	E	\$ 774.95	\$ 753.28	\$ 21.67	\$ 10.00	\$ 10.00	\$ 5.85	\$ 759.13	7	\$ 63,767.20	\$ 1,820.00	\$ 65,587.20
HMO	E 1	\$ 1,549.90	\$ 753.28	\$ 796.62	\$ 367.67	\$ 276.42	\$ 5.85	\$ 759.13	0	\$ -	\$ -	\$ -
HMO	E 2	\$ 1,433.65	\$ 753.28	\$ 680.37	\$ 314.02	\$ 414.63	\$ 5.85	\$ 759.13	0	\$ -	\$ -	\$ -
HMO	E 3	\$ 2,208.60	\$ 753.28	\$ 1,455.32	\$ 671.69	\$ 688.23	\$ 5.85	\$ 759.13	0	\$ -	\$ -	\$ -
<b>Collective Bargaining</b>												
<b>Deductible \$2k</b>									7			
HMO	E	\$ 774.95	\$ 774.95	\$ -	\$ -	\$ -	\$ 5.85	\$ 780.80	9	\$ 84,326.40	\$ -	\$ 84,326.40
HMO	E 1	\$ 1,549.90	\$ 774.95	\$ 774.95	\$ 357.67	\$ 265.14	\$ 5.85	\$ 780.80	1	\$ 9,369.60	\$ 9,299.40	\$ 18,669.00
HMO	E 2	\$ 1,433.65	\$ 774.95	\$ 658.70	\$ 304.02	\$ 372.32	\$ 5.85	\$ 780.80	0	\$ -	\$ -	\$ -
HMO	E 3	\$ 2,208.60	\$ 774.95	\$ 1,433.65	\$ 661.68	\$ 676.94	\$ 5.85	\$ 780.80	1	\$ 9,369.60	\$ 17,203.80	\$ 26,573.40
									11			
										(1) Employer Portion	Employee Portion	(1) Total
									2020	166,832.80	28,323.20	\$ 195,156.00
									2019	154,710.83	26,314.09	\$ 181,024.92
									\$	12,121.97	2,009.11	\$ 14,131.08
									%	7.84%	7.64%	7.81%
									(2) Total Health			
									2020	(2) Health Insurance Premium	\$ 193,892.40	
									2019	(2) Health Insurance Premium	\$ 179,761.32	
											\$ 14,131.08	
											7.86%	

- (1) Employer portion of health insurance and life insurance
- (2) Health Insurance excludes Life Insurance Premium

<b>Benefit Changes for Plan Year 2020</b>	<b>Humana Option 19/7 Network</b>	<b>Humana (plan changes) Renewal Network</b>	<b>Humana Option 1 Network</b>
Calendar Year Deductible	\$1,000/\$2,000	\$1,000/\$2,000	\$2,000/\$4,000
Coinsurance	20%	20%	20%
Per Admission Inpatient Copay	N/A	N/A	N/A
Max. Out of Pocket	\$5,000/\$10,000	\$5,000/\$10,000	\$6,500/\$13,000
Individual Life Time Maximum.	Unlimited	Unlimited	Unlimited

**Outpatient Care:**

PCP Office Visits (non preventive)	\$30 copay	\$40 copay	\$30 copay
Specialist Services	\$60 copay	\$80 copay	\$60 copay
Diagnostic tests	No charge	No charge	No charge
Advanced Radiology: (MRI,PET,CT, MRA scans) Hospital / Free Standing	\$300 copay	\$300 copay	\$300 copay
Outpatient Surgery-Hospital	20% after Deductible	20% after Deductible	20% after Deductible
Outpatient Surgery-Ambulatory Facility	20% after Deductible	20% after Deductible	20% after Deductible
Physical/Speech/Occupational/Therapy,Chiropractic	\$30 copay, 40 visits per calendar year combined	\$40 copay, 40 visits per calendar year combined	\$30 copay, 40 visits per calendar year combined
Durable Medical Equipment,	20% after Deductible	20% after Deductible	20% after Deductible

**Wellness:**

Annual Exams	\$0 copay	\$0 copay	\$0 copay
Urgent Care	\$100 copay	\$100 copay	\$100 copay
Mammogram	\$0 copay	\$0 copay	\$0 copay
Infertility Services	Not Covered	Not Covered	Not Covered
Vision for Children	\$10 copay	\$10 copay	\$10 copay

**Hospital:**

Inpatient Hospital	20% after Deductible	20% after Deductible	20% after Deductible
Transplant Benefits	20% after Deductible	20% after Deductible	20% after Deductible
Emergency Room	\$450 copay	\$450 copay	\$500 copay
Ambulance Services	20% after Deductible	20% after Deductible	20% after Deductible

**Alternative Care:**

Skilled Nursing	20% after Deductible, 60 visits per year	20% after Deductible, 60 visits per year	20% after Deductible, 60 visits per year
Hospice	20% after Deductible	20% after Deductible	20% after Deductible
Home Health Care	20% after Deductible	20% after Deductible	20% after Deductible

**RX:**

Prescription Drugs, 30 day supply	\$10/\$40/\$75/25%	\$10/\$45/\$90/25%	\$5/\$15/\$75/\$150
Specialty Drugs	25%	25%	\$450
Mail Order Prescription, 90 day supply	\$25/\$100/\$187.50/25%	\$25/\$100/\$187.50/25%	\$12.50/\$37.50/\$187.50/\$375/\$500

**Mental Health/Substance Abuse**

Mental Health/Substance Abuse Outpatient	\$30 copay	\$40 copay	\$30 copay
Mental Health/Substance Abuse Inpatient	20% after Deductible	20% after Deductible	20% after Deductible

**Please Note:** This summary is not intended to supersede insurance contract or any other agreement. Where discrepancies may exist, your official contract controls -



**Village of Biscayne Park - Dental & Vision**

June 1, 2020 - May 31, 2021

		Solstice DMO		Solstice DMO	
E only	11	\$	13.18	\$	13.18
E & Spouse	2	\$	23.06	\$	23.06
E & Child(ren)	0	\$	28.55	\$	28.55
Family	1	\$	36.23	\$	36.23
14					
Monthly Premium		\$	227.33	\$	227.33
Annual Premium		\$	2,727.96	\$	2,727.96
				\$	-
				0.00%	

		Solstice PPO		Solstice PPO	
		\$50/150-100/80/50-\$1k \$100/300-80/50/50 MAC Ortho: 50% -\$1.5k lifetime		\$50/150-100/80/50-\$1k \$100/300-80/50/50 MAC Ortho: 50% -\$1.5k lifetime	
E only	1	\$	46.48	\$	46.48
E & Spouse	0	\$	92.99	\$	92.99
E & Child(ren)	0	\$	98.63	\$	98.63
Family	0	\$	150.19	\$	150.19
1					
Monthly Premium		\$	46.48	\$	46.48
Annual Premium		\$	557.76	\$	557.76
				\$	-
				0.00%	

**TOTAL**

Monthly Premium		\$	273.81	\$	273.81
Annual Premium		\$	3,285.72	\$	3,285.72

Annual Differenc \$		\$	-	\$	-
Annual Differenc %				0.00%	

**VISION**

E only	12	\$	5.75	\$	5.75
E & Spouse	2	\$	11.51	\$	11.51
E & Child(ren)	0	\$	11.85	\$	11.85
Family	1	\$	18.41	\$	18.41
0					
Monthly Premium		\$	110.43	\$	110.43
Annual Premium		\$	1,325.16	\$	1,325.16
				\$	-
				0.00%	



**VILLAGE OF BISCAYNE PARK**  
**Village Commission Agenda Report**

**Item # 8.a**

**REGULAR MEETING**

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**TO:** Honorable Mayor & Members of the  
Biscayne Park Village Commission

**FROM:** MacDonald Kennedy, Commissioner

**DATE:** May 19, 2020

**TITLE:** Village Attorney Recruitment

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**Background**

On January 29, 2020, Gray/Robinson, Attorneys at Law, resigned its contract with the Village of Biscayne Park, providing a final date of February 29, 2020. At the February 4, 2020, commission meeting, the commission voted to release Gray/Robinson from its 30-day notice and terminated our relationship effective immediately. We also hired John Herin with the firm of Fox Rothschild to fill the position of village attorney in an interim capacity beginning that same evening. The commission promised residents to conduct a thorough search for a permanent attorney following approved procedures.

**Recommendation**

Now that the COVID-19 state of emergency is coming to an end and the county and village are re-opening and resuming more normal operations, the commission needs to fulfill its obligation to hire a permanent attorney, following best hiring practices. I am requesting the commission to review the attached job requirements, compensation package and recruitment process from the 2018 search, and to agree on those elements and to establish a hiring calendar. Further, we will then instruct the manager to implement the recruitment process with a goal to fill the position by the September 1 commission meeting.

**Resource Impact**

Staff time, nominal advertising costs

**Attachment(s)**

- Biscayne Park 2018 attorney recruitment process
- Recruitment processes from other cities for comparison

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Prepared by: MacDonald Kennedy, Commissioner



## *The Village of Biscayne Park*

600 NE 114<sup>th</sup> St., Biscayne Park, FL 33161  
Telephone: 305-899-8000 Facsimile: 305 891 7241

**THE VILLAGE OF BISCAYNE PARK  
Announces recruitment for the following position:  
VILLAGE ATTORNEY**

An Equal Opportunity /Equal Access Employer

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**COMPENSATION: Negotiated Hourly Rate; Budgeted for \$75,000 Annually**

**JOB TYPE: Professional / Administrative**

**OPENING DATE: March 14, 2018**

**CLOSING DATE: April 30, 2018**

Established in 1933, the Village of Biscayne Park is a community with approximately 1286 homes and 3,000 residents. The Village's unique charm has the dual benefits of its proximity to urban Miami-Dade County all the while maintaining its small-town charisma and identity. The Village staff's goal is to provide high quality services that create economic, environmental and social sustainability.

### Job Requirements

The candidate for Village Attorney is appointed by and serves at the pleasure of the Commission. The Attorney shall act as the legal advisor to, and attorney and counselor for, the Village and all of its officers in matters relating to their official duties under such terms, conditions and compensation as are consistent with the Village of Biscayne Park Charter. The scope of services involves drafting and reviewing ordinances, resolutions, policies and procedures, and contracts prior to consideration by the Village Commission to ensure compliance with state, federal, and local laws. Emphasis is placed on municipal law, civil code enforcement, land use, zoning, labor relations, and legislative interpretation. Duties include coordinating with outside counsel regarding litigation on behalf of the Village, researching/preparing oral and written legal opinions for Village Commission, Village Manager, Department Heads, staff, committees, and boards, and preparing legal documents.

The candidate shall demonstrate knowledge of labor relations, civil litigation, collective bargaining and municipal, state, federal and constitutional law affecting municipal government. The applicant must be skillful in managing situations requiring diplomacy, fairness, firmness and sound judgement, and understanding/applying Village policies and procedures. The Village Attorney is required to attend all Village Commission meetings.



## *The Village of Biscayne Park*

600 NE 114<sup>th</sup> St., Biscayne Park, FL 33161  
Telephone: 305-899-8000 Facsimile: 305 891 7241

The Village Attorney should have a solid understanding of a broad array of legal matters related to labor and municipal law including union agreements, grievances, land use and planning, water rights, public finance, personnel, public works, public contracts and bidding, as well as the drafting of ordinances and resolutions.

The candidate must be licensed to practice law in the State of Florida, with a minimum of 7 years' experience in the practice of municipal law, with increasing levels of responsibility. It is preferable for the candidate to also be a member of a U.S. District Court within the State of Florida.

**Interested parties should submit a cover letter, resume/curriculum vitae, as well as references, legal writing sample(s), hourly rates for Attorney and any members of the firm to:**

**Village Manager  
Village of Biscayne Park  
600 NE 114 Street  
Biscayne Park, FL 33161**

*This job description is not intended to be and should not be construed as an all-inclusive list of all the responsibilities, skills or working conditions associated with the position. While it is intended to accurately reflect the position activities and requirements, management reserves the right to modify, add or remove duties and assign other duties as necessary. This job description does not constitute a written or implied contract of employment.*



# TOWN OF PEMBROKE PARK

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3150 SW 52ND AVENUE • PEMBROKE PARK, FLORIDA 33023 • BROWARD (954) 966-4600 • FAX (954) 966-5186

TOWN OF PEMBROKE PARK  
REQUEST FOR PROPOSALS (RFP)  
TOWN ATTORNEY SERVICES  
BID PACKAGE RFP NO. 20-03

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SUBMISSIONS ARE DUE AT THE ADDRESS SHOWN BELOW NO LATER THAN:

**FRIDAY, JANUARY 31, 2020 AT 3:00 PM, EST**

TOWN OF PEMBROKE PARK  
ATTENTION: INTERIM DEPUTY TOWN CLERK  
3150 SW 52<sup>ND</sup> AVENUE  
PEMBROKE PARK, FL 33023

**THE RESPONSIBILITY FOR SUBMITTING A RESPONSE TO THIS RFP ON OR BEFORE THE STATED DATE AND TIME WILL BE SOLELY AND STRICTLY THE RESPONSIBILITY OF THE OFFEROR**

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**TOWN OF PEMBROKE PARK  
TOWN ATTORNEY SERVICES  
REQUEST FOR PROPOSALS (RFP) # 20-03**

The Town of Pembroke Park (“Town”) is currently requesting sealed proposals and qualifications for Town Attorney services.

**1. BACKGROUND OF THE AGREEMENT**

The Town of Pembroke Park is a Florida municipal corporation and is located in the southeastern part of the state in Broward County. The Town has a current estimated permanent population of 6,100 residents with a large influx of seasonal residents each winter. The Town has a total area of 1.7 square miles.

The Town is governed by five (5) Town Commissioners, operating under a Commissioner form of government and has approximately 25 employees. Commissioners are elected at large and serve for four (4) year terms. The Town Commission is responsible for passing Town Ordinances and Resolutions, adopting the annual budget, appointing committees, and setting policies. The Town Manager is responsible for the overall management and administration of each Department within the Town and implements Town policy at the direction of the Town Commission.

The Town provides a range of traditional municipal functions. These include police protection, fire rescue services, water and sewer service, planning and zoning services, maintenance of roadways, and recreational opportunities.

**2. SCOPE OF WORK**

The Town is soliciting proposals from experienced and well qualified firms or individuals for the provision of Town Attorney services. The selected firm or individual will be expected to perform the services in accordance with the Scope of Work herein and the requirements of the solicitation.

The proposer will be required to provide Town Attorney services and represent the Town in all matters requiring legal counsel. All duties must be performed in accordance with the Town’s Charter, the Town’s Code of Ordinances and all other pertinent statutes and regulations.

The selected proposer will provide legal services as Town Attorney including, but not limited to, the areas of: legislative governmental issues, land use and zoning, personnel, code enforcement and contract law as well as monitoring the activities of any outside legal counsel representing the Town in litigation.

**i. General Services Requested.** The Town Attorney is expected to perform all general legal representation for the Town as required. Such general legal representation includes, but is not limited to:

A. Legislative work associated with the Town Commission meetings, including preparation or review of ordinances and resolutions, and written policies and procedures, together with research work as necessary associated with the preparation of those documents. This activity shall include providing assessments of legal likelihood in support of Town risk analyses.

- B. Preparation of oral or written opinions on legal matters as required by the Town Commission and/or Town Manager.
- C. Negotiation and preparation of agreements, leases contracts, or similar documents.
- D. Review and comment on contract forms between the Town and independent contractors.
- E. Performance of investigations that may require interviewing witnesses, taking testimony, review of reports, and legal research, when requested by the Town Commission or by the Town Manager.
- F. Provide legal counseling, guidance and opinions to the Town Manager and the Department Heads regarding the operations of the Town; provided, however that except in the event of an emergency problem, all requests by Department Heads for such legal counseling, guidance and opinions shall be channeled through the Town Manager.
- G. Participation in meetings and telephone conference with the Town Manager and Town staff as designated by the Town Manager, as required.
- H. Prepare and review charter revisions, ordinances, resolutions, documents and documents that are pertaining to Town matters upon request by the Town Commission or Town Manager.
- I. Provision of staff assistance, legal research and counseling related to the acquisition or sale of real property, preparation of leases, deeds and easements; utility franchise agreements; referendum questions, contracts, surety/performance/payment bonds, insurance policies, bills of sale, liens, waivers, subordinations, and other legal instruments; liability situations; grant guidelines; pension laws, arbitration, collective bargaining; and other matters as necessary requiring legal advice.
- J. Interpretation of the Town's Ordinances and prosecution of local ordinance or zoning violations in any Court, if the State Attorney is not handling the prosecution.
- K. Maintenance of legal files and provision to the Town Manager of copies of all correspondence, and of all pleadings and orders in all litigation the firm is handling for the Town.
- L. Keeping the Town Commission and Town Manager informed of legislation or judicial opinions that have potential to impact the Town.
- M. As requested by the Town, overseeing, in a cost-effective manner, litigation in which the Town represented by the Town's insurance carriers.
- N. Performance of other professional duties as may be required including but not limited to conducting legal research as required for the performance of duties representing the Town.
- O. Performance of professional duties and functions as may be required by Charter, ordinance or resolution of the Town Commission.
- P. With the exception of requests for legal services issued by the Town Commission acting as a body, the Town Manager shall act as a "gatekeeper" for the Town in requesting the services or assistance of the attorney or firm, coordination of the flow of work to the attorney or firm, and

establishing the relative priorities to be placed by the attorney or firm on each task for which the assistance of the attorney or firm is required. No member of the Town's staff may require the efforts of the attorney or firm on the behalf of the Town unless expressly authorized by the Town Manager. Notwithstanding the foregoing, any member of the Town Commission may request legal services and opinions of the attorney or firm regarding Town matters upon approval of the Commission.

ii. **Specific Services Requested.** In addition to the General Services, the Town Attorney is expected to perform certain specific legal services for the Town, as required. Such specific legal services include:

- A. Attend all workshop Commission meetings on the fourth (4<sup>th</sup>) Wednesday of each month at 6:00 p.m., all regular Commission meetings on the second (2<sup>nd</sup>) Wednesday of each month at 7:00 p.m., and all special Commission meetings when requested by the Town Commission or Town Manager.
- B. Attend all Town advisory board meetings in order to counsel the members thereof on any legal matter which confronts the board or committee as requested by the Town Manager.
- C. The Town Attorney shall retain an association with, or actually as an employee at their offices, a minimum of one attorney whom shall have competent experience in governmental affairs, in particular municipal government law and/or shall acquire such knowledge such that each attorney shall be able to attend such functions and attend to such matters as enumerated above in this contract when the Town Attorney is unavailable or unable to attend same.
- D. The Town Attorney shall continue to be the Town's primary representative in all litigation in any court and all other hearings, meetings, or other such functions as enumerated in this document.
- E. The Attorney shall also represent the Town in proceedings in any court of competent jurisdiction and in hearings before administrative tribunals where the Town is a party or intervener in respect to the issues that are pending before such court or administrative tribunal when directed to do so by the Town Commission. The Town Attorney may also represent the municipality in other matters, not specifically enumerated herein, at the request of the Town Commission or Town Manager.
- F. Maintain Auditable Records. The selected Attorney or firm shall maintain auditable records to account for all receipts and expenditures, and to document compliance with the specifications. These records shall be kept in accordance with Generally Accepted Accounting Principles, and the Town reserves the right to determine record-keeping methods in the event of non-conformity.

**NOTE:** Services contained within this Scope of Work will be provided pursuant to a future written contract being issued to the successful proposer and executed by the parties.

### 3. SCHEDULE

The proposed time schedule as related to this procurement is as follows:

Release of RFP:	Wednesday, December 18, 2019
Deadline for questions:	Friday, January 3, 2020
Proposal due date:	Friday, January 31, 2020
Proposal opening date & time	Friday, January 31, 2020; 3:30 PM
Interviews (if held):	Tuesday - Friday, February 11-14, 2020
Award of contract:	Wednesday, March 11, 2020

*\*All dates are subject to change at the discretion of the Town Commission.*

### 4. PROPOSAL FORMAT GUIDELINES

Proposers are to provide the Town with a thorough proposal using the following guidelines:

Proposal should contain no more than thirty (30) typed pages, including a cover letter and resumes of key people. Emphasis should be concentrated on conforming to the Request for Proposals (“RFP”) instructions, responding to the RFP requirements and on providing a complete and clear description of what is being offered.

The following should be addressed in the proposer’s response:

**i. Cover Letter**

Proposal shall be accompanied by a cover letter, which should summarize the key elements of the proposal, including but not limited to: (1) name of firm, (2) ownership type, (3) year firm was established, (4) office locations, (5) number of firm employees, (6) description of firm’s core business, and (7) name of principal of the firm. An individual authorized to bind the proposer must sign the letter. The letter must stipulate that the proposal shall be valid for a period of at least ninety (90) days. Indicate the address and telephone number of the proposer’s office located nearest to the Town and the office from which the project will be managed.

**ii. Background and Project Summary**

Describe your understanding of the Town, the work to be done and the objectives to be accomplished. Refer to the Scope of Work of this RFP.

**iii. Approach**

Provide a detailed description of the approach and methodology to be used to accomplish the Scope of Work of this RFP. Included should be a detailed description of specific tasks you will require from Town staff and explain what the respective roles of Town staff and your staff would be to complete the tasks specified in the Scope of Work. Proposers are encouraged to provide additional innovative and creative approaches for providing the service that maximize efficiency and cost-effectiveness.

**iv. Staffing**

Provide a list of personnel who will be working on this project, indicate the functions that each will perform, and include a resume for each designated individual. The proposal must contain information demonstrating the organizational structure of the proposer and identify who will serve as the primary contact(s) for the Town. Proposer should demonstrate that the firm has the adequate staff to perform the work in the time allotted, including the availability of key personnel relative to other work currently under contract. Upon award and during the contract period, if different personnel are assigned to the project, those names and qualifications must be submitted to the Town. The successful proposer shall not employ any subcontractor to fulfill any of the duties herein specified without express, prior written approval of the Town.

**v. Qualifications**

Discuss the experience of the proposer with providing the services described in the Scope of Work to municipal government(s), and any other relevant experience within the last three (3) years. Describe the qualifications of the proposer and key staff who have performed projects similar in scope and complexity as described in this RFP to demonstrate competence to perform the services herein. Included should be names of key staff that participated on those projects and their specific responsibilities, and a summary of the proposer's demonstrated capability, including the length of time that the services in the Scope of Work have been provided.

All proposers should provide at least two (2) references, including name and contact information, preferably from another municipality or governmental entity, which have received similar services. The Town intends to contact the references listed.

**vi. Fee Proposal One (1) for RFP**

Indicate the annual fee for services to provide all services in the Scope of Work. Please also indicate an hourly rate for work outside of the scope of work. **See Appendix A.**

**vii. Fee Proposal Two (2) for Staff Cost**

The Commission may contemplate bringing the services in house. As a planning mechanism, please indicate the annual salary required part and/or full time to provide all services as stipulated in the Scope of Work. **See Appendix A**

**5. PROCESS FOR SUBMITTING PROPOSALS**

All proposals shall be submitted as follows:

**i. Content**

The proposal must be submitted using the format as indicated in the Proposal Format Guidelines.

**ii. Preparation of Proposal**

Each proposal shall be prepared simply and economically, avoiding the use of promotional material beyond those sufficient to provide a complete and accurate presentation. The Town will not be liable for any costs incurred by a firm in the preparation or submission of a proposal.

**iii. Number of Proposals**

Submit one (1) original complete package, ten (10) duplicate complete packages, and one (1) electronic copy of the proposal package (CD or USB drive).

**iv. Submission of Proposals**

Complete written proposals must be submitted in sealed envelopes clearly marked on the outside of the envelope “**RFP, TOWN ATTORNEY SERVICES**”, no later than **3:00 P.M. on FRIDAY, JANUARY 31, 2020** to the address listed below. Proposals received after this date and time will be rejected. Please allow for normal mail delivery time to ensure timely receipt of proposals, if using regular mail. Proposals may not be submitted by e-mail or fax.

**Address: Town of Pembroke Park, Attn: Interim Deputy Clerk  
3150 SW 52<sup>nd</sup> Avenue  
Pembroke Park, Florida 33023**

**v. Inquiries**

Questions about this RFP must be made in writing, via e-mail to the Interim Deputy Town Clerk at [townclerk@townofpembrokepark.com](mailto:townclerk@townofpembrokepark.com).

The Town reserves the right to amend or supplement this RFP prior to the proposal due date. The Town endeavors to answer all written questions in a timely manner, but also reserves the right to not answer all questions.

From the date that this RFP is issued until a firm or entity is selected and the selection is announced, proposers are not allowed to communicate outside the process set forth in this RFP with any Town employee other than the individual listed above regarding this RFP. The Town reserves the right to reject any proposal for violation of this provision. Only written questions will be accepted, and no response other than written responses will be binding upon the own.

**vi. Conditions for Proposal Acceptance**

This RFP does not commit the Town to award a contract or to pay any costs incurred for any services. The Town, at its sole discretion, reserves the right to accept or reject any or all proposals received as a result of this RFP, to negotiate with any qualified proposer, or to cancel this RFP in part or in its entirety. The Town may waive any irregularity in any proposal. All proposal submissions and materials shall become the property of the Town and will not be returned. If any proprietary information is contained in the proposal, it should be clearly identified. The contents of the successful proposal may, at the Town’s option, become part of the contract entered into by the successful proposer and the Town.

Respondents to this RFP are hereby notified that all proposals submitted and information contained therein and attached thereto shall be subject to disclosure under the Florida Public Records Law contained in Chapter 119, Florida Statutes.

**6. EVALUATION CRITERIA**

Evaluation of all proposals received by the Town shall be based on the following criteria:

	<b>Criteria</b>	<b>Points</b>
1.	Qualifications and Experience	30
2.	Experience Working with City Government	30
3.	References and/or Recommendations	10
4.	Methodology and Approach	10
5.	Fee Proposal	20
	<b>Total:</b>	100

**1. Qualifications and Experience (30 Points).**

Provide information as to each of the individual attorney's experience and the firm's experience in representing local governmental entities. That is, identify all current and for the past five (5) years municipal, county or other governmental agencies for which your firm has provided legal counsel or advice and the relationship between the law firm and/or each individual attorney and the identified entity.

Identify the specific experience of the firm in all phases of Florida land use law. Identify the specific experience of the firm in specialized areas, including but not limited to municipal issues including parliamentary procedures, open meetings, Government in the sunshine, elected official, municipal finance, land use, zoning, growth management, environmental law, inter local agreements, building code, personnel an additional legal areas that will identify the focus of the firm.

**2. Experience Working with Local Government (30 Points).**

Provide information as to each of the individual attorney's experience and the firm's experience in representing local government entities. That is, identify all current and for the past five (5) years municipal, county, or other governmental agencies for which your firm has provided legal counsel or advice and the relationship between the law firm and/or each individual attorney and identified entity.

**3. References (10 Points).**

Respondents must provide a minimum of three (3) references. For each reference provide: (i.) name of entity; (ii.) contact person; (iii.) address and telephone number for reference; and (iv.) dates of representation.

**4. Methodology and Approach (10 Points).**

Respondents should include the following:

- i.** Name of law firm/individuals and primary attorney to service as the Town Attorney at each Town Commission meeting and other board meetings.
- ii.** After hour availability.
- iii.** Information on how the firm/individual would structure the working relationship between the Town Attorney's office, Town Commission, and the Town Manager's office.
- iv.** Areas of expertise where the use of special outside counsel is anticipated.
- v.** Statement on how the workload of the Town of Pembroke Park will be accommodated and what kind of priority it would be given.

**5. Fee Proposal (20 Points).**

The proposer shall submit a proposal for compensation, which should include, but is not limited to, a monthly retainer fee option, an hourly rate option, or a combination of these options. In the instance of an "Exception" to the RFP process, please provide a specific proposal detailing the costs associated with the alternative proposal.

## 7. EVALUATION OF PROPOSALS AND SELECTION PROCESS

An Evaluation Committee appointed by the Town Commission will screen and review all proposals according to the weighed criteria set forth above.

### i. Responsiveness Screening

Proposals will first be screened to ensure responsiveness to the RFP. The Town may reject as non-responsive any proposal that does not include the documents required to be submitted by this RFP. At any time during the evaluation process, the Town reserves the right to request clarification or additional information from any or all proposers regarding their proposals. The Town may reject any proposal in which a proposer's approach, qualifications or price is not considered acceptable by the Town. An unacceptable proposal is one that would have to be substantially rewritten to make it acceptable.

### ii. Initial Proposal Review

The Evaluation Committee will initially review and score all responsive written proposals based on the Evaluation Criteria set forth above. The Evaluation Committee shall consist of the: (i) Mayor, (ii) Town Manager, (iii) Assistant Town Manager, (iv) Finance Director, and (v) Public Services Director. The Evaluation Committee may also contact proposer's references. The three highest rankings proposers may be invited to the next stage of the evaluation process.

### iii. Interviews, Reference Checks, Revised Proposals, Discussions

Following the initial screening and review of proposals, the proposers included in this stage of the evaluation process may be invited to participate in an oral interview conducted by the Town Commission. Interviews, if held, will be on **February 11 – 14, 2020**, and will be conducted at Town Hall in Pembroke Park, Florida. These dates are subject to change. The individual(s) from proposer's firm that will be directly responsible for carrying out the contract, if awarded, should be present at the oral interview.

Following conclusion of this stage of the evaluation process, the Town Commission will rank all proposers according to the Evaluation Criteria set forth above. The Town Commission may accept the proposal or negotiate the terms and conditions of the agreement with the highest ranked firm.

Recommendation for award is contingent upon the successful negotiation of final contract terms. Pursuant to Section 286.0113, Florida Statutes, negotiations shall be confidential and not subject to disclosure of competing proposers unless an agreement is reached. If contract negotiations cannot be concluded successfully, the Town may terminate negotiations and commence negotiations with the next highest scoring proposer, or withdraw the RFP.

## 8. CONDITIONS TO AGREEMENT

- i. The contract resulting from this solicitation may be awarded to the responsive proposer which submits a proposal determined to provide the best value to the Town with price, technical, and other applicable factors considered. The Town reserves the right to reject any and all proposals, to waive irregularities or technicalities and to re-advertise for all or any part of this solicitation as deemed in its best interest. The Town shall be the sole judge of its best interest. Town anticipates the term of the contract resulting from this solicitation will be for three (3) years with up to two (2) one-year options to renew, upon mutual written assent agreement of the parties.

- ii. The Town reserves the right to reject any and all proposals if it is determined that prices are excessive or determined to be unreasonable, or it is otherwise determined to be in the Town's best interest to do so.
- iii. Award of this solicitation will only be made to firms that satisfy all necessary legal requirements to do business with the Town. The Town may conduct any investigation it deems necessary to determine if the proposer is capable of performing the requirements of this solicitation.
- iv. The proposer's performance as a prime contractor or subcontractor on previous Town contracts shall be taken into account in evaluating the responsibility of a proposer that submitted a proposal under this solicitation.
- v. Award of the contract resulting from this solicitation may be predicated on compliance with and submittal of all required documents as stipulated in the solicitation.
- vi. A vendor wishing to protest any award decision resulting from this solicitation shall do so as set forth in Town's Procurement Ordinance, Chapter 2, Article V, and Pembroke Park Code of Ordinances. It is incumbent upon the proposer to be aware of the posting of any associated award recommendation. Any protest received after the protest deadline date may be rejected.
- vii. The Town reserves the right to incorporate the successful firm's proposal into a contract. Failure of a firm to accept this obligation may result in the cancellation of any award.
- viii. The selected firm will be required to assume responsibility for all services offered in the proposal. The Town will consider the selected firm to be the sole point of contact with regard to contractual matters, including payment of any or all charges.
- ix. A copy of the proposal ranking and award will be available for review at Town Hall, located at 3150 SW 52<sup>nd</sup> Avenue, Pembroke Park, Florida, 33023 upon completion of the selection process. Interested parties may obtain a copy of the final ranking from the Town.

## **9. RIGHT OF REJECTION**

The Town reserves the right to waive any informality in any proposal, to reject any or all proposals in whole or in part, with or without cause, and/or to accept the proposal that in its judgment will be in the best interest of the Town.

## **10. INDEMNIFICATION**

To the fullest extent permitted by law, the proposer shall indemnify and hold harmless the Town and their respective consultants, agents, and employees from and against all claims, damages, losses and expenses, direct, indirect or consequential (including but not limited to attorney's fees and other professionals and court and arbitration costs) arising out of or resulting from the performance of the proposer's work, provided that such claim, damage, loss or expense is caused in whole or in part by any intentional or negligent act or omission by the proposer, or breach of its obligations herein or by any person or organization directly or indirectly employed or engaged by the proposer to perform or furnish the services, or anyone for whose acts the proposer may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder.

As to any and all claims against the Town or any of its consultants, agents or employees by any employee of proposer, by any person or organization directly or indirectly employed by proposer to perform or furnish any of the work, or by anyone for whose acts proposer may be liable, the indemnification obligation under this requirement shall not be limited in any way by any limitation on the amount of type of damages, compensation or benefits payable by or for proposer under worker's or workman's compensation acts, disability benefit acts or other employee benefit acts.

## 11. NON-DISCRIMINATION

Proposer agrees and warrants that in the performance of the contract pursuant to this solicitation, proposer will not discriminate or permit discrimination against any person or group of persons on the grounds of sex, race, color, religion, age, marital status, ancestry, national origin, past history of mental disorder, or physical disability or other basis in any manner prohibited by federal, state, or local laws.

## 12. GENERAL TERMS AND CONDITIONS

### i. Definitions

**Addenda:** A written change to a solicitation.

**Contract:** The agreement to perform the services set forth in this document signed by both parties with any addenda and other attachments specifically incorporated.

**Contractor:** The proposer to whom award has been made.

**Modification:** A written change to a contract.

**Proposal:** Shall refer to any offer(s) submitted in response to a Request for Proposal.

**Proposer:** Shall refer to anyone submitting an offer in response to a Request for Proposal.

**Request for Proposal (RFP):** Shall mean this solicitation documentation, including any and all addenda. An RFP involves evaluation of proposals, and award may be made on a best value basis with price, technical, and other factors considered.

**Solicitation:** The written document requesting either bids or proposals from the marketplace.

**Town:** Shall refer to the Town of Pembroke Park

**Vendor:** a general reference to any entity responding to this solicitation or performing under any resulting contract.

The Town has established for purposes of this RFP that the words "shall", "must", or "will" indicate an essential requirement or condition which may not be waived.

### ii. Equal Opportunity Agreement

In connection with work performed under a Town contract, a proposer agrees, upon receipt of a written award or acceptance of a contract, to support and abide by all State and Federal Equal Opportunity laws and regulations.

By submitting a proposal in response to this solicitation, a proposer agrees to:

- Not discriminate against any employee or job applicant because of their race, creed, color, sex, age, marital status or national origin;
- Post a copy of this pledge in a conspicuous place, available to all employees and job applicants; and
- Place or cause to be placed a statement in all solicitations or advertisement for job applicants, including subcontracts, that the proposer is an "Equal Opportunity Employer".

**iii. Public Entity Crimes**

Pursuant to Section 287.133(2)(a), Florida Statutes, a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

**iv. Issuance of Addenda**

If this solicitation is amended, the Town will issue an appropriate addendum to the solicitation. If an addendum is issued, all terms and conditions that are not specifically modified shall remain unchanged.

Proposers shall acknowledge receipt of each addendum to this solicitation by signing and returning the addendum using one of the following methods:

- By mailed letter;
- By facsimile; or
- By email to [townclerk@townofpembrokepark.com](mailto:townclerk@townofpembrokepark.com)

The Town must receive the acknowledgment by the time and date, and at the location specified for receipt of proposals.

**v. Payment**

Prompt Pay Policy: It is the policy of the Town to fully implement the provisions of the State of Florida Prompt Payment Act.

Withholding Payment: In the event a contract is canceled under any provision herein, the Town may withhold from the Contractor any monies owed on that or any contract, an amount sufficient to compensate for damages suffered because of the violation resulting in cancellation.

**vi. Access To Meetings**

Persons with disabilities requiring reasonable accommodations to attend meetings, please call Interim Deputy Clerk at (954) 966-4600 at least forty-eight (48) hours in advance (excluding weekends and holidays). Public notice of all Evaluation Committee meetings will be posted in the Town's office as far in advance of the meeting as possible.

**vii. Confidentiality**

By submitting a proposal in response to this solicitation, a proposer acknowledges that the Town is a governmental entity subject to the Florida Public Records Law (Chapter 119, Florida Statutes). The proposer further acknowledges that any materials or documents provided to the Town may be "public records" and, as such, may be subject to disclosure to, and copying by, the public unless otherwise specifically exempt by statute. Should a proposer provide the Town with any materials which it believes, in good faith, contain information which would be exempt from disclosure or copying under Florida law, the proposer shall indicate that belief by typing or printing, in bold letters, the phrase "Proprietary Information" on the face of each affected page of such material. The proposer shall submit to the Town both a complete copy of such material and a redacted copy in

which the exempt information on each affected page, and only such exempt information, has been rendered unreadable. In the event a proposer fails to submit both copies of such material, the copy submitted will be deemed a public record subject to disclosure and copying regardless of any annotations to the contrary on the face of such document or any page(s) thereof.

Should any person request to examine or copy any material so designated, and provided the affected proposer has otherwise fully complied with this provision, the Town, in reliance on the representations of the proposer, will produce for that person only the redacted version of the affected material. If the person requests to examine or copy the complete version of the affected material, the Town shall notify the proposer of that request, and the proposer shall reply to such notification, in a writing that must be received by the Town no later than 4:00 p.m., ET, of the second Town business day following proposer's receipt of such notification, either permitting or refusing to permit such disclosure or copying. Failure to provide a timely written reply shall be deemed consent to disclosure and copying of the complete copy of such material. If the proposer refuses to permit disclosure or copying, the proposer agrees to, and shall, hold harmless and indemnify the Town for all expenses, costs, damages, and penalties of any kind whatsoever which may be incurred by the Town, or assessed or awarded against the Town, in regard to the Town's refusal to permit disclosure or copying of such material. If litigation is filed in relation to such request and the proposer is not initially named as a party, the proposer shall promptly seek to intervene as a defendant in such litigation to defend its claim regarding the confidentiality of such material. This provision shall take precedence over any provisions or conditions of any proposal submitted by a proposer in response to the RFP and shall constitute the Town's sole obligation with regard to maintaining confidentiality of any document, material, or information submitted to the Town.

**APPENDIX A**  
**TOWN ATTORNEY SERVICES**  
**REQUEST FOR PROPOSAL (RFP) NO. 20-03**  
**FEE PROPOSAL**

Individual and/or Company's Name:

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The proposer shall submit a proposal for compensation, which should include, but is not limited to, a monthly retainer fee option, an hourly rate option, or a combination of these options. In the instance of an "Exception" to the RFP process, please provide a specific proposal detailing the costs associated with the alternative proposal.

Fee Proposal: \_\_\_\_\_

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Indicate the annual salary required part and/or full time to provide all services as stipulated in the Scope of Work.

Salary Requirement:: \_\_\_\_\_

We, the undersigned, hereby propose and agree to furnish to the Town of Pembroke Park all work as defined in the RFP. This proposal is subject to all terms of the specifications and bid conditions, and we hereby agree to furnish such items as may be awarded to us.

---

Authorized Signature

---

Date

---

Print Name

---

Telephone Number

---

Title

---

Email Address

## APPENDIX B

### TOWN ATTORNEY SERVICES REQUEST FOR PROPOSAL (RFP) NO. 20-03 INSURANCE REQUIREMENTS

The proposer shall, at its own expense and cost, obtain and keep in force during the entire duration of the Project or Work the following insurance coverage covering the proposer and all of its agents, employees, sub-contractors and other providers of services and shall name the Town, its employees and agents as an Additional Insured on a primary and non-contributory basis to the proposer's Commercial General Liability and Automobile Liability policies. These requirements shall be clearly stated in the remarks section on the proposer's Certificate of Insurance. Insurance shall be written with Carriers approved in the State of Florida and with a minimum Best's Rating of A-. In addition, all Carriers are subject to approval by the Town. Minimum limits and requirements are stated below:

1. Worker's Compensation Insurance:
  - Statutory Coverage
  - Employer's Liability
  - \$100,000 each accident/\$500,000 disease-policy limit/\$100,000 disease each employee
2. Commercial General Liability:
  - Including Premises & Operations, Products and Completed Operations, Personal and Advertising Injury, Contractual Liability and Independent Contractors.
  - Limits of Liability for Bodily Injury and Building Damage Each Occurrence \$1,000,000 Aggregate \$2,000,000 (The Aggregate Limit shall apply separately to each job.)
3. Automobile Insurance:
  - Including all owned, hired, borrowed and non-owned vehicles
  - Limit of Liability for Bodily Injury and Building Damage: Per Accident \$1,000,000
4. Errors and Omissions Liability or Professional Services Liability Policy
  - Provide Errors and Omissions Liability or Professional Services Liability Policy for a minimum Limit of Liability \$500,000 each occurrence or per claim.

The proposer agrees to maintain continuous professional liability coverage for the entire duration of this contract, and shall provide for an Extended Reporting Period in which to report claims for five (5) years following the conclusion of the contract.

The proposer shall provide a Certificate of Insurance as "evidence" of General Liability, Auto Liability including all owned, hired, borrowed and non-owned vehicles, and statutory Worker's Compensation and Employer's Liability coverages.

The proposer shall direct its Insurer to provide a Certificate of Insurance to the Town before any work is performed. The Certificate shall specify that the Town shall receive 30 days advance written notice of cancellation or non-renewal. The Certificate shall evidence all required coverage including the Additional Insured and Waiver of Subrogation. The proposer shall provide the Town copies of any such Policies upon request.

**The above insurance requirements are the Town's general requirements. Insurance requirements with the awarded proposer are subject to final negotiations.**

# THE TOWN OF FORT MYERS BEACH



## REQUEST FOR PROPOSALS TO PROVIDE

### TOWN ATTORNEY LEGAL SERVICES

**# RFP-18-32-TC**

Issued: July 1, 2018

**Proposals Due: TUESDAY, JULY 31, 2018**  
2:00 p.m. EST

Prepared by:

Town of Fort Myers Beach  
2525 Estero Blvd.  
Fort Myers Beach, FL 33931

**RFP-18-32-TC**  
**Town Attorney Legal Services**

**Solicitation Summary**

**ISSUE DATE: July 1, 2018**

**DEPARTMENT: Town Council**

**DUE DATE: July 31, 2018**

**TIME: 4:00 P.M., ET**

The Town of Fort Myers Beach, Florida (Town) is soliciting proposals for Town Attorney Legal Services. The Town will accept proposals from private law firms for the position of Town Attorney to perform all or part of the legal services of the Town (Applicant). Any Applicant wishing to submit a proposal must comply with the requirements contained in this Request for Proposals (RFP).

**1. PROPOSAL SUBMISSION.**

Applicants interested in providing a Town Attorney Legal Services proposal to the Town are hereby notified that sealed proposals (original and copies) must be received no later than **2:00 p.m., Tuesday, July 31, 2018**, to the Contracts Manager, located at 2525 Estero Boulevard, Fort Myers Beach, FL 33931 by mail or hand delivery. PROPOSALS RECEIVED AFTER THIS DATE AND TIME WILL NOT BE OPENED. No electronic or facsimile submissions will be considered. Town business hours are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Town holidays. The Applicant's name, return address, the RFP number, RFP title, Due Date and Time must be noted on the outside of the sealed container. Included in the sealed container shall be:

- One (1) unbound original clearly marked "ORIGINAL".
- Five (5) copies clearly marked "COPY" with all required information and identical to the original.
- All submittals to be provided in a soft report cover. No 3 ring binders please.
- One (1) identical copy in PDF format on either disc or flash drive.

**2. MINOR INFORMALITIES.**

The Town reserves the right to waive any informalities or minor irregularities; reject any and all proposals which are incomplete, conditional, obscure, or which contain additions not allowed for; accept or reject any proposals in whole or in part with or without cause; and accept the Proposals which best serve the interests of the Town. The Town reserves the right to further negotiate fees and/or services with any Applicant.

**3. NOTIFICATION.**

Interested parties may obtain a copy of this RFP as follows:

- Town website and or Demand Star
- Request via email from [Bids@fmbgov.com](mailto:Bids@fmbgov.com):
- Hard copies at Town Hall (copy fee of \$7.50/package).

**4. CORRESPONDENCE.**

The number of this RFP must appear on all correspondence, or inquiries, pertaining to this RFP.

**5. NOTICE OF PUBLIC DOCUMENTS.**

All Applicants are advised that under Chapter 119, *Florida Statutes*, all Proposal responses are deemed a public record and open to public scrutiny as provided for in said Statute.

**6. LATE PROPOSALS.**

Proposals received by the Town after the Due Date and Time will remain unopened and will not be considered. It is the sole responsibility of Applicant to ensure its Proposal is received by the Town by the Due Date and Time. No electronic or facsimile submissions will be considered.

**7. POINT OF CONTACT.**

For information concerning procedures for responding to this RFP, contact the Contracts Manager via email at: [Bids@fmbgov.com](mailto:Bids@fmbgov.com). Such contact shall be for clarification purposes only.

**8. QUESTIONS.**

Each Applicant must examine this RFP. All questions concerning this RFP, including Appendix A, Legal Services Agreement, should be submitted in writing to: Amy Baker, Contracts Manager at [bids@fmbgov.com](mailto:bids@fmbgov.com). Failure of the Applicant to examine all pertinent documents shall not entitle the Applicant to any relief from the conditions imposed in the Agreement. All questions must be presented no later than **4:00 p.m.** by **Friday, July 13, 2018**.

**9. DEFINITIONS.**

The following definitions apply to this RFP.

- A. REQUEST FOR PROPOSALS (RFP) - Town request for proposals from qualified Applicants.
- B. APPLICANT – Law firm submitting a Proposal.
- C. PROPOSAL – Applicant’s response to this RFP.
- D. SUCCESSFUL APPLICANT – Applicant who is selected for the provision of Town Attorney Legal Services.
- E. AGREEMENT – The Agreement, a sample of which is attached hereto and made a part hereof, between the Town and the Successful Applicant to perform the services described herein.

## **TABLE OF CONTENTS**

**SECTION 1: BACKGROUND AND RANGE OF SERVICES**

**SECTION 2: TERMS AND CONDITIONS**

**SECTION 3: RESPONSE REQUIREMENTS**

**SECTION 4: FORMS AND INSTRUCTIONS**

Appendix A – Town Attorney Legal Services Agreement

**SECTION 1 - BACKGROUND AND RANGE OF SERVICES**

**1. GENERAL INFORMATION**

The Town of Fort Myers Beach is an Equal Employment Opportunity (EEO) employer, and does hereby announce it is accepting proposals from all qualified firms interested in providing the legal services generally described herein and specified in this RFP document. The Successful Applicant shall provide by its qualifications, experience and a plan for the work that will best serve the overall needs of the Town. The selection of the successful Applicant shall be at the Town’s sole discretion after receipt and evaluation of all Proposal responses. The Town shall be the sole judge of its own best interests, the Proposals and the resulting Agreement.

This document shall serve to provide interested parties with specific information as to the procedures for the selection of a law firm to serve as Town Attorney for the Town. The Town Attorney shall report directly to the Town Council and serves at the Council’s pleasure to facilitate the effective and efficient operation of the Town.

**2. TOWN OF FORT MYERS BEACH**

The Town is a full-service town with a Council/Manager form of government. The Council members are elected at large for three-year alternating terms, and annually select a member to serve as Mayor. The Town Attorney and Town Manager report to and serve at the pleasure of the Town Council. The Town has approximately 50 full time employees and an annual operating budget of approximately \$16 million.

The Town provides a full range of services including Building Services (permits and inspections), Community Development (code enforcement, short and long term land use review and planning, zoning, support for administrative boards, and land development regulations), Cultural Resources (preservation of environmental and historical resources); Parking (beach and street parking and enforcement); Parks and Recreation (beaches, community pool, mooring field, parks and recreation facilities); Public Works (public infrastructure, roads, storm water, traffic, roads, water service); and administrative and financial support services.

**3. BACKGROUND INFORMATION**

Town Charter: As to the Town Attorney position, Section 8.01 of the Town’s Charter provides:

There shall be a Town Attorney appointed by the Council, who may represent the Town in all legal proceedings and shall perform all other duties assigned by the Council. The Council may remove the Town Attorney for any reason by motion requiring three affirmative votes.

#### 4. RANGE OF SERVICES

The Successful Applicant will perform all duties of the Town Attorney pursuant to the Town of Fort Myers Beach Town Charter and Code of Ordinances, including but not limited to:

- A. Attendance at all Council meetings, workshops, executive sessions, special meetings, administrative board meetings and all other meeting as required or directed by the Town Council, unless otherwise excused.
- B. Oversee and direct the legal activities and operations of the Town Attorney's office.
- C. Prepare, review, and approve all proposed legislation, ordinances, resolutions, contracts, deeds, leases, and other legal agreements requested by the Town Council, Town Manager and staff.
- D. Investigate complaints by or against the Town, prepare cases for trial, represent the Town in litigation, including administrative hearings, arbitration, and civil trials before county, state, and federal courts.
- E. Perform such other duties as directed by the Town Council.

Typically, there are twenty two (22) Town Council meetings annually held on the first and third Monday starting at 9 am, eleven (11) Town Council Management and Planning Sessions annually on the first Thursday of each month following the first Council meeting at 9 am, twelve (12) Local Planning Agency Meetings annually on the second Tuesday of each month starting at 9 am and Special Magistrate Hearings held on the last Thursday of each month starting at 9 am. There are two annual budget hearings annually which may be held at varying time in September. It is envisioned that the monthly retainer fee shall include all travel time to the Town of Fort Myers Beach, Lee County, FL., the review or preparation of all Town documents, email or text messages, in person meetings, video calls/meetings or phone calls or for legal advice or opinions from Town Council and Town staff. It is also expected for the Town Attorney to schedule a minimum of 8 hours per week for in person office consultations at their office located in Town Hall. Also see enclosed list of Illustrative Duties and Responsibilities.

### **Illustrative Duties and Responsibilities**

The Town Attorney shall provide legal services to the Town which may include, but not be limited to the following:

- a) Shall attend all regular meetings of Town Council. Town Council generally meets at 9:00 a.m. on the first and third Monday of each month. While special called meetings and workshop meetings may be held throughout the year, the Town Attorney attends only when it is anticipated that legal advice may be necessary.
- b) The Town Attorney or a qualified alternate shall attend the meetings of the Local Planning Agency that are typically held monthly and the Special Magistrate meetings which are held on a monthly basis.
- c) Draft, as necessary, and review ordinances and resolutions prepared by staff.
- d) Draft, as necessary, and review contracts, lease agreements, and easements in which the Town is a party or has an interest.
- e) Represent the Town in litigation, including administrative hearings, as may be requested and required. Assist and advise the Town Manager and staff regarding legal matters as necessary.
- f) Render oral and written legal opinions to Town Council, staff, and advisory boards including, but not limited to the Comprehensive Plan, Zoning and other Ordinances, and Land Development issues.
- g) Provide training to staff, Town Council, and boards and committees on the Sunshine Law and public records as well as ethics, discrimination and harassment, etc.
- h) Participate in negotiations when requested.
- i) Remain apprised on legal issues and litigation that may be handled by other specialized firms, such as bond counsel, labor law, and casualty claims and coordinate the work of outside legal counsel as need and as directed by the Town Council.
- j) Respond to requests for legal assistance from Town Council and staff, including, but not limited to requests for attendance at meetings with outside regulatory agencies, mediations, court appearances and other meetings.
- k) Provide legal research at the request of Town Council and staff. Review staff correspondence regarding public records requests. Review and recommend settlement agreements regarding litigation and Code Enforcement actions.
- l) Serve as parliamentarian during Town Council meetings.

- m) Remain current on federal, state and local government law and legislative issues that may pertain to the operation of the Town and provide direction, as appropriate, to the Town Council and staff.
- n) Remain current on environmental issues, with particular emphasis on issues affecting barrier islands with sensitive environmental concerns.
- o) Provide such other legal services which are normally and routinely provided to Town government or which the Town Council or Town Manager may require including, but not limited to, legal services related to personnel and employment, real estate transactions and the issuance of title insurance, finance and bonding, etc.

Each year the Town typically budgets in excess of \$100,000 for legal services including those provided by the Town Attorney and outside legal counsel when necessary.

Legal services as Town Attorney are currently provided by the law firm of Peterson Law Group, Ft. Myers, Florida.

## SECTION 2: TERMS AND CONDITIONS

### 1. CRITERIA FOR SELECTION AND EVALUATION

All proposals will be reviewed by the Town Council and will be evaluated on the ability of the individual or firm to meet the legal demands and requirements of the Town in a timely, reliable, effective, and efficient manner. Personal interviews maybe conducted at the discretion of the Town Council.

The Town reserves the right to waive any informalities or minor irregularities; reject any and all proposals which are incomplete, conditional, obscure, or which contain additions not allowed for; accept or reject any proposals in whole or in part with or without cause; and accept the proposal which best serve the interests of the Town. The Town reserves the right to further negotiate fees and/or the range of services with any Applicant.

### 2. CONE OF SILENCE

**Limitations on Communication-Cone of Silence:** Applicants are advised that a Cone of Silence will be in effect during this RFP. The Cone of Silence is effective from the date and time of issuance until award is made by the Town Council, excluding personal interviews. The Cone of Silence prohibits any communications, regarding this RFP, between the Applicants or any Person representing the Applicants, and any member of the Town Council, the Council's staff, any Town employee authorized to act on behalf of the Town to award the Agreement under this RFP, excluding personal interviews.

All correspondence regarding this RFP must be in writing and must be directed to the Town's Contracts Manager, who is the only person authorized to receive such documents. The Cone of Silence does not apply to oral communications at any public proceeding, including oral presentations made to the Town Council, or negotiations during any public meeting. Further, the Cone of Silence shall not apply to negotiations between any employee and the Successful Applicant. The Cone of Silence shall terminate at the time the Town Council awards or approves an Agreement, rejects all responses, or otherwise takes action which ends the solicitation process.

[Remainder of page intentionally left blank]

### SECTION 3: RESPONSE REQUIREMENTS

All Applicants are asked to be thorough yet concise in their Proposal responses.

#### 1. APPLICANT INFORMATION

Provide information on Applicant as follows:

- A. Full legal contracting name including any d/b/a.
- B. Contact information for Applicant during this RFP process.
  - Name
  - Phone
  - E-mail
  - Mailing Address
  - City, State, Zip

#### 2. QUALIFICATIONS

Each Applicant shall submit information and documentation that confirms it meets the following qualification requirement(s):

- A. The law firm must designate the attorney who will serve as Town Attorney. With respect to the attorney designated as Town Attorney, the individual must meet the qualifications listed herein, and/or provide the following information:
  - i. Graduated from an accredited law school and be license to practice law in the State of Florida.
  - ii. No less than 10 years of progressively responsible legal experience with an emphasis in local government law. Florida Bar Board Certification in City, County and Local Government Law, and Florida municipal government experience preferred.
  - iii. Experience and demonstrated expertise in legal areas including, but not limited to, code enforcement, drafting and negotiating complex agreements, labor/employment law, land use/zoning from a transactional and litigation perspective, procurement, public records and ethics laws, general litigation, tort law experience, and an understanding of sovereign immunity.
  - iv. Experience and knowledge of local government and administrative law, advising elected bodies and administrative boards.
  - v. Exceptional interpersonal skills, composure, a team oriented philosophy, and the ability to work with a variety of diverse groups and issues.
  - vi. Disclose and describe any bar grievances, disciplinary actions or investigations, and ethics actions or investigations; to include any additional attorneys that may be assigned to the Town engagement.
- B. The law firm must provide resumes of attorneys who will be assigned to the Town engagement, including a detailed description of the experience that each attorney possesses relative to local government/municipal law.

- C. A description of the general capabilities of the law firm, including information relating to total size and staffing, research capability, professional staff, and clerical support.
- D. A review of the law firm's potential conflict of representation will be considered and will be an important factor considered in the selection of firm. The law firm must agree that it will not act as counsel in any lawsuit or other adversarial proceeding in which the Town, any of its departments, divisions and boards, or any Town official or employee is named as an adverse party; nor shall the law firm undertake any private representation of any party before the Town or any other board of the Town, in reference to any judicial or quasi-judicial hearing or proceeding, or any application, request for ruling or other determination, contract, claim, controversy, petition, or other matter, including lobbying, while retained as counsel to Town. In the event the law firm represents a preexisting client or has a question regarding whether a proposed future representation may constitute a conflict of interest, the law firm shall immediately bring such matter to the attention of the Town Council for the purpose of having the Town Council determine, in their sole discretion, whether such representation is acceptable to the Town. All such determinations will be made on a case-by-case basis.
- E. A description of the law firm's liability insurance coverage, and the law firm's ability to hold harmless, indemnify and defend the Town for losses, costs and expenses arising from any liability claims arising from the legal services agreement.
- F. A detailed fee schedule describing a list of charges for all costs and services rendered, plus a clear delineation of matters that are included in a monthly retainer (if proposed) versus hourly billing is requested.
- G. A detailed description of the range, scope, and method of providing Town Attorney services. It is the intent of this proposal element to allow respondents flexibility in describing and submitting their proposal for the provision of Town Attorney legal services.

## **SECTION 4: FORMS**

### **1. AUTHORIZATION TO BIND APPLICANT**

Each proposal must be signed by a Person who is legally authorized to bind the Applicant to the proposal by executing Form A, Proposal Submittal Signature Page (attached). Each Proposal shall remain valid for at least one hundred and fifty (150) days after the Due Date.

For Proposals submitted by a corporation they must be executed in the corporate name by the CEO or President; for Proposals submitted by an LLC they must be executed by a Member or Manager; for Proposals submitted by an LP they must be executed by a General Partner; and for Proposals submitted by a Partnership they must be executed by a Partner. His or her title must appear under his or her signature. If someone other than these authorized individuals execute the Proposal Submittal Signature Page, Applicant must provide documentation such as the company Articles of Organization or Operating Agreement that demonstrates the legal authority of the executor to sign on behalf of Applicant.

### **2. CONFLICT OF INTEREST**

The award of the Agreement is subject to the provisions of Chapter 112, *Florida Statutes*. All Applicants must disclose within their Proposal by completing Form B, Conflict of Interest Disclosure, any potential conflict of interest.

**Form A**  
**Proposal Submittal Signature Page**

By signing this Proposal, the Applicant certifies that it satisfies all legal requirements as an entity to do business with the Town, including all Conflict of Interest and Code of Ethics provisions. The execution of this form constitutes the unequivocal offer of Applicant to be bound by the terms of its Proposal.

By signing this document, the Applicant agrees to all terms and conditions of this RFP which includes the Sample Agreement and is prepared to sign the Agreement as written. Applicant understands that if it submits exceptions to the Agreement in its Proposal, Applicant may be determined non-responsive.

Failure to sign and submit this form may render the Proposal non-responsive.

Firm Name:

---

Street Address:

---

Mailing Address (if different from Street Address):

---

Telephone Number(s):

---

Fax Number(s):

---

Email Address:

---

Federal Identification Number:

---

Acknowledged by:

---

Signature Date

Printed Name and Title

---

**Form A - Signature Authority**

Indicate below Applicant’s type of organization and provide the required documentation as applicable to demonstrate that the executor of Applicant’s Proposal is duly authorized to execute on behalf of, and as the official act of, Applicant.

<b>Select</b>	<b>Type of Organization</b>	<b>Officer Who Signed Proposal Submittal Signature Page</b>	<b>Required Authorizing Documentation</b>
<input type="checkbox"/>	Corporation	President, Vice President, or Chief Executive Officer	None
<input type="checkbox"/>	Corporation	Director, Manager, or other title	Corporate resolution
<input type="checkbox"/>	Limited Liability Company (LLC) – Member-Managed	Member	Articles of Organization or Operating Agreement
<input type="checkbox"/>	Limited Liability Company (LLC) – Manager-Managed	Manager	Articles of Organization or Operating Agreement
<input type="checkbox"/>	Limited Partnership	General Partner	Document demonstrating the legal authority to bind the Limited Partnership
<input type="checkbox"/>	Partnership	Partner	None
		CEO, Director, Manager or other title	Authorizing documentation

- Documentation is not required.
- The required authorizing documentation is included with Proposal.

**Form B, Conflict of Interest Disclosure**

The purpose of this disclosure form is to give the Town the information needed to identify potential conflicts of interest in the award of this Agreement.

The term “conflict of interest” refers to situations in which financial or other personal considerations may adversely affect, or have the appearance of adversely affecting, an employee’s professional judgment in exercising any Town duty or responsibility in administration, management, instruction, research, or other professional activities.

Select the statement below which applies to Applicant and, if applicable attach supporting information.

- To the best of our knowledge, the undersigned has no conflict of interest as defined in Chapter 112, *Florida Statutes*.
- The undersigned firm, by attachment to this form, submits information which may be a potential conflict of interest.

Acknowledged by:

---

Signature Date

---

Printed Name and Title

**Appendix A, DRAFT Legal Services Agreement**

**TOWN OF FORT MYERS BEACH, FLORIDA**  
**TOWN ATTORNEY LEGAL SERVICES AGREEMENT**

The Town of Fort Myers Beach, Florida, a municipal corporation, with its principal place of business at 2525 Estero Boulevard Fort Myers Beach, FL 33931 (the “Town”) and, \_\_\_\_\_, with offices located at \_\_\_\_\_, (the “Firm”) for and in consideration of the mutual covenants contained in this Town Attorney Legal Services Agreement (the “Agreement”) and other good and valuable consideration, mutually agree as follows:

**WHEREAS**, the Town desires to employ the services of the Firm as Town Attorney as further specified herein; and

**WHEREAS**, the Town and Firm desire to engage in a stable and flexible contractual relationship whereby the Town can achieve pricing efficiencies for legal services and the Firm is available to provide service as Town Attorney as required by the Town Charter, as well as additional authorized legal services on as as-needed basis in a thoughtful and effective manner, and

**NOW, THEREFORE**, in consideration of the mutual covenants, promises, and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Recitals. The forgoing recitals are true and correct and incorporated into this Agreement herein as if set forth in full.

2. Selection of Firm. The Firm will provide legal services as the Town Attorney to the Town as required by the Town Charter of Fort Myers Beach (the “Town Charter”) and as described herein. For purposes of this Agreement, the primary attorney to serve as Town Attorney shall be \_\_\_\_\_ with \_\_\_\_\_ serving as the alternate or backup in the event of \_\_\_\_\_ unavailability, if and when needed (the “Designated Attorneys”). As such, the Designated Attorneys from the Firm shall serve as Town Attorney for the Town pursuant to and in accordance with the Town Charter and the Code of Ordinances. The Firm was selected based upon the Firms substantive knowledge of governmental law.

3. Professional Legal Services. The Firm shall perform such services customarily associated with the Town Attorney and such other services as may be directed or requested by the Town Council or Town Manager.

4. Compensation, Terms, and Conditions. The Firm shall perform the Town Attorney Legal Services set forth in Exhibit A in accordance with the Fee Schedule set forth in Exhibit B, payable in full within 30 days of the Firm’s submission of a monthly itemized invoice for services rendered.

5. Duration and Termination. This Agreement is effective as of \_\_\_\_\_, 2018. Designated Attorneys through the Firm, shall provide Town Attorney legal services as required by this Agreement and may not be substituted without the consent of the Town. The term of this Agreement shall be for one (1) year, and thereafter may be renewed for two (2) additional one (1) year terms upon written agreement of the Town and Firm. Notwithstanding the foregoing or any other provision set forth herein, this Agreement may be terminated at the will of the Town or by the Firm upon giving sixty (60) days prior written notice of the termination of this Agreement.

6. Administration. For ease and convenience of administration and to the extent not in conflict with the Town Council or Town Charter, the Town hereby designates the Town Manager to provide policy direction and instructions to the Designated Attorneys in the administration of the duties and professional legal service set forth herein, and to manage and administer the terms and provision of this Agreement on behalf of the Town.

7. Insurance. The Firm shall maintain in full force and effect professional liability insurance in an amount not less than \$1,000,000 per claim and shall, upon the request of the Town, provide evidence of such coverage.

8. Notices. All notices under this Agreement shall be in writing and shall be provided to Town at 2525 Estero Boulevard Fort Myers Beach, FL 33931, Attention Town Manager, and to Town Attorney and Firm at \_\_\_\_\_.

9. Non-Liability for Costs and Expenses. The Town shall defend the actions of the Firm in performing legal services on behalf of the Town. The Firm shall not be liable for actual, incurred costs or expenses that are reasonable and necessary, and shall be reimbursed by Town for any actual reasonable and necessary expenses paid by the Firm in connection with the carrying out its duties hereunder. The Town is responsible for all such costs incurred on the Town’s behalf. These items are separately itemized on our statements as “costs advanced” or “disbursements” and will be itemized and billed to you on a monthly basis. To the extent practical, the Firm will take all steps to minimize costs. Unless otherwise agreed in writing, the Town shall be liable for all fee bills rendered pursuant to this Agreement.

10. Appointment. Pursuant to the Town Charter, the Town hereby appoints the Designated Attorneys, through the Firm, as Town Attorney for the Town of Fort Myers Beach, Florida. The Town Manager is directed and authorized to use and consult with the Firm for Town Attorney Legal Services and Special Legal Services when and if authorized as more specifically set forth on Exhibit A.

11. Conflict of Interest. By executing this Agreement, the Firm covenants it has no public or private interest, direct or indirect, and shall not acquire directly or indirectly and such interest which shall conflict in any manner with the performance of Firm's services any obligations under this Agreement.

12. Public Records. The Firm shall maintain files, available for inspection by the Town Manager or his designee, containing documentation of costs and fees incurred in connection with this Agreement. In accordance with Chapter 119, *Florida Statutes*, any documents of any nature produced pursuant to this Agreement shall be public record to the extent required by law. Neither the Firm nor any individual employed under this Agreement shall have any proprietary interest in any product(s) delivered under this Agreement. The reasonable cost of preparing and photocopying the documents for the Town may be charged for said services.

13. Powers Conferred on Attorney. The Firm, through Designated Attorney's has the authority to file any papers necessary and proper in any action which it is authorized pursuant to the terms of this Agreement to prosecute and defend on behalf of the Town and the right and authority to do any and all things necessary and proper to protect the interest of the Town. Any attorney employed by the Firm may provide legal support services or representation under this Agreement.

14. Town Attorney Client. Only the Town of Fort Myers Beach, Florida, acting by and through its Town Council, as a collegial body, shall be considered the Firm's client.

15. General Terms and Conditions.

a. This agreement is the sole agreement covering the Firm's representation of Client in this matter and supersedes any prior agreements or understandings, whether written or oral. Any modification of this agreement must be in writing, signed by both parties. If any part of this Agreement shall for any reason be found unenforceable, the parties agree that all other portions shall nevertheless remain valid and enforceable. It is understood that Firm does not guarantee the accomplishment of any result, but agrees to use its best efforts to achieve a favorable result the Town's behalf. The Town understands that all expressions about the outcome are only opinions.

b. The laws of the State of Florida will govern the interpretation of this Agreement, including all rules or codes of ethics which may apply to the provision of services by the Firm. Further, by executing this Agreement, the parties agree that the County or Circuit Court of the Twentieth Judicial Circuit in and for Lee County, Florida shall have jurisdiction over the parties to this Agreement and shall be the only venue for any dispute concerning this Agreement or the services rendered herein to the exclusion of all other venues including Federal Court.

c. The waiver by either party of a breach of any provision of this Agreement by the other shall not operate or be construed as a waiver of any subsequent breach by that party.

d. This Agreement contains the entire Agreement of the parties. It may not be changed verbally, but only by an agreement in writing signed by the parties.

e. The parties acknowledge that each has shared equally in the drafting and preparation of this Agreement and, accordingly, no court construing this Agreement shall construe it more strictly against one party than the other and every covenant, term and provision of this Agreement shall be construed simply according to its fair meaning.

f. This Agreement may be executed in duplicate or counterparts, each of which shall be deemed an original and all of which together shall be deemed one and the same instrument. No term, condition or covenant of this Agreement shall be binding on either party until both parties have signed it.

**WAIVER OF JURY TRIAL: TOWN HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY LITIGATION ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY WITH RESPECT HERETO. THIS PROVISION IS A MATERIAL INDUCEMENT FOR FIRM'S ACCEPTING REPRESENTATION OF TOWN.**

IN WITNESS WHEREOF, the parties have caused this Town of Fort Myers Beach, Florida Town Attorney Legal Services Agreement to be executed this \_\_\_\_ day of \_\_\_\_\_, 2018.

**ATTEST:**

**TOWN OF FORT MYERS BEACH**

\_\_\_\_\_  
Michelle Mayher, Town Clerk

\_\_\_\_\_  
Tracey Gore, Mayor

**FIRM:**

\_\_\_\_\_  
By:  
Its:

**EXHIBIT A**  
**DRAFT TOWN ATTORNEY LEGAL SERVICES AGREEMENT TERMS**

1. The Firm will provide legal services as Town Attorney consistent with the Town Charter.
2. The Town Attorney services described herein are to be provided in concert with the Town Council, designated officials and staff of the Town, including the Town Manager, Department and Division Directors. Such legal services shall encompass the following:
  - a. Attend and participate in agenda review staff meetings, prepare for and attend Town Council meetings, workshops, and attorney-client sessions, if and when deemed necessary, or any other special meetings convened by the Town Council.
  - b. Review and approve as to form and legal sufficiency ordinances, resolutions and contracts presented to the Town Council.
  - c. Participate in standing weekly conference calls at a time mutually agreed to by Town Manager, Town Attorney and, if applicable, Town staff to identify and discuss outstanding legal issues, share information associated with services to be provided by the Firm, and address the means to serve the Town's legal needs.
  - d. Provide legal advice to the Town Council members and participate in individual meetings and conference calls in order to provide advice regarding Town Council agenda items or ethics inquiries.
  - e. Maintain on-site office hours of no less than 8 hours per week.
  - f. Provide legal advice to the Town Manager and Town staff and participate in meetings and conference calls with the Town Manager and Town staff, if and when necessary to identify and discuss outstanding legal issues.
  - g. Represent the Town in any administrative and/or court proceedings, including appellate matters, as directed by the Town Council.
  - g. Monitor and report on the progress of legal services handled or represented by outside legal counsel.
3. Special legal services not listed above. Before undertaking any legal services not listed above, the Town Attorney will solicit and obtain direction from the Town Council or Town Manager to undertake the specific legal matter.
4. Costs and Expenses. The Firm shall only charge for actual costs and expenses incurred and invoiced by the Firm on behalf of this engagement.
5. Billing and Payment. The Firm will provide the Town with a monthly itemized invoice for services rendered and any expenses incurred in connection with the Firm's representation of the Town. The Firm will provide invoicing data corresponding to the Town's cost centers.

**EXHIBIT B**  
**TOWN ATTORNEY LEGAL SERVICES COSTS & FEE SCHEDULE**



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**RFQ NO. 19-094-DR  
REQUEST FOR QUALIFICATIONS:  
CITY ATTORNEY – PROFESSIONAL LEGAL SERVICES**

The City of North Miami Beach is soliciting for statement of qualifications, and transmittal letters ('proposals') in accordance with the requirements stated herein no later than **2:00 PM EDT on November 19, 2019 for RFQ#19-094-DR "City Attorney- Professional Legal Services"** from experienced and qualified attorneys and/or law firms to provide a full range of municipal legal services serving as the City's legal counsel on a contractual or on an In-House basis.

Interested firms may secure the solicitation package and all other pertinent information by visiting <http://www.citynmb.com/> or at [BidSync.com](http://BidSync.com).

The selection of the successful Proposer shall be at the City's discretion and shall be made in a prompt manner after the receipt and evaluation of all RFQ responses.

**Questions regarding this solicitation shall be submitted in writing via Bidsync.com no later than 5:00 PM on November 19, 2019.** Responses to those questions considered material to the solicitation will be made available as formal addenda to the City's Purchasing website and BidSync.com. It is the responsibility of prospective Proposers to ensure they are aware of all addenda issued relative to this solicitation.

Proposers shall submit **One (1) original complete proposal package, eleven (11) duplicate copies of said package and one (1) flash drive**, to the **City of North Miami Beach Procurement Management Division – Attention: Purchasing Supervisor, Meghan Cianelli Bennett, 17011 N.E. 19<sup>th</sup> Avenue, 3<sup>rd</sup> Floor, North Miami Beach, FL 33162** on or before the due date stipulated above.

All packages shall be clearly marked "**RFQ#19-094-DR "City Attorney- Professional Legal Services"**". The City will not be responsible in the event the U.S. Postal Service or any other courier system fails to deliver any package by the above referenced deadline. **Late submissions shall not be accepted.**

The responses will be publicly recorded and firm names read aloud in the City Hall 2<sup>nd</sup> Floor Commission Chambers on the due date/time noted above. The City of North Miami Beach reserves the right to reject any and all submissions, to waive any and all irregularities in any submission, and to make awards in the best interest of the City.

*Meghan Cianelli Bennett*  
Purchasing Supervisor  
City of North Miami Beach

*Pursuant to Florida Statutes 119.071, sealed bids, proposals or replies by an agency pursuant to a competitive solicitation are exempt from inspection until such time as the agency provides notice of an intended decision or until thirty (30) days after the opening of the bids, proposals, or final replies, whichever is earlier.*

## **SECTION 1.0            GENERAL TERMS                                  AND CONDITIONS**

### **1.1 DEFINITIONS**

When used in Contract Documents (defined below) or in related documents, the following terms shall have the meanings given below:

**Addendum:** A modification of the Plans, Specifications or other Contract Documents distributed to prospective Proposers prior to the opening of Bids/Proposals.

**Advertisement for Proposals:** The public notice inviting the submission of proposals for the work.

**Bid/Proposal Bond:** A bond executed by a Bidder/Proposer and its Surety in the attached form guaranteeing that the Bidder/Proposer, if awarded the Contract will execute the same and will timely furnish the required Performance Bond, Payment Bond, and evidence of Insurance.

**Calendar Day:** Every day shown on the calendar.

**Change Order:** A written agreement executed by the City, the Contractor and the Contractor's Surety, covering modifications to the Contract recommended by the Project Manager and approved by the City Manager and/or City Commission.

**Contract:** The written agreement between the City and the proposer for performance of the Work in accordance with the requirements of the Contract Documents and for the payment of the agreed consideration.

**Contract Documents:** The Instructions to Proposers, Proposal Form, Proposal Bond, Contract, Performance Bond, Payment Bond, General Conditions, Special Conditions, and Scope of Work, together with all Addenda.

**Contract Manager:** North Miami Beach's City Manager or designee or duly authorized representative designated to manage the Contract.

**Contractor:** The individual, firm, partnership,

corporation or joint venture whose proposal is accepted and who enters into a Contract with the City of North Miami Beach and who is liable for the acceptable performance of the work and for the payment of all legal debts pertaining to the Work.

**Contract Date:** The date on which the Agreement is effective.

**Contract Time:** The number of days allowed for completion of the work. The Contract Time will be stipulated in the Proposal Form, unless extended by a Change Order. All contract time shall be measured in calendar days.

**City:** A political subdivision, Incorporated City within Miami-Dade County of the State of Florida, whose governing body is a City Commission consisting of a Mayor, Vice Mayor and five City Commission members.

**City Manager:** The Manager of the City of North Miami Beach, Florida.

**Days:** Reference made to Days shall mean consecutive calendar days.

**Deliverables:** All documentation and any items of any nature submitted by the Contractor to the City's Contract Manager for review and approval in writing pursuant to the terms of the Agreement.

**Lessee:** Any individual, partnership or corporation having a tenant relationship with the City of North Miami Beach.

**Owner:** The term Owner as used in this Contract shall mean the City of North Miami Beach.

**Performance Deposit:** Certified Bank Check executed by the Contractor, on the attached forms, assuring that the Contractor will, in good faith, perform and guarantee the work in full conformity with the terms of the Contract Documents and will promptly pay all persons supplying the Contractor with labor, materials, or supplies, used directly or indirectly by the Contractor in the prosecution of the Work.

**Project Manager:** The duly authorized representative designated to manage the Project.

Proposal: The written offer of a Proposer to perform the work or service.

Proposal Documents: Proposal Guarantee or proposal deposit. The Advertisement for proposal, Instructions to Proposers, Proposal Form, Proposer Bond, Contract, Performance Bond, Payment Bond, General Conditions, Special Conditions, and Scope of Work, together with all Addenda.

Proposal Form: The form on which proposals are submitted.

Proposer: Any individual, firm, partnership or corporation submitting a proposal in accordance with the Instructions to Proposers.

Scope of Service: Document which details the work to be performed by the Proposer.

Subcontractor or Sub consultant: Any person, entity, firm or corporation, other than the employees of the Contractor, who furnishes labor and/or materials, in connection with the Work, whether directly or indirectly, on behalf of and/or under the direction of the Contractor and whether or not in privity of Contract with the Contractor.

The words "Work", "Services", "Program", or "Project": All matters and things required to be done by the Proposer in accordance with the provisions of the Contract.

The words "Directed", "Required", "Permitted", "Ordered", "Designated", "Selected", "Prescribed", or words of like import to mean respectively, the direction, requirement, permission, order, designation, selection or prescription of the City's Contract Manager; and similarly the words "approved", "acceptable", "satisfactory", "equal", "necessary", or words of like import to mean respectively, approved by, or acceptable or satisfactory to, equal or necessary in the opinion of the City's Contract Manager. In resolving disputes and in all respects the City Manager's decision shall be final.

## 1.2 VENDOR REGISTRATION INSTRUCTIONS

It is the policy of the City to encourage full and open competition among all available qualified vendors. All vendors regularly engaged in the type of work specified in the Solicitation are encouraged to submit proposals. At the time of contract award

the awarded proposer must complete a Vendor Application. For information and to apply as a vendor, please visit our website at [www.Citynmb.com/](http://www.Citynmb.com/) to download an application and submit it to Procurement Management Division, 17011 NE 19 Avenue, Suite 315 North Miami Beach, Florida 33162. To get solicitation document, specifications and updates go to [www.BidSync.com](http://www.BidSync.com)

## 1.3 CONE OF SILENCE AND REQUEST FOR ADDITIONAL INFORMATION

"Cone of Silence," as used herein, means a prohibition on any communication regarding a particular Request for Proposal ("RFQ"), Request for Qualification ("RFQ") or bid.

Pursuant to Section 2-11.1(t) of the County Code, all solicitations, once advertised and until an award recommendation has been forwarded to the appropriate authority are under the "Cone of Silence". Any communication or inquiries, except for clarification of process or procedure already contained in the solicitation, are to be made in writing to the attention of the Chief Procurement Officer or Procurement Supervisor. Such inquiries or request for information shall be submitted to the Chief Procurement Officer or Procurement Supervisor and shall contain the requester's name, address, and telephone number. The request may also be electronically mailed to [bids@Citynmb.com](mailto:bids@Citynmb.com) or mailed to Procurement Management Division, 17011 NE 19 Avenue, Suite 315, North Miami Beach, Florida 33162.

During the Cone of Silence the following is prohibited: Any communication regarding this between a potential vendor, service provider, Proposer, lobbyist, or consultant and the City's professional staff including, but not limited to City Commission, the City Manager and his or her staff. All communication regarding this should be sent in writing only to the Procurement Management Division at [bids@Citynmb.com](mailto:bids@Citynmb.com).

## 1.4 PROPOSERS RESPONSIBILITIES

Proposers are required to submit their proposals upon the following express conditions:

- A. Proposers shall thoroughly examine the drawings, specifications, schedules, instructions and all other contract documents.

- B. Proposers shall make all investigations necessary to thoroughly inform themselves regarding site(s) and facilities for delivery of material and equipment as required by the solicitation conditions. No plea of ignorance, by the Proposer, of conditions that exist or that may hereafter exist as a result of failure or omission on the part of the Proposer to make the necessary examinations and investigations, or failure to fulfill in every detail the requirements of the contract documents, will be accepted as a basis for varying the requirements of the City or the compensation due the Proposer.
- C. Proposers are advised that all City contracts are subject to all legal requirements provided for in the City of North Miami Beach Purchasing Code and applicable Miami-Dade County Ordinances, State Statutes and Federal Statutes.

#### **1.5 SUBMISSION OF PROPOSALS**

- A. Proposals and Addenda thereto shall be enclosed in sealed envelopes addressed to the Purchasing Supervisor, Meghan Cianelli Bennett, City of North Miami Beach, 17011 NE 19 Avenue, Room 315, North Miami Beach, Florida 33162. The name and address of the Proposer, the solicitation number, the date and hour of the proposal opening, and the solicitation title shall be placed on the outside of the envelope.
- B. Proposals must be submitted on the forms furnished. E-mailed and facsimile Proposals will not be considered. Proposals shall be dated and time stamped in Room 315 prior to proposal opening. Proposers shall have sole responsibility of insuring delivery of proposals on time and to the proper location.
- C. Proposers requesting a copy of the evaluation tabulation shall include a stamped, self-addressed envelope.
- D. Proposals shall be submitted in duplicate. Submit one original and three copy and

must include in your proposal package a CD or flash drive containing a PDF file of the entire original submission.

#### **1.6 ADDENDA**

The Procurement Management Division may issue an addendum in response to any inquiry received, prior to the proposal opening, which changes, adds to or clarifies the terms, provisions or requirements of the solicitation. The Proposer should not rely on any representation, statement or explanation, whether written or verbal, other than those made in this solicitation document or in any addenda issued. Where there appears to be a conflict between this solicitation and any addenda, the last addendum issued shall prevail. It is the Proposer's responsibility to ensure receipt of all addenda and any accompanying documents. Proposer(s) shall acknowledge receipt of any formal Addenda by signing the addendum and including it with their response. Failure to include signed formal Addenda in its response shall deem the response non-responsive provided, however, that the City may waive this requirement in its best interest.

#### **1.7 REJECTION OF PROPOSAL**

The City reserves the right to reject any or all proposals prior to award. Reasonable efforts will be made to either award the contract or reject all proposals within one hundred and twenty (120) calendar days after proposals opening date.

#### **1.8 WITHDRAWAL OF PROPOSAL**

- A. Proposals may not be withdrawn and shall be deemed enforceable for a period of 120 days after the time set for the proposal opening.
- B. Proposals may be withdrawn prior to the time set for the proposal opening. Such request must be in writing.
- C. The City will permanently retain as liquidated damages the proposal deposit furnished by any Proposer who requests to withdraw a proposal after the proposal opening.

#### **1.9 LATE PROPOSALS OR MODIFICATIONS**

Only proposals received as of opening date and

time will be considered timely. Proposals and modifications received after the time set for the proposal opening will be rejected as late.

#### **1.10 CONFLICTS WITHIN THE SOLICITATION**

Where there appears to be a conflict between the General Terms and Conditions, Special Conditions, Scope of Services, Proposal Submittal Section, or any addendum issued, the order of precedence shall be as follows: The last addendum issued, the General Terms and Conditions, the Special Conditions, the Scope of Services, and the Proposal Submittal Section.

#### **1.11 CLARIFICATION OR OBJECTION TO PROPOSAL SPECIFICATIONS**

If any person contemplating submitting a proposal for this contract is in doubt as to the true meaning of the specifications or other proposal documents or any part thereof, he/she may submit to the Chief Procurement Officer on or before the date and time stated herein, a request for clarification. All such requests for clarification shall be made in writing and the person submitting the request will be responsible for its prompt delivery. Any interpretation of the proposal, if made, will be made only by Addendum duly issued. The City will not be responsible for any other explanation or interpretation of the proposed made or given prior to the award of the contract. Any objection to the specifications and requirements as set forth in this proposal must be filed in writing with the Chief Procurement Officer by 5:00 PM, September 11, 2019.

#### **1.12 INVOICING/PAYMENT**

All invoices should be sent to: City of North Miami Beach, Finance Department, 17011 NE 19 Avenue, 3<sup>rd</sup> Floor, North Miami Beach, Florida 33162. In accordance with Florida State Statutes, Chapter 218, payment will be made within 45 days after receipt of services and a proper invoice. The City cannot make advance payments, make deposits in advance of receipt of goods, or pay C.O.D. Proposers should state any payment discount in the space provided on the proposal form.

#### **1.13 COMPETENCY OF PROPOSERS**

- A. Pre-award inspection of the Proposer's facility may be made prior to the award of

contract. Proposals will be considered only from firms which are regularly engaged in the business of providing the goods and/or services as described in this solicitation(s); have a record of performance for a reasonable period of time; and have sufficient financial support, equipment and organization to ensure that they can satisfactorily deliver the material and/or services if awarded a Contract under the terms and conditions herein stated. The terms "equipment and organization" as used herein shall be construed to mean a fully equipped and well established company in line with the best business practices in the industry and as determined by the proper authorities of the City.

- B. The City may consider any evidence available to it of the financial, technical and other qualifications and abilities of a Proposer, including past performance (experience) in making the award in the best interest of the City. In all cases the City of North Miami Beach shall have no liability to any contractor for any costs or expense incurred in connection with this proposal or otherwise.

#### **1.14 NOTICE REQUIREMENTS UNDER THE AGREEMENT**

All notices required or permitted under the Agreement shall be in writing and shall be deemed sufficiently served if delivered by Registered or Certified Mail, with return receipt requested; or delivered personally; or delivered via fax or e-mail (if provided below) and followed with delivery of hard copy; and in any case addressed as follows:

To the Chief Procurement Officer.  
Procurement Management Division  
17011 NE 19th Avenue, Suite 315  
North Miami Beach, FL 33162  
Phone: (305) 948-2946  
Email: [bids@Citynmb.com](mailto:bids@Citynmb.com)  
and,

To the City Attorney  
City Attorney  
17011 NE 19th Avenue, 4<sup>th</sup> Floor  
North Miami Beach, FL 33162  
Phone: (305) 948-2939

### **To the Proposer**

Notices will be sent to the Proposer at the physical address, e-mail address, fax numbers and to the person listed in the proposal, as applicable.

Either party may at any time designate a different address and/or contact person by giving notice as provided above to the other party. Such notices shall be deemed given upon receipt by the addressee.

### **1.15 EMPLOYEES**

All employees of the Proposer shall be considered to be at all times the sole employees of the Proposer under the Proposer's sole direction, and not employees or agents of the City of North Miami Beach. The Proposer shall supply competent and physically capable employees and the City is authorized to require the Proposer to remove any employee it deems careless, incompetent, insubordinate or otherwise objectionable and whose presence on City property is not in the best interest of the City.

Each employee at all times shall have and display in plain view proper identification. The names of the employee and the company shall be displayed on the front of the employee's shirt.

### **1.16 AWARD OF PROPOSAL**

The Evaluation Committee will make a recommendation based upon evaluation criteria, highest ranking. The City reserves the right to award to more than one Proposer. The City reserves the right to award contracts on a Primary or Secondary basis. The successful Proposer(s) shall be notified in writing of award.

### **1.17 PROTESTS**

- A. Right to protest. Any Proposer or interested parties (hereinafter collectively referred to as the " Proposer ") who has a substantial interest in, and is aggrieved in connection with the solicitation or proposed award of the RFQ may protest to the City Manager or designee. Protests arising from the decisions and votes of any evaluation or selection committee shall be limited to protests based upon alleged deviation(s) from established purchasing procedures set

forth in City Purchasing Code, any written guidelines of the procurement department, and the specifications, requirements and/or terms set forth in the RFQ.

1. Any protest concerning the RFQ specifications, requirements, and/or terms must be made within three business days (for the purposes of this section, "business day" means a day other than Saturday, Sunday or a national holiday), from the time the facts become known and, in any case, at least seven business days prior to the opening of the responses. Such protest must be made in writing (as provided for herein *Notice Requirements*) to the Chief Procurement Officer with copy to the City Manager and City Attorney, and such protest shall state the particular grounds on which it is based and shall include all pertinent documents and evidence. No protest shall be accepted unless it complies with the requirements of this section. Failure to timely protest RFQ specifications, requirements and/or terms is a waiver of the ability to protest the specifications, requirements and/or terms.
2. Any protest after the proposal opening, including challenges to actions of any evaluation or selection committee as provided in subsection (1) above shall be submitted in writing to the Chief Procurement Officer with copy to the City Manager and City Attorney. The City will allow such bid protest to be submitted anytime until two business days following the release of the notice of the City Manager's written recommendation to the City Commission for award of the solicitation in question. Such protest shall state the particular grounds on which it is based and shall include all pertinent grounds on which it is based, and shall include all pertinent documents and evidence. No protest shall be accepted unless it complies with the requirements of this section.

- All Proposers shall be notified in writing (which may be transmitted by electronic communication, such as facsimile transmission and/or e-mail), following the release of the City Manager's written recommendation to the City Commission.
- B. The City may request reasonable reimbursement for expenses incurred in processing any protest hereunder, which expenses shall include, but not be limited to, staff time, legal fees and expenses (including expert witness fees), reproduction of documents and other out-of-pocket expenses.
- C. Authority to resolve protests. The City Manager or designee shall have the authority to settle and resolve a protest concerning the solicitation or award of the RFQ.
- D. Responsiveness. Prior to any decision being rendered under this section with respect to a protest, the City Manager and the City Attorney, or their respective designees, shall certify whether the submission of the response to the RFQ in question is responsive. The parties to the protest shall be bound by the determination of the City Manager and the City Attorney with regard to the issue of responsiveness.
- E. Decision and appeal procedures. If the protest is not resolved by mutual agreement, the City Manager and the City Attorney, or their respective designees, shall promptly issue a decision in writing. The decision shall specifically state the reasons for the action taken and inform the protestor of his or her right to challenge the decision. Any person aggrieved by any action or decision of the City Manager, the City Attorney, or their respective designees, with regard to any decision rendered under this section may appeal said decision by filing an original action in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, in accordance with the applicable court rules. Any action not brought in good faith shall be subject to sanctions including damages suffered by the City and attorney's fees incurred by the City in defense of such wrongful action.
- F. Distribution. A copy of each decision by the City Manager and the City Attorney shall be mailed or otherwise furnished immediately to the protestor.
- G. Stay of procurements during protests. In the event of a timely protest under this section, the City shall not proceed further with the solicitation or with the award pursuant to the RFQ unless a written determination is made by the City Manager, that the award pursuant to the RFQ must be made without delay in order to protect a substantial interest of the City.
- H. The institution and filing of a protest under this section is an administrative remedy that shall be employed prior to the institution and filing of any civil action against the City concerning the subject matter of the protest.
- I. Protests not timely made under this section shall be barred. Any basis or ground for a protest not set forth in the letter of protest required under this section shall be deemed waived.
- J. At the time the City Manager's written recommendation for award of the RFQ is presented at a meeting of the Mayor and City Commission, the City Attorney, or designee, shall present a report to inform the Mayor and City Commission of any legal issues relative to any protest filed in connection with the RFQ in question.
- K. The determination of the City Manager and the City Attorney with regards to all procedural and technical matters shall be final.
- 1.18 AGREEMENT**
- An agreement shall be sent to the awarded Proposer to be signed, witnessed, and returned to the City for execution. The City will provide a copy of the fully executed agreement to the awarded Proposer.

### **1.19 DISQUALIFICATION OF PROPOSERS**

A Proposer may be disqualified temporarily or permanently and his/her proposal(s) rejected for:

Poor performance or default, in the City's opinion, on previous contracts with the City.  
Poor performance or default, in the City's opinion, on previous contracts with other public entities.  
Insufficient financial or company size, in the City's opinion, to perform the requirements of the contract.

### **1.20 SUBCONTRACTING**

As part of its proposal, the Proposer must identify any and all subcontractors that will be used in the performance of the proposed contract, their capabilities and experience, and the portion of the work to be done by the subcontractor. The competency of the subcontractor(s) with respect to experience, skill, responsibility and business standing shall be considered by the City when making the award in the best interest of the City. If the Proposer fails to identify any and all subcontractors in the proposal, the City may allow the Proposer to submit this documentation during the evaluation period if such action is in the best interest of the City.

### **1.21 ASSIGNMENT**

The successful Proposer shall not assign, transfer, hypothecate, or otherwise dispose of this contract, including any rights, title or interest therein, or its power to execute such contract to any person, company or corporation without the prior written consent of the City and City's approval.

### **1.22 FRAUD AND MISREPRESENTATION**

In accordance with City Purchasing Policy 3.6 and pursuant to Section 2-8-1.4 of the Miami-Dade County Code, any individual, corporation or other entity that attempts to meet its contractual obligations with the City through fraud, misrepresentation or material misstatement, may be debarred from doing business with the City. The City as further sanction may terminate or cancel any other contracts with such individual, corporation or entity. Such individual or entity shall be responsible for all direct or indirect costs associated with termination or cancellation, including attorney's fees.

### **1.23 COLLUSION**

The Proposer, by affixing his signature to this proposal, agrees to the following: "Proposer certifies that his/her bid is made without previous understanding, agreement, or connection with any person, firm or corporation, making a bid for the same items, or the initiating City department, and is in all respects fair, without outside control, collusion, fraud, or otherwise illegal action."

### **1.24 PATENTS AND COPYRIGHTS**

It shall be understood and agreed that by the submission of a proposal, the Proposer, if awarded a contract, shall save harmless and fully indemnify the City and any of its officers or agents from any and all damages that may, at any time, be imposed or claimed for infringement of any patent right, trademark, or copyright, of any person or persons, association, or corporation, as the result of the use of such articles by the City, or any of its officers, agents, or employees, and of which articles the contractor is not the patentee, assignee, licensee, or owner, or lawfully entitled to sell same.

### **1.25 PUBLIC RECORDS LAW**

Pursuant to Florida Statute 119.07, public records may be inspected and examined by anyone desiring to do so, at a reasonable time, under reasonable conditions, and under supervision by the custodian of the public record. Sealed Bids and Proposals become subject to this statute, notwithstanding Proposers' requests to the contrary, at the time the City provides notice of a decision or intended decision, or 30 days after bid or proposal opening, whichever is earlier.

Financial statements submitted in response to a request by the City are confidential, and exempt from disclosure. Data processing software obtained under a licensing agreement which prohibits its disclosure is also exempt.

Proposers are hereby notified and agree that all information submitted as part of, or in support of bid/proposal submittals will be available for public inspection after opening of bids/proposals in compliance with Chapter 119 of the Florida Statutes. The Proposer shall not submit any information in response to this invitation which the Proposer considers to be a trade secret, proprietary or confidential. The submission of any

information to the City in connection with this invitation/RFQ shall be deemed conclusively to be a waiver of any trade secret or other protection, which would otherwise be available to the Proposer. In the event that the Proposer submits information to the City in violation of this restriction, either inadvertently or intentionally and clearly identifies that information in the bid/proposal as protected or confidential, the City shall endeavor to redact and return that information to the Proposer as quickly as possible, and if appropriate, evaluate the balance of the bid/proposal. The redaction or return of information pursuant to this clause may render a bid/response non-responsive.

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (TELEPHONE NUMBER: (305) 787-6001, E-MAIL ADDRESS: CITYCLERK@CITYNMB.COM, AND MAILING ADDRESS: ANDRISE BERNARD CITY CLERK, NMB CITY HALL, 17011 N.E. 19 AVENUE, NORTH MIAMI BEACH, FLORIDA 33162-3100).**

#### **1.26 EXCEPTIONS TO PROPOSAL**

The Proposer must clearly indicate any exceptions they wish to take to any of the terms in this Proposal, and outline what, if any, alternative is being offered. All exceptions and alternatives shall be included and clearly delineated, in writing, in the Proposal. The City, at its sole and absolute discretion, may accept or reject any or all exceptions and alternatives. In cases in which exceptions and alternatives are rejected, the City shall require the Proposer to comply with the particular term and/or condition of the RFQ to which the Proposer took exception to (as said term

and/or condition was originally set forth on the RFQ.)

#### **1.27 INDEMNIFICATION AND HOLD HARMLESS AGREEMENT**

The Proposer shall indemnify and hold harmless the City of North Miami Beach and its officers, employees, agents and instrumentalities from any and all liability, losses or damages in an amount not less than \$1,000,000 per occurrence. In addition to \$1,000,000 per occurrence, the City shall be entitled to attorney's fees and costs of defense, which the City of North Miami Beach, or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this project by the awarded Proposer or its employees, agents, servants, partners, principals or subcontractors. Furthermore, the awarded Proposer shall pay all claims and losses in an amount not less than \$1,000,000 per occurrence in connection therewith and shall investigate and defend all claims, suits or actions of any kind of nature in the name of the City of North Miami Beach, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. The awarded Proposer expressly understands and agrees that any insurance protection required by the resulting agreement or otherwise provided by the awarded Proposer shall cover the City of North Miami Beach, its officers, employees, agents and instrumentalities and shall include claims for damages resulting from and/or caused by the negligence, recklessness or intentional wrongful misconduct of the indemnifying party and persons employed or by utilized by the indemnifying party in the performance of the contract.

#### **1.28 COPELAND "ANTI-KICKBACK"**

Contractor and all subcontractors will comply with the Copeland Anti-Kickback Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3).

#### **1.29 CHOICE OF LAW**

If and when this contract is disputed, and should it be necessary to litigate, the substantive and procedural laws of the State of Florida shall govern the outcome of such litigation. This shall apply

notwithstanding such factors which include, but are not limited to, place where contract is entered into, place where accident arises and choice of law principles.

### **1.30 QUANTITIES**

The City specifically reserves the right to accept all or any part of the proposal, to split the award, to increase or decrease the quantity to meet additional or reduced requirements of the City, without such change affecting the contract price set forth in the proposal form by the Proposer.

### **1.31 CLAIMS**

Successful Proposer(s) will be responsible for making any and all claims against carriers for missing or damaged items.

### **1.32 MODIFICATION OF CONTRACT**

The contract may be modified by mutual consent, in writing through the issuance of a modification to the contract, purchase order, change order or award sheet, as appropriate.

### **1.33 PUBLIC ENTITY CRIMES**

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid/proposal on a contract to provide any goods or services to a public entity, may not submit a bid/proposal on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids/proposals on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Florida Statutes, Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

### **1.34 DISCRIMINATION**

Any entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid/proposal on a contract to provide goods or services to a public entity, may not submit a bid/proposal on a contract with a public entity for construction or repair of a public building or public

work, may not submit bids/proposals on leases of real property to a public entity, may not award or perform work as a contractor, supplier, subcontractor, or consultant under contract with any public entity, and may not transact business with any public entity.

### **1.35 DRUG-FREE WORKPLACE PROGRAM**

Proposers are required to maintain and enforce a Drug-Free Workplace Program for the duration of the agreement and any extensions thereof. Proposers shall complete and submit a copy of the attached form and a copy of the program with their proposal.

### **1.36 SOLICITATION, GIVING, AND ACCEPTANCE OF GIFTS POLICY**

Proposers shall sign and submit this attached form indicating understanding and compliance with the City's and State's policies prohibiting solicitation and acceptance of gifts by public officers, employees, or candidates.

Failure to submit this signed form will result in your bid being declared non-responsive; provided, however, that the low Proposer may be given the opportunity to submit the form to the City within five calendar days after notification by the City, if this is determined to be in the best interest of the City.

### **1.37 ACCESS TO RECORDS**

The City reserves the right to require the Proposer to submit to an audit. The Proposer shall provide access to all of its records which relate directly or indirectly to the Agreement at its place of business during regular business hours. The selected Proposer shall retain all records pertaining to the Agreement and upon request make them available to the City for three years following expiration of the Agreement. The Proposer agrees to provide such assistance as may be necessary to facilitate the review or audit by the City to ensure compliance with applicable accounting and financial standards at no cost to the City.

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO**

**PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (TELEPHONE NUMBER: (305) 787-6001, E-MAIL ADDRESS:**

**CITYCLERK@CITYNMB.COM, AND MAILING ADDRESS: ANDRISE BERNARD, CITY CLERK, NMB CITY HALL, 17011 N.E. 19 AVENUE, NORTH MIAMI BEACH, FLORIDA 33162-3100).**

**1.38 GREEN PROCUREMENT POLICY**

Proposers shall be required to comply with City's Green Procurement Policy, as provided for in the City's Purchasing Policy and Procedures.

**1.39 INSURANCE REQUIREMENTS**

The Proposer shall maintain and carry in full force during the Term the insurance required herein. Upon City's notification, the Proposer shall furnish to the Procurement Management Division, Certificates of Insurance that indicate that insurance coverage has been obtained which meets the requirements as outlined below:

- A. Worker's Compensation Insurance for all employees of the Proposer as required by Florida Statute 440. Should the Proposer be exempt from this Statute, the Proposer and each employee shall hold the City harmless from any injury incurred during performance of the Contract. The exempt Proposer shall also submit a written statement detailing the number of employees and that they are not required to carry Worker's Compensation insurance, and do not anticipate hiring any additional employees during the term of this contract or a copy of a Certificate of Exemption.
- B. General Liability Insurance on a comprehensive basis in an amount not less than \$1,000,000 per person,

\$2,000,000 per occurrence for bodily injury and property damage. City of North Miami Beach must be shown as an additional insured with respect to this coverage. The mailing address of City of North Miami Beach 17011 NE 19 Avenue, Suite 315, North Miami Beach, Florida 33162, as the certificate holder, must appear on the certificate of insurance.

- C. Automobile Liability Insurance covering all owned, non-owned, and hired vehicles used in connection with the Services, in an amount not less than \$1,000,000 per person and \$2,000,000 per occurrence. City of North Miami Beach must be shown as an additional insured with respect to this coverage. The mailing address of City of North Miami Beach 17011 NE 19 Avenue, Suite 315, North Miami Beach, Florida 33162, as the certificate holder, must appear on the certificate of insurance. Add: Uninsured Motorist Coverage.

The insurance coverage required shall include those classifications, as listed in standard liability insurance manuals, which most nearly reflect the operation of the Proposer. All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida with the following qualifications:

The company must be rated no less than "B" as to management, and no less than "Class V" as to financial strength, according to the latest edition of Best's Insurance Guide published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the City's Risk Management Division.

Certificates of Insurance must indicate that for any cancellation of coverage before the expiration date, the issuing insurance carrier will endeavor to mail thirty (30) day written advance notice to the certificate holder. In addition, the Proposer hereby agrees not to modify the insurance coverage without thirty (30) days written advance notice to the City.

**NOTE: CITY OF NORTH MIAMI BEACH CONTRACT NUMBER AND TITLE MUST APPEAR ON EACH CERTIFICATE OF INSURANCE.**

Compliance with the foregoing requirements shall not relieve the Proposer of this liability and obligation under this section or under any other section in the Agreement.

Award of this Contract is contingent upon the receipt of the insurance documents, as required, within fifteen (15) calendar days after City notification to Proposer to comply before the award is made. If the insurance certificate is received within the specified time frame but not in the manner prescribed in the Agreement, the Proposer shall be verbally notified of such deficiency and shall have an additional five (5) calendar days to submit certificate to the City. If the Proposer fails to submit the required insurance documents in the manner prescribed in the Agreement within twenty (20) calendar days after City notification to comply, the Proposer shall be in default of the contractual terms and conditions and award of the Contract will be rescinded, unless such time frame for submission has been extended by the City.

The Proposer shall be responsible for assuring that the insurance certificates required in conjunction with this Section remain in force for the duration of the contractual period of the Contract, including any and all option years or extension periods that may be granted by the City. If insurance certificates are scheduled to expire during the contractual period, the Proposer shall be responsible for submitting new or renewed insurance certificates to the City at a minimum of thirty (30) calendar days in advance of such expiration. In the event that expired certificates are not replaced with new or renewed certificates which cover the contractual period, the City shall suspend the Contract until such time as the new or renewed certificates are received by the City in the manner prescribed herein; provided, however, that this suspended period does not exceed thirty (30) calendar days. Thereafter, the City may, at its sole discretion, terminate this contract.

#### **1.40 CITY WEBSITE**

Bids, Proposals, addenda, bid/evaluation tabulations, lists of pre-bid conferences attendees and other information is available on the Procurement Management Division's website, which can be found at: [www.Citynmb.com/](http://www.Citynmb.com/). The City utilizes the

following procedures for notification of solicitation opportunities: <http://www.bidsync.com> and on the City Website: <https://www.citynmb.com/214/Bid-Opportunities>. These are the only forms of notification by the City. The City shall not be responsible for receipt of notification and information from any source other than those listed. It shall be the bidder's responsibility to verify the validity of all bid information received by sources other than those listed.

#### **1.41 DISCLAIMER**

The City of North Miami Beach may, in its sole and absolute discretion without prejudice or liability, accept or reject, in whole or in part, for any reason whatsoever any or all proposals; re-advertise this RFQ; postpone or cancel at any time this RFQ process; or, waive any formalities of or irregularities in the process. Proposals that are not submitted on time and/or do not conform to the City of North Miami Beach's requirements will not be considered. After all proposals are analyzed, Proposer(s) submitting proposals that appear, solely in the opinion of the City of North Miami Beach, to be the most qualified, shall be submitted to the City of North Miami Beach's City Commission, and the final selection will be made thereafter with a timetable set solely by the City of North Miami Beach. The selection by the City of North Miami Beach shall be based on the RFQ, which is, in the sole opinion of the City Commission of the City of North Miami Beach, in the best interest of the City of North Miami Beach. The issuance of this RFQ constitutes only an invitation to make presentations to the City of North Miami Beach. The City of North Miami Beach reserves the right to determine, at its sole discretion, whether any aspect of the response satisfies the criteria established in this RFQ. In all cases the City of North Miami Beach shall have no liability to any proposal for any costs or expense incurred in connection with this RFQ.

#### **1.42 CONFIDENTIALITY**

As a political subdivision, the City of North Miami Beach is subject to the Florida Government in the Sunshine Act and Public Records Law. By submitting a proposal, Proposer acknowledges that the materials submitted with the proposal and the results of the City of North Miami Beach's evaluation are open to public inspection upon proper request. Proposer should take special

note of this as it relates to proprietary information that might be included in its proposal.

#### **1.43 NATURE OF THE AGREEMENT**

The Agreement incorporates and includes all negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained in the Agreement. The parties agree that there are no commitments, agreements, or understandings concerning the subject matter of the Agreement that are not contained in the Agreement, and that the Agreement contains the entire agreement between the parties as to all matters contained herein. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that any oral representations or modifications concerning the Agreement shall be of no force or effect, and that the Agreement may be modified, altered or amended only by a written amendment duly executed by both parties hereto or their authorized representatives.

The proposer shall provide the services set forth in the Scope of Services, and render full and prompt cooperation with the City in all aspects of the Services performed hereunder.

The Proposer acknowledges that the Agreement requires the performance of all things necessary for or incidental to the effective and complete performance of all Work and Services under this Contract. All things not expressly mentioned in the Agreement but necessary to carrying out its intent are required by the Agreement, and the Proposer shall perform the same as though they were specifically mentioned, described and delineated.

The Proposer shall furnish all labor, materials, tools, supplies, and other items required to perform the Work and Services that are necessary for the completion of this Contract. All Work and Services shall be accomplished at the direction of and to the satisfaction of the City's Contract Manager.

The Proposer acknowledges that the City shall be responsible for making all policy decisions regarding the Scope of Services. The Proposer agrees to provide input on policy issues in the form of recommendations.

The Proposer agrees to implement any and all changes in providing Services hereunder as a result of a policy change implemented by the City. The Proposer agrees to act in an expeditious and fiscally sound manner in providing the City with input regarding the time and cost to implement said changes and in executing the activities required to implement said changes.

#### **1.44 PAYMENT FOR SERVICES/AMOUNT OBLIGATED**

The Proposer warrants that it has reviewed the City's requirements and has asked such questions and conducted such other inquiries as the Proposer deemed necessary in order to determine the price the Proposer will charge to provide the Work and Services to be performed under this Contract. The compensation for all Work and Services performed under this Contract, including all costs associated with such Work and Services, shall be in the total amount submitted on the Proposal Form. The City shall have no obligation to pay the Proposer any additional sum(s) in excess of this amount, except for a change and/or modification to the Contract which is approved and executed in writing by the City and the Proposer.

All Services undertaken by the Proposer before City's approval of this Contract shall be at the Proposer's risk and expense.

#### **1.45 PRICING**

Prices shall remain firm and fixed for the term of the Contract, including any option or extension periods; however, the Proposer may offer incentive discounts to the City at any time during the Contract term, including any renewal or extension thereof.

#### **1.46 MANNER OF PERFORMANCE**

- A. The Proposer shall provide the Services described herein in a competent and professional manner satisfactory to the City in accordance with the terms and conditions of the Agreement. The City shall be entitled to a satisfactory performance of all Services described herein and to full and prompt cooperation by the Proposer in all aspects of the Services. At the request of the City, the

Proposer shall promptly remove from the project any Proposer's employee, subcontractor, or any other person performing Services hereunder. The Contractor agrees that such removal of any of its employees does not require the termination or demotion of any employee by the Proposer.

- B. The Proposer agrees to defend, hold harmless and indemnify the City and shall be liable and responsible for any and all claims, suits, actions, damages and costs (including attorney's fees and court costs) made against the City, occurring on account of, arising from or in connection with the removal and replacement of any Proposer's personnel performing services hereunder at the behest of the City. Removal and replacement of any Proposer's personnel as used in this Article shall not require the termination and or demotion of such Proposer's personnel.
- C. The Proposer agrees that at all times it will employ, maintain and assign to the performance of the Services a sufficient number of competent and qualified professionals and other personnel to meet the requirements to which reference is hereinafter made. The Proposer agrees to adjust its personnel staffing levels or to replace any of its personnel upon reasonable request from the City, should the City make a determination, in its sole discretion that said personnel staffing is inappropriate or that any individual is not performing in a manner consistent with the requirements for such a position.
- D. The Proposer warrants and represents that its personnel have the proper skill, training, background, knowledge, experience, rights, authorizations, integrity, character and licenses as necessary to perform the Services described herein, in a competent and professional manner.
- E. The Proposer shall at all times cooperate with the City and coordinate its respective work efforts to most effectively and efficiently maintain the progress in

performing the Services.

- F. The Proposer shall comply with all provisions of all federal, state and local laws, statutes, ordinances, and regulations that are applicable to the performance of the Agreement.

#### **1.47 INDEPENDENT CONTRACTOR RELATIONSHIP**

The Proposer is, and shall be, in the performance of all work services and activities under the Agreement, an independent contractor, and not an employee, agent of the City. All persons engaged in any of the work or services performed pursuant to the Agreement shall at all times, and in all places, be subject to the Proposer's 's sole direction, supervision and control. The Proposer shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the Proposer s relationship and the relationship of its employees to the City shall be that of an independent contractor and not as employees and agents of the City.

The Proposer does not have the power or authority to bind the City in any promise, agreement or representation other than specifically provided for in the Agreement.

#### **1.48 AUTHORITY OF THE CITY'S CONTRACT MANAGER**

- A. The Proposer hereby acknowledges that the City's Contract Manager will determine in the first instance all questions of any nature whatsoever arising out of, under, or in connection with, or in any way related to or on account of, the Agreement including without limitations: questions as to the value, acceptability and fitness of the Services; questions as to either party's fulfillment of its obligations under the Contract; negligence, fraud or misrepresentation before or subsequent to acceptance of the Proposal; questions as to the interpretation of the Scope of Services; and claims for damages, compensation and losses.
- B. The Proposer shall be bound by all determinations or orders and shall

promptly obey and follow every order of the Contract Manager, including the withdrawal or modification of any previous order and regardless of whether the Proposer agrees with the Contract Manager's determination or order. Where orders are given orally, they will be issued in writing by the Contract Manager as soon thereafter as is practicable.

- C. The Proposer must, in the final instance, seek to resolve every difference concerning the Agreement with the Contract Manager. In the event that the Proposer and the Contract Manager are unable to resolve their difference, the Proposer may initiate a dispute in accordance with the procedures set forth in the section below. Exhaustion of these procedures shall be a condition precedent to any lawsuit permitted hereunder.
- D. In the event of such dispute, the parties to the Agreement authorize the City Manager or designee, who may not be the Contract Manager or anyone associated with this Project, acting personally, to decide all questions arising out of, under, or in connection with, or in any way related to or on account of the Agreement (including but not limited to claims in the nature of breach of contract, fraud or misrepresentation arising either before or subsequent to execution hereof) and the decision of each with respect to matters within the City Manager's purview as set forth above shall be conclusive, final and binding on parties. Any such dispute shall be brought, if at all, before the City Manager within 10 days of the occurrence, event or act out of which the dispute arises.

The City Manager may base this decision on such assistance as may be desirable, including advice of experts, but in any event shall base the decision on an independent and objective determination of whether Proposer's performance or any Deliverable meets the requirements of the Agreement and any specifications with respect thereto set forth herein. The effect of any decision shall not be

impaired or waived by any negotiations or settlements or offers made in connection with the dispute, whether or not the City Manager participated therein, or by any prior decision of others, which prior decision shall be deemed subject to review, or by any termination or cancellation of the Agreement. All such disputes shall be submitted in writing by the Proposer to the City Manager for a decision, together with all evidence and other pertinent information in regard to such questions, in order that a fair and impartial decision may be made. The parties agree that whenever the City Manager is entitled to exercise discretion or judgment or to make a determination or form an opinion pursuant to the provisions of this Article, such action shall be deemed fair and impartial when exercised or taken. The City Manager shall render a decision in writing and deliver a copy of the same to the Proposer. Except as such remedies may be limited or waived elsewhere in the Agreement, Contractor reserves the right to pursue any remedies available under law after exhausting the provisions of this Article.

#### **1.49 MUTUAL OBLIGATIONS**

The Agreement, including attachments and appendices to the Agreement, shall constitute the entire Agreement between the parties with respect hereto and supersedes all previous communications and representations or agreements, whether written or oral, with respect to the subject matter hereto unless acknowledged in writing by the duly authorized representatives of both parties.

Nothing in the Agreement shall be construed for the benefit, intended or otherwise, of any third party that is not a parent or subsidiary of a party or otherwise related (by virtue of ownership control or statutory control) to a party.

In those situations where the Agreement imposes an indemnity or defense obligation on the Contractor, the City may, at its expense, elect to participate in the defense if the City should so choose. Furthermore, the City may at its own expense defend or settle any such claims if the Contractor fails to diligently defend such claims,

and thereafter seek indemnity for costs and attorney's fees from the Contractor.

**1.50 QUALITY ASSURANCE/QUALITY ASSURANCE RECORD KEEPING**

The Contractor shall maintain, and shall require that its subcontractors and suppliers maintain, complete and accurate records to substantiate compliance with the requirements set forth in the Scope of Services. The Contractor and its subcontractors and suppliers shall retain such records, and all other documents relevant to the Services furnished under the Agreement for a period of three (3) years from the expiration date of the Agreement and any extension thereof.

**1.51 SUBSTITUTION OF PERSONNEL**

In the event the Contractor wishes to substitute personnel for the key personnel identified by the Contractor's Proposal, the Contractor must notify the City in writing and request written approval for the substitution at least ten (10) business days prior to effecting such substitution.

**1.52 ASSUMPTION, PARAMETERS, PROJECTIONS, ESTIMATES AND EXPLANATIONS**

The Contractor understands and agrees that any assumptions, parameters, projections, estimates and explanations presented by the City were provided to the Contractor for evaluation purposes only. However, since these assumptions, parameters, projections, estimates and explanations represent predictions of future events, the City makes no representations or guarantees, the City shall not be responsible for the accuracy of the assumptions presented, the City shall not be responsible for conclusions to be drawn there from, and any assumptions, parameters, projections, estimates and explanations shall not form the basis of any claim by the Contractor. The Contractor accepts all risks associated with using this information.

**1.53 SEVERABILITY**

If the Agreement contains any provision found to be unlawful, the same shall be deemed to be of no effect and shall be deemed stricken from the Agreement without affecting the binding force of the Agreement as it shall remain after omitting such provision.

**1.54 TERMINATION FOR CONVENIENCE AND SUSPENSION OF WORK**

- A. The City may terminate the Agreement if an individual or corporation or other entity attempts to meet its contractual obligation with the City through fraud, misrepresentation or material misstatement.
- B. The City may, as a further sanction, terminate or cancel any other contract(s) that such individual or corporation or other entity has with the City. Such individual, corporation or other entity shall be responsible for all direct and indirect costs associated with such termination or cancellation, including attorney's fees.
- C. Contractor acknowledges and agrees that ten dollars (\$10.00) of the compensation to be paid by the City, the receipt and adequacy of which is hereby acknowledged by Contractor is given specific consideration to Contractor for City's right to terminate this Agreement for convenience.
- D. The City, through its City Manager, and for its convenience and without cause, terminate the Contract at any time during the term by giving written notice to consultant of such termination; which shall become effective within fifteen (15) days following receipt by the Contractor of such notice. If the Contract is terminated for convenience by the City, the Contractor shall be paid for any services satisfactorily performed up to the date of termination; following which the City shall be discharged from any and all liabilities, duties, and terms arising out, or by virtue of, this Contract.
- E. The foregoing notwithstanding, any individual, corporation or other entity which attempts to meet its contractual obligations with the City through fraud, misrepresentation or material misstatement may be debarred from City contracting in accordance with the City debarment procedures. The Contractor may be subject to debarment for failure

to perform and all other reasons set forth in Chapter 3 of the City's Purchasing Policies and Procedures Manual.

Agreement but not incorporated in the Services.

In addition to cancellation or termination as otherwise provided in the Agreement, the City may at any time, in its sole discretion, with or without cause, terminate the Agreement by written notice to the Contractor and in such event:

H. All compensation pursuant to this Article is subject to audit.

### 1.55 EVENT OF DEFAULT

F. The Contractor shall, upon receipt of such notice, unless otherwise directed by the City:

A. An Event of Default shall mean a breach of the Agreement by the Contractor. Without limiting the generality of the foregoing and in addition to those instances referred to herein as a breach, an Event of Default, shall include the following:

1. Stop work on the date specified in the notice ("the Effective Termination Date");
2. Take such action as may be necessary for the protection and preservation of the City's materials and property;
3. Cancel orders;
4. Assign to the City and deliver to any location designated by the City any non-cancelable orders for Deliverables that are not capable of use except in the performance of the Agreement and which have been specifically developed for the sole purpose of the Agreement and not incorporated in the Services;
5. Take no action which will increase the amounts payable by the City under the Agreement.

1. The Contractor has not delivered Deliverables on a timely basis;
2. The Contractor has refused or failed, except in any case for which an extension of time is provided, to supply enough properly skilled staff personnel;
3. The Contractor has failed to make prompt payment to subcontractors or suppliers for any Services;
4. The Contractor has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of the Contractor's creditors, or the Contractor has taken advantage of any insolvency statute or debtor/creditor law or if the Contractor's affairs have been put in the hands of a receiver;
5. The Contractor has failed to obtain the approval of the City where required by the Agreement;
6. The Contractor has failed to provide "adequate assurances" as required under subsection "B" below; and
7. The Contractor has failed in the representation of any warranties stated herein.

G. In the event that the City exercises its right to terminate the Agreement pursuant to this Article the Contractor will be compensated as stated in the payment Articles, herein, for the:

1. Portion of the Services completed in accordance with the Agreement up to the Effective Termination Date; and
2. Non-cancelable Deliverables that are not capable of use except in the performance of the Agreement and which have been specifically developed for the sole purpose of the

B. When, in the opinion of the City, reasonable grounds for uncertainty exist with respect to the Contractor's ability to

perform the Services or any portion thereof, the City may request that the Contractor, within the time frame set forth in the City's request, provide adequate assurances to the City, in writing, of the Contractor's ability to perform in accordance with terms of the Agreement. Until the City receives such assurances the City may request an adjustment to the compensation received by the Contractor for portions of the Services which the Contractor has not performed. In the event that the Contractor fails to provide to the City the requested assurances within the prescribed time frame, the City may:

1. Treat such failure as a repudiation of the Agreement;
  2. Resort to any remedy for breach provided herein or at law, including but not limited to, taking over the performance of the Services or any part thereof either by itself or through others.
- C. In the event the City shall terminate the Agreement for default, the City or its designated representatives may immediately take possession of all applicable equipment, materials, products, documentation, reports and data.

#### **1.56 REMEDIES IN THE EVENT OF DEFAULT**

If an Event of Default occurs, the Contractor shall be liable for all damages resulting from the default, including but not limited to:

- A. Lost revenues;
- B. The difference between the cost associated with procuring Services hereunder and the amount actually expended by the City for procurement of Services, including procurement and administrative costs; and,
- C. Such other direct damages.

The Contractor shall also remain liable for any liabilities and claims related to the Contractor's default. The City may also bring any suit or

proceeding for specific performance or for an injunction.

#### **1.57 PATENT AND COPYRIGHT INDEMNIFICATION**

- A. The Contractor warrants that all Deliverables furnished hereunder, including but not limited to: services, equipment programs, documentation, software, analyses, applications, methods, ways, processes, and the like, do not infringe upon or violate any patent, copyrights, service marks, trade secret, or any other third party proprietary rights.
- B. The Contractor shall be liable and responsible for any and all claims made against the City for infringement of patents, copyrights, service marks, trade secrets or any other third party proprietary rights, by the use or supplying of any programs, documentation, software, analyses, applications, methods, ways, processes, and the like, in the course of performance or completion of, or in any way connected with, the Work, or the City's continued use of the Deliverables furnished hereunder. Accordingly, the Contractor at its own expense, including the payment of attorney's fees, shall indemnify, and hold harmless the City and defend any action brought against the City with respect to any claim, demand, and cause of action, debt, or liability.
- C. In the event any Deliverable or anything provided to the City hereunder, or a portion thereof is held to constitute an infringement and its use is or may be enjoined, the Contractor shall have the obligation, at the City's option, to (i) modify, or require that the applicable subcontractor or supplier modify, the alleged infringing item(s) at the Contractor's expense, without impairing in any respect the functionality or performance of the item(s), or (ii) procure for the City, at the Contractor's expense, the rights provided under the Agreement to use the item(s).

- D. The Contractor shall be solely

responsible for determining and informing the City whether a prospective supplier or subcontractor is a party to any litigation involving patent or copyright infringement, service mark, trademark, violation, or proprietary rights claims or is subject to any injunction which may prohibit it from providing any Deliverable hereunder. The Contractor shall enter into agreements with all suppliers and subcontractors at the Contractor's own risk. The City may reject any Deliverable that it believes to be the subject of any such litigation or injunction, or if, in the City's judgment, use thereof would delay the Work or be unlawful.

- E. The Contractor shall not infringe any copyright, trademark, service mark, trade secrets, patent rights, or other intellectual property rights in the performance of the Work.

#### **1.58 PROPRIETARY RIGHTS**

- A. The Proposer hereby acknowledges and agrees that the City retains all rights, title and interests in and to all materials, data, documentation and copies thereof furnished by the City to the Proposer hereunder or furnished by the Proposer to the City and/or created by the Proposer for delivery to the City, even if unfinished or in process, as a result of the Services the respondent performs in connection with this Agreement, including all copyright and other proprietary rights therein, which the Proposer as well as its employees, agents, subcontractors and suppliers may use only in connection with the performance of Services under this Agreement. The Proposer shall not, without the prior written consent of the City, use such documentation on any other project in which the Proposer or its employees, agents, subcontractors or suppliers are or may become engaged. Submission or distribution by the Proposer to meet official regulatory requirements or for other purposes in connection with the performance of Services under this Agreement shall not be construed as publication in derogation of the City's copyrights or other

proprietary rights.

- B. All rights, title and interest in and to certain inventions, ideas, designs and methods, specifications and other documentation related thereto developed by the Proposer and its subcontractors specifically for the City, hereinafter referred to as "Developed Works" shall become the property of the City.
- C. Accordingly, neither the Proposer nor its employees, agents, subcontractors or suppliers shall have any proprietary interest in such Developed Works. The Developed Works may not be utilized, reproduced or distributed by or on behalf of the Proposer, or any employee, agent, subcontractor or supplier thereof, without the prior written consent of the City, except as required for the Proposer's performance hereunder.

#### **1.59 VENDOR APPLICATION AND FORMS**

Proposer shall be a registered vendor with the City's Procurement Management Division for the duration of the Agreement. It is the responsibility of the Proposer to file the appropriate vendor application and to update the application file for any changes for the duration of the Agreement, including any option years.

The City maintains an automated vendor address list that has been generated for each specific commodity class item through our electronic bid issuing service, [www.bidsync.com](http://www.bidsync.com). Notices of Request for Qualifications (RFQ'S) are sent by email to the selection of bidders who have fully registered with [www.bidsync.com](http://www.bidsync.com) and to every vendor on those lists, who may then view the bid documents online. Bidders who have been informed of a bid's availability in any other manner are responsible for registering with BidSync in order to view the bid documents. There is no fee for doing so. If you wish bid notifications be provided to another e-mail address contact [www.bidsync.com](http://www.bidsync.com).

Section 2-11.1(d) of the Miami-Dade County Code of Ordinances, requires any City employee or any member of the employee's immediate family who has a controlling financial interest, direct or indirect, with the City or any person or agency acting for the City competing or applying

for any such contract as it pertains to this solicitation, must first request a conflict of interest opinion from the County's Ethic Commission prior to their or their immediate family member's entering into any contract or transacting any business through a firm, corporation, partnership or business entity in which the employee or any member of the employee's immediate family has a controlling financial interest, direct or indirect, with the City of North Miami Beach or any person or agency acting for the City and that any such contract, agreement or business engagement entered in violation of this subsection, as amended, shall render the Agreement voidable. For additional information, please contact the Ethics Commission hotline at (305) 579-2593.

### **1.60 LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS**

Proposer agrees to comply, subject to applicable professional standards, with the provisions of any and all applicable Federal, State, County and City orders, statutes, ordinances, rules and regulations which may pertain to the Services required under the Agreement, including but not limited to:

- A. Equal Employment Opportunity (EEO), in compliance with Executive Order 11246 as amended and applicable to this Contract.
- B. Miami-Dade County Florida, Department of Small Business Development Participation Provisions, as applicable to this Contract.
- C. Occupational Safety and Health Act (OSHA) as applicable to this contract.
- D. Environmental Protection Agency (EPA), as applicable to this Contract.
- E. Miami-Dade County Code, Chapter 11A, Article 3. All contractors and subcontractors performing work in connection with this Contract shall provide equal opportunity for employment because of race, religion, color, age, sex, national origin, sexual preference, disability or marital status. The aforesaid provision shall include, but not be limited to, the following: employment, upgrading, demotion or

transfer, recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in a conspicuous place available for employees and applicants for employment, such notices as may be required by the Dade County Fair Housing and Employment Commission, or other authority having jurisdiction over the Work setting forth the provisions of the nondiscrimination law.

- F. "Conflicts of Interest" Section 2-11 of the County Code, and Ordinance 01-199.
- G. North Miami Beach Purchasing Policies and Procedures Manual Policy 3.6 "Debarment and Suspension".
- H. Florida Building Code (FBC).
- I. Notwithstanding any other provision of the Agreement, Contractor shall not be required pursuant to the Agreement to take any action or abstain from taking any action if such action or abstention would, in the good faith determination of the Contractor, constitute a violation of any law or regulation to which Contractor is subject, including, but not limited to, laws and regulations requiring that Contractor conduct its operations in a safe and sound manner.

### **1.61 NONDISCRIMINATION**

During the performance of this Contract, Proposer agrees to not discriminate against any employee or applicant for employment because of race, religion, color, sex, handicap, marital status, age or national origin, and will take affirmative action to ensure that they are afforded equal employment opportunities without discrimination. Such action shall be taken with reference to, but not be limited to, recruitment, employment, termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on-the-job training. By entering into this Contract with the City, the Proposer attests that it is not in violation of the Americans with Disabilities Act of 1990 (and related Acts). If the Proposer or any owner, subsidiary or other firm affiliated with or related to the Proposer is found by the

responsible enforcement agency or the City to be in violation of the Act, such violation shall render this Contract void. This Contract shall be void if the Proposer submits a false affidavit or the Contractor violates the Act during the term of this Contract, even if the Proposer was not in violation at the time it submitted its affidavit.

### 1.62 CONFLICT OF INTEREST

The Proposer represents that:

- A. No officer, director, employee, agent, or other consultant of the City or a member of the immediate family or household of the aforesaid has directly or indirectly received or been promised any form of benefit, payment or compensation, whether tangible or intangible, in connection with the grant of the Agreement.
- B. There are no undisclosed persons or entities interested with the Proposer in the Agreement. The Agreement is entered into by the Proposer without any connection with any other entity or person making a proposal for the same purpose, and without collusion, fraud or conflict of interest. No elected or appointed officer or official, director, employee, agent or other consultant of the City, or of the State of Florida (including elected and appointed members of the legislative and executive branches of government), or member of the immediate family or household of any of the aforesaid:
  - 1. Is interested on behalf of or through the Proposer directly or indirectly in any manner whatsoever in the execution or the performance of the Agreement, or in the services, supplies or work, to which the Agreement relates or in any portion of the revenues; or
  - 2. Is an employee, agent, advisor, or consultant to the Contractor or to the best of the Proposer's knowledge, any subcontractor or supplier to the Proposer.
- C. Neither the Proposer nor any officer,

director, employee, agent, parent, subsidiary, or affiliate of the Proposer shall have an interest which is in conflict with the Proposer's faithful performance of its obligations under the Agreement; provided that the City Attorney, in its sole discretion, may consent in writing to such a relationship, and provided the Proposer provides the City with a written notice, in advance, which identifies all the individuals and entities involved and sets forth in detail the nature of the relationship and why it is in the City's best interest to consent to such relationship.

- D. The provisions of this Article are supplemental to, not in lieu of, all applicable laws with respect to conflict of interest. In the event there is a difference between the standards applicable under the Agreement and those provided by statute, the stricter standard shall apply.
- E. In the event Proposer has no prior knowledge of a conflict of interest as set forth above and acquires information which may indicate that there may be an actual or apparent violation of any of the above, Proposer shall promptly bring such information to the attention of the City's Attorney. Proposer shall thereafter cooperate with the City Attorney's review and investigation of such information, and comply with the instructions Proposer receives from the Contract Manager in regard to remedying the situation.

### 1.63 PRESS RELEASE OR OTHER PUBLIC COMMUNICATION

Under no circumstances shall the Proposer, its employees, agents, subcontractors and suppliers, without the express written consent of the City:

- A. Issue or permit to be issued any press release, advertisement or literature of any kind which refers to the City, or the Work being performed hereunder, unless the Proposer first obtains the written approval of the City. Such approval may be withheld if for any reason the City believes that the publication of such information would be harmful to the

public interest or is in any way undesirable; and

- B. Communicate in any way with any contractor, department, board, agency, Commission or other organization or any person whether governmental or private in connection with the Services to be performed hereunder except upon prior written approval and instruction of the City; and
- C. Represent, directly or indirectly, that any product or service provided by the Proposer or such parties has been approved or endorsed by the City, except as may be required by law.

#### **1.64 BANKRUPTCY**

The City reserves the right to terminate this contract if, during the term of any contract the Proposer has with the City, the Proposer becomes involved as a debtor in a bankruptcy proceeding, or becomes involved in a reorganization, dissolution, or liquidation proceeding, or if a trustee or receiver is appointed over all or a substantial portion of the property of the Proposer under federal bankruptcy law or any state insolvency law.

#### **1.65 GOVERNING LAW/VENUE**

This Contract, including appendices, and all matters relating to this Contract (whether in contract, statute, tort (such as negligence), or otherwise) shall be governed by, and construed in accordance with, the laws of the State of Florida. Venue shall be in Miami-Dade County.

#### **1.66 SURVIVAL**

The parties acknowledge that any of the obligations in the Agreement will survive the term, termination and cancellation hereof. Accordingly, the respective obligations of the Proposer and the City under the Agreement, which by nature would continue beyond the termination, cancellation or expiration thereof, shall survive termination, cancellation or expiration hereof.

#### **1.67 VERBAL INSTRUCTIONS PROCEDURE**

No negotiations, decisions, or actions shall be initiated or executed by the Proposer as a result

of any discussions with any City employee. Only those communications which are in writing from an authorized City representative may be considered. Only written communications from Proposer, which are assigned by a person designated as authorized to bind the Proposer, will be recognized by the City as duly authorized expressions on behalf of Proposer.

#### **1.68 PROHIBITION OF INTEREST**

No contract will be awarded to a proposing firm who has City elected officials, officers or employees affiliated with it, unless the proposing firm has fully complied with current Florida State Statutes and City Ordinances relating to this issue. Proposers must disclose any such affiliation. Failure to disclose any such affiliation will result in disqualification of the Proposer or termination of the agreement, removal of the Proposer from the City's Proposer lists, and prohibition from engaging in any business with the City.

#### **1.69 NO CONTINGENT FEES**

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

#### **1.70 E-VERIFY**

Proposer acknowledges that the City may be utilizing the Proposer's services for a project that is funded in whole or in part by State funds pursuant to a contract between the City and a State agency. Proposer shall be responsible for complying with the E-Verify requirements in the contract and using the U.S. Department of Homeland Security's E-Verify system to verify the employment of all new employees hired by Proposer during the Agreement term. The

Proposer is also responsible for e-verifying its subcontractors, if any, pursuant to any agreement between the City and a State Agency, and reporting to the City any required information. Proposer acknowledges that the terms of this paragraph are material terms, the breach of any of which shall constitute a default under the Agreement.

#### **1.71 FORCE MAJEURE**

The Agreement which is awarded to the successful Proposer may provide that the performance of any act by the City or Proposer hereunder may be delayed or suspended at any time while, but only so long as, either party is hindered in or prevented from performance by acts of God, the elements, war, rebellion, strikes, lockouts or any cause beyond the reasonable control of such party, provided however, the City shall have the right to provide substitute service from third parties or City forces and in such event the City shall withhold payment due Proposer for such period of time. If the condition of force majeure exceeds a period of 14 days the City may, at its option and discretion, cancel or renegotiate the Agreement.

#### **1.72 BUDGETARY CONSTRAINTS**

In the event the City is required to reduce contract costs due to budgetary constraints, all services specified in this document may be subject to a permanent or temporary reduction in budget. In such an event, the total cost for the affected service shall be reduced as required. The Proposer shall also be provided with a minimum 30-day notice prior to any such reduction in budget.

#### **1.73 ANNEXATION**

Proposer agrees to extend all terms, conditions and pricing in the Agreement and any amendments thereto, to any areas annexed into the City.

#### **1.74 SOVEREIGN IMMUNITY**

Nothing in the Agreement shall be interpreted or construed to mean that the City waives its common law sovereign immunity or the limits on liability set forth in Section 768.28, Florida Statute.

#### **1.75 SCRUTINIZED COMPANIES PURSUANT TO SECTION 287.135 AND 215.473**

Contractor must certify that the company is not participating in a boycott of Israel. Contractor must also certify that Contractor is not on the Scrutinized Companies that Boycott Israel list, not on the Scrutinized Companies with Activities in Sudan List, and not on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria. Subject to limited exceptions provided in state law, the City will not contract for the provision of goods or services with any scrutinized company referred to above. Contractor must submit the certification that is attached to this contract. Submitting a false certification shall be deemed a material breach of contract. The City shall provide notice, in writing, to the Contractor of the City's determination concerning the false certification. The Contractor shall have five (5) days from receipt of notice to refute the false certification allegation. If such false certification is discovered during the active contract term, the Contractor shall have ninety (90) days following receipt of the notice to respond in writing and demonstrate that the determination of false certification was made in error. If the Contractor does not demonstrate that the City's determination of false certification was made in error then the City shall have the right to terminate the contract and seek civil remedies pursuant to Section 287.135, Florida Statutes, as amended from time to time.

**END OF SECTION**

## **SECTION 2.0 SPECIAL CONDITIONS**

### **2.1 COMPETENCY OF PROPOSERS**

Proposals shall be considered only from firms that have been continuously engaged in providing products and services similar to those specified herein for a reasonable period and that are presently engaged in the provision of these services. Contract(s) will be awarded only to responsible and responsive Proposer(s) qualified by experience to do the work specified.

The Proposer shall submit, prior to award of Contract, satisfactory evidence of his experience in like work and that he is fully prepared with the necessary organization, capital, and personnel to complete the Scope of Services. Proposer shall be insured, licensed and certified by all applicable local, county, and state agencies.

### **2.2 PERFORMANCE OF SERVICES**

Proposer agrees to perform services in a professional and workmanlike manner and in compliance with all applicable laws, ordinances, rules, regulations, and permits. Only the highest quality services shall be acceptable. Services, equipment and workmanship not conforming to the intent of the Agreement or meeting the approval of the City may be rejected.

### **2.3 TERM OF ENGAGEMENT**

The City anticipates that the contract will have an initial period of and one (1) year term with four (1) options to renew at one (1) year each for a total of five (5) years. Initial contract term and option years, as applicable, will be determined during the negotiation process and shall be specified in resultant agreement.

### **2.4 REQUESTS FOR INFORMATION**

For information concerning specifications please utilize the question / answer feature provided by BidSync at [www.bidsync.com](http://www.bidsync.com). Questions of a material nature must be received prior to the cut-off date specified in the solicitation. Material changes, if any, to the scope of services or bidding procedures will only be transmitted by written addendum.

(See addendum section of BidSync Site). Please note: No part of your bid can be submitted via FAX. No variation in price or conditions shall be permitted based upon a claim of ignorance. Submission of a bid will be considered evidence that the Contractor has familiarized themselves with the nature and extent of the work, and the equipment, materials, and labor required. The entire bid response must be submitted in accordance with all specifications contained in this solicitation. The questions and answers submitted in [www.bidsync.com](http://www.bidsync.com) shall become part of any contract that is created from this RFQ.

Any oral instructions given are not binding. All questions and interpretations will be clarified in writing to all Proposers by written addenda. Failure of a Proposer to receive and/or acknowledge any addendum shall not release the Proposer from any obligations under this solicitation.

### **2.5 SCHEDULE OF EVENTS**

The City will use the following tentative time schedule in the selection process. The City reserves the right to change and/or delay scheduled dates.

<b>Event</b>	<b>Date</b>
RFQ Available	10/15/19
Last Date Receipt of Questions 5:00 pm EST)	11/12/19
Proposals Due (2:00 pm EST)	11/19/19
Evaluation Committee Review Meetings	11/29/19
Oral Interviews with Short List/Ranking	12/12/19
City Commission Resolution to Award	1/21/2020

### **2.6 VARIATIONS, CONTRADICTIONS AND SUBSTITUTIONS**

Any variations from RFQ specifications, no matter how slight, including substitutions of products or methods, must be noted and explained fully in a submittal with bid entitled "Exceptions to Specifications". If no exceptions are noted, it shall be understood that the plans and specifications will be adhered to exactly.

Where an "or equal" is specified, the City shall be the sole judge in determining equality. Any deviation from these specifications and/or changes during construction must be approved by the City in writing. If specifications are in contradiction, or if they contain any errors or omissions, bidders shall notify the Procurement Division in writing at

least ten (10) working days before the Solicitation opening, or at the pre-proposal conference, to allow sufficient time to resolve all discrepancies.

**2.7 VENDOR AS AN INDEPENDENT CONTRACTOR**

It is expressly agreed that the Proposer is an independent contractor and not an agent of City. The Proposer shall not pledge or attempt to pledge the credit of City or in any other way attempt to bind the City.

**2.8 PROTECTION OF PROPERTY**

The Proposer shall take extra precaution to protect all property while conducting services. Any damage done by the Proposer shall be corrected to its original or better state, and shall be corrected to the satisfaction of the Project Manager or designee.

**2.9 PROPOSER'S REPRESENTATIONS**

Proposer must familiarize itself with the nature and extent of the Solicitation Documents, locality, and all local conditions and Laws and Regulations that in any manner may affect cost, progress, performance or furnishing of the services.

Proposer must give Project Manager written notice of all conflicts, errors or discrepancies that he has discovered in the Solicitation Documents and the written resolution thereof by Project Manager is acceptable to Proposer.

**2.10 PERSONNEL**

Proposer's personnel shall carry photo identification, commercial driver's license, and show same to City personnel at any time upon request. The City reserves the right to request the same of Subcontractors.

**END OF SECTION**

## SECTION 3.0 SCOPE OF SERVICES

### 3.1 PURPOSE AND INTENT

The City of North Miami Beach is inviting qualified attorneys and/or law firms to submit statements of their qualifications to provide a full range of municipal legal services serving as the City's legal counsel on a contractual or on an In-House basis to the City in response to this Request for Qualifications (the "RFQ").

The City Attorney will perform all duties pursuant to the City of North Miami Beach's Charter and Code of Ordinances. The services sought by the City include, whether in part or in whole, is the attorney of record, or be responsible for the oversight of the attorney of record and to perform all duties pursuant to the City of North Miami Beach's Charter and Code of Ordinances, including, but not limited to the items mentioned herein.

The City is willing to consider one of two options:

**OPTION #1:** Selecting a qualified Firm to provide legal services under a contractual relationship;

or,

**OPTION #2:** Hiring a qualified attorney as in-house counsel, along with a team of individuals hired by the City.

### 3.2 CITY OF NORTH MIAMI BEACH BACKGROUND AND DEMOGRAPHICS

The City of North Miami Beach is a first-tier suburb located in the southeast part of Florida, in northeastern Miami-Dade County. It encompasses an area of approximately 5.3 square miles, with an estimated population of 42,000. Located midway between Miami and Fort Lauderdale with excellent regional highway access, it is primarily a residential and shopping community. Its central location and easy access have made North Miami Beach one of South Florida's best known regional shopping areas, offering a wide variety of recreational, cultural, and dining experiences. The City of North Miami Beach celebrated its 90<sup>th</sup> Anniversary in 2016.

The City of North Miami Beach owns and operates its own water and sewer utility. The City of North Miami Beach Water Utility is the second largest in Miami-Dade County and one of the biggest in the State of Florida NMB Water is counseled by a seven-member Public Utilities Commission, which acts as an advisory committee to the Mayor and City Commission regarding decisions on water utility rates, expansions, and expenditures. NMB Water provides potable water service to approximately 180,000 people in the municipalities of North Miami Beach, Aventura, Sunny Isles Beach, Miami Gardens, Golden Beach, and Miami-Dade County..

The City operates under a "**commission-manager system**" form of local government. The Mayor and six Commission members are elected at-large on a non-partisan basis.

The City provides a full range of municipal services including police protection, water and wastewater services, sanitation, recreation, public improvements, streets, planning and zoning, and general administrative services.

The Adopted Fiscal Year 2019/220 Budget is \$163,746,757 and includes a staffing of 341 fulltime employees.

### **3.3 INTRODUCTORY INFORMATION**

The City Attorney is the chief legal officer of the City under the direction and control of the City Commission; and also acts as legal counsel for the City Manager and Department Heads. Among other responsibilities, the City Attorney prepares or revises contracts; is responsible for all litigation; makes recommendations for ordinances, resolutions and other documents or procedures affecting the legal position of the City; provides legal opinions; attends all regular meetings of the City Commission, (i.e., every 3rd Tuesday of the month), any special meetings of the Commission, Commission Workshop, Planning and Zoning Board meetings, and citizen advisory board meetings or other workshops, when necessary. As necessary, the City Attorney may represent the City in court; reviews all contracts and instruments to which the City is a party; enforces City laws and regulations; reviews and analyzes all state and federal legislation affecting the City.

The selected qualified firm and/or qualified attorney shall demonstrate specific experience and capabilities and must have personnel qualified through education and experience in the specified disciplines. In all professional functions the contracted lawyer should be competent, prompt, and diligent; should maintain communication with City staff and should keep in confidence information relating to representation of a client except so far as disclosure is required or permitted by the Rules of Professional Conduct or by law.

The City desires to hire a qualified firm and/or qualified attorney that possess/possesses experience and expertise in areas of complex local government law including but not limited to the following areas:

1. Procurement/preparation and evaluation of RFQs, RFPs, and bidding issues.
2. Commercial litigation.
3. Elections issues.
4. Code compliance and environmental issues.
5. Labor, employment law, and all HR issues.
6. Ad valorem tax issues.
7. Public works issues.
8. Real estate and real estate related transactions and matters.
9. Land use and zoning matters.
10. Construction and construction-related issues.
11. Sunshine, public records laws, conflict of interest and other ethical issues.
12. Drafting of development agreements, proportionate share and impact fee agreements, traffic impacts and mitigation, platting, and service agreements.
13. Preparation of legislation and/or development of policies and procedures.
14. Monitoring, reviewing, and advising on all state and federal legislation that may affect the City's interest or business and compliance issues.
15. Eminent domain and inverse condemnation.
16. Charter review and preparation of charter amendments/ballot amendments.
17. Police and police-related and/or constitutional issues.
18. Telecommunications and franchise issues.
19. Contract law and administrative law, including interpretation of governmental agency rulings.
20. Corporate and commercial Law.
21. Federal and state grants recipient regulations and compliance.
22. Public Utilities.
23. Special taxing districts.
24. Community Redevelopment Agency (CRA).
25. Law Enforcement Trust Fund (LETF).
26. The Citizens' Independent Transportation Trust (CITT).
27. Various granting agencies, such as The Children's Trust.

**3.4 QUALIFICATIONS:**

The primary designated attorney shall have a Juris Doctor (JD) degree and licensure to practice law in Florida. A minimum of five (5) years of increasingly responsible legal experience in the practice of Florida municipal law is required. Experience in development/redevelopment is critical. Experience in litigation and public utilities is also highly desirable.

The attorney(s) other than the primary designated attorney (Assistant City Attorney and attorney(s) other than the primary) must have a minimum of five (5) years' experience practicing Florida municipal law and representing municipal governments or other related experience. If proposed Assistant City Attorney has less than the minimum of five (5) years of experience, this shall be specifically mentioned, and the City reserves the right to take this into consideration when evaluating.

The Attorney(s) must be licensed within the State of Florida and be in good standing with the Florida Bar Association. With limited applicability to the City Attorney (not the law firm) he/she shall not, during his/her tenure of office, engage in any private practice of law.

Such experience should include representing municipal governments in facets of daily government operations as well as experience in coordinating and managing the work of other law firms brought in for areas of specialized expertise. Board Certification by individuals of the firm in the field of city, county, and local government law is desired. (duplicated in second paragraph)

The Firm or attorney must be licensed with the State of Florida and be in good standing with the Florida Bar Association. Professional legal services are to be provided on a contractual fee-for services basis (i.e., a combination of retainers and hourly rates).

Experience and knowledge of local governmental and administrative law.

Experience practicing municipal law and, advising elected bodies and administrative boards.

Experience providing counsel to a Florida elected body, operating in the Florida Sunshine Law and public records environment.

Exceptional interpersonal skills, composure, a team-oriented philosophy, and the ability to work with a variety of diverse groups and issues.

Firms are advised and should take into account in the preparation of their Proposal, that the evaluation of the firm's qualifications shall include, but is not limited to, consideration of the Firm's experience in municipal law and experience, availability, capabilities and hourly billing rate of the primary legal advisor to the City. In addition, the City will take into account the experience, availability, capabilities and hourly billing rates of the backup legal advisor(s) and support personnel to the City in the event that the primary legal advisor is unable to represent the City at any given meeting or on any given matter.

**3.5 THE CITY ATTORNEY SHALL:**

1. Be the attorney of record, or be responsible for the oversight of the attorney of record, in all civil suits, actions and legal proceedings wherein the City Commission, departments, boards, City officials or employees are parties by virtue of their official positions or actions, unless such suits, actions or legal proceedings are assigned by the City to special counsel;

City of North Miami Beach  
RFQ No. 19-094-DR  
CITY ATTORNEY – PROFESSIONAL LEGAL SERVICES

2. The City Attorney will draft and/or review ordinances, charter amendments, resolutions, contracts, and correspondence;
3. Provide for the defense of all civil suits, actions and legal proceedings brought against the City unless such suits, actions or legal proceedings are assigned by the City to special counsel;
4. Serve as legal adviser to the Mayor, City Commission, Department Directors, and City staff;
5. Render written legal opinions on matters relating to city government and the interpretation, construction and meaning of the charter, statutes, ordinances, resolutions and contracts affecting or pertaining to city government;
6. Prepare or review and approve as to form and legal sufficiency, all City ordinances, resolutions, deeds, contract documents and other legal instruments affecting or pertaining to the City or in which the City is a party;
7. Attend and be present during all Commission regular meetings, workshops and special meetings of the City Commission. The City Attorney shall represent the Commission at each of these meetings, provide appropriate legal advice and/or written opinions, as necessary, and provide parliamentary guidance concerning the conduct of each of the meetings of the Commission. When requested by the City Commission, attend meetings of special committees of the City Commission and meetings of City boards;
8. Perform all duties and functions imposed by general or special laws upon City attorneys;
9. Monitor the performance of any duties assigned to special counsel;
10. Assist in the drafting and review of the City's Comprehensive Plan and any amendments thereof;
11. Keep the City Commission and City staff informed of new laws or judicial opinions that could affect the City in any way;
12. As requested, the City Attorney shall advise on insurance matters coordinated by the Risk Manager. The City Attorney may also represent an employee or elected official who is individually named in a suit as a result of the execution of official duties with the City. When the City's insurance coverage is activated on a given matter, the City Attorney shall cooperate as necessary with the legal counsel designated by the City's liability insurance carrier to ensure that the matter is dealt with in an expedient and professional manner;
13. As requested, the City Attorney will provide the city staff with assistance and legal counsel relating to the acquisition or sale of real property and in the review or preparation of deeds, easements and title matters;
14. As requested, the City Attorney will provide the North Miami Beach Police Department with legal counsel and/or coordination on certain Confiscated Property Fund matters, Nuisance Abatement matters, and other matters primarily under the jurisdiction of the North Miami Beach Police Department;
15. The City Attorney will perform other legal research and provide legal advice as requested by the Mayor, City Commission, or City staff;
16. Participate in labor and other negotiations when requested;

17. Submit (monthly) reports of activities performed, including but not limited to status and updates on active files, and prepare an annual report of all Legal matters concerning the City requested during the annual audit;
18. When requested, interview witnesses, take testimony, review reports, and conduct legal research;
19. The selected attorney or firm shall maintain auditable records to account for all receipts and expenditures, and to document compliance with the specifications. These records shall be kept in accordance with Generally Accepted Accounting Principles, and the City reserves the right to determine record-keeping methods in the event of non-conformity.

### **3.6 REQUIREMENTS OF PROFESSIONAL SERVICES**

1. Attendance at all meetings of the City Commission. These are routinely scheduled at 6:00 pm on the third Tuesday of each month and 5:00 pm on the fourth Thursday of every month. The number of special and/or cancelled meetings may vary each month and are scheduled as required. The City Attorney shall represent the Mayor and Commission at each of these meetings, provide appropriate legal advice and/or written opinions, as necessary, and provide parliamentary guidance concerning the conduct of each of the meetings of the Commission.

The City Attorney shall attend City Commission meetings and workshop sessions as needed. In addition, the City Attorney will attend City committee meetings or other meetings as requested by the City Manager or Commission when items under consideration warrant legal input.

2. The City will provide the attorney with dedicated office space located at City Hall, from which they will conduct City business, five days a week. This accommodation is being made to help facilitate city administration with legal assistance, conduct meetings and obtain legal advice while onsite.

As requested, the City Attorney will:

3. Draft and/or review ordinances, charter amendments, resolutions, contracts, and correspondence.
4. Provide legal consultation on some City insurance matters; and provide legal advice or written opinions to City staff on matters related to their official duties.
5. As required by formal authorization of the Mayor and/or City Commission, the City Attorney shall prosecute and defend the City on all civil complaints, suits or controversies in which the City is a party, including the Board of Adjustment and Code Enforcement Board in certiorari proceedings. Specifically, the City Attorney is responsible for prosecuting and defending the City in civil action when no counsel is provided by liability insurance or when the City's exposure exceeds its insurance coverage. The City Attorney may also represent an employee or elected official who is individually named in a suit as a result of the execution of official duties with the City. When the City's insurance coverage is activated on a given matter, the City Attorney shall cooperate as necessary with the legal counsel designated by the City's liability insurance carrier to ensure that the matter is dealt with in an expedient and professional manner.
6. As requested, the City Attorney will provide the City staff with assistance and legal counsel relating to the City's acquisition or sale of real property and in the review or preparation of deeds, easements and title matters.
7. As requested, the City Attorney will provide the Police Department with legal counsel and/or coordination on certain Confiscated Property Fund matters, nuisance abatement matters, and other matters primarily under the jurisdiction of the Police Department and other police-related matters.

8. As requested by City staff, boards, or City Commission members, the City Attorney will review situations in which laws, regulations or rules can reasonably be construed to impact the City's interests.
9. The City Attorney will provide a monthly concise update on litigations & special projects to the Mayor and City Commission.
10. The City Attorney will perform other legal research and provide legal advice as requested by the Mayor, City Commission, or City staff.
11. Remain current on federal, state and Florida local government law and legislative issues that may pertain to the operation of the City and provide direction, as appropriate, to the Mayor, City Commission and staff.
12. Participate in labor and other negotiations when requested.
13. Submit (monthly) reports of activities performed, including but not limited to status and updates on active files. Invoices shall be submitted (monthly) for services rendered.

***END OF SECTION***

## SECTION 4.0 PROPOSAL FORMAT

Respondents shall submit One (1) original complete proposal package, eleven (11) duplicate copies of said package and one (1) flash drive or CD copy, to the City of North Miami Beach Procurement Management Division – Attention: Procurement Management Division, 17011 N.E. 19<sup>th</sup> Avenue, 3<sup>rd</sup> Floor, North Miami Beach, FL 33162 on or before the due date stipulated above. All packages shall be clearly marked “**RFQ No. 19-084-DR City Attorney – Professional Legal Services**”.

Proposal packages shall be clearly divided using the below format with tabs and titles indicating sections as prescribed:

Proposals are to be submitted accompanied by pertinent information relating to the responder’s experience, qualifications, personnel, availability and capability to provide and perform all of the professional services necessary in a complete, effective and timely manner. In addition to the information and documents requested above, each Proposal shall include:

**1. Title Page & Table of Contents:**

List the RFQ subject, the name of the attorney/firm, address, telephone number, facsimile, email address, contact person and date. Include a clear identification of the material included in submittal by page number.

**2. Identification of Principal, Secondary and other Representatives:**

With regard to the Firm or attorney proposed under this solicitation, describe your general qualifications for providing municipal legal services. Include the following specific information related to this proposal:

- a) Name(s) of attorneys proposed to provide services to the City;
- b) Provide the lead attorney that will be the main contract with the City. This individual is expected to remain the responsible attorney throughout the engagement. Provide the name of the secondary attorney who will serve in the absence of the lead attorney.
- c) Identify specific areas of certification and experience by individual and curriculum vita for each attorney who will be serving the City. This information should include relevant academic training and degrees, description of prior experience in law areas described in the scope of services, number of years with the firm, areas of responsibility with the firm, and other background or experience which may be helpful (including board certifications; experience in advising entities on Florida Sunshine and public records law, legislative and quasi-judicial bodies; Alternative Dispute Resolution (ADR) training, experience and success record of advocacy in mediation and arbitrations; litigation experience and track record, municipal or other public sector experience or any other relevant experience and training);

**3. Identify specific experience providing legal services to local governments in the following areas:**

- a) ethics & public records;
- b) general municipal law;
- c) workers compensation;

- d) land use and zoning;
  - e) code enforcement;
  - f) utilities (particular emphasis on water and wastewater);
  - g) labor;
  - h) forfeiture;
  - i) municipal bonds;
  - j) pension
4. Provide a list and explanation of any ethics complaints filed against the law firm, any attorney in the law firm or any attorney proposed under this solicitation and a list of any disciplinary procedures taken against any current member of the firm or attorney proposed under this solicitation by the Florida Bar Association or any relevant State regulatory agency within the last ten years.
- NOTE: Attorneys proposed under this solicitation shall not have been disciplined by the Florida Bar Association during the past 10 years;*
5. Identify potential conflicts of interest or ethical considerations related to representation or affiliation with any boards, organizations, committees, or clients, including, but not limited to, other municipalities, governmental, and/or quasi-governmental entities;
6. Provide a list of other municipalities or other governmental entities currently being represented by the firm or attorney proposed under this solicitation;
7. Any malpractice claims against the firm, any of the attorneys in the firm or any attorney proposed under this solicitation in the last ten years;
8. With regard to the Firm or attorney proposed under this solicitation, describe your approach to providing legal services to the City. Include the following specific information related to this proposal:
- a) How you would structure the working relationship between the City Attorney's Office, the City Manager and the Mayor and Commission, (Specifically identify in this section if proposing under Option #1 or Option #2);
  - b) Areas of expertise where you anticipate requiring the use of special outside counsel.

**If proposing under Option #1 - Contracted Services:**

1. Proposed staffing for the City Attorney's office by the firm;
2. Work Load: List any schedule commitments on the part of the primary or backup designees e.g. meeting requirements of other municipalities or government entities represented by your Firm) that may conflict with the meeting schedule for the City of North Miami Beach.
3. The structure of compensation and fees you will charge the City as well as projected budgeted costs of the relationship with the City. Specifically, the firm shall identify the personnel and resources to be provided under a monthly lump sum amount for general city attorney services. The firm shall also

identify any services not included within this monthly lump sum amount and the proposed manner (hourly rate; negotiated fixed amount; etc.) these additional services will be billed. For purposes of this solicitation, services not identified as being outside general city attorney services will be considered covered under the monthly lump sum amount to be negotiated.

**If proposing under Option #2 - In-House Counsel:**

1. Proposed staffing for the City Attorney's Office, including proposed positions and functions each is anticipated to perform.
2. Proposed methodology and timeframe anticipated for recruiting each position;
3. The salary range being sought for City Attorney and proposed compensation package.

**5.0 EVALUATION/SELECTION PROCESS FOR OPTION #1**  
**A QUALIFIED LAW FIRM TO PROVIDE LEGAL SERVICES**  
**UNDER A CONTRACTUAL RELATIONSHIP**

An Evaluation/Selection Committee will review and evaluate the Proposals submitted. An independent review and ranking will be conducted for firms submitting for “Option #1” and/or attorneys submitting for “Option #2”

- A. The City Manager established an Evaluation/Selection Committee of a minimum of (4) four Members to review Proposals. The Evaluation/Selection Committee shall conduct an evaluation of the firms. The Evaluation/Selection Committee may require follow-up interviews and/or presentations as part of the evaluation process and ranking.
- B. The Evaluation/Selection Committee will evaluate and rank all eligible and responsible proposals based on the evaluation criteria listed below. The criteria are itemized with their respective weights for a maximum available total of one hundred (100) points. A Firm may receive all or a portion of this amount depending on the merit of the proposal and in relation to the competing proposals as determined by the Evaluation/Selection committee.

Criteria for Evaluation	Available Points
Approach to Providing City Legal Services	30
Experience, Qualification & References (City Attorney/Firm and Proposed Staff)	40
Litigation	15
Conflict of Interest/Ethical Considerations	10
Location (Proximity to City of North Miami Beach City limits)	5
<b>Total Points</b>	<b>100</b>

The full Evaluation/Selection Committee will then convene to review and discuss these evaluations and to combine the individual scores to arrive at a composite score for each firm. The Evaluation/Selection Committee may, at its sole discretion, shortlist the proposers and may invite only the shortlisted firms to an interview/presentation session.

**A. Criteria**

**1. Approach to Providing City Legal Services (Possible 30 Points)**

- a) Provide a proposed transition approach and/or strategy for handling current cases or legal matters. If this section is not applicable to your situation, explain why.
- b) Provide a description of the approach that will be used and manner in which the respondent would recommend the provision of Legal Services to the City, to include, but not limited to objectives, scope, and methodology.

- c) Information needed from the city to accomplish work during contract performance or prior to contract award and how the firm will successfully accomplish the work if such information is not obtained.
- d) Describe the firm's approach toward providing proactive legal services, which will minimize claims and litigation, and measures that will be used to stay within established budget. Describe how you would propose to handle a situation when over budget.

2. **Experience, Qualification & References (City Attorney/Firm and Proposed Staff) (Possible 40 Points)**

- a) Provide a current resume of the primary attorney who will assume the responsibility under this contract. This information should include relevant academic training and degrees, description of prior experience in law areas described in the scope of services, number of years with the firm, areas of responsibility with the firm, and other background or experience which may be helpful in evaluating this proposal (board certifications; experience in advising entities on Florida Sunshine and public records law, legislative and quasi-judicial bodies; Alternative Dispute Resolution (ADR) training, experience and success record of advocacy in mediation and arbitrations; litigation experience and track record, municipal or other public sector experience; zoning & land use experience; or any other relevant experience and training.)
- b) Provide the information above for the proposed back-up legal representative(s) for the City.
- c) Provide the information above for any other personnel, if appropriate.
- d) Identify municipal court litigation 'win/loss' history (lawsuits, etc.). Number of litigation cases won and lost, type of cases, and financial outlay.

3. **Litigation (Possible 15 points)**

- a) Provide a list of all judgments or lawsuits against each attorney and/or the firm in the last seven (7) years, including the nature of the lawsuit and the resolution thereof. Provide a list of all lobbyist(s) employed by your firm and areas in which they lobby.

4. **Conflict of Interest/Ethical Considerations (Possible 10 Points)**

- a) List any clients you currently represent that could cause a conflict of interest with your responsibilities to the City. Describe how you would be willing to resolve these or any future conflicts of interest.
- b) List any potential conflicts of interest or ethical considerations related to representation or affiliation with any boards, organizations, committees, clients, or any other entities.
- c) Provide a list of other municipalities or other governmental entities currently being represented by the firm or attorney(s) proposed under this solicitation.
- d) Provide a list and explanation of any ethics complaints filed against each attorney and/or the firm or any attorney proposed under this solicitation by the Florida Bar Association or any relevant State regulatory agency within the past ten (10) years.

5. **Location (Possible 5 Points)**

- a) Within Miami-Dade, Broward and Palm Beach Counties
- b) Within Miami-Dade, and Broward Counties
- c) Outside Miami-Dade, Broward, & Palm Beach Counties, but within the State of Florida

Provide the address of the primary office that will be providing legal services to the City.

Provide a list and description of ownership, office location, and principal office where the majority of the City's work will be performed and contact information.

These weighted criteria are provided to assist the proposers in the allocation of their time and efforts during the submission process. The criteria also guide the Evaluation/Selection Committee during the evaluating and ranking of Respondents by establishing a general frame work for those deliberations.

- B.** The City of North Miami Beach reserves the right to retain all proposals submitted and use any idea in a proposal regardless of whether that proposal is selected.
- C.** The successful Firm shall be required to execute a City contract covering the scope of services to be provided and setting forth the duties, rights and responsibilities of the parties. This contract must be executed by the successful FIRM prior to recommendation of final award to the City Commission.
- D. Final Selection** - The Mayor and City Commission may require presentations of the top ranked firm during a public meeting and shall ratify final recommendation provided/presented by the Evaluation Committee.

**5.0 EVALUATION/SELECTION PROCESS FOR OPTION #2**

**A QUALIFIED ATTORNEY AS IN-HOUSE COUNSEL, ALONG WITH A TEAM OF INDIVIDUALS HIRED BY THE CITY**

An Evaluation/Selection Committee will review and evaluate the Proposals submitted. An independent review and ranking will be conducted for firms submitting for “Option #1” and/or attorneys submitting for “Option #2”.

- A. The City Manager established an Evaluation/Selection Committee of a minimum of (4) four Members to review Proposals. The Evaluation/Selection Committee shall conduct an evaluation of the statements of qualification for the attorney. The Evaluation/Selection Committee may require follow-up interviews and/or presentations as part of the evaluation process and ranking.
- B. The Evaluation/Selection Committee will evaluate and rank all eligible and responsible proposals based on the evaluation criteria listed below. The criteria are itemized with their respective weights for a maximum available total of one hundred (100) points. An individual may receive all or a portion of this amount depending on the merit of the proposal and in relation to the competing proposals as determined by the Evaluation/Selection committee.

Criteria for Evaluation	Available Points
Approach to Providing City Legal Services	40
Experience, Qualification & References (City Attorney and Proposed Staff)	30
Litigation	20
Conflict of Interest/Ethical Considerations	10
<b>Total Points</b>	<b>100</b>

The full Evaluation/Selection Committee will then convene to review and discuss these evaluations and to combine the individual scores to arrive at a composite score for each attorney. The Evaluation/Selection Committee may, at its sole discretion, shortlist the proposers and may invite only the shortlisted attorneys to an interview/presentation session.

C. **Criteria**

1. **Approach to Providing City Legal Services (Possible 40 Points)**

- a) Provide a proposed transition approach and/or strategy for handling current cases or legal matters. If this section is not applicable to your situation, explain why.
- b) Provide a description of the approach that will be used and manner in which the respondent would recommend the provision of Legal Services to the City, to include, but not limited to objectives, scope, and methodology.
- c) Information needed from the city to accomplish work during contract performance or prior to contract award and how the attorney will successfully accomplish the work if such information is not obtained.

- d) Describe your approach toward providing proactive legal services, which will minimize claims and litigation, and measures that will be used to stay within established budget. Describe how you would propose to handle a situation when over budget.

**2. Experience, Qualification & References (City Attorney and Proposed Staff) (Possible 30 Points)**

- a) Provide a current resume of the attorney who will assume the responsibility under this contract. This information should include relevant academic training and degrees, description of prior experience in law areas described in the scope of services, number of years with the firm, areas of responsibility with the firm, and other background or experience which may be helpful in evaluating this proposal (board certifications; experience in advising entities on Florida Sunshine and public records law, legislative and quasi- judicial bodies; Alternative Dispute Resolution (ADR) training, experience and success record of advocacy in mediation and arbitrations; litigation experience and track record, municipal or other public sector experience; zoning & land use experience; or any other relevant experience and training.)
- b) Provide the information above for the proposed back-up legal representative(s) for the City.
- c) Provide the information above for any other personnel, if appropriate.
- d) Identify municipal court litigation 'win/loss' history (lawsuits, etc.). Number of litigation cases won and lost, type of cases, and financial outlay.

**3. Litigation (Possible 20 points)**

- a) Provide a list of all judgments or lawsuits against each attorney in the last seven (7) years, including the nature of the lawsuit and the resolution thereof. Provide a list of all lobbyist(s) employed by the individual and areas in which they lobby.

**4. Conflict of Interest/Ethical Considerations (Possible 10 Points)**

- a) List any clients you currently represent that could cause a conflict of interest with your responsibilities to the City. Describe how you would be willing to resolve these or any future conflicts of interest.
- b) List any potential conflicts of interest or ethical considerations related to representation or affiliation with any boards, organizations, committees, clients, or any other entities.
- c) Provide a list of other municipalities or other governmental entities currently being represented by the attorney(s) proposed under this solicitation.
- d) Provide a list and explanation of any ethics complaints filed on the individual by the Florida Bar Association or any relevant State regulatory agency within the past ten (10) years.

- D. The City of North Miami Beach reserves the right to retain all proposals submitted and use any idea in a proposal regardless of whether that proposal is selected.
- E. The successful attorney shall be required to execute an employment contract covering the scope of services to be provided and setting forth the duties, rights and responsibilities of the parties.

- F. **Final Selection** - The Mayor and City Commission may require presentations of the top ranked attorneys during a public meeting and shall ratify final recommendation provided/presented by the Evaluation Committee.

***END OF SECTION***

**SECTION 6.0 REQUIRED FORMS**

The forms listed below must be completed by an official having legal authorization to contractually bind the company or firm. Each signature represents a binding commitment upon the Proposer to provide the goods and/or services offered to the City if the Proposer is determined to be the most responsive and responsible Proposer.

- 6.1 Statement of “No” Bid
- 6.2 Acknowledgement of Addenda
- 6.3 Bid Signature Page for Cooperation
- 6.4 Bid Signature page for Sole Proprietor or Partnership
- 6.5 Drug Free Workplace Program
- 6.6 Solicitation, Giving, and Acceptance of Gifts Policy
- 6.7 Source of Information
- 6.8 Indemnification Clause
- 6.9 Sworn Statement pursuant to section 287.133 (3) (a) Florida Statutes on Public Entity Crimes
- 6.10 Anti-Kickback Affidavit
- 6.11 Non-Collusive Affidavit
- 6.12 Proposer Questionnaire
- 6.13 Proposer Experience

**6.1 STATEMENT OF “NO” PROPOSAL**

If your company will **not** be submitting a Proposal in response to Request for Qualifications, please complete this Statement of “No” Proposals Sheet and return, prior to the RFQ Due Date established within, to:

**The City of North Miami Beach  
Procurement Management Division, Room 315  
17011 NE 19th Avenue  
North Miami Beach, Florida 33162**

This information will help the City of North Miami Beach in the preparation of future Bids and RFQ's.

Bid/RFQ/RFQ Number: \_\_\_\_\_ Title \_\_\_\_\_

Company Name: \_\_\_\_\_

Contact: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Facsimile: \_\_\_\_\_

√	<b>Reasons for “NO” Proposal:</b>
	Unable to comply with product or service specifications.
	Unable to comply with scope of work.
	Insufficient time to respond to the RFQ.
	Our schedule would not permit us to perform.
	Unable to meet insurance requirements.
	Other (Specify below)

Comments:

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**6.2 ACKNOWLEDGEMENT OF ADDENDA**

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**INSTRUCTIONS: COMPLETE PART I OR PART II, WHICHEVER APPLIES**

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**PART I:**

LIST BELOW THE DATES OF ISSUE FOR EACH ADDENDUM RECEIVED IN CONNECTION WITH THIS RFQ.

Addendum #1, Dated \_\_\_\_\_

Addendum #2, Dated \_\_\_\_\_

Addendum #3, Dated \_\_\_\_\_

Addendum #4, Dated \_\_\_\_\_

Addendum #5, Dated \_\_\_\_\_

Addendum #6, Dated \_\_\_\_\_

Addendum #7, Dated \_\_\_\_\_

Addendum #8, Dated \_\_\_\_\_

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**PART II:**

NO ADDENDUM WAS RECEIVED IN CONNECTION WITH THIS RFQ.

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**FIRM NAME:** \_\_\_\_\_

**AUTHORIZED SIGNATURE:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**TITLE OF OFFICER:** \_\_\_\_\_

**6.3 PROPOSAL SIGNATURE PAGE FOR CORPORATION**

The officers of the Corporation are as follows:

<u>NAME</u>	<u>ADDRESS</u>
President _____	
Vice-President _____	
Secretary _____	
Treasurer _____	
Registered Agent _____	

The full names and residences of stockbrokers, persons, or firms interested in the foregoing Proposal, as principals, are as follows:

\_\_\_\_\_  
\_\_\_\_\_

Post Office Address

PROPOSER:

\_\_\_\_\_  
(CORPORATE NAME)

\_\_\_\_\_  
PRESIDENT'S SIGNATURE AND E-MAIL ADDRESS

Is this corporation incorporated in the State of Florida?

ATTEST: \_\_\_\_\_  
SECRETARY

YES [ ] NO [ ]

If no, give address of principal place of business: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**6.4 PROPOSAL SIGNATURE PAGE FOR SOLE PROPRIETOR OR PARTNERSHIP**

The full names and residences of persons, partners or firms interested in the foregoing Proposal, as principals, are as follows:

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PROPOSER

\_\_\_\_\_  
(FIRM NAME)

Witnesses:

(SEAL)

\_\_\_\_\_  
SIGNATURE AND E-MAIL ADDRESS

\_\_\_\_\_  
PRINT NAME

\_\_\_\_\_  
Title (Sole Proprietor or Partner)

Post Office Address:

\_\_\_\_\_

\_\_\_\_\_  
TELEPHONE

CITY in which fictitious name is registered.

\_\_\_\_\_  
Attach a copy of proof of registration

**6.5 DRUG-FREE WORKPLACE PROGRAM**

In order to have a drug-free workplace program, a business shall:

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
4. In the statement specified in subsection (1), notify the employee that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

\_\_\_\_\_  
VENDOR'S SIGNATURE

\_\_\_\_\_  
PRINTED NAME

\_\_\_\_\_  
NAME OF COMPANY

**6.6 SOLICITATION, GIVING, AND ACCEPTANCE OF GIFTS POLICY**

Florida Statute 112.313 prohibits the solicitation or acceptance of Gifts. - “No Public officer, employee of an agency, or candidate for nomination or election shall solicit or accept anything of value to the recipient, including a gift, loan, reward, promise of future employment, favor, or service, based upon any understanding that the vote, official action, or judgment of the public officer, employee, or candidate would be influenced thereby.”... The term ‘public officer’ includes any person elected or appointed to hold office in any agency, including any person serving on an advisory body.”

The City of North Miami Beach policy prohibits all public officers, elected or appointed, all employees, and their families from accepting any gifts of any value, either directly or indirectly, from any contractor, vendor, consultant, or business with whom the City does business. Only advertising office stationery or supplies of small value are exempt from this policy - e.g. calendars, note pads, pencils.

The State of Florida definition of “gifts” includes the following:

- Real property or its use,
- Tangible or intangible personal property, or its use,
- A preferential rate of terms on a debt, loan, goods, or services,
- Forgiveness of indebtedness,
- Transportation, lodging, or parking,
- Membership dues,
- Entrance fees, admission fees, or tickets to events, performances, or facilities,
- Plants, flowers or floral arrangements

Services provided by persons pursuant to a professional license or certificate. Other personal services for which a fee is normally charged by the person providing the services. Any other similar service or thing having an attributable value not already provided for in this section. To this list, the City of North Miami Beach has added food, meals, beverages, and candy.

Any contractor, vendor, consultant, or business found to have given a gift to a public officer or employee, or his/her family, will be subject to dismissal or revocation of contract.

As the person authorized to sign the statement, I certify that this firm will comply fully with this policy.

SIGNATURE	PRINTED NAME
NAME OF COMPANY	TITLE

Failure to sign this page shall render your bid non-responsive.

**6.7 SOURCE OF INFORMATION**

How did you find out about this solicitation? Check all that applies.

- 1. www.Citynmb.com
- 2. www.BidSync.com
- 3. Daily Business Review
- 4. The Miami Herald
- 5. Referral/word-of-mouth  Specify Source: \_\_\_\_\_
- 6. Search Engine/Internet search
- 7. E-mail, newsgroup, online chat  Specify Source: \_\_\_\_\_
- 8. Banner or Link on another website
- 9. Flyer, newsletter, direct mail  Specify Source: \_\_\_\_\_
- Other  Specify Source: \_\_\_\_\_

*Please note: This survey form is used for internal Procurement purposes only.*



**6.9 SWORN STATEMENT PURSUANT TO SECTION 287.133 (3) (a), FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES**

THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICAL AUTHORIZED TO ADMINISTER OATHS.

1. This sworn statement is submitted to the **CITY OF NORTH MIAMI BEACH, FLORIDA**

By: \_\_\_\_\_  
(print individual's name and title)

For: \_\_\_\_\_  
(print name of entity submitting sworn statement)

whose business address is: \_\_\_\_\_

and (if applicable) its Federal Employer Identification Number (FEIN) is: \_\_\_\_\_  
(If the entity has no FEIN, include the Social Security Number of the individual signing this sworn statement: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_).

2. I understand that a "public entity crime" as defined in Paragraph 287.133 (1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or of the United States, including but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentations.
3. I understand that "convicted" or "conviction" as defined in Paragraph 287.133 (1) (b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non-jury trial, or entry of a plea of guilty or non contendere.
4. I understand that an "affiliate" as defined in Paragraph 287.133(1)(a), Florida Statutes, means:
1. A predecessor or successor of a person convicted of a public entity crime; or
  2. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers' directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.
5. I understand that a "person" as defined in Paragraph 287.133(1) (e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, and partners, shareholders, employees, members, and agents who are active in management of an entity.
6. Based on information and belief, the statement, which I have marked below, is true in relation to the entity submitting this sworn statement. (Indicate which statement applies).

- Neither the entity submitting this sworn statement, nor any of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.
- The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.
- The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list (attach a copy of the final order).

**I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.**

\_\_\_\_\_  
**Signature**

Sworn to and subscribed before me this \_\_\_\_\_ day \_\_\_\_\_, 20\_\_\_\_

Personally known \_\_\_\_\_

OR \_\_\_\_\_ Name of Notary

Produced identification \_\_\_\_\_ Notary Public – State of \_\_\_\_\_







**6.12 PROPOSER QUESTIONNAIRE**

1. Today's Date: \_\_\_\_\_
2. Name of Company Submitting Proposal: \_\_\_\_\_
3. How many years has your firm been in business under its present business name? \_\_\_\_\_
3. Under what other former name(s) has your firm operated? \_\_\_\_\_  
\_\_\_\_\_
4. Have any similar agreements held by Proposer for a similar project to the proposed project ever been canceled? Circle one:    No    Yes    If yes, please explain: \_\_\_\_\_  
\_\_\_\_\_
5. Has the Proposer or any principals of the firm failed to qualify as a responsible Proposer, refused to enter into a contract after an award has been made, failed to complete a contract during the past five (5) years, or been declared to be in default in any contract in the last five (5) years? Circle one:    No    Yes  
If yes, please explain: \_\_\_\_\_  
\_\_\_\_\_
6. Has the Proposer or any principals of the firm ever been declared bankrupt or reorganized under Chapter 11 or put into receivership? Circle one:    No    Yes  
If yes, please explain and give date, court jurisdiction, action taken, and any other explanation deemed necessary: \_\_\_\_\_  
\_\_\_\_\_
7. Indicate registration, license numbers or certificate numbers for the businesses or professions, which are the subject of this RFQ. Please attach certificate of competency and/or State registration. \_\_\_\_\_  
\_\_\_\_\_
8. List the pertinent experience of the key individuals of your firm (continue on insert sheet if necessary):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
9. State the name and title of the individual who will have personal management of the work: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
10. State the name and address of attorney, if any, for the firm: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

11. State the names and addresses of all businesses and/or individuals who own an interest of more than five percent (5%) of the Proposer's business and indicate the percentage owned of each such business and/or individual: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

12. State the names, addresses and the type of business of all firms that are partially or wholly owned by Proposer: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

13. Bank references:

<b>BANK NAME</b>	<b>ADDRESS (CITY, STATE, ZIP)</b>	<b>PHONE NUMBER</b>
_____	_____	_____
_____	_____	_____

14. Firm has attached a current Certificate of Liability Insurance? Yes No

15. Litigation/Judgements/Settlements/Debarments/Suspensions – Submit information on any pending litigation and any judgements and settlements of court cases relative to providing the services requested herein that have occurred within the last three (3) years. Also indicate if your firm has been debarred or suspended from bidding or proposing on a procurement project by any government entity during the last five (5) years. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

16. Disclosure of Conflict of Interest

VENDOR SHALL DISCLOSE BELOW, TO THE BEST OF HIS OR HER KNOWLEDGE, ANY CITY OF NORTH MIAMI BEACH OFFICER OR EMPLOYEE, OR ANY RELATIVE OF ANY SUCH OFFICER OR EMPLOYEE AS DEFINED IN SECTION 112.3135, *FLORIDA STATUTES*, WHO IS AN OFFICER, PARTNER, DIRECTOR OR PROPRIETOR OF, OR HAS A MATERIAL INTEREST IN THE VENDOR'S BUSINESS OR ITS PARENT COMPANY, ANY SUBSIDIARY, OR AFFILIATED COMPANY, WHETHER SUCH CITY OFFICIAL OR EMPLOYEE IS IN A POSITION TO INFLUENCE THIS PROCUREMENT OR NOT.

Name	Relationship
_____	_____
_____	_____

\_\_\_\_\_  
FIRM NAME

\_\_\_\_\_  
SIGNATURE OF AUTHORIZED AGENT

\_\_\_\_\_  
NAME & TITLE, TYPED OR PRINTED



**6.13 PROPOSER EXPERIENCE**

**Submit one form for each client reference.** Understand that each client may be contacted to verify the validity of the partnership between the Proposer / Sub vendor and the client. If deemed necessary, a possible site visit will be conducted, at the sole expense of the City, to affirm the validity of the recommended vendor or solution desired.

Prime Proposer/Sub Vendor: \_\_\_\_\_

Client Name: \_\_\_\_\_

Address: \_\_\_\_\_

Client Contact name: \_\_\_\_\_

Title: \_\_\_\_\_

Phone number: \_\_\_\_\_

Email: \_\_\_\_\_

**Duration of Client Relationship:**

Date Started: \_\_\_\_\_ Date Ended: \_\_\_\_\_ for \_\_\_\_\_ Total Years.

**Additional information (attach pages as necessary):**

Describe the services provided; provide total value of the contract, result of the project and vendors role in the project, difficulties experienced during implementation or ongoing operations. If contract was terminated, state the reason for termination.



**VILLAGE OF BISCAYNE PARK**  
**Village Commission Agenda Report**  
**REGULAR MEETING**

**Item # 8.b**

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**TO:** Honorable Members of the  
Biscayne Park Village Commission

**FROM:** Rox Ross

**DATE:** May 19, 2020

**TITLE:** Village Manager Selection Process

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**Recommendation**

Discussion and consensus on the solicitation and selection process for Village Manager.

**Background**

Following the Commission's decision to terminate the former manager at the March 3, 2020 meeting, the Village Manager position is vacant. A discussion and implementation of the selection process for a new Village Manager is necessary to detail the steps and timelines for filling that vacancy.

The attached proposed solicitation and selection process are based in large part on the steps outlined for commission in April 2016, when the Village last engaged in a manager search. Some details, such as number of full-time/part-time employees and the dates to be set for the process, are to be filled in after Commission discussion.

**Fiscal / Budget Impact**

The cost of advertising as may be directed by the Village Commission.

**Attachments**

- Village Manager Position posting
- Village Manager selection process
- Action items in order to determine date / time requirements



**VILLAGE OF BISCAYNE PARK**  
**600 NE 114 Street – Biscayne Park, FL 33161**  
**Telephone: 305.899.8000**  
[www.biscayneparkfl.gov](http://www.biscayneparkfl.gov)

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## **Solicitation for Village Manager**

Biscayne Park, Florida  
Population 3,159 (U.S. Census Bureau)

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### **Background**

The Village of Biscayne Park is a residential community, approximately .7 miles in area, located in northeastern Miami Dade County. There are a handful of vacant lots in this residential enclave, accented by lush medians and a rich tree canopy. With an average market value of \$374,000,<sup>1</sup> houses display architectural styles nearly as varied as the cultures represented by the Village's 3,159 residents, all blended in a quiet, peaceful and relaxed "park" setting.

In 2019 Assessed Taxable Values of \$231.2 million in large part fund the Village budget approved at \$3.7 million (including sanitation).

### **Government**

The Commission-Manager form of government is based on the premise that the responsibility for policy rests with the Village Commission and the responsibility for daily administration and execution of policy rests with the Village Manager.

The Village Commission is comprised of five Commissioners. Elections are held every two years, at which time three Commissioners are selected by the voters. The top two vote getters receive a four-year term and the third receives a two-year term. At the first Commission meeting following an election, the Commission selects one among them to serve as Mayor, according to the Village Charter. The next municipal election is to be held Tuesday, November 3, 2020.

Pursuant to the Village Charter, the Commission appoints two administrative Charter positions: Attorney and Manager.

The Village Manager has the full authority over twenty-two (22) full time employees

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<sup>1</sup> Based on 2019 Assessment Rolls Total Real Property Just Value of \$407.5 million (Miami Dade County Property Appraiser's Office, July 2019).

and (8) eight part time employees. Some employees are subject to the provisions of collective bargaining agreements (Police Benevolent Association for the Police Department, and the Painters & Allied Trade Union for the Public Works Department); and some municipal services are subject to outsourcing contracts (Finance, Sanitation and most Building Services).

For a small Village, it provides all the standard services that much larger municipalities provide, except Fire Rescue (furnished by Miami Dade County). Village residents expect and receive responsive professional service that is provided as efficiently as possible.

### **The Ideal Candidate**

The Village is seeking a motivated, experienced and proactive individual with outstanding communication skills. The individual will be someone who keeps the elected officials well informed and presents them with recommendations and options, will focus on the day-to-day execution, and will also assist the Village in planning for a better tomorrow. She/he will be a skilled leader, consensus builder, a mentor who will empower staff to continue to provide efficient and friendly municipal services to meet community expectations.

### **Required Qualifications**

The ideal candidate will have at least eight (8) years progressive senior level experience in a municipality. The individual is expected to have at least a bachelor's degree in business administration, public administration, urban planning, finance or related field. Individuals with other particularly strong credentials may be considered, such as a demonstrable record of strong fiscal management. Certified Professional Manager (CPM), International City/County Management Association (ICMA) Credentials, membership in ICMA and the Florida City and County Management Association (FCCMA) are positives, as is participation in local professional organizations and civil activities. A successful candidate must be able to be bondable and provide a surety bond acceptable to the Village, at Village cost.

### **Expected Duties**

The Village Manager is responsible for the day-to-day operations of the Village in providing a full line of services to its residents under the provisions of the Village Charter and its Code of Ordinances. This is a full-time position; the hours are as necessary to fulfill the duties and including evening meetings. The duties outlined in the Village Charter are:

1. Responsibility for the hiring, supervision and removal of all Village employees.
2. Direct and supervise the administration of all departments and offices, but not Village boards, agencies, communities or authorities, unless directed by the Commission from time to time.
3. Attend all Commission meetings and have the right to take part in discussion but not the right to vote.

4. Ensure that all laws, provisions of the Charter and acts of the Commission, subject to enforcement and/or administration by him/her or by officers subject to his/her direction and supervision, are faithfully executed.
5. Prepare and submit to the Commission a proposed annual budget and capital program.
6. Submit to the Commission and make available to the public an annual report on the finances and administrative activities of the Village as of the end of each fiscal year.
7. Prepare such other reports as the Commission may require concerning the operation of the Village agencies, boards, committees, authorities or departments.
8. Keep the Commission fully advised as to the financial condition and future needs of the Village as he/she deems to be in the best interests of the Village.
9. Execute contracts, deeds and other documents on behalf of the Village as authorized by the Commission.
10. Appoint a Clerk. The Manager cannot appoint himself/herself as the Clerk.
11. Perform such other duties as are specified in the Charter or as may be required by the Commission.

Other attributes of the successful candidate of the Village Manager for the Village of Biscayne Park include:

- A confident, intelligent, accessible, forward-thinking, pro-active, entrepreneurial, transparent, consensus-building leader who listens to residents and knows how to effectively empower staff and to work effectively with other units of local government in the area.
- Ability to formulate and implement strategies and make organizational and resource decisions consistent with the goals and objectives established by the Village Commission in an efficient service delivery system.
- Knowledge of financial and budget management and the principles and practices of public administration, leadership and supervision.
- Ability to prepare and review financial documents.
- An excellent communicator both verbally and in writing and a person who can deal effectively with conflict; a bridge-builder.
- Skills in interpersonal relationships, analytical problem-solving; effective decision-making and negotiations, facilitation and effective presentations.
- Ability to respond with a high customer service orientation to citizens of the community.
- Ability to work effectively with a multi-ethnic citizenry.
- A dedicated professional with a strong work ethic.
- A trustworthy team player who is open and honest and who is a visionary.
- Possesses unquestionable integrity and ethics.
- Willingness to participate and take part in community consensus building and events.
- Amenable to change.

### **Residency**

Residency within Miami-Dade County or Broward County will need to be established.

### **Compensation**

Salary commensurate with experience and budget capacity. Benefits include health and life insurance, telephone and automobile allowance; contribution to the Florida Retirement System; budgeted professional association participation dues and subscriptions.

### **How to Apply**

E-mail resume to [villageclerk@biscayneparkfl.gov](mailto:villageclerk@biscayneparkfl.gov) by \_\_\_\_\_, 2020. Questions should be directed to Roseann Prado, Village Clerk, at the same e-mail, or by phone at 305.899.8000 (Mon-Fri, 9 am to 5 pm).



## VILLAGE OF BISCAYNE PARK

600 NE 114 Street – Biscayne Park, FL 33161

Telephone: 305.899.8000

[www.biscayneparkfl.gov](http://www.biscayneparkfl.gov)

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### **Selection Process for Village Manager**

#### **Solicitation**

Approve form and length of solicitation (suggest 3 weeks)

#### **Advertising Venues**

- Village website
- Miami Dade County League of Cities
- Florida League of Cities website, FLC eNews
- Miami Dade City and Manager Association
- Florida City and County Management Association
- CareerBuilding.com, Monster.com, Yahoo, Governmentjobs.com

#### **Review / Selection Process**

- Qualifying resumes that meet approved requirements

Review By:

Time Frame:

- Qualified resumes submitted for panel review and recommendation
  - Panel A comprised of seven (7) residents appointed by Commission (1 each and 2 at large), who will vet submissions at a public meeting (in-person or virtual electronic means as may be permitted by local restrictions in place at the time) and submit their top 10 candidates for Commission consideration;
  - Panel B comprised of \_\_\_\_ members of professional municipal management association(s) (suggested sources are , who will independently review and submit each members top five (5) candidates for Commission consideration.

Time Frame: Top selected candidates from both panels will be submitted to

Commission by \_\_\_\_\_, 2020

**Narrowing the Field and Interview Process**

Commission to review panel recommended submissions, make individual inquiries as each Commissioner considers appropriate and narrow the field to \_\_\_\_\_ candidates for public presentation / interviews.

Special Commission Meeting and select - Qualifying resumes that meet approved requirements

By:

Time Frame:

Final selection and direction to Village Attorney to negotiate employment agreement.



**VILLAGE OF BISCAYNE PARK**  
**Village Commission Agenda Report**  
**REGULAR MEETING**

Item # 8.c

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**TO:** Honorable Mayor & Members of the  
Biscayne Park Village Commission

**FROM** Dan Samaria

**DATE:** May 19, 2020

**TITLE:** Whistle Blower Protection for Village of Biscayne Park Employees

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**Recommendation:** In order to better protect their employees Miami-Dade County passed a Whistle Blower Protection ordinance on September 4, 2019. I believe we owe it to our employees to protect them in the same way.

**Background:** Currently we do not have a Biscayne Park ordinance to protect our very dedicated employees. I believe this is extremely unfair and discourages employees from reporting serious issues.

**Resource Impact:** Preparation of ordinance and advertising. Less attorney time will be needed if we use Miami-Dade County ordinance and change only necessary wording for Biscayne Park.

**Attachment:** Copy of Miami-Dade County ordinance passed on September 4, 2019

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Prepared by: Dan Samaria

# MEMORANDUM

Agenda Item No. 7(F)

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**TO:** Honorable Chairwoman Audrey M. Edmonson  
and Members, Board of County Commissioners

**DATE:** September 4, 2019

**FROM:** Abigail Price-Williams  
County Attorney

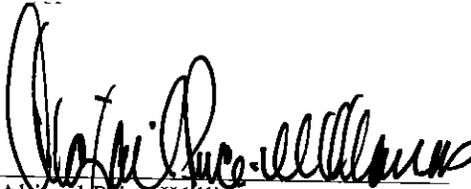
**SUBJECT:** Ordinance relating to Municipal Whistleblowers; amending article LXXI of chapter 2 of the Code; requiring municipalities to adopt ordinances by a certain date to protect municipal employees who disclose specified information; setting minimum standards for municipalities to enact such ordinances; requiring municipalities to submit annual reports; providing for Inspector General oversight; providing that Board may take certain actions in the event municipalities are not in compliance with minimum standards

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**A substitute was presented and forward to the BCC with a favorable recommendation at the 7-17-19 Heath Care and County Operations Committee. This substitute differs from the original version in that it: 1) replaces mandatory language with language making it optional for municipalities to adopt Whistleblower Ordinances in compliance with the minimum standards of this Ordinance; 2) requires only those municipalities that opt-in to the minimum standards of this Ordinance to submit annual reports; 3) modifies the scope of Inspector General oversight; and 4) removes the penalty provision for municipalities that are not in compliance with minimum standards.**

**Rule 5.06(i) of the Board's Rules of Procedure provides that differences between an original item and a substitute item should be uniquely identified in the substitute by double underlining and double strike-through, or where such approach would not clearly show the difference or are not practical, by providing footnotes or comments on the item. Based on Rule 5.06(i), the preceding comprehensive description of the differences between the original item and substitute is provided in lieu of double underlining and double strike through.**

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Sally A. Heyman and Co-Sponsor Commissioner Esteban L. Bovo, Jr.

  
Abigail Price-Williams  
County Attorney

APW/lmp

# Memorandum



**Date:** September 4, 2019

**To:** Honorable Chairwoman Audrey M. Edmonson  
and Members, Board of County Commissioners

**From:** Carlos A. Gimenez  
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez", written over the printed name of the Mayor.

**Subject:** Fiscal Impact Statement for Ordinance Relating to Municipal Whistleblowers - Substitute

---

The substitute item amends the legislation to allow municipalities to opt-in rather than mandating the adoption of Whistleblower Ordinance and its compliance. Therefore, if the demand is minimal, then the Commission on Ethics and the Office of the Inspector General (OIG) will be able to perform these tasks using existing resources. However, if a substantial number of the municipalities adopt conforming ordinances, then the OIG may have to reassess the impact on their existing resources.

A handwritten signature in black ink, appearing to read "Edward Marquez", written over the printed name of the Deputy Mayor.

Edward Marquez  
Deputy Mayor

FIS05019 191806

A small, handwritten mark or signature at the bottom center of the page, possibly a stylized letter or initials.

# Memorandum



**Date:** September 4, 2019

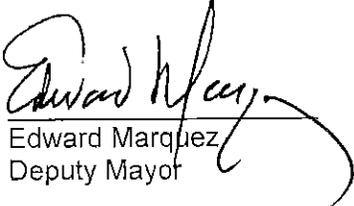
**To:** Honorable Chairwoman Audrey M. Edmonson  
and Members, Board of County Commissioners

**From:** Carlos A. Gimenez   
Mayor

**Subject:** Social Equity Statement for Ordinance Relating to Municipal Whistleblowers

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The implementation of this ordinance could have a positive social benefit for the employees of municipalities who are whistleblowers. This benefit would be based on the uniform standards and confidentiality provisions of the ordinance, as well as employee protection from retaliation by a municipality or independent contractor against whom the employee has filed a complaint.

  
Edward Marquez  
Deputy Mayor



**MEMORANDUM**  
(Revised)

**TO:** Honorable Chairwoman Audrey M. Edmonson  
and Members, Board of County Commissioners

**DATE:** September 4, 2019

**FROM:** Abigail Price-Williams  
County Attorney

**SUBJECT:** Agenda Item No. 7(F)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's present \_\_\_\_, 2/3 membership \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) \_\_\_\_, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) \_\_\_\_, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) \_\_\_\_) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 7(F)  
9-4-19

ORDINANCE NO. \_\_\_\_\_

ORDINANCE RELATING TO MUNICIPAL WHISTLEBLOWERS; AMENDING ARTICLE LXXI OF CHAPTER 2 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; REQUIRING MUNICIPALITIES TO ADOPT ORDINANCES BY A CERTAIN DATE TO PROTECT MUNICIPAL EMPLOYEES WHO DISCLOSE SPECIFIED INFORMATION; SETTING MINIMUM STANDARDS FOR MUNICIPALITIES TO ENACT SUCH ORDINANCES; REQUIRING MUNICIPALITIES TO SUBMIT ANNUAL REPORTS; PROVIDING FOR INSPECTOR GENERAL OVERSIGHT; PROVIDING THAT BOARD MAY TAKE CERTAIN ACTIONS IN THE EVENT MUNICIPALITIES ARE NOT IN COMPLIANCE WITH MINIMUM STANDARDS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

**WHEREAS**, in 1994, the Board of County Commissioners adopted Ordinance No. 94-107 known as the Employee Protection Ordinance consistent with section 112.3187 *et seq.*, Florida Statutes, now codified as chapter 2, article IV, division 6 of the Code of Miami-Dade County, which prohibits the County from retaliating against County employees for disclosing specified information concerning unlawful activity, misfeasance or malfeasance by the County or independent contractors; and

**WHEREAS**, in 1996, the Board of County Commissioners adopted Ordinance No. 96-41 known as the Whistleblower Ordinance, now codified as chapter 2, article LXXI of the Code, which currently prohibits the County from retaliating against any person for disclosing specified information concerning unlawful activity, misfeasance or malfeasance by the County or independent contractors; and

**WHEREAS**, in 2015, the Board of County Commissioners adopted Ordinance No. 15-120, which expanded the means for employees to provide protected disclosures, to empower employees to take responsibility for an efficient and effective government, and to empower them to safely and securely disclose specified information to authorized local officials; and

**WHEREAS**, on October 3, 2017, the Board of County Commissioners adopted Ordinance No. 17-74, to prohibit any employer with 10 or more employees that enters into a contract with the County, from retaliating against any employee or other person for disclosing specified information concerning unlawful activity, misfeasance or malfeasance by employees, agents or independent contractors of County departments; and

**WHEREAS**, some of the municipalities within Miami-Dade County may not have adequate employee protection ordinances; and

**WHEREAS**, it is the intent of this ordinance, consistent with section 112.3187 *et seq.*, Florida Statutes, the State Whistleblower's Act, to set minimum standards for municipalities to enact employee protection ordinances, and to ensure that municipal employees who disclose violations of law or wrongdoing by a municipality or independent contractors have effective protections, including confidentiality and protection from retaliation,

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:**

**Section 1.** Article LXXI of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:<sup>1</sup>

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<sup>1</sup> Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

**ARTICLE LXXI. – PROTECTION OF PERSONS  
DISCLOSING SPECIFIED INFORMATION.**

**>>DIVISION I. COUNTY EMPLOYEES AND  
CONTRACTORS.<<**

\* \* \*

**>>DIVISION II. MUNICIPAL EMPLOYEES AND  
CONTRACTORS.**

**Sec. 2-967.10.2 - Declaration of legislative intent.**

The intent of this division is to provide optional minimum standards for municipalities to prevent municipalities or independent contractors from taking retaliatory action against an employee or person who reports a violation of law on the part of a municipality, municipal officer, or independent contractor relating to a substantial and specific danger to the public's health, safety, or welfare; or who reports unlawful activity, misfeasance, malfeasance, gross waste of funds, or any other abuse or gross neglect of duty on the part of a municipality, municipal officer, or independent contractor.

Recognizing that the State of Florida has adopted its own Whistleblower's Act, section 112.3187 et. seq., Florida Statutes, and that the state act provides for the adoption of local procedures for administrative enforcement, the Board intends this ordinance to be interpreted consistently with the state act, as it may be amended from time to time.

**Sec. 2-967.10.3 - Jurisdiction and area of application.**

- (1) The provisions of this division shall not apply to any complaint naming the county, the state, the federal government, or any of their agencies, employees, or independent contractors as a respondent.
- (2) This division shall be an optional minimum standard to be enacted and enforced by the municipalities; provided, any municipality may establish and enforce more stringent regulations as such municipality may deem necessary.
- (3) The provisions of this division shall be cumulative and in addition to and not in derogation of any and all other existing provisions or laws.

**Sec. 2-967.10.4 - Definitions. As used in this Article:**

- (1) “Municipality” means a municipality within Miami-Dade County created pursuant to general or special law authorized or recognized pursuant to section 2 or section 6, article VIII of the State Constitution or pursuant to article 6 of the Miami-Dade County Home Rule Charter.
- (2) “Employee” means a person who performs services for, and under the control and direction of, or contracts with, a municipality or independent contractor for wages or other remuneration.
- (3) “Adverse personnel action” means the discharge, suspension, transfer, or demotion of any employee or the withholding of bonuses, the reduction in salary or benefits, or any other adverse personnel action taken against an employee within the terms and conditions of employment by a municipality or independent contractor.
- (4) “Independent contractor” means a person, other than a federal, state, or local government entity, engaged in any business and who enters into a contract, including a provider agreement, with a municipality.
- (5) “Person” means any natural person, corporation, firm, joint venture or entity other than a federal, state or local government entity or any employee thereof.
- (6) “Technical support” means assistance intended to facilitate the development of processes and procedures and not assistance in conducting investigations.
- (7) “Ethics Commission” means the Miami-Dade Commission on Ethics and Public Trust.
- (8) “Inspector General” means the Miami-Dade County Office of the Inspector General.
- (9) All other words or terms used in this ordinance shall have the same meaning as such words and terms have under the State Whistleblower’s Act.

**Sec. 2-967.10.5. - Municipal Employee Protection.**

- (1) County Technical Support for Municipal Employee Protection.
  - (a) The Inspector General may provide a requesting municipality with technical support in developing the processes and procedures for receiving, documenting, and investigating disclosures of actual or suspected violations of law or prohibited acts committed by an employee or agent of the municipality or independent contractor.
  - (b) The Ethics Commission may provide a requesting municipality with technical support in developing the processes and procedures for receiving, documenting and investigating complaints of adverse personnel action taken in retaliation for disclosing information under this division.
  - (c) The technical support referenced in subsections (1)(a) and (b) above is not intended to replace the municipality's own commitment of resources to develop a system for the intake, processing, and documentation of disclosures of violations and adverse personnel actions, and the investigation of such complaints.
- (2) Opt-in Provision for Municipalities to Enact Employee Protection Ordinances.
  - (a) At its option, any municipality within Miami-Dade County may adopt Employee Protection Ordinances consistent with the State Whistleblower's Act and the minimum standards of this division. Within 30 days of the adoption of any such municipal ordinance, the municipality shall provide written notice and a copy of the municipal ordinance to: the Clerk of the Board of the Board of County Commissioners, the Inspector General, and the Ethics Commission.
  - (b) A current list of all municipalities that have adopted their own employee protection ordinances and programs shall be kept on file with the Inspector General and shall be available for inspection.

(3) Minimum Standards for Municipal Ordinances. Pursuant to the authority granted in section 1.01(A)(18) of the Miami-Dade County Home Rule Charter, the County hereby adopts the provisions below as optional minimum standards for municipal ordinances.

(a) To comply with the optional minimum standards for employee protection ordinances, a municipal ordinance shall contain provisions:

(i) that designate the “actions prohibited” and

1. specify that the municipality shall not dismiss, discipline, take any other adverse personnel action or other adverse action that affects the rights or interests of an employee or person because the employee or person has disclosed or threatened to disclose information pursuant to this division; and

2. specify that the provisions shall not apply when an employee or person discloses information known by the employee or person to be false.

(ii) that designate the “nature of information disclosed” and specify that the information disclosed under the provision must include:

1. Any violation or suspected violation of any federal, state or local law, rule or regulation committed by an employee or agent of the municipality or independent contractor which creates and presents a substantial and specific danger to the public’s health, safety or welfare; or

2. Any act or suspected act of gross mismanagement, malfeasance, gross waste of public funds or gross neglect of duty committed by an employee or

agent of the municipality or an independent contractor.

- (iii) that designate “to whom information disclosed” and require that the information be disclosed to a chief executive officer of the municipality or such official or officials as the chief executive officer may designate to receive such information on his/her behalf, or other appropriate local official for the municipality as described in section 112.3187(6), Florida Statutes.
  
- (iv) that designate the “employees and persons protected” and
  - 1. require the protection of employees and persons who disclose information on their own initiative in a written and signed complaint; who are requested to participate in an investigation, hearing, or other inquiry conducted by the municipality, any local, state or federal government entity having the authority to investigate, police, manage, or otherwise remedy the violation or act; who refuse to participate in any adverse personnel action prohibited by this division; who refuse to participate in any adverse action prohibited by this division; or who are otherwise protected by the State Whistleblower's Act.
  
  - 2. require that the provisions may not be used by persons while they are under care, custody, or control of the state or county correctional system or, after release from the care, custody, or control of the state or county correctional system, with respect to circumstances that occurred during any period of incarceration.

3. require that no remedy or other protection under the ordinance apply to any person who has committed or intentionally participated in committing a violation or suspected violation for which protection under the ordinance is being sought.
  4. require that an employee who provides false information pursuant to this ordinance may be investigated and prosecuted pursuant to Florida Statutes.
  5. require that it shall be an affirmative defense to any complaint brought pursuant to the ordinance that the adverse action was predicated upon grounds other than, and would have been taken absent, the employee's or person's exercise of rights protected by the ordinance.
- (v) that designate "remedies" and require the chief executive officer of the municipality to designate an appropriate executive-level municipal official or authority to receive written and signed complaints of prohibited actions as described in this division, and that establish an administrative procedure for handling such complaints. The administrative procedure created by municipal ordinance must provide for the complaint to be heard by a panel of impartial persons appointed by the appropriate executive-level municipal official or authority. Such panelists may be paid a fee for their services, but shall not be deemed municipal officials or employees. The panel shall conduct a hearing after notice to the complainant, the respondent, and the municipal department, division, bureau, commission, authority, or political subdivision, or independent contractor involved. Any interested party may procure

the attendance of witnesses and the production of records at such hearings. Upon hearing the complaint, the panel must make findings of fact and conclusions of law, and recommendations for a final decision by the chief executive officer or other appropriate executive-level municipal official or authority. Within 180 days after entry of a final decision by the municipal authority, the public employee who filed the complaint may bring a civil action in any court of competent jurisdiction;

(vi) that designate "relief" to employees or persons subjected to actions prohibited under this division and

1. require, in any case brought under this division in which the chief executive officer of the municipality or other appropriate executive-level municipal official or authority finds that the employee has been subjected to an adverse action in violation of this division, the chief executive officer or designee to:

a. reinstate the employee to the same position held before the adverse personnel action was commenced or to an equivalent position, or award reasonable front pay as alternative relief;

b. reinstate the employee's fringe benefits and seniority rights, as appropriate; and

c. compensate the employee, if appropriate, for lost wages, benefits or other lost remuneration caused by the adverse personnel action, or compensate the person, if

appropriate, for the lost income, benefits or other lost remuneration caused by the adverse action.

2. specify that the municipality may sanction an independent contractor for violations of this division in one or more of the following ways:
  - a. require the municipal independent contractor to compensate the person or reimburse the municipality for any amounts paid by the municipality to compensate the person, for the lost income, benefits or other lost remuneration caused by the adverse action of the municipal independent contractor;
  - b. debar the independent contractor pursuant to any existing municipal debarment procedures; or
  - c. suspend payment or terminate payment under the contract or terminate the contract with the municipal independent contractor.
3. require that if a municipal independent contractor fails to pay any sanctions assessed by the municipality under this division, the municipality provide for sanctions against the non-complying independent contractor similar to the sanctions delineated under section 2-967.8(4) – (8) of the Code.

- (vii) that designate “existing rights” and ensure that the rights, privileges or remedies of any employee under any other law or rule or under any collective bargaining agreement or employment contract are not diminished; and that the election of remedies provided by section 447.401, Florida Statutes, shall also apply to complaints under the municipal ordinance.
- (viii) that designate “confidentiality of individuals disclosing information” and guarantee the protections of state law be afforded to any individual who discloses information in compliance with this division to the municipal officials set forth in this division. For example, the identity of such individuals shall be confidential and exempt from the provisions of the public records laws to the fullest extent permitted by, and in accordance with the law including, but not limited to, the confidentiality requirements and exemptions set forth in sections 119.0713 and 112.3188, Florida Statutes.
- (ix) that require any employee found by the chief executive officer or other appropriate executive-level municipal official or authority to have retaliated against another municipal employee in violation of this division, shall be subject to disciplinary action up to and including dismissal from municipal employment.
- (x) that require the chief executive officer, or his/her designee, to provide training regarding this division to all current municipal employees, and to new municipal employees hired after the effective date of the municipal employee protection ordinance as part of the initial municipal employee orientation;

- (xi) that require the chief executive officer, or his/her designee to periodically provide information and publish instructions on this division including, but not limited to, the disclosure of information, the methods of disclosing information, and the protections afforded by this division, to all employees of the municipality and public officials.
  - (xii) that require the chief executive officer, or his/her designee to maintain an accurate and complete log of all complaints made by municipal employees pursuant to this Division, and to provide that report to the Inspector General on an annual basis;
- (b) *Optional Investigation by the Ethics Commission. In addition to the remedies set forth in this division, every municipal employee protection ordinance should also provide the following retaliation review process:*
- (i) Any employee protected under this division who alleges retaliation may, only after exhausting all available municipal administrative remedies provided for in this division, or an applicable collective bargaining agreement, file a written complaint with the Ethics Commission alleging a prohibited personnel action, no later than 60 days after a final written decision regarding an alleged prohibited personnel action has been rendered under the administrative or contractual procedures referenced above. The purpose of such complaint is to determine whether, in addition to any findings or determination made in any of the above-referenced administrative or contractual proceedings, there has been a violation of this division.
  - (ii) Within ten working days after receiving a complaint under this division, the Ethics Commission shall acknowledge receipt of the complaint and provide copies of the

complaint to the employee accused of retaliation and the Department Director of the department in which such employee is employed.

(iii) Upon the filing of a complaint with the Ethics Commission under this division, the Ethics Commission shall:

1. Conduct a preliminary investigation, to the extent necessary, to determine whether there is probable cause to believe that a prohibited personnel action under this division, has occurred.
  
2. Within 90 days after receiving the complaint, provide the accused employee, the Department Director of the department in which the accused employee is employed and the complainant with a copy of a probable cause memorandum and conduct a probable cause hearing before the Ethics Commission. Notwithstanding the procedures provided in chapter 2, article LXXVIII of the Code of Miami-Dade County, the Ethics Commission may use hearing examiners when a complaint is filed under this division, which shall make a determination as to whether there is probable cause to believe retaliation prohibited by this division has occurred. The probable cause memorandum and the final written decision and findings of the administrative or contractual proceedings shall be presumed admissible in any Ethics Commission hearing conducted under this division.

- (iv) The time limits regarding the actions to be taken by the Ethics Commission set forth in subsections (3)(b)(ii) and (iii) above may be extended by the Ethics Commission for good cause.
- (v) Based on its fact-finding report, the Ethics Commission may recommend to the municipalities' Mayor or chief executive officer, an appropriate course of action. The Mayor or chief executive officer may thereafter take appropriate relief in accordance with section 2-967.10.5.(a)(vi) of the Code.
- (c) Municipalities that have already enacted employee protection ordinances as of the effective date of this Ordinance shall have the option to bring their ordinances into compliance with these minimum standards.
- (4) *Municipality Shall File Annual Report.* Municipalities that have enacted employee protection ordinances pursuant to the optional provisions of this ordinance shall annually file a report detailing the number of Employee Protection Ordinance complaints received and the dispositions of those complaints with the Inspector General. Consistent with the confidentiality provisions in subsection (3)(a)(viii) above, the municipality's annual report should not contain the identity of any complainant.
- (5) *Oversight by the Inspector General.* In accordance with the Inspector General's functions, powers and authority, the Inspector General:
  - (a) shall have the power to audit, investigate, monitor, oversee, inspect and review the processes and procedures for the receipt, intake, and investigation of complaints that have been established in accordance with the optional minimum standards established by this division and a municipality's enacted ordinance.

- (b) shall have the power to obtain from municipalities any reports or information required by the Inspector General during the course of an audit, investigation, monitoring, oversight, inspection or review, conducted in accordance with this division.
  
- (c) Whenever the Inspector General concludes a report or recommendation regarding a municipality's compliance with the optional provisions of this division, the Inspector General shall provide a copy of the report or recommendation to the chief executive officer, or his/her designee, responsible for the enforcement of the municipality's employee protection ordinance. The Inspector General shall provide the chief executive officer, or his/her designee, with 10 working days to submit a written explanation or rebuttal of the findings before the report or recommendation is finalized, and such timely submitted written explanation or rebuttal shall be attached to the finalized report or recommendation. The Inspector General's final report will be submitted to the governing board of the municipality and to the Board of County Commissioners.<<

**Section 2.** If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

**Section 3.** It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

**Section 4.** This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as  
to form and legal sufficiency:



Prepared by:



Marlon D. Moffett

Prime Sponsor: Commissioner Sally A. Heyman  
Co-Sponsor: Commissioner Esteban L. Bovo, Jr.

## If you are retaliated against

If you are an employee of a state agency and you disclose information under the Whistle-blower's Act and that disclosure results in alleged retaliation by an employer in the form of an adverse personnel action, you may file a written complaint with the Florida Commission on Human Relations no later than 60 days after the prohibited personnel action. You can contact the Commission by calling (800) 342-8170 or by writing to the following address:

Florida Commission on Human Relations  
2009 Apalachee Parkway  
Suite 100  
Tallahassee, Florida 32301

"State agency" or "agency" means any official, officer, commission, board, authority, council, committee, or department of the executive branch of state government. For purposes of this chapter and chapter 215, "state agency" or "agency" includes, but is not limited to, state attorneys, public defenders, the capital collateral regional counsels, the Justice Administrative Commission, the Florida Housing Finance Corporation, and the Florida Public Service Commission.

Any other person protected by the Whistle-blower's Act may, after exhausting all available contractual or administrative remedies, bring a civil action in any court of competent jurisdiction within 180 days after the action prohibited by the Whistle-blower's Act.

State employees should contact the Whistle-blower's hotline to report:

- Violations of law that present a clear and present danger to the public's health, safety, or welfare
- Gross mismanagement
- Gross waste of funds
- Gross neglect of duty

Whistle-blower's Hotline  
Post Office Box 151  
Tallahassee, Florida 32302

(800) 543-5353 toll-free

(850) 922-1060 in Tallahassee

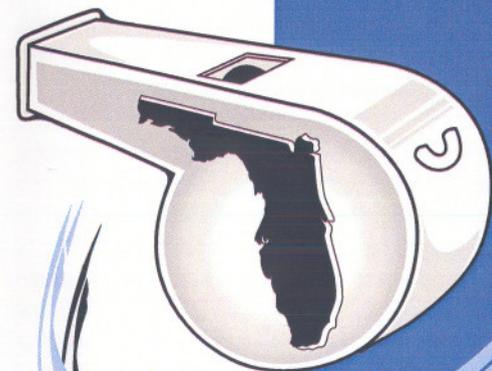
(850) 921-0817 facsimile



Executive Office of the Governor  
Office of the Chief Inspector General

Revised 06/05

## Whistle-blower's Hotline



Blow the  
whistle  
on fraud  
and abuse  
in Florida.

## The Whistle-blower's Act

State employees who blow the whistle on fraud and abuse within state government are protected by law. Sections 112.3187–112.31895 of the Florida Statutes (F.S.) constitute the law known as the "Whistle-blower's Act." These and other Florida Statutes can be viewed on the official internet site of the Florida Legislature at [www.leg.state.fl.us](http://www.leg.state.fl.us).

The legislative intent of the Whistle-blower's Act is to prevent agencies or independent contractors from taking retaliatory action against an employee who reports agency violations of law that create a substantial and specific danger to the public's health, safety, or welfare. It is also the intent of the legislature to prevent agencies or independent contractors from taking retaliatory action against an employee who discloses information alleging improper use of governmental office, gross waste of funds, or any other abuse or gross neglect of duty on the part of an agency, public officer, or employee.

### Why have a Hotline?

The Chief Inspector General is responsible for promoting accountability, integrity, and efficiency in state government. That responsibility includes maintaining an in-state toll-free whistle-blower's hotline, notifying all employees of the various state agencies of its existence, and providing an address to which whistle-blower information may be forwarded.

### Who should call the Hotline?

State employees, former employees, and applicants of agencies or independent contractors:

"Employee" means a person who performs services for, and under the control and direction of, or contracts with, an agency or independent contractor for wages or other remuneration.

"Agency" means any state, regional, county, local, or municipal government entity, whether executive, judicial or legislative; any official, officer, department, division, bureau, commission, authority, or political subdivision therein; or any public school, community college, or state university.

[Note: For disclosures concerning a local government entity, including any regional, county, or municipal entity, special district, community college district, or school district or any political subdivision of any of the foregoing, the information must be disclosed to a chief executive officer as defined in s. 447.203(9), F.S. or other appropriate official.]

"Independent contractor" means a person, other than an agency, engaged in any business and who enters into a contract, including a provider agreement, with an agency.

### What should be reported?

The Whistle-blower's Hotline is not for general complaints or suggestions. Other means are available for resolving personnel problems or recommending cost-saving measures. This hotline is reserved for reporting:

- (a) Any violation or suspected violation of any federal, state, or local law, rule, or regulation committed by an employee or agent of an agency or independent contractor which creates and presents a substantial and specific danger to the public's health, safety, or welfare.
- (b) Any act or suspected act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, suspected or actual Medicaid fraud or abuse, or gross neglect of duty committed by an employee or agent of an agency or independent contractor.



### What happens when I call?

When you call the Whistle-blower's Hotline we will take your information and ask basic questions concerning your case. Whether you call or write to the hotline, your information will be reviewed to determine the appropriate course of action. You will be advised as soon as a decision is made.

### How do you investigate?

When circumstances require investigation, the Chief Inspector General or agency inspector general will conduct a thorough investigation and report its findings. The whistle-blower has an opportunity to attach comments to the final report before it is sent to the Governor, the investigating agency, the Joint Legislative Auditing Committee and the Comptroller.

### How are my rights protected?

When your information meets whistle-blower criteria state law enables you to keep your identity confidential, unless disclosure is necessary to protect the public's health, safety or welfare, or absolutely necessary or unavoidable during the investigation. The Whistle-blower's Act also protects you from retaliatory action by your agency for disclosing adverse information.



Executive Office of the Governor  
Office of the Chief Inspector General

Whistle-blower's Hotline  
Post Office Box 151  
Tallahassee, Florida 32302

(800) 543-5353 toll free  
(850) 922-1060 in Tallahassee  
(850) 921-0817 facsimile

## The 2019 Florida Statutes

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[Title X](#)  
PUBLIC OFFICERS, EMPLOYEES, AND  
RECORDS

[Chapter 112](#)  
PUBLIC OFFICERS AND EMPLOYEES: GENERAL  
PROVISIONS

[View Entire Chapter](#)

**112.3187 Adverse action against employee for disclosing information of specified nature prohibited; employee remedy and relief.—**

(1) **SHORT TITLE.**—Sections [112.3187-112.31895](#) may be cited as the “Whistle-blower’s Act.”

(2) **LEGISLATIVE INTENT.**—It is the intent of the Legislature to prevent agencies or independent contractors from taking retaliatory action against an employee who reports to an appropriate agency violations of law on the part of a public employer or independent contractor that create a substantial and specific danger to the public’s health, safety, or welfare. It is further the intent of the Legislature to prevent agencies or independent contractors from taking retaliatory action against any person who discloses information to an appropriate agency alleging improper use of governmental office, gross waste of funds, or any other abuse or gross neglect of duty on the part of an agency, public officer, or employee.

(3) **DEFINITIONS.**—As used in this act, unless otherwise specified, the following words or terms shall have the meanings indicated:

(a) “Agency” means any state, regional, county, local, **or municipal government entity**, whether executive, judicial, or legislative; any official, officer, department, division, bureau, commission, authority, or political subdivision therein; or any public school, community college, or state university.

(b) “Employee” means a person who performs services for, and under the control and direction of, or contracts with, an agency or independent contractor for wages or other remuneration.

(c) “Adverse personnel action” means the discharge, suspension, transfer, or demotion of any employee or the withholding of bonuses, the reduction in salary or benefits, or any other adverse action taken against an employee within the terms and conditions of employment by an agency or independent contractor.

(d) “Independent contractor” means a person, other than an agency, engaged in any business and who enters into a contract, including a provider agreement, with an agency.

(e) “Gross mismanagement” means a continuous pattern of managerial abuses, wrongful or arbitrary and capricious actions, or fraudulent or criminal conduct which may have a substantial adverse economic impact.

(4) **ACTIONS PROHIBITED.**—

(a) An agency or independent contractor shall not dismiss, discipline, or take any other adverse personnel action against an employee for disclosing information pursuant to the provisions of this section.

(b) An agency or independent contractor shall not take any adverse action that affects the rights or interests of a person in retaliation for the person’s disclosure of information under this section.

(c) The provisions of this subsection shall not be applicable when an employee or person discloses information known by the employee or person to be false.

(5) **NATURE OF INFORMATION DISCLOSED.**—The information disclosed under this section must include:

(a) Any violation or suspected violation of any federal, state, or local law, rule, or regulation committed by an employee or agent of an agency or independent contractor which creates and presents a substantial and specific danger to the public’s health, safety, or welfare.

(b) Any act or suspected act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, suspected or actual Medicaid fraud or abuse, or gross neglect of duty committed by an employee or agent of an agency or independent contractor.

(6) **TO WHOM INFORMATION DISCLOSED.**—The information disclosed under this section must be disclosed to any agency or federal government entity having the authority to investigate, police, manage, or otherwise remedy the violation or act, including, but not limited to, the Office of the Chief Inspector General, an agency inspector general or the employee designated as agency inspector general under s. [112.3189\(1\)](#) or inspectors general under s. [20.055](#), the Florida Commission on Human Relations, and the whistle-blower’s hotline created under s. [112.3189](#). However, for disclosures concerning a local governmental entity, including any regional, county, or municipal entity, special district, community college district, or school district or any political subdivision of any of the foregoing, the information must be disclosed to a chief executive officer as defined in s. [447.203\(9\)](#) or other appropriate local official.

(7) **EMPLOYEES AND PERSONS PROTECTED.**—This section protects employees and persons who disclose information on their own initiative in a written and signed complaint; who are requested to participate in an investigation, hearing, or other inquiry conducted by any agency or federal government entity; who refuse to participate in any adverse action prohibited by this section; or who initiate a complaint through the whistle-blower’s hotline or the hotline of the Medicaid Fraud Control Unit of the Department of Legal Affairs; or employees who file any written complaint to their supervisory officials or employees who submit a complaint to the Chief Inspector General in the Executive Office of the Governor, to the employee designated as agency inspector general under s. [112.3189\(1\)](#), or to the Florida Commission on Human Relations. The provisions of this section may not be used by a person while he or she is under the care, custody, or control of the state correctional system or, after release from the care, custody, or control of the state correctional system, with respect to circumstances that occurred during any period

of incarceration. No remedy or other protection under ss. [112.3187-112.31895](#) applies to any person who has committed or intentionally participated in committing the violation or suspected violation for which protection under ss. [112.3187-112.31895](#) is being sought.

(8) REMEDIES.—

(a) Any employee of or applicant for employment with any state agency, as the term “state agency” is defined in s. [216.011](#), who is discharged, disciplined, or subjected to other adverse personnel action, or denied employment, because he or she engaged in an activity protected by this section may file a complaint, which complaint must be made in accordance with s. [112.31895](#). Upon receipt of notice from the Florida Commission on Human Relations of termination of the investigation, the complainant may elect to pursue the administrative remedy available under s. [112.31895](#) or bring a civil action within 180 days after receipt of the notice.

(b) Within 60 days after the action prohibited by this section, any local public employee protected by this section may file a complaint with the appropriate local governmental authority, if that authority has established by ordinance an administrative procedure for handling such complaints or has contracted with the Division of Administrative Hearings under s. [120.65](#) to conduct hearings under this section. The administrative procedure created by ordinance must provide for the complaint to be heard by a panel of impartial persons appointed by the appropriate local governmental authority. Upon hearing the complaint, the panel must make findings of fact and conclusions of law for a final decision by the local governmental authority. Within 180 days after entry of a final decision by the local governmental authority, the public employee who filed the complaint may bring a civil action in any court of competent jurisdiction. If the local governmental authority has not established an administrative procedure by ordinance or contract, a local public employee may, within 180 days after the action prohibited by this section, bring a civil action in a court of competent jurisdiction. For the purpose of this paragraph, the term “local governmental authority” includes any regional, county, or municipal entity, special district, community college district, or school district or any political subdivision of any of the foregoing.

(c) Any other person protected by this section may, after exhausting all available contractual or administrative remedies, bring a civil action in any court of competent jurisdiction within 180 days after the action prohibited by this section.

(9) RELIEF.—In any action brought under this section, the relief must include the following:

(a) Reinstatement of the employee to the same position held before the adverse action was commenced, or to an equivalent position or reasonable front pay as alternative relief.

(b) Reinstatement of the employee’s full fringe benefits and seniority rights, as appropriate.

(c) Compensation, if appropriate, for lost wages, benefits, or other lost remuneration caused by the adverse action.

(d) Payment of reasonable costs, including attorney’s fees, to a substantially prevailing employee, or to the prevailing employer if the employee filed a frivolous action in bad faith.

(e) Issuance of an injunction, if appropriate, by a court of competent jurisdiction.

(f) Temporary reinstatement to the employee’s former position or to an equivalent position, pending the final outcome on the complaint, if an employee complains of being discharged in retaliation for a protected disclosure and if a court of competent jurisdiction or the Florida Commission on Human Relations, as applicable under s. [112.31895](#), determines that the disclosure was not made in bad faith or for a wrongful purpose or occurred after an agency’s initiation of a personnel action against the employee which includes documentation of the employee’s violation of a disciplinary standard or performance deficiency. This paragraph does not apply to an employee of a municipality.

(10) DEFENSES.—It shall be an affirmative defense to any action brought pursuant to this section that the adverse action was predicated upon grounds other than, and would have been taken absent, the employee’s or person’s exercise of rights protected by this section.

(11) EXISTING RIGHTS.—Sections [112.3187-112.31895](#) do not diminish the rights, privileges, or remedies of an employee under any other law or rule or under any collective bargaining agreement or employment contract; however, the election of remedies in s. [447.401](#) also applies to whistle-blower actions.

History.—ss. 1, 2, 3, 4, 5, 6, 7, 8, ch. 86-233; s. 1, ch. 91-285; s. 12, ch. 92-316; s. 1, ch. 93-57; s. 702, ch. 95-147; s. 1, ch. 95-153; s. 15, ch. 96-410; s. 20, ch. 99-333; s. 2, ch. 2002-400.



**VILLAGE OF BISCAYNE PARK**  
**Village Commission Agenda Report**

**Item # 8.d**

**REGULAR MEETING**

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**TO:** Honorable Mayor & Members of the  
Biscayne Park Village Commission

**FROM:** Dan Samaria, Commissioner

**DATE:** May 19, 2020

**TITLE:** Gray Robinson's Invoices

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**Recommendation**

At the February 4, 2020 commission meeting the commissioner brought to the attention of the Interim City Manager to withhold future invoices submitted by Gray Robinson should be reviewed and scrutinized before payment is made.

**Background**

It's been brought to our attention that some invoices did not have the proper authority and or brought to our Village Commission's attention with more discussion. Some of the invoices that were paid during the January month and other outstanding invoices should be closely examined to provide more clarity as to why Gray Robinson has invoiced us for their legal services.

**Resource Impact**

N/A

**Attachment(s)**

- Gray Robinson bills
  - Statement of Account
- 

Prepared by: Dan Samaria, Commissioner.

VILLAGE OF BISCAYNE PARK-GF  
 VENDOR NUMBER/NAME: 257 GRAY ROBINSON  
 INV DATE INV# AMOUNT DISCOUNT

1/13/2020  
 CHECK #: 001877

INV DATE	INV#	AMOUNT	DISCOUNT	NET	
20191217	10910092	765.00		765.00	LEGAL FEES 12/2019
20191217	10910093	1,157.18		1,157.18	LEGAL FEES 12/2019
20191217	10910094	1,035.00		1,035.00	LEGAL FEES 12/2019
20191217	10910095	4,005.00		4,005.00	LEGAL FEES 12/2019
20191217	10910096	1,793.59		1,793.59	LEGAL FEES 12/2019

**FILE COPY**

VILLAGE OF BISCAYNE PARK-GF  
 VENDOR NUMBER/NAME: 257 GRAY ROBINSON  
 INV DATE INV# AMOUNT DISCOUNT

1/13/2020  
 CHECK #: 001877

INV DATE	INV#	AMOUNT	DISCOUNT	NET	
20191217	10910092	765.00		765.00	LEGAL FEES 12/2019
20191217	10910093	1,157.18		1,157.18	LEGAL FEES 12/2019
20191217	10910094	1,035.00		1,035.00	LEGAL FEES 12/2019
20191217	10910095	4,005.00		4,005.00	LEGAL FEES 12/2019
20191217	10910096	1,793.59		1,793.59	LEGAL FEES 12/2019

TOTAL \$8,755.77

**FILE COPY**

VILLAGE OF BISCAYNE PARK  
 640 NE 114TH STREET  
 BISCAYNE PARK, FL 33161-6202  
 (305) 899-8000

ANOVUS BANK  
 WESTON, FL 33331

63-1676/660

DATE AMOUNT  
 1/13/2020 \$8,755.77\*

EIGHT THOUSAND SEVEN HUNDRED FIFTY-FIVE DOLLARS & 77 CENTS \*\*\*\*\*

PAY TO THE ORDER OF:  
 GRAY ROBINSON  
 ATTORNEYS AT LAW  
 PO BOX 3068  
 ORLANDO FL 32802

AUTHORIZED SIGNATURE

**GRAY ROBINSON**

Attorneys At Law  
 Post Office Box 3068  
 Orlando, Florida 32802  
 Telephone (407) 843-8880  
 Federal ID # 59-1300132

Krishan Manners  
 Village of Biscayne Park  
 640 NE 114th Street  
 Biscayne Park, FL 33161

**Remittance Address:**  
 P.O. Box 3068  
 Orlando, Florida 32802-3068

**Statement of Account As of December 17, 2019**  
**For Client Account No.: 824224**

*PAID 12/17/19*  
*11/19/2019*

Invoice Number	Invoice Date	Mat #	Matter Name	Amount Billed	Amount Received	Balance Due
✓ 10910092	12/17/19	4	FEMA Appeal (Irma)- Project N	\$765.00	\$0.00	\$765.00
✓ 10910093	12/17/19	6	January 2020 Special Election	\$1,157.18	\$0.00	\$1,157.18
✓ 10910094	12/17/19	7	Amendments to Charter	\$1,035.00	\$0.00	\$1,035.00
✓ 10910095	12/17/19	8	2019 TRIM Compliance Issues	\$4,005.00	\$0.00	\$4,005.00
✓ 10910096	12/17/19	1	General	\$1,793.59	\$0.00	\$1,793.59
<b>Totals:</b>				<b>\$8,755.77</b>	<b>\$0.00</b>	<b>\$8,755.77</b>

0-30 Days	31-60 Days	61-90 Days	91+ Days	Balance Due
\$8,755.77				\$8,755.77

Note: Payments received after the statement date will be reflected on your next statement.

CA 310-81300-31400  
 \$ 1,157.18  
 11/17/2019  
 In reply to Legal Fees - Dec 2019  
 Dept. Head \_\_\_\_\_  
 Finance Dir. \_\_\_\_\_  
 Village Mgr. \_\_\_\_\_

**GRAYROBINSON**

Attorneys At Law  
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Orlando, Florida 32802

Telephone (407) 843-8880  
Federal ID # 59-1300132

Krishan Manners  
Village of Biscayne Park  
640 NE 114th Street  
Biscayne Park, FL 33161

December 17, 2019  
FILE # 824224 - 4

Invoice # 10910092  
Re: FEMA Appeal (Irma)- Project No. 5517

This summary includes all transactions on the above matter processed up to and including the date of the last transaction shown on this invoice. Any transactions, including credits or receipts processed after that date will be reflected on a future statement.

CURRENT FEES:	\$ 765.00
CURRENT DISBURSEMENTS:	\$ 0.00
<b>CURRENT BALANCE DUE:</b>	<b>\$ 765.00</b>

7428

**REMITTANCE COPY**

Please return this remittance copy with your payment for proper allocation.  
**PAYMENT IS DUE UPON RECEIPT**

**GRAYROBINSON**

Attorneys At Law  
Post Office Box 3068  
Orlando, Florida 32802

Telephone (407) 843-8880  
Federal ID # 59-1300132

Krishan Manners  
Village of Biscayne Park  
640 NE 114th Street  
Biscayne Park, FL 33161

December 17, 2019  
FILE # 824224 - 4

Invoice # 10910092  
Re: FEMA Appeal (Irma)- Project No. 5517

This summary includes all transactions on the above matter processed up to and including the date of the last transaction shown on this invoice. Any transactions, including credits or receipts processed after that date will be reflected on a future statement.

CURRENT FEES:	\$ 765.00
CURRENT DISBURSEMENTS:	\$ 0.00
CURRENT BALANCE DUE:	\$ 765.00

Village of Biscayne Park  
FEMA Appeal (Irma)- Project No. 5517

Invoice No. 10910092  
Invoice Date: December 17, 2019

**Professional Services:**

11/14/19	RAR	Multiple emails to/from FDEM/KPMG regarding Request for Information (RFI).	0.30	\$ 67.50
11/14/19	RAR	Receipt and review of request for information (RFI) from FDEM; research and compile certain requested records; emails to/from Village Manager regarding certain records needed from vendor for RFI response; draft cover letters for same; submit responses to FDEM for certain RFI reference numbers.	3.10	\$ 697.50

Current Fees:

\$ 765.00

**Summary of Professional Fees:**

<u>NAME</u>	<u>HOURS</u>	<u>RATE</u>	<u>AMOUNT</u>
Rodriguez, Rebecca A.	3.40	\$ 225.00	\$ 765.00
	<u>3.40</u>		<u>\$ 765.00</u>

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Federal ID # 59-1300132

Krishan Manners  
Village of Biscayne Park  
640 NE 114th Street  
Biscayne Park, FL 33161

December 17, 2019  
FILE # 824224 - 6

Invoice # 10910093  
Re: January 2020 Special Election

This summary includes all transactions on the above matter processed up to and including the date of the last transaction shown on this invoice. Any transactions, including credits or receipts processed after that date will be reflected on a future statement.

CURRENT FEES:	\$ 1,125.00
CURRENT DISBURSEMENTS:	\$ 32.18
<b>CURRENT BALANCE DUE:</b>	<b>\$ 1,157.18</b>

7428

## REMITTANCE COPY

Please return this remittance copy with your payment for proper allocation.  
**PAYMENT IS DUE UPON RECEIPT**

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Krishan Manners  
Village of Biscayne Park  
640 NE 114th Street  
Biscayne Park, FL 33161

December 17, 2019  
FILE # 824224 - 6

Invoice # 10910093  
Re: January 2020 Special Election

This summary includes all transactions on the above matter processed up to and including the date of the last transaction shown on this invoice. Any transactions, including credits or receipts processed after that date will be reflected on a future statement.

CURRENT FEES:	\$ 1,125.00
CURRENT DISBURSEMENTS:	\$ 32.18
<b>CURRENT BALANCE DUE:</b>	<b>\$ 1,157.18</b>

7428

**CLIENT COPY**  
**PAYMENT IS DUE UPON RECEIPT**

**Professional Services:**

11/08/19	JCM	Research and analyze election issues including review of Florida Statutes, review of charter and review of Village Code.	0.30	\$ 67.50
11/12/19	RAR	Research, analyze, and draft recommendation to Village officials regarding qualification procedures for January 2020 special election to fill commission vacancies.	2.30	\$ 517.50
11/20/19	RAR	Review and analyze sample ballot deadline and qualifying procedures; conduct DOS opinion research related to same; conference call with Village Manager regarding same; conference call with Village Clerk regarding same.	1.20	\$ 270.00
11/26/19	RAR	Research regarding resident's "candidate night" fee waiver request to use village facility at no charge; emails to and from Village Manager and Clerk regarding same.	1.20	\$ 270.00

Current Fees: \$ 1,125.00

**Summary of Professional Fees:**

<u>NAME</u>	<u>HOURS</u>	<u>RATE</u>	<u>AMOUNT</u>
Mandell, Julia C.	0.30	\$ 225.00	\$ 67.50
Rodriguez, Rebecca A.	4.70	\$ 225.00	\$ 1,057.50
	5.00		\$ 1,125.00

**Disbursements:**

11/08/19	Computer Research Westlaw - RODRIGUEZ	\$ 32.18
----------	---------------------------------------	----------

Current Disbursements: \$ 32.18

**Summary of Disbursements:**

<u>DESCRIPTION</u>	<u>AMOUNT</u>
Computer Research	\$ 32.18
	\$ 32.18

**GRAYROBINSON**

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Federal ID # 59-1300132

Krishan Manners  
Village of Biscayne Park  
640 NE 114th Street  
Biscayne Park, FL 33161

December 17, 2019  
FILE # 824224 - 7

Invoice # 10910094  
Re: Amendments to Charter

This summary includes all transactions on the above matter processed up to and including the date of the last transaction shown on this invoice. Any transactions, including credits or receipts processed after that date will be reflected on a future statement.

CURRENT FEES:	\$ 1,035.00
CURRENT DISBURSEMENTS:	\$ 0.00
<b>CURRENT BALANCE DUE:</b>	<b>\$ 1,035.00</b>

7428

**REMITTANCE COPY**

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Federal ID # 59-1300132

Krishan Manners  
Village of Biscayne Park  
640 NE 114th Street  
Biscayne Park, FL 33161

December 17, 2019  
FILE # 824224 - 7

Invoice # 10910094  
Re: Amendments to Charter

This summary includes all transactions on the above matter processed up to and including the date of the last transaction shown on this invoice. Any transactions, including credits or receipts processed after that date will be reflected on a future statement.

CURRENT FEES:	\$ 1,035.00
CURRENT DISBURSEMENTS:	\$ 0.00
CURRENT BALANCE DUE:	\$ 1,035.00

Village of Biscayne Park  
Amendments to Charter

Invoice No. 10910094  
Invoice Date: December 17, 2019

**Professional Services:**

11/07/19	RAR	Prepare for Charter Review Advisory Board meeting.	1.10	\$ 247.50
11/07/19	RAR	Attend Charter Review Advisory Board meeting	3.50	\$ 787.50

Current Fees: \$ 1,035.00

**Summary of Professional Fees:**

<u>NAME</u>	<u>HOURS</u>	<u>RATE</u>	<u>AMOUNT</u>
Rodriguez, Rebecca A.	4.60	\$ 225.00	\$ 1,035.00
	<u>4.60</u>		<u>\$ 1,035.00</u>

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Orlando, Florida 32802

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Federal ID # 59-1300132

Krishan Manners  
Village of Biscayne Park  
640 NE 114th Street  
Biscayne Park, FL 33161

December 17, 2019  
FILE # 824224 - 8

Invoice # 10910095  
Re: 2019 TRIM Compliance Issues

This summary includes all transactions on the above matter processed up to and including the date of the last transaction shown on this invoice. Any transactions, including credits or receipts processed after that date will be reflected on a future statement.

CURRENT FEES:	\$ 4,005.00
CURRENT DISBURSEMENTS:	\$ 0.00
CURRENT BALANCE DUE:	\$ 4,005.00

7428

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PAYMENT IS DUE UPON RECEIPT

**GRAY ROBINSON**

Attorneys At Law  
Post Office Box 3068  
Orlando, Florida 32802

Telephone (407) 843-8880  
Federal ID # 59-1300132

Krishan Manners  
Village of Biscayne Park  
640 NE 114th Street  
Biscayne Park, FL 33161

December 17, 2019  
FILE # 824224 - 8

Invoice # 10910095  
Re: 2019 TRIM Compliance Issues

This summary includes all transactions on the above matter processed up to and including the date of the last transaction shown on this invoice. Any transactions, including credits or receipts processed after that date will be reflected on a future statement.

CURRENT FEES:	\$ 4,005.00
CURRENT DISBURSEMENTS:	\$ 0.00
<b>CURRENT BALANCE DUE:</b>	<b>\$ 4,005.00</b>

**Professional Services:**

11/04/19	RAR	Receipt and review of deficiency notice from Florida Department of Revenue; call with Village Manger regarding same; research into corrective measures to remedy deficiency noted by DOR.	2.10	\$ 472.50
11/06/19	AP	Several communications with Manager and Clerk to discuss TRIM notice advertisement, special commission meeting, commissioner resignation, and special elections strategy.	1.30	\$ 292.50
11/08/19	RAR	Prepare for special commission meeting regarding TRIM re-hearing.	1.00	\$ 225.00
11/08/19	RAR	Attend special commission meeting regarding TRIM re-hearing.	1.50	\$ 337.50
11/13/19	RAR	Receipt and review of Miami Herald publication for notice of millage re-certification hearing; multiple conference calls with Village officials regarding same; research regarding whether typo in notice is fatal to comply with the statute's notice requirements; receipt and review of multiple communications from Florida DOR regarding same; multiple emails regarding same.	4.20	\$ 945.00
11/14/19	RAR	Review of TRIM history for FY 2019-2020; draft Resolution 2019-30 for public hearing to recertify millage rate; emails to/from Finance Director regarding same.	1.10	\$ 247.50
11/15/19	RAR	Prepare for special commission meeting and TRIM re-certification public hearing.	1.40	\$ 315.00
11/15/19	RAR	Appear for and attend special commission meeting for TRIM re-certification public hearing; meeting with Village Manager and Clerk thereafter regarding action items for TRIM re-certification with Florida Department of Revenue.	1.50	\$ 337.50
11/19/19	AP	Consider issues with TRIM notice advertisement and summary budget.	0.60	\$ 135.00
11/19/19	RAR	Receipt and review of proposed TRIM documentation to DOR to evidence recertification hearing and compliance with F.S. 200.065; conference call with Village Manager and deputy Finance Director regarding same; supplemental research regarding same.	3.10	\$ 697.50

Current Fees:

\$ 4,005.00

**Summary of Professional Fees:**

<u>NAME</u>	<u>HOURS</u>	<u>RATE</u>	<u>AMOUNT</u>
Protopapadakis, Anastasia	1.90	\$ 225.00	\$ 427.50
Rodriguez, Rebecca A.	15.90	\$ 225.00	\$ 3,577.50
	<hr/> 17.80		<hr/> \$ 4,005.00

**GRAYROBINSON**

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Federal ID # 59-1300132

Krishan Manners  
Village of Biscayne Park  
640 NE 114th Street  
Biscayne Park, FL 33161

December 17, 2019  
FILE # 824224 - 1

Invoice # 10910096  
Re: General

This summary includes all transactions on the above matter processed up to and including the date of the last transaction shown on this invoice. Any transactions, including credits or receipts processed after that date will be reflected on a future statement.

CURRENT FEES:	\$ 1,777.50
CURRENT DISBURSEMENTS:	\$ 16.09
CURRENT BALANCE DUE:	\$ 1,793.59

7428

**REMITTANCE COPY**

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Orlando, Florida 32802

Telephone (407) 843-8880  
Federal ID # 59-1300132

Krishan Manners  
Village of Biscayne Park  
640 NE 114th Street  
Biscayne Park, FL 33161

December 17, 2019  
FILE # 824224 - 1

Invoice # 10910096  
Re: General

This summary includes all transactions on the above matter processed up to and including the date of the last transaction shown on this invoice. Any transactions, including credits or receipts processed after that date will be reflected on a future statement.

CURRENT FEES:	\$ 1,777.50
CURRENT DISBURSEMENTS:	\$ 16.09
<b>CURRENT BALANCE DUE:</b>	<b>\$ 1,793.59</b>

Village of Biscayne Park  
General

Invoice No. 10910096  
Invoice Date: December 17, 2019

**Professional Services:**

11/04/19	AP	Prepare for commission meeting; review emails and documents related to erroneous TRIM notice and prepare to address same at commission meeting.	2.30	\$ 517.50
11/05/19	AP	Telephone conferences with Village Manager, Village Chief, and Village Mayor to discuss agenda items; consider conflict of interest issue regarding D. Samaria's inclusion of agenda item related to his personal business; review additional documents related to TRIM issue; attend commission meeting (dismissed for lack of quorum); review Commissioner Sardella's resignation letter; consider re-setting commission meeting and quorum issues related to same.	3.90	\$ 877.50
11/05/19	RAR	Assist with preparation for monthly Village Commission regular meeting.	1.20	\$ 270.00
11/07/19	RAR	Conference call with Exec. Dir. of County Ethics commission; follow-up conference call with Village Manager regarding same.	0.50	\$ 112.50

Current Fees:

\$ 1,777.50

**Summary of Professional Fees:**

<u>NAME</u>	<u>HOURS</u>	<u>RATE</u>	<u>AMOUNT</u>
Protopapadakis, Anastasia	6.20	\$ 225.00	\$ 1,395.00
Rodriguez, Rebecca A.	1.70	\$ 225.00	\$ 382.50
	<u>7.90</u>		<u>\$ 1,777.50</u>

**Disbursements:**

11/01/19	Computer Research Westlaw - RODRIGUEZ	\$ 16.09
----------	---------------------------------------	----------

Current Disbursements:

\$ 16.09

**Summary of Disbursements:**

<u>DESCRIPTION</u>	<u>AMOUNT</u>
Computer Research	\$ 16.09
	<u>\$ 16.09</u>

THE FACE OF THIS DOCUMENT HAS A COLORED BACKGROUND ON WHITE PAPER

001877

VILLAGE OF BISCAYNE PARK  
640 NE 114TH STREET  
BISCAYNE PARK, FL 33161-6202  
(305) 899-8000

SYNOVUS BANK  
WESTON, FL 33331

63-1676/660

DATE  
1/13/2020

AMOUNT  
\$8,755.77\*

EIGHT THOUSAND SEVEN HUNDRED FIFTY-FIVE DOLLARS & 77 CENTS \*\*\*\*\*

PAY  
TO THE  
ORDER  
OF:  
GRAY ROBINSON  
ATTORNEYS AT LAW  
PO BOX 3068  
ORLANDO FL 32802

*[Signature]*  
*[Signature]*  
AUTHORIZED SIGNATURE

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WELLS FARGO BANK  
FOR DEPOSIT ONLY  
GRAY ROBINSON, P.A.  
OFFICE ACCOUNT

WALCK 3 MILL (07-18)

# GRAY ROBINSON

Attorneys At Law  
Post Office Box 3068  
Orlando, Florida 32802

Telephone (407) 843-8880  
Federal ID # 59-1300132

David Hernandez  
Village of Biscayne Park  
640 NE 114th Street  
Biscayne Park, FL 33161

February 13, 2020  
FILE # 824224 - 1

Invoice # 10921069  
Re: General

This summary includes all transactions on the above matter processed up to and including the date of the last transaction shown on this invoice. Any transactions, including credits or receipts processed after that date will be reflected on a future statement.

PRIOR BALANCE:	\$ 3,495.00
CURRENT FEES:	\$ 5,962.50
CURRENT DISBURSEMENTS:	\$ 16.09
CURRENT BALANCE DUE:	\$ 5,978.59
<b>TOTAL BALANCE DUE:</b> (Prior balance included)	<b>\$ 9,473.59</b>

7428

## REMITTANCE COPY

Please return this remittance copy with your payment for proper allocation.  
**PAYMENT IS DUE UPON RECEIPT**

# GRAY ROBINSON

Attorneys At Law  
Post Office Box 3068  
Orlando, Florida 32802

Telephone (407) 843-8880  
Federal ID # 59-1300132

David Hernandez  
Village of Biscayne Park  
640 NE 114th Street  
Biscayne Park, FL 33161

February 13, 2020  
FILE # 824224 - 1

Invoice # 10921069  
Re: General

This summary includes all transactions on the above matter processed up to and including the date of the last transaction shown on this invoice. Any transactions, including credits or receipts processed after that date will be reflected on a future statement.

PRIOR BALANCE:	\$ 3,495.00
CURRENT FEES:	\$ 5,962.50
CURRENT DISBURSEMENTS:	\$ 16.09
CURRENT BALANCE DUE:	\$ 5,978.59
<b>TOTAL BALANCE DUE:</b> (Prior balance included)	<b>\$ 9,473.59</b>

7428

**CLIENT COPY**  
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**Professional Services:**

01/07/20	AP	Receipt, review, and analysis regarding citizen complaint of law enforcement activity; provide legal opinion regarding same.	0.90	\$ 202.50
01/08/20	STS	Assess and respond to inquiry regarding pay issues.	0.30	\$ 67.50
01/10/20	RAR	Receipt, review, and revisions to various proposed commission meeting materials; multiple emails to/from Village Clerk and Village Manager regarding same.	2.10	\$ 472.50
01/14/20	THL	Consideration of and assistance with issues relating to lack of quorum, procedural commission issues.	0.50	\$ 112.50
01/14/20	RAR	Prepare for regular monthly commission meeting and variance quasi-judicial proceeding; conference call with Village Manager regarding development of commission meeting quorum issue and Sunshine Law concerns related to same.	3.10	\$ 697.50
01/14/20	RAR	In-person meeting with Village Manager in advance of commission meeting; attend monthly commission meeting to announce lack of quorum at Village Manager's request.	0.70	\$ 157.50
01/16/20	RAR	Multiple calls with several different Village officials regarding various pending legal items.	3.30	\$ 742.50
01/16/20	JCM	Review and respond to emails from M. Kennedy regarding scheduling of a special meeting.	0.50	\$ 112.50
01/17/20	AP	Prepare for and attend telephone conference with county ethics exec. director, J. Arrojo regarding results of ethics investigation and interview of Village Administration regarding scheduled commission meeting and institution of newly elected commissioners.	1.30	\$ 292.50
01/17/20	RAR	Attend conference call with Miami-Dade County Ethics Commission; attend second conference call with Miami-Dade County Ethics Commission and Village Administration; follow-up conference call with client regarding same.	1.30	\$ 292.50
01/22/20	RAR	Initiate draft attorney memo to Village Commission regarding status of FEMA appeals.	0.40	\$ 90.00
01/31/20	JCM	Review of various emails regarding upcoming meeting agenda; email to Village Manager regarding executive session; telephone conference with Village Manager; review of Agenda.	1.90	\$ 427.50
02/01/20	JCM	Various emails with Commissioner Kennedy regarding litigation matter; press matter and other pending	0.70	\$ 157.50

		matters for commission meeting and schedule conference regarding same.		
02/04/20	JCM	Prepare for and attend Village Commission meeting; conference with Commissioner Kennedy and Manager Manners; conference with Mayor Truppman; review and respond to various emails regarding matters on the agenda.	6.20	\$ 1,395.00
02/04/20	RAR	Assist with preparation for regular monthly commission meeting.	2.00	\$ 450.00
02/06/20	JCM	Review email communication from David Hernandez; forward to Interim Village Attorney Herin and review response from Attorney Herin; email communication to Attorney Herin regarding pending litigation matters and offer to draft additional closing memorandum.	0.90	\$ 202.50
02/11/20	JCM	Recieve telephone call from Village Attorney Herrin and conduct telephone conference with John Herrin regarding pending matters with village; discuss finalizing bill.	0.40	\$ 90.00

Current Fees: \$ 5,962.50

**Summary of Professional Fees:**

<u>NAME</u>	<u>HOURS</u>	<u>RATE</u>	<u>AMOUNT</u>
Spradley, Susan T.	0.30	\$ 225.00	\$ 67.50
Protopapadakis, Anastasia	2.20	\$ 225.00	\$ 495.00
Loffredo, Tom H.	0.50	\$ 225.00	\$ 112.50
Mandell, Julia C.	10.60	\$ 225.00	\$ 2,385.00
Rodriguez, Rebecca A.	12.90	\$ 225.00	\$ 2,902.50
	<u>26.50</u>		<u>\$ 5,962.50</u>

**Disbursements:**

01/02/20	Computer Research Westlaw - RODRIGUEZ	\$ 16.09
----------	---------------------------------------	----------

Current Disbursements: \$ 16.09

**Summary of Disbursements:**

<u>DESCRIPTION</u>	<u>AMOUNT</u>
Computer Research	\$ 16.09
	<u>\$ 16.09</u>

Village of Biscayne Park  
General

Invoice No. 10921069  
Invoice Date: February 13, 2020

# GRAY ROBINSON

Attorneys At Law  
Post Office Box 3068  
Orlando, Florida 32802

Telephone (407) 843-8880  
Federal ID # 59-1300132

David Hernandez  
Village of Biscayne Park  
640 NE 114th Street  
Biscayne Park, FL 33161

February 13, 2020  
FILE # 824224 - 10

Invoice # 10921073  
Re: Samaria, Daniel

This summary includes all transactions on the above matter processed up to and including the date of the last transaction shown on this invoice. Any transactions, including credits or receipts processed after that date will be reflected on a future statement.

CURRENT FEES:	\$ 8,415.00
CURRENT DISBURSEMENTS:	\$ 1,771.18
<b>CURRENT BALANCE DUE:</b>	<b>\$ 10,186.18</b>

7428

## REMITTANCE COPY

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Federal ID # 59-1300132

David Hernandez  
Village of Biscayne Park  
640 NE 114th Street  
Biscayne Park, FL 33161

February 13, 2020  
FILE # 824224 - 10

Invoice # 10921073  
Re: Samaria, Daniel

This summary includes all transactions on the above matter processed up to and including the date of the last transaction shown on this invoice. Any transactions, including credits or receipts processed after that date will be reflected on a future statement.

CURRENT FEES:	\$ 8,415.00
CURRENT DISBURSEMENTS:	\$ 1,771.18
<b>CURRENT BALANCE DUE:</b>	<b>\$ 10,186.18</b>

7428

**CLIENT COPY**  
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**Professional Services:**

01/03/20	RAR	Review recent court filings related to Comm. D. Samaria; draft and submit correspondence to Comm. D. Samaria regarding qualifying residence issue raised in court filings.	0.70	\$ 157.50
01/03/20	KHB	Strategy regarding seeking quo warranto relief.	0.30	\$ 67.50
01/07/20	RAR	Research and initiate draft Emergency Petition for Writ of Quo Warranto to compel Comm. D. Samaria to provide Village Administration.	2.10	\$ 472.50
01/07/20	KHB	Strategy regarding writ of quo warranto and forum in which to file.	0.30	\$ 67.50
01/08/20	RAR	Continue drafting Emergency Petition for Writ of Quo Warranto.	1.10	\$ 247.50
01/08/20	KHB	Strategy regarding petition for quo warranto, proper parties, form, tribunal.	0.30	\$ 67.50
01/09/20	AP	Receipt and review draft petition for writ of quo warranto and consider strategy for filing same.	0.70	\$ 157.50
01/09/20	RAR	Conference call with Village Manager regarding residents raising eligibility issues, Comm. Samaria's notifying Village he will not provide a proof of current residence, and approval to request court intervention to obtain proof of commissioner's permanent residence; finalize, file, and serve petition for writ of quo warranto and declaratory relief.	2.10	\$ 472.50
01/09/20	KHB	Strategy regarding adding declaratory action to petition for writ of quo warranto and standing.	0.30	\$ 67.50
01/10/20	RAR	No Charge - Prepare and upload summons for issuance by Clerk of the Court.	0.00	\$ 0.00
01/13/20	KHB	Strategy regarding obtaining expedited proceedings.	0.20	\$ 45.00
01/14/20	AP	Receipt and review draft order issuing writ of quo warranto; consider issues arising at commission meeting regarding lack of quorum and conducting of village business in spite of the lack of quorum.	0.70	\$ 157.50
01/15/20	THL	Attention to status and strategy regarding commissioner residency issue.	0.40	\$ 90.00
01/15/20	JCM	Review various pleadings regarding matter with Mr. Samaria and analysis regarding same; Review and respond to emails from Comm. M. Kennedy regarding Charter Commission commencement.	0.80	\$ 180.00
01/21/20	RAR	Receipt, review, and analysis of Respondent's emergency motion to vacate order, dismiss proceeding, and for other relief; draft, file, and serve Village response in opposition to same; transmit same to	3.10	\$ 697.50

		chambers.		
01/22/20	KHB	Review emergency omnibus motion to vacate, etc. & response and exhibits.	0.40	\$ 90.00
01/22/20	KHB	Research regarding preemption of charter provision by state statute and const. provisions.	0.90	\$ 202.50
01/22/20	KHB	Strategy regarding emergency hearing.	1.10	\$ 247.50
01/22/20	RAR	No Charge 0.1 - Receipt and review of court's order setting hearing on Respondent's emergency motion to vacate.	0.00	\$ 0.00
01/27/20	THL	Review and analysis of reply memo and unsworn residency statement; attention to status and strategy.	1.00	\$ 225.00
01/27/20	RAR	Receipt, review, and analysis of D. Samaria's filed unsworn statement, and D. Samaria's reply contesting circuit court's jurisdiction; subpoena the owner of record (purported new landlord) for address D. Samaria alleges to have secured as his new rental residence in jurisdiction.	1.60	\$ 360.00
01/27/20	KHB	Review filed reply from D. Samaria and strategy regarding surreply arguments and review proposed surreply.	0.50	\$ 112.50
01/28/20	RAR	Research, analysis, and drafting of (1) motion for leave to file surreply in further support of jurisdiction, and (2) proposed surreply in support of jurisdiction; conference call with the Village Manager regarding same; file motion for leave.	2.80	\$ 630.00
01/28/20	RAR	No Charge - Email to opposing counsel D. Dillworth proposing resolution to case upon receipt of the following documents referenced in D. Samaria's filed unsworn statement to the Court on January 27, 2020: (1) copy of lease for new rental property, and (2) proof of deposit D. Samaria claims to have paid to rent the new address.	0.00	\$ 0.00
01/28/20	RAR	No Charge - Receipt and review of email from process server summarizing M. Antoine's (owner of D. Samaria's alleged new rental property) statement to process server that she has nothing to do with the case.	0.00	\$ 0.00
01/28/20	KHB	Review and revise second draft of surreply and strategy regarding hearing, arguments to highlight.	0.50	\$ 112.50
01/29/20	THL	Attention to status and strategy regarding petition hearing.	0.50	\$ 112.50
01/29/20	RAR	Preparation for hearing on 1/30/2020.	8.00	\$ 1,800.00
01/30/20	JCM	Review emails from Comm. M. Kennedy; review Florida Statutes as it relates to executive sessions;	1.10	\$ 247.50

		review of Dismissal Order and respond to email.		
01/30/20	THL	Attention to hearing issues, arguments and bar rule concerns.	0.50	\$ 112.50
01/30/20	RAR	Appear for and attend hearing on Petitioner's Emergency Motion to Vacate and to Dismiss.	2.10	\$ 472.50
01/30/20	RAR	Call with Village Manager regarding outcome of hearing.	0.30	\$ 67.50
01/31/20	RAR	Call with Village Manager regarding resident's report of Comm. D. Samaria occupying vacant property within Village (11636 N.E. 7 Avenue) and Village's call with property owner confirming property should be vacant; confirm with Village Manager that property was secured, is being monitored by police, and incident report will be prepared by police department.	0.40	\$ 90.00
01/31/20	RAR	No Charge - Call with Carrington Mortgage confirming that sheriff executed writ of possession for 1030 N.E. 121 Street prior to 1/30 hearing; call with Village Manager regarding same and how to handle fact that this was not disclosed to the court on 1/30 during hearing.	0.00	\$ 0.00
02/03/20	RAR	Receipt of email from Village resident C. Goehl to Village police department reporting Comm. D. Samaria occupying vacant property at 11636 N.E. 7 Avenue and leaving property on bicycle with backpack; call with Village Manager regarding resident's claim.	0.30	\$ 67.50
02/03/20	RAR	No Charge - Conference call with Village resident M. Antoine regarding what she told process server and Comm. D. Samaria's allegations of a purported lease at her property.	0.00	\$ 0.00
02/04/20	RAR	No Charge - Receipt and review of sheriff lock-out confirmation for 1030 N.E. 121 Street property occurring prior to 1/30 hearing.	0.00	\$ 0.00
02/04/20	RAR	No Charge - Receipt and review of transcripts from hearing on 1/30; call with Village Manager regarding same.	0.00	\$ 0.00
02/04/20	RAR	Prepare draft motion for rehearing and for sanctions for committing fraud upon the court in failing to disclose material fact to tribunal (sheriff's execution of writ of possession occurred prior to 1/30 hearing).	2.30	\$ 517.50
02/04/20	RAR	No Charge - Draft and submit correspondence to opposing counsel D. Dillworth to provide Stearns Weaver law firm an opportunity to remedy issues in draft sanctions and rehearing motion prior to filing; receipt and review of response letter from D. Dillworth	0.00	\$ 0.00

at Stearns Weaver regarding same and note regarding their refusal to notify court.

02/04/20 RAR No Charge - Research regarding duty to report suspected bar rule violations to ACAP. 0.00 \$ 0.00

Current Fees: \$ 8,415.00

**Summary of Professional Fees:**

<u>NAME</u>	<u>HOURS</u>	<u>RATE</u>	<u>AMOUNT</u>
Protopapadakis, Anastasia	1.40	\$ 225.00	\$ 315.00
Loffredo, Tom H.	2.40	\$ 225.00	\$ 540.00
Mandell, Julia C.	1.90	\$ 225.00	\$ 427.50
Hatcher-Bolin, Kristie	4.80	\$ 225.00	\$ 1,080.00
Rodriguez, Rebecca A.	26.90	\$ 225.00	\$ 6,052.50
	<u>37.40</u>		<u>\$ 8,415.00</u>

**Disbursements:**

01/15/20 VENDOR: Professional Process Servers & Investiga \$ 80.00  
 INVOICE#: FIS-2020000470 DATE: 1/15/2020 Service of  
 Process on Daniel Samaria

01/21/20 VENDOR: Professional Process Servers & Investiga \$ 125.00  
 INVOICE#: FIS-2020000743 DATE: 1/21/2020 Background  
 Check

01/24/20 VENDOR: FedEx ERS INVOICE#: 691420314 DATE: \$ 9.23  
 1/31/2020 Tracking #777600466332 From: 401 E Las Olas  
 Blvd, FORT LAUDERDALE, FL 33301 To: Honorable  
 Antonio Arzola, Miami-Dade County Courthouse, 73 West  
 Flagler Street, MIAMI, FL 33130

01/30/20 VENDOR: Rodriguez , Rebecca INVOICE#: \$ 50.00  
 3969711302031505 DATE: 2/3/2020 Courthouse Parking for  
 1/30 Evidentiary Hearing

01/30/20 VENDOR: Professional Process Servers & Investiga \$ 50.00  
 INVOICE#: FIS-2020001231 DATE: 1/30/2020 Service of  
 Process for Marie Suzie Antoine

01/31/20 Computer Research Westlaw - RODRIGUEZ \$ 766.70

02/03/20 VENDOR: Ouellette & Mauldin Court Reporters, Inc \$ 690.25  
 INVOICE#: 969501 DATE: 2/3/2020 Hearing Transcript for  
 Evidentiary Hearing before Honorable Antonio Arzola

Current Disbursements: \$ 1,771.18

**Summary of Disbursements:**

<u>DESCRIPTION</u>	<u>AMOUNT</u>
Computer Research	\$ 766.70
Deposition/Transcript	\$ 690.25
Express Mail	\$ 9.23
Parking	\$ 50.00
Professional Services	\$ 205.00
Service of Process	\$ 50.00
	<hr/>
	\$ 1,771.18

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Federal ID # 59-1300132

David Hernandez  
Village of Biscayne Park  
640 NE 114th Street  
Biscayne Park, FL 33161

February 13, 2020  
FILE # 824224 - 4

Invoice # 10921070  
Re: FEMA Appeal (Irma)– Project No. 5517

This summary includes all transactions on the above matter processed up to and including the date of the last transaction shown on this invoice. Any transactions, including credits or receipts processed after that date will be reflected on a future statement.

PRIOR BALANCE:	\$ 630.00
CURRENT FEES:	\$ 360.00
CURRENT DISBURSEMENTS:	\$ 0.00
CURRENT BALANCE DUE:	\$ 360.00
<b>TOTAL BALANCE DUE:</b> (Prior balance included)	<b>\$ 990.00</b>

7428

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David Hernandez  
Village of Biscayne Park  
640 NE 114th Street  
Biscayne Park, FL 33161

February 13, 2020  
FILE # 824224 - 4

Invoice # 10921070  
Re: FEMA Appeal (Irma)– Project No. 5517

This summary includes all transactions on the above matter processed up to and including the date of the last transaction shown on this invoice. Any transactions, including credits or receipts processed after that date will be reflected on a future statement.

PRIOR BALANCE:	\$ 630.00
CURRENT FEES:	\$ 360.00
CURRENT DISBURSEMENTS:	\$ 0.00
CURRENT BALANCE DUE:	\$ 360.00
<b>TOTAL BALANCE DUE:</b> (Prior balance included)	<b>\$ 990.00</b>

7428

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**Professional Services:**

01/10/20	RAR	Receipt and review of correspondence from FEMA; call with Village Manager regarding same; research and review of prior grant portal communications and appeal filed.	1.30	\$ 292.50
01/10/20	RAR	Conference call with assigned FEMA PDMG regarding form in grant portal; memo to file regarding call.	0.30	\$ 67.50

Current Fees: \$ 360.00

**Summary of Professional Fees:**

<u>NAME</u>	<u>HOURS</u>	<u>RATE</u>	<u>AMOUNT</u>
Rodriguez, Rebecca A.	1.60	\$ 225.00	\$ 360.00
	<u>1.60</u>		<u>\$ 360.00</u>

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Federal ID # 59-1300132

David Hernandez  
Village of Biscayne Park  
640 NE 114th Street  
Biscayne Park, FL 33161

February 13, 2020  
FILE # 824224 - 7

Invoice # 10921071  
Re: Amendments to Charter

This summary includes all transactions on the above matter processed up to and including the date of the last transaction shown on this invoice. Any transactions, including credits or receipts processed after that date will be reflected on a future statement.

PRIOR BALANCE:	\$ 2,295.00
CURRENT FEES:	\$ 1,597.50
CURRENT DISBURSEMENTS:	\$ 0.00
CURRENT BALANCE DUE:	\$ 1,597.50
<b>TOTAL BALANCE DUE:</b> (Prior balance included)	<b>\$ 3,892.50</b>

7428

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Federal ID # 59-1300132

David Hernandez  
Village of Biscayne Park  
640 NE 114th Street  
Biscayne Park, FL 33161

February 13, 2020  
FILE # 824224 - 7

Invoice # 10921071  
Re: Amendments to Charter

This summary includes all transactions on the above matter processed up to and including the date of the last transaction shown on this invoice. Any transactions, including credits or receipts processed after that date will be reflected on a future statement.

PRIOR BALANCE:	\$ 2,295.00
CURRENT FEES:	\$ 1,597.50
CURRENT DISBURSEMENTS:	\$ 0.00
CURRENT BALANCE DUE:	\$ 1,597.50
<b>TOTAL BALANCE DUE:</b> (Prior balance included)	<b>\$ 3,892.50</b>

7428

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**Professional Services:**

01/09/20	RAR	Continue drafting proposed final advisory board report to Commission.	1.80	\$ 405.00
01/13/20	RAR	Prepare for final meeting of the charter review advisory board.	1.90	\$ 427.50
01/13/20	RAR	Appear for and attend the final meeting of Charter Review Advisory Board.	2.10	\$ 472.50
01/31/20	RAR	Review, revise, and finalize final board sunset report to the Village Commission; email to Village Clerk regarding same.	1.30	\$ 292.50

Current Fees:	\$ 1,597.50
---------------	-------------

**Summary of Professional Fees:**

<u>NAME</u>	<u>HOURS</u>	<u>RATE</u>	<u>AMOUNT</u>
Rodriguez, Rebecca A.	7.10	\$ 225.00	\$ 1,597.50
	7.10		\$ 1,597.50

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Orlando, Florida 32802

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Federal ID # 59-1300132

David Hernandez  
Village of Biscayne Park  
640 NE 114th Street  
Biscayne Park, FL 33161

February 13, 2020  
FILE # 824224 - 9

Invoice # 10921072  
Re: Appeal - Theard v. Biscayne Park

This summary includes all transactions on the above matter processed up to and including the date of the last transaction shown on this invoice. Any transactions, including credits or receipts processed after that date will be reflected on a future statement.

PRIOR BALANCE:	\$ 937.24
CURRENT FEES:	\$ 45.00
CURRENT DISBURSEMENTS:	\$ 9.26
CURRENT BALANCE DUE:	\$ 54.26
<b>TOTAL BALANCE DUE:</b> (Prior balance included)	<b>\$ 991.50</b>

7428

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Orlando, Florida 32802

Telephone (407) 843-8880  
Federal ID # 59-1300132

David Hernandez  
Village of Biscayne Park  
640 NE 114th Street  
Biscayne Park, FL 33161

February 13, 2020  
FILE # 824224 - 9

Invoice # 10921072  
Re: Appeal - Theard v. Biscayne Park

This summary includes all transactions on the above matter processed up to and including the date of the last transaction shown on this invoice. Any transactions, including credits or receipts processed after that date will be reflected on a future statement.

PRIOR BALANCE:	\$ 937.24
CURRENT FEES:	\$ 45.00
CURRENT DISBURSEMENTS:	\$ 9.26
CURRENT BALANCE DUE:	\$ 54.26
<b>TOTAL BALANCE DUE:</b> (Prior balance included)	<b>\$ 991.50</b>

7428

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**Professional Services:**

01/03/20 KHB Strategy re: addressing missing reply brief from 0.20 \$ 45.00  
petitioner.

Current Fees: \$ 45.00

**Summary of Professional Fees:**

<u>NAME</u>	<u>HOURS</u>	<u>RATE</u>	<u>AMOUNT</u>
Hatcher-Bolin, Kristie	0.20	\$ 225.00	\$ 45.00
	<u>0.20</u>		<u>\$ 45.00</u>

**Disbursements:**

01/14/20 VENDOR: FedEx ERS INVOICE#: 689986505 DATE: \$ 9.26  
1/17/2020 Tracking #777474897155 From: 401 E Las Olas  
Blvd, FORT LAUDERDALE, FL 33301 To: Honorable  
Thomas J. Rebull, Dade County Courthouse, 73 West Flagler  
Street, MIAMI, FL 33130

Current Disbursements: \$ 9.26

**Summary of Disbursements:**

<u>DESCRIPTION</u>	<u>AMOUNT</u>
Express Mail	\$ 9.26
	<u>\$ 9.26</u>



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Attorneys At Law  
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 Orlando, Florida 32802  
 Telephone (407) 843-8880  
 Federal ID # 59-1300132

Krishan Manners  
 Village of Biscayne Park  
 640 NE 114th Street  
 Biscayne Park, FL 33161

**Remittance Address:**  
 P.O. Box 3068  
 Orlando, Florida 32802-3068

## Statement of Account As of January 17, 2020 For Client Account No.: 824224

Invoice Number	Invoice Date	Mat #	Matter Name	Amount Billed	Amount Received	Balance Due
10910092	12/17/19	4	FEMA Appeal (Irma)- Project N	\$765.00	\$0.00	\$765.00 P
10910093	12/17/19	6	January 2020 Special Election	\$1,157.18	\$0.00	\$1,157.18 P
10910094	12/17/19	7	Amendments to Charter	\$1,035.00	\$0.00	\$1,035.00 P
10910095	12/17/19	8	2019 TRIM Compliance Issues	\$4,005.00	\$0.00	\$4,005.00 P
10910096	12/17/19	1	General	\$1,793.59	\$0.00	\$1,793.59 P
10916309	01/17/20	1	General	\$3,495.00	\$0.00	\$3,495.00
10916310	01/17/20	4	FEMA Appeal (Irma)- Project N	\$630.00	\$0.00	\$630.00
10916311	01/17/20	7	Amendments to Charter	\$2,295.00	\$0.00	\$2,295.00
10916312	01/17/20	8	2019 TRIM Compliance Issues	\$45.00	\$0.00	\$45.00
10916313	01/17/20	9	Appeal - Theard v. Biscayne Parl	\$937.24	\$0.00	\$937.24
10916314	01/17/20	6	January 2020 Special Election	\$270.00	\$0.00	\$270.00
<b>Totals:</b>				<b>\$16,428.01</b>	<b>\$0.00</b>	<b>\$16,428.01</b>

0-30 Days	31-60 Days	61-90 Days	91+ Days	Balance Due
\$7,672.24	\$8,755.77			\$16,428.01

Note: Payments received after the statement date will be reflected on your next statement.



**VILLAGE OF BISCAYNE PARK**  
**Village Commission Agenda Report**

**Item # 9.a**

**REGULAR MEETING**

---

**TO:** Honorable Mayor & Members of the  
Biscayne Park Village Commission

**FROM:** Commissioner William Tudor

**DATE:** May 19, 2020

**TITLE:** Sanitation Services

---

**Recommendation**

I am recommending that the Commission discuss and reach a consensus on which steps it will undertake to determine how sanitation services will be provided to residents.

**Background**

The contract with WastePro expires on September 30, 2020 and, as a result, the need arises to ascertain the best option to provide residents will consistent and quality sanitation services. Given the importance of this service to residents, this Commission owes it to residents to examine all options, including but not limited to the following:

- Negotiate a new contract with WastePro that contains stronger language to better protect the Village's interest.
- Ascertain the feasibility of piggybacking off the sanitation contract of another municipality.
- Submit a Request for Proposal to solicit bids and identify which vendor might be best qualified.
- Ascertain the feasibility of providing in-house sanitation services to residents.

**Resource Impact**

Resource impact TBD.

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Prepared by: Commissioner William Tudor



**VILLAGE OF BISCAYNE PARK**  
**Village Commission Agenda Report**

**Item # 5.g**

**REGULAR MEETING**

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**TO:** Honorable Mayor & Members of the  
Biscayne Park Village Commission

**FROM:** David Hernandez, Interim Village Manager

**DATE:** March 18, 2020

**TITLE:** Waste Pro Continuation of Services and Extension of Contract

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**Recommendation**

Staff recommends to extend the Agreement with Waste Pro for Solid Waste collection as described at letter dated 03/02/2020 with increase of \$ 2.00 (two dollars) per unit thru September 30, 2020.

**Background**

That in June 02, 2014 the Village of Biscayne Park entered into an Agreement with Waste Pro of Florida, Inc. for Solid Waste and Recycling Collection Services.

Article II of the Agreement allow the contract to be extended two (2) additional five (5) year terms.

- The Village received a letter of Continuation of Services dated 09/30/2019 extending the services for ninety (90) calendar days thru December 30, 2019.
- The Village received a letter of Continuation of Services dated 02/04/2020 extending the services thru April 30, 2020, again with the same rate.
- The Village received a letter of Continuation of Services dated 03/02/2020 to extend the services thru September 30, 2020, with a **rate increase of \$2.00 per unit effective May 1<sup>st</sup>, 2020.**

**Resource Impact**

Applying the rate increase of \$ 2.00 per unit results of the following finance impact:

- Current rate = \$ 27.7 per unit / per month / per 1,298 units at the Village of Biscayne Park = totaling \$ 35,954.60
- Increased rate = \$ 29.70 per unit / per month / per 1,298 units at the Village of Biscayne Park = totaling \$ 38,550.60
- Difference of cost = \$ 2,596.00 per month / total of 1,298 units per five (5) months until September 30, 2020 = totaling \$ 12,980.00 of finance impact thru September 30, 2020.
- The differential payment will be allocated from Solid Waste Fund.
- Any deficiency will be balanced on the FY 2021 Solid Waste Assessment Budget.

**Attachment(s)**

- Waste Pro Agreement
- Waste Pro letters dated: 09/30/2019  
02/04/2020  
03/02/2020
- Waste Pro current invoice February/2020

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Prepared by: Roseann Prado, Village Clerk

**AGREEMENT  
BETWEEN  
VILLAGE OF BISCAYNE PARK, FLORIDA  
AND  
WASTE PRO OF FLORIDA, INC.  
FOR  
SOLID WASTE AND RECYCLING COLLECTION SERVICES**

This Agreement made and entered into this 2 day of June, 2014, by and between the VILLAGE OF BISCAYNE PARK, FLORIDA, a municipal corporation of the State of Florida (hereinafter "Village") and Waste Pro of Florida, Inc. (hereinafter "Contractor").

WHEREAS, Village issued competitive RFP No. 2014-01 (hereinafter the "RFP") for Solid Waste and Recycling Collection Services; and

WHEREAS, Contractor was awarded RFP by a selection committee as directed by the Village Commission; and

WHEREAS, pursuant to Section 4.03 of the Village Charter, on May 21, 2014 the Village Commission adopted Ordinance Number 2014-03 which authorized execution of this Franchise Agreement by both parties on terms substantially similar to those stated in the RFP;

NOW, THEREFORE, in consideration of the mutual promises and understandings set forth herein, the parties hereto agree as follows:

**ARTICLE I  
INCORPORATION OF DOCUMENTS**

The RFP, including Addenda #1 through #4, and the proposal submitted by the Contractor, (hereinafter, collectively, the "RFP Documents") are attached hereto and incorporated herein in their entirety as Exhibit "A". Except as otherwise provided in this Agreement, the parties shall comply with the terms and conditions set forth in the RFP Documents.

**ARTICLE II  
TERM**

The term of this Agreement/Franchise for Solid Waste and Recycling Collection Services (the "Term") shall be for five (5) consecutive years, commencing on October 1, 2014 at 12:00 AM through October 1, 2019 at 11:59 PM. The term may be extended for up to two (2) additional five (5) year terms, subject to the execution of a written amendment to this Agreement signed by both parties unless the Contractor gives written notice to the Village Manager that the Contractor is not willing to renew this Agreement and such notice is delivered at least three hundred sixty (360) calendar days before the end of the then current term of the Agreement. With regard to the initial term and each renewal term (if any), the Village shall give written notice to the Contractor at least one hundred eighty (180) calendar days before the end of the then current term if the Village wishes to renew this Agreement.

ARTICLE III  
FRANCHISE

For a period of five (5) years commencing on \_\_\_\_\_, 2014 (the "Effective Date"), and for any renewal terms, the Village hereby grants Contractor the exclusive franchise and the sole obligation to operate and maintain a comprehensive garbage, trash and other refuse collection including roll-off and removal system and service as well as recycling collection systems for residential customers in and for the Village as specified in RFP NO. 2014-01, which is attached hereto as Exhibit "A", and incorporated herein. Contractor is authorized by Village to enter in, upon, over and across the present and future streets, alleys, bridges, easements and other public places of the Village for the purposes of collecting the garbage, trash, recyclables, and other refuse of the residents, inhabitants, businesses and other entities existing within the municipal corporate limits of the Village, Miami-Dade County, Florida, or as directed in conformance with the Charter and Ordinances of the Village and other applicable law. Further, Contractor may enter certain private property for the purpose of collection as described above provided the waiver of liability form is properly completed by the property owner.

ARTICLE IV  
DUTIES OF CONTRACTOR

The Village shall provide all recycling receptacles to be used by serviced residential units. The Contractor shall maintain all recycling receptacles to be used by serviced residential units. The Contractor will replace up to 10% of missing receptacles Village-wide in any given year.

All services provided shall be consistent with "Exhibit C" Scope of Services, attached hereto and incorporated herein. All collection shall be consistent with all Village Ordinances, as amended from time to time.

The Contractor shall provide the Village with \$5,000.00 in payment and in-kind services for special events and community outreach each year of this Term.

Contractor will strive to implement Compressed Natural Gas (CNG) recycling collection vehicles in the Village by October 1, 2017.

ARTICLE V  
OFF-STREET RESIDENTIAL COLLECTION SERVICE

Contractor shall provide off-street collection of Residential Solid Waste from residential service units if a request for off-street service has been made to and approved by Village in the manner required by Village, including a waiver of liability form filled out by the property owner. Village shall notify Contractor in writing of any residents requiring off-street service. No additional monies shall be due to the Contractor for the provision of off-street service. The point of collection for off-street service shall be the back or side yard or such other location as is mutually agreeable to the Contractor and the resident. In the event the appropriate location cannot be agreed upon, the Village shall mediate the dispute and designate the location for collection. Contractor shall provide off-street service on the same scheduled collection day that residential curbside service would otherwise be provided to the residential service unit.

ARTICLE VI  
PROPER COLLECTION PROCEDURES FOR CONTRACTOR

When providing collection services, Contractor shall thoroughly empty the customer's collection containers and return them in an upright position to the location where they were placed by the customer.

After the Contractor empties a collection container that has a lid, the Contractor shall place the lid back on top of the collection container and close it securely.

Contractor shall handle collection containers carefully and in a manner to prevent damage. Garbage cans, garbage carts, recycling containers and their lids shall not be tossed or thrown by the Contractor. Should the recyclable materials exceed the amount of space provided for by the recyclable container utilized by the resident, the Contractor shall make every effort to also collect the "excess" recyclable material during the scheduled pick-up.

The Contractor shall provide collection service with as little noise and disturbance as possible.

#### ARTICLE VII PROCEDURES FOR MISSED COLLECTIONS

If the Village Manager or a customer notifies the Contractor about a missed collection, the Contractor shall promptly return to the customer's premises and collect all of the residential waste, or recyclable material (as the case may be) that has been set out for collection. If the Contractor is notified before noon, the collection shall be completed before the end of that day. If the Contractor is notified after noon, the collection shall be completed before noon on the next business day, or 24 hours, whichever is earlier.

#### ARTICLE VIII SPILLAGE AND LITTER BY CONTRACTOR

Contractor shall not cause or allow any solid waste, liquid, or other material to be spilled, released or otherwise dispersed in the Village as a result of the Contractor's activities.

Contractor shall immediately pick up any spillage or litter from collection containers that is caused by the Contractor.

When hauling or transporting any material over public roads in the Village, the Contractor shall use a covered or enclosed vehicle or other device to prevent the material from falling, blowing or escaping from the vehicle. If solid waste or any other material escapes from or is scattered by Contractor's vehicle for any reason, Contractor shall immediately pick up such material.

Contractor's vehicles shall not release or cause litter in violation of the Florida Litter Law (Section 403.413, Florida Statutes) or the Village Code. If litter is released or falls from Contractor's vehicle for any reason, the Contractor shall immediately stop the vehicle and retrieve the litter.

The Contractor shall immediately clean up any oil, hydraulic fluid or other liquid that leaks or spills from Contractor's vehicles and the Contractor shall repair any associated damage.

If the Village Manager or a customer notifies the Contractor before noon that the Contractor has caused litter, or caused a leak or spill of solid waste, oil, hydraulic fluid or other liquids or materials, the Contractor shall clean up the liquids and materials before the end of the day. If the Village Manager or a customer notifies the Contractor after noon, the Contractor shall clean up the liquid or materials before noon on the next business day, or 24 hours, whichever is earlier.

ARTICLE IX  
COLLECTION OF SOLID WASTE AFTER A DISASTER

Following a hurricane, tornado, or other natural or human event that is declared a federal disaster, the Contractor shall use its best efforts to immediately collect, by any means available, all of the solid waste that is set out by customers. This shall be the Contractor's primary responsibility until the Contractor is able to provide collection services on a routine basis, as determined by the Village Manager. The Contractor shall use its best efforts to resume its collection services on the scheduled collection days as soon as possible after the disaster.

This Agreement does not give the Contractor the right to collect disaster debris within the public rights-of-way. The Village will enter into a separate contract with the Contractor if the Village wishes to utilize the Contractor's services for the collection of disaster debris. Nothing herein shall require the Village to utilize the services of Contractor, or prevent the Village from hiring another person to collect disaster debris. Among other things, the Village may utilize a disaster debris contract in accordance with the Village's emergency management plan or the Village may utilize the Village personnel and equipment for the collection of disaster debris. The Contractor shall comply with the provisions of the Contractor's response to RFP 2014-01 relating to collection of solid waste after a disaster, the "Disaster Preparedness Plan Summary For the Village of Biscayne Park", section 3.12.

ARTICLE X  
FRANCHISE FEE

Contractor agrees to pay eleven percent (11%) Franchise Fee to the Village in return for the use of the streets, alleys, bridges, easements and other public places of Village as reflected in the Rate Structure attached hereto as Exhibit "B", for Solid Waste, Recyclable Materials, and other refuse collection and removal accounts inclusive of single-family, multi-family and nonresidential accounts served within the Village's municipal corporate limits. The aforesaid payment shall be made to Village by:

(a) Village deducting the Franchise Fee from the amounts collected by Village from the accounts served by the Contractor, as provided herein, or

(b) Collection and payment of the Franchise Fee by Contractor where Contractor performs the billing and collection of payment, as provided by the direction of the Village under the terms and conditions of this Agreement.

The Village shall remit payment to the Contractor the sum of money equal to the Village's gross billing to resident per unit for solid waste collection services on a monthly basis, due on or before the 15<sup>th</sup> day of the following month.

ARTICLE XI  
RATE ADJUSTMENT

Annual Service Fee Adjustment. The service fee shall be adjusted on October 1, 2016 and each subsequent year during the term of this Agreement (including any renewal of this Agreement). The service fee shall be adjusted based on a combined index consisting of ninety percent (90%) of the percentage change in the previous year's Consumer Price Index (CPI) plus ten percent (10%) of the percentage change in the previous year's Fuel Index, as described below. The total rate increase in a given year shall be capped at five percent (5%).

Any rate adjustment requested by the Contractor must be fully documented and received by the Village Manager by April 15<sup>th</sup> of every year.

Current Service Fee x (90% x CPI change + 10% Fuel Index change) = Change in subsequent year's Service Fee.

The CPI change shall be the percentage change in the average CPI for All Urban Consumers (not seasonally adjusted, south urban, all items) published by the United States Department of Labor Bureau of Labor Statistics, for the twelve (12) month period ending the most recent June 30, as compared to the twelve (12) month average of the preceding year ending June 30.

The Fuel Index change shall be the percentage change in the average fuel prices published by the United States Department of Energy, Energy Information Administration, for Lower Atlantic PADD 1C (No. 2 Diesel Low Sulfur Commercial Prices by All Sellers) for the twelve (12) month period ending the most recent June 30, as compared to the twelve (12) month average of the preceding year ending June 30.

Example:

Assumptions: CPI change= 2.95% - Fuel Index change = 11.4%

Combined Index= (90% x CPI change + (10% Fuel Index change) = 3.78%

Adjustment by Petition. The Contractor may petition the Village to adjust the rates listed based upon unusual and unanticipated increases in the cost of conducting business, including, but not limited to, changes in laws or regulations. Any such petition shall be supported by documentation establishing the increase in operating costs and the reasons therefor. The Village may, after examination, refuse to accept the adjusted costs if they are not properly documented, increases are considered to be excessive, or decreases are considered insufficient. In the event the Village does not wish to accept the adjusted costs and the matter cannot be resolved to the satisfaction of the Village, the Agreement may be cancelled by the Village upon thirty (30) days' written notice to the Contractor. If requested by the Village, the Contractor shall continue to provide collection services for up to one hundred eighty (180) days at the previous adjusted rate.

In the event a municipality within Miami-Dade County or Broward County negotiates a more favorable rate than the Village after the execution of this Agreement or for the provisions of the same or substantially the same services (residential only) provided in this Agreement with the Contractor of this Agreement, the Contractor shall be required to, upon execution of the agreement with the neighboring municipality, reduce the rates charged to the Village to be equal to or lower than the rates charged the neighboring municipality. Neighboring municipality shall mean all municipalities located within Miami-Dade County.

## ARTICLE XII DISPOSAL OBLIGATION AND PAYMENT

Contractor and Village acknowledge the contractual obligation between the Village and Miami-Dade County, Florida for the disposal of solid waste. All solid waste collected for the Village by the Contractor shall be delivered to a Miami-Dade County Solid Waste System facility.

Contractor agrees to accept Recyclable Waste for disposal from the Village and Village agrees to deliver such Acceptable Waste. Recyclable Waste shall be defined as Recyclable Material, Recovered Materials collected by residents within the Village of Biscayne Park, Florida. For greater certainty, Village

acknowledges that Recyclable Waste shall not contain any infectious waste or Hazardous Waste; "Hazardous Waste" means waste listed, characterized or designated as hazardous by the United States Environmental Protection Agency pursuant to the Resource Conservation and Recovery Act, 42 USC 6901 et seq., as amended from time to time and its implementing regulations, and by analogous Florida statute, regulations, orders or rules and includes any substance which is deemed hazardous by any judicial or governmental entity, body or agency having jurisdiction to make such determination; "Recyclable Material" shall have the meaning assigned to such term under Chapter 62-701.200 (104) F.A.C., as the same may be amended from time to time during the term hereof; "Recovered Materials" shall have the meaning assigned to such term under Chapter 62-701.200 (102) F.A.C., as the same may be amended from time to time during the term hereof with minimum contamination; and "Designated Disposal Facility" means the Contractor's designated approved Recycling Facility.

The service fee shall be inclusive of the cost of disposal not to exceed 2,700 tons. Any amount above 2,700 tons shall be paid by the Village at Contractor's direct cost.

The Village maintains the right to audit the cost of disposal on an annual basis.

In the event of a change in law for disposal obligation or a significant change in the Village's Recycling program that has the potential to materially affect the cost of disposal as set forth in Exhibit "D", attached hereto and incorporated herein, the Village and the Contractor agree that a generation study will be performed at the request of the Village with the cooperation of the Contractor. The Contractor will fund the study. The Village reserves the sole right to select the Consultant to perform the study. The Contractor and Village shall work together to develop a methodology that will be used to perform the waste generation study, including the selection of representative routes, and the scope, timing and duration of the study. However, the Village shall have the sole right to approve or revise the methodology for the waste generation study. The generation study will be designed to establish an alternate monthly cost of disposal. The Contractor shall cooperate fully with the Village related to the performance and completion of the study.

If the waste generation study results in an annual disposal avoidance factor that is lower than the initial generation rate due to the services provided by Contractor, the Contractor shall receive thirty five percent (35%) of any excess disposal fees and shall reimburse the Village sixty five percent (65%) of the annual disposal avoidance rebate to the Village due and payable within thirty (30) days of each contractual year. The Village may audit participation on an annual basis and reserves the right to increase this minimum based on increased recycling participation.

The Contractor shall share all recycling rebates derived from the sale of recyclables with the Village. The rebate share shall be twenty percent (20%) Contractor/eighty percent (80%) Village.

### ARTICLE XIII WORKFORCE

The direction and supervision of solid waste and recycling collection and disposal shall be by competent, qualified, sober and drug-free personnel. The Contractor shall devote sufficient personnel, time and attention to the direction of operation to assure performance satisfactory to the Village. Any employee of the Contractor who does not conduct himself in a proper fashion, or is incompetent or negligent in the due and proper performance of his duty, or is disorderly, dishonest, intoxicated, obscene or grossly discourteous shall be discharged from duty in the Village upon receipt by the Contractor of a written request from the Village Manager that such action be taken. The Village shall specify reasons for the request.

The Contractor shall comply with all applicable state and federal laws relating to wages, hours, and all other applicable laws relating to the employment or protection of employees, now or hereafter in effect.

The Contractor agrees to pay all of its employees on duty in the Village no less than the Miami-Dade Living Wage and to abide by other requirements as established by the Congress of the United States in the Fair Labor Standards Act as amended and changed from time to time.

No person convicted of a crime(s) and/or repeated non-criminal violations of traffic laws which demonstrate a propensity to unfaithfully fulfill the duties of his employment such as, but not limited to, larcenous activity, aggravated battery or other violence, those relating to the operation of motor vehicles, and any crime for which civil rights have been removed within the last two (2) years shall be employed by the Contractor for duty in the Village.

Contractor agrees to hire and retain for the term of this Agreement, subject to the Contractor's job performance standards, a minimum of six (6) of the Village's current sanitation department employees. Such employment shall be on a full time basis provided the employee accepts the employment offer (consisting of at least thirty five (35) hours per week of employment and eligibility for all benefits generally available for full-time employees of the Contractor) and at a wage at least equal to Contractor's employees in a similar position.

Contractor shall maintain and update the Village with a list of all Contractor employees servicing the Village.

#### ARTICLE XIV PHONE SERVICE

The Village may, at its discretion, forward a dedicated phone line for customer service purposes to the following number which shall be managed by Contractor: 305-651-7011.

#### ARTICLE XV LIQUIDATED DAMAGES

In the event Contractor is in violation of any provision of this Agreement, the Village shall levy liquidated damages as outlined below:

- 1<sup>st</sup> event – written warning, with twenty four (24) hours to cure;
- 2<sup>nd</sup> event - \$500 per day;
- 3<sup>rd</sup> event - \$750 per day; and
- 4<sup>th</sup> event or more - \$1000 per day.

#### ARTICLE XVI TERMINATION FOR CAUSE

The Village may terminate this Agreement if the Contractor materially breaches this Agreement and does not cure said material breach within seven (7) days of receipt of written notice from the Village. If the breach cannot be reasonably cured within the applicable cure period, the Village may extend the time limit provided that the Contractor promptly undertakes and continues efforts to cure said material breach within a reasonable time. If the material breach is not cured, the Village may terminate this Agreement by providing written notice. Such termination will be effective on the date given in the notice.

ARTICLE XVII  
CONTRACTOR'S OBLIGATIONS PRIOR TO TERMINATION OF AGREEMENT

**Continuation of Contractor's Service.** If the Village does not exercise its right to renew this Agreement or if there are no renewal options remaining, the Village will attempt to award a new agreement at least six (6) months prior to the expiration of this Agreement. In the event a new agreement has not been awarded within such time frame, the Contractor shall provide collection services to the Village for an additional ninety (90) calendar days after the expiration of this Agreement, at the then current rates, if the Village requests this service.

**Sale or Lease of Contractor's Mechanical Containers.** Upon request, the Contractor shall enter into good faith negotiations to allow the Village or the Village's newly selected franchise hauler to purchase, or rent for up to ninety (90) days, the mechanical containers (if any) used and owned by the Contractor in the service area. The purchase price and rental fee shall be negotiated, but shall not be greater than the fair market value.

**Schedule for Termination of Contractor's Services.** Prior to the termination of this Agreement, the Contractor shall work with the Village to ensure that there is no interruption or reduction of service when the Contractor ends its services to the Village. If a new franchise agreement is awarded to a franchise hauler other than the Contractor, the Contractor shall coordinate and cooperate with the newly selected franchise hauler, as well as the Village, to minimize any disruptions in the service provided to the public.

**Village's Right to Procure New Services.** At any time, the Village may issue a request for proposals, or commence negotiations with a hauler other than the Contractor, or take any other step deemed necessary by the Village to obtain the services of a hauler which will collect solid waste for the Village after this Agreement expires or is terminated.

ARTICLE XVIII  
ASSIGNMENT OF AGREEMENT

No assignment of this Agreement or any right or responsibility occurring under this Agreement, shall be made in whole or in part by the Contractor without the express written consent of the Village Manager. The Village Manager shall have the right to approve or deny, with or without cause, any proposed or actual assignment by the Contractor. Any assignment of this Agreement made by the Contractor without the express written consent of the Village Manager shall be null and void and shall be grounds for the Village to declare a default of this Agreement. In such cases, the Village may terminate this Agreement by giving written notice to the Contractor, and this Agreement shall be deemed terminated on the date designated in the notice. Upon such termination, all liability of the Village under this Agreement to the Contractor shall cease, except for the amounts due and owing for collection services completed at that time. Thereafter, the Village shall have the right to call the performance bond and shall be free to negotiate with any hauler for the service which is the subject of this Agreement.

In the event that the Village Manager's consent to any proposed assignment is denied, Contractor shall continue to provide all of the services required herein for the remainder of the term.

If any assignment is approved by the Village Manager, the assignee shall fully assume all of the liabilities of the Contractor.

The requirements of this Article shall include, but not be limited to, cases where the Contractor hires a subcontractor to undertake any of the Contractor's obligations under this Agreement.

ARTICLE XIX  
INDEMNIFICATION

The parties hereby agree that the following indemnification provision shall govern this Agreement:

Contractor agrees to indemnify and hold harmless the Village, its officers, agents and employees from and against any and all claims, suits, actions, damages and causes of action whatsoever, legal or administrative proceedings, liabilities, interest, attorney's fees, costs of any kind whether arising prior to the start of activities or following completion or acceptance and in any manner directly or indirectly caused, occasioned or contributed to in whole or in part by reason of any act, error or omission, fault or negligence whether active or passive by Contractor, or anyone acting under its control, direction, or on its behalf in connection with or incident to its performance of this Agreement and the RFP Documents. Nothing in this Agreement, or under the RFP Documents, shall be construed to affect in any way the Village's rights, privileges, and immunities under the doctrine of "sovereign immunity" and as set forth in Section 786.28, Florida Statutes.

ARTICLE XX  
VILLAGE'S RIGHT TO INSPECT AND AUDIT CONTRACTOR'S RECORDS

Contractor shall cooperate with the Village Manager and provide every reasonable opportunity for the Village to ascertain whether the duties of the Contractor are being performed properly. Contractor shall promptly provide any information regarding the services provided by the Contractor under this Agreement, in addition to the information required explicitly by this Agreement, that the Village Manager or the Contractor deem relevant under the circumstances.

The Village shall have the right to inspect, copy and audit, at the Village's expense, all of the Contractor's records concerning the Contractor's services under this Agreement. The Contractor's records shall be made available for inspection in the Village during normal business hours, within five (5) business days after the Village requests the records.

The Contractor understands, acknowledges and agrees that it shall, pursuant to Section 119.0701, Florida Statutes, as amended from time to time, do the following:

(a) Keep and maintain public records that ordinarily and necessarily would be required by the Village in order to perform the same service being rendered within this Agreement;

(b) Provide the public with access to public records and at a cost that does not exceed the cost provided within Chapter 119, Florida Statutes, as amended from time to time, or as otherwise provided for by law;

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and

(d) Meet all requirements for retaining public records and transfer, at no cost, to the Village all public records in possession of Contractor upon termination of this Agreement. Further, Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the Village in a format that is compatible with the then current Village computer systems.

Contractor understands, acknowledges and agrees that the Village is required, pursuant to Section 119.0701, Florida Statutes, as amended from time to time, to ensure compliance with this Article by

enforcing the terms of this Agreement. As a result of the foregoing, any violation of this Article shall be a material breach and this Agreement may be terminated by the Village without any penalty.

Prior to termination, the Village shall give written notice to Contractor that it is in violation of this Article. Contractor shall have five (5) business days to cure a violation of this Article.

Notwithstanding any other provisions in this Agreement to the contrary, Contractor shall be liable for any and all damages, including but not limited to, consequential and incidental damages, that may arise out of breach of this Article of the Agreement.

#### ARTICLE XXI QUARTERLY REPORT

The Contractor shall submit a quarterly report to the Village Manager no later than the fifteenth (15<sup>th</sup>) day of each calendar quarter (i.e., January 15, April 15, July 15, October 15). At a minimum, the quarterly report shall contain the following information for the previous quarter: (a) the total quantity of each type of residential waste (e.g., solid waste, bulk waste) delivered to each facility; (b) the total quantity of recyclable material delivered to a facility; (c) the number of missed collections; (d) a summary of each accident involving personal injuries or property damage; and (f) the total number of legitimate complaints.

Whenever the Contractor submits a quarterly report to the Village, the Contractor also shall submit a signed written statement from the District Manager or their designee, verifying that the quarterly report is accurate in all respects. The District Manager or their designee also shall: (a) verify each month that all of the residential waste collected by the Contractor has been delivered to a facility; (b) the Contractor has accurately informed each facility whether to bill the Village for each load delivered by the Contractor; and (c) the Contractor's quarterly report accurately accounts for all such deliveries.

Contractor shall comply with its "Customer Service Plan" as contained in Contractor's Response to RFP 2014-01, section 2.4.

#### ARTICLE XXII CONSTRUCTION OF AGREEMENT

Both parties acknowledge that they are represented by legal counsel and they have had meaningful input into the terms and conditions contained in this Agreement. Therefore, any doubtful or ambiguous provisions contained herein shall not be construed against the party that physically prepared this Agreement. The rule sometimes referred to as "Fortius Contra Proferentum" shall not be applied to the interpretation of this Agreement.

#### ARTICLE XXIII ENTIRETY OF CONTRACTUAL AGREEMENT

This Agreement, together with the attachments hereto, sets forth the entire Agreement between the parties, and there are no promises or understandings other than those stated herein. None of the provisions, terms or conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by both parties hereto.

ARTICLE XXIV  
GOVERNING LAW AND VENUE

The laws of the State of Florida shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and shall govern the interpretation of this Agreement. Any and all legal or equitable actions necessary to enforce this Agreement shall be held and maintained solely in the state courts in and for Miami-Dade County, Florida. Venue shall lie exclusively in Miami-Dade County.

ARTICLE XXV  
INSOLVENCY

In the event that either party shall become insolvent, make a general assignment for the benefit of creditors, suffer or permit the appointment of a receiver for its business or its assets or shall avail itself of, or become subject to, any proceeding under the Federal Bankruptcy Act or any other statute of any state relating to insolvency or the protection of rights of creditors, or become subject to rehabilitation, then, at the option of the other party and immediately upon written notice, this Agreement shall terminate and be of no further force and effect.

ARTICLE XXVI  
NOTICE

All notices required shall be sent by certified mail, return receipt requested. If sent to Village, such notices shall be mailed to:

Maria C. Camara, Village Clerk  
Village of Biscayne Park  
640 NE 114<sup>th</sup> Street  
Biscayne Park, FL 33174

And if sent to Contractor, such notices will be mailed to:

Russell Mackie, Region Vice President  
Waste Pro of Florida, Inc.  
17302 Pines Boulevard  
Pembroke Pines, FL 33029

ARTICLE XXVII  
REMEDIES

This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce this Agreement will be held in Miami-Dade County, Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any part of any right, power or remedy hereunder shall preclude any other or further exercise hereof.

ARTICLE XXVIII  
SEVERABILITY

If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

ARTICLE XXIX  
MODIFICATIONS TO THE CONTRACT

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

ARTICLE XXX  
THIRD PARTY RIGHTS

Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than Village and Contractor.

ARTICLE XXXI  
INSURANCE

For the entire term of this agreement, and any renewal terms, Contractor shall comply with the insurance provisions delineated at Article VII, as required by RFP 2014-01, and specifically, the Certificate of Liability Insurance provided by Contractor under its response to RFP 2014-01, section 5.20.

**Exhibit B - Residential Curbside Service**

**Residential Garbage, Trash and Recycling Collection Services**

Monthly charge per dwelling unit		8/1/2014
Collection:	Rate per Month	
Garbage	\$	13.72
Trash	\$	8.25
Recycling	\$	3.00
<b>TOTAL RATE</b>	<b>\$</b>	<b>24.97</b>

**Residential Multifamily Garbage and Trash Collection Services ( over 4 units )**

	Rates Per Service	
Rolled Out Commercial 95 or 101 gallon container	\$	27.96
Rolled Out Container (and return)	\$	3.50
Opening or Closing Doors/Gates	\$	3.50
Locks for Containers	\$	14.00
Unlocking Containers	\$	14.00
Supplying and retrofitting locking mechanism	\$	10.00
Adding/Exchanging Wheels on Containers	\$	14.00
Adding/Exchanging Lids on Containers	\$	25.00
Moving Container Location per Customer Request	\$	25.00
Changing out size of container more than 2x per year	\$	25.00
Additional pickups for residential containerized Customers	\$	14.34
Turnaround Compactors	\$	50.00
	Service Per Month	
Additional Quarterly Special Trash Manual / Non-Mechanical pickup	Service Per Cubic Yard \$	15.00



## Exhibit C

Village of Biscayne Park  
RFP No. 2014-01  
Solid Waste Collection Services

### **Scope of Services Solid Waste Collection Operations Plan**

- This operation plan provides the same service that the Village currently receives but reducing the number of days to two.
- Twice a week manual pick-up of garbage on **Tuesdays** and **Fridays** for all residences, Multiple Unit Residences, Non-Residential Use sites, and Municipal owned buildings. Residences will provide their own containers, not to exceed forty (40) gallons in capacity. Residents will place their containers out on the curb unless they are registered with the Village for “Off-street Residential Collection Service”, whereas Waste Pro will then enter their property and pick up their garbage from inside.
- Once a week manual pick-up of trash and yard waste (vegetative waste) on **Tuesdays**. This will allow residents to do their yard work over the weekend and have fewer days of trash out visible in the community. Residents place either their container(s) not to exceed forty (40) gallons or a pile, not to exceed two (2) cubic yards (3ft x 3ft x 6ft), out on the curb for pick-up.
- Once a week pick-up of recyclable materials on **Fridays**. Residents place their provided container out on the curb for pick-up unless they are registered with the Village for “Off-street Residential Collection Service” whereas Waste Pro will then enter their property and pick-up their recycling from inside.

- Special pick-up of items placed out on the wrong day; piles that exceed two (2) cubic yards; appliances (white goods) and other bulk pick-up such as mattresses and furniture shall be fined at the rates established by Village resolution.
- Hours of operation shall be limited to 7:00am – 5:30pm. This restriction does not apply to the first ninety (90) days of the contract.
- Four (4) quarterly Saturday pick-ups shall be scheduled with the Village.

## EXHIBIT D

### Disposal Avoidance Base Tons

To determine the amount of disposal avoidance, the base tons disposal factor is determined as the historical amount of tons as reported by the Village at the effective date of this Agreement. The Base Tons are as follows:

Annual Base Solid Waste Tons\* = 2,437.76

Annual Base Recycling Tons\*\* = 208

The Disposal Avoidance factor shall be determined by the following equation:

#### INITIAL PERIOD

$(\text{Annual Recycling Tons Reported} - \text{Annual Base Recycling Tons}) = \text{Annual Increased Recycling Tons}$   
 $(\text{Annual Base Solid Waste Tons} - \text{Annual Solid Waste Tons Reported}) = \text{Annual tons of Solid Waste reduced}$

#### SUBSEQUENT PERIOD

$(\text{Annual Recycling Tons Reported} - \text{Prior Year Recycling Tons}) = \text{Annual Increased Recycling Tons}$   
 $(\text{Annual Prior Year Solid Waste Tons} - \text{Annual Solid Waste Tons Reported}) = \text{Annual tons of Solid Waste reduced}$

\*Base Garbage and Trash tons established by two year average of annual tons as reported in Addendum 1 of RFP 2014-01

\*\*Base recycling tons reported by Miami Shores as 4 tons per week.



## **Disaster Preparedness Plan Summary For the Village of Biscayne Park**

As a vendor that will provide service to your residents and business owners on a daily basis, we understand the importance of being there to provide the service that they are expecting. We all know we can not control these types of events, but Waste Pro can guarantee our ability to react after events have occurred. Our team of "Waste Professionals" is committed to communicating with the Village of Biscayne Park Staff and getting back to work as soon as possible. The following is a comprehensive storm preparedness plan illustrating a possible scenario and our commitments.

### **Disaster Preparedness Plan Concept**

The most likely types of event to occur are a windstorm, tropical storm or hurricane. There are two (2) typical scenarios that would occur; one is a minor event with winds occurring in the range of less than a tropical storm. The other is a tropical storm or hurricane with winds occurring from tropical storm force to a class 5 hurricane. Each of these scenarios would call for a different set of actions due to the difference of the severity of each.

### **Experience**

The management team of Waste Pro has had successful hands-on previous experience with storm debris cleanup. Our teams experience dates back over seventeen (17) years to Hurricane Andrew and forward to the hurricanes of 2004, 2005, 2006 and 2007. During 2004 Waste Pro provided hurricane cleanup, in varying degrees, to all of our major municipal accounts including Putnam County, St. Lucie County and the City of Longwood. 2005 again required hurricane cleanup in St. Lucie County where Waste Pro contracted directly with FEMA. During 2006, 2007 and 2008 other cities and counties hired storm debris contractor specialists but have used Waste Pro for additional assistance over the years.

## Two (2) Types of Events

### A. Winds less Than a Tropical Storm

This type of event will create an additional varying amount of yard and tree waste debris for Waste Pro to collect. This will necessitate the use of mostly additional conventional waste collection vehicles (rear loaders, front loaders, cherry pickers and roll off trucks) and possibly some larger equipment such as wheeled loaders with landscape rakes, dump trucks, flagmen and personnel with chainsaws. The additional conventional collection vehicles and personnel would be available from several reliable sources.

- Waste Pro of Florida
- Waste Pro of South Carolina
- Waste Pro of Georgia
- Wood Resource Recovery, LLC
- Trucks & Parts of Tampa (truck rental)
- Equipment Manufacturers
- Other Subcontractors

### B. Tropical Storm or Hurricane

Tropical Storms and Hurricane event will create an additional varying amount of yard and tree waste debris. This will necessitate the use of additional conventional waste collection vehicles (rear loaders, front loaders, cherry pickers and roll off trucks) and possibly some larger equipment such as wheeled loaders with landscape rakes, dump trucks, flagmen and personnel with chainsaws. The additional conventional collection vehicles and personnel would be available from several reliable sources.

- Waste Pro of Florida
- Waste Pro of South Carolina
- Waste Pro of Georgia
- Wood Resource Recovery, LLC
- Trucks & Parts of Tampa (truck rental)
- Equipment Manufacturers
- Other Subcontractors

As past history has shown any solid waste and recycling contractor, including the largest national companies, selected for a contract by any city or county will need to use a specialty sub-contractor for a massive storm debris cleanup effort. The more municipal contracts a company has, the more thinly spread their existing assets are to cover such an event, when all of their cities want to be cleaned up at the same time. Waste Pro's efforts would be concentrated on the cities and counties it serves.

## Plan Overview

### I. Emergency Contact Information

Name	Cell Phone
Russell Mackie	772-370-3509
Elliot Chevres	954-445-9256
Mike Allen	772-216-7216
Guerlin Escar	786-486-7554

### II. Pre Storm

#### A. Triggering Events

- Thunderstorm
- Flooding
- High Wind
- Tropical Storm or Hurricane Watch or Warning

#### B. Coordination with Authorities: 72/ 48/ 24/ 12 Hour

- Establish and maintain contact with City/County designated personnel.
- Review situation with manager, supervisors, and department heads.
- Note plan updates for changes, vendors, etc.

#### C. Facilities

- Check drainage ways
- Secure vents
- Housekeeping, stowage
- Bottled water inventory
- Septic system capacity
- Back-up information systems
- Bring in Emergency Generators
- Check on current availability of backup locations to park trucks and extra equipment

#### D. Personnel

- Personal safety
- Family safety and security
- Storm assignments

#### E. Rolling Stock

- Top off fuel
- Top off oil
- Check/change tires

- Secure cab/windows

F. Containers – Secure Inventory

- Front/Rear load - confirm empty, open lids
- Roll off – confirm empty, doors secure, use as shielding as needed

G. Inventory

- Secure fuel tank lids and hatches
- Secure oil tanks, fill ports, secure reels and hoses
- Rack and secure tires

### III. Storm

A. Tropical Storm Watch or Warning

- Continue operations
- Maintain communication with City/County designated personnel
- Cease operations if local wind velocity reaches 30 mph-sustained winds or local rainfall reaches three (3) inches.
  - Advise City/County designated personnel
  - Advise storm debris specialty sub-contractor
  - Secure facilities and rolling stock
  - Shut all systems down
  - Open all electrical switches
  - Send personnel home

B. Hurricane Watch or Warning

- Continue operations
- Maintain communication with City/County designated personnel
- Cease operations if local wind velocity reaches 30 mph-sustained winds or local rainfall reaches three (3) inches.
  - Advise City/County designated personnel
  - Advise storm debris specialty sub-contractor
  - Secure facilities and rolling stock
  - Shut all systems down
  - Open all electrical switches
  - Send personnel home

### IV. Post Storm

Reestablish and maintain contact with designated City/County personnel immediately after the storm passes.

- Assess magnitude of damage
  - Personnel, families
  - Company

- Community
- Advise designated City/County personnel
- Coordinate with designated City/County Personnel – begin clearing public
- Reestablish or suspend service(s)
- Garbage (Residential and/or Commercial
- Yard Trash
- Recycling
- Establish level of post storm response
- Contact storm debris specialty contractor if needed
- Initiate post storm response depending upon severity of damage.

*Law Offices of John J. Hearn, P.A.*  
*1001 N.W. 119<sup>th</sup> Drive*  
*Coral Springs, Florida 33071*  
*Phone: (305) 360-2547*  
*Facsimile: (954) 227-7321*

August 11, 2014

Russell Mackie, Regional Vice President  
Waste Pro of Florida  
17302 Pines Boulevard  
Pembroke Pines, Florida 33029

Re: Waiver

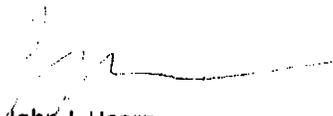
Dear Mr. Mackie:

As you are aware, I have been informed that some Biscayne Park residents are concerned with the language of the Waste Pro waiver. Further, many residents have already executed the waiver in order to allow side yard pickup. This letter will confirm that the intent of the waiver and the enforcement of the waiver shall be consistent with the following language:

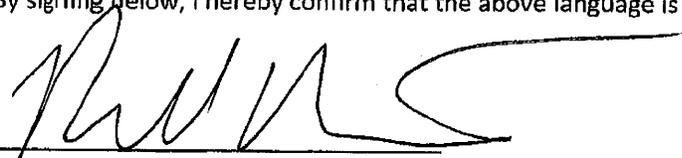
**Side/back yard (by selecting this option, the property owner waives Waste Pro of Florida from any liability from employees entering the property for the sole purpose of garbage collection; however, Waste Pro of Florida acknowledges that if any damage occurs to the property (other than normal wear and tear) resulting from its employees' negligence, Waste Pro of Florida will take reasonable means to fix/reimburse for such damage.**

Please confirm by signing below that this is consistent with your agreement and interpretation of this waiver.

Very truly yours,

  
John J. Hearn  
Village Attorney

By signing below, I hereby confirm that the above language is consistent with the intent of the waiver.

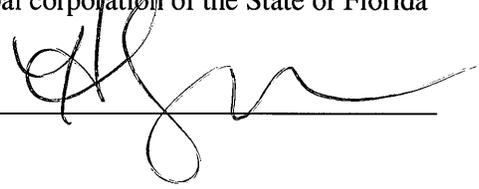
  
Russell Mackie, Regional Vice President  
Waste Pro of Florida

(AGREEMENT BETWEEN THE VILLAGE OF BISCAYNE PARK, FLORIDA AND WASTE PRO OF FLORIDA, INC. FOR SOLID WASTE AND RECYCLING COLLECTION SERVICES)

IN WITNESS WHEREOF, the parties hereto have set their hands and official seals the day and year first above written.

VILLAGE OF BISCAYNE PARK, FLORIDA,  
a municipal corporation of the State of Florida

By: \_\_\_\_\_



ATTEST:

Maria C. Camara

Maria C. Camara, Village Clerk

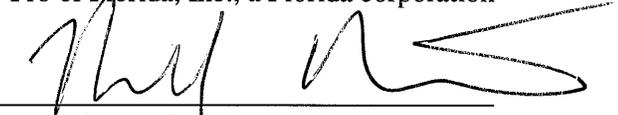
APPROVED AS TO FORM & LEGALITY  
For the use and reliance of the Village of  
Biscayne Park, Florida only.

John J. Hearn  
John J. Hearn, Village Attorney

WITNESSED:

Waste Pro of Florida, Inc., a Florida corporation

By: \_\_\_\_\_



Russell Mackie, Region Vice President

Marian LE Nguyen

Name typed, printed or stamped

Candido Lopez

Candido Lopez  
Name typed, printed or stamped

**Attachment(s)**

- Waste Pro Agreement
- Waste Pro letters dated: 09/30/2019  
02/04/2020  
03/02/2020
- Waste Pro current invoice February/2020

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Prepared by: Roseann Prado, Village Clerk



Date: 09/30/2019

RE: Continuation of Contractors Services

Manager Manners,

Pursuant to Article XVII of the Solid Waste and Recycling Services continuation of services, Waste Pro will continue to provide current services for an additional Ninety (90) Calendar days after the expiration date of the current agreement of 09/30/2019 to expire on 12/30/2019 and at the current rates effective 10/1/2019. During this time and to the extent that the Village of Biscayne Park is willing to accept, Waste Pro would like to negotiate an extension that is allowed under our current franchise agreement under Article II Terms a five (5) year extension and to that extent that it is possible and negotiate if possible an additional Five (5) year extension as allowed by the franchise agreement.

Thank you

  
Kenneth Rivera

Waste Pro of Florida, Inc.

CC: Russell Mackie Regional Vice President, Waste Pro of Florida Inc.

Shawn Erias Division Manager, Waste Pro of Florida Inc.



## Continuation of Services

To: Village Manager Manners  
From: Kenneth Rivera Waste Pro of Florida Inc.  
Date: 02/04/2020

As a follow, up to the memorandum dated 09/30/2019 Continuation of Services, Waste Pro of Florida Inc. will extend and continue to provide service thru April 30<sup>th</sup>, 2020 at the current rate. During this time and to the extent the Village of Biscayne Park is willing to accept, Waste Pro would like to negotiate an extension that is allowed under our current franchised agreement under Article II a (5) five year extension and to that extent that it is possible and negotiate an additional five (5) year extension as allowed by the franchise agreement.

Thank you,

A handwritten signature in black ink, appearing to read "Kenneth Rivera", is written over a horizontal line that extends across the page.

Kenneth Rivera  
Waste Pro of Florida Inc.,



To: Village Manager Hernandez  
From: Kenneth Rivera Waste Pro of Florida Inc.  
Date: 03/02/2020

As a follow, up to the memorandum dated 09/30/2019 Continuation of Services, Waste Pro of Florida Inc. will extend and continue to provide service thru April 30<sup>th</sup>, 2020 at the current rate. Additionally, in our meeting held on February 21, 2020, the Village expressed a need for additional extension that would expire on September 30<sup>th</sup>, 2020 to provide the Village sometime to decide if RFP or a full contract extension would be possible. Should the City wish to extend our agreement up to such time, Waste Pro of Florida Inc. would agree to such an extension should the Village accept a Two dollar (\$2.00) per home increase to be effective May 1<sup>st</sup>, 2020. During this time and to the extent the Village of Biscayne Park is willing to accept, Waste Pro would like to negotiate an extension that is allowed under our current franchised agreement under Article II a (5) five-year extension and to that extent that it is possible and negotiate an additional five (5) year extension as allowed by the franchise agreement.

Thank you,

*Kenneth Rivera*

Kenneth Rivera  
Waste Pro of Florida Inc.,  
CC: Russell Mackie RVP Waste Pro of Florida Inc.



**WastePro of Florida, Inc.**

**INVOICE**

**117 - Pembroke Pines**  
 17302 Pines Blvd  
 Pembroke Pines, FL 33029  
 Phone 954-967-4200 Fax 954-247-4489

**DATE:** 02/29/2020  
**INVOICE #:** 0000878227  
**ACCT #:** 075370

**Bill To:**  
 Village of Biscayne Park  
 640 NE 114th St  
 Biscayne Park, FL 33161-6202

**Site**

Service Date	House Count	Rate	Description	Charge
02/01/2020 -02/29/2020	1,298	27.7	Residential Monthly Services	\$35,954.60
<b>TOTAL</b>				<b>\$35,954.60</b>

**117 - Pembroke Pines**  
 17302 Pines Blvd  
 Pembroke Pines, FL 33029

**DATE:** 02/29/2020  
**INVOICE #:** 0000878227  
**ACCT #:** 075370  
**Amount Due:** \$35,954.60

**Village of Biscayne Park**

Be sure to write your account number on your check

**GL Acct. Number** \_\_\_\_\_

**Remit To:** \_\_\_\_\_  
 Amount \$ \_\_\_\_\_

**Bill To:**  
 Village of Biscayne Park  
 640 NE 114th St  
 Biscayne Park, FL 33161-6202

**Date** \_\_\_\_\_  
 Waste Pro  
 17302 Pines Blvd  
 Pembroke Pines, FL 33029  
**Description** \_\_\_\_\_

**Dept. Head** \_\_\_\_\_

**Finance Dir.** \_\_\_\_\_

**Village Mgr.** \_\_\_\_\_



**VILLAGE OF BISCAYNE PARK  
Village Commission Agenda Report**

**Item # 9.b**

**SPECIAL MEETING**

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**TO:** Honorable Mayor & Members of the  
Biscayne Park Village Commission

**FROM:** David Hernandez, Interim Village Manager

**DATE:** May 19, 2020

**TITLE:** Contracts in place for Debris Removal and Debris Monitoring

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**Brief Overview**

The Village approved an Agreement with Grubbs Emergency Services LLC for **debris removal services** on May 2019 with Resolution 2019-17. The terms of the Agreement are (5) five years with options to extend for (2) two terms of (1) one year each by letter agreement between the parties.

The Village approved an Agreement with Debris Tech LLC for **debris monitoring services** on August 2019 with Resolution 2019-20. The terms of the Agreement are (3) three years with option to extend for (1) one additional (1) one year term.

**Financial Impact**

Funding will be appropriated based on the severity of an event and the Village's need at the time of the emergency, with the intent to seek disaster public assistance reimbursement from Federal Emergency Management Agency ("FEMA") for eligible costs.

**Attachment(s):**

- Debris Removal Services Contract with Grubbs Emergency Services, LLC
- Debris Monitoring Services Contract with Debris Tech, LLC

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Prepared by: Roseann Prado, Village Clerk

**AGREEMENT BETWEEN  
THE VILLAGE OF BISCAYNE PARK, FLORIDA  
and  
GRUBBS EMERGENCY SERVICES, LLC  
for  
DEBRIS REMOVAL AND DISPOSAL SERVICES**

This Agreement is made and entered into by and between THE VILLAGE OF BISCAYNE PARK, FLORIDA, a political subdivision of the State of Florida, 640 N.E. 14th Street, Biscayne Park, Florida 33161 (hereinafter referred to as the "Village"), and GRUBBS EMERGENCY SERVICES, LLC (hereinafter referred to as "Company" or "Contractor") as of this 9th day of May, 2019.

WITNESSETH:

WHEREAS, Village issued a Request for Proposals for Disaster Debris Removal and Disposal Services (herein referred to as "the RFP for Debris Removal"), in accordance with the applicable provisions of Chapter 287, Florida Statutes, the applicable provisions of 2 C.F.R. § 200, and in accordance with applicable Village procurement requirements, policies and procedures; and

WHEREAS, Company submitted a Proposal consisting of all completed Proposal Forms from the RFP for Debris Removal (herein "the Proposal"), and was subsequently selected by Village as one of the companies to enter into a contract to provide the services requested by the RFP for Debris Removal by work order (as that process is described in RFP for Debris Removal, herein referred to as a "Work Order"); and

WHEREAS, Village desires to enter into an agreement with Company to provide the services provided in the RFP for Debris Removal as required, and as provided in the Proposal submitted by Company, and Company desires to provide such services in accordance with the RFP for Debris Removal, Company's Proposal, any applicable Work Orders issued, and subsequent negotiations between the parties;

NOW, THEREFORE, in consideration of the mutual terms and conditions, promises, covenants and payment hereinafter set forth, Village and Company agree as follows:

**ARTICLE 1:  
INCORPORATION OF DOCUMENTS**

The RFP for Debris Removal issued by Village and the Proposal submitted by Company are hereby specifically made part of this Agreement as if same had been set forth at length herein.

In the event of any conflict between the documents constituting this Agreement, the documents shall be given precedence in the following order:

- 1) Any Work Order issued pursuant to this Agreement;

- 2) This Agreement;
- 3) The RFP for Debris Removal;
- 4) The Proposal submitted by Company dated August 06, 2018.

**ARTICLE 2:  
SCOPE OF SERVICES**

Contractor agrees to perform all the services and provide all the materials requested by the RFP for Debris Removal, and described in any individual Work Order issued pursuant to this Agreement. Contractor shall perform all services and provide all materials in strict accordance with the provisions contained herein. Contractor shall perform all services under any Work Order in a professional, workmanlike manner, with such professional care, technical skill, ability and diligence as is required of providers of similar services having the level of skill, expertise and specialized knowledge, as represented to Village, both orally and in writing, to be possessed by Contractor. Contractor shall provide its services and materials under any Work Order within the times allows for performance in the schedule contained in the applicable Work Order.

**ARTICLE 3:  
COMPLIANCE WITH APPLICABLE LAWS**

Contractor shall comply with all federal, state, and local statutes, laws, ordinances, rules and regulations in the performance of its obligations under this Agreement.

**ARTICLE 4:  
COMPLIANCE WITH CHAPTER 119, FLORIDA STATUTES.**

In addition to compliance with any other laws as required by this Agreement, Contractor shall comply with the public records laws of the State of Florida contained in Chapter 119, Florida Statutes, as the same may be amended. Failure to comply with the provisions of this subsection shall constitute a substantial failure to perform on the part of Contractor in accordance with the terms of this Agreement. Specifically, but not by way of limitation, Contractor shall:

- (i) Keep and maintain public records required by Village to perform the service;
- (ii) Upon request by Village's custodian of public records, provide Village with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law;
- (iii) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the term of this Agreement and following completion of the services to be provided by Contractor under this Agreement if Contractor does not transfer the records to Village; and

- (iv) Upon completion of the services to be provided under this Agreement, transfer, at no cost, to Village all public records in possession of Contractor or keep and maintain public records required by Village to perform the services. If Contractor transfers all public records to Village upon completion of this Agreement, Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Contractor keeps and maintains public records upon completion of this Agreement, Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to Village, upon request from Village's custodian of public records, in a format that is compatible with the information technology systems of Village.

The definitions contained in Chapter 119, Florida Statutes, apply to terms used in this section, unless alternate or more specific definitions for any such terms are provided in this Agreement.

For purposes of this Agreement, the term "custodian of public records" shall mean the Village Clerk, or his/her designee.

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

Village of Biscayne Park  
Office of the Village Clerk  
640 N.E. 114 Street  
Biscayne Park, Florida 33161  
T: (305) 899-8000 | F: (305) 891-7241  
Email: VillageClerk@biscayneparkfl.gov

**ARTICLE 5:**  
**EQUAL OPPORTUNITY**

The Contractor shall comply with the regulations relative to equal employment opportunity in federally-assisted construction contracts, as they may be amended from time to time, contained in Appendix II to 2 C.F.R. Part 200, specifically as contained in 41 C.F.R. § 6-01.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity", as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 C.F.R. Part 60, as any of the same may be amended, which are herein incorporated by reference and made a part of this Agreement.

The Contractor, with regard to any work performed during this Agreement, shall not discriminate on the basis of race, color, national origin, sex, age, disability, religion or family status in the selection and retention of subcontractors, including procurements of materials and leases of equipment. In addition, Contractor shall comply with all applicable laws and regulations related to the federal funding for any particular Work Order that prohibit discrimination based on race,

color, national origin, sex, disability, age, creed, and/or prohibit unfair treatment of persons displaced or whose property has been acquired because of federal or federal-aid programs and projects.

In all solicitations made by the Contractor, either by competitive bidding or negotiation for work to be performed under a subcontract, including procurements of materials or leases of equipment; each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this Agreement and any applicable regulations relative to nondiscrimination on the basis of race, color, national origin, sex, age, disability, religion or family status.

**ARTICLE 6:**  
**COMPLIANCE WITH DAVIS-BACON ACT**

When required by federal funding for a particular Work Order, the Contractor shall comply with the provisions of the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148), as supplemented by Department of Labor regulations (29 C.F.R. Part 5), as the same may be amended. The prevailing wage determination by the Department of Labor at the time of issuance of a particular Work Order shall be accepted by Contractor prior to issuance of the Work Order.

**ARTICLE 7:**  
**RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT**

This section intentionally left blank.

**ARTICLE 8:**  
**COMPLIANCE WITH ENERGY POLICY AND CONSERVATION ACT**

Company shall comply with all mandatory standards and policies relating to energy efficiency which are contained in the State of Florida's energy conservation plan issued in compliance with the Energy Policy and Conservation Act (41 U.S.C. 62101), as the same may be amended.

**ARTICLE 9:**  
**INCORPORATION OF PROVISIONS & SANCTIONS FOR NONCOMPLIANCE**

The Contractor shall include the legal compliance provisions in every subcontract, including procurements of materials and leases of equipment, unless exempt by any applicable federal regulations, or directives issued pursuant thereto. The Contractor shall take such action with respect to any subcontract or procurement as the state or federal funding agency may direct as a means of enforcing such provisions including sanctions for noncompliance. In the event the Contractor becomes involved in, or is threatened with, litigation with a sub-contractor or supplier as a result of such direction, the Contractor may request the applicable state or federal funding agency to enter into such litigation to protect the interests of such state or federal funding agency.

In the event of the Contractor's noncompliance with the provisions of this Agreement, the Village or any applicable state or federal funding agency may impose such contract sanctions as the Village or the applicable state or federal funding agency may determine to be appropriate, including, but not

limited to: (i) withholding of payments to the Contractor under any Work Order under this Agreement until the Contractor complies, and/or (ii) cancellation, termination or suspension of this Agreement or any Work Order, in whole or in part; and/or (iii) any other further sanctions as may be permitted by the applicable federal regulations governing the applicable federal funding, or as are not prohibited by law.

**ARTICLE 10:**  
**SERVICE WORK ORDERS**

Based upon the needs of Village related to any event as described in the RFP for Debris Removal, and Village's determination to acquire services from Company, Village will issue a Work Order to Company for the specific services needed. Issuance of a Work Order to Company for any needed services will be based on the Village's sole judgment and discretion, based on Village's needs for the applicable event.

Each Work Order issued hereunder shall contain a description of the specific services required for that Work Order, and shall state the compensation to be paid to the Contractor for such Work Order, and shall include a schedule for completing the services and providing any products pursuant to the Work Order. Each Work Order issued to Contractor by Village shall become a part of this Agreement upon approval by both parties. Compensation for each Work Order may be based on not-to-exceed amounts, or on time and materials using the hourly rates of Contractor provided with the Proposal (or as amended in a renewal term of this Agreement), or some other form of compensation as consented to by Contractor and Village in the applicable Work Order. In the event that any Work Order is based on time and materials (as determined by the Village to be the only suitable method of compensation for such Work Order), the ceiling price for the services under that Work Order shall be One Million Five Hundred Thousand Dollars (\$1,500,000) regardless of the size of the event initiating the need for the services under the Work Order, which ceiling price shall be exceeded solely at the Contractor's risk. Village acknowledges that adjustments to the services, schedule and compensation for any Work Order may be necessary based on circumstances; and any such adjustments must be consented to in writing by both Contractor and Village. Contractor shall be authorized to proceed with services pursuant to any Work Order upon receipt of the fully executed Work Order, the bond required for such Work Order (if applicable) and any other information or documentation applicable to the Work Order as required by Village. Contractor agrees to perform the services in consideration of the compensation described in each Work Order and in accordance with the terms of this Agreement.

Village Coordinator or his/her designee shall be authorized to execute any Work Order on behalf of Village in the event the compensation for such Work Order does not exceed Five Thousand Dollars (\$5,000).

Village reserves the right to issue a separate solicitation for any services it may need, at its discretion, regardless of whether a Work Order could be awarded for such services pursuant hereto. Village also reserves the right to issue multiple Work Orders to any number of contractors with which it has entered into agreements pursuant to the RFP for Debris Removal, based on the Village's needs for any particular event.

Village provides no guarantee that Contractor will be issued any quantity or dollar amount of Work Orders, or that Contractor will be issued any Work Order hereunder.

**ARTICLE 11:**  
**COMPLIANCE WITH COPELAND "ANTI-KICKBACK" ACT:**

(A) *Company.* The Company shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.

(B) *Subcontractor.* The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

(C) *Breach.* A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

**ARTICLE 12:**  
**COMPLIANCE WITH THE WORK HOURS & SAFETY STANDARDS ACT**

In the event in the performance of any Work Order in excess of \$100,000, Company employs mechanics or laborers subject to the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708), as supplemented by Department of Labor regulations (29 C.F.R. Part 5), as the same may be amended, Company shall comply with the provisions of 40 U.S.C. 3702 and 3704, as supplemented by such Department of Labor regulations.

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

(B) *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the clause set forth in this section the Company and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in this section.

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

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

**ARTICLE 13:**  
**COMPLIANCE WITH CLEAN AIR ACT**

The Company agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401, *et seq.*

The Company agrees to report each violation to the Village and understands and agrees that the Village will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

The Company agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

**ARTICLE 14:**  
**COMPLIANCE WITH POLLUTION CONTROL ACT**

(A) The Company agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, *et seq.*

(B) The Company agrees to report each violation to the (name of the state agency or local or Indian tribal government) and understands and agrees that the (name of the state agency or local or Indian tribal government) will, in turn, report each violation as required to assure notification to the (name of recipient), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(C) The Company agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

**ARTICLE 15:**  
**COMPLIANCE WITH BYRD ANTI-LOBBYING AMENDMENT**

Company who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.”

**ARTICLE 16:**  
**COMPLIANCE WITH SOLID WASTE DISPOSAL ACT**

The Company shall comply with the provisions of section 6002 of the federal Solid Waste Disposal Act, as amended by the federal Resource Conservation and Recovery Act, as the same may be amended, which include (but are not necessarily limited to): procuring only items designated in guidelines of the Environmental Protection Agency at 40 C.F.R. Part 247 (as the same may be amended) that contain the highest percentage of recovered materials practicable, consisting with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquire by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the Environmental Protection Agency guidelines.

In the performance of this contract, the Company shall make maximum use of products containing recovered materials that are EPA designated items unless the product cannot be acquired—

- (i) Competitively within a timeframe providing for compliance with the contract performance schedule;
- (ii) Meeting contract performance requirements; or
- (iii) At a reasonable price.

Information about this requirement, along with the list of EPA designate items, is available at EPA’s Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensiveprocurement-guideline-cpg-program>.

**ARTICLE 17:**  
**TIME FOR PERFORMANCE**

The term of this Agreement shall begin on the date and year first above written and shall continue for five (5) years, unless otherwise terminated in accordance herewith. The term of this Agreement

may be extended for two (2) additional one (1) year terms, with the agreement of both parties hereto. The renewal options may be exercised by letter agreement between the parties. The Village Coordinator or his/her designee shall have the authority to approve any renewal option on behalf of Village. All work associated with any Work Order must be completed within the initial term or any extension of the term of this Agreement, unless the applicable Work Order is unavoidably delayed. In the event of such unavoidable delay, the term of this Agreement shall be continued for such Work Order until Company completes all services and provides all products required under such Work Order, and Village accepts such services and products as satisfactory, unless otherwise terminated in accordance herewith.

This Agreement may be terminated by either party, with or without cause, by sixty (60) days' written notice to the other party. Such termination shall be effective sixty (60) days after receipt by the party being provided notice of such written notice of intent to terminate. However, unless Village is terminating for cause based on Company's failure to comply with the provisions herein, no termination for cause will be effective unless the party being provided notice of such termination for cause is first given ten (10) calendar days after receipt of notice of intent to terminate in which to cure the cause for termination.

In the event of termination, Company shall be entitled to compensation for services rendered and costs incurred through the effective date of termination.

Notwithstanding any other provision herein to the contrary, in the event budgeted funds which are sufficient for Village to pay the amounts provided for under this Agreement are not available for any upcoming fiscal period, Village shall notify Company of such occurrence and this Agreement shall terminate on the last day of the then current fiscal period without penalty or expense to Village.

#### **ARTICLE 18: CONSIDERATION AND PAYMENT**

Village shall pay to Company the sums indicated for services as set forth in each Work Order issued to Company.

Company shall submit all billings for payment of services rendered pursuant to the provisions of the applicable Work Order to the Village department requesting the services for processing. Billings shall be detailed as to nature of the services performed and shall refer to the particular line item(s) in the Work Order to which services apply. Billings shall include a summary of any amounts previously billed and any credits for amounts previously paid. Billings shall also contain any additional information required by Village to facilitate reimbursement or payment for Company's services to Village by any applicable federal program.

Company acknowledges that each billing must be reviewed and approved by the Director of the Village department requesting the services pursuant to the applicable Work Order, or his/her designee. Should the Director of such Village department, or his/her designee, determine that the billing is not commensurate with services performed, work accomplished or hours expended, or does not provide sufficient information or detail required for Village to qualify for federal

reimbursement or payment, Company shall adjust billing accordingly. However, Company shall be entitled to payment of any portion of a billing not in dispute.

Village shall pay Company's billings in accordance with Sections 218.70 through 218.80, Florida Statutes, the Florida Prompt Payment Act.

**ARTICLE 19:**  
**CANCELLATION OF AGREEMENT**

Company must timely notify the Village in the event the Company is unable to perform the scheduled Services. Except as otherwise provided herein, this Agreement may be cancelled by either party with thirty (30) days advance written notice to the other at its address as herein specified. In the event Company cancels the Agreement prior to completion of the scope of work, Company will reimburse the Village in proportion to time remaining on the project. In the event the Village terminates the Agreement, no reimbursement will be required by Company.

**ARTICLE 20:**  
**VILLAGE'S RESPONSIBILITIES**

Village shall perform the responsibilities contained in this Article 6 in a timely manner so as not to delay the services of Company.

Village shall furnish to Company, upon request of Company and at Village expense, all existing studies, reports and other available data pertinent to the services to be performed under this Agreement which are within the Village's possession. However, Company shall be required to evaluate all materials furnished hereunder using reasonable professional judgment before relying on such materials.

Village shall provide reasonable access and entry to all public property required by Company to perform the services described in this Agreement. All such access and entry shall be provided at Village expense. Village shall also use reasonable efforts to obtain permission for reasonable access and entry to any private property required by Company to perform the services described in this Agreement.

**ARTICLE 21:**  
**DEFAULT & TERMINATION FOR NON-PERFORMANCE**

A default shall consist of any use of funds for a purpose other than as authorized by this Agreement, noncompliance with any provision in Articles herein, or any material breach of the Agreement.

Upon the occurrence of any such default, the Village shall serve due notice to Company at which time Company shall have a reasonable opportunity to respond and cure. For purposes of this Agreement, a reasonable opportunity to respond and cure shall be ten (10) business days from receipt by Company of the Village's written notice of such default (hereinafter referred to as the "Cure Period"). If the default is not cured to the satisfaction of the Village, the Village shall have the right in its sole discretion to take the following actions:

(A) Upon a written request from Company setting forth a reasonable basis to support the need for an additional Cure Period the Village may grant an additional Cure Period by written acknowledgment thereof; or

(B) Terminate this Agreement by written notice thereof; or

(C) Take such other action, including but not limited to, temporarily withholding cash payments pending correction of the deficiency by Company, disallow all or part of the cost of the activity or action not in compliance, wholly or partly suspend or terminate the current award for Company's program, withhold further awards for the program, or take other remedies that may be legally available.

**ARTICLE 22:**  
**FISCAL NON-FUNDING CLAUSE**

This Agreement is subject to funding availability. In the event sufficient budget funds to fund this Agreement become reduced or unavailable, the Village shall notify Company of such occurrence and the Village may terminate this Agreement without penalty or expense to the Village upon no less than twenty four (24) hours written notice to the Company. The Village shall be the final authority as to the availability of funds and how available funds will be allotted.

If this Agreement is funded in whole or in part by federal or state dollars which are reduced or become unavailable, the Village shall notify the Company of such occurrence and the Village may terminate this Agreement without penalty or expense to the Village upon no less than twenty four (24) hours written notice to Company.

**ARTICLE 23:**  
**STANDARDS AND CORRECTIONS**

Company shall perform or furnish to Village all services pursuant to this Agreement to a level of technical skill, ability, and diligence as is required of similar contractors having the level of skill, expertise and specialized knowledge, as represented to Village, both orally and in writing, to be possessed by Company, all in accordance with the standards contained elsewhere in this Agreement and in accordance with generally accepted standards for the provision of the types of services to be performed by Company hereunder, and with the laws, statutes, ordinances, codes, rules and regulations governing the types of services to be performed by Company hereunder. The same standards of care shall be required of any sub-consultant or subcontractor engaged by Company.

Company shall, without additional compensation, correct and revise any errors, omissions, or other deficiencies in its work product, services, or materials arising from the negligent act, error or omission of Company or any sub-consultant or subcontractor engaged by Company under this Agreement. The foregoing shall be construed as an independent duty to correct rather than a waiver of Village's rights under any applicable statute of limitations. Village review of, approval of, acceptance of, or payment for any of Company's services or materials shall not be construed to

operate as a waiver of any of Village's rights under this Agreement, or cause of action Village may have arising out of the performance of this Agreement.

**ARTICLE 24:**  
**NOTICES**

All notices which may be given pursuant to this Agreement shall be in writing and shall be delivered by personal service or by certified mail, return receipt requested, addressed to the parties at their respective addresses indicated below or as the same may be changed in writing from time to time:

**Notices to the Village shall be sent to:**

Krishan Manners, Village Manager  
Village of Biscayne Park  
600 N.E. 14th Street  
Biscayne Park, Florida 33161  
Phone: (305) 899-8000  
Email: [villagemanager@biscayneparkfl.gov](mailto:villagemanager@biscayneparkfl.gov)

**With a copy to:**

Rebecca Rodriguez, Village Attorney  
401 E. Las Olas Blvd., Suite 1000  
Fort Lauderdale, Florida 33301  
P: 305-913-0536 | F: 305-416-6880  
Email: [Rebecca.Rodriguez@gray-robinson.com](mailto:Rebecca.Rodriguez@gray-robinson.com)

**Notices to Company shall be sent to:**

Managing Member  
Grubbs Emergency Services, LLC  
P.O. Box 468  
Aripeka, Florida 34679

**ARTICLE 25:**  
**NO CONTINGENT FEES**

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

**ARTICLE 26:**  
**NO ASSIGNMENT**

This Agreement, or any interest herein, shall not be assigned, transferred or otherwise encumbered, under any circumstances by Company without the prior written consent of Village. Further, no portion of this Agreement may be performed by subcontractors or subconsultants without prior written notice to and approval of such action by Village.

**ARTICLE 27:**  
**CONTACT PERSONS**

Upon written request of Village, the Village Coordinator shall designate one or more Village employees to whom all communications pertaining to the day-to-day conduct of the performance of this Agreement shall be addressed.

**ARTICLE 28:**  
**SURVIVABILITY & SEVERABILITY**

Any term, condition, covenant or obligation which requires performance by either party subsequent to termination of this Agreement, shall remain enforceable against such party subsequent to such termination. In the event any section, sentence, clause, or provision of this Agreement is held to be invalid, illegal or unenforceable by a court having jurisdiction over the matter, the remainder of this Agreement shall not be affected by such determination and shall remain in full force and effect.

**ARTICLE 29:**  
**GOVERNING LAW & VENUE**

This Agreement shall be governed and construed in accordance with the laws, rules, and regulations of the State of Florida. In the event litigation arises involving the parties in connection with this Agreement, venue for such litigation shall be proper in the Eleventh Judicial Circuit Court in and for Miami-Dade County, Florida.

**ARTICLE 30:**  
**INDEPENDENT CONTRACTOR STATUS**

Company is an independent contractor and is not an employee, servant, agent, partner or joint venturer of Village.

**ARTICLE 31:**  
**NONDISCRIMINATION AND EQUAL OPPORTUNITY EMPLOYMENT**

During the performance of this Agreement, the Company shall not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin. The Company will take affirmative action to ensure that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action must include, but not be limited to, the following: employment, upgrading; demotion or transfer; recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Company shall agree to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

**ARTICLE 32:**  
**PROJECT PUBLICITY**

Company shall recognize the Village for its contribution in promotional material and at any events or workshops for which funds from this Agreement are allocated. Any news release or other type of publicity pertaining to the scope of work performed pursuant to this Agreement must recognize the Village as the sponsor.

**ARTICLE 33:**  
**POLITICAL ENDORSEMENT PROHIBITION**

Company shall not engage in political activities that promote or oppose specific candidates.

**ARTICLE 34:**  
**PUBLIC ENTITY CRIMES**

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid proposal or reply on a contract to provide any goods or services to a public entity may not submit a bid proposal or reply on a contract with a public entity the construction or repair of a public building or public work may not submit bids, proposals or replies on leases of real property to a public entity may not be awarded or perform work as a Company, supplier, subcontractor or Company under a contract with any public entity and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes for Category Two for a period of thirty six (36) months following the date of being placed on the convicted vendor list. Additionally, pursuant to Village's policy, a conviction of a public entity crime may cause the rejection of a bid offer or proposal. The failure of a bidder, offeror or proposer to promptly supply information in connection with an inquiry may be grounds for rejection of a bid offer, proposal or reply.

**ARTICLE 35:**  
**RECORDKEEPING MAINTENANCE & ACCESS TO RECORDS**

Company shall maintain all records and accounts including property, personnel and financial records, contractual agreements, construction reports, Davis Bacon records, subcontracts, proof of required insurance and any other records related to or resulting from the activities performed under this Agreement to assure a proper accounting and monitoring of all funds. In the event the Village determines that such records are not being adequately maintained by Company, the Village may cancel this Agreement in accordance with the provisions herein. This Article shall survive the expiration or earlier termination of this Agreement.

With respect to all matters covered by this Agreement, records will be made available for examination, audit, inspection, or copying purposes at any time during normal business hours and as often as the Village may require. Company will permit same to be examined and excerpts or transcriptions made or duplicated from such records and audits made of all contracts, invoices, materials, records of personnel and of employment and other data relating to all matters covered by this Agreement.

The Village's rights of inspection and audit shall obtain likewise with reference to any audits made by any other agency whether local, state or federal. Company shall retain all records and supporting documentation applicable to this Agreement for six (6) years after receipt of final payment from the Village for inspection. If any litigation claim, negotiation, audit, monitoring, inspection, or other action has been started before the expiration of the required record retention period, records must be retained until completion of the action and resolution of all issues which arise from it or the end of the required period, whichever is later.

The retention period starts from the date of the execution of this Agreement.

If applicable, Company shall comply with the requirements of Chapter 119, Florida Statutes, with respect to any documents, papers and records made or received by Company in connection with this Agreement.

The Company agrees to provide the Village, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Company which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

The Company agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Company agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

**ARTICLE 36:**  
**EVALUATION**

Company agrees that the Village shall be responsible for monitoring and evaluating all aspects of the Services provided under this Agreement. The Village shall have access to and be able to make copies and transcriptions of such records as may be necessary in the determination of the Village to accomplish this obligation, subject to state and federal confidentiality requirements. In order to properly monitor and evaluate Company's performance under this Agreement, the Village shall make onsite inspections as often as it deems necessary. Further, Company shall submit an activity report with each reimbursement request which details the progress made to date toward the completion of the activities authorized under Exhibit "A".

**ARTICLE 37:**  
**DRUG FREE WORKPLACE**

Company shall assure the Village that it will administer in good faith a policy designed to ensure that Company is free from the illegal use, possession, or distribution of drugs or alcohol.

**ARTICLE 38:**  
**LIABILITY & INDEMNIFICATION**

Company shall comply with all applicable laws, orders and codes of the federal, state and local governments as they pertain to this Agreement. The parties agree that Company is liable for any violation of federal, state or local law by Company in relation to this Agreement. Company agrees that it shall be liable for any penalties imposed against Company or the Village by any federal, state or local agency for any actions or inactions by Company. Such penalties shall include, but not be limited to, repayment of any of the funding received pursuant to this Agreement. This obligation shall survive the termination or expiration of this Agreement for a period of not less than five (5) years or any applicable statute of limitation period of equitable limitation doctrine, whichever is longer.

Subject to the limitations of Florida Statute 768.28, Company agrees to indemnify and hold harmless the Village from and against any and all claims, suits, actions, damages, or causes of action arising out of the negligent acts of the Company arising out of or in connection with the provisions of this Agreement.

**ARTICLE 39:**  
**INSURANCE**

Company shall provide proof of insurance as required by the Village as stated herein. General liability insurance, with a minimum limit of one million dollars (\$1,000,000.00). Coverage shall include bodily injury, property damage, medical payments, personal and advertising injury and products completed operations. Business automobile liability, with a minimum limit of one million dollars (\$1,000,000.00), covering any auto including: hiring, leased, scheduled and non-owned. Employees of Company must be covered by worker's compensation insurance, Part A - statutory, and Part B - employer's liability, with a limit of one million dollars (\$1,000,000.00).

The Village shall be included as an additional insured for general and automobile liability insurance. Coverage shall remain in full force for the duration of this Agreement. The Village shall receive full notice of any changes or cancellation of required coverage. Nothing contained

herein shall be construed as a waiver of the immunities and rights afforded to the Village under Florida Statute 768.28.

**ARTICLE 40:  
TERMS**

Capitalized terms contained herein shall have the definition assigned. Capitalized terms contained herein that do not have the definition assigned shall have the meaning assigned in the applicable federal statute or regulation. All article and descriptive headings of paragraphs in this Agreement are inserted for convenience only and shall not affect the construction or interpretation hereof.

**ARTICLE 41:  
ESTOPPEL WAIVER**

A waiver of any performance or default by either party shall not be construed to be a continuing waiver of other defaults or non-performance of the same provision or operate as a waiver of any subsequent default or non-performance of any of the terms, covenants and conditions of this Agreement. The payment or acceptance of fees for any period after a default shall not be deemed waiver of any right or acceptance of defective performance.

**ARTICLE 42:  
MERGER AND MODIFICATIONS**

This Agreement, together with any Task Orders, embodies the entire agreement and understanding between the parties hereto and there are no other agreements and/or understandings, oral or written, with respect to the subject matter hereof that are not merged herein and superseded hereby. This Agreement may only be amended or extended by a written instrument, executed by the Village and Company expressly for that purpose.

**ARTICLE 43:  
SUCCESSORS AND/OR ASSIGNS**

Any term, condition, covenant or obligation which requires performance by either party subsequent to termination of this Agreement, shall remain enforceable against such party subsequent to such termination. In the event any section, sentence, clause, or provision of this Agreement is held to be invalid, illegal, or unenforceable by a court having jurisdiction over the matter, the remainder of the Agreement shall not be affected by such determination and shall remain in full force and effect.

**ARTICLE 44:**  
**DEFAULT AND TERMINATION FOR NON-PERFORMANCE**

A default shall consist of any use of funds for a purpose other than as authorized by this Agreement, noncompliance with any provision in Articles herein, or any material breach of the Agreement.

Upon the occurrence of any such default, the Village shall serve due notice to Company at which time Company shall have a reasonable opportunity to respond and cure. For purposes of this Agreement, a reasonable opportunity to respond and cure shall be ten (10) business days from receipt by Company of the Village's written notice of such default (hereinafter referred to as the "Cure Period"). If the default is not cured to the satisfaction of the Village, the Village shall have the right in its sole discretion to take the following actions:

- A. Upon a written request from Company setting forth a reasonable basis to support the need for an additional Cure Period the Village may grant an additional Cure Period by written acknowledgment thereof; or
- B. Terminate this Agreement by written notice thereof; or
- C. Take such other action, including but not limited to, temporarily withholding cash payments pending correction of the deficiency by Company, disallow all or part of the cost of the activity or action not in compliance, wholly or partly suspend or terminate the current award for Company's program, withhold further awards for the program, or take other remedies that may be legally available.

**ARTICLE 45:**  
**AUTHORIZATION**

Each party represents to the other such party has authority under all applicable laws to enter into an agreement containing such covenants and provisions. All of the procedural requirements imposed by law upon each party for the approval and authorization of this Agreement, have been properly completed and that the persons who have executed this Agreement are duly authorized and empowered to do so.

**ARTICLE 46 :**  
**NO USE OF DHS SEAL, LOGO, & FLAGS**

The Company shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA preapproval

**ARTICLE 47:**  
**COMPLIANCE WITH FEDERAL LAW, REGULATIONS, & EXECUTIVE ORDERS**

This is an acknowledgement that FEMA financial assistance may be used to fund the contract only. The Company will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

**ARTICLE 48:**  
**FEDERAL GOVERNMENT NOT A PARTY**

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, Company, or any other party pertaining to any matter resulting from the contract.

**ARTICLE 49:**  
**FRAUD AND FALSE CLAIMS**

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

**ARTICLE 50:**  
**ADDITIONAL RIGHTS AND REMEDIES**

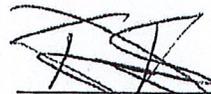
Nothing contained herein shall be construed as a limitation on such other rights and remedies available to the parties under law or in equity which may now or in the future be applicable.

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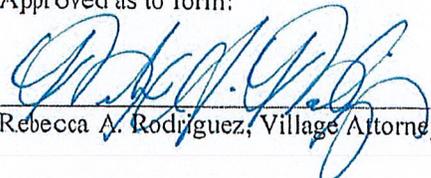
IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed, the day and year first above written.

ATTEST:

BY:   
Roseann Prade, Village Clerk

BY:   
Tracy Truppman, Village Mayor

Approved as to form:

  
Rebecca A. Rodriguez, Village Attorney

COMPANY

**GRUBBS EMERGENCY SERVICES, LLC**

By: 

Printed Name: John G Grubbs

Title: Manging Member



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
2/8/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Killingsworth Agency 19259 Cortez Blvd. P. O. Box 1750 Brooksville FL 34605-1750	CONTACT NAME: Brendan McAuley	
	PHONE (A/C, No, Ext): (352) 796-1451 FAX (A/C, No): (352) 799-5986	
INSURED Grubbs Emergency Services LLC P.O. Box 468 Aripeka FL 34679	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A: Hallmark Specialty Ins	26808
	INSURER B: Ohio Security Ins. Co.	24082
	INSURER C: Lloyds of London	N/A
	INSURER D:	
	INSURER E:	
	INSURER F:	

**COVERAGES**

CERTIFICATE NUMBER: 19-20 GL/WC 18-19 Auto

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY	X		G094008620	2/10/2019	2/10/2020	EACH OCCURRENCE \$ 1,000,000	
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000	
							MED EXP (Any one person) \$ 5,000	
							PERSONAL & ADV INJURY \$ 1,000,000	
GEN'L AGGREGATE LIMIT APPLIES PER:							GENERAL AGGREGATE \$ 2,000,000	
<input checked="" type="checkbox"/> POLICY	<input type="checkbox"/> PRO-JECT	<input type="checkbox"/> LOC					PRODUCTS - COMP/OP AGG \$ 2,000,000	
OTHER:								
B	AUTOMOBILE LIABILITY	X		BA557550696	10/3/2018	10/3/2019	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000	
	<input checked="" type="checkbox"/> ANY AUTO							BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS						<input type="checkbox"/> SCHEDULED AUTOS	BODILY INJURY (Per accident) \$
	<input type="checkbox"/> HIRED AUTOS						<input type="checkbox"/> NON-OWNED AUTOS	PROPERTY DAMAGE (Per accident) \$
<input checked="" type="checkbox"/> \$10,000 PIP			Medical payments \$ 2,000					
C	UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR			GREXS00098900	2/10/2019	2/10/2020	EACH OCCURRENCE \$ 5,000,000	
	<input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE						AGGREGATE \$ 5,000,000	
	DED <input checked="" type="checkbox"/> RETENTION \$ 0							
WORKERS COMPENSATION AND EMPLOYERS' LIABILITY							PER STATUTE	
ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)							OTH-ER	
If yes, describe under DESCRIPTION OF OPERATIONS below							E.L. EACH ACCIDENT \$	
							E.L. DISEASE - EA EMPLOYEE \$	
							E.L. DISEASE - POLICY LIMIT \$	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Limits shown are those in effect at policy inception date.

Certificate holder is listed as additional insured in reference to General Liability and Automobile Liability.

**CERTIFICATE HOLDER**

(305) 891-7241

Villages of Biscayne Park  
640 NE 114th Street  
Biscayne Park, FL 33161**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Brendan McAuley/CLARE

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ACORD 25 (2014/01)

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INS025 (201401)

# CERTIFICATE OF LIABILITY INSURANCE

Date  
12/20/2018

**Producer:** Plymouth Insurance Agency  
2739 U.S. Highway 19 N.  
Holiday, FL 34691  
(727) 938-5562

**This Certificate is issued as a matter of information only and confers no rights upon the Certificate Holder. This Certificate does not amend, extend or alter the coverage afforded by the policies below.**

**Insured:** South East Personnel Leasing, Inc. & Subsidiaries  
2739 U.S. Highway 19 N.  
Holiday, FL 34691

Insurers Affording Coverage		NAIC #
Insurer A:	Lion Insurance Company	11075
Insurer B:		
Insurer C:		
Insurer D:		
Insurer E:		

## Coverages

The policies of insurance listed below have been issued to the insured named above for the policy period indicated. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions, and conditions of such policies. Aggregate limits shown may have been reduced by paid claims.

INSR LTR	ADDL INSRD	Type of Insurance	Policy Number	Policy Effective Date (MM/DD/YY)	Policy Expiration Date (MM/DD/YY)	Limits	
		<b>GENERAL LIABILITY</b> <input type="checkbox"/> Commercial General Liability <input type="checkbox"/> Claims Made <input type="checkbox"/> Occur <hr/> General aggregate limit applies per: <input type="checkbox"/> Policy <input type="checkbox"/> Project <input type="checkbox"/> LOC				Each Occurrence	\$
						Damage to rented premises (EA occurrence)	\$
						Med Exp	\$
						Personal Adv Injury	\$
						General Aggregate	\$
						Products - Comp/Op Agg	\$
		<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> Any Auto <input type="checkbox"/> All Owned Autos <input type="checkbox"/> Scheduled Autos <input type="checkbox"/> Hired Autos <input type="checkbox"/> Non-Owned Autos				Combined Single Limit (EA Accident)	\$
						Bodily Injury (Per Person)	\$
						Bodily Injury (Per Accident)	\$
						Property Damage (Per Accident)	\$
		<b>EXCESS/UMBRELLA LIABILITY</b> <input type="checkbox"/> Occur <input type="checkbox"/> Claims Made <input type="checkbox"/> Deductible				Each Occurrence	
						Aggregate	
A		<b>Workers Compensation and Employers' Liability</b> Any proprietor/partner/executive officer/member excluded? <b>NO</b> If Yes, describe under special provisions below.	WC 71949	01/01/2019	01/01/2020	<input checked="" type="checkbox"/> WC Statutory Limits	<input type="checkbox"/> OTH-ER
						E.L. Each Accident	\$1,000,000
						E.L. Disease - Ea Employee	\$1,000,000
						E.L. Disease - Policy Limits	\$1,000,000

Other

**Lion Insurance Company is A.M. Best Company rated A (Excellent). AMB # 12616**

**Descriptions of Operations/Locations/Vehicles/Exclusions added by Endorsement/Special Provisions:** Client ID: 82-65-070

Coverage only applies to active employee(s) of South East Personnel Leasing, Inc. & Subsidiaries that are leased to the following "Client Company":

**Sun West Acquisition Corp. dba Grubbs Emergency Services, LLC**

Coverage only applies to injuries incurred by South East Personnel Leasing, Inc. & Subsidiaries active employee(s), while working in: FL.

Coverage does not apply to statutory employee(s) or independent contractor(s) of the Client Company or any other entity.

A list of the active employee(s) leased to the Client Company can be obtained by faxing a request to (727) 937-2138 or email certificates@lioninsurancecompany.com

**Project Name:**

ISSUE 04-12-17 (DV)

Begin Date: 4/26/2010

CERTIFICATE HOLDER	CANCELLATION
VILLAGES OF BISCAYNE PARK  640 NE 114TH STREET BISCAYNE PARK, FL 33161	Should any of the above described policies be cancelled before the expiration date thereof, the issuing insurer will endeavor to mail 30 days written notice to the certificate holder named to the left, but failure to do so shall impose no obligation or liability of any kind upon the insurer, its agents or representatives.



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**RESOLUTION NO. 2019-017**

**A RESOLUTION OF THE VILLAGE COMMISSION  
OF THE VILLAGE OF BISCAYNE PARK, FLORIDA;  
APPROVING DEBRIS REMOVAL SERVICES  
CONTRACT WITH GRUBBS EMERGENCY  
SERVICES, LLC; AND PROVIDING FOR AN  
EFFECTIVE DATE.**

**WHEREAS**, in July 2018, the Village issued RFP 2018-04 for “Debris Removal and Disposal Services (“RFP 2018-04”);

**WHEREAS**, on July 23, 2018, the Village advertised RFP 2018-04 in the Daily Business Review;

**WHEREAS**, the Village also advertised RFP 2018-04 on the Village website;

**WHEREAS**, the Village received responses to RFP 2018-04 from the following three companies: Custom Tree Care Disaster Response, DRC Emergency Services, and Grubbs Emergency Services;

**WHEREAS**, in August 2018, the Village staff reviewed the three bid submissions and determined that Grubbs Emergency Services, LLC (“Grubbs”) presented the most responsible, responsive, and cost effective proposal to provide the services; and

**WHEREAS**, on September 11, 2018, the Village Commission approved the staff’s rankings of the proposals and adopted Resolution 2018-24, authorizing the Village Manager and the Village Attorney to negotiate an agreement for Debris Removal and Disposal Services with Grubbs Emergency Services, LLC for debris removal and disposal services.

**NOW THEREFORE IT IS HEREBY RESOLVED BY THE MAYOR AND VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA:**

**Section 1.** The foregoing "Whereas" clauses are hereby ratified and confirmed as being true and correct and hereby made a specific part of this Resolution upon adoption hereof.

**Section 2.** The Mayor and Village Commission approve the debris removal services contract with Grubbs Emergency Services, LLC.

**Section 3.** This Resolution shall become effective upon adoption.

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PASSED AND ADOPTED this 9th day of July, 2019.

  
\_\_\_\_\_  
Tracy Truppman, Mayor

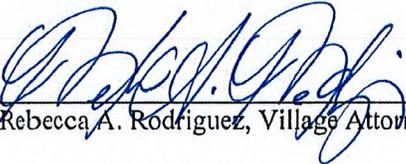
The foregoing resolution upon being  
put to vote, the vote was as follows:

Mayor Truppman: Yes  
Vice Mayor Samaria: Yes  
Commissioner Johnson-Sardella: Yes  
Commissioner Tudor: Yes  
Commissioner Wise: Absent

Attest:

  
\_\_\_\_\_  
Roseann Prado, Village Clerk

Approved as to form:

  
\_\_\_\_\_  
Rebecca A. Rodriguez, Village Attorney

**CONTRACT FOR DEBRIS MONITORING SERVICES BETWEEN  
THE VILLAGE OF BISCAYNE PARK, FLORIDA AND DEBRISTECH, LLC**

THIS Contract for Debris Monitoring Services (the "Contract" or "Agreement") is made and entered into effective as of the 23rd day of August 2019 (the "Effective Date"), by and between the VILLAGE OF BISCAYNE PARK, FLORIDA (the "Village"), an incorporated Florida municipality, and DEBRISTECH, LLC, a Mississippi limited liability company (the "Contractor").

**RECITALS**

WHEREAS, the Village desires to engage Contractor to perform certain debris monitoring services (as hereinafter defined) and Contractor desires to perform such Contractor Services, all on the terms and conditions set forth herein.

**AGREEMENT**

NOW, THEREFORE, in consideration of the premises, the mutual covenants and agreements contained herein, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Duties of Contractor.** Effective as of the date of this Agreement, Contractor agrees to supply personnel as specifically requested in writing by the Village to perform the services described in Exhibit 'A' attached hereto (collectively, the "Contractor Services").

2. **Independent Contractor Relationship.** Contractor is an independent contractor and is solely responsible for all taxes, withholdings, and other similar statutory obligations in connection with the personnel supplied and services provided by Contractor pursuant to this Agreement, including, but not limited to, workers' compensation insurance and unemployment insurance. Nothing in this Agreement shall be deemed to create an agency, partnership, or joint venture between the parties, nor

shall this Agreement be interpreted or construed as creating or establishing the relationship of employer and employee between the Village and Contractor. Neither party hereto has the authority to act on behalf of or to enter into any contract, incur any liability or make any representation on behalf the other party. It is expressly understood that the Contractor is an independent contractor in every respect.

**3. No Exclusive Duty.** The Contractor shall devote sufficient time, attention, personnel and other resources to perform the Contractor Services, provided, however, the Contractor shall not be required to perform work exclusively for the Village and Contractor may have other business interests and may engage in other activities in addition to those relating to the Village.

**4. Term.** The term of this Agreement shall commence on the Effective Date and terminate on August 31, 2022, subject to the provisions of Sections 5 and 6 (the "Initial Term") and may be extended for 180 days beyond contract period. Upon expiration of the Initial Term, this Agreement shall continue for two (2) additional one (1) year terms as set forth in Section 5 below or otherwise extended pursuant to mutually agreeable written terms and may be extended for 180 days beyond renewal period.

**5. Termination for Convenience.** The Village may terminate this Contract at its convenience with or without cause upon written notice of termination to Contractor. In the event of such a termination by the Village, the Village shall be liable for the payment of all work properly performed prior to the effective date of termination and for all portions of materials, supplies, services, and facility orders which cannot be cancelled and were placed prior to the effective date of termination and other reasonable costs associated with the termination. Notwithstanding the preceding, under

no circumstances shall the Village be liable to Contractor for lost profits or overhead for work, materials or services not performed or delivered to the Village.

**6. Compensation.** The Village will pay Contractor an hourly rate for the personnel provided by Contractor pursuant to the payment schedule attached to Exhibit 'B'. For each hour of services provided by any Contractor personnel in excess of forty (40) hours per week, the Village will pay Contractor at one and one-half times (1.5 x) the hourly rate on Exhibit 'B'. Contractor agrees to track the number of hours worked per week and to provide invoices for services rendered to the Village on a weekly basis. Payment shall be due from the Village to the Contractor within fifteen (15) days of the regular meeting of the Village Commissioners immediately following receipt of the invoice. For any amounts more than sixty (60) days overdue, Contractor shall have the right to suspend its provision of the Contractor Services until such payment is received. In no event shall the amount payable under this Agreement exceed \$1,000,000 (the "Cap"). If the Contractor performs services such that the amount payable under this Agreement reaches the Cap, the Contractor may suspend performance of services under this Agreement until the parties agree to amend this Agreement to increase the amount of the Cap. If the parties have not agreed to amend this Agreement to increase the amount of the Cap within ninety (90) days of Contractor reaching the Cap, Contractor shall have the right to terminate this Agreement.

**7. Taxes.** Contractor shall be solely responsible for the payment of all taxes and/or assessments imposed on the payments of compensation for the performance of services outlined herein, including, without limitation, any unemployment insurance or tax, self-employment tax, federal, state and foreign income taxes, and any federal social security payment or similar taxes (and Contractor shall provide evidence to the Village,

upon the Village's request, that such have been paid). Notwithstanding, the Village may withhold from any amounts payable under this Contract such federal, state, local or foreign taxes as shall be required to be withheld pursuant to any applicable law or regulation; provided, however, that the Village shall provide the Contractor with written substantiation of withholding and remittance of such taxes upon Contractor's request.

**8. No Breach.** Each party hereby represents and warrants to the other party that: (a) it has all right, power and authority to grant the rights granted herein and to perform all of its obligations hereunder; (b) by entering into this Agreement and performing the obligations herein, it will not breach or violate any agreement, charter, instrument or other document to which it is a party or otherwise bound; and (c) it is currently in compliance and, throughout the term of this Agreement, it shall comply, in all material respects, with all applicable laws, rules and regulations.

**9. Dispute Resolution.** Should any dispute between the Parties arise under this Contract (a "Dispute"), written notice of such Dispute shall be delivered from one party to the other and thereafter, the parties, through their appointed representatives or designees (each an "Authorized Representative"), shall first meet and attempt to resolve the Dispute in face-to-face negotiations. This meeting shall occur within thirty (30) calendar days of the date on which a written notice of such Dispute is received from the complaining party.

If no resolution is reached through the informal process set forth in Section 10(a) above, at the direction of either party's Authorized Representative, the parties shall engage in non-binding mediation for a period of no less than sixty (60) days (or such longer period as may be mutually agreed by the parties) (the "Mediation Period"). The mediation shall be conducted in Biscayne Park, Florida by a single mediator mutually

selected by the parties. The parties shall share equally in the fees of the mediator. If the Dispute remains unresolved following the Mediation Period, either party may seek any remedy at law or in equity that may be available.

**10. Additional Remedies.** In addition to any other remedies provided for in the Contract or to which the Village may be entitled at law or in equity, in the event of a breach or violation of the Contract by Contractor, Contractor shall be subject to debarment or suspension from consideration for the award of additional contracts from the Village, including but not limited to contracts related to disaster relief or recovery, pursuant to the terms and procedures set forth in the Village Code.

**11. Required Insurance.** Contractor shall maintain as a condition precedent to this Contract an approved and satisfactory general comprehensive liability insurance policy in the minimum amount of \$1,000,000.00, and naming the Village, its employees and elected officials as additional insureds. Such general comprehensive insurance, the premiums for which have been paid by the Contractor, shall cover any claim for damages of whatever nature brought by any person, corporation or business entity against the Contractor, the Village, its employees, named insureds, or additional insureds, or any of them arising out of or in any manner connected with the services provided to the Village. A certificate of insurance shall be provided by its producing agent to the Village prior to the Contractor's beginning work under this Agreement.

Contractor shall furnish the Village as a condition precedent to this Agreement evidence of approved and satisfactory workers' compensation insurance providing workers' compensation insurance to Contractor's employees, unless Contractor is not required by law to have such insurance coverage.

**12. Compliance with State and Federal Reporting Requirements.**

Contractor and its subcontractors shall comply with and the Contract is subject to the requirements and regulations of the Federal Emergency Management Agency and the State of Florida Division of Emergency Management pertaining to reporting.

**13. Civil Rights.** The following requirements will apply to this Contract:

(A) Age. In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age.

(B) Disabilities. In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. §12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities, and which prohibits discrimination in the areas of employment, public accommodations, transportation, telecommunications and government services.

**14. No Obligation by the Federal Government.**

(A) Absent the express written consent by the Federal Government, the Federal Government or FEMA is not a party to the Contract and shall not be subject to any obligations or liabilities to the Village, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

- (B) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FEMA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

**15. Procurement of Recovered Materials.**

- (A) In the performance of this Contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired
- (i.) Competitively within a timeframe providing for compliance with the contract performance schedule;
  - (ii.) Meeting contract performance requirements; or
  - (iii.) At a reasonable price.
- (B) Information about this requirement is available at EPA's Comprehensive Procurement Guidelines web site, <http://www.epa.gov/cpg/>. The list of EPA-designate items is available at <http://www.epa.gov/cpg/products.htm>.

**16. DHS Seal, Logo, and Flags.** The Contractor shall not use the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials without specific FEMA approval.

**17. Solid Waste Disposal Act.** During the term of this Agreement and any extensions thereof, the Contractor shall at all times comply with all applicable provisions of The Solid Waste Disposal Act of 1965, as amended (42 USCA § 6901, *et seq.*).

**18. Contract Work Hours and Safety Standards Act.** During the term of this Contract and any extensions thereof, the Contractor shall at all times comply with all

applicable provisions of The Contract Work Hours and Safety Standards Act, as amended (40 United States Code, Chapter 37).

**19. Compliance with Federal Law, Regulations, and Executive Orders.**

This is an acknowledgement that FEMA financial assistance will be used to fund the Contract only. The Contractor will comply will all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives as applicable, including but not limited to:

- (A) The Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, 42 USC Sec. 5121, *et. seq.*
- (B) Resource Conservation and Recovery Act
- (C) National Historic Preservation Act
- (D) Mandatory Standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

**20. Immigration and Naturalization Act.** Contractor shall not knowingly employ unauthorized alien workers in violation of 8 USC §1324a(e) [§74A(e) of the Immigration and Nationality Act] and such employment of unauthorized aliens shall be grounds for unilateral termination of this Contract.

**21. Fraud and False or Fraudulent or Related Acts.** The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this Contract.

**22. Indemnity of Funding Entities.** Contractor hereby agrees to indemnify and hold harmless the State of Florida, the Government of the United States of America (including but not limited to the Federal Emergency Management Agency and the

Federal Highway Administration) and the Village and their officers, agents, employees and elected officials from and against any and all liability, claims, damages, demands, expenses, fees, fines, penalties, suits, proceedings, actions and cost of actions, including attorneys' fees for trial and appeal, and for the preparation of same arising out of Contractor's, its officers, agents, employees and subcontractors' acts or omissions associated with this Contract.

**23. Clean Air Act and the Federal Water Pollution Control Act.**

(A) Clean Air Act.

- (i.) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401, et seq.
- (ii.) The Contractor agrees to report each violation to the Village and understands and agrees that the Village will, in turn, report each violation as required to assure notification to the State, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (iii.) The Contractor agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FEMA.

(B) Federal Water Pollution Control Act.

- (i.) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq.

- (ii.) The Contractor agrees to report each violation to the Village and understands and agrees that the Village will, in turn, report each violation as required to assure notification to the State, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (iii.) The Contractor agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FEMA.

**24. Energy Policy and Conservation Act.** During the term of this Agreement and any extensions thereof, the Contractor shall at all times comply with all applicable federal, state and local laws pertaining to energy efficiency, including but not limited to, the Energy Policy and Conservation Act, as amended (42 U.S.C.A § 6201, et seq.).

**25. Byrd Anti-Lobbying Amendment.** The Contractor certifies, by signing this Contract, to the best of his or her knowledge and belief, that:

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

- (B) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (C) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- (D) The Contractor also agrees that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

**26. Contract Work Hours and Safety Standards Act.**

- (A) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or

mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

- (B) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
- (C) Withholding for unpaid wages and liquidated damages. The Village shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be

determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

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

**27. Non-Discrimination; Equal Employment Opportunity.**

During the performance of this Contract, the Contractor agrees as follows:

- (A) The Contractor will not discriminate against any person, employee or applicant for work or employment because of race, color, religion, sex, sexual orientation, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation or national origin. Such action shall include, but not be limited to the following: employment, upgrading demotion or transfer; recruitment or recruitment advertising; layoffs or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices as

required by applicable law setting forth the provisions of this nondiscrimination clause.

- (B) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will received consideration for employment without regard to race, color, religion, sex, sexual orientation or national origin.
- (C) The Contractor, with regard to the work performed by it during the term of this Agreement, shall not discriminate on the grounds of race, color, sex, sexual orientation or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment.
- (D) In all solicitations ether by competitive bidding or negotiation made by the Contractor for work to be performed under subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this Agreement and applicable regulations relative to nondiscrimination on the grounds of race, color, sex, sexual orientation or national origin.
- (E) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and of the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts for purposes of investigation to ascertain compliance with such rules, regulations, and relevant orders of the Secretary of Labor.

- (F) The Contractor will comply with all provisions of Executive Order 11246 and of the rules, regulations and relevant orders of the Secretary of Labor.
- (G) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (H) The Contractor will comply with all provisions of Executive Order 12250 Coordination of Grant-Related Civil Rates Statutes.
- (I) The Contractor will take steps to solicit employment, subcontractor, vendor, volunteer, and other employment opportunities with respect to services provided to Village under this Agreement from minority and women owned businesses.
- (J) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(K) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

**28. Force Majeure.** Except with respect to payment obligations under this Agreement, neither party hereto shall be liable for any failure to perform due to strikes, riots, civil disturbances, acts of terrorism, wars, failures or fluctuations in electrical power or telecommunications equipment, or any other cause beyond such party's reasonable control (each an "Event of Force Majeure"). The parties shall use their commercially reasonable efforts to minimize the consequences of any Event of Force Majeure.

**29. Davis Bacon Act and Copeland Anti-Kickback Act.**

**(A) Compliance with Davis Bacon Act.**

- (i.) The Contractor agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Contract. The Contractor shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the Village for review upon request. Current applicable wage rates will be attached to the Contract if applicable.
- (ii.) The Contractor agrees that all contractors engaged under contracts in excess of \$2,000.00 for construction, renovation or repair work financed in whole or in part with assistance provided under this Contract, shall comply with Federal requirements adopted by the Village pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided that, if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Contractor of its obligation, if any, to require payment of the higher wage. The Contractor shall cause or require to be

inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

(B) Compliance with Copeland Anti-Kickback Act.

- (i.) Contractor. The Contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this Contract.
- (ii.) Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
- (iii.) Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

**30. Access to Records.**

- (A) The Contractor agrees to provide the Village, State, FEMA, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to the contract for the purposes of making audits, examinations, excerpts and transcriptions.

- (B) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- (C) The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
- (D) The Contractor agrees to maintain all books, records, accounts and reports required under the Contract for a period of not less than three (3) years after the date of termination or expiration of the Contract, except in the event of litigation or settlement of claims arising from the performance of the Contract, in which case Contractor agrees to maintain same until the Village, the State, FEMA, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.

**31. Applicable Law and Venue.** This Contract shall be subject to and governed by the laws of the State of Florida, without regard to conflict of law rules. The Parties hereby consent that jurisdiction is proper in the State of Florida for any action arising out of, under or in connection with this Contract, and that venue is proper exclusively in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, for any action arising out of this Contract.

**32. Captions.** The captions provided herein are merely for ease of reference. The captions are not part of the provisions hereof and shall have no force or effect.

**33. Materials and Supplies.** All manufactured and unmanufactured articles, materials and supplies which are acquired for public use under this Contract have been

produced in the United States as required by 41 USC §10a, unless it would not be in the public interest or unreasonable in cost.

**34. Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion.** By signing this Contract, the Contractor is providing the certification set out below:

- (A) The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The Contractor shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the Contractor to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.
- (B) The Contractor shall provide immediate written notice to the department or agency to whom this proposal is submitted if any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- (C) This Contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the Contractor is required to verify that none of the Contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

- (D) The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (E) This certification is a material representation of fact relied upon by the Village. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State, and the Village, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- (F) The Contractor agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of the Contract. The Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

**35. Notices.** All notices and other communications hereunder shall be in writing and shall be given by hand delivery to the other party or by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

Notice to Contractor:

DebrisTech, LLC Attn: Brooks Wallace  
925 Goodyear Boulevard  
Picayune, Mississippi 39466  
Email: [Brooks@debristech.com](mailto:Brooks@debristech.com)

Notice to Village:

Village of Biscayne Park  
Attn: Krishan Manners  
600 N.E. 114th Street  
Biscayne Park, Florida 33161  
Email: [VillageManager@biscayneparkfl.gov](mailto:VillageManager@biscayneparkfl.gov)

or to such other address as either party shall have furnished to the other in writing in accordance herewith. Notice and communications shall be effective when actually received by the addressee.

**36. Severability; Partial Invalidity.** The invalidity or unenforceability of any provision of this Contract shall not affect the validity or enforceability of any other provision of this Contract. If any provision of this Contract shall be deemed unlawful, void or unenforceable for any reason, it shall be deemed severable, and in no way shall effect the validity or enforceability of, the remaining provisions of this Agreement.

**37. Not Waiver.** The parties' respective rights under this Agreement are cumulative and either party's exercise or enforcement of any right or remedy under this Agreement will not preclude such party's exercise or enforcement of any other right or remedy which such party is entitled to enforce at law or in equity. The Contractor or the Village's failure to insist upon strict compliance with any provision of this Agreement or the failure to assert any right Contractor or the Village may have hereunder shall not be deemed to be a waiver of such provision or right or any other provision or right of this Agreement.

**38. No Adverse Construction.** This Contract shall not be construed or interpreted in favor of or against Contractor or the Village on the basis of draftsmanship or preparation of the Contract.

**39. Merger; Integration.** From and after the date this Agreement is signed by both Village and Contractor, this Agreement shall supersede all prior and contemporaneous agreements and understandings between Contractor and the Village, whether written or oral, with respect to the subject matter hereof.

**40. Amendments.** This Contract can only be amended or modified in a written document signed by both Contractor and the Village to be of any force and effect.

**41. Survival.** All rights and obligations of the parties hereto that either expressly, or by their nature, survive the expiration or termination of this Agreement shall survive such expiration or termination.

**42. Counterparts.** This Agreement and any amendment, waiver, approval or consent relating hereto may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, but all of which when taken together shall constitute one and the same instrument. The delivery by any party of an executed signature page to this Agreement or any amendment, waiver, approval or consent relating hereto by facsimile transmission or by electronic email in Adobe Corporation's Portable Document Format (or PDF) shall be deemed to be, and shall be enforceable to the same extent as, an original signature page hereto or thereto. Any party who delivers such a signature page agrees to later deliver an original counterpart to any party that requests it.

**43. Jury Waiver.** THE CONTRACTOR AND THE VILLAGE HEREBY IRREVOCABLY WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM - WHETHER BASED ON CONTRACT, TORT OR OTHERWISE - ARISING OUT OF OR RELATING TO THIS CONTRACT IN THE NEGOTIATION, ADMINISTRATION, PERFORMANCE, OR ENFORCEMENT HEREOF OR THEREOF.

IN WITNESS WHEREOF, the parties have executed this Contract for Debris Monitoring Services as of the date first written above.

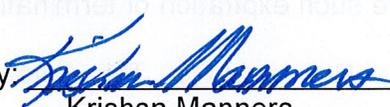
**CONTRACTOR:**

DEBRISTECH, LLC

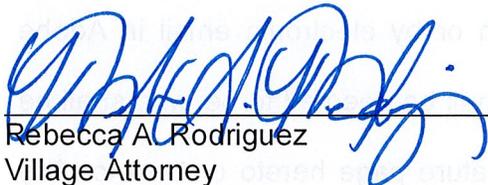
By:   
\_\_\_\_\_  
Brooks R. Wallace  
Manager

**VILLAGE:**

VILLAGE OF BISCAYNE PARK,  
FLORIDA COMMISSIONERS

By:   
\_\_\_\_\_  
Krishan Manners  
Village Manager

Approved as to form:

  
\_\_\_\_\_  
Rebecca A. Rodriguez  
Village Attorney

**EXHIBIT A**  
**SCOPE OF SERVICES**

**SECTION 3**  
**SCOPE OF SERVICES**

**3.1 BACKGROUND**

The Village of Biscayne Park requires the services of a Debris Monitoring Contractor to support the oversight and management of debris recovery contractors. In addition, the Contractor may provide a range of related services including damage assessment, emergency planning and other services as needed and ordered by the Village. Other services may include communication with FEMA, other federal agencies, The State of Florida, Miami-Dade County and coordination with the villages insurance representatives.

**3.2 DEFINITIONS**

The term "Contract" means a binding written agreement for the solicited work or services required by the Village containing terms and obligations governing the relationship between the Village and the awarded respondent.

The term "Contractor or Vendor" means the Proposer or Respondent that is selected and awarded a Contract pursuant to this Solicitation.

The term "Chipping" shall mean reducing the wood related materials by mechanical means into small pieces that could be used for mulch or fuel. Woody debris can be

reduced in volume by approximately 75% based on data obtained during recovery operations. The terms “chipping and mulching” are often used interchangeably.

The term **“Clean As You Go Policy”** shall mean cleaning all debris from each street or work zone on the first pass, whenever possible.

The term **“Contract Manager”** means the authorized representative designated by the Village Manager.

The term **“Construction and Demolition Debris”** means components of buildings and structures such as lumber and wood, gypsum wallboard, glass, metal, roofing materials, tile carpeting and floor coverings, window coverings, pipe, concrete, asphalt, equipment, furnishings and fixtures.

The term **“Debris”** shall mean scattered items and materials either broken, destroyed or displaced by a natural disaster. Examples are trees, construction and demolition material and personal property.

The term **“Debris Clearance”** shall mean the clearing of the major roads by pushing debris to the roadside to accommodate emergency traffic and sometimes referred to as the first push.

The term **“Debris Management site (DMS)”** shall mean a location, permitted by the Florida Department of Environmental Management, where debris is sorted, processed, reduced in volume and or disposed of (if debris management activities take place at a permanent disposal site). The DMS is sometimes referred to the Temporary Debris Management site (TDMS).

The term **“Debris Monitoring”** shall mean actions taken by the Village or its designated representative to document eligible quantities and reasonable expenses during debris recovery operations to ensure that the work complies with the scope of work and/or is eligible for the Public Assistance Program reimbursement.

The term **“Demolition”** shall mean the act or process of reducing a structure as defined by state or local code to a collapsed state without preserving any elements for reuse.

The term **“Debris Disposal”** shall mean placing mixed debris and or residue from volume reduction operations into an approved landfill or recycling center. All locations will be contained within an approximately 30-mile radius.

The term **“Drop Off Site”** shall mean a site established for residents of the Village to drop off debris.

The term **“Electronic Waste (E-Waste)”** shall mean loosely discarded obsolete or broken electrical or electronic devices including but not limited to computers, monitors, televisions and microwaves.

The term **“FDEP”** means the Florida Department of Environmental Protection.

The term **“FDOT”** means the Florida Department of Transportation.

The term **“FEMA”** means the Federal Emergency Management Administration.

The term **"FHWA"** means the Federal Highway Administration.

The term **"Force Account"** shall mean labor performed by the Villages permanent fulltime, part time or temporary employees.

The term **"Garbage"** shall mean waste that is regularly picked up by the village or its contracted provider or other government agency, examples are food, plastics, paper and other putrescible waste.

The term **"Global Positioning system (GPS)"** means a global navigation satellite system that provides location and time information in all weather conditions, anywhere on or near the Earth where there is an unobstructed line of site to four or more GPS satellites.

The term **"Hazardous Waste"** shall mean material and products from institutional, commercial, recreational, industrial and agricultural sources that contain certain chemicals with one or more characteristics as defined by the Environmental Protection Agency.

- Toxic
- Flammable
- Corrosive
- Reactive

The term **"Household Hazardous Waste"** shall mean used or leftover contents of consumer products that contain certain chemicals with one or more characteristics as defined by the Environmental Protection Agency.

- Toxic
- Flammable
- Corrosive
- Reactive

The term **"Hazardous Stump"** shall mean an uprooted tree or stump (50% or more of the root ball is exposed) on a on a public right of way, improved public property or improved property owned by certain nonprofit organizations and the exposed root ball poses an immediate threat to life, public health and safety.

The term **"Infectious Waste"** means waste capable of causing infections in humans including contaminated animal waste, human blood and blood products, pathological waste and discarded sharps or broken medical instruments.

The term **"Legal Responsibility"** shall mean in the context of debris management, a statute, formally adopted legal code or ordinance that gives local government officials responsibility to perform work on public or private property.

The term **“Mixed Debris”** shall mean a mixture of various types of debris including but not limited to Woody debris, C & D debris, White Goods, E Waste, Household Hazardous Waste, metals, abandoned vehicles, tires, etc.

The term **“Mulching”** shall mean reducing the wood related materials by mechanical means into small pieces that could be used for mulch or fuel. Woody debris can be reduced in volume by approximately 75% based on data obtained during recovery operations. The terms “chipping and mulching” are often used interchangeably.

The term **“Mutual Aid Agreement”** shall mean a written understanding between communities or states obligating assistance during a disaster. See FEMA RP 9523.6, Mutual Aid Agreements for Public Assistance and Fire Management Assistance.

The term **“National Response Plan”** shall mean a plan developed to facilitate the delivery of all types of Federal assistance to States following a disaster. It outlines the planning assumptions, policies, concept of operations, organizational structure and specific assignments and agencies involved in Federal assistance to supplement state, tribal and local efforts.

The term **“Notice to Proceed”** shall mean the written notice given by the Village Manager or designee to the debris monitoring contractor of the date and time for work to commence.

The term **“NRCS”** means the National Resources Conservation Service.

The term **“OSHA”** means the Occupational Safety and Health Administration of the United States Department of Labor.

The term **“Outbuilding”** means and structure secondary to a house such as a barn, shed or outhouse separated from the main structure.

The term **“Piggyback Contract”** shall mean a contract let by a government entity which is adopted and extended for use by another government entity.

The term **“Proposal”** mean any and all documents submitted by a Proposer in response to this Solicitation.

The term **“Proposer or Respondent”** means any and all individuals, corporations, joint ventures or other type of business organization submitting a response to this Solicitation.

The term **“Project Manager”** shall mean the Contractors representative authorized to make and execute decisions on behalf of the Contractor.

The term **“Recycling”** shall mean the recovery and reuse of metals, soils, construction materials any other material that may have a residual monetary value.

The term **“Right of Entry”** as used by FEMA shall mean a document by which a property owner confers to an eligible applicant or its contractor or the United States Corps of Engineers the right to enter onto private property for a specific purpose without committing trespass.

The term **"Scale/Weigh Station"** shall mean a scale used to weigh truck as they enter and exit a landfill. The difference in weight determines the tonnage dumped and for which a tipping fee is charged accordingly. It may be used to determine the quantity of debris picked up and hauled.

The term **"Solicitation"** means this Request for Proposals (RFP) Document and all associated addenda and attachments.

The term **"Stumps"** shall mean tree stumps with base cut measurements less than two (2) feet in diameter measured two (2) feet above the ground and shall be disposed of with the same methods used for other debris. Tree stumps larger than two (2) feet in diameter will be disposed of by either splitting or grinding, the method is at the discretion of the contractor. Hazardous Stump Extraction and Removal shall be performed in accordance with FEMA DAP 9523.11.

The term **"Tipping Fee"** shall mean a fee based on weight or volume of debris dumped that is charged by landfills and other waste management facilities to cover their operating and maintenance cost, the fee may also include the cost of closing the current facility and/or opening a new facility.

The term **"Vegetative Debris"** shall mean clean woody debris and other organic materials that can be chipped or mulched.

The term **"White Goods or Metals"** shall mean discarded household appliances such as refrigerators, freezers, air conditioners, heat pumps, ovens, ranges, washing machines, clothes dryers and water heaters.

The term **"Work or Services"** includes all labor, equipment, supervision, expertise, maintenance and services to be provided by the awarded Contractor to successfully perform the Services required under this Solicitation.

### **3.3 SCOPE**

#### **A. Debris Monitoring Services**

##### **Disaster Response Administration and Documentation**

Upon notification by the Village, the Contractor shall within 24 hours of request for services, submit a list of personnel to be used for each contracted event. The list will include names, addresses, phone numbers, cell numbers, driver's license numbers and job assignment areas. The Contractor shall update the list daily for any changes such as additions or deletions of staff. Any changes in key personnel such but not limited to: Project Manager and/or Field Supervisors must be approved by the Village.

A Project Manager who shall be responsible for the overall monitoring of debris contractors and the management of the Contractors monitoring team shall be the Villages point of contact. The Project Manager shall assign an Operations Manager to oversee each debris recovery contractor. The Project Manager will

be supported by the full array of resources to enhance efficiency and expedite deliverables. The Project Mangers responsibilities include:

- Coordinating daily briefings, work progress, staffing and other key items with the Village.
- Scheduling work for all team members and contractors daily.
- Scheduling and managing field staff.
- Monitoring recovery contractor's progress and making/implementing recommendations to improve efficiency and speed up recovery work.
- Assisting the Village with responding to the publics concerns and comments.
- Conducting Safety Inspections.
- Ensuring compliance with contracts by all subcontractors.
- Scheduling and conducting periodic meetings with field staff and contractors.

The Contractor shall be prepared to staff a Project Management Team consisting of the following members, however, the final determination of staffing will be made by the Village depending on need.

- Project Manager
- Operations Manager
- FEMA Coordinator
- Scheduler/Expediter
- GIS Analyst
- Field Supervisors
- Debris Site/Tower Monitors
- Environmental Specialist
- Project Inspectors (Load Ticket Data Entry Clerks)
- Billing and Invoice Analysts
- Administrative Assistants
- Field Coordinators (Crew Monitors)

The Proposer must provide resumes of all key personnel that will be involved in performing

- a. Full name (including full middle name);
- b. An employment history;
- c. A specific description of relevant experience and skills that person has in connection with the project that is the subject of this RFP (limit one page);
- d. A specific indication of what role the individual will have in this project; and
- e. Any additional helpful information to indicate the individual's ability to aid the Offeror in successfully performing the work involved in this RFP (limit to one page).

The resumes must present the required personnel in sufficient detail as to provide the Village an indication that the personnel involved can perform the work specified in this RFP. All proposed personnel will be subject to the Manager's approval.

No substitutions of key personnel following contract award will be made without the prior written consent of Village of Biscayne Park. All requested substitutes must be submitted to the Village of Biscayne Park, or, together with their resumes, for approval.

Each of the successful Proposers' personnel is subject to removal from this project by the Village of Biscayne Park. In addition, if the person removed is among the project's key personnel, the replacement must be approved by Village of Biscayne Park. All replacements of key personnel will be paid at the same rate as the person who was replaced, unless the rate normally charged by the replacement is lower, in which case the lower rate will be paid. All replacements of key personnel must be of equal or superior experience as the person replaced.

If applicable, each proposer must provide a detailed statement setting forth the proposed hourly billing rate for all key personnel, and for each additional staff member to be assigned to the project. The hours each of the key personnel and other staff members are projected to work on the project.

Each Proposer must provide any equipment, software, or data communication lines required by the successful Proposer's personnel to complete the work specified in this document. Each Proposer also must identify any personnel related through blood or marriage to any current employee of the Village.

Each Proposer must provide an organizational chart covering the services offered in its proposal, indicating lines of authority, names, titles, and functions of individuals assigned. The Proposer must assign a contact person to the project.

## **B. Services Provided by Contractor include:**

### **1. Operational Reports and Record Documentation**

The Contractor will prepare and submit operational reports throughout the duration of the recovery operations. Daily reports shall document the debris contractor's activities and progress from the previous day and shall be submitted by 10:30 a.m. to a distribution list established by the Villages Project Manager. Each daily report submitted will contain the following minimum information:

- Contractor name
- Contact number
- Reports and graphs to delineate production rates of crews their equipment, progress by area and estimations of total quantities remaining, time to completion and daily cumulative cubic yards of debris removed, processed and hauled.

- GIS mapping data updates and digitized reports
- All GIS data must be in ERSI format 10.2 8.3 or higher version. Personnel geo-database is acceptable based on size restraints
- Data exports monthly should be at a minimum SQL server version 2000
- Scanned Documents should be at a minimum 300dpi and in jpeg, tiff or pdf file format

## **2. Method and Times of Payment**

The Contractor will review and validate the debris removal contractor(s) invoices prior to submission to the Village for processing no later than thirty (30) days after debris removal contractor(s) submittal to the successful Contractor of this solicitation and provide a written recommendation.

The Contractor agrees that under the provisions of this contract, as reimbursement for those actual, reasonable and necessary costs incurred by the Contractor, which are directly attributable or properly allocable to the Debris Monitoring Services, the Contractor shall invoice the Village monthly. All invoices shall be supported by copies of payroll distribution, receipts, bills or other documents reasonably required by the Village.

## **3. Technical Expertise and Guidance – As directed by the Village**

The contractor shall provide the following:

- Development of Debris Plan to include staff training
- Technical support and assistance in developing public information
- Other reports and data as required by the Village

## **4. Other Services – As directed by the Village**

The Contractor shall provide the following:

### **Training and Assistance:**

Sessions for all key Village personnel and assistance in all disaster debris planning efforts as requested.

### **Preliminary Safety Assessment:**

Determine the impact and magnitude of the disaster event before federal assistance is requested, identifying, leaners, hangers, stumps and unsafe trees, pre and post disaster estimates of debris quantities, documenting eligible costs and describing the physical and financial impact of the disaster.

**Debris Planning Efforts:**

**Assist in all debris recovery planning efforts as requested by the Village. These planning efforts shall include but not limited to development of a debris management plan, assistance in the identification of adequate temporary debris storage and reduction sites, estimation of debris quantities, and emergency action plans for debris clearance following a disaster event.**

**Digitization of all source documentation:**

**Such as load tickets and supply to the Village**

**5. Final Report**

**A final report will be prepared by the Contractor and will be submitted to a distribution list as established by the Villages Project Manager within 30 days of completion of the recovery operations. Recovery Operations includes remediation of sites, closure of sites to include the final approval of FDEM and conclusion of all related operations.**

**At a minimum, the following information will be included in this report.**

- Discussion of disaster response requirements and results**
- Recommendation for future disaster response strategies**
- Copies of manifests, certificates and related documents**
- Log books and all other data taken during the implementation of the Disaster Response Plan**

**6. Meetings and Communications**

**Open timely communications and written documentation are significant actions to provide successful completion of the Disaster Response Plan. Through out the implementation of the plan, the Contractor will meet with Village representatives as directed by the Village. The Contractor will attend a pre-proposal conference for the debris recovery contractors, if so directed by the Village and will attend regular progress meetings and coordination meetings as appropriate. The Contractor must provide minutes of all meetings to the Village Project Manager and shall be provided within three (3) business days following each meeting.**

**7. Field Monitoring**

**The Contractor will provide a Quality Control Team consisting at a minimum of two (2) monitors per Debris Management Site and one (1) monitor per collection**

crew. This team will monitor the recovery contractors for contract compliance, efficiency and regulatory compliance. They will provide feedback to the Village through their management team. They shall be equipped with state of the art technology which includes digital cameras, computers and other communication devices. They shall also have GPS units with an accuracy of three (3) meters.

#### **8. Response Time and Mobilization**

The Contractor shall comply with the following requirements:

- **Satellite EOC - The Project Manager and at his discretion other key personnel shall report to the Satellite EOC at a minimum of Twenty-Four (24) prior to a hurricane event if requested by the Village. For other natural or manmade disaster, the Contractor shall report within eight (8) after notification.**
- **Debris Management Site(s) – The Contractor shall ensure that site monitors as specified below are deployed and operational with the beginning of debris recovery activities and the establishment of debris management sites(s). At a minimum monitoring shall consist of two (2) staff per debris site and one (1) monitor per collection crew. Final determination of staffing for debris recovery crews will be made by the Village as required by the field environment.**

#### **9. Responsibilities of the Quality Control Team**

The responsibility of the quality control team includes:

- **Documenting daily and weekly recovery work ensuring that proper records are maintained for trip tickets and recovery costs**
- **Inspecting means and methods to measure and record work and recommending changes that may be needed**
- **Stopping work in progress that is not being performed or documented in the appropriate manner**
- **Inspecting work in progress to ensure that removal efforts include debris of the proper type in the proper areas**
- **Checking work in progress to make sure that the proper work authorizations, permits and other requirements have been received**
- **Reporting on any improvements in work assignments, efficiency and productivity that may be appropriate.**
- **Maintaining digital photo documentation of recovery work on a weekly basis. All photographs presented shall show the address, description in detail of hangers, stumps and leaners removed. The team shall photograph every stump and leaner removed as well as hanger removal activities and GPS coordinates.**

**10. Review Permits, Licenses and Certificates**

A wide variety of permits, licenses and certificates may be required to perform Debris management work depending on the assignment. The Contractor will work closely with the Village, local agencies and regulators to clarify and resolve any compliance issues, as well as to determine requirements for and to obtain necessary permits, licenses and certificates if requested. In these cases, the Contractor will identify the requirements and demonstrate compliance even though permits are not required. Some of the permits that may be required for this type of work include but may not be limited to:

- Environmental permits for asbestos/lead paint, construction or demolition permits
- Clean Water Act (NPDES) Permits for emergency discharge permit, indirect discharge permit, wetlands disturbance permits and storm water management permits
- Clean Air (Emissions) Permits for burn permits and fugitive (dust) control permit
- DMS (TDSR) and Final Disposal permits or authorizations from FDEP

**11. Assessment of Debris Accumulation in Drainage Canals**

The Contractor will assist the Village in assessing and documenting the debris accumulation and safety issues in the Village of Biscayne Park's drainage canals and provide the Village with a GIS map depicting canals requiring focused maintenance with GIS files and maps.

**12. Work Force**

It is recommended that the Contractor utilize local work force as available as travel and lodging are not covered by the Village.

**13. Event Closure**

The Contractor will assist the Village in preparing final reports necessary for reimbursement by FEMA and the State or other applicable agency for disaster recovery efforts by the Village staff and designated debris removal contractors. The Contractor will review the invoices submitted by the debris removal contractors and will provide a written recommendation.

**14. Schedule**

The Contractor will provide continuous services for a not to exceed fee (to be negotiated) and for the period specified in the Notice to Proceed. A mutual not to exceed amount will be negotiated for each operation based on the hourly rates proposed in Section 5 (Cost Proposal Form) herein. Should these services be required for a longer period, the Contractor will prepare and submit a

proposal for additional costs, consistent with the rates in the Cost Proposal Form, a revised cost will be negotiated

**15. Press Release or other Public Communication**

Under no circumstances shall the Contractor issue or permit to be issued any press release, advertisement or literature of any kind which refers to the Village or the work being performed without written approval of the Village which may be withheld if for any reason the Village believes the publication of such information would be harmful to the Village.

The Contractor shall not communicate in any way with any contractor, department, board, agency, commission or other organization or any person whether governmental or private in connection with the Services to be performed hereunder except upon prior written approval of the Village.

The Contractor and its employees, agents, subcontractors and suppliers, except where may be required by law shall not represent that any product or service provided by the Contractor or such parties has been approved or endorsed by the Village.

**16. Manner of Performance**

The Contractor shall provide the Services described herein in a competent and professional manner satisfactory to the Village in accordance with the terms and conditions of the agreement.

The Contractor agrees that it always will employ, maintain and assign to the performance of the Services a sufficient number of qualified professionals and other personnel to meet the requirements to which reference is hereinafter made.

The Contractor warrants and represents that its personnel have the proper skill, training, background, knowledge, experience, integrity, character and licenses as necessary to perform the Services described herein in a competent and professional manner.

The Contractor shall comply with all provisions of all federal, state and local laws, statues, ordinances and regulations that are applicable to the performance of the Services herein.

End of Section

**EXHIBIT B**  
**RATE SCHEDULE**

(See Attached.)

## Section 5

### Cost Proposal Form

Labor Rates for the services requested by the Village of Biscayne Park are shown below. Proposers may offer other required positions as necessary with the written approval of the Village Project Manager.

All such positions and applicable hourly rates shall be included with job descriptions.

<b>Title Role</b>	<b>Hourly Rate (US\$)</b>
Project Manager	\$75.00
Operations Manager	\$85.00
FEMA Coordinator	\$85.00
Scheduler / Expeditors	\$00.00
GIS Analyst	\$00.00
Field Supervisors	\$45.00
Debris Site / Tower Monitors	\$35.00
Environmental Specialist	\$55.00
Project Inspectors (Load Ticket Data Entry Clerks)	\$00.00
Billing and Invoicing Analysts	\$00.00
Administrative Assistants	\$00.00
Field Coordinators (Crew Monitors)	\$35.00

Positions with the hourly rate of \$00.00, are not necessary when utilizing the DebrisTech ADMS and therefore will not be billed to the client.

**RESOLUTION NO. 2019-20**

**A RESOLUTION OF THE MAYOR AND VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, APPROVING THE SELECTION OF DEBRIS TECH, LLC TO PERFORM DISASTER DEBRIS MONITORING SERVICES IN ACCORDANCE WITH THE VILLAGE OF BISCAYNE PARK REQUEST FOR PROPOSALS NO. 2019-01 FOR DISASTER DEBRIS MONITORING SERVICES; FURTHER AUTHORIZING THE VILLAGE MANAGER AND VILLAGE ATTORNEY TO NEGOTIATE AND EXECUTE AN AGREEMENT FOR THE PROVISION OF SERVICES; PROVIDING FOR AN EFFECTIVE DATE AND FOR ALL OTHER PURPOSES.**

**WHEREAS**, the Federal Emergency Management Agency ("FEMA") requires that public entities seeking to recover costs incurred for disaster debris removal resulting have a contract in place for debris monitoring services;

**WHEREAS**, on April 12, 2019, the Village of Biscayne Park (the "Village"), advertised Request for Proposals No. 2019-01 ("RFP No. 2019-01") in the Daily Business Review to seek qualified and experienced contractors to provide the Village with disaster related debris monitoring services (the "Services"); and

**WHEREAS**, the Village also advertised RFP No. 2019-01 on the Village's electronic website;

**WHEREAS**, the Village received one sealed bid in response to RFP No. 2019-01;

**WHEREAS**, Debris Tech LLC ("Debris Tech") submitted the sole sealed bid to the Village in response to RFP No. 2019-01; and

**WHEREAS**, Debris Tech was evaluated by the Village administration as the sole responsive firm which presented qualifications and references deemed to be advantageous to the Village;

**WHEREAS**, Debris Tech has expressed the capability, expertise, and willingness to perform the Services pursuant to the terms, conditions, requirements, and specifications

contained in RFP. No. 2019-01 for an initial term of contract for three (3) years with an option to renew at the mutual agreement of the parties;

**WHEREAS**, the Village Manager – as the Village’s designated purchasing agent pursuant to Section 2-134 of the Village Code of Ordinances – conducted a cost analysis and compared the Debris Tech’s cost proposal to the existing debris monitoring agreements of a neighboring municipality, the City of North Miami, Florida;

**WHEREAS**, the Village Manager, Village Mayor, and the Village Commission have reviewed Debris Tech’s bid materials submitted in response to RFP. No. 2019-01;

**WHEREAS**, the Village Manager, Village Mayor, and the Village Commission collectively agree that Debris Tech’s cost proposal submission to the Village is reasonable and competitive for the current market when compared to the rates negotiated by a neighboring municipality for similar services; and

**WHEREAS**, the Mayor and Village Commission have determined that it is in the Village’s best interests to approve the selection of Debris Tech, and to authorize the Village Manager and Village Attorney to negotiate, finalize, and execute an agreement with Debris Tech for the stated Services;

**NOW THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA:**

**Section 1. Whereas Clauses Ratified.** The foregoing “Whereas” clauses are hereby ratified and confirmed as being true and correct and hereby made a specific part of this Resolution upon adoption hereof.

**Section 2.**     **Approval of Selection.** The Mayor and the Village Commission of the Village of Biscayne Park, Florida hereby approve the selection of Debris Tech to provide disaster debris monitoring services in accordance with RFP No. 2019-01;

**Section 3.**     **Authority to Village Manager.** The Mayor and Village Commission of the Village of Biscayne Park, Florida hereby authorize the Village Manager and Village Attorney to negotiate and execute a final contract with Debris Tech for the Services in accordance with the terms, conditions, requirements, and specifications contained in RFP No. 2019-01, for the negotiated hourly rates for actual hours of service performed by Debris Tech on an as-needed basis. The proposed draft contract between the Village and Debris Tech for disaster debris monitoring services is attached hereto, incorporated herein as Exhibit “1”, and is hereby approved.

**Section 4.**     **Option to Renew.** The initial term of this contract shall be for three (3) years, with an option to renew upon the mutual agreement of the parties. At the conclusion of the initial term, the contract may be renewed for an additional one (1) year period, at the discretion of the Village Manager or the Village Manager’s designee without requiring further renewal approval from the Village Commission;

**Section 5.**     **Effective Date.**     This Resolution shall be effective upon adoption.

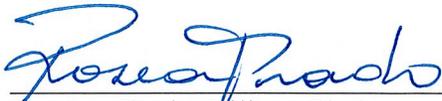
**PASSED AND ADOPTED** by a **4 – 0** vote of the Mayor and Village Commission of the Village of Biscayne Park, Florida this 30<sup>th</sup> day of August, 2019.

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

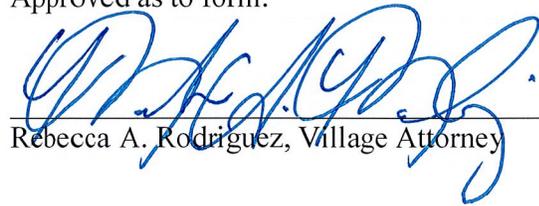
  
\_\_\_\_\_  
Tracy Truppman, Mayor

Mayor Truppman: Yes  
Vice Mayor Samaria: Yes  
Commissioner Johnson-Sardella: Yes  
Commissioner Tudor: Yes  
Commissioner Wise: No

Attest:

  
\_\_\_\_\_  
Roseann Prado, Village Clerk

Approved as to form:

  
\_\_\_\_\_  
Rebecca A. Rodriguez, Village Attorney



**VILLAGE OF BISCAYNE PARK**  
**Village Commission Agenda Report**

**Item # 9.c**

**REGULAR MEETING**

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**TO:** Honorable Mayor & Members of the  
Biscayne Park Village Commission

**FROM:** Dan Samaria, Commissioner

**DATE:** May 19, 2020

**TITLE:** Employment Agreement for the Chief of Police

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**Recommendation:** It is my recommendation that we adapt this resolution with regard to the Chief of Police Employment agreement based upon the demonstrated ability of the Chief of Police to deliver effective police and crime prevention services to the Village of Biscayne park, consistent with policies and direction from the Village Manager and Commissioners.

It is the best interest of the department and the Village focus on the ability of the Chief of Police to lead and manage the department and its resources to meet the expected needs of the department and the Village over the next five years, and to inspire confidence in the Department as an effective, community based policing organization.

**Background:** Luis E. Cabrera has held the position as Chief of Police for two years.

During his tenure at the Biscayne Park Police Department he has been able to meet the goals and objectives he set forth for the department to include but not limited to the following:

**1. VISION AND LEADERSHIP**

- The Chief has developed an overall vision and image of the Biscayne Park Police Department that enhances its accountability, integrity and professionalism.
- Has had the vision to communicate to the employees of the organization with respect to their roles in implementing the goals and objectives.
- He has established himself as a trusted and respected leader with the Police Department, with the Commission and the community.
- He had identified and prioritized specific polices and actions to achieve his vision and the image of the Biscayne Park Police Department

## **2. CONTROL AND PREVENTION OF CRIME:**

- He has created, implemented and evaluated strategies to deal with current, emerging and anticipated criminal activities and trends.
- He has created, implemented and evaluated strategies to deal with major events such as COVID-19 and Hurricane season.

## **3. MANAGEMENT:**

### **Fiscal Management**

- The Chief has developed the annual budget for the past two years that maximized the departments resources, enhanced its revenue and reflected the priorities set forth by the Mayor, Commissioners and the Village Manager.
- Has addressed the departments critical needs.
- He ensures the expenditures are proper.

### **Planning/Goals**

- Chief has achieved the goals set by the mayor, Commissioners and the Village manager during the past two years.
- The Chief has implemented in the past two years his initial vision and continues to implement procedures, and specific actions.
- The Chief's policies, procedures and specific actions have been effective.
- The Chief revised, modified and or adjusted the goals to comply with local, State and Federal Laws.
- The Chief made the reduction of crime his priority.
- The Chief provided innovation, leadership and direction in organizing, deploying and equipping the department personnel with updated technology and emerging techniques for dealing with criminal activity.
- The Chief implemented a plan to identify state of the art equipment to include non-lethal use of force devices and systems to enhance Patrol officers' safety and the Department's ability to handle trends in serious crimes.
- The Chief planning has been proactive rather than reactive in crisis situation.

#### **4. POLICE REFORM:**

- The Chief embraced police reform including, but not limited to, the implementation training to include diversity training?

#### **5. STRATEGIES FOR COMMUNITY POLICING**

- The chief implemented several programs such as the Village Resource Officer, Police Athletic League Officer (PAL) as tools for crime prevention.
- The Chief implemented a community-policing model for the department.

#### **6. COMMUNICATIONS**

- The Chief has maintained communication with in the Department with the rank and file.
- The Chief has maintained clear, consistent, accurate and timely communication between the department, the Mayor, Village Manger and the Commission.
- The Chief maintained clear, consistent, accurate and timely communications between the department and other law enforcement entities including state and federal police and prosecutors.
- The Chief has maintained informative and consistent communication with the village community at large.

#### **7. PERSONNEL ADMINISTRATION AND EMPLOYEE RELATIONS**

##### **Recruitment**

- The chief has provided leadership and creative solutions towards solving recruitment problems.
- The Chief recruitment goals were accomplished. His recruitment has been successful and the department now employees 10 full time officers including the staff, 4 part-time officers and 25 reserve officers.

##### **Retention**

- The Chief's leadership has improved morale.
- The Chief's proposed plan for retention in maximizing the number of active police officers in the village has been accomplished.
- The chief has provided opportunities for promotions within the Department.



## EMPLOYMENT AGREEMENT

This CHIEF OF POLICE GENERAL AGREEMENT (hereafter referred to as the "Agreement") is made and entered into between the Village of Biscayne Park, Biscayne Park, Florida, hereinafter referred to as "Village", hereinafter referred to as "Chief of Police".

### **WITNESSETH:**

**WHEREAS**, the VILLAGE desires the service of a Chief of Police for the Village of Biscayne Park Police Department, and the Chief of Police desires to provide services to the Village of Biscayne Park.

**NOW, THEREAFTER**, the parties agree as follows:

### **SECTION 1: EMPLOYMENT OF THE CHIEF OF POLICE**

- 1.1 Employment of the Chief of Police: The Village shall employ a Chief of Police to provide services to the Village subject to the terms and conditions of this Agreement.
- 1.2 Duties and Responsibilities: The Chief of Police shall perform such duties and responsibilities as are required of him pursuant to the Charter of the Village of Biscayne Park, Biscayne Park, Florida, the Code or Ordinances of the Village of Biscayne Park, Florida, approved resolutions by the Village Commission and all applicable local, state and federal laws or regulations. The Chief of Police is hired, terminated, and supervised by the Village Manager.

### **SECTION 2: COMPENSATION, BENEFITS AND PERFORMANCE REQUIREMENTS**

- 2.1 The City Manager reserves the right to increase the annual base salary or benefits if desired.
- 2.2 The Chief of Police shall provide to the Village Manager with yearly goals and objectives for the Police Department.
- 2.2. Benefits: The Village will agree to benefits for the Chief of Police as set forth on current Police Benevolent Association hereafter known as Police Benevolent Association contract.
- 2.3 Performance Requirements. The Chief of Police is responsible to administer and manage the Village of Biscayne Park Police Department in a manner consistent with Village policies as prescribed by the City Manager, to include:
  - a. Implement yearly goals and objectives for the Village of Biscayne Park Police Department.
  - b. Enhance, maintain and increase public safety, community relations and the delivery of superior policing services.

- c. Provide training annually to support the functions within the department to include but not limited to the Florida Department of Law Enforcement hereinafter referred to as "FDLE" Mandatory Retraining, FDLE Mandatory Firearms Qualification, etc.

2.4 Business Training Expenses and Indemnification. As the Village's Chief of Police, the Village agrees to budget and pay for the Chief of Police travel, lodging, registration fees and subsistence expenses for professional development, training, accreditation, ceremonies, seminars and conferences that are related to his official capacity as Chief of Police. All travel and expenses are subject to budget approval by Village Manager.

On behalf of the Chief of Police, the Village shall comply with all the provisions of Chapter 111.07 and 111.071 Florida States in regard to defense in civil actions against public officers, employees or agent and payment of judgements or settlements against public officers or employees.

2.5 Retirement.

- A) The Village shall be responsible for contributions to the Chief of Police, Florida Retirement Program from date of hire.
- B) The Village shall be responsible for the withholding or otherwise deducting of federal income tax, deferred compensation or social security.

### **SECTION 3: TERMS**

- A) The Chief of Police is responsible for the daily management, functions, administration, operations and investigations of the Village Biscayne Park Police Department without impediment from political leaders, resident's, or employees.
- B). Nonresidents, residents, political leaders or village manager shall not provide directives to police employees or the Chief of Police that are Illegal, unethical, amoral, violates the Charter Village of Biscayne Park or that weaponizes the police department against residents, political leaders or advisories.
- C) Nonresidents, residents, political leaders, employees and the village manager shall not hinder or impede the Police Department or the Police Chief or any police employee regarding any ongoing investigations.
- D) The Chief of Police has the authority and duty to report any crimes or violations listed above in section (3). The Chief will report such matters to any appropriate government agencies without fear of retaliation or termination of employment. Any retaliation for reporting inappropriate, unethical or unlawful acts will violate the terms and conditions of this general agreement. In the event the Village Manager terminates the employment of the Chief of Police.

- E) The Village Manager will give the Chief of Police a thirty-day (30) notice prior to termination. The Chief of Police will request in writing a public hearing within (15) days of the notice of termination. The Commission by majority vote will determine if the termination was unlawful.
- F) Nothing in this notice period shall be construed to limit, in any way, in the Village's ability to recruit or hire a new Chief of Police.
- G) If terminated without cause the Chief of Police will be entitled to (4) four weeks of severance pay.
- H) The Chief of Police shall be entitled to holidays, floating holidays and birthday as any other police Village employee.
- I) The Village Manager reserves the right to require the Chief of Police to work any State of Emergency.
- J) The Chief of Police will be entitled to set his/her work schedule based on the operational, departmental, and Village needs.
- K) The Chief of Police will be assessable (on call) to the Village of Biscayne Park seven (7) days a week, twenty-four (24) hours a day.

#### **SECTION 4: HEALTH AND INSURANCE**

- 4.1 The Village shall provide health insurance for the Chief of Police (single coverage) at one hundred (100) percent cost to the Village or reimbursement as set forth by PBA contract if the Chief of Police elects not join the Village Health and Insurance coverage plan.

#### **SECTION 5: GENERAL PROVISIONS**

- 5.1 The text herein shall constitute the entire agreement between the parties. If any provisions, or any portion thereof contained in the Agreement is held to be unconstitutional, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected and shall remain in full force and effect.
- 5.2 All notices, requests, and other communications required or permitted to be given under this Agreement shall be in writing (including telefax or teletype) and shall be sent by certified mail, postage paid, return receipt requested, or shall be hand delivered by a recognized national overnight courier service or shall be sent by electronic communication, whether by telefax or teletype, addressed as follows:

If to Chief of Police: Chief of Police  
Village of Biscayne Park Police Department  
600 Northeast 114<sup>th</sup> Street  
Biscayne Park, Florida 33161

If to Village: Village Manager  
Village of Biscayne Park  
600 Northeast 114<sup>th</sup> Street  
Biscayne Park, Florida 33161

- 5.3 This Agreement shall be construed pursuant to the laws of the State of Florida. For any litigation pertaining to this Agreement, the parties agree to venue in Circuit Court in Miami Dade County, Florida.



**VILLAGE OF BISCAYNE PARK**  
**Village Commission Agenda Report**

**Item # 9.d**

**REGULAR MEETING**

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**TO:** Honorable Mayor & Members of the  
Biscayne Park Village Commission

**FROM:** David Hernandez, Interim Village Manager

**DATE:** May 19, 2020

**TITLE:** FEMA – Floodplain Management

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**Background**

April 25<sup>th</sup> 2019 I Jean Paul Elie as the Floodplain Administrator for the Village of Biscayne Park had a meeting with the State of Florida Floodplain Management Agents for the Community Assisted Visit and discussed a few points in regards to floodplain review within the Building Department and the Floodplain Ordinance of the Village being up to date. Biscayne Park has met both standards based on the Floodplain Ordinance being updated in 2018 by the Certified Floodplain Manager at the time Marlen Martell and the State Floodplain Department. Post meeting the State Floodplain Agents provided a list of properties to provide their Elevation Certificate and final survey for all jobs which would be considered Substantial Improvement. The Building Department provided the final Elevation Certificate to the State on January 6<sup>th</sup> 2020.

After the closing of the Community Assisted Visit and received a closing letter from Mr. Steven Martin the National Flood Insurance Program (NFIP) State Coordinator and Floodplain Manager congratulating Biscayne Park in successfully closing the Community Assisted Visit. At that point the Village of Biscayne Park was cleared by the Federal Emergency Management Agency to participate within the Community Rating System (CRS) which upon successful integration would save the Village residents a percentage in their flood insurance premiums. The process to integrate the Village as a CRS community started March 4<sup>th</sup> 2020.

The Building Department arranged to have a short call conference with Mr. David Arkens the ISO/CRS Technical Coordinator for FEMA Region IV(4), He informed me the Village of Biscayne Park did not have much time to submit all required documents in accordance with the CRS Manual. The deadline was set for April 30<sup>th</sup> 2020. During that call Mr. Arkens informed me that depending on the number of points the Village would have gain would enter the program as a level 9 or level 8, which The Village as a whole would receive a 5% discount with flood insurance premiums. Once the NFIP and CRS processed all

documents all insurance agents and providers will be notified to discount the Village of Biscayne Park taking effect upon the new fiscal year.

As the CRS Coordinator of the Village of Biscayne Park reached out to our Public Works Director David Hernandez also the Interim Village Manager in regards to our storm water management ordinance as well as the open spaces within the Village, which is part of activity 420 and 450 form the CRS Manual. The Village also completed activity 320 in reaching out to all real estate and banking institution in close proximity of the Village. Working with the Village Clerk Roseann Prado CMC, the Village updated the website to provide the community with basic information in regards to flooding, flood insurance premiums and assistance with flood mitigation. We successfully submitted all documents t the Region IV ISO/CRS Coordinator on May 1<sup>st</sup>. Due to COVID-19 Mr. Arkens was delayed in his processes. Mr. Arkens did inform me that he would be back at the office on May 11<sup>th</sup> 2020 to finalize the process. Once the Region's CRS Coordinator has completed the evaluation of the points awarded to the Village we will receive an official letter from his department welcoming Biscayne Park as a CRS community.

### **Resource Impact**

### **Attachment(s)**

- Letter from Steve Martin, CFM - NFIP State Coordinator
- ISO CRS points calculations
- CRS draft attachment
- Website post

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Prepared by: Roseann Prado, Village Clerk



STATE OF FLORIDA  
**DIVISION OF EMERGENCY MANAGEMENT**

Ron DeSantis  
Governor

Jared Moskowitz  
Director

January 7, 2020

Mr. Krishan Manners, Village Manager  
Village of Biscayne Park  
600 NE 114th St.  
Biscayne Park, FL 33161

**RE: Closure of NFIP Community Assistance Visit (CAV) Report**

Dear Mr. Manners,

The State Floodplain Management Office (SFMO) is pleased that the Village of Biscayne Park has completed the work needed to close the CAV report we transmitted to the Village on September 30, 2019. The Village has resolved concerns identified by the SFMO which confirms that the Village effectively implements its floodplain management program.

The SFMO requested information for three (3) residential properties of interest in the Village, all of which were determined to be substantially improved. The Village provided requested elevation certificates for all properties. These documents were reviewed by the SFMO, and the properties were found to be compliant. The State is pleased to close the CAV report. By copy of this letter, the SFMO is advising FEMA that the Village has a compliant floodplain management program and is deemed eligible to continue participating in the National Flood Insurance Program.

Should you have any questions regarding the Community Assistance Visit or report, please contact me or Shannon Riess at (850) 815-4513 or by email at [Shannon.Riess@em.myflorida.com](mailto:Shannon.Riess@em.myflorida.com).

Sincerely,

A handwritten signature in blue ink that reads "Steve Martin".

Steve Martin, CFM  
NFIP State Coordinator and Floodplain Manager  
Bureau of Mitigation

SM/kmm

cc:

Shannon Riess, State Floodplain Program Manager, SFMO  
Jean Paul Elie, Building Coordinator/FPA, Village of Biscayne Park  
FEMA Region IV, Floodplain Management and Insurance Branch (CIS)  
Roy McClure, Natural Hazards Specialist, FEMA Region IV



# INSURANCE SERVICES OFFICE, INC.

Dave Arkens, ISO/CRS Specialist, Phone: (702) 354-4674, Email: dmarkens@verisk.com

NFIP# 120638

April 8, 2020

Jean Paul Elie, Building Coordinator and Floodplain Administrator  
Village of Biscayne Park  
600 NE 114<sup>th</sup> Street  
Biscayne Park, FL 33161

Dear Mr. Elie:

This is a follow-up to my verification visit with you earlier today. As we discussed during my visit, certain activities require additional documentation to verify the credit your community has requested. **This additional documentation must be submitted on or before April 30, 2020.**

**CC230 – Verification Cover Sheet:** This is the only form that must be signed by the Chief Executive Officer (CEO). All other forms (CC-RL, CC-EHP), checklist and worksheets can be completed by the CRS Coordinator.

- Please have the CC-230 signed by CEO. Mark each activity the Community anticipates applying for. If we determine additional activities are applicable, I will mark those on your behalf before the file is closed and return a corrected copy to the Community.

**Program Data Form:** All lines on this form must be completed if you have previously cycled under the 2013 CRS Coordinator's Manual.

- Please calculate the acreage of your SFHA (line #13) and the number of buildings in the SFHA (line #6) with an explanation of how these numbers were calculated and submit with the material below. These numbers are used to calculate credit for several activities and must be provided. See the attached PDT form.

**Activity 310 - Elevation Certificates:**

- Provide a description or standard operating procedure (SOP) of how the community receives, maintains, stores, and provides copies of elevation certificates including the Community's procedure of how you deal with an incomplete or incorrect EC when submitted (see attached samples for your convenience).

**Activity 320 - Map Information Services:**

- Provide a qualifying outreach project that shows publicity is being sent annually for this activity. The publicity requirement can be accomplished using any of the options listed in the *CRS Coordinator's manual*. Publicity must describe in a few words all the services being credited (MI1 thru MI7). See attached model outreach.

- Provide documentation showing that you are providing basic information found on the FIRM which is required for MI1 credit. For additional MI credit, provide documentation for other elements of this activity.
- Provide revised records or a log from the past year documenting the map information service is being implemented. The log must show that all MI elements credited are being discussed. See attached model log.
- Provide a written description of how you maintain your Flood Insurance Rate Maps. This includes annexations, new subdivisions, LOMCs, etc.
- Provide face copies or digital photos of all FIRM's used by Concord, past and present. Digital photos can be taken at the visit by the Specialist instead of making copies.

**Activity 330 - Outreach Projects:**

- For OP, provide copies of outreach documents that are distributed to the community, posted in public offices or provided as presentations to community groups.
- Outreach items are scored based on action messages covering the following topics: 1) know the hazard; 2) buy flood insurance; 3) protect people; 4) protect property; 5) build responsibility; and 6) understand the natural function of floodplains.
- Points are based on the type of outreach (targeted, general or informational). To score outreach items, describe the audience receiving the information. Keep in mind that target audience outreach projects worth 6 points per topic must tell the reader "they are receiving the information because they live in or near a floodplain or flood prone area."
- If a project is sent to the SFHA, provide a copy of the mailing list. Community presentations should include a sign in sheet, agenda and talking points which identify the messages delivered.
- Informational outreach projects are scored based on the location and the number of buildings the information is placed in. Take a photo of any community or FEMA publications and identify the address of the building where the public can access the information.

**Activity 340 – Hazard Disclosure:**

- For DFH credit you mentioned you may be checking on hazard disclosure notices from others in your community.

**Activity 350 – Flood Protection Information:**

- For WEB credit, let me know when your web site is updated.

**Activity 360 – Flood Protection Assistance:**

- Please provide a copy of document that the community uses to publicize all elements of this activity. See example publicity language.
- Provide information on how site visits are conducted with records noting the date and type of assistance given. The records must include the details of the findings and recommendations provided to the inquirer. See example log.
- Provide a description of the technical qualifications for those persons providing the service for each element. The description must include which staff will be making site visits and why they are qualified to make recommendations.

**Activity 370 – Flood Insurance Promotion:**

- If applying for Flood Insurance Coverage Assessment (FIA), please submit the assessment document that follows the 5 steps outlined in the CRS Manual. Please also see the insurance sheets attached and a sample FIA document that will help you through the process.

**Activity 420 - Open Space Preservation:**

- For OSP credit, provide a map and parcel list that corresponds to each other and notes which parcels qualify for OSP.

**Activity 430 – Higher Regulatory Standards:**

Most of the higher regulatory standards will be found in the Community's Flood Hazard Development Regulations. Please provide a marked up copy of those regulations placing the element acronym in the right-hand margin.

- For **Building Code** (BC) credit, provide a copy of the state or local ordinance language that adopts the State Statutes for building codes or the following International Codes (IBC, IRC, Plumbing, Mechanical and Fuel Gas Code).
- For **Regulations Administration** provide your CFM certificate

**Activity 440 – Flood Data Maintenance:**

- For AMD credit, provide copies or examples from your current GIS program that show the regulatory floodplain, corporate limits, streets, and parcels/lots, etc. for the Community.
- Briefly explain how your maps are updated in daily floodplain management and how often they are updated.
- For FM credit, provide face copies of ALL past FIRM's, FIS and flood boundary and floodway maps.

- No material is needed for BMM credit. We have this information already.

**Activity 450 – Stormwater Management:**

- Provide five sets of plans for current development for erosion and sediment control plans for ESC credit with the ordinance that enforces each item.
- Provide a list of five water quality facilities within the Community and the as-built plans for each.

**Activity 501 – Repetitive Loss:**

- After reviewing the most recent RL information, identify where the RL structures are in your community and provide a written statement about the cause of flooding for each area.
- Next identify adjacent structures that might also experience flooding due to the same cause of flooding. This will become the RL “area” for the Community. Draw the RL area on a map but do not indicate which structure is the actual RL structure. Provide a copy of this map.
- Your community has 3 Repetitive Loss properties based on the June 30, 2018 update and an annual outreach project is required. The outreach letter must include information identified on page 500-12 & 13 of the Manual. Provide the most recent copy of this outreach letter.
- Provide a mailing list for the structures within the RL area. Be sure the number of addresses on the mailing list matches the number of structures within the RL area and if it doesn’t explain why (i.e. multiple owners for an individual structure).
- If any of the RL structures have been mitigated, use the AW-501 form to update the list. Use the transmittal sheet in the RL packet to provide documentation showing the structure has been mitigated or why it isn’t located within your jurisdiction.
- Provide a signed copy of the CC-RL form. This form can be signed by the CRS Coordinator.

**Activity 510 – Floodplain Management Planning:**

- You are checking on this plan.

All letters or written descriptions requested should be on Community letterhead and signed by appropriate staff.

Map note: All maps produced for CRS Activities must include at least the following basic information; map title, regulatory floodplain with acreage, street names, parcels, and map date.

Please submit in digital format. Submit the material on a CD, USB drive or through other digital file transfer programs. Please check to see if we can access online programs first. Your digital material should be separated by activity and in PDF format with the exception of spreadsheets. Those can be submitted in Excel.

If you have any questions regarding any of the above activities or if you find you would like to apply for any additional credit, please let me know. The above documentation must be returned to me no later than **April 30, 2020**. It was a pleasure working with you and if you have any questions, or if I can be of any assistance, please do not hesitate to contact me.

Sincerely,

Dave Arkens, CFM  
ISO/CRS Specialist

Cc: Steve Martin, State NFIP Coordinator  
Roy McClure, DHS/FEMA Region IV  
Sherry Harper, ISO/CRS Director



COMMUNITY  
RATING  
SYSTEM

VERIFICATION  
REPORT

---

**Village of Biscayne Park, FL**

**Verified Class 9**

NFIP Number: 120638

Cycle

Date of Verification Visit: April 2, 2020

This Verification Report is provided to explain the recommendations of Insurance Services Office, Inc. (ISO) to DHS/FEMA concerning credits under the Community Rating System (CRS) for the above named community.

A total of 507 credit points are verified which results in a recommendation that the community improve from a CRS Class 10 to a CRS Class 9. The following is a summary of our findings with the total credit points for each activity noted in parenthesis:

**Activity 310 – Elevation Certificates:** The Floodplain Administration Department maintains elevation certificates for new and substantially improved buildings. Copies of elevation certificates are made available upon request. (38 points)

**Activity 320 – Map Information Service:** Credit is provided for furnishing inquirers with basic flood zone information from the community's latest Flood Insurance Rate Map (FIRM). Credit is also provided for the community furnishing information about problems not shown on the FIRM, and historical flood information. The service is publicized annually and records are maintained. (70 points)

**Activity 330 – Outreach Projects:** Credit is provided for informational outreach projects and targeted outreach projects. These projects are disseminated annually. (78 points)

**Activity 350 – Flood Protection Information:** Credit is provided for floodplain information displayed on the community's website. (38 points)

**Activity 360 – Flood Protection Assistance:** Credit is provided for offering one-on-one advice regarding property protection. (25 points)

**Activity 420 – Open Space Preservation:** Credit is provided for preserving approximately 2 percent of the Special Flood Hazard Area (SFHA) as open space. (30 points)

**Activity 430 – Higher Regulatory Standards:** Credit is provided for enforcing regulations that require freeboard for new and substantial improvement construction, local drainage protection and for the enforcement of building codes. (160 points)

**720 COMMUNITY CREDIT CALCULATIONS (Cycle):**

**CALCULATION SECTION :**

Verified Activity Calculations:				Credit
c310	<u>38</u>			<u>38</u>
c320	<u>70</u>			<u>70</u>
c330	<u>78</u>			<u>78</u>
c340				
c350	<u>38</u>			<u>38</u>
c360	<u>25</u>			<u>25</u>
c370				
c410		x CGA	=	
c420	<u>29</u>	x CGA	<u>1.03</u> =	<u>30</u>
c430	<u>155</u>	x CGA	<u>1.03</u> =	<u>160</u>
c440	<u>66</u>	x CGA	<u>1.03</u> =	<u>68</u>
c450		x CGA	=	
c510				
c520				
c530				
c540				
c610				
c620				
c630				

**Community Classification Calculation:**

cT = total of above cT = 507  
 Community Classification (from Table 110-1): Class = 9

**CEO Name/Address:**

David Hernandez  
 Village Manager  
 600 Northeast 114 Street  
 Biscayne Park, Florida 33161

**CRS Coordinator Name/Address:**

Jean Paul Elie  
 Floodplain Administrator  
 600 Northeast 114 Street  
 Biscayne Park, Florida 33161  
 (305) 899-8000

Date Report Prepared: May 5, 2020



**FLOOD SECTION OF WEBSITE:**

**Floodplain Management:**

In 1968, Congress created the National Flood Insurance Program (NFIP) to provide affordable flood insurance to people who live in areas with the greatest risk of flooding; these areas are called Special Flood Hazard Area (SFHA). The NFIP makes federally backed flood insurance available in communities that agree to adopt and enforce floodplain management ordinances to reduce future flood damage. This is important since property owners must purchase flood insurance for property located within a SFHA.

Click here to determine if you are in the Special Flood Hazard Area

(<https://mdc.maps.arcgis.com/apps/webappviewer/index.html?id=685a1c5e03c947d9a786df7b4ddb79d3>)

**Sub section: Flood Protection**

**Flood Protection:**

Flooding is the nation's most common natural disaster and it can happen in anywhere in the Country. Some can develop slowly during an extended period of rain, or can gradually rise as a result of the moon like King Tides. Others, such as flash floods, can occur quickly, even without any visible signs of rain. Be prepared for flooding no matter where you live, but particularly if you are in a low-lying area, or live near a body of water. Even a very small canal or lake can overflow and create flooding.

**Protecting Property:**

Flood proofing a house or structure means altering it so flood waters will not cause damage. Permanent measures may include elevating the structure, re-grading the topography, relocating the building out of the floodplain, or installing floodwalls, or structural closures as a barrier against flooding. While these permanent measures may be expensive, you may determine that the benefits outweigh the costs. Other common measures include elevating electrical panel boxes, furnaces, water heaters and washer/dryers to locations less likely to flood.

**Prepare for Flooding**

Do not walk through flowing water or drive through flooded area: Drowning is the number one cause of flood deaths. Currents can be deceptive; six inches of moving water can knock you off your feet. If you walk in standing water, use a pole or stick to ensure that the ground is still there. Also, do not disregard road barriers, the road or bridge may be washed out.

Stay away from power lines and electrical wires: Electrocutation is the number two flood killer. Electrical currents can travel through water. Report downed power lines to Florida Power and Light; the number is 305-442-8770. You can also contact the Village at 305-899-8000



## *The Village of Biscayne Park*

600 NE 114<sup>th</sup> St., Biscayne Park, FL 33161

Telephone: 305-899-8000 Facsimile: 305 891 7241

Have your electricity turned off by FPL: Some appliances, such as television sets, hold electrical charges even after they have been unplugged. Avoid using appliances or motors which have gotten wet unless they have been taken apart, cleaned and dried. It's easy to stop your FPL service in case of emergency, call 800-226-3545 to stop and restart your service.

Be ready for the unexpected: Place important documents inside plastic bags or other waterproof containers. Review your insurance policy to ensure it provides adequate coverage. Know what type of coverage you have. Most policies cover wind storm damage, but not flooding. Any policy change usually takes 30 days before going into effect.

Look out for animals, especially snakes: Small animals that have been flooded out of their homes may seek shelter in yours. Use a pole or stick to poke and turn things over and scare away small animals. Even domesticated animals may react differently after a disaster or storm and could bite or attack.

Fight the Bite! Drain and Cover: Use insect repellent on skin and clothing to keep mosquitoes away while outdoors. To report a mosquito nuisance, call 311 or download the free 311 Direct Mobile App.

Look Before you step: After a flood, the ground and floors are covered with debris, including broken bottles and nails. Floors and stairs that have been covered with mud can be very slippery and create a hazard.

Be alert for gas leaks: If you use natural gas, use a flashlight to inspect for damage. Don't smoke or use candles, lanterns or open flames unless you know the gas has been turned off and the area has been ventilated.

If you must evacuate: If you are required to evacuate, try to move to the house of a friend or family member not affected by the impending high waters. If you live in a mobile home or are electrically dependent, plan to evacuate at the first notice of the emergency conditions. Rehearse your evacuation plan with all household members. Plan to leave early to avoid any traffic delays.

Register with the Miami-Dade County Emergency: Evacuation Assistance Program at 305-468-5402 if you will need assistance to evacuate. Discuss these tips with your neighbors and friends. Try to have a prearranged plan designating how you can contact your neighbors. If you have to evacuate, inform each other of places where you will be staying and leave contact telephone numbers and addresses



**Sub section: Pet Safety**

**Pet Safety**

Remember, most evacuation centers will not accept pets. So make plans in advance to board your pets in an animal kennel or with friends. If you plan to ask a friend, be sure to ask in advance. Make certain that your friend lives in an area that is not expected to be affected by the storm. Ask if their home would be open to you and/or your pet should a storm threaten.

**Do Not Leave Your Pet**

Do not leave your pet home during a hurricane. A secure room and a few day's food and water do not necessarily mean safety for your pet. Many people returned home after Hurricane Andrew to find their pets missing. Keep a current picture of your pet to help identify it.

**After the Storm**

After the storm, take caution in allowing your pet outdoors after the storm has passed. Familiar scents and landmarks will have been altered and your pet may become confused or lost. Downed power lines also present real dangers.

Take precautions not to allow your pet to consume food or water which may have become contaminated.

**Sub section: Financial Assistance**

**Financial Assistance**

Reducing flood risk to properties will lessen the overall cost of flood insurance claims to the National Flood Insurance Program (NFIP) as well as the individual homeowner. The federal government has created a variety of funding sources to help property owners reduce their exposure to flood damage. For additional information, contact the Community, Planning and Development Department at 305-895-9825.

<https://www.fema.gov/flood-mitigation-assistance-grant-program> (Flood Mitigation Assistance Grant Program)

<https://www.miamidade.gov/environment/repetitive-losses.asp> (Repetitive Losses)

<https://www.disasterassistance.gov/> (Disaster Assistance)

<https://www.fema.gov/recovery-resources> (Recovery Resources)

<https://www.fema.gov/grants-assistance-programs-individuals> (Grants and Assistance Programs for Individuals)

<https://www.fema.gov/grants#> (Federal Emergency Management Agency (FEMA) Grants)



**Sub section: Flood Insurance**

**Substantial Improvement Requirements**

The Village of Biscayne Park and the National Flood Insurance Program require that if the cost of reconstruction, rehabilitation, additions or other improvements to a building equals or exceeds 50% of the building's market value, the building must meet the same construction requirements as a new building. This includes elevating the lowest floor to current standards. Substantially damaged buildings must also be brought up to the same standards.

**Insurance**

All properties located in a Special Flood Hazard Area (SFHA) and secured by a federally backed mortgage must carry flood insurance. The two types of flood insurance coverage are structural and contents. Renters can buy contents coverage even if the owner does not insure the structure. To find out more about flood insurance contact any licensed insurance agent.

**Policy Start Date**

When purchasing flood insurance, the policy does not go into effect until 30 days after the purchase date. Please visit (<https://www.floodsmart.gov/>) for the most current information on flood insurance premiums and to locate a flood insurance agent in your area.



**VILLAGE OF BISCAYNE PARK**  
**Village Commission Agenda Report**  
**REGULAR MEETING**

**Item # 9.e**

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**TO:** Honorable Mayor & Members of the  
Biscayne Park Village Commission

**FROM:** David Hernandez, Interim Village Manager

**DATE:** May 19, 2020

**TITLE:** CITT Update

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**Background**

The Village is continuing its efforts to work diligently with the CITT office and Auditors during this unprecedented time. Below is a recap of ongoing issues with respect to this pending issue. Upon my review and discovery of documentation I will keep the Commission apprised of where we stand and how we plan to move forward to secure our best interest.

The CITT letter dated December 19, 2019 from Mr. Javier A. Betancourt, Executive Director, CITT – Citizens' Independent Transportation Trust, covered the following:

There was an audit report and AMS expressed various concerns and issues pertaining to the use of Surtax funds. As of September 30, 2017, the Village had a total of \$ 866,608 in unspent monies which encompassed Transit funds and Transportation proceeds of which has not been spent within the required 5-year period. Also, a particular concern, is the finding that the Village has only \$ 626,612 in cash & cash equivalents.

The AMS findings has prompted a concern from CITT that the Village is at risk of having Surtax funds withheld or recaptured.

On February 25, 2020, I received a letter from CITT advising the Village's time expired on January 31, 2020 to respond to their concerns raised in their audit. Since I was installed as the Interim Village Manager following that January expiration date my hands were tied. Furthermore, the COVID-19 crisis followed further hindering operations.

**To bring you up to date:**

Since the past administration did not provide any details as to where they were with this item, I have had to commence my own research which is underway. I have already found projects that I feel may be eligible for CITT funds. Additionally, I have discovered construction checks for the rec center which include sidewalks, local drainage, excavation, compaction, milling, resurfacing, traffic study, engineering

plans and spec projects which I feel will be eligible CITT.

It may come to a head that some of these projects may not be accepted, which would revert to the County who will request their own audit to see if the funds were appropriated correctly according to the CITT standards.

Ultimately, this may be an issue where we may have to reimburse CITT funds for items of where we are unable to provide proper documentation. Failure to address these concerns with their findings may result in withholding and/or recapturing the surtax funds by CITT. Presently, until we provide the information required the funds are at being withheld and we cannot use CITT funds until this gets resolved.

This is a unique situation and since we are restricted with face to face meetings; my discussion with the audit division have all been via telephone and zoom. I was successful as Mr. Betancourt granted me an extension to May 31, 2020. Since I have established a good rapport with Mr. Betancourt, during my previous employments with the City of Miami, I believe he would work with me if another extension is needed.

---

Prepared by: Roseann Prado, Village Clerk



## Citizens' Independent Transportation Trust

111 NW 1st Street • Suite 1010

Miami, Florida 33128

T 305-375-1357 F 305-375-4605

Transportation Trust @GoCITT

CITT Board Members

miamidade.gov/citt

**Chairperson**  
Joseph Curbelo

Mr. Krishan T. Manners  
Village Manager

**First Vice Chairperson**  
Alfred J. Holzman

Village of Biscayne Park  
640 Northeast 114 Street

**Second Vice Chairperson**  
Oscar J. Braynon

Biscayne Park, Florida 33161

December 19, 2019

\*Glenn J. Downing, CFP®  
Joe Jimenez  
Prakash Kumar

Dear Mr. Manners:

\*Hon. Anna E. Lightfoot-Ward, Ph.D.  
Jonathan A. Martinez  
\* Miles E. Moss, P.E.  
Marilyn Smith  
L. Elijah Stiers, Esq.  
Robert Wolfarth

The purpose of this letter is to follow-up on the recent Citizens' Independent Transportation Trust (CITT) municipal audit of the Village of Biscayne Park. The audit, performed by the Office of Audit and Management Services (AMS) of Miami-Dade County, included various findings relating to the utilization of Charter County Transportation Sales Surtax (Surtax) funds by your municipality.

In its audit report, AMS expressed various concerns and issues pertaining to the use of Surtax funds by the Village of Biscayne Park, including the following findings:

**Executive Director**  
Javier A. Betancourt

\* Past Chairperson

- As of September 30, 2017, the Village of Biscayne Park had \$866,608 in unspent Transit and Transportation-related Surtax Proceeds (\$140,802 in unspent Transit funds and \$725,806 in unspent Transportation proceeds), which has not been spent within the required five-year period.
- Of particular concern, is the finding that the Village of Biscayne Park had only \$626,612 in Cash and Cash Equivalents as reflected in Schedule I of the CITT Fund.

After careful review of the AMS findings, the Office of the CITT has determined that the Village of Biscayne Park is at risk of having Surtax funds withheld or recaptured. As discussed in our meeting on October 1, 2019, in order to avoid the withholding and/or recapture of these funds, it is imperative that you provide a detailed response on the measures you are taking to remedy the issues stated in the audit by January 31, 2020.

In addition, please note that the Village of Biscayne Park has not remitted the FY19-20 Compliance documents as required under the People's Transportation Plan (PTP) Ordinance. These documents were due November 1, 2019.

Please be advised that failure to address and resolve these issues and findings may result in the withholding and/or recapturing of Surtax funds by the CITT.

Should you have any questions or concerns, please contact me at (305) 375-1357 or [Javier.Betancourt@miamidade.gov](mailto:Javier.Betancourt@miamidade.gov).

Sincerely,

Javier A. Betancourt  
Executive Director

cc: Bruce Libhaber, Assistant County Attorney, Miami-Dade County  
Cathy Jackson, Director, Audit & Management Services, Miami-Dade County  
Monica Cejas, Assistant Director, CITT  
Vontressia Young, Financial Manager, CITT  
Nestor Toledo, Municipal Liaison, CITT



**Citizens' Independent Transportation Trust**

111 NW 1st Street • Suite 1010

Miami, Florida 33128

T 305-375-1357 F 305-375-4605

Transportation Trust @GoCITT

[miamidade.gov/citt](http://miamidade.gov/citt)

CITT Board Members

**Chairperson**  
Joseph Curbelo

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\*Glenn J. Downing, CFP®

Joe Jimenez  
Prakash Kumar

ton. Anna E. Lightfoot-Ward, Ph.D.

Jonathan A. Martinez

\*Miles E. Moss, P.E.

\*Paul J. Schwiep, Esq.

Marilyn Smith

L. Elijah Stiers, Esq.

Robert Wolfarth

**Executive Director**

Javier A. Betancourt

\*Past Chairperson

Mr. David Hernandez  
Interim Village Manager  
Village of Biscayne Park  
640 Northeast 114 Street  
Biscayne Park, Florida 33161

February 25, 2020

Dear Mr. Hernandez:

On December 19, 2019, the Office of the Citizens' Independent Transportation Trust forwarded a letter to the Village of Biscayne Park regarding the municipal audit conducted by the Office of Audit and Management Services (AMS) of Miami-Dade County. That audit included various findings relating to the utilization of Charter County Transportation Sales Surtax (Surtax) funds by the Village. (See Attachment)

In said letter, the Village was provided until January 31, 2020 to address and respond to the findings and issues raised in the AMS audit. In addition, the Village was requested to provide information required under the Interlocal Agreement between the municipalities and Miami-Dade County, including annual compliance and quarterly reports. As of this date, the Village of Biscayne Park has not responded to the letter.

The failure by the Village of Biscayne Park to provide the requested information in a timely manner leaves this office with no other option but to begin withholding the Village's Surtax funds. Please be advised that the withholding of Surtax funds will take effect immediately and continue until all findings and issues are completely resolved.

It is imperative that the Village respond, in full, to the findings of the municipal audit and this correspondence by April 1, 2020. If the Village of Biscayne Park fails to respond by said date, this office will commence in the recapturing of the Municipality's surtax funds.

If you have any questions, please contact our office at (305) 375-1357.

Sincerely,

Javier Betancourt

cc: Bruce Libhaber, Assistant County Attorney, Miami-Dade County  
Cathy Jackson, Audit & Management Services, Miami-Dade County  
Monica Cejas, Assistant Director, CITT  
Vontressia Young, Financial Manager, CITT  
Nestor Toledo, Municipal Liaison, CITT

## David Hernandez

---

**From:** Betancourt, Javier A. (CITT) [REDACTED]  
**Sent:** Monday, March 2, 2020 5:04 PM  
**To:** David Hernandez  
**Cc:** Libhaber, Bruce (CAO); Jackson, Cathy (AMS); Cejas, Monica (CITT); Young, Vontressia (CITT); Toledo, Nestor (CITT); Price, Mariana (CITT)  
**Subject:** RE: Letter regarding Surtax Funds for Biscayne Park RESPECTFULLY REQUESTING TIME EXTENSION

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Flagged

Hi David,

Thank you for your email. I can appreciate your situation, and am willing to give you the additional time. Please let this email serve as confirmation that you have until May 31, 2020 to comply with the demands of our letter. Per our Auditor, please also make sure to provide the Village's audited financial statements for FY 2018, and let us know the status of those for FY 2019.

Best,  
Javier

**Javier A. Betancourt**, Executive Director  
Office of the Citizens' Independent Transportation Trust (CITT)  
Miami-Dade County  
111 NW 1<sup>st</sup> Street, Suite 1010  
Miami, FL 33128  
(305) 375-1357

[REDACTED]  
[www.miamidade.gov/citt](http://www.miamidade.gov/citt)



*Sure I am this day that we are masters of our fate, that the task which has been set before us is not above our strength; that its pangs and toils are not beyond our endurance. As long as we have faith in our own cause and an unconquerable will to win, victory will not be denied us. - Winston S. Churchill*

---

**From:** David Hernandez <dhernandez@biscayneparkfl.gov>  
**Sent:** Monday, March 2, 2020 12:22 PM  
**To:** Price, Mariana (CITT) <Mariana.Price@miamidade.gov>; Betancourt, Javier A. (CITT) [REDACTED]  
**Cc:** Betancourt, Javier A. (CITT) [REDACTED]; Libhaber, Bruce (CAO) [REDACTED]; Jackson, Cathy (AMS) [REDACTED]; Cejas, Monica (CITT) [REDACTED]; Young, Vontressia (CITT) [REDACTED]; Toledo, Nestor (CITT) [REDACTED]  
**Subject:** RE: Letter regarding Surtax Funds for Biscayne Park RESPECTFULLY REQUESTING TIME EXTENSION

EMAIL RECEIVED FROM EXTERNAL SOURCE.

---

Javier, as you may know I received a call from Mr. Toledo advice myself on February 25 of the letter to the Village of Biscayne Park Pertaining to the municipal audit. I complexly understand the situation, unfurnatley I just started a few week ago as Interim City Manager. I Am Respectfully Requesting that your TIME Certain Date of April 1 2020 can be moved to May 31 2020 , to giving myself and staff and opportunity to work on this important issue. Please advise. Thanks

---

**From:** Price, Mariana (CITT) <[REDACTED]>  
**Sent:** Wednesday, February 26, 2020 4:44 PM  
**To:** Krishan Manners <[villagemanager@biscayneparkfl.gov](mailto:villagemanager@biscayneparkfl.gov)>  
**Cc:** Betancourt, Javier A. (CITT) <[REDACTED]>; Libhaber, Bruce (CAO) <[REDACTED]>; Jackson, Cathy (AMS) <[REDACTED]>; Cejas, Monica (CITT) <[REDACTED]>; Young, Vontressia (CITT) <[REDACTED]>; Toledo, Nestor (CITT) <[REDACTED]>  
**Subject:** Letter regarding Surtax Funds for Biscayne Park

Good afternoon Mr. Hernandez,

Please see the attached letter from Javier Betancourt. You will be receiving a hard copy in the mail for your reference.

Best regards,

Mariana A. Price  
Senior Executive Secretary  
Office of the Citizens' Independent Transportation Trust (CITT)  
Miami-Dade County  
Government Center  
111 NW 1<sup>st</sup> Street, Suite 1010  
Miami, FL 33128  
(305) 375-1357

[www.miamidade.gov/citt](http://www.miamidade.gov/citt)





**VILLAGE OF BISCAYNE PARK**  
**Village Commission Agenda Report**

**Item # 9.f**

**REGULAR MEETING**

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**TO:** Honorable Mayor & Members of the  
Biscayne Park Village Commission

**FROM:** MacDonald Kennedy, Commissioner

**DATE:** May 19, 2020

**TITLE:** Manager's Report

---

**Background**

No village documents (Charter, resolution or ordinance) require any formal report from the manager to residents and the commission. The current weekly manager's report started under the leadership of a former village manager and has never been formalized. According to Interim Manager David Hernandez, the weekly report requires the time and effort of 10-12 staffers, consuming as many as five hours weekly. The report includes only past accomplishments (by department) but does not compare them to any pre-determined goals. Further, the report does not look ahead at what needs to be done by each department and how those tasks contribute to overall village goals. The report is emailed to the limited number of residents on the village email list (approximately 690 of 3,000 residents) and also posted on Nextdoor and in physical locations around the village. No version or compilation of the weekly reports is presented to commissioners other than by email. Feedback is not solicited from residents or the commission. The manager's report at the end of the monthly commission meeting does not typically reference the weekly manager's reports.

**Recommendation**

I am asking the commission to formalize the manager's report and to include goals that will allow for accountability from the manager to the commission and residents.

1. Change report from weekly to monthly. (Weekly reports overburden staff with justifying their positions rather than getting more done.)
2. Maintain departmental structure of the report.
3. Each department will report in two sections: (see example below)
  - a. Report of completed month compared to predetermined goals established the month before on that report.
  - b. Projected goals for following month (used as comparison in report for the following month).

This new monthly report will be released the Friday prior to each regular monthly commission meeting (email blast, Nextdoor, physical posts etc.) and also included as a consent agenda item for the commission meeting the following Tuesday (four days later).

In this new format and schedule, residents will be better able to hold the village accountable to accomplishing goals. The commission can approve the report and goals for the upcoming month on consent, or any commissioner can pull the report to an agenda item if s/he wants to discuss anything or propose changes. Further, during the meeting, commissioners can request that additional items be added to upcoming months. (An alternative idea is to move the manager's report to the beginning of the agenda and for the manager to present this report to the commission for input.)

These reports, with accomplishments compared to goals, can also be used for performance reviews for the manager, department heads and village staff.

**Example:** No tasks in this example are meant to be actual accomplishments or goals.

## **Public Works**

### **April Report**

1. Completed all normally required tasks (mowing, watering, etc.) or list what normal tasks were not completed and why (This is the baseline of "normal business" for that department.)
2. Installed speed hump on 116 St. as determined in March. (This is an example of a goal established in the prior month's report.)
3. Installed entrance sign on 8<sup>th</sup> Ave. as added at March commission meeting. (This is an example of something that the commission added at the prior meeting.)
4. Repaired men's room door at log cabin (hint, hint) at the request of village manager. (This is an example of the manager or department head directing staff as the normal course of running the village or department.)
5. Repaired rec center entrance lights (incomplete item from January). (This is an example of a task moved forward from prior month.)

### **May Projected Goals**

1. Complete all normally required tasks (mowing, watering, etc.)
2. Install speed hump on 109 St. (This is an example of a task that moves the village towards a bigger goal.)
3. Install French drain on 9<sup>th</sup> Ave. (This is an example of a direction from the April commission meeting.)
4. Remove Australian Pines on 118 St. (This is an example of the manager directing staff during the normal course of business.)

## **Resource Impact**

This new reporting system will save village staff time (up to 15 hours per month). Those saved hours will not represent any financial gain, as they will be reallocated to other tasks that will allow for additional accomplishments in each department.

**Attachment(s):** none

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