

TOWN OF LOXAHATCHEE GROVES
TOWN HALL COUNCIL CHAMBERS
TOWN COUNCIL WORKSHOP & SPECIAL MEETING
AGENDA
JULY 23, 2019 - 6:00 P.M.



Robert Shorr, Mayor (Seat 4)

Laura Danowski, Councilmember (Seat 2)

Phillis Maniglia, Councilmember (Seat 1)

Lisa El-Ramey, Councilmember (Seat 3)

Dave DeMarois, Vice Mayor (Seat 5)

Administration

Town Manager, James S. Titcomb

Assistant Town Manager, Francine L. Ramaglia

Town Attorney, R. Brian Shutt, Esq.

Town Clerk, Lakisha Q. Burch

Civility: Being "civil" is not a restraint on the First Amendment right to speak out, but it is more than just being polite. Civility is stating your opinions and beliefs, without degrading someone else in the process. Civility requires a person to respect other people's opinions and beliefs even if he or she strongly disagrees. It is finding a common ground for dialogue with others. It is being patient, graceful, and having a strong character. That's why we say "Character Counts" in Town of Loxahatchee Groves. Civility is practiced at all Town meetings.

Special Needs: In accordance with the provisions of the American with Disabilities Act (ADA), persons in need of a special accommodation to participate in this proceeding shall within three business days prior to any proceeding, contact the Town Clerk's Office, 155 F Road, Loxahatchee Groves, Florida, (561) 793-2418.

Quasi-Judicial Hearings: Some of the matters on the Agenda may be "quasi-judicial" in nature. Town Council Members are required to disclose all ex-parte communications regarding these items and are subject to voir dire (a preliminary examination of a witness or a juror by a judge or council) by any affected party regarding those communications. All witnesses testifying will be "sworn" prior to their testimony. However, the public is permitted to comment, without being sworn. Unsworn comment will be given its appropriate weight by the Town Council.

Appeal of Decision: If a person decides to appeal any decision made by the Town Council with respect to any matter considered at this meeting, he or she will need a record of the proceeding, and for that purpose, may need to ensure that a verbatim record of the proceeding is made, which record includes any testimony and evidence upon which the appeal will be based.

Consent Calendar: Those matters included under the Consent Calendar are typically self-explanatory, non-controversial, and are not expected to require review or discussion. All items will be enacted by a single motion. If discussion on an item is desired, any Town Council Member, without a motion, may "pull" or remove the item to be considered separately. If any item is quasi-judicial, it may be removed from the Consent Calendar to be heard separately, by a Town Council Member, or by any member of the public desiring it to be heard, without a motion.

TOWN COUNCIL AGENDA ITEMS

Call to Order

Pledge of Allegiance

Moment of Silence

Roll Call

Additions/Deletions/Modifications of Agenda

Comments from The Public on Non-Agenda Items

The public is encouraged to offer comments on any non-agenda item. Generally, remarks by an individual will be limited to one time, up to three minutes or less. The Mayor or presiding officer has discretion to adjust the amount of time allocated.

PRESENTATIONS

1. Palm Beach Transportation Planning Agency (TPA) Presentation and Status - Tricia Barr, PE, Simmons & White, and Mary McNicholas, Geoffrey B. Sluggett & Associates
 - Trails Grant
 - Roundabout Grant
 - a. Palm Beach County Inter-Local Agreement (ILA) for PB TPA grants
 - b. Draft Legislative Priorities - Mary McNicholas, Geoffrey B. Sluggett & Associates
 - i. Timeframes
 - ii. Review and Approve Priorities
2. 2019-2020 Budget Draft- Francine Ramaglia
 - a. Finance Audit and Advisory Committee Update - Anita Kane, Chair

PUBLIC HEARING

3. First Reading Ordinance No. 2019-04 Solid Waste

ADJOURNMENT

Comment Cards: Anyone from the public wishing to address the Town Council, it is requested that you complete a Comment Card before speaking. Please fill out completely with your full name and address so that your comments can be entered correctly in the minutes and give to the Town Clerk. During the agenda item portion of the meeting, you may only address the item on the agenda being discussed at the time of your comment. During public comments, you may address any item you desire. Please remember that there is a three (3) minute time limit on all public comment. Any person who decides to appeal any decision of the Council with respect to any matter considered at this meeting will need a record of the proceedings and for such purpose, may need to ensure that a verbatim record of the proceedings is made which included testimony and evidence upon which the appeal is to be based. Persons with disabilities requiring accommodations in order to participate should contact the Town Clerk's Office (561-793-2418), at least 48 hours in advance to request such accommodation.

**INTERLOCAL AGREEMENT BETWEEN
PALM BEACH COUNTY, FLORIDA
AND THE TOWN OF LOXAHATCHEE GROVES
FOR DESIGN, CONSTRUCTION AND MAINTENANCE
OF A MULTI-USE TRAIL ON OKEECHOBEE BOULEVARD
AND A ROUNDABOUT AT OKEECHOBEE BOULEVARD AND FOLSOM ROAD**

This **INTERLOCAL AGREEMENT**, hereinafter “**AGREEMENT**”, is made and entered into this ____ day of _____, 20____, by and between the Board of County Commissioners of Palm Beach County, a political subdivision in the State of Florida, hereinafter “**COUNTY**” and the Town of Loxahatchee Groves, a municipal corporation of the State of Florida, hereinafter “**TOWN**,” (individually “**Party**” and collectively “**Parties**”).

W I T N E S S E T H :

WHEREAS, Section 163.01 of the Florida Statutes allows governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby provide services and facilities that will harmonize geographic, economic, population and other factors influencing the needs and development of local communities; and

WHEREAS, the TOWN has identified a need to provide the installation of a multi-use trail with pedestrian warning signals and horse crossings along and in the Okeechobee Boulevard right-of-way within the municipal limits of the TOWN from “A” Road to “F” Road, hereinafter “Trail Project”; and

WHEREAS, the TOWN has identified a need to provide the construction of a roundabout at the intersection of Okeechobee Blvd. and Folsom Road, hereinafter, “Roundabout Project”; and

WHEREAS, Okeechobee Boulevard is a County right of way within the municipal limits of the TOWN; and

WHEREAS, the Trail Project qualifies for the Federal Transportation Alternatives (TA) Program, a cost-reimbursement program where projects are submitted to the Palm Beach County Transportation Planning Authority (TPA) for ranking and prioritization for funding; and

WHEREAS, the Roundabout Project qualifies for the Federal Local Initiative (LI) Program, a cost-reimbursement program where projects are submitted to the Palm Beach County TPA for ranking and prioritization for funding; and

WHEREAS, the TOWN has requested that the COUNTY, a certified agency for the Local Agency Program (LAP) through the Florida Department of Transportation (FDOT), sponsor the TA and LI program grant applications on TOWN’S behalf (collectively “Grant Applications”); and

WHEREAS, as documentation of sponsorship and commitment to construction, operation and maintenance of the Trail Project and Roundabout Project, the TPA has requested that the COUNTY adopt a resolution in support of the Trail Project, Roundabout Project and Grant Applications; and

WHEREAS, the COUNTY adopted its supporting resolution contingent on the Parties executing this AGREEMENT, outlining the responsibilities of both Parties with respect to the Trail Project and Roundabout Project; and

WHEREAS, for the TOWN to receive the benefits of the TA and LI grants, the COUNTY and FDOT have to enter into an agreement, outlining the terms and conditions upon which the TA and LI grants will be provided to the COUNTY (hereinafter, “LAP Agreement”); and

WHEREAS, pursuant to FDOT District IV LAP Agreement policies, the COUNTY is required to design and construct the Trail Project and Roundabout Project; and

WHEREAS, the COUNTY’s intention is to, in the future, widen Okeechobee Blvd. within the limits of the Trail Project, the Roundabout Project and the County right of way (Widening Project); and

WHEREAS, the COUNTY may desire to undertake the Widening Project before the expiration of useful life of the Trail Project and/or the Roundabout Project; and

WHEREAS, the Widening Project will require complete removal and/or reconfiguration or relocation of the Trail Project from the Okeechobee Boulevard right-of-way; and

WHEREAS, at the COUNTY’S request, the TOWN agrees to reconfigure and relocate or remove the Trail Project from the Okeechobee Boulevard right-of-way to the COUNTY’S satisfaction within 180 days of the County’s request; and

WHEREAS, if the LAP Agreement or any other applicable Grant Applications condition requires the COUNTY to repay or return any funds that the COUNTY expended for the Trail Project or the Roundabout Project, the TOWN agrees to fully reimburse the COUNTY; and

WHEREAS, the Parties declare it to be in the public interest for the Trail Project and Roundabout Project to be constructed; and

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, the Parties agree as follows:

Section 1. Recitals

The above recitals are true and correct and are incorporated herein.

Section 2. Scope of Trail Project/Roundabout Project and Parties' Commitments and Duties

2.1 Scope of Projects. Upon approval the Grant Applications by FDOT, COUNTY agrees to perform the following:

2.1.1 Okeechobee Boulevard Multi-use Trail (Trail Project)

Design and construct multi-use trail within the Okeechobee Boulevard right-of-way, from "A" Road to "F" Road. The multi-use trail surface shall be per the approved design section in the Grant Application, and shall be located south of the existing Okeechobee Boulevard road pavement.

2.1.2 Roundabout at Okeechobee Blvd and Folsom Road Construct a single lane roundabout at the intersection of Okeechobee Boulevard and Folsom Road, which shall be designed to accommodate the Widening Project.

2.1.3 Signalization for Trail (part of Trail Project)

Install six (6) pedestrian warning signals at the intersection of "A", "B", "C", "D", "E" and "F" Roads with Okeechobee Boulevard (collectively "Pedestrian Signals").

- a. Pursuant to Section 316.006(2)(c), Florida Statutes, the TOWN hereby agrees to temporarily transfer traffic regulatory authority to the COUNTY for the express narrow and limited purpose of authorizing the COUNTY to install the Pedestrian Signals.

2.2 TOWN Commitments and Duties. Upon approval of the Grant Applications by FDOT, TOWN shall perform the following duties:

- A. Forward all grant requirements and conditions received from FDOT, to the

COUNTY.

- B. Forward all background information received for the Trail Project and Roundabout Project to the COUNTY.
- C. Provide specific guidance and information regarding the Trail Project and Roundabout Project scope (including aesthetic requirements).
- D. Perform all public coordination and address all public information requests regarding the Trail Project.
- E. Whenever COUNTY desires to proceed with the Widening Project, the COUNTY has the right to reconfigure and relocate or remove, or request that the TOWN reconfigure and relocate or remove, the Trail Project from the Okeechobee Boulevard right-of-way. The TOWN shall reconfigure and relocate or remove the Trail Project to the COUNTY's satisfaction within one hundred and eighty (180) days of the COUNTY's request, or be responsible for all costs and fees related to the COUNTY's reconfiguration and relocation or removal of the Trail Project from the Okeechobee Boulevard right-of-way (Removal Costs). The TOWN shall submit full payment to the COUNTY within 30 days of the date of the COUNTY's invoice of the Removal Costs.
- F. Funding Requirements
 - i. The TOWN shall pay to the COUNTY, all funds necessary for the design of the Trail Project and the Roundabout Project by check. The TOWN'S payment amount shall cover all costs for the design consultant, advertising, COUNTY staff time, permitting, and a 25% contingency. The TOWN shall provide the check prior to the COUNTY advertising for a design consultant. COUNTY will not advertise for design consultant services before receiving payment from the TOWN. Notwithstanding the above, the COUNTY shall provide a good faith estimate to the TOWN for this work.
 - ii. The TOWN shall pay to the COUNTY, all funds necessary for the construction of the Trail Project and the Roundabout Project by check, within 30 days of payment request by COUNTY. TOWN'S payment amount shall cover all costs for the construction, advertising, COUNTY staff time, inspections, CEI, and a 25% contingency. The TOWN shall provide the check prior to the COUNTY advertising for a construction contractor. Notwithstanding the above, the COUNTY shall provide a good

faith estimate to the TOWN for this work.

- iii. The TOWN shall pay for any supplemental services to the design contract, or change orders to the construction contract within 30 days of being notified of the change order and additional costs, prior to the COUNTY authorizing those services. COUNTY will not authorize the supplemental services or change order without receiving approval for the change order or supplemental services from the TOWN and payment from the TOWN.
- iv. Any contingency funds remaining at the end of the construction phase shall be returned to the TOWN.
- v. If FDOT does not reimburse the COUNTY, the TOWN shall not receive reimbursement funds and shall be responsible for funding the Trail Project and Roundabout Project to the conclusion of construction if notice to proceed has already been issued to the contractor or if the LAP Agreement commitments require construction completion.

2.3 COUNTY Commitments and Duties. COUNTY agrees to perform the following:

- A. Enter into a LAP agreement with FDOT for the TA and LI program grants.
- B. The COUNTY shall reimburse the TOWN as funding reimbursement is received from FDOT. The amount of reimbursement will equal the grant funds received.
- C. Provide a copy of all LAP agreement communications to the TOWN.
- D. Hire design consultant to produce plans, acquire necessary permits, and prepare required LAP documentation for FDOT.
- E. COUNTY shall invite TOWN to participate in the scoping of work for the Trail Project and Roundabout Project.
- F. Coordinate with FDOT to meet all design phase LAP and federal requirements.
- G. Prepare bid documents and contract for construction of the Trail Project and the Roundabout Project, including overseeing the bidding process, and contract finalization.

- H. Hire CEI or use in-house staff to administer contract for construction of the Trail Project and Roundabout Project as required by LAP. This includes engineering coordination.
- I. Return any unused funding received from the TOWN at the conclusion of the construction phase of both the Trail Project and the Roundabout Project.

2.4 Maintenance and Operation of Trail Project Upon the COUNTY'S final acceptance of the construction of the Trail Project, the COUNTY shall convey and the TOWN shall accept full responsibility for operation and maintenance of the Trail Project. Upon the issuance of a Notice to Proceed to begin construction of the Trail Project by the COUNTY, TOWN shall apply to the COUNTY for a right-of-way permit to allow TOWN to perform maintenance of the Trail Project, including the Pedestrian Signals (ROW Permit). Upon the COUNTY'S final acceptance of the construction of the Trail Project, the COUNTY shall be relieved of all duties and responsibilities for the Trail Project. Upon the COUNTY'S final acceptance of the construction of the Trail Project, the TOWN's temporary transfer of the traffic regulatory authority for the installation of the Pedestrian Signals shall terminate, and the TOWN shall resume its original traffic control jurisdiction for and shall maintain the Pedestrian Signals, pursuant to Section 316.006(2).

2.5 Maintenance and Operation of Roundabout Project

Upon the COUNTY'S final acceptance of the construction of the Roundabout Project, the COUNTY shall retain responsibility for operation and maintenance of the Roundabout Project, as part of the COUNTY's responsibility for the operation and maintenance of the Okeechobee right-of-way and the TOWN shall be relieved of all duties and responsibilities for the Roundabout Project, except as required by any right-of-way permit issued by the COUNTY. Upon the issuance of a Notice to Proceed to begin construction of the Roundabout Project by the COUNTY, TOWN shall apply to the COUNTY for a right-of-way permit to allow TOWN to perform maintenance of the center of roundabout which area shall be defined in aforementioned right-of-way permit. TOWN shall have maintenance responsibility over the center of the roundabout to the extent that it does not interfere with the use of the roundabout.

Section 3. Termination

- A. The COUNTY may elect to terminate this AGREEMENT, for any reason and at any time, including before the expiration of the useful life of the Trail Project, by providing the TOWN written notice. Within ninety (90) days of receipt of written termination notice, the TOWN shall reconfigure and remove all Trail Project improvements, and restore the

Right of Way to its original or like condition, or be responsible for all costs and fees related to the COUNTY's Removal Costs. The TOWN shall submit full payment to the COUNTY within 30 days of the date of the COUNTY's invoice of the Removal Costs.

- B. Upon termination, if the LAP Agreement or any other applicable TA program grant condition requires the COUNTY to repay or return any funds that the COUNTY expended for the Trail Project, the TOWN shall fully reimburse the COUNTY, within sixty (60) days of the COUNTY's request for reimbursement.

Section 4. Indemnification

The TOWN shall protect, defend, reimburse, indemnify and hold the COUNTY, its agents, employees and elected officers free and harmless from and against any and all claims, liability, expenses, losses, costs, fines and damages or causes of action of every kind or character including attorney's fees, whether at trial or appellate levels or otherwise arising out of or related to the Trail Project and the Roundabout Project, or arising during or as a result of the TOWN's performance of the terms of this AGREEMENT, or due to the acts or omissions of the TOWN. The TOWN's aforesaid indemnity and hold harmless obligations shall apply to the fullest extent permitted by law. Notwithstanding the foregoing, nothing set forth in this paragraph shall constitute a waiver of sovereign immunity beyond the limits set forth at Section 768.28, Florida Statutes. This paragraph shall survive the expiration or termination of this AGREEMENT.

Section 5. Enforcement Costs

In any action brought by either Party to enforce this AGREEMENT, the prevailing Party shall be entitled to recover reasonable attorneys' fees and costs.

Section 6. Independent Contractor

COUNTY and the TOWN are and shall be, in the performance of all work, services and activities under this AGREEMENT Independent Contractors and not employees, agents or servants of the other party. All COUNTY employees engaged in the work or services performed pursuant to this AGREEMENT shall at all times, and in all places, be subject to COUNTY'S sole direction, supervision, and control. All TOWN employees engaged in the work or services performed pursuant to this AGREEMENT shall at all times, and in all places, be subject to TOWN's sole direction, supervision, and control. The Parties shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the parties relationship and the relationship of its employees to the other party shall be that of an Independent Contractor and not as employees or agents of the other.

COUNTY does not have the power or authority to bind the TOWN in any promise, agreement or representation.

Section 7. Personnel

COUNTY represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this AGREEMENT. Such personnel shall not be employees of or have any contractual relationship with the TOWN.

All of the services required hereinunder shall be performed by COUNTY or its consultant, and personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services.

Section 8. Insurance

Without waiving the right to sovereign immunity as provided by section 768.28, Florida Statutes, (STATUTE), the TOWN represents that it is self-insured with coverage subject to the limitations of the STATUTE, as may be amended. If the TOWN is not self-insured, the TOWN shall, at its sole expense, purchase and maintain in full force and effect at all times during the life of this contract, insurance coverage at limits not less than those contained in the STATUTE. Should the TOWN purchase excess liability coverage, the TOWN agrees to include the COUNTY as an Additional Insured. The TOWN agrees to maintain or to be self-insured for Workers' Compensation insurance in accordance with Chapter 440, Florida Statutes. Should the TOWN contract with a third-party (CONTRACTOR) to perform any service related to the AGREEMENT, the TOWN shall require the CONTRACTOR to provide the following minimum insurance:

- Commercial General Liability insurance with minimum limits of \$1,000,000 combined single limit for property damage and bodily injury per occurrence and \$2,000,000 per aggregate. Such policy shall be endorsed to include the TOWN and the COUNTY as Additional Insureds. The TOWN shall also require that the CONTRACTOR include a Waiver of Subrogation against the COUNTY.
- Business Automobile Liability insurance with minimum limits of \$1,000,000 combined single limits for property damage and bodily injury per occurrence.
- Workers' Compensation insurance in compliance with Chapter 440, Florida Statutes, and which shall include coverage for Employer's Liability with minimum limits of \$1,000,000 each accident.

When requested, the TOWN shall provide an affidavit or Certificate of Insurance evidencing insurance or self-insurance. Compliance with the foregoing requirement shall not relieve the TOWN of its liability and obligations under this AGREEMENT.

Right to Review COUNTY reserves the right, but not the obligation, to review and revise any insurance requirement, not limited to limits, coverages and endorsements based on insurance market conditions affecting the availability or affordability of coverage; or changes in the scope of work / specifications affecting the applicability of coverage. Additionally, the COUNTY reserves the right, but not the obligation, to review and reject any insurance policies failing to meet the criteria stated herein or any insurer providing coverage due to its poor financial condition or failure to operating legally.

Section 9. Breach and Opportunity to Cure

The parties expressly covenant and agree that in the event either party is in default of its obligations under this AGREEMENT, each party shall have thirty (30) days written notice before exercising any of its rights.

Section 10. Notice

All notices required or allowed under this AGREEMENT shall be in writing, and deemed sufficient to each party when sent by United States Mail, postage prepaid, to the following:

All notice to the TOWN shall be sent to:

Town of Loxahatchee Groves
155 F Road
Loxahatchee Groves, FL 33470
Attn: Jamie Titcomb, Town Manager

All notice to the COUNTY shall be sent to:

Tanya N. McConnell, P.E., Deputy County Engineer
Palm Beach County
Engineering and Public Works Department
P.O. Box 21229
West Palm Beach, FL 33416-1229

Section 11. Modification and Amendment

Except as expressly permitted herein to the contrary, no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and equality of dignity herewith. Except that either party may from time to time change the address to which notice under this AGREEMENT shall be given upon three (3) days prior written notice to the other party.

Section 12. Remedies

This AGREEMENT shall be governed by and in accordance with the laws of the State of Florida. Any legal action necessary to enforce this AGREEMENT shall be held in Palm Beach County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity by statute or otherwise. No single or partial exercise by any party of any right, power or remedy hereunder shall preclude any other or further exercise thereof.

Section 13. No Waiver

Any waiver by either Party of its rights with respect to a default under this AGREEMENT, or with respect to any other matters arising in connection with this AGREEMENT, shall not be deemed a waiver with respect to any subsequent default or other matter. The failure of either Party to enforce strict performance by the other Party of any of the provisions of this AGREEMENT or to exercise any rights under this AGREEMENT shall not be construed as a waiver or relinquishment to any extent of such Party's right to assert or rely upon any such provisions or rights in that or any other instance.

Section 14. Joint Preparation

The preparation of this AGREEMENT has been a joint effort of the parties, and the resulting document shall not, solely as a matter of judicial constraint, be construed more severely against one of the parties than the other.

Section 15. Non-Discrimination.

The Parties agree to comply with the COUNTY's Nondiscrimination Policy, as described in Resolution 2017-1770, as amended, and that neither party conducts business with nor appropriate funds to any entity that practices discrimination on the basis or race, color, national origin, disability, religion, ancestry, sex, age, familial status, marital status, sexual orientation, gender identity or expression, disability, or genetic information. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

Section 16. Execution

This AGREEMENT may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Section 17. Filing

A copy of this AGREEMENT shall be filed with the Clerk of the Circuit Court in and for Palm Beach County, Florida.

Section 18. Compliance with Codes and Laws

COUNTY and TOWN shall abide by all applicable federal, state and local laws, orders, rules and regulations when performing under this AGREEMENT. COUNTY and TOWN further agrees to include this provision in all subcontracts issued as a result of this AGREEMENT.

Section 19. Legal Compliance.

The TOWN shall abide by all applicable federal, state and local laws, orders, rules and regulations when performing under this AGREEMENT. The TOWN further agrees to include this provision in all contracts issued as a result of this AGREEMENT.

Section 20. Office of the Inspector General

The COUNTY has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 – 2-440, as may be amended. The Inspector General’s authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records to require the production of records, and to audit, investigate, monitor, and inspect the activities of the APPLICANT, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud. Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be a violation of Palm Beach County Code, Section 2-421 – 2-440 and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second-degree misdemeanor.

Section 21. Public Entity Crime Certification

As provided in F.S. 287.132-133, as may be amended from time to time, by entering into this AGREEMENT or performing any work in furtherance hereof, COUNTY shall have its consultant certify that their affiliates, suppliers and sub consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within thirty-six (36) months immediately preceding the date hereof. This notice is required by F.S. 287.133 (3) (a).

Section 22. Severability

If any section, paragraph, sentence, clause or provision of this AGREEMENT is for any reason held by a court of competent jurisdiction to be unconstitutional, inoperative, or void, such holding shall not affect the remaining portions of this AGREEMENT.

Section 23. Entirety of AGREEMENT

COUNTY and TOWN agree that this AGREEMENT and the ROW Permit referenced in Section 2.5 set forth the entire agreement between the parties and there are no promises or understandings other than those stated herein.

Section 24. Survival

The obligations, rights, and remedies of the Parties hereunder, which by their nature survive the termination of this AGREEMENT or the completion of the Project, shall survive such termination or Project completion and inure to the benefit of the Parties.

Section 25. Third Party Beneficiary.

No provision of this AGREEMENT is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this AGREEMENT, including, but not limited to, any citizen or employees of the COUNTY and/or the TOWN.

Section 26. Assignment.

Neither the COUNTY nor the TOWN shall assign, sublet, convey or transfer its interest in this AGREEMENT without the prior written consent of the other.

Section 27. Effective Date

This AGREEMENT shall become effective immediately upon the execution by both parties and upon filing with the Clerk of the Circuit Court of Palm Beach County, Florida.

IN WITNESS WHEREOF, the Parties have caused this AGREEMENT to be executed and sealed this ____ day of _____, 2019.

TOWN OF LOXAHATCHEE GROVES

BOARD OF COUNTY COMMISSIONERS
Palm Beach County, Florida
a political Subdivision of the
State of Florida

By: _____

By: _____
Mack Bernard, Mayor

ATTEST:

ATTEST:

TOWN CLERK

Sharon R. Bock,
Clerk & Comptroller

By: _____

By: _____
(Deputy Clerk)

(DATE)

(DATE)

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: _____
Town Attorney

By: _____
Assistant County Attorney

APPROVED AS TO TERMS
AND CONDITIONS

By: _____
Division Director

n:\roadway\hknights\grant funding\town of loxahatchee\draft - ila with lox groves re multiuse trails 6-6-19.docx

This Page Is Blank Intentionally

TO: Town Council of Town of Loxahatchee Groves
FROM: Francine Ramaglia, Assistant Town Manager
VIA: James Titcomb, Town Manager
SUBJECT: First Reading of Ordinance No. 2019-04 Solid Waste

Background:

The attached ordinance 2019-04 is an update of our existing Solid Waste Ordinance to enable the upcoming award of the Solid Waste and Recycling Services contract. Generally, the update serves to:

- Update definitions to match Solid Waste Authority standards as well as those included in our RFP
- Matches most current ordinance language from other more recent Palm Beach County Ordinances
- Eliminates/revises conflicting and/or otherwise confusing wording
- Provides conformity with statutes (for instance, assessment collection and pro-rata billing)
- Provides for pre-determined collection locations and community piles subject to approval by both Town and Hauler
- Adjusts franchise fees to apply at a 3% rate to all services provided by hauler under franchises as opposed to the 25% rate on commercial only.
- The changes to our existing Ordinance are shown in Ordinance 2019-04 by strike through (deletion) underline (replacement and/or addition).

Recommendations:

Staff recommends that Ordinance 2019-04 be approved at First Reading.

ORDINANCE NO. 2019-04

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, RELATING TO THE COLLECTION OF SOLID WASTE, RECOVERED MATERIALS, AND RECYCLABLE MATERIALS; AUTHORIZING THE TOWN TO APPROVE FRANCHISES FOR THE COLLECTION OF SUCH ITEMS; PROVIDING FOR DEFINITIONS, USE OF APPROVED CONTAINERS, DESIGNATED PLACEMENT, HOURS WHEN ITEMS CAN BE PLACED OUT FOR COLLECTION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council believes it is necessary to modify its current regulations for the collection and disposal of solid waste in order to provide that there are no conflicts between the Town Code and any agreements it may have with a franchisee hauler; and,

WHEREAS, the Town Council believes that authorizing the Town to enter into franchise agreements for the collection of waste materials will enhance the ability of the Town to ensure appropriate levels of service are provided and used within the Town and to compensate the Town for the use of its public roadways in the provision of such services.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, THAT:

Section 1. The foregoing “Whereas” clauses are hereby ratified and confirmed as being true and correct and incorporated herein by this reference.

Section 2. The Town of Loxahatchee Groves hereby amends Ordinance 2018-05 as follows:

CHAPTER __ - ~~COLLECTION OF WASTE; FRANCHISES AND REGISTRATION OF CONTRACTORS AUTHORIZED~~ SOLID WASTE

Sec. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

~~*Bulk Trash*, shall mean any non-vegetative item which cannot be containerized, bagged, or bundled; including, but not limited to, inoperative and discarded refrigerators, ranges, toilets, pool heaters, water softeners, pianos, washers, dryers, bath tubs, water heaters, sinks, bicycles, and other similar domestic appliances, household goods and furniture and shall not be commingled with Vegetative Waste. There shall be no weight limit for any item of Bulk Trash. No glass items, such as glass doors, windows or furniture, is permitted to be placed for bulk pickup.~~

~~*Commercial Solid Waste* shall include any Garbage, Bulk Trash, Trash, or Vegetative Waste that is not Residential Solid Waste. Substantial effort shall be made not to commingle Garbage, Trash, or Bulk Trash with Vegetative Waste.~~

~~*Commercial Solid Waste collection service* shall mean the collection and disposal of Commercial Solid Waste within the Service Area. Such service includes both Containers and Compactors but does not include Roll-off Collection Services.~~

~~*Construction and Demolition Debris*, as defined in Section 403.703, Florida Statutes, means discarded materials generally considered to be not water-soluble and nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete, asphalt roofing material, pipe, gypsum wallboard, and lumber, from the construction or destruction of a structure as part of a construction or demolition project or from the renovation of a structure, and includes rocks, soils, tree remains, trees, and other vegetative matter that normally results from land clearing or land development operations for a construction project, including such debris from construction of structures at a site remote from the construction or demolition project site. Mixing of construction and demolition debris with other types of solid waste will cause the resulting mixture to be classified as other than construction and demolition debris. The term also includes:~~

- ~~(a) Clean cardboard, paper, plastic, wood, and metal scraps from a construction project;~~
- ~~(b) Except as provided in s. 403.707(9)(j), yard trash and unpainted, nontreated wood scraps and wood pallets from sources other than construction or demolition projects;~~
- ~~(c) Scrap from manufacturing facilities which is the type of material generally used in construction projects and which would meet the definition of construction and demolition debris if it were generated as part of a construction or demolition project. This includes debris from the construction of manufactured homes and scrap shingles, wallboard, siding concrete, and similar materials from industrial or commercial facilities; and~~
- ~~(d) De minimis amounts of other nonhazardous wastes that are generated at construction or destruction projects, provided such amounts are consistent with best management practices of the industry.~~

~~*Container* shall mean and include any container designed or intended for an automated or semi-automated collection system requiring the use of some other standard receptacle compatible with the Contractor's equipment supplied by the Contractor and approved by the Town. All Containers must be of the specifications as designated by the contract administrator, in writing.~~

~~Garbage means all kitchen and table refuse, swill and every accumulation of animal and vegetable matter that attend the preparation, decay, dealing in or storage of meats, fish, fowl, game or vegetable matter. The term "garbage" shall include combustible waste such as paper, rags, boxes and boxes used in connection with the distribution or storage of food, and glasses, bottles, tin cans, or other disposable receptacles of food or food products.~~

~~Garbage Can shall mean any commonly available light gauge steel, plastic, or galvanized receptacle of a non-absorbent material, closed at one end and open at the other, furnished with a closely fitted top or lid and handle(s). A Garbage Can is also defined as a heavy duty, securely tied, plastic bag designed for use as a garbage receptacle. Such container including waste materials shall not exceed fifty (50) gallons in capacity or fifty (50) pounds in weight.~~

Pyrolysis means a process through which post-use polymers are heated in the absence of oxygen until melted and thermally decomposed, and then cooled, condensed, and converted to any of the following:

- (a) Crude oil, diesel, gasoline, home heating oil, or another fuel.
- (b) Feedstocks.
- (c) Diesel and gasoline blendstocks.
- (d) Chemicals, waxes, or lubricants.
- (e) Other raw materials or intermediate or final products.

Pyrolysis Facility means a facility that receives, separates, stores, and converts post-use polymers, using gasification or pyrolysis.

~~*Recovered Materials*, as defined in Section 403.703, Florida Statutes, means metal, paper, glass, plastic, textile, or rubber materials that have known recycling potential, can be feasibly recycled, and have been diverted and source separated or have been removed from the solid waste stream for sale, use, or reuse as raw materials, whether or not the materials require subsequent processing or separation from each other, but the term does not include materials destined for any use that constitutes disposal. Recovered materials as described in this subsection are not solid waste.~~

~~*Recyclable Materials* shall mean those materials designated in writing by the Town to the Contractor which are capable of being recycled and which would otherwise be processed or disposed of as solid waste. The materials initially designated by the Palm Beach County Solid Waste Authority are newspapers (including inserts); magazines; catalogs; phone books; aluminum cans, foil, and pans; plastic containers #1 – #7 (except styrofoam); glass bottles and jars; gable-topped containers; aseptic containers; corrugated cardboard; kraft bags; and steel and ferrous cans. The Town reserves the right to designate Mixed Paper as a recyclable material at any time during the term of this Contract upon written notice to the Contractor at no additional cost.~~

~~Recycling Containers shall mean bins as supplied by the Palm Beach County Solid Waste Authority to each unit that is to receive Curbside Residential Recycling Collection Service in the Service Area.~~

~~Residential Recycling Collection Service shall mean Curbside Residential Recycling Collection Services and Containerized Residential Recycling Collection Service.~~

~~Residential Solid Waste, shall mean Garbage, Trash and Bulk Trash resulting from the normal housekeeping activities of a Dwelling Unit, including Garbage and Trash, but shall not include Vegetative Waste. Residential Solid Waste shall also mean Construction and Demolition Debris (C&D) resulting from minor home repair from the Dwelling Unit.~~

~~Residential Solid Waste Collection shall mean roadside Residential Solid Waste collection service and/or Containerized Residential Solid Waste collection service, and disposal.~~

~~Solid Waste, means collectively, Commercial Solid Waste and Residential Solid Waste.~~

~~Solid Waste Collection Services shall mean Commercial Solid Waste Collection Services and Residential Solid Waste Collection Services.~~

~~Trash means other waste not included in the term "garbage," and wastepaper, glass, straw, excelsior or other rubbish, and waste not connected with the preparation, distribution or storage of food, excluding grass cuttings, leaves and other lawn or garden waste.~~

~~Vegetative Waste shall mean any vegetative matter resulting from yard and landscaping maintenance by any party and shall include materials such as tree and shrub materials, grass clippings, palm fronds, tree branches and similar other matter usually produced as refuse in the care of lawns, landscaping and yards. All items other than palm fronds, tree branches and Christmas trees such as grass clippings, leaves, pine needles, and similar small loose items must be bagged or containerized with each filled container weighing less than 50 pounds. Vegetative Waste, except palm fronds, must be no more than six (6) feet in length and no single item shall weigh more than 50 pounds, and shall be placed neatly at the curb. Natural Christmas trees will be collected as Vegetative Waste and any section must not be more than 8 feet in length or 50 pounds in weight.~~

Biomedical or Biohazardous Waste: As defined by F.S. § 403.703(2), as may be amended.

Biological Waste: As defined by F.S. § 403.703(3), as may be amended.

Bulk Waste: Any non-vegetative item which cannot be containerized, bagged, or bundled; including, but not limited to, inoperative and discarded refrigerators, ranges, toilets, pool heaters, water softeners, pianos, washers, dryers, bath tubs, water heaters, sinks, bicycles, and other similar domestic appliances or household goods. There shall be no weight limit for any item of Bulk Waste. The term "Bulk Waste" may be used interchangeably with the term "Bulk Trash."

Business Days: shall mean Monday through Saturday, except for Holidays.

Cart: shall mean a curbside container meeting the Town's specifications intended for collection via automated or semi-automated means to be supplied by the Contractor to households receiving Curbside Residential Solid Waste Collection Service.

Collection: The process whereby Solid Waste, Garbage, Trash, Bulk Trash, Vegetative Waste or Recovered Material is gathered and transported to a Designated Facility.

Commercial Recycling Collection Service: shall mean the Dual Stream Recycling Collection of Recovered Materials by the Contractor for entities within the Service Area that are not serviced by Residential Recycling Collection Service.

Commercial Solid Waste: shall include Solid Waste that is not Residential Solid Waste.

Commercial Solid Waste Collection Service: shall mean the collection of Commercial Solid Waste within the Service Area. Such service includes both Containers and Compactors, but does not include Roll-off Collection Services

Compactor: Any container which has compaction mechanism(s), whether stationary or mobile, all inclusive.

Construction and Demolition Debris (C&D): Materials generally considered to be not water soluble and which are nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete, roofing material, pipe, gypsum wallboard, and lumber from the construction or destruction of a structure as part of a construction or demolition project. Mixing of a de minimis amount of waste other than C&D from the construction site will not automatically cause it to be classified as other than C&D.

Container shall mean and include any container designed or intended to be mechanically dumped into a loader packer type truck or recycling vehicle. All Containers must be of the specifications as designated by the Town Manager, in writing.

Contractor: A person or entity that has entered into this Agreement to provide solid waste and recycling collection services for the Town.

Dwelling Unit: Any type of structure or building unit intended for or capable of being utilized for residential living other than a licensed Hotel or Motel unit.

Garbage: All putrescible waste which generally includes but is not limited to kitchen and table food waste, animal, vegetative, food or any organic waste that is attendant with or results from the storage, preparation, cooking or handling of food materials whether attributed to residential or commercial activities, but shall not include Vegetative Waste or Special Waste.

Hazardous Waste: A hazardous waste as identified by the State of Florida Department of Environmental Regulation in Florida Administrative Code 17-730, as may be amended, or the United States Environmental Protection Agency pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., and implementing regulations, as may be amended.

Household Hazardous Waste (HHW): Solid Waste as defined by the State of Florida Department of Environmental Regulation as a hazardous waste in the State of Florida Administrative Code, or by any future legislative action or by federal, state or local law.

Land Clearing: The removal of vegetation for improving real property through remodeling, new construction or agricultural use. Land clearing shall include, but is not limited to, trees, brush, dirt, rocks or similar obstructions/materials being removed from a parcel of assessed residential land using mechanical devices such as a bobcat, backhoe, front-end loader, tractor, bulldozer, etc. Removal refers to the physical action of the equipment digging, scraping, bulldozing, and/or pulling debris from the ground. Transporting legally cut vegetation to the curb using a mechanical device does not constitute land clearing. A chainsaw is not to be considered a mechanical device in the removal process.

Recovered Materials shall mean metal, paper, glass, plastic, textile, or rubber materials that have known recycling potential, can be feasibly recycled, and have been diverted and Source Separated or have been removed from the waste stream for sale, use, or reuse as raw materials, but the term does not include materials destined for any use that constitutes disposal. Recovered Materials as described above are not Solid Waste. Recovered Materials do not include any material or substance that does not fit within one of the six categories described in this definition (metal, paper, glass, plastic, textile or rubber). Among other things, unsorted Construction and Demolition Debris is not a Recovered Material.

Recyclable Materials (Recyclables): Those materials which are capable of being recycled and which would otherwise be processed or disposed of as solid waste.

Recycling Cart: A Container intended for Recyclables collection with a ninety-five (95) gallons capacity on wheels for rolling, with a non-removable hinged lid, suited to automatic dumping equipment provided by the Contractor's collection vehicles and containing not over two hundred fifty (250) pounds.

Recycling Container: shall mean a rigid container made of plastic or other suitable substance or a paper bag that is used for the storage of Recovered Materials.

Residential Solid Waste Collection Service: Residential Solid Waste and Vegetative Waste Collection service for all Dwelling Units from which Garbage is collected at curbside or roadway and delivery to an Authority designated disposal facility or transfer station.

Residential User: A person, including, but not limited to, owners, lessees, and sublessees utilizing a building, a portion thereof, specifically designed for and used for occupancy of that

person. For the purposes of this Agreement, Residential User shall include users of single family, dwellings.

Residue: The portion of the Recyclable Materials stream accepted by the Contractor that is not converted to Recovered Materials due to breakage and/or transportation or processing inefficiencies.

Roll-off Collection Service: The Collection of C&D-only roll-off containers, or the Collection of C&D by other mechanical means, within temporary locations in the Service Area, limited to new construction sites and remodeling or refurbishment sites.

Service Area: The corporate limits of the Town of Loxahatchee Groves, Florida for which the Contractor has been granted this Agreement.

Sludge: A solid or semi-solid, or liquid generated from any waste water treatment plant, water supply treatment plant, air pollution control facility, septic tank, grease trap, portable toilets and related operations, or any other such waste having similar characteristics or effects.

Solid Waste: As defined by F.S. § 403.703(32), as may be amended, including garbage, rubbish, trash, and other discarded waste. Residential Solid Waste and Commercial Solid Waste, but shall not include Special Waste, as defined in this Agreement, or Recovered Materials. Solid Waste shall mean Bulk Waste, Garbage, rubbish, refuse, Trash, Vegetative Waste, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural or governmental operations, but for this Agreement shall not include Special Waste.

Solid Waste Authority Disposal Facility: A place or places specifically managed or operated by the Solid Waste Authority of Palm Beach County or another facility if specifically designated in writing by the Authority.

Source Separated: Recovered Materials that are separated from Solid Waste at the location where the recovered materials and solid waste are generated. The term does not require that various types of Recovered Materials be separated from each other and recognizes de minimis Solid Waste may be included in the recovered materials. Materials are not considered Source Separated when two or more types of Recovered Materials are deposited in combination with each other in a Container located where the materials are generated and when such materials contain more than 10 percent solid waste by volume or weight, in which case the materials are Solid Waste. The term “various types of Recovered Materials” means metals, paper, glass, plastic, textiles and rubber.

Special Services: Any services requested or required by the customer which are in addition to or a change in, Residential Solid Waste Collection Service or Residential Recycling Collection Service, as set out or like those listed in Exhibit I as may be amended from time to time.

Special Waste: For the purposes of this Agreement, Special Waste refers to wastes that can require special handling and management, including but not limited to, Biohazardous Waste, Biological Waste, Hazardous Waste, lead-acid batteries, automobiles, boats, internal combustion engines, non-automobile tires, Sludge, dead animals, livestock waste, septic tank waste. Special Waste may also include items determined by the Town Manager to be reasonably unmanageable.

Trash shall mean all refuse accumulation of paper, rags, wooden or paper boxes and containers, sweepings, broken toys, tools, utensils, and all other accumulations of a similar nature other than Garbage, which are usual to housekeeping and to the operation of stores, offices and other business places, but shall not include Vegetative Waste.

Vegetative Waste shall mean any vegetative matter resulting from yard and landscaping maintenance by any party and shall include materials such as tree and shrub trimming materials, grass clippings, palm fronds, tree branches and similar other matter usually produced as refuse in the care of lawns, landscaping and yards.

Sec. – Franchise for Collection of Solid Waste and Residential Recycling Collection Service.

- (a) The Town may enter an exclusive franchise for the collection of Solid Waste and Residential Recyclable Materials from all locations in the Town to the extent not prohibited by state law or may enter any number of franchises that the Town determines is in the best interest of the Town.
- ~~(b) The Town shall grant franchises through agreements with solid waste collectors approved by the Town council. The agreement shall provide:~~
 - ~~(1) The right and obligation to provide Solid Waste Collection Services and Residential and Recyclable Materials Collection Services within the Town boundaries, present and future, for all residences;~~
 - ~~(2) The right to provide Solid Waste Collection Services and Residential and Recyclable Materials Collection Services within the Town boundaries for all non-residential uses in existence on June 5, 2018, located within the Town which use bulk containers for their Solid Waste Collection, and which have contracts for the collection of Solid Waste in place as of June 5, 2018, when such contracts shall expire;~~
 - ~~(3) The right to provide Solid Waste Collection and Services to any newly annexed areas as permitted by state statute;~~
 - ~~(4) The right and obligation to provide Solid Waste Collection Services and Residential and Recyclable Materials Collection Services within the Town boundaries, present and future, for all residential and non-residential establishments, that are certified for occupancy after June 5, 2018, and governmental establishments to the extent~~

~~permitted by law; provided, however, that a certificate of occupancy issued as a result of remodeling with no change in ownership of the property shall not require the customer to change to collector;~~

~~(5) As of June 5, 2018, the right and obligation to provide Solid Waste Collection Services and Residential and Recyclable Materials Collection Services within the Town boundaries for: collector's existing customers; customers/property owners in the Town that have a change in ownership; and customers/property owners whose contract for Solid Waste Collection and disposal services expires.~~

(eb) In the event that the Town grants an exclusive contract, or a Solid Waste or Recyclable Materials collection entity is not granted a franchise by the Town and has existing contracts within the Town, then only existing contracts as of June 5, 2018, for Solid Waste Collection Services and Residential and Recyclable Materials Collection Services are exempt until such time as the contract expires at which time the customer/property owner must use a solid waste collection entity that is franchised by the Town.

(dc) The Town Council may require businesses performing Solid Waste Collection, disposal, and recycling services within the Town to pay a franchise fee to the Town, in an amount determined by the Town Council, for the privilege of conducting and operating solid waste collection, disposal, and recycling services on the public streets, roads, alleys, and other thoroughfares of the Town. The franchise fee, as indicated below, shall be based on a percentage of the amount charged for solid waste collection, that is described in a franchise agreement between the Town and a contractor. ~~disposal, and recycling services, as reflected in the business' financial books and records, and in the agreements between the business and all of its customers in the Town. The amount charged to customers shall be the amount charged to customers for solid waste collection, disposal, and recycling services exclusive of any franchise fee. Any franchise fee required by the Town Council shall be paid to the Town in a manner as set forth in a franchise agreement with the contractor.; following receipt of the revenue from the customer, in monthly installments, by the 15th day of the month.~~

(ed) Any franchise fee collected by the Town shall be a sum of money equal to ~~25~~ 3 percent of the gross fees paid to the franchisee for residential and commercial solid waste collection. ~~(By way of example only, if the business' charge to its customer for solid waste collection, disposal, and recycling services is \$100.00, then the franchise fee will be \$25.00. The business will be required to remit to the Town the \$25.00 franchise fee, following receipt of the \$100.00 service charge from the customer. Consequently, the total amount billed to the customer would be \$125.00.)~~

(fe) In the event the Town Council requires a franchise fee, then such fee shall be paid in accordance with the terms of the Franchise Agreement. ~~then annually on the 30th business day of September each year, each solid waste collection and disposal company operating in the Town shall file with the Town manager, or his designee, an application, in the form provided by the Town, which shall set forth all of the business' gross receipts for the previous year for collection and disposal of solid waste originating in~~

~~the Town, and permit the Town, or its authorized agent, to inspect and audit the financial books, reports, and records of the solid waste collection and disposal business to insure proper payment of the franchise fee amount to the Town. Any shortfall or overage discovered by the Town during any inspection of the business' records shall be paid by the party owing same no later than 30 days following receipt of written notice from the Town of such shortfall or overage.~~

Sec. - Collection to be by Town or franchisee

- (a) Each residential owner or lessee, each apartment owner and each owner-operator of a non-residential use shall subscribe to a regularly scheduled Solid Waste Services or Recyclable Materials Collection as may be provided either by the Town or by such private individual or concern as may be franchised by the Town, except as may be exempted by Town ordinance or state law. The levels of necessary service shall be determined based upon the use. Any collection services in addition to regularly scheduled collection services shall be scheduled through the Town. Verification of adequate Solid Waste and Recyclable Collection Services must be provided to the Town upon the Town's request. ~~So long as the Town levies and collects its Residential Solid Waste Collection Special Assessment, the Town shall collect the costs of such service and remit to the franchisee. The franchisee shall collect all other costs of service provided within the Town.~~
- (b) No individual, corporation or other entity will be permitted to collect Solid Waste or Recyclable Materials within the Town either on a regularly scheduled basis or, alternatively, on a non-scheduled short-term, or temporary, basis unless such individual, corporation or other entity is properly franchised by the Town, except as may be required or exempt by state law or Town ordinance.

~~Sec. — Customer Fees.~~

- ~~(a) Fees for solid waste service may be collected as a special assessment levied and collected by the Town or collected by the Town or franchise operator by billing the owner and/or lessee for the solid waste collection service within the Town. The Town may also provide, by agreement, for the billing and collection of the Town's fee for solid waste service by another governmental entity. Any residential owner or lessee, apartment owner or non-residential user who shall fail to make appropriate payment related to solid waste collection service shall have his solid waste collection service terminated. Any residential owner or lessee, apartment owner or non-residential user whose solid waste collection service shall be so terminated shall be deemed in violation of this chapter.~~
- ~~(b) Fees for refuse and recycling collection, which shall be collected by the Town, franchisor, or other authorized governmental entity, shall be as established by the Town Council.~~

Sec. - Solid waste collection special assessments shall constitute a lien on improved real property.

All solid waste collection special assessments imposed against the owners of assessed units pursuant to this chapter shall constitute, and are hereby imposed as, liens against such real property as of January 1 of each year or as soon thereafter as the certified roll is received by the tax collector. Until fully paid and discharged or barred by law, the solid waste collection special assessments shall remain liens equal in rank and dignity with the lien of county ad valorem taxes and superior in rank and dignity to all other liens, encumbrances, titles and claims in, to or against the real property involved. If any solid waste collection special assessment liens become delinquent by not being fully paid by April 1 following the year in which they are assessed, or immediately after 60 days have expired from the mailing of the original notice set forth by the uniform method, whichever is later, and remain delinquent, such liens shall be enforced by the tax collector in the same manner as any other special assessment lien of the Town.

Sec. - Containers—Required.

It shall be unlawful within the Town for any person to place any solid waste ~~or vegetative waste~~ out for collection unless such solid waste ~~or vegetative waste~~ is in a Container, if such Container is required and approved by the Town Council. A Garbage Can may not be used if a Container has been required and approved by Town Council.

~~Sec. — Maintenance of Exterior of Premises relating to Collection~~

~~(a) All items placed out for collection shall be placed in the area designated by the property owner for the placement of such items. Should the Town of a franchisor request, the property owner shall designate such location in writing. Any items placed in an area not designated for pickup shall be deemed a blighting condition and/or nuisance pursuant to paragraph (b) below.~~

~~(b) At all times, any exterior premises adjacent to a public roadway used for access to the property shall be maintained by the owner or operator of such premises such that the appearance of such premises shall not constitute a blighting condition, blighting factor or nuisance. Items placed for collection in violation of Section, “Containers—Required” shall be deemed a violation of this Section.~~

~~Sec. — Designated debris placed for collection.~~

~~It shall be unlawful within the Town for any person to place upon the area adjacent to a public roadway used for access to the property for solid waste collection and designated pursuant to Section — any item other than for collection pursuant to the terms of this ordinance.~~

~~Sec. — Location for placing debris for collection~~

~~All debris placed out for collection shall be placed on the property from which the debris was generated, at a location adjacent to the public roadway used for access to the property, but not within swales or recorded drainage or roadway easements. It shall be unlawful to place debris for collection within swales, or recorded drainage or roadway easements, or within public roadways, that about the property of another or on the property of another.~~

Sec. - Precollection procedures—generally.

(1) The placement of garbage in a loose and uncontained manner on the roadside, swale, other locations adjacent to the roadway, or in dumpster enclosures shall be strictly prohibited.

(2) No person shall place for curbside collection any garbage, bulk waste, vegetative waste, or recyclable materials upon any property other than in the swale adjacent to and directly in front of the same property from which the garbage, bulk waste, vegetative waste, or recyclable materials was generated or accumulated, unless a predetermined location has been approved by the Town and the Town's franchised hauler.

(3) All garbage containers, when placed for curbside collection, shall be at ground level, not within the paved right-of-way, and immediately accessible to collection crews.

(4) No person shall place any garbage containers, or any accumulation of garbage, bulk waste or vegetative waste in any portion of a right-of-way or upon private property in any part of a front yard or a side yard abutting a right-of-way except during the day scheduled for collection or during the day immediately preceding the day scheduled for collection, as provided herein. No person in possession of real property shall allow any garbage containers or roll-out cart, or any accumulation of garbage, bulk waste or vegetative waste to remain in any portion of a right-of-way abutting his property to the centerline of the right-of-way, or in any part of the front yard or side yard abutting the right-of-way, except during the day scheduled for collection or during the day immediately preceding the day scheduled for collection.

(5) Private roads shall be fully accessible to the Town's contractor and equipment in order for collections to be made by the Town's contractor without delay.

(6) Unacceptable materials shall be stored and properly disposed of by the person responsible for their generation or accumulation.

(7) Privately employed tree trimmers, tree surgeons, landscape contractors, lawn maintenance services, and operators of tree and shrubbery maintenance services and other like services who receive a fee from the property owner or resident shall remove all trash and debris from the premises on which they are working, including but not limited to limbs, tree trucks, roots, shrubbery, grass clippings, vegetative waste and other debris emanating from their work and dispose of it as provided in this chapter.

(8) Hazardous wastes shall be stored and properly disposed of by the person responsible for their generation or accumulation.

Sec. - Hours when garbage, etc., may be placed out for collection.

It shall be unlawful within the Town for any person to place any Solid Waste or Recyclable Materials adjacent to the public road used for access to the property any earlier than 6:00 p.m. on the day before the scheduled solid waste collection day applicable to such person's property. It shall be unlawful within the Town for any person to fail to remove from the public roadway used for access to the property or adjacent to such public roadway any Container by 6:00 a.m. of the day following the scheduled Solid Waste or Recyclable Materials collection day applicable to such person's property.

Sec. – Construction and Demolition Debris.

Source separated construction and demolition that qualifies as Recoverable Materials shall not be part of the franchise; otherwise, Construction and Demolition Debris may be included with a franchise granted pursuant to this chapter.

Sec. – Registration of Recovered Material Dealers.

- (a) A recovered materials dealer or pyrolysis facility must register with the Town before engaging in business within the jurisdiction of the local government. Such registration process is limited to requiring the dealer or pyrolysis facility to:
 - (b) (1) register its name, including the owner or operator of the dealer or pyrolysis facility, and, if the dealer or pyrolysis facility is a business entity, its general or limited partners, its corporate officers and directors;
 - (2) its permanent place of business;
 - (3) evidence of its certification under Section 403.7046, Florida Statutes, and;
 - (4) a certification that the recovered materials or post-use polymers will be processed at a recovered materials processing facility or pyrolysis facility satisfying the requirements of Section 403.7046.
- (c) The Town shall charge the dealer or pyrolysis facility a registration fee commensurate with and no greater than the cost incurred by the local government in operating its registration program, as established by resolution by the Town Council. Registration program costs are limited to those costs associated with the activities described in this ordinance.
- (d) The Town's reporting or registration process with regard to recovered materials or post-use polymers is governed by Section 403.7046 and rules of the Florida Department of Environmental Protection or any successor agency performing a like function, adopted pursuant to Section 403.7046.
- (e) The Town may temporarily or permanently revoke the authority of a recovered materials dealer to do business within the Town. If the Town believes that the recovered materials dealer finds the recovered materials dealer has consistently and repeatedly violated state or local laws, rules, regulations, and the Town's ordinances, it shall notice the recovered

materials dealer of the charges and schedule a hearing before the Town's special magistrate using the notice and hearing process of Chapter 162, Florida Statutes.

Sec. - Recycling program.

(a) Single-family collection.

- (1) *Paper Goods.* Paper Goods placed out for collection as Recyclable materials shall be segregated from all other solid waste material by all single-family homeowners and residential units not using containerized refuse service. It shall be in a Container provided by the Town's Contractors and placed out for collection according to a scheduled day established by the Town along with all other Solid Waste or next to the Container or Garbage Can used by such Solid Waste customers. Recyclable Materials shall not be placed in plastic bags, and adequate precaution shall be made to prevent newspapers from being scattered by the elements.
- (2) *Clear glass and aluminum cans.* All clear glass and aluminum cans placed out for collection as Recyclable Materials shall be placed in the Container provided for by the contractor of the Town and placed out for collection according to a scheduled day established by the Town along with all other Solid Waste or next to the Container or Garbage Can used by solid waste customers. No other waste besides clear glass and aluminum cans shall be placed in the container that is provided for by the Town.

(b) Multifamily collection.

- (1) *Paper Goods.* Paper Goods placed out for collection as Recyclable Materials shall be segregated from all other solid waste material by all multifamily home owners and residential units using containerized Solid Waste Collection Service. At least one container for each trash dumpster shall be provided for each condominium or apartment complex for deposit of all Paper Goods and for collection of same. Collection of Paper Goods shall be made at least once weekly in accordance with a schedule approved by the Town. Paper Goods shall not be placed in plastic bags, and adequate precaution shall be made to prevent Paper Goods from being scattered by the elements.
- (2) *Clear Glass and Aluminum cans.* Clear Glass and Aluminum Cans placed out for collection as Recyclable Materials shall be segregated from all other solid waste material by all multifamily unit owners and residential units using containerized Solid Waste Collection Service. At least one container for each trash dumpster shall be provided for each condominium or apartment complex for deposit of all Clear Glass and Aluminum Cans and for collection of same. All Clear Glass and Aluminum Cans shall be placed in the container provided and placed out for collection at least once weekly in accordance with a schedule approved by the

Town. No other waste besides Clear Glass and Aluminum Cans shall be placed in the container that is provided for recyclables.

- (c) *Unauthorized collection.* It shall be a violation of this section for any person not authorized by the Town to collect or remove any Recyclable Materials as provided for above which has been specifically placed for collection in any recycling container in any single-family residential area or any multifamily residential area of the Town.

Sec. – Interim rates for new structures.

The Town shall have the ability to charge property owners, who receive a certificate of occupancy after the solid waste collection services non-ad-valorem assessment roll has been provided to the Tax Collector, on a pro-rata basis, as part of the fee for the granting of the certificate of occupancy or final permit.

Sec. – Community piles.

The Town may provide for the establishment of vegetative piles that may be used by more than one property owner for residential vegetative waste.

Section 3. Conflict. All Ordinances or parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith be, and the same are hereby repealed to the extent of such conflict.

Section 4. Severability. If any clause, section, or other part or application of this Ordinance shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part or application shall be considered as eliminated and so not affecting the validity of the remaining portions or applications remaining in full force and effect.

Section 5. Codification. It is the intention of the Town Council of the Town of Loxahatchee Groves that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the Town of Loxahatchee Groves, Florida, that the Sections of this ordinance may be renumbered, re-lettered, and the word "Ordinance" may be changed to "Section", "Article" or such other word or phrase in order to accomplish such intention.

Section 6. Effective Date. This Ordinance shall become effective immediately upon its passage and adoption.

Council Member _____ offered the foregoing ordinance. Council Member _____ seconded the motion, and upon being put to a vote, the vote was as follows:

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ON FIRST READING, THIS __ DAY OF _____, 2019.

Council Member _____ offered the foregoing ordinance. Council Member _____ seconded the motion, and upon being put to a vote, the vote was as follows:

	<u>Aye</u>	<u>Nay</u>	<u>Absent</u>
ROBERT SHORR, MAYOR	☐	☐	☐
DAVID DEMAROIS, VICE MAYOR	☐	☐	☐
LISA EL-RAMEY, COUNCIL MEMBER	☐	☐	☐
LAURA DANOWSKI, COUNCIL MEMBER	☐	☐	☐
PHILLIS MANIGLIA, COUNCILMEMBER	☐	☐	☐

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN LOXAHATCHEE GROVES, ON SECOND READING AND PUBLIC HEARING, THIS ____ DAY OF _____, 2019.

**TOWN OF LOXAHATCHEE GROVES,
FLORIDA**

ATTEST:

Lakesha Q. Burch, Town Clerk

APPROVED AS TO LEGAL FORM:

Office of the Town Attorney

Mayor Robert Shorr

Vice Mayor David Demarois

Council Member Laura Danowski

Council Member Lisa El-Ramey

Council Member Phillis Maniglia