



TOWN OF LOXAHATCHEE GROVES
TOWN COUNCIL MEETING AGENDA
TUESDAY, JUNE 18, 2013

Mayor David Browning (Seat 4)

Vice Mayor Ron Jarriel (Seat 1)

Councilman Tom Goltzené (Seat 5)

Councilman Ryan Liang (Seat 3)

Councilman Jim Rockett (Seat 2)



Town of Loxahatchee Groves

Town Council Meeting

Tuesday, June 18, 2013 at 7:00 p.m.

Loxahatchee Groves Water Control District, 101 West "D" Road

Mayor David Browning (Seat 4)
Vice Mayor Ronald D. Jarriel (Seat 1)
Councilman Tom Goltzené (Seat 5)
Councilman Ryan Liang (Seat 3)
Councilman Jim Rockett (Seat 2)

Town Manager Mark Kutney
Town Clerk Susan A. Eichhorn
Town Attorney Michael D. Cirullo, Jr.

PUBLIC NOTICE/AGENDA

Tentative
Subject to Revision

1. OPENING

- a. Call to Order & Roll Call
- b. Pledge of Allegiance & Invocation – Mayor Browning
- c. Approval of Agenda

Agenda Updated:
Item No. 10.b.i
06/15/2013

2. CONSENT AGENDA

- a. Minutes for Approval: June 4, 2013

3. PUBLIC COMMENT

4. PRESENTATIONS - *None*

5. COMMITTEE REPORTS - *None*

6. PUBLIC HEARINGS (Ordinances 2nd Reading) –

Ordinance No. 2013-03

AN ORDINANCE OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, AMENDING THE TOWN OF LOXAHATCHEE GROVES UNIFIED LAND DEVELOPMENT CODE (ULDC), TO AMEND ARTICLE 20, ENTITLED “RESIDENTIAL ZONING DISTRICTS,” SECTION 20-015, ENTITLED “PERMITTED USES” TO ADD “RESCUED ANIMAL CARE” AS A PERMITTED PRINCIPAL USE SUBJECT TO ARTICLE 80 AND TO A SPECIAL EXCEPTION IN THE AGRICULTURAL RESIDENTIAL (AR) ZONING CATEGORY; AMENDING ARTICLE 80, ENTITLED “CONDITIONAL USES” TO CREATE A NEW SECTION 80-060, ENTITLED “RESCUED ANIMAL CARE,” TO PROVIDE FOR REGULATIONS RELATING TO RESCUED ANIMAL CARE; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND, PROVIDING FOR AN EFFECTIVE DATE.

7. ORDINANCES (1st Reading) - *None*

a. Public Hearing:

8. RESOLUTIONS

9. ADMINISTRATIVE UPDATE – *Town Manager Kutney*

10. OLD BUSINESS

- a. Consideration of request of Bianca Berktold, 15045 Collecting Canal Rd., regarding permit to install swimming pool.
- b. Contracts for ITB 2013-001 (Gravel Road Grading, Mowing, and Vegetative Removal Services) –
 - i. LGWCD contracts –
 - ii. Mowing and Vegetative Removal Contract – Sirdar Trucking, Inc.

11. NEW BUSINESS

- a. Consideration of Offer of Settlement and Written Statement of Allowable Uses – Town of Loxahatchee Groves adv. Day/Bert J. Harris Claim
- b. Request Revision to the Adopted FY2013 Budget Amendment Relating the Debt Assistance to the Loxahatchee Groves Water Control District – Allocating Funds from Transportation Fund Second Local Option Fuel (5 cent) – *Councilman Jim Rockett*
- c. Discussion Relative to Request to Assist Resident with Variance ULDC Text Amendment Change for Accessory Structures – *Vice Mayor Ron Jarriel* –
See Agenda Item 10.a.
- d. Discussion Relative to Assignment of Commercial Land Use to Morello Property - Southern Boulevard – *Vice Mayor Ron Jarriel*
- e. Discussion Relative to Preliminary Budget Requests for FY2014 – *Vice Mayor Ron Jarriel*
 - i. Request \$150,000 Gas Tax Funds to LGWCD – Substantial Drainage Projects to protect OGEM Roads
 - ii. Request \$28,893 Debt Assistance Subsidy to LGWCD – OGEM Roads
 - iii. Request to Allocate Fund to Employ Lobbyist to Assist Town Relative to Traffic Light – Southern Boulevard and “D” Road.

e. Discussion Relative to Preliminary Budget Requests for FY2014 – *Vice Mayor Ron Jarriel* Continued

iv. Request Surfacing (OGEM) of “D” Road from Collecting Canal to Southern Boulevard

f. Discussion Relative to the Gun License Matter – Bill Kline – *Vice Mayor Jarriel*

12. CLOSING COMMENTS

- a. Public
- b. Town Attorney
- c. Town Council Members

13. ADJOURNMENT

The next Town Council Meeting is scheduled for Tuesday, July 2, 2013 at 7:00 p.m.

Comment Cards: Anyone from the public wishing to address the Town Council must complete a Comment Card before speaking. This must be filled out completely with your full name and address and given to the Town Clerk. During the meeting, before public comments, you may only address the item on the agenda in which is 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.



Town of Loxahatchee Groves

Town Council Meeting

Tuesday, June 4, 2013 at 7:00 p.m.

Loxahatchee Groves Water Control District, 101 West "D" Road

Mayor David Browning (Seat 4)
Vice Mayor Ronald D. Jarriel (Seat 1)
Councilman Tom Goltzené (Seat 5)
Councilman Ryan Liang (Seat 3)
Councilman Jim Rockett (Seat 2)

Town Manager Mark Kutney
Town Clerk Susan A. Eichhorn
Town Attorney Michael D. Cirullo, Jr.

MINUTES

Tentative
Subject to Revision

1. OPENING

a. Call to Order & Roll Call

Mayor Browning called the meeting to order at 7:00 p.m. Present were Mayor David Browning, Vice Mayor Ronald D. Jarriel, and Councilmen Tom Goltzené. Councilman Jim Rockett arrived at 7:08 p.m. Councilman Ryan Liang was not present. Also present were Town Manager Mark Kutney, Town Clerk Susan Eichhorn, Town Attorney Michael D. Cirullo, Jr., Town Planning Consultant Jim Fleischmann, and Town Planning Technician Braeden

b. Pledge of Allegiance & Invocation – Mayor Browning

Town Council Meeting Minutes
06/04/2013

c. Approval of Agenda

Motion: Vice Mayor Jarriel made a motion to approve the Agenda. The motion was seconded by Councilman Goltzené. The motion passed 3/0.

2. CONSENT AGENDA

- a. Invoice from Goren, Cherof, Doody & Ezrol, P.A.
- b. Minutes for Approval: May 21, 2013; Special Town Council Meeting May 21, 2013
- c. Administrative Policy 3-13

Motion: Vice Mayor Jarriel made a motion to approve the Consent Agenda. The motion was seconded by Councilman Goltzené. The motion passed 3/0.

3. PUBLIC COMMENT

Bianca Berktold, 15045 Collecting Canal Rd.: Addressed the Town Council, requesting reconsideration of her application to construct a pool, which had currently been denied.

Town Planning Consultant Jim Fleischmann advised that Town regulations do not make exceptions for accessory structures. Ms. Berktold could have done it under the County regulations, but under the Town's current regulations she cannot. Options are to apply for a variance or she could request that the Town draft a code amendment that would apply to all properties in Town that are being penalized by the same thing. She can look at dealing with her issue as it relates to her property or at an amendment that would affect everyone in Town.

Town Manager Kutney noted that both a code amendment and a variance would carry a cost recovery charge, and that the matter could be added to the next Town Council meeting agenda.

Discussion took place regarding minimizing or eliminating the costs, because of the setback issues that were involved, and that resident should not have to be penalized for setback distances that had been set back too far. Town Manager Kutney pointed out that a code change would affect the setbacks for everyone, and that staff would like the opportunity to discuss the situation with Ms. Berktold.

Councilman Goltzene suggested that the code text should be made the same as the regulations in the County for pool setbacks.

After further discussion, it was the consensus of the Town Council that staff would meet with Ms. Berktoold to provide her with the alternatives for her application, and that staff would return at the next Town Council meeting with the results of that meeting.

Marge Herzog, 966 A Rd: Commented regarding the condition of B Rd. south of Collecting Canal. Mayor Browning requested that Mr. Kutney notify the LGWCD and let them know. Vice Mayor Jarriel requested that the issue be added to the next agenda of Intergovernmental Coordination Committee as well.

4. PRESENTATIONS

- a. Legislative Update by Florida House Representative Mark S. Pafford

Representative Pafford addressed the Town Council, and provided a legislative update. He reminded all that a legislative office is responsible for not only sending him to Tallahassee and making decisions that impact citizens, but that his office would also work for concerns of constituents.

Vice Mayor Jarriel commented that he had discussed the traffic signal at D Road and Southern Blvd. with Representative Pafford, and as a result the Florida Department of Transportation (FDOT) had indicated that they would set up a meeting with the Town. He thanked Representative Pafford.

5. COMMITTEE REPORTS

- a. Finance Advisory & Audit Committee (FAAC) Report and Approval of the April 2013 Financial Reports – *Committee Member Virginia Standish*

FAAC Member Virginia Standish provided the FAAC report.

Motion: Councilman Rockett made a motion to accept the FAAC Report. The motion was seconded by Vice Mayor Jarriel. The motion passed 4/0.

6. PUBLIC HEARINGS (Ordinances 2nd Reading)–None

7. ORDINANCES (1st Reading)

a. Public Hearing:

Ordinance No. 2013-03

AN ORDINANCE OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, AMENDING THE TOWN OF LOXAHATCHEE GROVES UNIFIED LAND DEVELOPMENT CODE (ULDC), TO AMEND ARTICLE 20, ENTITLED “RESIDENTIAL ZONING DISTRICTS,” SECTION 20-015, ENTITLED “PERMITTED USES” TO ADD “RESCUED ANIMAL CARE” AS A PERMITTED PRINCIPAL USE SUBJECT TO ARTICLE 80 AND TO A SPECIAL EXCEPTION IN THE AGRICULTURAL RESIDENTIAL (AR) ZONING CATEGORY; AMENDING ARTICLE 80, ENTITLED “CONDITIONAL USES” TO CREATE A NEW SECTION 80-060, ENTITLED “RESCUED ANIMAL CARE,” TO PROVIDE FOR REGULATIONS RELATING TO RESCUED ANIMAL CARE; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND, PROVIDING FOR AN EFFECTIVE DATE.

Town Attorney Cirullo read Ordinance No. 2013-03 by title as printed above.

Town Planning Consultant Jim Fleischmann presented the staff report. He reviewed the applicant’s proposal and staff’s alternative proposal.

Staff recommended approval of alternative text amendment as amended by the Planning and Zoning Board. However, staff can also support the applicant’s proposed text amendment, as presented in Attachment A, subject to the following revisions: Veterinarian Service permitted as accessory to Rescue Animal Care, and Dog Boarding permitted as accessory to Rescue Animal Care. Those two accessory uses could only be attached to a Rescue Animal Care facility.

Mr. Fleischmann noted that the staff recommendation is considerably more detailed than that proposed by the applicant. The applicant appeared at the Planning & Zoning Board meeting on May 23, 2013, and said that they had no problem with the alternative proposal of staff. On that basis, staff recommended approval of the ordinance language as written on page 55-57 of the Agenda Packet. He stated that a Rescue Animal Care principal use would need to go through the special exception process, and that if veterinarian and dog boarding was offered to the public, the only two roads that would qualify for public service uses would be Okeechobee Blvd. and Southern Blvd.

Town Attorney Cirullo explained that a special exception would be required, and the review standards were site specific standards. When a site specific application was filed, the Town Council could review whether that use would be detrimental to the area. If a determination was made that the review standards are not met, the applicant could not move forward. There was nothing in a general text amendment that would obligate the Town Council to approve a specific application later.

Discussion took place regarding the size of a site for Rescue Animal Care, the facility servicing only dogs, the impact on similar existing facilities, and the number of animals that would be served.

Public Comment:

Jeff Brophy, agent for the applicant, addressed the Town Council stating that the applicant was in agreement with staff and the recommendations from the Planning and Zoning Board. He noted that the location of Bryan and Folsom was basically no longer being considered. The applicant was looking at sites on Okeechobee Blvd., and Southern Blvd., and nothing had been decided at this time. The applicant was ready to start a process in getting the site, but being a non-profit it was difficult to start with the property – that was the reason they were going through the process now. When a site was selected the applicant wanted to include all those who are affected in the design and approval process.

Dennis Lipp, Chair of the Planning and Zoning Board, commented that the method they are using is a good idea because of the costs and so they have a better idea of where they want to go. The same points being brought up tonight were brought up by the Planning and Zoning Board, and he suggested that staff could tweak the text amendment enough so that they can do what they want to do and also protect the Town.

Lauree Simmons, President and founder of big Dog Ranch Rescue, commented that Big Dog Rescue wanted to become part of the community; the dogs would be inside in a new facility; from 7:30 p.m. until 7:00 a.m. all dogs will be in an enclosed building.

André LaCroix, 13000 Bryan Rd.: Comments regarding the proposed text amendment, and the sections of the Code that would be amended. He questioned the number of tax free entities that would be allowed in Loxahatchee Groves, noting that tax dollars were needed.

Ashley Hensarling, volunteer at Big Dog Rescue, commented regarding the benefits of community involvement.

Kristen Cowling, 111 Sunset Cove Lane, Palm Beach Gardens, commented in support of Big Dog Rescue.

Peter Robbins, 70 Via Verona, Palm Beach Gardens commented in support of Big Dog Rescue.

Emily Pantelides, 70 Via Verona, Palm Beach Gardens, board member of Big Dog Rescue, commented in support of the facility.

Ruth Menor, 13095 Bryan Rd.: Commented that she was happy to hear that Bryan Road is not the most appropriate road and that all of us can support the Big Dog Rescue organization, however, it had to be on a road that will accommodate the traffic. Vice Mayor Jarriel asked her to think about the traffic, and how she would feel having them next to her, and she replied that it would not be a problem for her—there would not be a residential impact for her.

Megan Weinberger, 14189 Caloosa Blvd., Vice President of Big Dog Rescue commented in support of the facility.

MOTION: Vice Mayor Jarriel made a motion to approve Ordinance No. 2013-03 on first reading, as recommended by the Planning and Zoning Board. The motion was seconded by Councilman Rockett.

Discussion:

Vice Mayor Jarriel: Residents on Bryan made a comment. It is a great facility; we just have to get it in the right spot. Concerned about how many employees now and when they grow. Would like to see a commitment that Bryan Rd. is out of the question. There are a lot of positive things that come from this facility.

Councilman Goltzené commented regarding some adjustments to the text amendment, like dog boarding versus animal boarding. Concerned that we are doing things in order to facilitate one thing that will cause trouble to other things. All vets and all rescues should be included, rather than causing those that don't meet the criteria to be odd man out. Would like to see staff address these issues.

Councilman Rockett commented that he thought staff should make it a little more general. Make it more generic. Agreed with Vice Mayor Jarriel's comment and he would also look for a commitment from Big Dog Rescue that Bryan Road is off the table and will remain so.

Mayor Browning commented that Big Dog Rescue does great work. Some of these people speaking really don't understand the lifestyle in Loxahatchee Groves. No one appreciates animals more than the people in Loxahatchee Groves, however he has concerns with noise and the neighbors. One problem I have is that commercial kennels are not prohibited, but a boarding kennel is. There is a reason why we don't allow commercial kennels in Loxahatchee Groves – because of the noise. Taking it off Bryan Road helped out a lot.

Further discussion took place regarding restrictions in the ordinance, the opportunity to focus on special exception conditions when a site was located, and the facility not being opened to the public for services. It was the consensus of the Town Council that staff would work on the language of the ordinance, and that the motion to approve on first reading would include that the ordinance would not go back to the Planning and Zoning Board before coming back to the Town Council.

On roll call vote the motion passed 4/0.

8. RESOLUTIONS

a. Resolution No. 2013-03

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ACCEPTING THE QUIT CLAIM DEEDS FROM THE LOXAHATCHEE GROVES WATER CONTROL DISTRICT FOR COMPTON ROAD AND MARCELLA BOULEVARD; PROVIDING FOR THE RECORDING OF THE QUIT CLAIM DEEDS AND AUTHORIZATION TO TAKE STEPS NECESSARY TO EFFECTUATE THE

INTENT OF THIS RESOLUTION; PROVIDING FOR CONFLICT, SEVERABILITY, AND AN EFFECTIVE DATE.

Town Attorney Cirullo explained that Resolution No. 2013-03 allowed the Town to accept quit claim deeds from the Loxahatchee Groves Water Control District (LGWCD). He read Resolution No. 2013-03 by title, as printed above.

Motion: Councilman Goltzené made a motion to adopt Resolution No. 2013-03. The motion was seconded by Vice Mayor Jarriel. On roll call vote, the motion passed 4/0.

In response to Councilman Goltzené, Town Attorney Cirullo clarified that the Town would be receiving whatever is in the 60 feet, culvert to culvert.

b. Resolution No. 2013-04

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOAHATCHEE GROVES, FLORIDA, ADOPTING A BUDGET AMENDMENT FOR THE TOWN'S BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2012 AND ENDING SEPTEMBER 30, 2013; PROVIDING FOR SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

Town Attorney Cirullo read Resolution No. 2013-04 by title, as printed above.

Town Manager Kutney addressed the budget amendment, referring to the memorandum from Bill Underwood, Managing Partner, Underwood Management Services Group, LLC., stating that basically the budget amendment is addressing issues with some accounts that are coming in lower than expected, and also some expenses that have occurred. He noted that the drop in ad valorem taxes would be reviewed in the budget discussions for the next fiscal year. Discussion then took place regarding the appropriation increase of \$18,000 to the Loxahatchee Groves Water Control District (LGWCD).

John Ryan, 3508 A Rd.: Explained that the \$18,000 figure was the debt series subsidy that the Town voted on to hold down the assessment for the landowners on OGEM road segments, however, the number should be 28,893, which would effectively increase the expenditure amount by another \$10,000.

Town Manager Kutney stated that he would clarify the issue, and confirm the correct amount.

Further discussion took place regarding the budget amendments. Councilman Rockett suggested that a statement of the balance sheet should always accompany any proposed budget changes; every time a change was done, the fund balances should be provided.

Motion: Councilman Rockett made a motion to adopt Resolution No. 2013-04. The motion was seconded by Councilman Goltzené. Upon roll call vote, the motion passed 4/0.

9. ADMINISTRATIVE UPDATE – *Town Manager Kutney*

Town Manager Kutney provided the following administrative updates:

- Loxahatchee Groves PTO had provided a plaque in thanks for the \$500 donation.
- Comprehensive Plan: He has been working with Town Planning Consultant Fleischmann on an amendment and further information would be provided in July.
- Representative Pafford did a good job for the Town on contacting FDOT on the traffic signal. He had received emails from FDOT to set up meeting for a signal at D Road and Southern. A meeting will be set up with Town staff and FDOT. Vice Mayor Jarriel requested that he sit in on that meeting as well.
- Bid for Solid Waste is on the Town website.

Discussion took place regarding a process whereby FAAC and the Town Council review bids prior to putting them out. Mr. Kutney noted that the ordinance related to the FAAC did not call for bids to be run through the FAAC prior to being put out. An addendum to the bid was discussed regarding having once a week pick-up option and breaking out vegetation from the other waste.

Public Comment:

Frank Schiola, 13434 Marcella Blvd.: Made the following comments: That to think you will save half is not going to happen if you go to once per week. They will have to quadruple their resources for trash, vegetative, etc. By having the 95 gallon cans out there, we can eliminate any kind of garbage cans and only use the approved cans. People would have to come to Town Hall

and get another can. If we went to automated pick up, we will see a savings. The same thing with vegetation – all the small vegetation will go into a can. That would save money. The bulk vegetation would stay the same – one driver one truck. To put it all out on one day would cost more money than putting it out on two days.

Councilman Rockett stated that we want to look at some variation of what we have. The point is we need the information and the only way we are going to get it at this point is to put an addendum out. He also suggested including it in the postcard that is going out to the residents.

- Report on what had occurred with the Unified Land Development Code Review Committee (ULDCRC) meetings to date.

Discussion took place regarding the special exception section of the Code, and it was the consensus of the Town Council that the ULDCRC would continue working on that, as well as commercial equestrian, vets, and landscape maintenance. The Committee would then provide a recommendation to the Town Council on those items.

Virginia Standish, Chair of the ULDCRC addressed the Town Council, noting that the Committee was allowed a great deal of discussion, and will soon be going over the special exception item.

10. OLD BUSINESS

- a. Contracts for ITB 2013-001 (Gravel Road Grading, Mowing, and Vegetative Removal Services) – [*Contracts are currently being negotiated and due to time constraints may not be included as part of this Agenda Packet, but will be included as addenda to the Agenda Packet*]

Town Manager Kutney advised that staff had made the contract revisions that the Town Council had authorized. The LGWCD attorneys had also made some comments and revisions, and everything would be reviewed. It was expected that all of the contracts would be on the June 18, 2013, Town Council agenda. Mr. Kutney noted that Mr. Choquette had requested to be removed from the mowing and vegetative removal services, and staff had contacted the next lowest bidder, Sirdar Trucking, Inc., and they were currently reviewing the contract.

Regarding the engineering contracts, Town Manager Kutney advised that Town Attorney Cirullo and he would review the fee schedules submitted and then negotiate the contracts. It was hoped that those contracts would be ready for the July 2, 2013, Town Council meeting.

In response to Councilman Goltzené, Town Attorney Cirullo explained that this was a multi-step process and a necessary procedure with approving contracts.

Councilman Goltzené suggested that it may be timelier for the Town Council to try to do general business at the first meeting each month, and then try to focus on one or two specific issues at the second meeting.

Discussion took place regarding the mowing contract, the necessity for work authorizations before the work is done, and the options to take if not satisfied with the work.

b. Speed Humps (*Councilman Rockett and Vice Mayor Jarriel*)

Councilman Rockett suggested that further discussion take place regarding speed humps once we have an engineer involved. Town Manager Kutney noted that would need to wait until the July meetings.

11. NEW BUSINESS

12. CLOSING COMMENTS

a. Public

Frank Schiola, 13434 Marcella Blvd.: Commented regarding a paintball match with the Town Council and the LGWCD board, to benefit a charity in Loxahatchee Groves.

b. Town Attorney

c. Town Council Members

Councilman Goltzené: A good meeting, and we have accomplished something.

Vice Mayor Jarriel: Question for staff: Requested update on Bryan Road. Town Attorney Cirullo responded that he was putting the documents together.

Councilman Rockett: Thanked everyone for coming to the meeting. Requested one more change to Administrative Policy 3-13, regarding the ability of members of the Town Council to add items to the Agenda. Town Attorney Cirullo advised that he would add language to Item 9 that said that the Town Council could add an item at a meeting, upon adoption of a motion by the entire Town Council.

Mayor Browning: Thanked everyone for coming to the meeting.

Discussion took place regarding the July 2, 2013, Town Council meeting and the July 4th holiday. It was the consensus of the Town Council to leave the meeting as scheduled.

13. ADJOURNMENT

There being no further business, the Town Council Meeting of June 4, 2013, was adjourned at 10:55 p.m.

Susan Eichhorn, Town Clerk

David Browning, Mayor

(SEAL)

These minutes were approved at

Town Council Meeting Minutes
06/04/2013

TO: Mark Kutney, Town Manager

FROM: Jim Fleischmann, Town Planning Consultant

RE: Proposed ULDC text amendment; Article 20-015 – Permitted Accessory Uses (Agricultural Residential zoning district).

DATE: June 10, 2013.

I. BACKGROUND INFORMATION

Per Section 05-070, the Town Council may amend the Unified Land Development Code (ULDC) for the purposes of public necessity, convenience, general welfare, or good planning and zoning practice. Any amendment to the ULDC requires a super majority of the Council.

Big Dog Ranch Rescue, Inc. has filed an application requesting the Town Council to amend Section 20-015 of the ULDC. “*Permitted uses*” to include veterinarian services and dog boarding as permitted accessory uses.

Big Dog Ranch Rescue, Inc., an active Florida Non-Profit Corporation, is an existing animal rescue shelter located within unincorporated Palm Beach County. The corporation is currently investigating the potential to relocate its operations to an, as yet, undetermined location in Loxahatchee Groves.

II. GENERAL INFORMATION

A. APPLICANT: Big Dog Ranch Rescue, Inc. (Big Dog Ranch), an animal rescue center. Under the Town’s ULDC, the operation is termed a “Rescued Animal Care” facility.

B. PURPOSE: “Rescued Animal Care” is currently a permitted principal use, subject to Special Exception approval by the Town Council, in the Agricultural Residential (AR) zoning district. A Rescued Animal Care designation is appropriate for Big Dog Ranch; however, the ULDC is unclear as to the various accessory facilities and services that can be provided.

In order to clarify this issue, Big Dog Ranch has requested that the Town Council amend the ULDC to include veterinary services and dog boarding as accessory uses in the AR zoning district.

III. REQUESTED ULDC TEXT AMENDMENT

The applicant proposes to incorporate revisions to Section 20-015. *Permitted uses* of the Town's ULDC. A copy of the proposed ULDC amendment is included in Attachment A. As proposed by the applicant, the amendment will revise Section 20-015 to include veterinary services and dog boarding as permitted accessory uses in the Town's Agricultural Residential (AR) zoning district.

IV. STAFF ANALYSIS

The proposed text amendment will allow veterinary services and dog boarding as permitted accessory uses in the Agricultural Residential (AR) zoning district. The amendment will allow any permitted principal use in the AR district to claim that veterinary services and/or dog boarding facilities are appropriate accessory uses. The Town does not currently have specific criteria within the ULDC to determine the appropriateness of such claims.

Staff supports the reasoning behind the application and the appropriate nature of the relationship between a principal Rescued Animal Care use (permitted subject to Special Exception approval by the Town) and accessory veterinary and dog boarding uses. However, by linking accessory veterinary and dog boarding uses directly to principal Rescued Animal Care uses, the potential for permitting such accessory uses in inappropriate locations is eliminated.

As a result of the above analysis, staff has offered an alternative amendment which, in its opinion, clarifies where accessory veterinary and dog boarding uses are permitted, as well as establishing operating conditions oriented to insuring compatibility with applicable codes and neighboring land uses. The alternative Staff proposal is included in Attachment B.

The following paragraphs are oriented to evaluating the staff alternative proposal, as presented in Attachment B.

A. REASON AND/OR NEED FOR THE PROPOSED TEXT CHANGE:

The basic purpose of the proposed text amendment is to allow veterinary services and dog boarding as accessory uses in the Agricultural Residential (AR) zoning district. The alternative staff proposal requires that such accessory uses be linked to the principal use of Rescued Animal care; an appropriate association.

B. REASON THE PRESENT TEXT IS INVALID OR INAPPROPRIATE:

The current text of the ULDC is not necessarily invalid or inappropriate; however, the current language does not specifically allow the proposed accessory uses, nor does it include language to insure that the proposed uses are operated in a manner consistent with existing law and compatible with neighboring land uses. The alternative staff proposal will insure that these considerations are appropriately addressed.

C. HOW DOES THE PROPOSED TEXT AMENDMENT FURTHER THE PURPOSES OF THE COMPREHENSIVE PLAN OR OTHER TOWN CODES, REGULATIONS OR PLANS DESIGNED TO IMPLEMENT THE COMPREHENSIVE PLAN:

The text amendment proposed by the applicant is a simple addition of two permitted accessory uses (Veterinarian and Dog Boarding) to the AR zoning district with no related conditions or specifications. The Comprehensive Plan does not specifically address these uses. The following general Future Land Use Element Comprehensive Plan directives are supportive of the alternative staff proposal, including:

1. Policies 1.1.4(b) and (j) direct the Town to adopt land development regulations to assure that development is compatible with adjacent land uses, provide for open spaces, and buffer residential from non-residential uses.
2. Policy 1.1.5 requires the Town, when reviewing development permit applications, to consider compatibility with adjacent uses and zoning districts.
3. Policy 1.1.9 directs the Town to define accessory uses and to minimize the potential adverse impacts upon neighboring properties.
4. Policy 1.3.1 directs the Town to adopt regulations for non-residential development that reflect the Rural Vista Guidelines.
5. Objective 1.15 allows the Town to impose conditions of approval on potential developments.

The following additional policies in the Transportation (TRANS), Recreation and Open Space (ROS) and Conservation (CONS) elements of the Comprehensive Plan are supportive of the proposed PUD ordinance:

1. Policy 5A.4.1 (ROS) directs the Town to require the provision of natural areas, land buffers, or trails in non-residential developments.
2. Policy 4.6.4 (CONS) states that the Town shall encourage buffering mechanisms to promote and enhance the rural, natural environment.

D. IS THERE AN ERROR OR AMBIGUITY TO BE CORECTED: The ULDC is generally not clear as it relates to accessory uses; where, when and under what circumstances such uses are permitted. The staff alternative proposed text amendment will insure that these concerns are addressed in a clear concise manner.

V. PLANNING AND ZONING BOARD ACTION: The Planning and Zoning Board (PZB), at its May 23, 2013 meeting, recommended approval of the alternative text amendment, as proposed by staff by an 5 to 0 vote subject to incorporating the following revisions to Sections 80-60(A) and (B):

- (A) *Minimum plot size requirements.* ~~No-rescued~~ Rescued animal care operations shall may be permitted on properties exceeding of less than five ten acres in size.
- (B) *Accessory uses.* Veterinary services and/or dog boarding may be permitted as accessory uses. As follows: (1) Veterinary services provided by a licensed veterinarian for the care of animals and/or dog boarding services for animals currently kept in the rescued animal care facility, or previously adopted, may be offered; and (2) Veterinary services provided by a licensed veterinarian for the care of animals and/or dog boarding services may also be offered to the public-provided that the rescued animal care operation is located on a property that fronts, and has access to, a Town designated Urban Collector or Arterial roadway.

VI. TOWN COUNCIL ACTION: The Town Council, at its June 4, 2013 meeting, voted to approve the alternative text amendment proposed by staff by an 4 to 0 vote subject to incorporating the following revisions:

1. Revise the language so that the ordinance is more general and not related specifically to rescued dog care.
2. Revise the language to be more specific regarding the number of animals allowed in a rescued animal care facility.

VII. STAFF FINDINGS: Planning staff finds the alternative text amendment proposed by staff, amended by the Planning and Zoning Board, to be generally consistent with the intent and direction of the Loxahatchee Groves Comprehensive Plan and the review criteria for a text amendment listed in Section 160-020 of the ULDC. Staff further finds that the text amendment proposed by the applicant is not inconsistent with the Comprehensive Plan and ULDC text amendment review criteria.

VIII. STAFF RECOMMENDATION: Staff recommends approval of alternative text amendment, as amended by the Planning and Zoning Board. However, staff can also support the applicant's proposed text amendment, as presented in Attachment A subject to the following revision:

Accessory Uses	Agricultural Residential (AR)
Veterinarian Services	Permitted as accessory to Rescued Animal Care
Dog Boarding	Permitted as accessory to Rescued Animal Care

ATTACHMENT A
Big Dog Ranch Rescue, Inc. Applicant's Proposal

Section 20.015. *Permitted Uses*
(Underlined text is to be added)

(Ref: Following Page)

Section 20-015. Permitted uses.

Plots located in the Agricultural Residential (AR) zoning districts may be used for the following specified uses.

Principal Uses	Agricultural Residential (AR)
Single Family Dwelling	Permitted
Mobile Home	Permitted w/Special Exception
Public Schools	Permitted
Congregate Living Facility, Type I	Permitted
Non-Profit Community Recreational Facilities	Permitted w/Special Exception
Essential Services	Permitted
Commercial Equestrian Operations	Permitted w/Special Exception
Wholesale Nursery	Permitted
Retail Nursery	Permitted w/Special Exception
Aviculture	Permitted subject to Article 80
Commercial Kennels	Not Permitted
Chipping and Mulching	Permitted subject to Article 80
Feed Lots	Not Permitted
Commercial Animal Manure Management	Not Permitted
Commercial Chipping and Mulching	Permitted subject to Article 80
Rescued Animal Care	Permitted w/Special Exception
Outdoor Events	Permitted w/Special Exception
Agriculture	Permitted
Bona Fide Agriculture	Permitted
Wireless Communication Facilities	Permitted w/Special Exception

Accessory Uses*	Agricultural Residential (AR)
Accessory Dwelling	Permitted
Groom's Quarter	Permitted
Caretaker's Quarter	Permitted
Home Offices	Permitted subject to Article 80
Residential Enterprise	Permitted subject to Article 80
Wholesale Nursery	Permitted
Retail Nursery	Permitted w/Special Exception
U-Pick Farms	Permitted w/Special Exception
Private Kennels	Permitted
Private Stables	Permitted
Yard Sales	Permitted subject to Article 80
Veterinarian Services	Permitted
Dog Boarding	Permitted

*NOTE: Definition of Accessory Use. Uses naturally and customarily incidental, subordinate, and subservient to the principal use of the premises, and located on the same plot as the principal use. The area of an accessory use shall be subordinate to that of the principal use.

ATTACHMENT B – Staff Alternate Proposal

1. Section 20.015. *Permitted Uses*

(Underlined text is to be added; ~~Struck through~~ text is to be deleted)

2. Article 80: *Conditional Uses*

3. (Underlined text reflects Council-directed revisions at First Reading)

(Ref: Following Page)

Plots located in the Agricultural Residential (AR) zoning districts may be used for the following specified uses.

Principal Uses	Agricultural Residential (AR)
Single Family Dwelling	Permitted
Mobile Home	Permitted w/Special Exception
Public Schools	Permitted
Congregate Living Facility, Type I	Permitted
Non-Profit Community Recreational Facilities	Permitted w/Special Exception
Essential Services	Permitted
Commercial Equestrian Operations	Permitted w/Special Exception
Wholesale Nursery	Permitted
Retail Nursery	Permitted w/Special Exception
Aviculture	Permitted subject to Article 80
Commercial Kennels	Not Permitted
Chipping and Mulching	Permitted subject to Article 80
Feed Lots	Not Permitted
Commercial Animal Manure Management	Not Permitted
Commercial Chipping and Mulching	Permitted subject to Article 80
Rescued Animal Care	Permitted subject to Article 80 and to a w/Special Exception
Outdoor Events	Permitted w/Special Exception
Agriculture	Permitted
Bona Fide Agriculture	Permitted
Wireless Communication Facilities	Permitted w/Special Exception

Accessory Uses*	Agricultural Residential (AR)
Accessory Dwelling	Permitted
Groom's Quarter	Permitted
Caretaker's Quarter	Permitted
Home Offices	Permitted subject to Article 80
Residential Enterprise	Permitted subject to Article 80
Wholesale Nursery	Permitted
Retail Nursery	Permitted w/Special Exception
U-Pick Farms	Permitted w/Special Exception
Private Kennels	Permitted
Private Stables	Permitted
Yard Sales	Permitted subject to Article 80

*NOTE: Definition of Accessory Use. Uses naturally and customarily incidental, subordinate, and subservient to the principal use of the premises, and located on the same plot as the principal use. The area of an accessory use shall be subordinate to that of the principal use.

Section 80-060. Rescued Animal Care.

ULDC Section 20-015. Permitted uses.
 Proposed Big Dog Ranch Text Amendment
 June 10, 2013

A rescued animal care facility is defined as a not for profit institutional establishment or private animal non-profit organization that is used for the protection of unwanted or abandoned domesticated animals or native wildlife, the use of which may include sheltering, adoption, fostering, providing rescue or old age homes, medical or behavioral rehabilitation.

Domesticated animal is defined in Section 10-015: Definitions of this code, and shall, for the purposes of this section, include any equine or bovine animal, goat, sheep, swine, domestic cat, dog, poultry, ostrich, emu, rhea or other domesticated beast or bird. For the purposes of this section, the term domesticated shall mean adapted to life in intimate association with and to the advantage of humans.

Native wildlife, for the purposes of this section, shall mean all wild or non-domestic birds, mammals, fur-bearing animals, reptiles, and amphibians, as determined by the Florida Fish and Wildlife Conservation Commission.

Permits for rescued animal care operations shall be subject to the granting of a Special Exception and the following limitations:

- (C) *Minimum plot size requirements.* Rescued animal care operations may be permitted on properties exceeding ten acres in size.
- (D) *Accessory uses.* Veterinary services and/or ~~dog~~ domesticated animal boarding may be permitted as accessory uses as follows: (1) Veterinary services provided by a licensed veterinarian for the care of domesticated animals or native wildlife and/or ~~dog~~ boarding services for animals currently kept in the rescued animal care facility, or domesticated animals previously adopted, may be offered; and (2) Veterinary services provided by a licensed veterinarian for the care of domesticated animals and/or ~~dog~~ domesticated animal boarding services may be offered to the public provided that the rescued animal care operation is located on a property that fronts, and has access to, a Town designated Urban Collector or Arterial Highway.
- (E) *Accessory residential use.* A rescued animal care facility may include an accessory single-family dwelling to be used as a Caretaker's Quarter.
- (F) *Waste disposal.* A rescued animal care operation shall comply with each of the following standards:

- (1) Palm Beach County Environmental Control Rule (ECR) 1: On-site Sewage Treatment and Disposal and ECR 2: Drinking Water Supply systems;
 - (2) All applicable rules and regulations of the Florida Department of Environmental Protection (FDEP) and Florida Department of Agriculture and Consumer Services;
 - (3) All applicable rules and regulations of the Palm Beach County Health Department;
 - (4) All applicable rules and regulations of Palm Beach County Animal Care and Control Ordinance;
 - (5) All applicable rules and regulations of the Palm Beach County Solid Waste Authority;
 - (6) All applicable rules and regulations of the Florida Fish and Wildlife Conservation Commission.
- (G) *Number of animals:* The number of animals permitted, including the number of animals boarded, shall be based upon the ~~square footage of the facility pursuant to Palm Beach County Animal Control Center (PBCACC) limitations and requirements~~ physical facility requirements listed in the Palm Beach County Animal Care and Control Ordinance or as permitted by the Florida Fish and Wildlife Conservation Commission, and so indicated as a condition of the Special Exception approval.
- (H) *Outdoor runs:* Outdoor runs or animal exercise areas may be used. If used, such facilities shall be located a minimum of 200 feet from a directly abutting residential zoning district, be hard surfaced or grassed with drains provided every ten feet and be connected to a central or individual sanitary facility approved by the Palm Beach County Health Department. A minimum six-foot high chain-link fence, or other enclosure appropriate to the animal being served, shall be required around outdoor runs. ~~In addition, a~~ A continuous solid opaque hedge a minimum of four feet at installation shall be provided around ~~the~~ a chain-link fenced outdoor run area. Outdoor runs shall not be used earlier than 7:00 a.m. and later than 8:00 p.m. seven days per week.
- (I) *Architecture:* A rescued animal care facility shall be designed to reflect the Town's Rural Vista Guidelines in effect at the time of Special Exception approval.

TOWN OF LOXAHATCHEE GROVES

ORDINANCE NO. 2013-03

AN ORDINANCE OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, AMENDING THE TOWN OF LOXAHATCHEE GROVES UNIFIED LAND DEVELOPMENT CODE (ULDC), TO AMEND ARTICLE 20, ENTITLED “RESIDENTIAL ZONING DISTRICTS,” SECTION 20-015, ENTITLED “PERMITTED USES” TO ADD “RESCUED ANIMAL CARE” AS A PERMITTED PRINCIPAL USE SUBJECT TO ARTICLE 80 AND TO A SPECIAL EXCEPTION IN THE AGRICULTURAL RESIDENTIAL (AR) ZONING CATEGORY; AMENDING ARTICLE 80, ENTITLED “CONDITIONAL USES” TO CREATE A NEW SECTION 80-060, ENTITLED “RESCUED ANIMAL CARE,” TO PROVIDE FOR REGULATIONS RELATING TO RESCUED ANIMAL CARE; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, In response to a privately initiated application by Big Dog Ranch Rescue, Inc. to allow veterinarian services and dog boarding as permitted accessory uses in the Agricultural Residential zoning district, the Town’s Planning Consultant has prepared a proposed amendment to the Town’s Unified Land Development Code (ULDC) to permit “Rescued Animal Care” as a permitted principal use in the Agricultural Residential (AR) Zoning Districts, subject to regulations in Article 80 and a special exception, and to create a new Section 80-060, to be entitled “Rescued Animal Care’ to provide regulations for such use; and,

WHEREAS, the Town’s Planning and Zoning Board considered the proposed ULDC amendments at its May 23, 2013, meeting and pursuant to Chapter 163, Part II, Florida Statutes, recommended that the Town Council approve the amendments to the ULDC as worded in Attachment A hereto; and,

WHEREAS, the Town Council of Town of Loxahatchee Groves finds that the adoption of this ordinance, to permit “Rescued Animal Care” as a permitted principal use in the Agricultural Residential (AR) Zoning Districts, subject to regulations in Article 80 and a special exception, and to create a new Section 80-060, to be entitled “Rescued Animal Care’ to provide

regulations for such use, is consistent with the Town’s Comprehensive Plan, and in the best health and welfare interests of the Town, its property owners and residents.

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

Section 1: That the foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance.

Section 2: That the Town Council of the Town of Loxahatchee Groves, hereby amends the Town’s Unified Land Development Code (ULDC) to permit “Rescued Animal Care” as a permitted principal use in the Agricultural Residential (AR) Zoning Districts, subject to regulations in Article 80 and a special exception, and to create a new Section 80-060, to be entitled “Rescued Animal Care’ to provide regulations for such use, as set forth in **Attachment “A”**, and incorporated herein by reference.

Section 3: Conflicts. 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 section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by the Court to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of this Ordinance.

Section 5: Codification. The Town Clerk shall cause this ordinance to be codified as a part of the ULDC.

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~~Strike thru~~ represents deleted text, and underline represents added text.

Section 6: Effective Date. This ordinance shall take effect immediately upon adoption.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ON FIRST READING, THIS 4th DAY OF JUNE, 2013.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN LOXAHATCHEE GROVES, ON SECOND READING AND PUBLIC HEARING, THIS 18th DAY OF JUNE, 2013.

**TOWN OF LOXAHATCHEE GROVES,
FLORIDA**

ATTEST:

Mayor David Browning

TOWN CLERK

Vice Mayor Ron Jarriel

APPROVED AS TO LEGAL FORM:

Council Member

Office of the Town Attorney

Council Member

Council Member

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ATTACHMENT A – Ordinance 2013-03

Rescued Animal Care Conditional Use Provisions
(Underlined text is to be added; ~~Struck through~~ text is to be deleted)

(Ref: Following Page)

Section 20-015. *Permitted uses.*

~~Strike thru~~ represents deleted text, and underline represents added text.

Plots located in the Agricultural Residential (AR) zoning districts may be used for the following specified uses.

Principal Uses	Agricultural Residential (AR)
Single Family Dwelling	Permitted
Mobile Home	Permitted w/Special Exception
Public Schools	Permitted
Congregate Living Facility, Type I	Permitted
Non-Profit Community Recreational Facilities	Permitted w/Special Exception
Essential Services	Permitted
Commercial Equestrian Operations	Permitted w/Special Exception
Wholesale Nursery	Permitted
Retail Nursery	Permitted w/Special Exception
Aviculture	Permitted subject to Article 80
Commercial Kennels	Not Permitted
Chipping and Mulching	Permitted subject to Article 80
Feed Lots	Not Permitted
Commercial Animal Manure Management	Not Permitted
Commercial Chipping and Mulching	Permitted subject to Article 80
Rescued Animal Care	Permitted <u>subject to Article 80 and to a</u> w/Special Exception
Outdoor Events	Permitted w/Special Exception
Agriculture	Permitted
Bona Fide Agriculture	Permitted
Wireless Communication Facilities	Permitted w/Special Exception

Accessory Uses*	Agricultural Residential (AR)
Accessory Dwelling	Permitted
Groom's Quarter	Permitted
Caretaker's Quarter	Permitted
Home Offices	Permitted subject to Article 80
Residential Enterprise	Permitted subject to Article 80
Wholesale Nursery	Permitted
Retail Nursery	Permitted w/Special Exception
U-Pick Farms	Permitted w/Special Exception
Private Kennels	Permitted
Private Stables	Permitted
Yard Sales	Permitted subject to Article 80

Section 80-060. Rescued Animal Care.

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A rescued animal care facility is defined as a not for profit institutional establishment or private animal non-profit organization that is used for the protection of unwanted or abandoned domesticated animals, the use of which may include sheltering, adoption, fostering, providing rescue or old age homes, medical or behavioral rehabilitation.

Permits for rescued animal care operations shall be subject to the granting of a Special Exception and the following limitations:

- (A) Minimum plot size requirements. Rescued animal care operations may be permitted on properties exceeding ten acres in size.
- (B) Accessory uses. Veterinary services and/or dog boarding may be permitted as accessory uses as follows: (1) Veterinary services provided by a licensed veterinarian for the care of animals and/or dog boarding services for animals currently kept in the rescued animal care facility, or previously adopted, may be offered; and (2) Veterinary services provided by a licensed veterinarian for the care of animals and/or dog boarding services may be offered to the public provided that the rescued animal care operation is located on a property that fronts, and has access to, a Town designated Urban Collector or Arterial roadway.
- (C) Accessory residential use. A rescued animal care facility may include an accessory single-family dwelling to be used as a Caretaker's Quarter.
- (D) Waste disposal. A rescued animal care operation shall comply with each of the following standards:
 - (1) Palm Beach County Environmental Control Rule (ECR) 1: On-site Sewage Treatment and Disposal and ECR 2: Drinking Water Supply systems;
 - (2) All applicable rules and regulations of the Florida Department of Environmental Protection (FDEP);
 - (3) All applicable rules and regulations of the Palm Beach County Health Department;
 - (4) All applicable rules and regulations of the Palm Beach County Solid Waste Authority.
- (E) Number of animals: The number of animals permitted, including the number of animals boarded, shall be based upon the square footage of the facility pursuant to Palm Beach County Animal Control Center (PBCACC) limitations

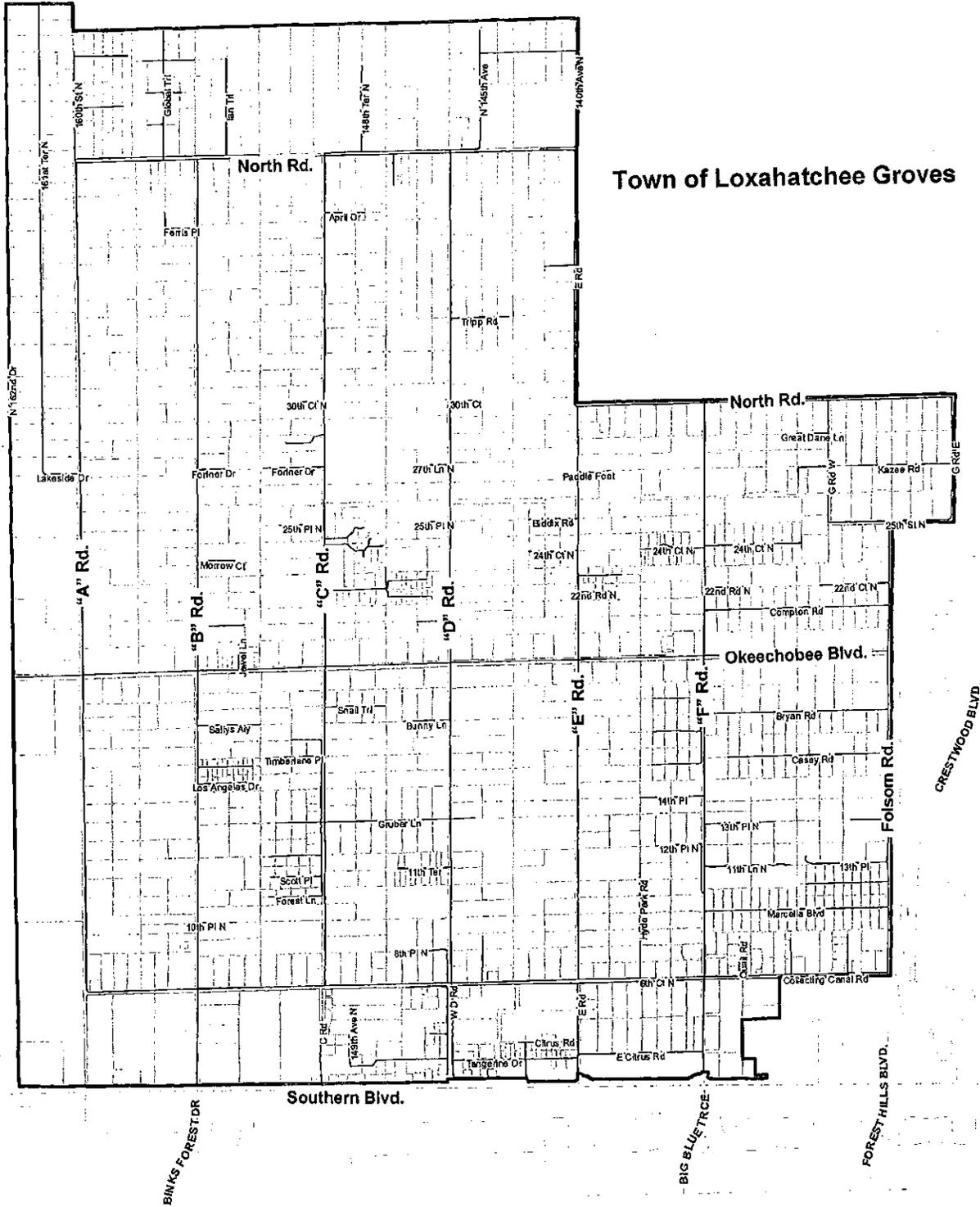
~~Strike thru~~ represents deleted text, and underline represents added text.

and requirements and so indicated as a condition of the Special Exception approval.

- (F) Outdoor runs: Outdoor runs or animal exercise areas may be used. If used, such facilities shall be located a minimum of 200 feet from a directly abutting residential zoning district, be hard surfaced or grassed with drains provided every ten feet and be connected to a central or individual sanitary facility approved by the Palm Beach County Health Department. A minimum six-foot high chain-link fence shall be required around outdoor runs. In addition, a continuous solid opaque hedge a minimum of four feet at installation shall be provided around the outdoor run area. Outdoor runs shall not be used earlier than 7:00 a.m. and later than 8:00 p.m. seven days per week.
- (G) Architecture: A rescued animal care facility shall be designed to reflect the Town's Rural Vista Guidelines in effect at the time of Special Exception approval.

~~Strike thru~~ represents deleted text, and underline represents added text.

Town of Loxahatchee Groves





Gary R. Nikolits, CFA
Property Appraiser
 Palm Beach County

Property Appraiser's Public Access **PAPA**



Location Address 15045 COLLECTING CANAL RD
 Municipality LOXAHATCHEE GROVES
 Parcel Control Number 41-41-43-17-01-201-0010
 Subdivision LOXAHATCHEE GROVES IN
 Official Records Book 24744 Page 96
 Sale Date AUG-2011
Legal Description LOXAHATCHEE GROVES SLY 14.74 FT OF ELY 244.78 FT OF N 1/2 & S 1/2 OF E 322.60 FT (LESS NLY 60 FT OF WLY 77.6

Owners	Mailing address
BERKTOLD BIANCA	15045 COLLECTING CANAL RD LOXAHATCHEE FL 33470 4234

Sales Date	Price	OR Book/Page	Sale Type	Owner
AUG-2011	\$140,000	24744 / 0096	WARRANTY DEED	BERKTOLD BIANCA
NOV-2010	\$157,800	24198 / 1147	CERT OF TITLE	BANK OF NEW YORK TR
JUN-1998	\$132,500	10506 / 1540	WARRANTY DEED	
SEP-1985	\$100	04664 / 1200	QUIT CLAIM	

Exemption Applicant/Owner	Year	Detail
BERKTOLD BIANCA	2013	

Number of Units 1 *Total Square Feet 0 Acres 2.50
 Use Code 6800 - EQUESTRIAN Zoning AR - Agricultural Residential (41-LOXAHATCHEE GROVES)

Tax Year	2012	2011	2010
Improvement Value	\$144,951	\$141,779	\$130,790
Land Value	\$53,439	\$66,798	\$82,467
Total Market Value	\$198,390	\$208,577	\$213,257

All values are as of January 1st each year

Tax Year	2012	2011	2010
Assessed Value	\$169,639	\$208,577	\$213,257
Exemption Amount	\$50,000	\$0	\$0
Taxable Value	\$119,639	\$208,577	\$213,257

Tax Year	2012	2011	2010
Ad Valorem	\$2,629	\$4,335	\$4,515
Non Ad Valorem	\$734	\$925	\$884
Total tax	\$3,363	\$5,260	\$5,399



Collecting Canal Rd

C Rd

C Rd



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38 of 178 Agenda Packet 06-18-13
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**AGREEMENT FOR THE ROAD GRADING AND
SUPPLY OF BASE ROCK FOR TOWN ROADS
WITHIN THE TOWN OF LOXAHATCHEE GROVES**

This **AGREEMENT** (“Agreement”) is made and entered into this ____ day of _____, 2013 (the “Effective Date”), by and between:

TOWN OF LOXAHATCHEE GROVES, a municipal corporation existing under the laws of the state of Florida, hereafter referred to as “TOWN,”

and

LOXAHATCHEE GROVES WATER CONTROL DISTRICT, an independent special district existing under the laws of the state of Florida, hereafter referred to as “DISTRICT,” (with the TOWN and DISTRICT each referred to as a “Party” and collectively as the “Parties”).

WITNESSETH:

WHEREAS, the TOWN is a municipal corporation of the State of Florida, the powers of which are defined in the TOWN's Charter and State law; and

WHEREAS, there are roads within the geographical boundaries of the TOWN which are maintained by the Loxahatchee Groves Water District, and other roads under the maintenance and control of the TOWN, which have been designated by the TOWN as “Town Roads,” and are the responsibility of the TOWN; and

WHEREAS, the TOWN is in need of services, equipment and material for grading of Town Roads, as described herein; and

WHEREAS, the TOWN undertook a competitive selection process, requesting responses to an Invitation to Bid No. 2013-01 (the “Bid”); and

WHEREAS, the DISTRICT's response to the Bid (the “Response”) was the bid selected by the TOWN Council as the lowest, most responsive bid for base rock material and road grading services; and

WHEREAS, the DISTRICT has represented that it has the necessary experience of road grading services, and is capable of providing such services and base rock material to the TOWN for its Town Roads, subject to the agreement of the Parties on criteria and specifications for such services and material, and the TOWN's agreement to pay for such services and material; and

WHEREAS, the TOWN Council and DISTRICT have determined that this Agreement is in the best interest of the health, safety, and welfare of the residents within the TOWN.

NOW, THEREFORE, IN CONSIDERATION of the mutual terms, conditions, promises, covenants and payments hereafter set forth, DISTRICT and TOWN agree as follows:

ARTICLE I - RECITALS

- 1.1 The foregoing recitations are true and correct and are hereby incorporated herein by reference. All exhibits to this Agreement are hereby deemed a part hereof.

ARTICLE 2 – GRADING OF TOWN ROADS AND BASE ROCK

- 2.1 Attached hereto as **Exhibit “A”** and incorporated herein is Addendum #2 to the Town of Loxahatchee Groves Invitation to Bid No. 2013-01, which is titled “Town Roads List.” This list may be amended by the TOWN without amending this Agreement so long as such amendment is in writing and approved by both Parties.
- 2.2 DISTRICT will provide road grading services and base rock to TOWN as set forth herein. Specifically, the DISTRICT shall furnish all of the materials and labor necessary to perform all of the work described in the Specifications to the Bid and Response, as referenced above.
- 2.3 The DISTRICT shall grade all Town Road segments identified by TOWN up to twice per month if needed at the discretion of the TOWN and direction of the TOWN Manager, as is confirmed in advance in writing by the TOWN Manager or his/her designee, and will include a work authorization number, scope of work to be completed, and time of completion. Notwithstanding the foregoing, the TOWN shall have no obligation to engage the services of DISTRICT for a specified number of times.
- 2.4 The DISTRICT shall perform non-routine road grading services on an as-needed basis in addition to the frequency numerated herein, but only with the advance, written direction and approval of the TOWN Manager or his/her Designee.
- 2.5 The DISTRICT shall provide the necessary base rock material on an as-needed basis to serve the TOWN’s usage requirements. Such usage requirements shall include a source of supply that will provide accurate and timely deliveries. Accordingly, time may be of the essence insofar as DISTRICT’s performance of the base rock and road grading services herein.
- 2.6 Pursuant to the Bid and its Response, DISTRICT has represented that the bid price for rock material is FOB destination, freight prepaid Loxahatchee Groves, Florida, with delivery/unloading to the location specified at the time of written order by the Town Manager.
- 2.7 DISTRICT hereby represents to TOWN, with full knowledge that TOWN is relying upon these representations in DISTRICT’s Bid when entering into this Agreement with DISTRICT, that DISTRICT has the professional expertise, experience, and manpower to perform the services to be provided by DISTRICT pursuant to the terms of this Agreement. DISTRICT ensures that all equipment used is properly registered. The TOWN reserves the right to verify this information. DISTRICT further represents that it shall comply with all federal, state, and local laws, rules, regulations, and ordinances that may be applicable to the operation of the equipment provided for road grading services. All equipment must be appropriately equipped with a revolving or flashing amber light so

drivers can locate equipment from a distance.

- 2.8 DISTRICT assumes professional and technical responsibility for performance of its services to be provided hereunder in accordance with recognized professional standards of good construction and engineering practice.
- 2.9 DISTRICT agrees that no subcontracting is permitted without the advance, written approval of the TOWN Manager.

ARTICLE 3 – PAYMENT

- 3.1 As set forth in its Response, DISTRICT shall provide the following services at the following prices, to include cost for use of equipment, labor costs, fuel, equipment maintenance, equipment delivery charges, fuel surcharges, and any other charges, which shall remain valid until May 1, 2014, as provided in Bid Document §2.1:

(a) Road Grading	Per Mile	\$110.00
(b) Base Rock /57 Mix or equivalent	Per Ton	\$ 14.00
(c) Base Rock “1 Minus	Per Ton	\$ 12.00

Upon the expiration of this period and annually thereafter, DISTRICT may request adjustment of these prices to reflect increases in the cost of labor and materials, which adjusted prices shall be approved by TOWN in writing and upon such approval remain in effect for the year immediately following.

- 3.2 Upon the commencement of this Agreement, DISTRICT will provide the TOWN invoices on a monthly basis in a timely manner for work actually completed by the DISTRICT for the previous month.
- 3.3 Invoices submitted by DISTRICT to TOWN must be submitted on the fifth (5th) day of each month for the previous month’s work performed.
- 3.4 All invoices must include a Purchase/Work Authorization number issued by the TOWN to be considered for payment.
- 3.5 Each invoice must provide sufficient detail reflecting specific roads graded with corresponding mileage and identified base rock to include tonnage delivered and spread on such roads.
- 3.6 DISTRICT will submit separate invoices for each road graded as provided in Section 3.5 of this Agreement. Should the TOWN determine that the documentation for the work is incomplete, it shall request additional information from the DISTRICT within ten (10) working days of receipt of the original invoice.
- 3.7 The TOWN shall pay the DISTRICT within thirty (30) days of receipt of the final written invoice and documentation from the DISTRICT.
- 3.8 The TOWN’s obligation is limited to its payment obligation and shall have no obligation to any other person or entity.

ARTICLE 4 - TERM OF AGREEMENT

- 4.1 This Agreement shall be deemed to have commenced on the Effective Date provided below, and shall continue for an Initial Term of two (2) years with an option for the TOWN at its sole discretion to exercise two (2) additional, independent Renewal Terms each of a two (2) year period for a total term not to exceed six (6) years, or until terminated as provided in Sections 4.2 through 4.7, below. The TOWN shall exercise each of its renewal options by providing the DISTRICT with not less than thirty (30) days written notice prior to the end of the then-current term. The notice period may be waived by the Parties in writing.
- 4.2 Notwithstanding Section 4.2, this Agreement may be terminated for cause by either Party upon ninety (90) days written notice of the other Party's failure to timely perform its responsibilities under this Agreement. Such written notice shall be given by the terminating party to the other party setting forth the breach. If the breaching party corrects the breach within thirty (30) days after written notice of same, to the satisfaction of the terminating party, the Agreement shall remain in full force and effect. If such breach is not corrected within thirty (30) days of receipt of written notice of breach, the terminating party may terminate the Agreement.
- 4.3 Termination of this Agreement for cause shall include, but not be limited to: failure of the Parties to suitably perform the services required under this Agreement, and failure of the Parties to continuously perform the services required by the terms and conditions of this Agreement in a manner calculated to meet or accomplish the objectives set forth herein, notwithstanding whether any such breach was previously waived or cured.
- 4.4 The Agreement may be terminated for convenience by the TOWN, as evidenced by the adoption of a resolution by the TOWN. In that event, the TOWN'S sole obligation to DISTRICT shall be payment for services for work previously authorized and performed. Such payment shall be determined on the basis of the hours or percentage of work performed by DISTRICT up to the time of termination. Upon such termination, the TOWN may, without penalty or other obligation to DISTRICT, elect to employ other persons to perform the same or similar services.
- 4.5 Notice of termination shall be provided in accordance with Article 6, "NOTICES," herein except that notice of termination by TOWN Manager which TOWN Manager deems necessary to protect the public health, safety or welfare may be verbal notice which shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Agreement. In the event this Agreement is terminated for convenience by the TOWN Council, DISTRICT shall be paid for any services performed to the date the Agreement is terminated; however, upon being notified of TOWN's election to terminate, DISTRICT shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. DISTRICT acknowledges and agrees that Ten Dollars (\$10.00) of the compensation to be paid by TOWN, the adequacy of which is hereby acknowledged by DISTRICT, is given as specific consideration to DISTRICT for TOWN's right to terminate this Agreement for convenience.
- 4.6 In the event this Agreement is terminated, any compensation payable by TOWN shall be withheld until all documents reasonably required are provided to TOWN. In no event

shall the TOWN be liable to DISTRICT for any additional compensation, other than that provided herein, or for any consequential or incidental damages.

ARTICLE 5 - INDEMNIFICATION; INSURANCE

- 5.1 Independent Contractor: DISTRICT is an independent contractor and not an employee, agent, or servant of TOWN or its TOWN Council for all purposes, including but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State Workers Compensation Act, and the State of Florida's unemployment insurance law. DISTRICT further acknowledges that the TOWN's duty under this Agreement is limited to contributing the identified funds to DISTRICT and that DISTRICT will use the funds to perform road grading and base rock delivery and spreading services for the maintenance of Town Roads within the TOWN in the manner provided herein. DISTRICT agrees that it is a separate and independent enterprise from the TOWN, that it has full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This Agreement shall not be construed as creating any joint employment relationship between DISTRICT and the TOWN and the TOWN will not be liable for any obligation incurred by DISTRICT, including but not limited to unpaid minimum wages and/or overtime premiums. In the event a claim or lawsuit is brought against TOWN, its officers, employees, servants or agents, arising from or relating to the DISTRICT improvements or any matter that is the responsibility of DISTRICT under this Agreement, DISTRICT will indemnify and hold harmless the TOWN in the manner and to the extent set forth in Section 5.2, below.
- 5.2 Hold Harmless and Indemnification: DISTRICT hereto agrees, to the extent permitted by law, to:
- (A) indemnify, save and hold harmless the TOWN, its officers, employees, and agents (collectively the "Indemnitees"), and to defend said Indemnitees from and against any loss, cost, penalties, fines, property damages, personal injury claims, expenses (including attorneys' fees) or liabilities, causes of action, and judgments of any type whatsoever arising out of, resulting from, or in connection with (i) the performance or non-performance of the services contemplated by the Agreement which is or is alleged to be directly or indirectly caused, in whole or in part, by any act, omission, default, or negligence (whether active or passive) of DISTRICT, regardless of whether it is, or is alleged to be, caused in whole or in part (whether joint, concurrent, or contributing) by any act, omission, default or negligence (whether active or passive) of the Indemnitees, or any of them, or (ii) the failure of DISTRICT to comply with any of the provisions of the Agreement or the failure of DISTRICT to conform to statutes, ordinances, or other regulations or requirements of any governmental authority, federal or state, in connection with the performance of the Agreement. DISTRICT expressly agrees to indemnify and hold harmless the Indemnitees, or any of them, from and against all liabilities which may be asserted by an employee or former employee of DISTRICT, or any approved subcontractors, as provided above, for which DISTRICT's liability to such employee or former employee would otherwise be limited to payments under state Workers' Compensation or similar laws.

- (B) DISTRICT further agrees to indemnify, defend, and hold harmless the Indemnitees from and against (i) any and all Liabilities imposed on account of any violation of law, ordinance, order, rule, regulation, condition, or requirements, in any related, directly or indirectly, to DISTRICT's performance under the Agreement, compliance with which is left by the Agreement to DISTRICT, and (ii) any and all claims, and/or suits for labor and materials furnished by DISTRICT or utilized in the performance of the Agreement or otherwise.
- (C) Where not specifically prohibited by law, DISTRICT further specifically agrees to indemnify, defend, and hold harmless the Indemnitees from all claims and suits for any liability, including, but not limited to, injury, death, or damage to any person or property whatsoever, caused by, arising from, incident to connected with, or growing out of the performance or non-performance of the Agreement which is, or is alleged to be, caused in part (whether joint, concurrent, or contributing) or in whole by any act, omission, default, or negligence (whether active or passive) of the Indemnitees. The foregoing indemnity shall also include liability imposed by any doctrine of strict liability.
- (D) Nothing contained herein shall be construed as a waiver by the TOWN or by the DISTRICT of the liability limits established in Section 768.28, Florida Statutes.

5.3 Insurance. Certificates of Insurance reflecting evidence of the required insurance shall be filed with the TOWN Manager prior to the commencement of this Agreement. DISTRICT shall use its best efforts to obtain on these Certificates a provision that coverages afforded under these policies will not be cancelled until at least thirty days (30) prior written notice has been given to the TOWN, provided that (a) DISTRICT's efforts shall be documented and provided to TOWN and (b) DISTRICT shall immediately notify TOWN of any cancellation of its insurance policy by its insurer, with failure to do so a material breach of the Agreement. Policies shall be issued by companies authorized to do business under the laws of the State of Florida. Financial Ratings must be not less than "A-VI" in the latest edition of "Best Key Rating Guide," published by A.M. Best Guide.

Insurance shall be in force until the obligations required to be fulfilled under the terms of the Agreement are satisfied. In the event the insurance certificate provided indicates that the insurance shall terminate and lapse during the period of this Agreement, then in that event, the DISTRICT shall furnish, at least thirty (30) days prior to the expiration of the date of such insurance, a renewed certificate of insurance as proof that equal and like coverage for the balance of the period of the Agreement and extension thereunder is in effect. DISTRICT shall not commence nor continue to provide any services pursuant to this Agreement unless all required insurance remains in full force and effect. DISTRICT shall be liable to TOWN for any lapses in service resulting from a gap in insurance coverage.

5.3.1 REQUIRED INSURANCE

Comprehensive General Liability insurance to cover liability bodily injury, accidental death, and property damages for bodily injury, including accidental death, and for

property damage, which may arise from operations under this contract whether such operation by himself or by anyone directly or indirectly employed under DISTRICT. Coverage must be written on an occurrence basis, with the following limits of liability:

- A. Comprehensive General Liability
 - 1. Each Occurrence \$1,000,000
 - 2. General Aggregate 1,000,000

- B. Automobile and Truck Liability
 - 1. Each Occurrence \$1,000,000
 - 2. General Aggregate 1,000,000

- C. Worker's Compensation Insurance

Shall be maintained during the life of this contract to comply with statutory limits for all employees. The following limits must be maintained:

- 1. Worker's Compensation Statutory
- 2. Employer's Liability \$300,000 each accident
\$300,000 Disease-policy limit
\$300,000 Disease-each employee

or such other amount that may be required by Florida law, whichever is greater.

Note: Comprehensive General Liability coverage and Automobile and Truck Liability coverage may be met with a combination of coverage including excess and umbrella liability coverage. Comprehensive General Liability Insurance covering bodily injuries and property damage shall also include coverage for: (a) injury to or destruction of wires, pipes, conduits, and similar property located below the surface of the ground, whether public or private; (b) collapse of or structural injury to any building or structure except those on which work under this Agreement is being performed; and (c) contractual liabilities related to bodily injury and property damage, i.e. X - explosion, C - Collapse, U - underground.

Automobile and Truck Liability shall cover bodily injury and property damage for the operation of all motor vehicles and equipment, whether or not owned by DISTRICT, being operated in connection with the work performed under this Agreement. Product and Completed Operations coverage shall be included in the amounts specified above for Comprehensive General Liability.

5.3.2 DISTRICT shall name the TOWN as an additional insured on each of the policies required herein and shall hold the CITY harmless on account of claims or damages to persons, property or premises arising out of the services provided hereunder.

5.3.3 Evidence of Insurance. As evidence of insurance coverage, the TOWN may, in lieu of actual policies, accept official written statements from the insurance company certifying that all the insurance policies specified below are in force for the specified

period. DISTRICT shall submit to TOWN evidence of insurance at the time of execution of this Agreement. Written notice shall be given to the TOWN at least thirty (30) days prior to nonrenewal of such insurance coverage.

ARTICLE 6 - NOTICES

- 6.1 Any and all notices given or required under this Agreement shall be in writing and may be delivered in person or by United States mail, postage prepaid, first class and certified, return receipt requested, or by hand-delivery with a request for a written receipt of acknowledgement of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided for in this article. For the present, the parties designated the following:

AS TO TOWN:

Mayor David Browning
Town of Loxahatchee Groves
14579 Southern Blvd., Suite 2
Loxahatchee Groves, FL 33470

With copies to:

Mark Kutney, Town Manager
Town of Loxahatchee Groves
14579 Southern Blvd., Suite 2
Loxahatchee Groves, FL 33470

And

Michael D. Cirullo, Jr., Town Attorney
Goren, Cherof, Doody & Ezrol, P.A.
3099 East Commercial Boulevard
Suite 200
Fort Lauderdale, FL 33308

AS TO DISTRICT:

Stephen E. Yohe, P.E., District Administrator
P. O. Box 407
Loxahatchee Groves, FL 33470

With copy to:

Mary M. Viator, Esq., District Legal Counsel
Caldwell Pacetti Edwards Schoech & Viator LLP
One Clearlake Centre
250 South Australian Avenue, Suite 600
West Palm Beach, Florida 33401

ARTICLE 7 - MISCELLANEOUS PROVISIONS

- 7.1 **ASSIGNMENT:** The Parties to the Agreement shall have NO right to assign, transfer, or otherwise encumber this Agreement, without the express consent of the other party.
- 7.2 **WAIVER:** The waiver by any Party to this Agreement of any failure on the part of another Party to perform in accordance with any of the terms or conditions of this Agreement shall not be construed as a waiver of any future or continuing similar or dissimilar failure.
- 7.3 **THIRD PARTY BENEFICIARIES:** Neither TOWN nor DISTRICT intends to directly or substantially benefit a third party by this Agreement. Therefore, the Parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based on this Agreement. The Parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.
- 7.4 **SEVERABILITY:** The invalidity of any provision of this Agreement shall in no way affect the validity of any other provision.
- 7.5 **ENTIRE AGREEMENT:** It is understood and agreed that this Agreement incorporates and includes all prior negotiations, agreements or understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.
- 7.6 **JOINT PREPARATION:** The Parties acknowledge that they have sought and received whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations here and that the preparation of this Agreement has been a joint effort. The language agreed to expresses their mutual intent and their resulting documents shall not, solely, as a matter of judicial construction, be construed more severely against one of the parties than the other.
- 7.7 **APPLICABLE LAW AND VENUE:** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State Courts of the 15th Judicial Circuit of Palm Beach County, Florida, and the venue site and shall be governed by the laws of the State of Florida. To encourage prompt and equitable resolution of any litigation that may arise hereunder, each Party hereby waives any rights it may have to trial by jury of any such litigation.
- 7.8 **AMENDMENTS:** No modification, amendment, or alteration of the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by both Parties.

- 7.9 **MULTIPLE ORIGINALS:** This Agreement may be fully executed in multiple copies by all Parties, each of which, bearing original signatures, shall have the force and effect of an original document.
- 7.10 **LICENSES.** All drivers must be properly licensed operators, if applicable. DISTRICT is responsible for updating operator information at any time throughout the duration of this Agreement. Failure to do so may be grounds for breach and subsequent termination of this Agreement. DISTRICT shall be responsible for providing phone numbers where employees can be reached. The inability of the TOWN to make contact with DISTRICT or an employee thereof within a reasonable amount of time is cause for the TOWN to terminate this Agreement as described in Section 3 of this Agreement.
- 7.11 **AFFIRMATIVE ACTION/EQUAL OPPORTUNITY EMPLOYER.** Pursuant to the Bid and its Response, DISTRICT shall adhere to an affirmative action policy. In the performance of this Agreement, DISTRICT shall not discriminate against any firm, employee or applicant for employment or any other firm/individual in providing services because of sex, age, race, color, religion, ancestry or national origin.
- 7.12 **PROTECTION OF TOWN PROPERTY.** At all times during the performance of this Agreement, DISTRICT shall protect the property of the TOWN and adjacent property owners from all damage whatsoever on account of the work being carried on under this contract.
- 7.13 **CONFLICTS.** DISTRICT and TOWN hereby agree that the following Contract Documents are fully incorporated herein and made a part of this Agreement, as if written herein word for word: TOWN's Invitation to Bid No. 2013-01 (including Addenda 1 through 3 thereto) and DISTRICT's Response thereto (15 pages) (collectively, the "Bid Documents", attached hereto as **Exhibit "B"**). In the event that there is any conflict between any of the Bid Documents and the terms of this Agreement, this Agreement shall prevail.
- 7.14 **LEGAL REPRESENTATION.** It is acknowledged that each Party to this Agreement had the opportunity to be represented by counsel in the preparation of this Agreement and, accordingly, the rule that a contract shall be interpreted strictly against the Party preparing same shall not apply due to the joint contribution of both Parties.
- 7.15 **OWNERSHIP OF DOCUMENTS.** Reports, surveys, plans, studies and other data provided in connection with this Agreement are and shall remain the property of TOWN whether or not the project for which they are made is completed. TOWN hereby agrees to use DISTRICT's work product for its intended purposes.
- 7.16 **NO CONTINGENT FEES.** DISTRICT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the DISTRICT, 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 DISTRICT, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, the TOWN shall have the right to terminate the Agreement without liability at its discretion, to deduct from the contract price, or

otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

- 7.17 **BINDING AUTHORITY.** Each person signing this Agreement on behalf of either Party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.
- 7.18 **EXHIBITS.** Each Exhibit referred to in this Agreement forms an essential part of this Agreement. The exhibits if not physically attached should be treated as part of this Agreement and are incorporated herein by reference.
- 7.19 **HEADINGS.** Headings herein are for convenience of reference only and shall not be considered on any interpretation of this Agreement.
- 7.20 **ATTORNEYS' FEES.** In the event that either Party brings suit for enforcement of this Agreement, the prevailing party shall be entitled to attorneys' fees and court costs in addition to any other remedy afforded by law.
- 7.21 **AUDIT AND INSPECTION RIGHTS AND RETENTION OF RECORDS.** TOWN shall have the right to audit the books, records and accounts of DISTRICT that are related to this Agreement. DISTRICT shall keep such book, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement. DISTRICT shall preserve and maintain all financial records, supporting documents, statistical records, and any other documents pertinent to his Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement, unless DISTRICT is notified in writing by the TOWN of the need to extend the retention period. Such retention of such records and documents shall be at DISTRICT's expense. DISTRICT shall comply with inspection and reproduction obligations of Florida law relating to public records in its possession. If any audit has been initiated an audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by the TOWN to be applicable to DISTRICT's records, DISTRICT shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by DISTRICT. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for TOWN'S disallowance and recovery of any payment upon such entry.

In addition, DISTRICT shall respond to the reasonable inquiries of any successors in interest to TOWN and allow any successors in interest to TOWN to receive working papers relating to matters of continuing significance. In addition, DISTRICT shall provide a complete copy of all working papers as required by law or as needed to TOWN, prior to final payment, in accordance with this Agreement and the Schedule for DISTRICT's services.

- 7.22 **PALM BEACH COUNTY OFFICE OF THE INSPECTOR GENERAL.** DISTRICT is aware that the Inspector General of Palm Beach County has the authority to

investigate and audit matters relating to the negotiation and performance of this Agreement, and in furtherance thereof may demand and obtain records and testimony from DISTRICT and, any, if applicable, subcontractors and lower tier subcontractors. DISTRICT understands and agrees that in addition to all other remedies and consequences provided by law, failure of DISTRICT or, if applicable, subcontractors and lower tier subcontractors to fully cooperate with the Inspector General when requested will be deemed to be a breach of this Agreement. DISTRICT shall be responsible for all costs incurred by it or the TOWN as a result of any investigation by the Inspector General which results in an adverse determination caused by DISTRICT, and if applicable, subcontractors and lower tier subcontractors.

(THE REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK)

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement between TOWN and DISTRICT on the respective dates under each signature: TOWN, signing by and through its Mayor, authorized to execute same by Council action on the _____ day of _____, 2013 and the DISTRICT, signing by and through its Chairman, authorized to execute same by Board of Supervisor's action on the ____ day of _____, 2013.

Executed by **TOWN** this _____ day of _____, 2013

TOWN OF LOXAHATCHEE GROVES,
a Florida Municipal Corporation

ATTEST:

By _____
David Browning
Mayor

Town Clerk

[TOWN SEAL]

APPROVED AS TO FORM:

By _____
Town Attorney

Executed by **DISTRICT** this _____ day of _____, 2013

LOXAHATCHEE GROVES WATER CONTROL DISTRICT, an Independent Special District of the State of Florida

ATTEST:

By _____
David DeMarois
Chairman

Secretary

[DISTRICT SEAL]

EXHIBIT "A"
TOWN ROADS LIST

EXHIBIT "A"

Town Roads List

TOWN ROAD NAME	PLAT DESIGNATION	MILEAGE
10TH PLACE NORTH	BLOCK B	0.081
11TH LANE NORTH	BLOCK F	0.351
11TH TERRACE	BLOCK C	0.244
12TH PLACE NORTH	BLOCK E	0.197
131ST TERRACE NORTH	BLOCK F	0.147
13TH PLACE NORTH	BLOCK F (FOLSOM)	0.282
13TH PLACE NORTH	BLOCK F (F ROAD)	0.166
140TH STREET NORTH	CUT-THRU / SUNSPORT	0.100
145TH AVENUE NORTH	T: 43S / R: 41E	0.457
147TH AVENUE NORTH	BLOCK C	0.126
147TH DRIVE NORTH	BLOCK C	0.115
148TH TERRACE NORTH	T: 43S / R: 41E	0.339
149TH AVENUE NORTH	BLOCK I	0.126
14TH PLACE NORTH	BLOCK E	0.257
152ND WAY NORTH	BLOCK B	0.068
160TH STREET NORTH	T: 43S / R: 41E	0.394
161ST TERRACE NORTH	T: 43S / R: 40E	2.014
17TH ROAD NORTH	BLOCK B	0.076
21ST ROAD NORTH	BLOCK C	0.126
22ND COURT NORTH	BLOCK F	0.292
22ND ROAD NORTH	BLOCK C (C ROAD)	0.248
22ND ROAD NORTH	BLOCK E (E ROAD)	0.156
22ND ROAD NORTH	BLOCK F (F ROAD)	0.210
23RD COURT NORTH	BLOCK E	0.189
24TH CIRCLE NORTH	BLOCK C	0.177
24TH COURT NORTH	BLOCK C (C ROAD)	0.282
24TH COURT NORTH	BLOCK D (E ROAD)	0.194
24TH COURT NORTH	BLOCK E (WEST F)	0.250
24TH COURT NORTH	BLOCK F (EAST F)	0.406
25TH PLACE NORTH	BLOCK B (C ROAD)	0.136
27TH LANE NORTH	BLOCK C	0.135
30TH COURT NORTH	BLOCK B (C ROAD)	0.141
30TH COURT NORTH	BLOCK D (D ROAD)	0.132
34TH PLACE NORTH	BLOCK C	0.135
35TH PLACE NORTH	BLOCK D	0.127

EXHIBIT "A"

Town Roads List

TOWN ROAD NAME	PLAT DESIGNATION	MILEAGE
41ST ROAD NORTH	T: 43S / R: 41E	0.068
42ND ROAD NORTH	T: 43S / R: 41E	0.153
42ND STREET NORTH	T: 43S / R: 41E (OFF 160TH)	0.234
43RD ROAD NORTH	T: 43S / R: 41E (GLOBAL)	0.194
43RD ROAD NORTH	T: 43S / R: 41E (140TH)	0.394
44TH STREET NORTH	T: 43S / R: 41E (OFF 160TH)	0.235
8TH PLACE NORTH	BLOCK C	0.319
APRIL DRIVE	BLOCK C	0.164
BIDDIX ROAD	BLOCK D	0.191
BRYAN ROAD	BLOCK F	0.749
BUNNY LANE	BLOCK C	0.244
CANAL MAINTENANCE RD	T: 43S / R: 41E (40TH ST N)	1.462
(WILSON) CASEY ROAD	BLOCK F	0.748
CITRUS DRIVE	BLOCK K	0.243
COMPTON ROAD	BLOCK F	0.748
EAST CITRUS DRIVE	BLOCK K	0.501
EDITH ROAD	BLOCK E	0.197
FARLEY ROAD	BLOCK E	0.197
FERRIS LANE	BLOCK A	0.194
FLAMINGO DRIVE	BLOCK C	0.186
FOREST LANE	BLOCK B	0.188
FORTNER DRIVE	BLOCK B (B ROAD)	0.126
FORTNER DRIVE	BLOCK B (C ROAD)	0.135
FOX TRAIL	BLOCK E	0.204
GLOBAL TRAIL	T: 43S / R: 41E	0.519
GREAT DANE LANE	BLOCK F	0.130
GRUBER LANE	BLOCK C	0.489
HYDE PARK ROAD	BLOCK E	0.518
IAN TRAIL	T: 43S / R: 41E	0.384
JEWEL LANE	BLOCK B	0.103
KAZEE ROAD	BLOCK G	0.432
KERRY LANE	BLOCK E	0.260
LOS ANGELES DRIVE	BLOCK B	0.244
LOXAHATCHEE AVENUE	BLOCK K	0.180
MARCELLA BOULEVARD	BLOCK F	0.749

EXHIBIT "A"

Town Roads List

TOWN ROAD NAME	PLAT DESIGNATION	MILEAGE
MARCH CIRCLE	BLOCK F	0.174
MORROW COURT	BLOCK B	0.180
ORANGE AVENUE	BLOCK K	0.075
PARADISE TRAIL	BLOCK C	0.186
PERKINS DRIVE	BLOCK F	0.336
PINEAPPLE DRIVE	BLOCK I	0.434
QUAIL ROAD	BLOCK F	0.135
RACKLEY ROAD	BLOCK F	0.146
RAYMOND DRIVE	BLOCK F	0.337
ROBERTS WAY	BLOCK B	0.229
SALLY'S ALLEY	BLOCK B	0.244
SAN DIEGO DRIVE	BLOCK B	0.244
SCOTTS PLACE	BLOCK B	0.213
SHAMROCK DRIVE	BLOCK B	0.244
SIXTH COURT NORTH	BLOCK I (WEST D)	0.177
SIXTH COURT NORTH	BLOCK K (EAST D)	1.733
SNAIL TRAIL	BLOCK C	0.244
TANGERINE DRIVE	BLOCK K	0.510
TEMPLE DRIVE	BLOCK I	0.100
TIMBERLANE PLACE	BLOCK B	0.219
TRIPP ROAD	BLOCK D	0.242
VALENCIA DRIVE	BLOCK K	0.136
WEST "B" ROAD	BLOCK A	0.340
WEST "C" ROAD	BLOCK B	0.623
WEST "D" ROAD	BLOCK I (SOUTH C.C.)	0.314
WEST 'D' ROAD	BLOCK C (NORTH C.C.)	0.388
WEST 'F' ROAD	BLOCK E	0.198
WILLIAMS DRIVE	BLOCK B	0.193
	MONTHLY MILEAGE =	29.552

EXHIBIT "B"
BID DOCUMENTS

H:_GOV CLIENTS\LOX 1574_070240 GM\AGMTS 2013\Road Grading Base Rock Proposed Final Version 061313.doc



LOXAHATCHEE GROVES WATER CONTROL DISTRICT

HAND DELIVERED

March 14, 2013

Ms. Dennise Rodriguez, Office Coordinator
Town of Loxahatchee Groves
Town Hall Office
14579 Southern Boulevard, Suite 2
Loxahatchee Groves, Florida 33470

**RE: BID NO.: 2013-001 - BID TITLE: GRAVEL ROAD GRADING, MOWING, AND
VEGETATIVE REMOVAL SERVICES**

Dear Ms. Rodriguez:

Enclosed are one (1) original, five (5) copies, and one (1) DVD of the Loxahatchee Groves Water Control District's Bid Submittal for the above-referenced. Specifically included are the following:

1. Bid Acknowledgement Cover Page
2. Bid Proposal Form
3. Municipal Proposal Form
4. Proposed Verification Form
5. Equipment Listing Form
6. Certificate of Authority
7. Insurance Requirements
8. Affirmative Action Policy for Equal Employment Opportunity
9. Non Collusive Affidavit
10. Complete Bid proposal with all required forms and attachments

Additionally provided, as allowed under 1.7. Instructions, page 4 of 27 of the Bid Packet, is an attachment labeled Attachment "A" that provides "notes, exceptions, and comments" for the District's Bid Submittal.

Thank you for this opportunity to provide this Bid Submittal for your consideration.

Sincerely,
LOXAHATCHEE GROVES WATER CONTROL DISTRICT

David A. DeMarois
Chairman, Board of Supervisors

Enclosures

cc: LGWCD Board of Supervisors (without enclosures)

BID ACKNOWLEDGEMENT COVER PAGE

SUBMIT BIDS TO: Town of Loxahatchee Groves Attn: Clerk's Office 14579 Southern Blvd., Suite 2 Loxahatchee Groves, FL 33470	REFER ALL INQUIRIES TO PRIMARY CONTACT: Office Coordinator 14579 Southern Blvd, Suite 2 Loxahatchee Groves, FL 33470 Ph:(561) 793-2418/Fax: (561) 793-2420	Town of Loxahatchee Groves <h2 style="margin:0;">INVITATION TO BID</h2>
BID TITLE: Gravel Road Grading, Mowing, and Vegetative Removal Services		BID NO: 2013-01

NAME OF FIRM, ENTITY, or ORGANIZATION: Loxahatchee Groves Water Control District				
NAME OF CONTACT PERSON: Stephen E. Yohe	VENDOR MAILING ADDRESS: P.O. Box 407	CITY: Loxahatchee	ZIP: 33470	STATE: FL
TITLE: District Administrator	VENDOR HEADQUARTERS ADDRESS (IF DIFFERENT):	CITY:	ZIP:	STATE:
PHONE NUMBER: (561) 793-0884		FEDERAL EMPLOYER IDENTIFICATION NUMBER (EIN): 591209151		
EMAIL ADDRESS: yohe@lqwcd.org		STATE OF FLORIDA BUSINESS LICENSE NUMBER (IF APPLICABLE):		
FAX NUMBER: (561) 795-6157				
ORGANIZATIONAL STRUCTURE (Please Check One): Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> PROPRIETORSHIP <input type="checkbox"/> Joint Venture <input type="checkbox"/> Other <input checked="" type="checkbox"/>				
If Corporation, please provide the following:				
(A) Country of Incorporation: _____		Date of Incorporation: _____		
Legal Government Special District (B) State or				

I certify that this bid is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a bid for the same materials, supplies or equipment, and is in all respects fair and without collusion or fraud. I agree to abide by all terms and conditions of this bid and certify that I am authorized to sign this bid for the bidder and that the bidder is in compliance with all requirements of the Invitation to Bid, including but not limited to, certification requirements.

<i>Alain LeMaire</i> AUTHORIZED SIGNATURE (MANUAL)	1 David A. DeMarois AUTHORIZED SIGNATURE (PRINT OR TYPED)	1 Chairman TITLE (PRINT OR TYPED)
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**ADDENDUM #3
 BID PROPOSAL FORM
 BID NO. 2013-01**

Gravel Road Grading, Mowing, and Vegetative Removal Services

TO: Town Manager
 Town of Loxahatchee Groves
 14579 Southern Boulevard, Suite 2
 Loxahatchee Groves, FL 33470

The undersigned, as bidder, does hereby declare that he/she has read the introduction, Procedures, General Requirements, Insurance Requirements, General Specification, Bid Form, and any other documentation for

Gravel Road Grading, Mowing, and Vegetative Removal Services – Annual

and further agrees to furnish all items listed below in accordance with the Unit Price(s) submitted. The above-specified documents are herein incorporated into the Bid Form and shall be defined as the contract documents.

Description	Units	Unit Cost
Gravel Road Grading	Mile	\$ 110.00
Rock Material		
Base rock /57Mix or equivalent	Ton	\$ 14.00
Base rock "1 Minus	Ton	\$ 12.00
Mowing	Hourly	\$ 54.00
Vegetative Removal	Cubic Yard	\$ 50.00
Vegetative Removal Dumping Fees	Cubic Yard	\$ 70.00
Road Repair	Hourly	\$ 50.00
Emergency Call Outs	Hourly	\$ 50.00

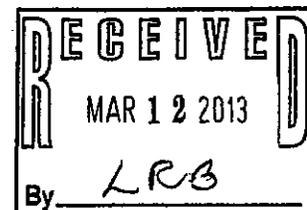
Notice Needed Prior to Commencement: 3 calendar days.

NOTE: Town of Loxahatchee Groves official bid openings are open to the public. Citizens and submitting bidders are encouraged to attend. However, if you are unable to attend but wish to obtain the unofficial bid results, you may do so by visiting our website at www.loxahatcheegrovesfl.gov under Bids. No information regarding the submittal will be divulged over the telephone.

Name of Bidder: Loxahatchee Groves Water Control District

Addendum #3
 Created 03/08/2013

Replacement Page of Bid Packet Page 15 of 27



Attachment "A"

The Loxahatchee Groves Water Control District (LGWCD) offers this Attachment "A" to provide the Town of Loxahatchee Groves (Town) with alternatives not specifically requested in the formal Bid Packet. Specifically as follows, the LGWCD proposes:

1. For Gravel Road Grading, the formal submittal of \$110.00 per mile includes grading with four (4) passes during wet weather conditions. The LGWCD offers an alternative of Gravel Road Grading of \$50.00 per mile with two (2) grading passes without Rock Material spreading during dry weather conditions or Gravel Road Grading of \$75.00 per mile for two (2) grading passes with Rock Material spreading during dry weather conditions.
2. The mowing hourly rate also applies to hedging services.
3. Though not requested, the LGWCD offers to provide Water Tank services for \$50.00 per mile or \$50.00 per hour.

MUNICIPAL PROPOSAL FORM

The undersigned agrees that he/she has read the proposal documents including the Procedure, General Requirements, and Insurance Requirements and General Specifications, and agrees to the terms and conditions set forth therein. Proposer specifically understands that the Town reserves the right to contract with as many vendors as it deems necessary for the safe, efficient, and timely gravel road grading, mowing, and vegetative removal services.

Proposer further agrees that this bid proposal is not made jointly or in conjunction, cooperation or collusion with any person, firm, corporation or other legal entity.

Proposer agrees no officer, agent or employee of the Town of Loxahatchee Groves is directly or indirectly interested in this proposal.

Submitted by Authorized Agent:

David A. DeMarois

Signature

David A. DeMarois, Chairman

Print Name & Title

Billing, Contract, Proposal Verification, Signature Page

BID NO. 2013-01

Gravel Road Grading, Mowing, and Vegetative Removal Services

***** Billing *****

1. The contractor shall provide invoices to the Town of Loxahatchee Groves monthly in a timely manner.
2. Those invoices must be received on the 5th of each month for the previous month's work performed.
3. An invoice must have a Purchase/Work Authorization number issued by the TOWN before it will be considered for payment
4. The invoice must provide sufficient detail reflecting roads graded, repaired, areas mowed, and vegetative removal performed. If Work Authorization issued for emergency call outs and repairs detail of work performed along with breakdown for additional charges if any must be included.

***** Contract *****

1. The contract starting date, the contract term and the contract renewal details for the service(s) will be negotiated with the awarded contractor(s).
2. The agreement may be terminated by either party given a 90 day written notice upon the other parties failure to timely perform its responsibilities under this agreement.
3. The contractor may provide additional bid proposals and processes. The Town of Loxahatchee Groves reserves the right to consider or dismiss any bid proposal or additional bid proposal.

NUMBER OF PROPOSALS SUBMITTED: The undersigned office of the company submitting the Bid Proposal has submitted responses to the following specific Road Maintenance work.

- Gravel Road Grading
- Mowing of Town Property
- Vegetative Removal Services
- Road Repair
- Emergency Call Out/Repairs

David A. DeMarois
Signature of Officer

David A. DeMarois, Chairman
Printed Name of Officer and Title

3/14/13
Date

Equipment Listing

BID NO. 2013-01

Gravel Road Grading, Mowing, and Vegetative Removal Services

A. What equipment will you use?

(Road Grading) John Deere 670C Grader / 12H CAT Grader 12 FT Grade's
(Base Rock Freight) Sterling Dump Truck
(Mowing/Hedging) John Deere 5325 Boom Mower Tractor /
And 25 FT reach New Holland TS100 Boom Mower Tractor
(Vegetative Removal) John Deere 710G Loader Backhoe
Sterling Dump Truck
Sterling Water Truck IF NEEDED 5,000 Gal

B. Age of Equipment

John Deere 670C Grader 11 years old
CAT 12H Grader 17 years old
Sterling Dump Truck 13 Years old
John Deere 5325 Boom mower Tractor 6 Years old
New Holland TS100 Boom mower Tractor 13 Years old
John Deere 710G Loader Backhoe 9 Years old
Sterling Water Truck 5000 GAL 4 Years old

C. Equipment Hours

John Deere 670C Grader 12,039 / Cat 12H Grader 16,139
John Deere 5325 mower 1,464 / New Holland TS100 mower 8,353
Sterling Dump Truck 67,045 Miles and 5,141 Hours
John Deere 710G Loader Backhoe 5,206

D. How many workers would be used to complete work on Town Roads? 5

Certification Form (Page 1 of 3)

CERTIFICATE OF AUTHORITY

(IF CORPORATION)

STATE OF)
) SS:
COUNTY OF)

N/A

I HEREBY CERTIFY that a meeting of the Board of Directors of the _____

a corporation existing under the laws of the State of _____, held on _____, 20____, the following resolution was duly passed and adopted:

"RESOLVED, that, as President of the Corporation, be and is hereby authorized to execute the Proposal dated, _____, 20____, to the Town of Loxahatchee Groves and this corporation and that their execution thereof, attested by the Secretary of the Corporation, and with the Corporate Seal affixed, shall be the official act and deed of this Corporation."

I further certify that said resolution is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the corporation this _____, day of _____, 20____.

Secretary: _____

(SEAL)

FAILURE TO COMPLETE, SIGN, AND RETURN THIS FORM MAY DISQUALIFY RESPONSE.

Certification Form (Page 2 of 3)

CERTIFICATE OF AUTHORITY

(IF PARTNERSHIP)

N/A

STATE OF)
) SS:
COUNTY OF)

I HEREBY CERTIFY that a meeting of the Partners of the _____

organized and existing under the laws of the State of _____, held on _____, 20 _____, the following resolution was duly passed and adopted:

"RESOLVED, that, _____, as _____ of the Partnership, be and is hereby authorized to execute the Proposal dated, _____ 20 _____, to the Town of Loxahatchee Groves and this partnership and that their execution thereof, attested by the _____ shall be the official act and deed of this Partnership."

I further certify that said resolution is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand this _____, day of _____, 20 _____.

Secretary: _____

(SEAL)

FAILURE TO COMPLETE, SIGN, AND RETURN THIS FORM MAY DISQUALIFY RESPONSE.

CERTIFICATE OF AUTHORITY

(IF JOINT VENTURE)

N/A

STATE OF)
) SS:
COUNTY OF)

I HEREBY CERTIFY that a meeting of the Principals of the _____

organized and existing under the laws of the State of _____, held on _____, 20____, the following resolution was duly passed and adopted:

"RESOLVED, that, _____ as _____ of the Joint Venture be and is hereby authorized to execute the Proposal dated, _____ 20____, to the Town of Loxahatchee Groves and this Joint Venture and that their execution thereof, attested by the _____ shall be the official act and deed of this Joint Venture."

I further certify that said resolution is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand this _____, day of _____, 20____.

Secretary: _____

(SEAL)

FAILURE TO COMPLETE, SIGN, AND RETURN THIS FORM MAY DISQUALIFY RESPONSE.

6.3. Indemnification and Insurance

INDEMNIFICATION

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

Successful Proposer further agrees to indemnify, defend and hold harmless the Indemnities from and against (i) any and all Liabilities imposed on account of the violation of any law, ordinance, order, rule, regulation, condition, or requirement, in any way related, directly or indirectly, to Successful Proposer's performance under the Contract, compliance with which is left by the Contract to the Proposer, and (ii) any and all claims, and/or suits for labor and materials furnished by the Successful Proposer or utilized in the performance of the Contract or otherwise.

Where not specifically prohibited by law, Successful Proposer further specifically agrees to indemnify, defend and hold harmless the Indemnities from all claims and suits for any liability, including, but not limited to, injury, death, or damage to any person or property whatsoever, caused by, arising from, incident to, connected with or growing out of the performance or non-performance of the Contract which is, or is alleged to be, caused in part (whether joint, concurrent or contributing) or in whole by any act, omission, default, or negligence (whether active or passive) of the Indemnities. The foregoing indemnity shall also include liability imposed by any doctrine of strict liability.

The Successful Proposer shall furnish to Town of Loxahatchee Groves, c/o Town Manager, 14579 Southern Boulevard, Suite 2, Loxahatchee Groves, Florida 33470, Certificate(s) of Insurance prior to contract execution which indicate that insurance coverage has been obtained which meets the requirements as outlined below:

- A. Workers' Compensation Insurance for all employees of the Proposer as required by Florida Statute 440.
- B. Public Liability Insurance on a comprehensive basis in an amount not less than ~~\$1,000,000.00~~ combined single limit per occurrence for bodily injury and property damage. Town must be shown as an additional insured with respect to this coverage.
- C. Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the work in an amount not less than statutory combined single limit per occurrence for bodily injury and property damage.

The insurance coverage required shall include those classifications, as listed in standard liability insurance manuals, which most nearly reflect the operations of the Successful Proposer.

Indemnification and Insurance (cont.)

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 "A" as to management, and no less than "Class X" as to financial strength, by the latest edition of Best's Key Rating Insurance Guide or acceptance of insurance company which holds a valid Florida Certificate of Authority issued by the State of Florida, Department of Insurance, and are members of the Florida Guarantee Fund.

Certificates will indicate no modification or change in insurance shall be made without thirty (30) days written advance notice to the certificate holder.

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

The Successful 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; including any and all option terms that may be granted to the Successful Proposer.

--If insurance certificates are scheduled to expire during the contractual period, the Successful Proposer shall be responsible for submitting new or renewed insurance certificates to the Town at a minimum of ten (10) 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 Town shall:

- A) Suspend the Contract until such time as the new or renewed certificates are received by the Town in the manner prescribed in the RFP.
- B) The Town may, at its sole discretion, terminate the Contract for cause and seek re-procurement damages from the Successful Proposer in conjunction with the violation of the terms and conditions of the Contract.

The undersigned Proposer acknowledges that (s)he has read the above information and agrees to comply with all the above Town requirements.

Proposer: Loxahatchee Groves Water Control
(Company name) District

Signature: David A. DeMarois

Date: 3/14/13

Print Name: David A. DeMarois

FAILURE TO COMPLETE, SIGN, AND RETURN THIS FORM MAY DISQUALIFY YOUR RESPONSE

Sample Affirmative Action Policy
For Equal Employment Opportunity

**AFFIRMATIVE ACTION/
EQUAL EMPLOYMENT OPPORTUNITY - POLICY STATEMENT**

It is the policy of (~~Company Name~~) ^{LGWED} to base its hiring and promotions on merit, qualifications and competency and that its personnel practices will not be influenced by an applicant's or employee's race, color, place of birth, religion, national origin, sex, age, marital status, veteran and handicapped status.

One of the management duties of all principals at (~~Company Name~~) ^{LGWED} is to ensure that the following personnel practices are being satisfied:

1. Take every necessary affirmative action to attract and retain qualified employees, regardless of race, color, place of birth, religion, national origin, sex, age, marital status, veteran and handicapped status.
2. Maintain equitable principles in the recruitment, hiring, training, compensation and promotion of employees.
3. Monitor and review personnel practices to guarantee that equal opportunities are being provided to all employees, regardless of race, color, place of birth, religion, national origin, sex, age, marital status, veteran and handicapped status.

(~~Company Name~~) ^{LGWED} is committed to take affirmative action and aggressively pursue activities that will serve to enable all employees and applicants opportunities available throughout this organization.

Clearly, the above actions cannot be accomplished as a secondary duty for any individual, despite the full support of management. And so, to monitor our efforts, (~~Company Name~~) ^{LGWED} has assigned ~~one of its principals~~ as the Affirmative Action Director to monitor all activities of this program. *District Administrator*

Employees may contact (Name of assigned principal) at (telephone number) regarding this Affirmative Action Policy.

DATE:

3/14/13

(SIGNATURE/TITLE):

Ronald R. Moore

FAILURE TO COMPLETE, SIGN, AND RETURN THIS FORM MAY DISQUALIFY YOUR RESPONSE.

Check List

Submitted with Proposal

- Bid Acknowledgement Cover Page
This form must be completed, signed and returned with Proposal YES X
- Bid Proposal Form
This form must be completed, signed and returned with Proposal YES X
- Municipal Proposal Form
This form must be signed and returned with Proposal YES X
- Proposal Verification Form
This form must be completed, signed and returned with Proposal YES X
- Equipment Listing Form
This form must be completed and returned with Proposal YES X
- Certificate of Authority
This form must be completed, signed, and returned with Proposal YES X
- Insurance Requirements
Acknowledgement of receipt of information on the insurance for this Request for Bid must be signed and returned with Proposal YES X
- Affirmative Action Policy for Equal Employment Opportunity
Submit Sample YES X
- Non Collusive Affidavit
This form must be completed, signed and returned with Proposal YES X
- Business License
All responses shall be accompanied by a copy of your current License(s), if applicable YES N/A
- Complete Bid Proposal with all required forms and attachments. YES X

**AGREEMENT FOR THE REPAIR OF TOWN ROADS WITHIN THE
TOWN OF LOXAHATCHEE GROVES**

This **AGREEMENT** (“Agreement”) is made and entered into this ____ day of _____, 2013 (the “Effective Date”), by and between:

TOWN OF LOXAHATCHEE GROVES, a municipal corporation existing under the laws of the State of Florida, hereafter referred to as “TOWN,”

and

LOXAHATCHEE GROVES WATER CONTROL DISTRICT, an independent special district existing under the laws of the State of Florida, hereafter referred to as “DISTRICT,” (with the TOWN and DISTRICT each referred to as a “Party” and collectively as the “Parties”).

WITNESSETH:

WHEREAS, the TOWN is a municipal corporation of the State of Florida, the powers of which are defined in the TOWN’s Charter and State law; and

WHEREAS, there are roads within the geographical boundaries of the TOWN which are maintained by the Loxahatchee Groves Water District, and other roads under the maintenance and control of the TOWN, which have been designated by the TOWN as “Town Roads,” and are the responsibility of the TOWN; and

WHEREAS, the TOWN is in need of services, equipment and materials for road repairs like pothole repair, and patch work on Town Roads; and

WHEREAS, the TOWN undertook a competitive selection process, requesting responses to an Invitation to Bid for Bid No. 2013-01 (the “Bid”); and

WHEREAS, the DISTRICT’s response to the Bid (the “Response”) was the bid selected by the TOWN Council as the lowest, most responsive bid for TOWN road repair services; and

WHEREAS, the DISTRICT has the experience, expertise, equipment, and materials for the repair of Town Roads, and is capable of providing the necessary materials and manpower to address repair issues of Town Roads, subject to the agreement of the parties on criteria for such road repair services, and the TOWN’s agreement to pay for such services and supplies; and,

WHEREAS, the TOWN Council and the DISTRICT Board of Supervisors have determined that this Agreement is in the best interest of the health, safety, and welfare of the residents within the TOWN.

NOW, THEREFORE, IN CONSIDERATION of the mutual terms, conditions, promises, covenants and payments hereafter set forth, DISTRICT and TOWN agree as follows:

ARTICLE I - RECITALS

- 1.1 The foregoing recitations are true and correct and are hereby incorporated herein by reference. All exhibits to this Agreement are hereby deemed a part hereof.

ARTICLE 2 – ROAD REPAIR FOR TOWN ROADS

- 2.1 Attached hereto as **Exhibit “A”** and incorporated herein is Addendum #2 to the Town of Loxahatchee Groves Invitation to Bid No. 2013-01, which is titled “Town Roads List.” This list may be amended by the TOWN without amending this Agreement so long as such amendment is in writing and approved by both Parties.
- 2.2 DISTRICT will provide road repair services to TOWN as set forth herein, as may be confirmed in advance in writing by the TOWN Manager, or his/her Designee, and will include a work authorization number, scope of work to be completed, and time of completion. Specifically, the DISTRICT shall furnish all of the materials and labor necessary to perform all of the work described in the specifications to the Bid and Response, as referenced above.
- 2.3 The DISTRICT shall repair Town Roads on an as-needed basis at the discretion of the TOWN and direction of the TOWN Manager or his/her designee. Such repairs include, but are not limited to, pothole repair and patch work on existing OGEM-surfaced TOWN Roads.
- 2.4 Road repair services shall be performed under a separate written work authorization that will allow inclusion of needed materials to complete the necessary repair and reimbursement of needed materials to complete the necessary repair. The DISTRICT shall repair all Town Road segments identified by TOWN at the discretion of the TOWN, as is confirmed in advance in writing by the TOWN Manager. Notwithstanding the foregoing, the TOWN shall have no obligation to engage the services of DISTRICT for a specified number of times.
- 2.5 DISTRICT hereby represents to TOWN, with full knowledge that TOWN is relying upon these representations in DISTRICT’s Bid when entering into this Agreement with DISTRICT, that DISTRICT has the professional expertise, experience, and manpower to perform the services to be provided by DISTRICT pursuant to the terms of this Agreement. DISTRICT ensures that all equipment used is properly registered. The TOWN reserves the right to verify this information. DISTRICT further represents that it shall comply with all federal, state, and local laws, rules, regulations, and ordinances that may be applicable to the operation of the equipment provided for gravel road grading services. All equipment must be appropriately equipped with a revolving or flashing amber light so drivers can locate equipment from a distance.
- 2.6 DISTRICT assumes professional and technical responsibility for performance of its

services to be provided hereunder in accordance with recognized professional standards of good construction and engineering practice.

- 2.7 DISTRICT agrees that no subcontracting is permitted without the advance, written approval of the TOWN Manager.

ARTICLE 3 – PAYMENT

- 3.1 As set forth in its Bid, DISTRICT shall provide the following services at the following price that includes cost for use of equipment, labor costs, fuel, equipment maintenance, equipment delivery charges, fuel surcharges, and any other charges, which shall remain valid until May 1, 2014, as provided in Bid Document §2.1:

(a) Road Repair	Hourly	\$50.00
-----------------	--------	---------

Upon the expiration of this period and annually thereafter, DISTRICT may request adjustment of these prices to reflect increases in the cost of labor and materials, which adjusted prices shall be approved by TOWN in writing and upon such approval remain in effect for the year immediately following.

- 3.2 Upon the commencement of this Agreement, DISTRICT will provide the TOWN invoices on a monthly basis in a timely manner for work actually completed by DISTRICT for the previous month.
- 3.3 Invoices submitted by DISTRICT to TOWN must be submitted on the fifth (5th) day of each month for the previous month's work performed.
- 3.4 All invoices must include a Purchase/Work Authorization number issued by the TOWN to be considered for payment.
- 3.5 Each invoice must provide sufficient detail reflecting specific road repairs performed, and include copies of invoices reflecting DISTRICT's expenses, including additional charges for supplies used for such repairs incurred by DISTRICT.
- 3.6 DISTRICT will submit separate invoices for repairs performed on each specific road as provided in section 3.5 of this Agreement. Should the TOWN determine that the documentation for a particular road repair is incomplete, it shall request additional information from the DISTRICT within ten (10) working days of receipt of the original invoice.
- 3.7 The TOWN shall pay the DISTRICT within thirty (30) days of receipt of the final written invoice and documentation from the DISTRICT.
- 3.8 The TOWN's obligation is limited to its payment obligation and shall have no obligation to any other person or entity.

ARTICLE 4 - TERM OF AGREEMENT

- 4.1 This Agreement shall be deemed to have commenced on the Effective Date provided below, and shall continue for an Initial Term of two (2) years, with an option for the TOWN at its sole discretion to exercise two (2) additional, independent Renewal Terms each of a two (2) year period for a total term not to exceed six (6) years, or until terminated as provided in Sections 4.2 through 4.7, below. The TOWN shall exercise each of its renewal options by providing DISTRICT with not less than thirty (30) days written notice prior to the end of the then-current term. The notice period may be waived by the Parties in writing.
- 4.2 Notwithstanding Section 4.2, this Agreement may be terminated for cause by either Party upon ninety (90) days written notice of the other Party's failure to timely perform its responsibilities under this Agreement. Such written notice shall be given by the terminating party to the other party setting forth the breach. If the breaching party corrects the breach within thirty (30) days after written notice of same, to the satisfaction of the terminating party, the Agreement shall remain in full force and effect. If such breach is not corrected within thirty (30) days of receipt of written notice of breach, the terminating party may terminate the Agreement.
- 4.3 Termination of this Agreement for cause shall include, but not be limited to: failure of the Parties to suitably perform the services required under this Agreement, and failure of the Parties to continuously perform the services required by the terms and conditions of this Agreement in a manner calculated to meet or accomplish the objectives set forth herein, notwithstanding whether any such breach was previously waived or cured.
- 4.4 The Agreement may be terminated for convenience by the TOWN, as evidenced by the adoption of a resolution by the TOWN. In that event, the TOWN'S sole obligation to DISTRICT shall be payment for services for work previously authorized and performed. Such payment shall be determined on the basis of the hours or percentage of work performed by DISTRICT up to the time of termination. Upon such termination, the TOWN may, without penalty or other obligation to DISTRICT, elect to employ other persons to perform the same or similar services.
- 4.5 Notice of termination shall be provided in accordance with Article 6, "NOTICES," herein except that notice of termination by TOWN Manager which TOWN Manager deems necessary to protect the public health, safety or welfare may be verbal notice which shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Agreement. In the event this Agreement is terminated for convenience by the TOWN Council, DISTRICT shall be paid for any services performed to the date the Agreement is terminated; however, upon being notified of TOWN's election to terminate, DISTRICT shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. DISTRICT acknowledges and agrees that Ten Dollars (\$10.00) of the compensation to be paid by TOWN, the adequacy of which is hereby acknowledged by DISTRICT, is given as specific consideration to DISTRICT for TOWN's right to terminate this Agreement for convenience.

- 4.6 In the event this Agreement is terminated, any compensation payable by TOWN shall be withheld until all documents reasonably required are provided to TOWN. In no event shall the TOWN be liable to DISTRICT for any additional compensation, other than that provided herein, or for any consequential or incidental damages.

ARTICLE 5 - INDEMNIFICATION; INSURANCE

- 5.1 Independent Contractor: DISTRICT is an independent contractor and not an employee, agent, or servant of TOWN or its TOWN Council for all purposes, including but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State Workers Compensation Act, and the State of Florida's unemployment insurance law. DISTRICT further acknowledges that the TOWN's duty under this Agreement is limited to contributing the identified funds to DISTRICT and that DISTRICT will use the funds to repair TOWN roads in the manner provided herein. DISTRICT agrees that it is a separate and independent enterprise from the TOWN, that it has full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This Agreement shall not be construed as creating any joint employment relationship between DISTRICT and the TOWN and the TOWN will not be liable for any obligation incurred by DISTRICT, including but not limited to unpaid minimum wages and/or overtime premiums. In the event a claim or lawsuit is brought against TOWN, its officers, employees, servants or agents, arising from or relating to the DISTRICT improvements or any matter that is the responsibility of DISTRICT under this Agreement, DISTRICT will indemnify and hold harmless the TOWN in the manner and to the extent set forth in Section 5.2, below.
- 5.2 Hold Harmless and Indemnification: DISTRICT hereto agrees, to the extent permitted by law, to:
- (A) indemnify, save and hold harmless the TOWN, its officers, employees, and agents (collectively the "Indemnitees"), and to defend said Indemnitees from and against any such loss, cost, penalties, fines, damages, claims, expenses (including attorneys' fees) or liabilities, causes of action, and judgments of any type whatsoever arising out of, resulting from, or in connection with (i) the performance or non-performance of the services contemplated by the Agreement which is or is alleged to be directly or indirectly caused, in whole or in part, by any act, omission, default, or negligence (whether active or passive) of DISTRICT, regardless of whether it is, or is alleged to be, caused in whole or in part (whether joint, concurrent, or contributing) by any act, omission, default or negligence (whether active or passive) of the Indemnitees, or any of them or (ii) the failure of DISTRICT to comply with any of the provisions of the Agreement, or (iii) the failure of DISTRICT to conform to statutes, ordinances, or other regulations or requirements of any governmental authority, federal or state, in connection with the performance of the Agreement. DISTRICT expressly agrees to indemnify and hold harmless the Indemnitees, or any of them, from and against all liabilities which may be asserted by an employee or former employee of DISTRICT, or any approved subcontractors, as provided above, for which

DISTRICT's liability to such employee or former employee would otherwise be limited to payments under state Workers' Compensation or similar laws.

- (B) DISTRICT further agrees to indemnify, defend, and hold harmless the Indemnitees from and against (i) any and all Liabilities imposed on account of any violation of law, ordinance, order, rule, regulation, condition, or requirements, in any related, directly or indirectly, to DISTRICT's performance under the Agreement, compliance with which is left by the Agreement to DISTRICT, and (ii) any and all claims, and/or suits for labor and materials furnished by DISTRICT or utilized in the performance of the Agreement or otherwise.
- (C) Where not specifically prohibited by law, DISTRICT further specifically agrees to indemnify, defend, and hold harmless the Indemnitees from all claims and suits for any liability, including, but not limited to, injury, death, or damage to any person or property whatsoever, caused by, arising from, incident to connected with, or growing out of the performance or non-performance of the Agreement which is, or is alleged to be, caused in part (whether joint, concurrent, or contributing) or in whole by any act, omission, default, or negligence (whether active or passive) of the Indemnitees. The foregoing indemnity shall also include liability imposed by any doctrine of strict liability.
- (D) Nothing contained herein shall be construed as a waiver by either the TOWN or by the DISTRICT of the liability limits established in Section 768.28, Florida Statutes.

5.3 Insurance. Certificates of Insurance reflecting evidence of the required insurance shall be filed with the TOWN Manager prior to the commencement of this Agreement. DISTRICT shall use its best efforts to obtain on these Certificates a provision that coverages afforded under these policies will not be cancelled until at least thirty days (30) prior written notice has been given to the TOWN, provided that (a) DISTRICT's efforts shall be documented and provided to TOWN and (b) DISTRICT shall immediately notify TOWN of any cancellation of its insurance policy by its insurer, with failure to do so a material breach of the Agreement. Policies shall be issued by companies authorized to do business under the laws of the State of Florida. Financial Ratings must be not less than "A-VI" in the latest edition of "Best Key Rating Guide," published by A.M. Best Guide.

Insurance shall be in force until the obligations required to be fulfilled under the terms of the Agreement are satisfied. In the event the insurance certificate provided indicates that the insurance shall terminate and lapse during the period of this Agreement, then in that event, the DISTRICT shall furnish, at least thirty (30) days prior to the expiration of the date of such insurance, a renewed certificate of insurance as proof that equal and like coverage for the balance of the period of the Agreement and extension thereunder is in effect. DISTRICT shall not commence nor continue to provide any services pursuant to this Agreement unless all required insurance remains in full force and effect. DISTRICT shall be liable to TOWN for any lapses in service resulting from a gap in insurance coverage.

5.3.1 REQUIRED INSURANCE

Comprehensive General Liability insurance to cover liability bodily injury, accidental death, and property damages for bodily injury, including accidental death, and for property damage, which may arise from operations under this contract whether such operation by himself or by anyone directly or indirectly employed under DISTRICT. Coverage must be written on an occurrence basis, with the following limits of liability:

- A. Comprehensive General Liability
 - 1. Each Occurrence \$1,000,000
 - 2. General Aggregate 1,000,000

- B. Automobile and Truck Liability
 - 1. Each Occurrence \$1,000,000
 - 2. General Aggregate 1,000,000

- C. Worker's Compensation Insurance

Shall be maintained during the life of this contract to comply with statutory limits for all employees. The following limits must be maintained:

- 1. Worker's Compensation Statutory
- 2. Employer's Liability \$300,000 each accident
\$300,000 Disease-policy limit
\$300,000 Disease-each employee

or such other amount that may be required by Florida law, whichever is greater.

Note: Comprehensive General Liability coverage and Automobile and Truck Liability coverage may be met with a combination of coverage including excess and umbrella liability coverage. Comprehensive General Liability Insurance covering bodily injuries and property damage shall also include coverage for: (a) injury to or destruction of wires, pipes, conduits, and similar property located below the surface of the ground, whether public or private; (b) collapse of or structural injury to any building or structure except those on which work under this Agreement is being performed; and (c) contractual liabilities related to bodily injury and property damage, i.e. X - explosion, C - Collapse, U - underground.

Automobile and Truck Liability shall cover bodily injury and property damage for the operation of all motor vehicles and equipment, whether or not owned by DISTRICT, being operated in connection with the work performed under this Agreement. Product and Completed Operations coverage shall be included in the amounts specified above for Comprehensive General Liability.

5.3.2 DISTRICT shall name the TOWN as an additional insured on each of the policies required herein and shall hold the TOWN harmless on account of claims or damages to persons, property or premises arising out of the services provided hereunder.

5.3.3 Evidence of Insurance. As evidence of insurance coverage, the TOWN may, in lieu of actual policies, accept official written statements from the insurance company certifying that all the insurance policies specified below are in force for the specified period. DISTRICT shall submit to TOWN evidence of insurance at the time of execution of this Agreement. Written notice shall be given to the TOWN at least thirty (30) days prior to nonrenewal of such insurance coverage.

ARTICLE 6 - NOTICES

- 6.1 Any and all notices given or required under this Agreement shall be in writing and may be delivered in person or by United States mail, postage prepaid, first class and certified, return receipt requested, or by hand-delivery with a request for a written receipt of acknowledgement of delivery, addressed to the Party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided for in this article. For the present, the Parties designated the following:

AS TO TOWN:

Mayor David Browning
Town of Loxahatchee Groves
14579 Southern Blvd., Suite 2
Loxahatchee Groves, FL 33470

With copies to:

Mark Kutney, Town Manager
Town of Loxahatchee Groves
14579 Southern Blvd., Suite 2
Loxahatchee Groves, FL 33470

And

Michael D. Cirullo, Jr., Town Attorney
Goren, Cherof, Doody & Ezrol, P.A.
3099 East Commercial Boulevard
Suite 200
Fort Lauderdale, FL 33308

AS TO DISTRICT:

Stephen E. Yohe, P.E., District Administrator
P. O. Box 407
Loxahatchee Groves, FL 33470

With copy to:

Mary M. Viator, Esq., District Legal Counsel
Caldwell Pacetti Edwards Schoech & Viator LLP
One Clearlake Centre
250 South Australian Avenue, Suite 600
West Palm Beach, Florida 33401

ARTICLE 7 - MISCELLANEOUS PROVISIONS

- 7.1 **ASSIGNMENT:** The Parties to the Agreement shall have NO right to assign, transfer, or otherwise encumber this Agreement, without the express consent of the other party.
- 7.2 **WAIVER:** The waiver by any Party to this Agreement of any failure on the part of another Party to perform in accordance with any of the terms or conditions of this Agreement shall not be construed as a waiver of any future or continuing similar or dissimilar failure.
- 7.3 **THIRD PARTY BENEFICIARIES:** Neither TOWN nor DISTRICT intends to directly or substantially benefit a third party by this Agreement. Therefore, the Parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based on this Agreement. The Parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.
- 7.4 **SEVERABILITY:** The invalidity of any provision of this Agreement shall in no way affect the validity of any other provision.
- 7.5 **ENTIRE AGREEMENT:** It is understood and agreed that this Agreement incorporates and includes all prior negotiations, agreements or understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.
- 7.6 **JOINT PREPARATION:** The Parties acknowledge that they have sought and received whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations here and that the preparation of this Agreement has been a joint effort. The language agreed to expresses their mutual intent and their resulting documents shall not, solely, as a matter of judicial construction, be construed more severely against one of the parties than the other.
- 7.7 **APPLICABLE LAW AND VENUE:** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State Courts of the 15th Judicial Circuit of Palm Beach County, Florida, and the venue site and shall be governed by the laws of the State of Florida. To encourage

prompt and equitable resolution of any litigation that may arise hereunder, each Party hereby waives any rights it may have to trial by jury of any such litigation.

- 7.8 **AMENDMENTS:** No modification, amendment, or alteration of the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by both Parties.
- 7.9 **MULTIPLE ORIGINALS:** This Agreement may be fully executed in multiple copies by all Parties, each of which, bearing original signatures, shall have the force and effect of an original document.
- 7.10 **LICENSES.** All drivers must be properly licensed operators, if applicable. DISTRICT is responsible for updating operator information at any time throughout the duration of this Agreement. Failure to do so may be grounds for breach and subsequent termination of this Agreement. DISTRICT shall be responsible for providing phone numbers where employees can be reached. The inability of the TOWN to make contact with DISTRICT or an employee thereof within a reasonable amount of time is cause for the TOWN to terminate this Agreement as described in Section 3 of this Agreement.
- 7.11 **AFFIRMATIVE ACTION/EQUAL OPPORTUNITY EMPLOYER.** Pursuant to the Bid and its Response, DISTRICT shall adhere to an affirmative action policy. In the performance of this Agreement, DISTRICT shall not discriminate against any firm, employee or applicant for employment or any other firm/individual in providing services because of sex, age, race, color, religion, ancestry or national origin.
- 7.12 **PROTECTION OF TOWN PROPERTY.** At all times during the performance of this Agreement, DISTRICT shall protect the property of the TOWN and adjacent property owners from all damage whatsoever on account of the work being carried on under this contract.
- 7.13 **CONFLICTS.** DISTRICT and TOWN hereby agree that the following Contract Documents are fully incorporated herein and made a part of this Agreement, as if written herein word for word: TOWN's Invitation to Bid No. 2013-01 (including Addenda 1 through 3 thereto) and DISTRICT's Response thereto (15 pages) (collectively, the "Bid Documents", attached as **Exhibit "B"**). In the event that there is any conflict between any of the Bid Documents and the terms of this Agreement, this Agreement shall prevail.
- 7.14 **LEGAL REPRESENTATION.** It is acknowledged that each Party to this Agreement had the opportunity to be represented by counsel in the preparation of this Agreement and, accordingly, the rule that a contract shall be interpreted strictly against the Party preparing same shall not apply due to the joint contribution of both Parties.
- 7.15 **OWNERSHIP OF DOCUMENTS.** Reports, surveys, plans, studies and other data provided in connection with this Agreement are and shall remain the property of TOWN whether or not the project for which they are made is completed. TOWN hereby agrees to use DISTRICT's work product for its intended purposes.

- 7.16 **NO CONTINGENT FEES.** DISTRICT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the DISTRICT, 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 DISTRICT, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, the TOWN shall have the right to terminate the Agreement without liability at its discretion, to deduct from the contract price, or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.
- 7.17 **BINDING AUTHORITY.** Each person signing this Agreement on behalf of either Party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.
- 7.18 **EXHIBITS.** Each Exhibit referred to in this Agreement forms an essential part of this Agreement. The exhibits if not physically attached should be treated as part of this Agreement and are incorporated herein by reference.
- 7.19 **HEADINGS.** Headings herein are for convenience of reference only and shall not be considered on any interpretation of this Agreement.
- 7.20 **ATTORNEYS' FEES.** In the event that either Party brings suit for enforcement of this Agreement, the prevailing party shall be entitled to attorneys' fees and court costs in addition to any other remedy afforded by law.
- 7.21 **AUDIT AND INSPECTION RIGHTS AND RETENTION OF RECORDS.** TOWN shall have the right to audit the books, records and accounts of DISTRICT that are related to this Agreement. DISTRICT shall keep such book, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement. DISTRICT shall preserve and maintain all financial records, supporting documents, statistical records, and any other documents pertinent to his Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement, unless DISTRICT is notified in writing by the TOWN of the need to extend the retention period. Such retention of such records and documents shall be at DISTRICT's expense. DISTRICT shall comply with inspection and reproduction obligations of Florida law relating to public records in its possession. If any audit has been initiated an audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by the TOWN to be applicable to DISTRICT's records, DISTRICT shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by DISTRICT. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for TOWN'S disallowance and recovery of any payment upon such entry.

In addition, DISTRICT shall respond to the reasonable inquiries of any successor in interest to TOWN and allow any such successors in interest to TOWN to receive working papers relating to matters of continuing significance. In addition, DISTRICT shall provide a complete copy of all working papers as required by law or as needed to TOWN, prior to final payment, in accordance with this Agreement and the Schedule for DISTRICT's services.

7.22 **PALM BEACH COUNTY OFFICE OF THE INSPECTOR GENERAL.** DISTRICT is aware that the Inspector General of Palm Beach County has the authority to investigate and audit matters relating to the negotiation and performance of this Agreement, and in furtherance thereof may demand and obtain records and testimony from DISTRICT and, any, if applicable, subcontractors and lower tier subcontractors. DISTRICT understands and agrees that in addition to all other remedies and consequences provided by law, failure of DISTRICT or, if applicable, subcontractors and lower tier subcontractors to fully cooperate with the Inspector General when requested will be deemed to be a breach of this Agreement. DISTRICT shall be responsible for all costs incurred by it or the TOWN as a result of any investigation by the Inspector General which results in an adverse determination caused by DISTRICT, and if applicable, subcontractors and lower tier subcontractors.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement between TOWN and DISTRICT on the respective dates under each signature: TOWN, signing by and through its _____ Mayor, authorized to execute same by Council action on the ____ day of _____, 2013 and the DISTRICT, signing by and through its Chairman, authorized to execute same by Board of Supervisor's action on the ____ day of _____, 2013.

Executed by **TOWN** this _____ day of _____, 2013

TOWN OF LOXAHATCHEE GROVES,
a Florida Municipal Corporation

ATTEST:

By _____
David Browning
Mayor

Town Clerk

[TOWN SEAL]

APPROVED AS TO FORM:

By _____
Town Attorney

Executed by **DISTRICT** this _____ day of _____, 2013

LOXAHATCHEE GROVES WATER CONTROL DISTRICT, an Independent Special District of the State of Florida

ATTEST:

By _____
David DeMarois
Chairman

Secretary

[DISTRICT SEAL]

EXHIBIT "A"
LIST OF TOWN ROADS

EXHIBIT "A"

Town Roads List

TOWN ROAD NAME	PLAT DESIGNATION	MILEAGE
10TH PLACE NORTH	BLOCK B	0.081
11TH LANE NORTH	BLOCK F	0.351
11TH TERRACE	BLOCK C	0.244
12TH PLACE NORTH	BLOCK E	0.197
131ST TERRACE NORTH	BLOCK F	0.147
13TH PLACE NORTH	BLOCK F (FOLSOM)	0.282
13TH PLACE NORTH	BLOCK F (F ROAD)	0.166
140TH STREET NORTH	CUT-THRU / SUNSPORT	0.100
145TH AVENUE NORTH	T: 43S / R: 41E	0.457
147TH AVENUE NORTH	BLOCK C	0.126
147TH DRIVE NORTH	BLOCK C	0.115
148TH TERRACE NORTH	T: 43S / R: 41E	0.339
149TH AVENUE NORTH	BLOCK I	0.126
14TH PLACE NORTH	BLOCK E	0.257
152ND WAY NORTH	BLOCK B	0.068
160TH STREET NORTH	T: 43S / R: 41E	0.394
161ST TERRACE NORTH	T: 43S / R: 40E	2.014
17TH ROAD NORTH	BLOCK B	0.076
21ST ROAD NORTH	BLOCK C	0.126
22ND COURT NORTH	BLOCK F	0.292
22ND ROAD NORTH	BLOCK C (C ROAD)	0.248
22ND ROAD NORTH	BLOCK E (E ROAD)	0.156
22ND ROAD NORTH	BLOCK F (F ROAD)	0.210
23RD COURT NORTH	BLOCK E	0.189
24TH CIRCLE NORTH	BLOCK C	0.177
24TH COURT NORTH	BLOCK C (C ROAD)	0.282
24TH COURT NORTH	BLOCK D (E ROAD)	0.194
24TH COURT NORTH	BLOCK E (WEST F)	0.250
24TH COURT NORTH	BLOCK F (EAST F)	0.406
25TH PLACE NORTH	BLOCK B (C ROAD)	0.136
27TH LANE NORTH	BLOCK C	0.135
30TH COURT NORTH	BLOCK B (C ROAD)	0.141
30TH COURT NORTH	BLOCK D (D ROAD)	0.132
34TH PLACE NORTH	BLOCK C	0.135
35TH PLACE NORTH	BLOCK D	0.127

EXHIBIT "A"

Town Roads List

TOWN ROAD NAME	PLAT DESIGNATION	MILEAGE
41ST ROAD NORTH	T: 43S / R: 41E	0.068
42ND ROAD NORTH	T: 43S / R: 41E	0.153
42ND STREET NORTH	T: 43S / R: 41E (OFF 160TH)	0.234
43RD ROAD NORTH	T: 43S / R: 41E (GLOBAL)	0.194
43RD ROAD NORTH	T: 43S / R: 41E (140TH)	0.394
44TH STREET NORTH	T: 43S / R: 41E (OFF 160TH)	0.235
8TH PLACE NORTH	BLOCK C	0.319
APRIL DRIVE	BLOCK C	0.164
BIDDIX ROAD	BLOCK D	0.191
BRYAN ROAD	BLOCK F	0.749
BUNNY LANE	BLOCK C	0.244
CANAL MAINTENANCE RD	T: 43S / R: 41E (40TH ST N)	1.462
(WILSON) CASEY ROAD	BLOCK F	0.748
CITRUS DRIVE	BLOCK K	0.243
COMPTON ROAD	BLOCK F	0.748
EAST CITRUS DRIVE	BLOCK K	0.501
EDITH ROAD	BLOCK E	0.197
FARLEY ROAD	BLOCK E	0.197
FERRIS LANE	BLOCK A	0.194
FLAMINGO DRIVE	BLOCK C	0.186
FOREST LANE	BLOCK B	0.188
FORTNER DRIVE	BLOCK B (B ROAD)	0.126
FORTNER DRIVE	BLOCK B (C ROAD)	0.135
FOX TRAIL	BLOCK E	0.204
GLOBAL TRAIL	T: 43S / R: 41E	0.519
GREAT DANE LANE	BLOCK F	0.130
GRUBER LANE	BLOCK C	0.489
HYDE PARK ROAD	BLOCK E	0.518
IAN TRAIL	T: 43S / R: 41E	0.384
JEWEL LANE	BLOCK B	0.103
KAZEE ROAD	BLOCK G	0.432
KERRY LANE	BLOCK E	0.260
LOS ANGELES DRIVE	BLOCK B	0.244
LOXAHATCHEE AVENUE	BLOCK K	0.180
MARCELLA BOULEVARD	BLOCK F	0.749

EXHIBIT "A"

Town Roads List

TOWN ROAD NAME	PLAT DESIGNATION	MILEAGE
MARCH CIRCLE	BLOCK F	0.174
MORROW COURT	BLOCK B	0.180
ORANGE AVENUE	BLOCK K	0.075
PARADISE TRAIL	BLOCK C	0.186
PERKINS DRIVE	BLOCK F	0.336
PINEAPPLE DRIVE	BLOCK I	0.434
QUAIL ROAD	BLOCK F	0.135
RACKLEY ROAD	BLOCK F	0.146
RAYMOND DRIVE	BLOCK F	0.337
ROBERTS WAY	BLOCK B	0.229
SALLY'S ALLEY	BLOCK B	0.244
SAN DIEGO DRIVE	BLOCK B	0.244
SCOTTS PLACE	BLOCK B	0.213
SHAMROCK DRIVE	BLOCK B	0.244
SIXTH COURT NORTH	BLOCK I (WEST D)	0.177
SIXTH COURT NORTH	BLOCK K (EAST D)	1.733
SNAIL TRAIL	BLOCK C	0.244
TANGERINE DRIVE	BLOCK K	0.510
TEMPLE DRIVE	BLOCK I	0.100
TIMBERLANE PLACE	BLOCK B	0.219
TRIPP ROAD	BLOCK D	0.242
VALENCIA DRIVE	BLOCK K	0.136
WEST "B" ROAD	BLOCK A	0.340
WEST "C" ROAD	BLOCK B	0.623
WEST "D" ROAD	BLOCK I (SOUTH C.C.)	0.314
WEST 'D' ROAD	BLOCK C (NORTH C.C.)	0.388
WEST 'F' ROAD	BLOCK E	0.198
WILLIAMS DRIVE	BLOCK B	0.193
	MONTHLY MILEAGE =	29.552

EXHIBIT "B
THE BID DOCUMENTS

H:_GOV CLIENTS\LOX 1574_070240 GM\AGMTS 2013\Road Repair - Proposed Final Version 061313.doc



LOXAHATCHEE GROVES WATER CONTROL DISTRICT

HAND DELIVERED

March 14, 2013

Ms. Dennise Rodriguez, Office Coordinator
Town of Loxahatchee Groves
Town Hall Office
14579 Southern Boulevard, Suite 2
Loxahatchee Groves, Florida 33470

**RE: BID NO.: 2013-001 - BID TITLE: GRAVEL ROAD GRADING, MOWING, AND
VEGETATIVE REMOVAL SERVICES**

Dear Ms. Rodriguez:

Enclosed are one (1) original, five (5) copies, and one (1) DVD of the Loxahatchee Groves Water Control District's Bid Submittal for the above-referenced. Specifically included are the following:

1. Bid Acknowledgement Cover Page
2. Bid Proposal Form
3. Municipal Proposal Form
4. Proposed Verification Form
5. Equipment Listing Form
6. Certificate of Authority
7. Insurance Requirements
8. Affirmative Action Policy for Equal Employment Opportunity
9. Non Collusive Affidavit
10. Complete Bid proposal with all required forms and attachments

Additionally provided, as allowed under 1.7. Instructions, page 4 of 27 of the Bid Packet, is an attachment labeled Attachment "A" that provides "notes, exceptions, and comments" for the District's Bid Submittal.

Thank you for this opportunity to provide this Bid Submittal for your consideration.

Sincerely,
LOXAHATCHEE GROVES WATER CONTROL DISTRICT

David A. DeMarois
Chairman, Board of Supervisors

Enclosures

cc: LGWCD Board of Supervisors (without enclosures)

BID ACKNOWLEDGEMENT COVER PAGE

SUBMIT BIDS TO: Town of Loxahatchee Groves Attn: Clerk's Office 14579 Southern Blvd., Suite 2 Loxahatchee Groves, FL 33470	REFER ALL INQUIRIES TO PRIMARY CONTACT: Office Coordinator 14579 Southern Blvd, Suite 2 Loxahatchee Groves, FL 33470 Ph: (561) 793-2418/Fax: (561) 793-2420	Town of Loxahatchee Groves <h1 style="margin: 0;">INVITATION TO BID</h1>
BID TITLE: Gravel Road Grading, Mowing, and Vegetative Removal Services		BID NO: 2013-01

NAME OF FIRM, ENTITY, or ORGANIZATION: Loxahatchee Groves Water Control District				
NAME OF CONTACT PERSON: Stephen E. Yohe	VENDOR MAILING ADDRESS: P.O. Box 407	CITY: Loxahatchee	ZIP: 33470	STATE: FL
TITLE: District Administrator	VENDOR HEADQUARTERS ADDRESS (IF DIFFERENT):	CITY:	ZIP:	STATE:
PHONE NUMBER: (561) 793-0884		FEDERAL EMPLOYER IDENTIFICATION NUMBER (EIN): 591209151		
EMAIL ADDRESS: yohe@lqwcd.org		STATE OF FLORIDA BUSINESS LICENSE NUMBER (IF APPLICABLE):		
FAX NUMBER: (561) 795-6157				
ORGANIZATIONAL STRUCTURE (Please Check One): Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> PROPRIETORSHIP <input type="checkbox"/> Joint Venture <input type="checkbox"/> Other <input checked="" type="checkbox"/>				
If Corporation, please provide the following:				
(A) Country of Incorporation: _____		Date of Incorporation: _____		
Legal Government Special District (B) State or				

I certify that this bid is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a bid for the same materials, supplies or equipment, and is in all respects fair and without collusion or fraud. I agree to abide by all terms and conditions of this bid and certify that I am authorized to sign this bid for the bidder and that the bidder is in compliance with all requirements of the Invitation to Bid, including but not limited to, certification requirements.

<i>Alain LeMaire</i> AUTHORIZED SIGNATURE (MANUAL)	1 David A. DeMarois AUTHORIZED SIGNATURE (PRINT OR TYPED)	1 Chairman TITLE (PRINT OR TYPED)
---	--	--------------------------------------

**ADDENDUM #3
 BID PROPOSAL FORM
 BID NO. 2013-01**

Gravel Road Grading, Mowing, and Vegetative Removal Services

TO: Town Manager
 Town of Loxahatchee Groves
 14579 Southern Boulevard, Suite 2
 Loxahatchee Groves, FL 33470

The undersigned, as bidder, does hereby declare that he/she has read the introduction, Procedures, General Requirements, Insurance Requirements, General Specification, Bid Form, and any other documentation for

Gravel Road Grading, Mowing, and Vegetative Removal Services – Annual

and further agrees to furnish all items listed below in accordance with the Unit Price(s) submitted. The above-specified documents are herein incorporated into the Bid Form and shall be defined as the contract documents.

Description	Units	Unit Cost
Gravel Road Grading	Mile	\$ 110.00
Rock Material		
Base rock /57Mix or equivalent	Ton	\$ 14.00
Base rock "1 Minus	Ton	\$ 12.00
Mowing	Hourly	\$ 54.00
Vegetative Removal	Cubic Yard	\$ 50.00
Vegetative Removal Dumping Fees	Cubic Yard	\$ 70.00
Road Repair	Hourly	\$ 50.00
Emergency Call Outs	Hourly	\$ 50.00

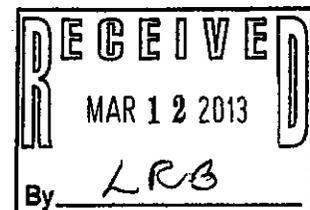
Notice Needed Prior to Commencement: 3 calendar days.

NOTE: Town of Loxahatchee Groves official bid openings are open to the public. Citizens and submitting bidders are encouraged to attend. However, if you are unable to attend but wish to obtain the unofficial bid results, you may do so by visiting our website at www.loxahatcheegrovesfl.gov under Bids. No information regarding the submittal will be divulged over the telephone.

Name of Bidder: Loxahatchee Groves Water Control District

Addendum #3
 Created 03/08/2013

Replacement Page of Bid Packet Page 15 of 27



Attachment "A"

The Loxahatchee Groves Water Control District (LGWCD) offers this Attachment "A" to provide the Town of Loxahatchee Groves (Town) with alternatives not specifically requested in the formal Bid Packet. Specifically as follows, the LGWCD proposes:

1. For Gravel Road Grading, the formal submittal of \$110.00 per mile includes grading with four (4) passes during wet weather conditions. The LGWCD offers an alternative of Gravel Road Grading of \$50.00 per mile with two (2) grading passes without Rock Material spreading during dry weather conditions or Gravel Road Grading of \$75.00 per mile for two (2) grading passes with Rock Material spreading during dry weather conditions.
2. The mowing hourly rate also applies to hedging services.
3. Though not requested, the LGWCD offers to provide Water Tank services for \$50.00 per mile or \$50.00 per hour.

MUNICIPAL PROPOSAL FORM

The undersigned agrees that he/she has read the proposal documents including the Procedure, General Requirements, and Insurance Requirements and General Specifications, and agrees to the terms and conditions set forth therein. Proposer specifically understands that the Town reserves the right to contract with as many vendors as it deems necessary for the safe, efficient, and timely gravel road grading, mowing, and vegetative removal services.

Proposer further agrees that this bid proposal is not made jointly or in conjunction, cooperation or collusion with any person, firm, corporation or other legal entity.

Proposer agrees no officer, agent or employee of the Town of Loxahatchee Groves is directly or indirectly interested in this proposal.

Submitted by Authorized Agent:

David A. DeMarois

Signature

David A. DeMarois, Chairman

Print Name & Title

Billing, Contract, Proposal Verification, Signature Page

BID NO. 2013-01

Gravel Road Grading, Mowing, and Vegetative Removal Services

***** Billing *****

1. The contractor shall provide invoices to the Town of Loxahatchee Groves monthly in a timely manner.
2. Those invoices must be received on the 5th of each month for the previous month's work performed.
3. An invoice must have a Purchase/Work Authorization number issued by the TOWN before it will be considered for payment
4. The invoice must provide sufficient detail reflecting roads graded, repaired, areas mowed, and vegetative removal performed. If Work Authorization issued for emergency call outs and repairs detail of work performed along with breakdown for additional charges if any must be included.

***** Contract *****

1. The contract starting date, the contract term and the contract renewal details for the service(s) will be negotiated with the awarded contractor(s).
2. The agreement may be terminated by either party given a 90 day written notice upon the other parties failure to timely perform its responsibilities under this agreement.
3. The contractor may provide additional bid proposals and processes. The Town of Loxahatchee Groves reserves the right to consider or dismiss any bid proposal or additional bid proposal.

NUMBER OF PROPOSALS SUBMITTED: The undersigned office of the company submitting the Bid Proposal has submitted responses to the following specific Road Maintenance work.

- Gravel Road Grading
- Mowing of Town Property
- Vegetative Removal Services
- Road Repair
- Emergency Call Out/Repairs

David A. DeMarois
Signature of Officer

David A. DeMarois, Chairman
Printed Name of Officer and Title

3/14/13
Date

Equipment Listing

BID NO. 2013-01

Gravel Road Grading, Mowing, and Vegetative Removal Services

A. What equipment will you use?

(Road Grading) John Deere 670C Grader / 12H CAT Grader 12 FT Grade's
(Base Rock Freight) Sterling Dump Truck
(Mowing/Hedging) John Deere 5325 Boom Mower Tractor /
And 25 FT reach New Holland TS100 Boom Mower Tractor
(Vegetative Removal) John Deere 710G Loader Backhoe
Sterling Dump Truck
Sterling Water Truck IF NEEDED 5,000 Gal

B. Age of Equipment

John Deere 670C Grader 11 years old
CAT 12H Grader 17 years old
Sterling Dump Truck 13 Years old
John Deere 5325 Boom mower Tractor 6 Years old
New Holland TS100 Boom mower Tractor 13 Years old
John Deere 710G Loader Backhoe 9 Years old
Sterling Water Truck 5000 GAL 4 Years old

C. Equipment Hours

John Deere 670C Grader 12,039 / Cat 12H Grader 16,139
John Deere 5325 mower 1,464 / New Holland TS100 mower 8,353
Sterling Dump Truck 67,045 Miles and 5,141 Hours
John Deere 710G Loader Backhoe 5,206

D. How many workers would be used to complete work on Town Roads? 5

Certification Form (Page 1 of 3)

CERTIFICATE OF AUTHORITY

(IF CORPORATION)

STATE OF)
) SS:
COUNTY OF)

N/A

I HEREBY CERTIFY that a meeting of the Board of Directors of the _____

a corporation existing under the laws of the State of _____, held on _____, 20____, the following resolution was duly passed and adopted:

"RESOLVED, that, as President of the Corporation, be and is hereby authorized to execute the Proposal dated, _____, 20____, to the Town of Loxahatchee Groves and this corporation and that their execution thereof, attested by the Secretary of the Corporation, and with the Corporate Seal affixed, shall be the official act and deed of this Corporation."

I further certify that said resolution is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the corporation this _____, day of _____, 20____.

Secretary: _____

(SEAL)

FAILURE TO COMPLETE, SIGN, AND RETURN THIS FORM MAY DISQUALIFY RESPONSE.

Certification Form (Page 2 of 3)

CERTIFICATE OF AUTHORITY

(IF PARTNERSHIP)

N/A

STATE OF)
) SS:
COUNTY OF)

I HEREBY CERTIFY that a meeting of the Partners of the _____

organized and existing under the laws of the State of _____, held on _____, 20 _____, the following resolution was duly passed and adopted:

"RESOLVED, that, _____, as _____ of the Partnership, be and is hereby authorized to execute the Proposal dated, _____ 20 _____, to the Town of Loxahatchee Groves and this partnership and that their execution thereof, attested by the _____ shall be the official act and deed of this Partnership."

I further certify that said resolution is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand this _____, day of _____, 20 _____.

Secretary: _____

(SEAL)

FAILURE TO COMPLETE, SIGN, AND RETURN THIS FORM MAY DISQUALIFY RESPONSE.

CERTIFICATE OF AUTHORITY

(IF JOINT VENTURE)

N/A

STATE OF)
) SS:
COUNTY OF)

I HEREBY CERTIFY that a meeting of the Principals of the _____

organized and existing under the laws of the State of _____, held on _____, 20_____, the following resolution was duly passed and adopted:

"RESOLVED, that, _____ as _____ of the Joint Venture be and is hereby authorized to execute the Proposal dated, _____ 20_____, to the Town of Loxahatchee Groves and this Joint Venture and that their execution thereof, attested by the _____ shall be the official act and deed of this Joint Venture."

I further certify that said resolution is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand this _____, day of _____, 20_____.

Secretary: _____

(SEAL)

FAILURE TO COMPLETE, SIGN, AND RETURN THIS FORM MAY DISQUALIFY RESPONSE.

6.3. Indemnification and Insurance

INDEMNIFICATION

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

Successful Proposer further agrees to indemnify, defend and hold harmless the Indemnities from and against (i) any and all Liabilities imposed on account of the violation of any law, ordinance, order, rule, regulation, condition, or requirement, in any way related, directly or indirectly, to Successful Proposer's performance under the Contract, compliance with which is left by the Contract to the Proposer, and (ii) any and all claims, and/or suits for labor and materials furnished by the Successful Proposer or utilized in the performance of the Contract or otherwise.

Where not specifically prohibited by law, Successful Proposer further specifically agrees to indemnify, defend and hold harmless the Indemnities from all claims and suits for any liability, including, but not limited to, injury, death, or damage to any person or property whatsoever, caused by, arising from, incident to, connected with or growing out of the performance or non-performance of the Contract which is, or is alleged to be, caused in part (whether joint, concurrent or contributing) or in whole by any act, omission, default, or negligence (whether active or passive) of the Indemnities. The foregoing indemnity shall also include liability imposed by any doctrine of strict liability.

The Successful Proposer shall furnish to Town of Loxahatchee Groves, c/o Town Manager, 14579 Southern Boulevard, Suite 2, Loxahatchee Groves, Florida 33470, Certificate(s) of Insurance prior to contract execution which indicate that insurance coverage has been obtained which meets the requirements as outlined below:

- A. Workers' Compensation Insurance for all employees of the Proposer as required by Florida Statute 440.
- B. Public Liability Insurance on a comprehensive basis in an amount not less than ~~\$1,000,000.00~~ combined single limit per occurrence for bodily injury and property damage. Town must be shown as an additional insured with respect to this coverage.
- C. Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the work in an amount not less than statutory combined single limit per occurrence for bodily injury and property damage.

The insurance coverage required shall include those classifications, as listed in standard liability insurance manuals, which most nearly reflect the operations of the Successful Proposer.

Indemnification and Insurance (cont.)

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 "A" as to management, and no less than "Class X" as to financial strength, by the latest edition of Best's Key Rating Insurance Guide or acceptance of insurance company which holds a valid Florida Certificate of Authority issued by the State of Florida, Department of Insurance, and are members of the Florida Guarantee Fund.

Certificates will indicate no modification or change in insurance shall be made without thirty (30) days written advance notice to the certificate holder.

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

The Successful 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; including any and all option terms that may be granted to the Successful Proposer.

--If insurance certificates are scheduled to expire during the contractual period, the Successful Proposer shall be responsible for submitting new or renewed insurance certificates to the Town at a minimum of ten (10) 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 Town shall:

- A) Suspend the Contract until such time as the new or renewed certificates are received by the Town in the manner prescribed in the RFP.
- B) The Town may, at its sole discretion, terminate the Contract for cause and seek re-procurement damages from the Successful Proposer in conjunction with the violation of the terms and conditions of the Contract.

The undersigned Proposer acknowledges that (s)he has read the above information and agrees to comply with all the above Town requirements.

Proposer: Loxahatchee Groves Water Control District Signature: David A. DeMarois
(Company name) District

Date: 3/14/13 Print Name: David A. DeMarois

FAILURE TO COMPLETE, SIGN, AND RETURN THIS FORM MAY DISQUALIFY YOUR RESPONSE

Sample Affirmative Action Policy
For Equal Employment Opportunity

**AFFIRMATIVE ACTION/
EQUAL EMPLOYMENT OPPORTUNITY - POLICY STATEMENT**

It is the policy of (~~Company Name~~) ^{LGWED} to base its hiring and promotions on merit, qualifications and competency and that its personnel practices will not be influenced by an applicant's or employee's race, color, place of birth, religion, national origin, sex, age, marital status, veteran and handicapped status.

One of the management duties of all principals at (~~Company Name~~) ^{LGWED} is to ensure that the following personnel practices are being satisfied:

1. Take every necessary affirmative action to attract and retain qualified employees, regardless of race, color, place of birth, religion, national origin, sex, age, marital status, veteran and handicapped status.
2. Maintain equitable principles in the recruitment, hiring, training, compensation and promotion of employees.
3. Monitor and review personnel practices to guarantee that equal opportunities are being provided to all employees, regardless of race, color, place of birth, religion, national origin, sex, age, marital status, veteran and handicapped status.

(~~Company Name~~) ^{LGWED} is committed to take affirmative action and aggressively pursue activities that will serve to enable all employees and applicants opportunities available throughout this organization.

Clearly, the above actions cannot be accomplished as a secondary duty for any individual, despite the full support of management. And so, to monitor our efforts, (~~Company Name~~) ^{LGWED} has assigned ~~one of its principals~~ as the Affirmative Action Director to monitor all activities of this program. *District Administrator*

Employees may contact (Name of assigned principal) at (telephone number) regarding this Affirmative Action Policy.

DATE:

3/14/13

(SIGNATURE/TITLE):

Ronald R. Moore

FAILURE TO COMPLETE, SIGN, AND RETURN THIS FORM MAY DISQUALIFY YOUR RESPONSE.

Check List

Submitted with Proposal

- Bid Acknowledgement Cover Page
This form must be completed, signed and returned with Proposal YES X
- Bid Proposal Form
This form must be completed, signed and returned with Proposal YES X
- Municipal Proposal Form
This form must be signed and returned with Proposal YES X
- Proposal Verification Form
This form must be completed, signed and returned with Proposal YES X
- Equipment Listing Form
This form must be completed and returned with Proposal YES X
- Certificate of Authority
This form must be completed, signed, and returned with Proposal YES X
- Insurance Requirements
Acknowledgement of receipt of information on the insurance for this Request for Bid must be signed and returned with Proposal YES X
- Affirmative Action Policy for Equal Employment Opportunity
Submit Sample YES X
- Non Collusive Affidavit
This form must be completed, signed and returned with Proposal YES X
- Business License
All responses shall be accompanied by a copy of your current License(s), if applicable YES N/A
- Complete Bid Proposal with all required forms and attachments. YES X

AGREEMENT FOR EMERGENCY CALL OUT SERVICES FOR REPAIR OF TOWN ROADS WITHIN THE TOWN OF LOXAHATCHEE GROVES

This **AGREEMENT** (“Agreement”) is made and entered into this ____ day of _____, 2013 (the “Effective Date”), by and between:

TOWN OF LOXAHATCHEE GROVES, a municipal corporation existing under the laws of the state of Florida, hereafter referred to as “TOWN,”

and

LOXAHATCHEE GROVES WATER CONTROL DISTRICT, an independent special district existing under the laws of the state of Florida, hereafter referred to as “DISTRICT,” (with the TOWN and DISTRICT each referred to as a “Party” and collectively as the “Parties”).

WITNESSETH:

WHEREAS, the TOWN is a municipal corporation of the State of Florida, the powers of which are defined in the TOWN's Charter and State law; and

WHEREAS, there are roads within the geographical boundaries of the TOWN which are maintained by the Loxahatchee Groves Water District, and other roads under the maintenance and control of the TOWN, which have been designated by the TOWN as “Town Roads,” and are the responsibility of the TOWN; and

WHEREAS, the TOWN is in need of services, equipment and materials in the event of an emergency situation to address urgent needs regarding the Town Roads; and

WHEREAS, the TOWN undertook a competitive selection process, requesting responses to an Invitation to Bid for Bid No. 2013-01 (the “Bid”); and

WHEREAS, the DISTRICT’s response to the Bid (the “Response”) was selected by the TOWN Council as the lowest, most responsive bid for emergency call out services; and

WHEREAS, the DISTRICT has the experience, expertise, equipment, and materials for the emergency call out repair of Town Roads, and is capable of providing the necessary materials and manpower to address emergency repair issues of Town Roads, subject to the agreement of the Parties on criteria for such services and the TOWN’s agreement to pay for such services and supplies; and,

WHEREAS, the TOWN Council and the District Board of Supervisors have determined that this Agreement is in the best interest of the health, safety, and welfare of the residents within the TOWN.

NOW, THEREFORE, IN CONSIDERATION of the mutual terms, conditions, promises, covenants and payments hereafter set forth, DISTRICT and TOWN agree as follows:

ARTICLE I - RECITALS

- 1.1 The foregoing recitations are true and correct and are hereby incorporated herein by reference. All exhibits to this Agreement are hereby deemed a part hereof.

ARTICLE 2 – EMERGENCY REPAIR OF TOWN ROADS

- 2.1 Attached hereto as **Exhibit “A”** and incorporated herein is Addendum #2 to the Town of Loxahatchee Groves Bid No. 2013-01, which is titled “Town Roads List.” This list may be amended by the TOWN without amending this Agreement so long as such amendment is in writing and approved by both Parties.
- 2.2 DISTRICT will provide emergency call out services to TOWN as set forth herein. Specifically, the DISTRICT shall furnish all of the materials and labor necessary to perform all of the work described in the Specifications to the Bid and DISTRICT's Response thereto, as referenced above.
- 2.3 The DISTRICT shall provide emergency call out services to TOWN on an as-needed basis at the discretion of the TOWN and direction of the TOWN Manager or his/her Designee. Such emergency call out services shall be performed under separate work authorizations that will allow inclusion of needed materials to complete the necessary repair. Whenever possible, such directives shall be in writing, in advance. However, since the work is categorized as Emergency Call Out Services, DISTRICT may rely on verbal or electronic communications from the TOWN Manager or his/her Designee to proceed with Emergency Repairs, and the formal documentation may be completed subsequently to confirm the work.
- 2.4 DISTRICT hereby represents to TOWN, with full knowledge that TOWN is relying upon these representations in DISTRICT's Bid when entering into this Agreement with DISTRICT, that DISTRICT has the professional expertise, experience, and manpower to perform the services to be provided by DISTRICT pursuant to the terms of this Agreement. DISTRICT ensures that all equipment used is properly registered. The TOWN reserves the right to verify this information. DISTRICT further represents that it shall comply with all federal, state, and local laws, rules, regulations, and ordinances that may be applicable to the operation of the equipment provided for gravel road grading services. All equipment must be appropriately equipped with a revolving or flashing amber light so drivers can locate equipment from a distance.

- 2.5 DISTRICT assumes professional and technical responsibility for performance of its services to be provided hereunder in accordance with recognized professional standards of good construction and engineering practice.
- 2.6 DISTRICT agrees that no subcontracting is permitted without the advance, written approval of the TOWN Manager.

ARTICLE 3 – PAYMENT

3.1 As set forth in its Bid, DISTRICT shall provide the following services at the following prices to include cost for use of equipment, labor costs, fuel, equipment maintenance, equipment delivery charges, fuel surcharges, and any other charges, which shall remain valid until May 1, 2014, as provided in Bid Document §2.1:

(a) Emergency Call Outs	Hourly	\$50.00
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Upon the expiration of this period and annually thereafter, DISTRICT may request adjustment of these prices to reflect increases in the cost of labor and materials, which adjusted prices shall be approved by TOWN in writing and upon such approval remain in effect for the year immediately following.

- 3.2 Upon the commencement of this Agreement, DISTRICT will provide the TOWN invoices on a monthly basis in a timely manner for work actually completed by DISTRICT for the previous month.
- 3.3 Invoices submitted by DISTRICT to TOWN must be submitted on the fifth (5th) day of each month for the previous month’s work performed.
- 3.4 All invoices must include a Purchase/Work Authorization number issued by the TOWN to be considered for payment.
- 3.5 Each invoice must provide sufficient detail reflecting the Emergency Call Out Services performed. If a Work Authorization is issued for Emergency Call Out Services, details describing the work performed will be included, together with a breakdown for any additional charges for needed materials to complete the Work.
- 3.6 DISTRICT will submit separate invoices for costs for such work. Should the TOWN determine that the documentation for emergency road repair is incomplete, it shall request additional information from the DISTRICT within ten (10) working days of receipt of the original invoice.
- 3.7 The TOWN shall pay the DISTRICT within thirty (30) days of receipt of the final written invoice and documentation from the DISTRICT.
- 3.8 The TOWN’s obligation is limited to its payment obligation and shall have no obligation

to any other person or entity.

ARTICLE 4 - TERM OF AGREEMENT

- 4.1 This Agreement shall be deemed to have commenced on the Effective Date provided below, and shall continue for an Initial Term two (2) years with an option for the TOWN at its sole discretion to exercise two (2) additional, independent Renewal Terms each of a two (2) year period for a total term not to exceed six (6) years, or until terminated as provided in Sections 4.2 through 4.7, below. The TOWN shall exercise each of its renewal options by providing DISTRICT with not less than thirty (30) days written notice prior to the end of the then-current term. The notice period may be waived by the Parties in writing.
- 4.2 Notwithstanding Section 4.2, this Agreement may be terminated for cause by either Party upon ninety (90) days written notice of the other Party's failure to timely perform its responsibilities under this Agreement. Such written notice shall be given by the terminating party to the other party setting forth the breach. If the breaching party corrects the breach within thirty (30) days after written notice of same, to the satisfaction of the terminating party, the Agreement shall remain in full force and effect. If such breach is not corrected within thirty (30) days of receipt of written notice of breach, the terminating party may terminate the Agreement.
- 4.3 Termination of this Agreement for cause shall include, but not be limited to: failure of the Parties to suitably perform the services required under this Agreement, and failure of the Parties to continuously perform the services required by the terms and conditions of this Agreement in a manner calculated to meet or accomplish the objectives set forth herein, notwithstanding whether any such breach was previously waived or cured.
- 4.4 The Agreement may be terminated for convenience by the TOWN, as evidenced by the adoption of a resolution by the TOWN. In that event, the TOWN'S sole obligation to DISTRICT shall be payment for services for work previously authorized and performed. Such payment shall be determined on the basis of the hours or percentage of work performed by DISTRICT up to the time of termination. Upon such termination, the TOWN may, without penalty or other obligation to DISTRICT, elect to employ other persons to perform the same or similar services.
- 4.5 Notice of termination shall be provided in accordance with Article 6, "NOTICES," herein except that notice of termination by TOWN Manager which TOWN Manager deems necessary to protect the public health, safety or welfare may be verbal notice which shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Agreement. In the event this Agreement is terminated for convenience by the TOWN Council, DISTRICT shall be paid for any services performed to the date the Agreement is terminated; however, upon being notified of TOWN's election to terminate, DISTRICT shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. DISTRICT acknowledges and agrees that Ten Dollars (\$10.00)

of the compensation to be paid by TOWN, the adequacy of which is hereby acknowledged by DISTRICT, is given as specific consideration to DISTRICT for TOWN's right to terminate this Agreement for convenience.

- 4.6 In the event this Agreement is terminated, any compensation payable by TOWN shall be withheld until all documents are provided to TOWN. In no event shall the TOWN be liable to DISTRICT for any additional compensation, other than that provided herein, or for any consequential or incidental damages.

ARTICLE 5 - INDEMNIFICATION; INSURANCE

- 5.1 Independent Contractor: DISTRICT is an independent contractor and not an employee, agent, or servant of TOWN or its TOWN Council for all purposes, including but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State Workers Compensation Act, and the State of Florida's unemployment insurance law. DISTRICT further acknowledges that the TOWN's duty under this Agreement is limited to contributing the identified funds to DISTRICT and that DISTRICT will use the funds to perform mowing and vegetation removal services for the maintain Town Roads within the TOWN in the manner provided herein. DISTRICT agrees that it is a separate and independent enterprise from the TOWN, that it has full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This Agreement shall not be construed as creating any joint employment relationship between DISTRICT and the TOWN and the TOWN will not be liable for any obligation incurred by DISTRICT, including but not limited to unpaid minimum wages and/or overtime premiums. In the event a claim or lawsuit is brought against TOWN, its officers, employees, servants or agents, arising from or relating to the DISTRICT improvements or any matter that is the responsibility of DISTRICT under this Agreement, DISTRICT will indemnify and hold harmless the TOWN in the manner and to the extent set forth in Section 5.2, below.

- 5.2 Hold Harmless and Indemnification: DISTRICT hereto agrees, to the extent permitted by law, to:

- (A) indemnify, save and hold harmless the TOWN, its officers, employees, and agents (collectively the "Indemnitees"), and to defend said persons from and against any such loss, cost, penalties, fines, property damages, personal injury claims, expenses (including attorneys' fees) or liabilities, causes of action, and judgments of any type whatsoever arising out of, resulting from, or in connection with (i) the performance or non-performance of the services contemplated by the Agreement which is or is alleged to be directly or indirectly caused, in whole or in part, by any act, omission, default, or negligence (whether active or passive) of DISTRICT, regardless of whether it is, or is alleged to be, caused in whole or in part (whether joint, concurrent, or contributing) by any act, omission, default or negligence (whether

active or passive) of the Indemnitees, or any of them or (ii) the failure of DISTRICT to comply with any of the provisions of the Agreement or the failure of DISTRICT to conform to statutes, ordinances, or other regulations or requirements of any governmental authority, federal or state, in connection with the performance of the Agreement. DISTRICT expressly agrees to indemnify and hold harmless the Indemnitees, or any of them, from and against all liabilities which may be asserted by an employee or former employee of DISTRICT, or any approved subcontractors, as provided above, for which DISTRICT's liability to such employee or former employee would otherwise be limited to payments under state Workers' Compensation or similar laws.

- (B) DISTRICT further agrees to indemnify, defend, and hold harmless the Indemnitees from and against (i) any and all Liabilities imposed on account of any violation of law, ordinance, order, rule, regulation, condition, or requirements, in any related, directly or indirectly, to DISTRICT's performance under the Agreement, compliance with which is left by the Agreement to DISTRICT, and (ii) any and all claims, and/or suits for labor and materials furnished by DISTRICT or utilized in the performance of the Agreement or otherwise.
- (C) Where not specifically prohibited by law, DISTRICT further specifically agrees to indemnify, defend, and hold harmless the Indemnitees from all claims and suits for any liability, including, but not limited to, injury, death, or damage to any person or property whatsoever, caused by, arising from, incident to connected with, or growing out of the performance or non-performance of the Agreement which is, or is alleged to be, caused in part (whether joint, concurrent, or contributing) or in whole by any act, omission, default, or negligence (whether active or passive) of the Indemnitees. The foregoing indemnity shall also include liability imposed by any doctrine of strict liability.
- (D) Nothing contained herein shall be construed as a waiver by the TOWN or by the DISTRICT of the liability limits established in Section 768.28, Florida Statutes.

5.3 Insurance. Certificates of Insurance reflecting evidence of the required insurance shall be filed with the TOWN Manager prior to the commencement of this Agreement. DISTRICT shall use its best efforts to obtain on these Certificates a provision that coverages afforded under these policies will not be cancelled until at least thirty days (30) prior written notice has been given to the TOWN, provided that (a) DISTRICT's efforts shall be documented and provided to TOWN and (b) DISTRICT shall immediately notify TOWN of any cancellation of its insurance policy by its insurer, with failure to do so a material breach of the Agreement. Policies shall be issued by companies authorized to do business under the laws of the State of Florida. Financial Ratings must be not less than "A-VI" in the latest edition of "Best Key Rating Guide," published by A.M. Best Guide.

Insurance shall be in force until the obligations required to be fulfilled under the terms of the Agreement are satisfied. In the event the insurance certificate provided indicates that the insurance shall terminate and lapse during the period of this Agreement, then in that event, the DISTRICT shall furnish, at least thirty (30) days prior to the expiration of the date of such insurance, a renewed certificate of insurance as proof that equal and like coverage for the balance of the period of the Agreement and extension thereunder is in effect. DISTRICT shall not commence nor continue to provide any services pursuant to this Agreement unless all required insurance remains in full force and effect. DISTRICT shall be liable to TOWN for any lapses in service resulting from a gap in insurance coverage.

5.3.1 REQUIRED INSURANCE

Comprehensive General Liability insurance to cover liability bodily injury, accidental death, and property damages for bodily injury, including accidental death, and for property damage, which may arise from operations under this contract whether such operation by himself or by anyone directly or indirectly employed under DISTRICT. Coverage must be written on an occurrence basis, with the following limits of liability:

- A. Comprehensive General Liability
 - 1. Each Occurrence \$1,000,000
 - 2. General Aggregate 1,000,000

- B. Automobile and Truck Liability
 - 1. Each Occurrence \$1,000,000
 - 2. General Aggregate 1,000,000

- C. Worker’s Compensation Insurance

Shall be maintained during the life of this contract to comply with statutory limits for all employees. The following limits must be maintained:

- 1. Worker's Compensation Statutory
- 2. Employer’s Liability \$300,000 each accident
 \$300,000 Disease-policy limit
 \$300,000 Disease-each employee

or such other amount that may be required by Florida law, whichever is greater.

Note: Comprehensive General Liability coverage and Automobile and Truck Liability coverage may be met with a combination of coverage including excess and umbrella liability coverage. Comprehensive General Liability Insurance covering bodily injuries and property damage shall also include coverage for: (a) injury to or destruction of wires,

pipes, conduits, and similar property located below the surface of the ground, whether public or private; (b) collapse of or structural injury to any building or structure except those on which work under this Agreement is being performed; and (c) contractual liabilities related to bodily injury and property damage, i.e. X - explosion, C - Collapse, U - underground.

Automobile and Truck Liability shall cover bodily injury and property damage for the operation of all motor vehicles and equipment, whether or not owned by DISTRICT, being operated in connection with the work performed under this Agreement. Product and Completed Operations coverage shall be included in the amounts specified above for Comprehensive General Liability.

5.3.2 DISTRICT shall name the TOWN as an additional insured on each of the policies required herein and shall hold the CITY harmless on account of claims or damages to persons, property or premises arising out of the services provided hereunder.

5.3.3 Evidence of Insurance. As evidence of insurance coverage, the TOWN may, in lieu of actual policies, accept official written statements from the insurance company certifying that all the insurance policies specified below are in force for the specified period. DISTRICT shall submit to TOWN evidence of insurance at the time of execution of this Agreement. Written notice shall be given to the TOWN at least thirty (30) days prior to nonrenewal of such insurance coverage.

ARTICLE 6 - NOTICES

- 6.1 Any and all notices given or required under this Agreement shall be in writing and may be delivered in person or by United States mail, postage prepaid, first class and certified, return receipt requested, or by hand-delivery with a request for a written receipt of acknowledgement of delivery, addressed to the Party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided for in this article. For the present, the Parties designated the following:

AS TO TOWN:

Mayor David Browning
Town of Loxahatchee Groves
14579 Southern Blvd., Suite 2
Loxahatchee Groves, FL 33470

With copies to:

Mark Kutney, Town Manager
Town of Loxahatchee Groves
14579 Southern Blvd., Suite 2

Loxahatchee Groves, FL 33470

And

Michael D. Cirullo, Jr., Town Attorney
Goren, Cherof, Doody & Ezrol, P.A.
3099 East Commercial Boulevard
Suite 200
Fort Lauderdale, FL 33308

AS TO DISTRICT:

Stephen E. Yohe, P.E., District Administrator
P. O. Box 407
Loxahatchee Groves, FL 33470

With copy to:

Mary M. Viator, Esq., District Legal Counsel
Caldwell Pacetti Edwards Schoech & Viator LLP
One Clearlake Centre
250 South Australian Avenue, Suite 600
West Palm Beach, Florida 33401

ARTICLE 7 - MISCELLANEOUS PROVISIONS

- 7.1 **ASSIGNMENT:** The Parties to the Agreement shall have NO right to assign, transfer, or otherwise encumber this Agreement, without the express consent of the other party.
- 7.2 **WAIVER:** The waiver by any Party to this Agreement of any failure on the part of another Party to perform in accordance with any of the terms or conditions of this Agreement shall not be construed as a waiver of any future or continuing similar or dissimilar failure.
- 7.3 **THIRD PARTY BENEFICIARIES:** Neither TOWN nor DISTRICT intends to directly or substantially benefit a third party by this Agreement. Therefore, the Parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based on this Agreement. The Parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.
- 7.4 **SEVERABILITY:** The invalidity of any provision of this Agreement shall in no way affect the validity of any other provision.

- 7.5 **ENTIRE AGREEMENT:** It is understood and agreed that this Agreement incorporates and includes all prior negotiations, agreements or understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.
- 7.6 **JOINT PREPARATION:** The Parties acknowledge that they have sought and received whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations here and that the preparation of this Agreement has been a joint effort. The language agreed to expresses their mutual intent and their resulting documents shall not, solely, as a matter of judicial construction, be construed more severely against one of the parties than the other.
- 7.7 **APPLICABLE LAW AND VENUE:** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State Courts of the 15th Judicial Circuit of Palm Beach County, Florida, and the venue site and shall be governed by the laws of the State of Florida. To encourage prompt and equitable resolution of any litigation that may arise hereunder, each Party hereby waives any rights it may have to trial by jury of any such litigation.
- 7.8 **AMENDMENTS:** No modification, amendment, or alteration of the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by both Parties.
- 7.9 **MULTIPLE ORIGINALS:** This Agreement may be fully executed in multiple copies by all Parties, each of which, bearing original signatures, shall have the force and effect of an original document.
- 7.10 **LICENSES.** All drivers must be properly licensed operators, if applicable. DISTRICT is responsible for updating operator information at any time throughout the duration of this Agreement. Failure to do so may be grounds for breach and subsequent termination of this Agreement. DISTRICT shall be responsible for providing phone numbers where employees can be reached. The inability of the TOWN to make contact with DISTRICT or an employee thereof within a reasonable amount of time is cause for the TOWN to terminate this Agreement as described in Section 3 of this Agreement.
- 7.11 **AFFIRMATIVE ACTION/EQUAL OPPORTUNITY EMPLOYER.** Pursuant to the Bid and its Response, DISTRICT shall adhere to an affirmative action policy. In the performance of this Agreement, DISTRICT shall not discriminate against any firm, employee or applicant for employment or any other firm/individual in providing services because of sex, age, race, color, religion, ancestry or national origin.

- 7.12 **PROTECTION OF TOWN PROPERTY.** At all times during the performance of this Agreement, DISTRICT shall protect the property of the TOWN and adjacent property owners from all damage whatsoever on account of the work being carried on under this contract.
- 7.13 **CONFLICTS.** DISTRICT and TOWN hereby agree that the following Contract Documents are fully incorporated herein and made a part of this Agreement, as if written herein word for word: TOWN's Invitation to Bid No. 2013-01 (including Addenda 1 through 3 thereto) and DISTRICT's Response thereto (15 Pages) (collectively the "Bid Documents", attached hereto as **Exhibit "B"**). In the event that there is any conflict between any of the contract document and the terms of this Agreement, this Agreement shall prevail.
- 7.14 **LEGAL REPRESENTATION.** It is acknowledged that each Party to this Agreement had the opportunity to be represented by counsel in the preparation of this Agreement and, accordingly, the rule that a contract shall be interpreted strictly against the Party preparing same shall not apply due to the joint contribution of both Parties.
- 7.15 **OWNERSHIP OF DOCUMENTS.** Reports, surveys, plans, studies and other data provided in connection with this Agreement are and shall remain the property of TOWN whether or not the project for which they are made is completed. TOWN hereby agrees to use DISTRICT's work product for its intended purposes.
- 7.16 **NO CONTINGENT FEES.** DISTRICT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the DISTRICT, 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 DISTRICT, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, the TOWN shall have the right to terminate the Agreement without liability at its discretion, to deduct from the contract price, or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.
- 7.17 **BINDING AUTHORITY.** Each person signing this Agreement on behalf of either Party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.
- 7.18 **EXHIBITS.** Each Exhibit referred to in this Agreement forms an essential part of this Agreement. The exhibits if not physically attached should be treated as part of this Agreement and are incorporated herein by reference.
- 7.19 **HEADINGS.** Headings herein are for convenience of reference only and shall not be considered on any interpretation of this Agreement.

7.20 **ATTORNEYS' FEES.** In the event that either Party brings suit for enforcement of this Agreement, the prevailing party shall be entitled to attorneys' fees and court costs in addition to any other remedy afforded by law.

7.21 **AUDIT AND INSPECTION RIGHTS AND RETENTION OF RECORDS.** TOWN shall have the right to audit the books, records and accounts of DISTRICT that are related to this Agreement. DISTRICT shall keep such book, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement. DISTRICT shall preserve and maintain all financial records, supporting documents, statistical records, and any other documents pertinent to his Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement, unless DISTRICT is notified in writing by the TOWN of the need to extend the retention period. Such retention of such records and documents shall be at DISTRICT's expense. DISTRICT shall comply with inspection and reproduction obligations of Florida law relating to public records in its possession. If any audit has been initiated an audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by the TOWN to be applicable to DISTRICT's records, DISTRICT shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by DISTRICT. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for TOWN'S disallowance and recovery of any payment upon such entry.

In addition, DISTRICT shall respond to the reasonable inquiries of any successor companies and allow and successor companies to receive working papers relating to matters of continuing significance. In addition, DISTRICT shall provide a complete copy of all working papers to TOWN, prior to final payment, in accordance with this Agreement and the Schedule for DISTRICT's services.

7.22 **PALM BEACH COUNTY OFFICE OF THE INSPECTOR GENERAL.** DISTRICT is aware that the Inspector General of Palm Beach County has the authority to investigate and audit matters relating to the negotiation and performance of this Agreement, and in furtherance thereof may demand and obtain records and testimony from DISTRICT and, any, if applicable, subcontractors and lower tier subcontractors. DISTRICT understands and agrees that in addition to all other remedies and consequences provided by law, failure of DISTRICT or, if applicable, subcontractors and lower tier subcontractors to fully cooperate with the Inspector General when requested will be deemed to be a breach of this Agreement. DISTRICT shall be responsible for all costs incurred by it or the TOWN as a result of any investigation by the Inspector General which results in an adverse determination caused by DISTRICT, and if applicable, subcontractors and lower tier subcontractors.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement between TOWN and DISTRICT on the respective dates under each signature: TOWN, signing by and through its _____ Mayor, authorized to execute same by Council action on the ____ day of _____, 2013 and the DISTRICT, signing by and through its Chairman, authorized to execute same by Board of Supervisor's action on the ____ day of _____, 2013.

Executed by **TOWN** this _____ day of _____, 2013

TOWN OF LOXAHATCHEE GROVES,
a Florida Municipal Corporation

ATTEST:

By _____
David Browning
Mayor

Town Clerk

[TOWN SEAL]

APPROVED AS TO FORM:

By _____
Town Attorney

Executed by **DISTRICT** this _____ day of _____, 2013

LOXAHATCHEE GROVES WATER CONTROL DISTRICT, an Independent Special District of the State of Florida

ATTEST:

By _____
David DeMarois
Chairman

Secretary

[DISTRICT SEAL]

EXHIBIT "A"
TOWN ROADS LIST

EXHIBIT "A"

Town Roads List

TOWN ROAD NAME	PLAT DESIGNATION	MILEAGE
10TH PLACE NORTH	BLOCK B	0.081
11TH LANE NORTH	BLOCK F	0.351
11TH TERRACE	BLOCK C	0.244
12TH PLACE NORTH	BLOCK E	0.197
131ST TERRACE NORTH	BLOCK F	0.147
13TH PLACE NORTH	BLOCK F (FOLSOM)	0.282
13TH PLACE NORTH	BLOCK F (F ROAD)	0.166
140TH STREET NORTH	CUT-THRU / SUNSPORT	0.100
145TH AVENUE NORTH	T: 43S / R: 41E	0.457
147TH AVENUE NORTH	BLOCK C	0.126
147TH DRIVE NORTH	BLOCK C	0.115
148TH TERRACE NORTH	T: 43S / R: 41E	0.339
149TH AVENUE NORTH	BLOCK I	0.126
14TH PLACE NORTH	BLOCK E	0.257
152ND WAY NORTH	BLOCK B	0.068
160TH STREET NORTH	T: 43S / R: 41E	0.394
161ST TERRACE NORTH	T: 43S / R: 40E	2.014
17TH ROAD NORTH	BLOCK B	0.076
21ST ROAD NORTH	BLOCK C	0.126
22ND COURT NORTH	BLOCK F	0.292
22ND ROAD NORTH	BLOCK C (C ROAD)	0.248
22ND ROAD NORTH	BLOCK E (E ROAD)	0.156
22ND ROAD NORTH	BLOCK F (F ROAD)	0.210
23RD COURT NORTH	BLOCK E	0.189
24TH CIRCLE NORTH	BLOCK C	0.177
24TH COURT NORTH	BLOCK C (C ROAD)	0.282
24TH COURT NORTH	BLOCK D (E ROAD)	0.194
24TH COURT NORTH	BLOCK E (WEST F)	0.250
24TH COURT NORTH	BLOCK F (EAST F)	0.406
25TH PLACE NORTH	BLOCK B (C ROAD)	0.136
27TH LANE NORTH	BLOCK C	0.135
30TH COURT NORTH	BLOCK B (C ROAD)	0.141
30TH COURT NORTH	BLOCK D (D ROAD)	0.132
34TH PLACE NORTH	BLOCK C	0.135
35TH PLACE NORTH	BLOCK D	0.127

EXHIBIT "A"

Town Roads List

TOWN ROAD NAME	PLAT DESIGNATION	MILEAGE
41ST ROAD NORTH	T: 43S / R: 41E	0.068
42ND ROAD NORTH	T: 43S / R: 41E	0.153
42ND STREET NORTH	T: 43S / R: 41E (OFF 160TH)	0.234
43RD ROAD NORTH	T: 43S / R: 41E (GLOBAL)	0.194
43RD ROAD NORTH	T: 43S / R: 41E (140TH)	0.394
44TH STREET NORTH	T: 43S / R: 41E (OFF 160TH)	0.235
8TH PLACE NORTH	BLOCK C	0.319
APRIL DRIVE	BLOCK C	0.164
BIDDIX ROAD	BLOCK D	0.191
BRYAN ROAD	BLOCK F	0.749
BUNNY LANE	BLOCK C	0.244
CANAL MAINTENANCE RD	T: 43S / R: 41E (40TH ST N)	1.462
(WILSON) CASEY ROAD	BLOCK F	0.748
CITRUS DRIVE	BLOCK K	0.243
COMPTON ROAD	BLOCK F	0.748
EAST CITRUS DRIVE	BLOCK K	0.501
EDITH ROAD	BLOCK E	0.197
FARLEY ROAD	BLOCK E	0.197
FERRIS LANE	BLOCK A	0.194
FLAMINGO DRIVE	BLOCK C	0.186
FOREST LANE	BLOCK B	0.188
FORTNER DRIVE	BLOCK B (B ROAD)	0.126
FORTNER DRIVE	BLOCK B (C ROAD)	0.135
FOX TRAIL	BLOCK E	0.204
GLOBAL TRAIL	T: 43S / R: 41E	0.519
GREAT DANE LANE	BLOCK F	0.130
GRUBER LANE	BLOCK C	0.489
HYDE PARK ROAD	BLOCK E	0.518
IAN TRAIL	T: 43S / R: 41E	0.384
JEWEL LANE	BLOCK B	0.103
KAZEE ROAD	BLOCK G	0.432
KERRY LANE	BLOCK E	0.260
LOS ANGELES DRIVE	BLOCK B	0.244
LOXAHATCHEE AVENUE	BLOCK K	0.180
MARCELLA BOULEVARD	BLOCK F	0.749

EXHIBIT "A"

Town Roads List

TOWN ROAD NAME	PLAT DESIGNATION	MILEAGE
MARCH CIRCLE	BLOCK F	0.174
MORROW COURT	BLOCK B	0.180
ORANGE AVENUE	BLOCK K	0.075
PARADISE TRAIL	BLOCK C	0.186
PERKINS DRIVE	BLOCK F	0.336
PINEAPPLE DRIVE	BLOCK I	0.434
QUAIL ROAD	BLOCK F	0.135
RACKLEY ROAD	BLOCK F	0.146
RAYMOND DRIVE	BLOCK F	0.337
ROBERTS WAY	BLOCK B	0.229
SALLY'S ALLEY	BLOCK B	0.244
SAN DIEGO DRIVE	BLOCK B	0.244
SCOTTS PLACE	BLOCK B	0.213
SHAMROCK DRIVE	BLOCK B	0.244
SIXTH COURT NORTH	BLOCK I (WEST D)	0.177
SIXTH COURT NORTH	BLOCK K (EAST D)	1.733
SNAIL TRAIL	BLOCK C	0.244
TANGERINE DRIVE	BLOCK K	0.510
TEMPLE DRIVE	BLOCK I	0.100
TIMBERLANE PLACE	BLOCK B	0.219
TRIPP ROAD	BLOCK D	0.242
VALENCIA DRIVE	BLOCK K	0.136
WEST "B" ROAD	BLOCK A	0.340
WEST "C" ROAD	BLOCK B	0.623
WEST "D" ROAD	BLOCK I (SOUTH C.C.)	0.314
WEST 'D' ROAD	BLOCK C (NORTH C.C.)	0.388
WEST 'F' ROAD	BLOCK E	0.198
WILLIAMS DRIVE	BLOCK B	0.193
	MONTHLY MILEAGE =	29.552

EXHIBIT "B"
BID DOCUMENTS

H:_GOV CLIENTS\LOX 1574_070240 GM\AGMTS 2013\Emergency Calls - Proposed Final Version 061313.doc



LOXAHATCHEE GROVES WATER CONTROL DISTRICT

HAND DELIVERED

March 14, 2013

Ms. Dennise Rodriguez, Office Coordinator
Town of Loxahatchee Groves
Town Hall Office
14579 Southern Boulevard, Suite 2
Loxahatchee Groves, Florida 33470

**RE: BID NO.: 2013-001 - BID TITLE: GRAVEL ROAD GRADING, MOWING, AND
VEGETATIVE REMOVAL SERVICES**

Dear Ms. Rodriguez:

Enclosed are one (1) original, five (5) copies, and one (1) DVD of the Loxahatchee Groves Water Control District's Bid Submittal for the above-referenced. Specifically included are the following:

1. Bid Acknowledgement Cover Page
2. Bid Proposal Form
3. Municipal Proposal Form
4. Proposed Verification Form
5. Equipment Listing Form
6. Certificate of Authority
7. Insurance Requirements
8. Affirmative Action Policy for Equal Employment Opportunity
9. Non Collusive Affidavit
10. Complete Bid proposal with all required forms and attachments

Additionally provided, as allowed under 1.7. Instructions, page 4 of 27 of the Bid Packet, is an attachment labeled Attachment "A" that provides "notes, exceptions, and comments" for the District's Bid Submittal.

Thank you for this opportunity to provide this Bid Submittal for your consideration.

Sincerely,
LOXAHATCHEE GROVES WATER CONTROL DISTRICT

David A. DeMarois
Chairman, Board of Supervisors

Enclosures

cc: LGWCD Board of Supervisors (without enclosures)

BID ACKNOWLEDGEMENT COVER PAGE

SUBMIT BIDS TO: Town of Loxahatchee Groves Attn: Clerk's Office 14579 Southern Blvd., Suite 2 Loxahatchee Groves, FL 33470	REFER ALL INQUIRIES TO PRIMARY CONTACT: Office Coordinator 14579 Southern Blvd, Suite 2 Loxahatchee Groves, FL 33470 Ph:(561) 793-2418/Fax: (561) 793-2420	Town of Loxahatchee Groves <h1 style="margin: 0;">INVITATION TO BID</h1>
BID TITLE: Gravel Road Grading, Mowing, and Vegetative Removal Services		BID NO: 2013-01

NAME OF FIRM, ENTITY, or ORGANIZATION: Loxahatchee Groves Water Control District				
NAME OF CONTACT PERSON: Stephen E. Yohe	VENDOR MAILING ADDRESS: P.O. Box 407	CITY: Loxahatchee	ZIP: 33470	STATE: FL
TITLE: District Administrator	VENDOR HEADQUARTERS ADDRESS (IF DIFFERENT):	CITY:	ZIP:	STATE:
PHONE NUMBER: (561) 793-0884		FEDERAL EMPLOYER IDENTIFICATION NUMBER (EIN): 591209151		
EMAIL ADDRESS: yohe@lqwcd.org		STATE OF FLORIDA BUSINESS LICENSE NUMBER (IF APPLICABLE):		
FAX NUMBER: (561) 795-6157				
ORGANIZATIONAL STRUCTURE (Please Check One): Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> PROPRIETORSHIP <input type="checkbox"/> Joint Venture <input type="checkbox"/> Other <input checked="" type="checkbox"/>				
If Corporation, please provide the following:				
(A) Country of Incorporation: _____		Date of Incorporation: _____		
Legal Government Special District (B) State or				

I certify that this bid is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a bid for the same materials, supplies or equipment, and is in all respects fair and without collusion or fraud. I agree to abide by all terms and conditions of this bid and certify that I am authorized to sign this bid for the bidder and that the bidder is in compliance with all requirements of the Invitation to Bid, including but not limited to, certification requirements.

<i>Alain LeMaire</i> AUTHORIZED SIGNATURE (MANUAL)	1 David A. DeMarois AUTHORIZED SIGNATURE (PRINT OR TYPED)	1 Chairman TITLE (PRINT OR TYPED)
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**ADDENDUM #3
 BID PROPOSAL FORM
 BID NO. 2013-01**

Gravel Road Grading, Mowing, and Vegetative Removal Services

TO: Town Manager
 Town of Loxahatchee Groves
 14579 Southern Boulevard, Suite 2
 Loxahatchee Groves, FL 33470

The undersigned, as bidder, does hereby declare that he/she has read the introduction, Procedures, General Requirements, Insurance Requirements, General Specification, Bid Form, and any other documentation for

Gravel Road Grading, Mowing, and Vegetative Removal Services – Annual

and further agrees to furnish all items listed below in accordance with the Unit Price(s) submitted. The above-specified documents are herein incorporated into the Bid Form and shall be defined as the contract documents.

Description	Units	Unit Cost
Gravel Road Grading	Mile	\$ 110.00
Rock Material		
Base rock /57Mix or equivalent	Ton	\$ 14.00
Base rock "1 Minus	Ton	\$ 12.00
Mowing	Hourly	\$ 54.00
Vegetative Removal	Cubic Yard	\$ 50.00
Vegetative Removal Dumping Fees	Cubic Yard	\$ 70.00
Road Repair	Hourly	\$ 50.00
Emergency Call Outs	Hourly	\$ 50.00

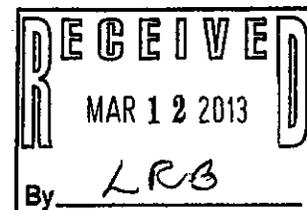
Notice Needed Prior to Commencement: 3 calendar days.

NOTE: Town of Loxahatchee Groves official bid openings are open to the public. Citizens and submitting bidders are encouraged to attend. However, if you are unable to attend but wish to obtain the unofficial bid results, you may do so by visiting our website at www.loxahatcheegrovesfl.gov under Bids. No information regarding the submittal will be divulged over the telephone.

Name of Bidder: Loxahatchee Groves Water Control District

Addendum #3
 Created 03/08/2013

Replacement Page of Bid Packet Page 15 of 27



Attachment "A"

The Loxahatchee Groves Water Control District (LGWCD) offers this Attachment "A" to provide the Town of Loxahatchee Groves (Town) with alternatives not specifically requested in the formal Bid Packet. Specifically as follows, the LGWCD proposes:

1. For Gravel Road Grading, the formal submittal of \$110.00 per mile includes grading with four (4) passes during wet weather conditions. The LGWCD offers an alternative of Gravel Road Grading of \$50.00 per mile with two (2) grading passes without Rock Material spreading during dry weather conditions or Gravel Road Grading of \$75.00 per mile for two (2) grading passes with Rock Material spreading during dry weather conditions.
2. The mowing hourly rate also applies to hedging services.
3. Though not requested, the LGWCD offers to provide Water Tank services for \$50.00 per mile or \$50.00 per hour.

MUNICIPAL PROPOSAL FORM

The undersigned agrees that he/she has read the proposal documents including the Procedure, General Requirements, and Insurance Requirements and General Specifications, and agrees to the terms and conditions set forth therein. Proposer specifically understands that the Town reserves the right to contract with as many vendors as it deems necessary for the safe, efficient, and timely gravel road grading, mowing, and vegetative removal services.

Proposer further agrees that this bid proposal is not made jointly or in conjunction, cooperation or collusion with any person, firm, corporation or other legal entity.

Proposer agrees no officer, agent or employee of the Town of Loxahatchee Groves is directly or indirectly interested in this proposal.

Submitted by Authorized Agent:

David A. DeMarois

Signature

David A. DeMarois, Chairman

Print Name & Title

Billing, Contract, Proposal Verification, Signature Page

BID NO. 2013-01

Gravel Road Grading, Mowing, and Vegetative Removal Services

***** Billing *****

1. The contractor shall provide invoices to the Town of Loxahatchee Groves monthly in a timely manner.
2. Those invoices must be received on the 5th of each month for the previous month's work performed.
3. An invoice must have a Purchase/Work Authorization number issued by the TOWN before it will be considered for payment
4. The invoice must provide sufficient detail reflecting roads graded, repaired, areas mowed, and vegetative removal performed. If Work Authorization issued for emergency call outs and repairs detail of work performed along with breakdown for additional charges if any must be included.

***** Contract *****

1. The contract starting date, the contract term and the contract renewal details for the service(s) will be negotiated with the awarded contractor(s).
2. The agreement may be terminated by either party given a 90 day written notice upon the other parties failure to timely perform its responsibilities under this agreement.
3. The contractor may provide additional bid proposals and processes. The Town of Loxahatchee Groves reserves the right to consider or dismiss any bid proposal or additional bid proposal.

NUMBER OF PROPOSALS SUBMITTED: The undersigned office of the company submitting the Bid Proposal has submitted responses to the following specific Road Maintenance work.

- Gravel Road Grading
- Mowing of Town Property
- Vegetative Removal Services
- Road Repair
- Emergency Call Out/Repairs

David A. DeMarois
Signature of Officer

David A. DeMarois, Chairman
Printed Name of Officer and Title

3/14/13
Date

Equipment Listing

BID NO. 2013-01

Gravel Road Grading, Mowing, and Vegetative Removal Services

A. What equipment will you use?

(Road Grading) John Deere 670C Grader / 12H CAT Grader 12 FT Grade's
(Base Rock Freight) Sterling Dump Truck
(Mowing/Hedging) John Deere 5325 Boom Mower Tractor /
And 25 FT reach New Holland TS100 Boom Mower Tractor
(Vegetative Removal) John Deere 710G Loader Backhoe
Sterling Dump Truck
Sterling Water Truck IF NEEDED 5,000 Gal

B. Age of Equipment

John Deere 670C Grader 11 years old
CAT 12H Grader 17 years old
Sterling Dump Truck 13 Years old
John Deere 5325 Boom mower Tractor 6 Years old
New Holland TS100 Boom mower Tractor 13 Years old
John Deere 710G Loader Backhoe 9 Years old
Sterling Water Truck 5000 GAL 4 Years old

C. Equipment Hours

John Deere 670C Grader 12,039 / Cat 12H Grader 16,139
John Deere 5325 mower 1,464 / New Holland TS100 mower 8,353
Sterling Dump Truck 67,045 Miles and 5,141 Hour's
John Deere 710G Loader Backhoe 5,206

D. How many workers would be used to complete work on Town Roads? 5

Certification Form (Page 1 of 3)

CERTIFICATE OF AUTHORITY

(IF CORPORATION)

STATE OF)
) SS:
COUNTY OF)

N/A

I HEREBY CERTIFY that a meeting of the Board of Directors of the _____

a corporation existing under the laws of the State of _____, held on _____, 20____, the following resolution was duly passed and adopted:

"RESOLVED, that, as President of the Corporation, be and is hereby authorized to execute the Proposal dated, _____, 20____, to the Town of Loxahatchee Groves and this corporation and that their execution thereof, attested by the Secretary of the Corporation, and with the Corporate Seal affixed, shall be the official act and deed of this Corporation."

I further certify that said resolution is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the corporation this _____, day of _____, 20____.

Secretary: _____

(SEAL)

FAILURE TO COMPLETE, SIGN, AND RETURN THIS FORM MAY DISQUALIFY RESPONSE.

Certification Form (Page 2 of 3)

CERTIFICATE OF AUTHORITY

(IF PARTNERSHIP)

N/A

STATE OF)
) SS:
COUNTY OF)

I HEREBY CERTIFY that a meeting of the Partners of the _____

organized and existing under the laws of the State of _____, held on _____, 20 _____, the following resolution was duly passed and adopted:

"RESOLVED, that, _____, as _____ of the Partnership, be and is hereby authorized to execute the Proposal dated, _____ 20 _____, to the Town of Loxahatchee Groves and this partnership and that their execution thereof, attested by the _____ shall be the official act and deed of this Partnership."

I further certify that said resolution is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand this _____, day of _____, 20 _____.

Secretary: _____

(SEAL)

FAILURE TO COMPLETE, SIGN, AND RETURN THIS FORM MAY DISQUALIFY RESPONSE.

CERTIFICATE OF AUTHORITY

(IF JOINT VENTURE)

N/A

STATE OF)
) SS:
COUNTY OF)

I HEREBY CERTIFY that a meeting of the Principals of the _____

organized and existing under the laws of the State of _____, held on _____, 20_____, the following resolution was duly passed and adopted:

"RESOLVED, that, _____ as _____ of the Joint Venture be and is hereby authorized to execute the Proposal dated, _____ 20_____, to the Town of Loxahatchee Groves and this Joint Venture and that their execution thereof, attested by the _____ shall be the official act and deed of this Joint Venture."

I further certify that said resolution is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand this _____, day of _____, 20_____.

Secretary: _____

(SEAL)

FAILURE TO COMPLETE, SIGN, AND RETURN THIS FORM MAY DISQUALIFY RESPONSE.

6.3. Indemnification and Insurance

INDEMNIFICATION

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

Successful Proposer further agrees to indemnify, defend and hold harmless the Indemnities from and against (i) any and all Liabilities imposed on account of the violation of any law, ordinance, order, rule, regulation, condition, or requirement, in any way related, directly or indirectly, to Successful Proposer's performance under the Contract, compliance with which is left by the Contract to the Proposer, and (ii) any and all claims, and/or suits for labor and materials furnished by the Successful Proposer or utilized in the performance of the Contract or otherwise.

Where not specifically prohibited by law, Successful Proposer further specifically agrees to indemnify, defend and hold harmless the Indemnities from all claims and suits for any liability, including, but not limited to, injury, death, or damage to any person or property whatsoever, caused by, arising from, incident to, connected with or growing out of the performance or non-performance of the Contract which is, or is alleged to be, caused in part (whether joint, concurrent or contributing) or in whole by any act, omission, default, or negligence (whether active or passive) of the Indemnities. The foregoing indemnity shall also include liability imposed by any doctrine of strict liability.

The Successful Proposer shall furnish to Town of Loxahatchee Groves, c/o Town Manager, 14579 Southern Boulevard, Suite 2, Loxahatchee Groves, Florida 33470, Certificate(s) of Insurance prior to contract execution which indicate that insurance coverage has been obtained which meets the requirements as outlined below:

- A. Workers' Compensation Insurance for all employees of the Proposer as required by Florida Statute 440.
- B. Public Liability Insurance on a comprehensive basis in an amount not less than ~~\$1,000,000.00~~ combined single limit per occurrence for bodily injury and property damage. Town must be shown as an additional insured with respect to this coverage.
- C. Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the work in an amount not less than statutory combined single limit per occurrence for bodily injury and property damage.

The insurance coverage required shall include those classifications, as listed in standard liability insurance manuals, which most nearly reflect the operations of the Successful Proposer.

Indemnification and Insurance (cont.)

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 "A" as to management, and no less than "Class X" as to financial strength, by the latest edition of Best's Key Rating Insurance Guide or acceptance of insurance company which holds a valid Florida Certificate of Authority issued by the State of Florida, Department of Insurance, and are members of the Florida Guarantee Fund.

Certificates will indicate no modification or change in insurance shall be made without thirty (30) days written advance notice to the certificate holder.

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

The Successful 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; including any and all option terms that may be granted to the Successful Proposer.

--If insurance certificates are scheduled to expire during the contractual period, the Successful Proposer shall be responsible for submitting new or renewed insurance certificates to the Town at a minimum of ten (10) 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 Town shall:

- A) Suspend the Contract until such time as the new or renewed certificates are received by the Town in the manner prescribed in the RFP.
- B) The Town may, at its sole discretion, terminate the Contract for cause and seek re-procurement damages from the Successful Proposer in conjunction with the violation of the terms and conditions of the Contract.

The undersigned Proposer acknowledges that (s)he has read the above information and agrees to comply with all the above Town requirements.

Proposer: Loxahatchee Groves Water Control District Signature: David A. DeMarois
 (Company name) *District*

Date: 3/14/13 Print Name: David A. DeMarois

FAILURE TO COMPLETE, SIGN, AND RETURN THIS FORM MAY DISQUALIFY YOUR RESPONSE

Sample Affirmative Action Policy
For Equal Employment Opportunity

**AFFIRMATIVE ACTION/
EQUAL EMPLOYMENT OPPORTUNITY - POLICY STATEMENT**

It is the policy of (~~Company Name~~) ^{LGWED} to base its hiring and promotions on merit, qualifications and competency and that its personnel practices will not be influenced by an applicant's or employee's race, color, place of birth, religion, national origin, sex, age, marital status, veteran and handicapped status.

One of the management duties of all principals at (~~Company Name~~) ^{LGWED} is to ensure that the following personnel practices are being satisfied:

1. Take every necessary affirmative action to attract and retain qualified employees, regardless of race, color, place of birth, religion, national origin, sex, age, marital status, veteran and handicapped status.
2. Maintain equitable principles in the recruitment, hiring, training, compensation and promotion of employees.
3. Monitor and review personnel practices to guarantee that equal opportunities are being provided to all employees, regardless of race, color, place of birth, religion, national origin, sex, age, marital status, veteran and handicapped status.

(~~Company Name~~) ^{LGWED} is committed to take affirmative action and aggressively pursue activities that will serve to enable all employees and applicants opportunities available throughout this organization.

Clearly, the above actions cannot be accomplished as a secondary duty for any individual, despite the full support of management. And so, to monitor our efforts, (~~Company Name~~) ^{LGWED} has assigned ~~one of its principals~~ as the Affirmative Action Director to monitor all activities of this program. *District Administrator*

Employees may contact (Name of assigned principal) at (telephone number) regarding this Affirmative Action Policy.

DATE:

3/14/13

(SIGNATURE/TITLE):

Ronald R. Moore

FAILURE TO COMPLETE, SIGN, AND RETURN THIS FORM MAY DISQUALIFY YOUR RESPONSE.

Check List

Submitted with Proposal

- Bid Acknowledgement Cover Page
This form must be completed, signed and returned with Proposal YES X
- Bid Proposal Form
This form must be completed, signed and returned with Proposal YES X
- Municipal Proposal Form
This form must be signed and returned with Proposal YES X
- Proposal Verification Form
This form must be completed, signed and returned with Proposal YES X
- Equipment Listing Form
This form must be completed and returned with Proposal YES X
- Certificate of Authority
This form must be completed, signed, and returned with Proposal YES X
- Insurance Requirements
Acknowledgement of receipt of information on the insurance for this Request for Bid must be signed and returned with Proposal YES X
- Affirmative Action Policy for Equal Employment Opportunity
Submit Sample YES X
- Non Collusive Affidavit
This form must be completed, signed and returned with Proposal YES X
- Business License
All responses shall be accompanied by a copy of your current License(s), if applicable YES N/A
- Complete Bid Proposal with all required forms and attachments. YES X

**AGREEMENT FOR MAINTENANCE OF MOWING & VEGETATIVE REMOVAL
SERVICES WITHIN THE TOWN OF LOXAHATCHEE GROVES**

This AGREEMENT ("Agreement") is made and entered into this 6 day of JUNE, 2013 (the "Effective Date"), by and between:

TOWN OF LOXAHATCHEE GROVES, a municipal corporation existing under the laws of the state of Florida, hereafter referred to as "TOWN,"
and

SIRDAR TRUCKING, INC., a company authorized to do business in the State of Florida, with a principal address of 13332 71st Place North, West Palm Beach, Florida 33412-2110, hereafter referred to as "SIRDAR" (with the TOWN and SIRDAR each referred to as a "Party" and collectively as the "Parties").

WITNESSETH:

WHEREAS, the TOWN is a municipal corporation of the State of Florida, the powers of which are defined in the TOWN's Charter and State law; and

WHEREAS, there are roads within the geographical boundaries of the TOWN which are under the maintenance and control of the TOWN, which have been designated by the TOWN as "Town Roads," and are the responsibility of the TOWN; and

WHEREAS, the TOWN is in need of services, equipment and materials for mowing and vegetative removal services for the Town Roads; and

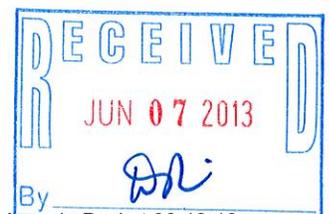
WHEREAS, the TOWN desires professional services to perform certain maintenance of mowing and vegetative removal services, as described herein; and

WHEREAS, the TOWN undertook a competitive selection process, requesting an Invitation to Bid for Bid No. 2013-01 (the "Bid"), and SIRDAR submitted a Response ("Response") to the Bid; and

WHEREAS, the TOWN was not able to negotiate an agreement with the highest ranked bidder, and SIRDAR was the next, most responsive bidder for maintenance of mowing and vegetative removal services; and

WHEREAS, SIRDAR represented that it has the necessary experience of mowing and vegetative removal services, and is capable of providing such services to the TOWN for its Town Roads, subject to the agreement of the parties on criteria for such services, and the TOWN's agreement to pay for such services; and

WHEREAS, the Town Council and SIRDAR have determined that this Agreement is in the best interest of the health, safety, and welfare of the residents within the TOWN.



NOW, THEREFORE, IN CONSIDERATION of the mutual terms, conditions, promises, covenants, and payments hereinafter set forth, SIRDAR and TOWN agree as follows:

ARTICLE I - RECITALS

1.1 The foregoing recitations are true and correct and are hereby incorporated herein by reference. All exhibits to this Agreement are hereby deemed a part hereof.

ARTICLE 2 – MOWING AND VEGETATIVE REMOVAL SERVICES

2.1 Attached hereto as Exhibit “A” and incorporated herein is the Town of Loxahatchee Groves’ Addendum #2 to Bid No. 2013-01, which is titled “Town Roads List.” This list may be amended by the TOWN without amending this Agreement so long as such amendment is in writing and approved by both Parties.

2.2 SIRDAR will provide mowing and vegetative removal services to TOWN as set forth herein. Specifically, SIRDAR shall furnish all of the materials and labor necessary to perform all of the work described in the specifications to the Bid and Response for Mowing and Vegetative Services.

2.3 Mowing maintenance will be performed on the road segments pursuant to a schedule agreed upon by the Parties. Notwithstanding the foregoing, the TOWN shall have no obligation to engage the services of SIRDAR for a specified number of times.

2.4 Trimming and/or removing trees and shrubbery that create a hazard to roadway users will be performed on all the TOWN road segments on an as-needed when-needed basis, but only with the advance, written direction and approval of the Town Manager, or Designee, and will include a work authorization number, scope of work to be completed, and time of completion.

2.5 SIRDAR hereby represents to TOWN, with full knowledge that TOWN is relying upon these representations when entering into this Agreement with SIRDAR, that SIRDAR has the professional expertise, experience, and manpower to perform the services to be provided by SIRDAR pursuant to the terms of this Agreement. SIRDAR ensures that all equipment used is properly registered. The TOWN reserves the right to verify this information. SIRDAR further represents that it shall comply with all federal, state, and local laws, rules, regulations, and ordinances that may be applicable to the operation of the equipment provided for Mowing and Vegetative Removal Services. All equipment must be equipped with a revolving or flashing amber light.

2.6 SIRDAR assumes professional and technical responsibility for performance of its services to be provided hereunder in accordance with recognized professional standards of good construction and engineering practice.

2.7 SIRDAR agrees that no subcontracting is permitted without the advance, written approval of the Town Manager.

ARTICLE 3 – PAYMENT

3.1 As set forth in its Response, SIRDAR shall provide the following services at the following prices that include the cost for use of equipment, labor costs, fuel, equipment maintenance, equipment delivery charges, fuel surcharges, and any other charges:

(a) Mowing	Hourly	\$45.00
(b) Vegetative Removal	Cubic Yard	\$16.00
(c) Vegetative Removal Dumping Fees	Cubic Yard	\$18.00

3.2 Upon the commencement of this Agreement, SIRDAR will provide the TOWN invoices on a monthly basis in a timely manner for work actually completed by SIRDAR for the previous month.

3.3 Invoices submitted by SIRDAR to TOWN must be submitted on the fifth (5th) day of each month for the previous month’s work performed.

3.4 All invoices must have a Purchase/Work Authorization number issued by the TOWN before it will be considered for payment.

3.5 All invoices must provide sufficient detail reflecting areas mowed and vegetative removal performed on specific roads.

3.6 Upon completion of the mowing and vegetative removal services, SIRDAR will submit an invoice for costs for such work performed. Should the TOWN determine that the documentation for a mowing or vegetative removal job is incomplete, it shall request additional information from SIRDAR within ten (10) working days of receipt of the original invoice.

3.7 The TOWN shall pay SIRDAR within thirty (30) days of receipt of the final written invoice and documentation from SIRDAR.

3.8 The TOWN’s obligation is limited to its payment obligation and shall have no obligation to any other person or entity.

ARTICLE 4 - TERM OF AGREEMENT

4.1 This Agreement shall be deemed to have commenced on the Effective Date, and shall continue for two (2) years with an option for the TOWN to exercise two (2) additional two (2) year periods, or until terminated as provided in Sections 4.2 through 4.7, below. The TOWN shall exercise its option by providing SIRDAR with not less than thirty (30) days written notice prior to the end of the then-current term. The notice period may be waived by the Parties.

4.2 Anything to the contrary notwithstanding, minor adjustments to the timetable for completion approved by TOWN in advance, in writing, will not constitute a delay by SIRDAR for which liquidated damages are due. Furthermore, a delay due to an Act of God, fire, lockout, strike or labor dispute, riot or civil commotion, act of public enemy, or other cause beyond the

control of SIRDAR shall extend this Agreement for a period equal to such delay and during this period such delay shall not constitute a delay by SIRDAR for which liquidated damages are due.

4.3 Notwithstanding Section 4.2, this Agreement may be terminated for cause by either Party upon ninety (90) days upon the other Party's failure to timely perform its responsibilities under this Agreement. Such written notice shall be given by the terminating party to the other party setting forth the breach. If the breaching party corrects the breach within thirty (30) days after written notice of same, to the satisfaction of the terminating party, the Agreement shall remain in full force and effect. If such breach is not corrected within thirty (30) days of receipt of notice of breach, the terminating party may terminate the Agreement.

4.4 Termination of this Agreement for cause shall include, but not be limited to: failure of the Parties to suitably perform the services required under this Agreement, and failure of the Parties to continuously perform the services required by the terms and conditions of this Agreement in a manner calculated to meet or accomplish the objectives set forth herein, notwithstanding whether any such breach was previously waived or cured.

4.5 This Agreement may be terminated for convenience by the TOWN, as evidenced by the adoption of a resolution by the TOWN. In that event, the TOWN's sole obligation to SIRDAR shall be payment for services for work previously authorized and performed. Such payment shall be determined on the basis of the hours or percentage of work performed by SIRDAR up to the time of termination. Upon such termination, the TOWN may, without penalty or other obligation to the SIRDAR, elect to employ other persons to perform the same or similar services.

4.6 Notice of termination shall be provided in accordance with Article 6, "NOTICES," herein except that notice of termination by Town Manager which Town Manager deems necessary to protect the public health, safety, or welfare may be by verbal notice which shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Agreement. In the event this Agreement is terminated for convenience by the Town Council, SIRDAR shall be paid for any services performed to the date the Agreement is terminated; however, upon being notified of TOWN's election to terminate, SIRDAR shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. SIRDAR acknowledges and agrees that Ten Dollars (\$10.00) of the compensation to be paid by TOWN, the adequacy of which is hereby acknowledged by SIRDAR, is given as specific consideration to SIRDAR for TOWN's right to terminate this Agreement for convenience.

4.7 In the event this Agreement is terminated, any compensation payable by TOWN shall be withheld until all documents are provided to TOWN. In no event shall the TOWN be liable to SIRDAR for any additional compensation, other than that provided herein, or for any consequential or incidental damages.

ARTICLE 5 - INDEMNIFICATION; INSURANCE

5.1 Independent Contractor: SIRDAR is an independent contractor and not an employee, agent, or servant of TOWN or its TOWN Council for all purposes, including but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal

Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State Workers Compensation Act, and the State of Florida's unemployment insurance law. SIRDAR further acknowledges that the TOWN's duty under this Agreement is limited to contributing the identified funds to SIRDAR and that SIRDAR will use the funds to perform mowing and vegetation removal services for the maintain Town Roads within the TOWN in the manner provided herein. SIRDAR agrees that it is a separate and independent enterprise from the TOWN, that it has full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This Agreement shall not be construed as creating any joint employment relationship between SIRDAR and the TOWN and the TOWN will not be liable for any obligation incurred by SIRDAR, including but not limited to unpaid minimum wages and/or overtime premiums. In the event a claim or lawsuit is brought against TOWN, its officers, employees, servants or agents, arising from or relating to the SIRDAR improvements or any matter that is the responsibility of SIRDAR under this Agreement, SIRDAR will indemnify and hold harmless the TOWN in the manner and to the extent set forth in Section 5.2, below.

5.2 Hold Harmless and Indemnification: SIRDAR hereto agrees, to the extent permitted by law, to:

- (A) indemnify, save and hold harmless the TOWN, its officers, employees, and agents (collectively the "Indemnities"), and to defend said persons from and against any such loss, cost, penalties, fines, damages, claims, expenses (including attorneys' fees) or liabilities, causes of action, and judgments of any type whatsoever arising out of, resulting from, or in connection with (i) the performance or non-performance of the services contemplated by the Agreement which is or is alleged to be directly or indirectly caused, in whole or in part, by any act, omission, default, or negligence (whether active or passive) of SIRDAR, regardless of whether it is, or is alleged to be, caused in whole or in part (whether joint, concurrent, or contributing) by any act, omission, default or negligence (whether active or passive) of the Indemnities, or any of them or (ii) the failure of SIRDAR to comply with any of the provisions of the Agreement or the failure of SIRDAR to conform to statutes, ordinances, or other regulations or requirements of any governmental authority, federal or state, in connection with the performance of the Agreement. SIRDAR expressly agrees to indemnify and hold harmless the Indemnities, or any of them, from and against all liabilities which may be asserted by an employee or former employee of SIRDAR, or any approved subcontractors, as provided above, for which SIRDAR's liability to such employee or former employee would otherwise be limited to payments under state Workers' Compensation or similar laws.

SIRDAR further agrees to indemnify, defend, and hold harmless the Indemnities from and against (i) any and all Liabilities imposed on account of any violation of law, ordinance, order, rule, regulation, condition, or requirements, in any related, directly or indirectly, to SIRDAR's performance under the Agreement, compliance with which is left by the Agreement to SIRDAR, and (ii) any and all claims, and/or suits for labor and materials furnished by SIRDAR or utilized in the performance of the Agreement or otherwise.

Where not specifically prohibited by law, SIRDAR further specifically agrees to indemnify, defend, and hold harmless the Indemnities from all claims and suits for any liability, including, but not limited to, injury, death, or damage to any person or property whatsoever, caused by, arising from, incident to connected with, or growing out of the performance or non-performance of the Agreement which is, or is alleged to be, caused in part (whether joint, concurrent, or contributing) or in whole by any act, omission, default, or negligence (whether active or passive) of the Indemnities. The foregoing indemnity shall also include liability imposed by any doctrine of strict liability.

(B) The forgoing indemnity shall survive the termination or expiration of this Agreement. A Party shall not be deemed to assume any liability for the negligent or wrongful acts, or omissions of the other Party (or Parties). Nothing contained herein shall be construed as a waiver by the TOWN of the liability limits established in Section 768.28, Florida Statutes.

5.3 Insurance. Certificates of Insurance reflecting evidence of the required insurance shall be filed with the TOWN Manager prior to the commencement of this Agreement. These Certificates shall contain a provision that coverages afforded under these policies will not be cancelled until at least thirty days (30) prior written notice has been given to the TOWN. Policies shall be issued by companies authorized to do business under the laws of the State of Florida. Financial Ratings must be not less than "A-VI" in the latest edition of "Best Key Rating Guide," published by A.M. Best Guide.

Insurance shall be in force until the obligations required to be fulfilled under the terms of the Agreement are satisfied. In the event the insurance certificate provided indicates that the insurance shall terminate and lapse during the period of this Agreement, then in that event, the SIRDAR shall furnish, at least thirty (30) days prior to the expiration of the date of such insurance, a renewed certificate of insurance as proof that equal and like coverage for the balance of the period of the Agreement and extension thereunder is in effect. SIRDAR shall not commence nor continue to provide any services pursuant to this Agreement unless all required insurance remains in full force and effect. SIRDAR shall be liable to TOWN for any lapses in service resulting from a gap in insurance coverage.

5.3.1 REQUIRED INSURANCE

Comprehensive General Liability insurance to cover liability bodily injury, accidental death, and property damages for bodily injury, including accidental death, and for property damage, which may arise from operations under this contract whether such operation by himself or by anyone directly or indirectly employed under SIRDAR. Coverage must be written on an occurrence basis, with the following limits of liability:

A.	Comprehensive General Liability	
1.	Each Occurrence	\$1,000,000
2.	General Aggregate	1,000,000

- B. Automobile and Truck Liability
 - 1. Each Occurrence \$1,000,000
 - 2. General Aggregate 1,000,000

C. Worker's Compensation Insurance

Shall be maintained during the life of this contract to comply with statutory limits for all employees. The following limits must be maintained:

- 1. Worker's Compensation Statutory
- 2. Employer's Liability \$300,000 each accident
\$300,000 Disease-policy limit
\$300,000 Disease-each employee

or such other amount that may be required by Florida law, whichever is greater.

Note: Comprehensive General Liability coverage and Automobile and Truck Liability coverage may be met with a combination of coverage including excess and umbrella liability coverage. Comprehensive General Liability Insurance covering bodily injuries and property damage shall also include coverage for: (a) injury to or destruction of wires, pipes, conduits, and similar property located below the surface of the ground, whether public or private; (b) collapse of or structural injury to any building or structure except those on which work under this Agreement is being performed; and (c) contractual liabilities related to bodily injury and property damage, i.e. X - explosion, C - Collapse, U - underground.

Automobile and Truck Liability shall cover bodily injury and property damage for the operation of all motor vehicles and equipment, whether or not owned by SIRDAR, being operated in connection with the work performed under this Agreement. Product and Completed Operations coverage shall be included in the amounts specified above for Comprehensive General Liability.

5.3.2 SIRDAR shall name the TOWN as an additional insured on each of the policies required herein and shall hold the TOWN harmless on account of claims or damages to persons, property or premises arising out of the services provided hereunder.

5.3.3 Evidence of Insurance. As evidence of insurance coverage, the TOWN may, in lieu of actual policies, accept official written statements from the insurance company certifying that all the insurance policies specified below are in force for the specified period. SIRDAR shall submit to TOWN evidence of insurance at the time of execution of this Agreement. Written notice shall be given to the TOWN at least thirty (30) days prior to nonrenewal of such insurance coverage.

ARTICLE 6 - NOTICES

6.1 Any and all notices given or required under this Agreement shall be in writing and may be delivered in person or by United States mail, postage prepaid, first class and certified, return receipt requested, or by hand-delivery with a request for a written receipt of acknowledgement of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided for in this article. For the present, the Parties designated the following:

TO TOWN OF LOXAHATCHEE GROVES:

Mayor David Browning
Town of Loxahatchee Groves
14579 Southern Blvd., Suite 2
Loxahatchee Groves, FL 33470

With copies to:

Mark Kutney, Town Manager
Town of Loxahatchee Groves
14579 Southern Blvd., Suite 2
Loxahatchee Groves, FL 33470

And

Michael D. Cirullo, Jr., Town Attorney
Goren, Cherof, Doody & Ezrol, P.A.
3099 East Commercial Boulevard
Suite 200
Fort Lauderdale, FL 33308

TO SIRDAR TRUCKING, INC.:

Chris Sirdar, Vice President
13332 71st Place North
West Palm Beach, FL 33412-2110
Samantha.sirdar@yahoo.com

ARTICLE 7 - MISCELLANEOUS PROVISIONS

7.1 **ASSIGNMENT:** The Parties to the Agreement shall have no right to assign, transfer, or otherwise encumber this Agreement, without the express consent of the other party.

7.2 **WAIVER:** The waiver by any Party to this Agreement of any failure on the part of another Party to perform in accordance with any of the terms or conditions of this Agreement shall not be construed as a waiver of any future or continuing similar or dissimilar failure.

7.3 THIRD PARTY BENEFICIARIES: Neither TOWN nor SIRDAR intends to directly or substantially benefit a third party by this Agreement. Therefore, the Parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based on this Agreement. The Parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

7.4 SEVERABILITY: The invalidity of any provision of this Agreement shall in no way affect the validity of any other provision.

7.5 ENTIRE AGREEMENT: It is understood and agreed that this Agreement incorporates and includes all prior negotiations, agreements or understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

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

7.7 APPLICABLE LAW AND VENUE: This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State Courts of the 15th Judicial Circuit of Palm Beach County, Florida, and the venue site and shall be governed by the laws of the State of Florida. To encourage prompt and equitable resolution of any litigation that may arise hereunder, each Party hereby waives any rights it may have to trial by jury of any such litigation.

7.8 AMENDMENTS: No modification, amendment, or alteration of the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by both Parties.

7.9 MULTIPLE ORIGINALS: This Agreement may be fully executed in multiple copies by all Parties, each of which, bearing original signatures, shall have the force and effect of an original document.

7.10 LICENSES. All drivers must be properly licensed operators, if applicable. SIRDAR is responsible for updating operator information at any time throughout the duration of this Agreement. Failure to do so may be grounds for breach and subsequent termination of this Agreement. SIRDAR shall be responsible for providing phone numbers where employees can be

reached. The inability of the TOWN to make contact with SIRDAR or an employee thereof within a reasonable amount of time is cause for the TOWN to terminate this Agreement or to use other contractors as described in Section 4 of this Agreement.

7.11 AFFIRMATIVE ACTION/EQUAL OPPORTUNITY EMPLOYER. Pursuant to the Bid and Response, SIRDAR shall adhere to an affirmative action policy. In the performance of this Agreement, SIRDAR shall not discriminate against any firm, employee or applicant for employment or any other firm/individual in providing services because of sex, age, race, color, religion, ancestry or national origin.

7.12 PROTECTION OF PROPERTY. At all times during the performance of this Agreement, SIRDAR shall protect the property of the TOWN and adjacent property owners from all damage whatsoever on account of the work being carried on under this contract.

7.13 CONFLICTS IN DOCUMENTS. SIRDAR and TOWN hereby agree that the following Contract Documents are fully incorporated herein and made a part of this Agreement to the extent not in conflict with this Agreement, as if written herein word for word: TOWN's Bid No. 2013-01 and SIRDAR's Response. In the event that there is any conflict between any of the contract document and the terms of this Agreement, this Agreement shall prevail.

7.14 LEGAL REPRESENTATION. It is acknowledged that each Party to this Agreement had the opportunity to be represented by counsel in the preparation of this Agreement and, accordingly, the rule that a contract shall be interpreted strictly against the Party preparing same shall not apply due to the joint contribution of both Parties.

7.15 OWNERSHIP OF DOCUMENTS. Reports, surveys, plans, studies and other data provided in connection with this Agreement are and shall remain the property of TOWN whether or not the project for which they are made is completed. TOWN hereby agrees to use SIRDAR's work product for its intended purposes.

7.16 NO CONTINGENT FEES. SIRDAR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the SIRDAR, 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 SIRDAR, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, the TOWN shall have the right to terminate the Agreement without liability at its discretion, to deduct from the contract price, or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

7.17 BINDING AUTHORITY. Each person signing this Agreement on behalf of either Party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

7.18 EXHIBITS. Each Exhibit referred to in this Agreement forms an essential part of this Agreement. The exhibits if not physically attached should be treated as part of this Agreement and are incorporated herein by reference.

7.19 HEADINGS. Headings herein are for convenience of reference only and shall not be considered on any interpretation of this Agreement.

7.20 ATTORNEYS' FEES. In the event that either Party brings suit for enforcement of this Agreement, the prevailing party shall be entitled to attorneys' fees and court costs in addition to any other remedy afforded by law.

7.21 AUDIT AND INSPECTION RIGHTS AND RETENTION OF RECORDS. TOWN shall have the right to audit the books, records and accounts of SIRDAR that are related to this Agreement. SIRDAR shall keep such book, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement. SIRDAR shall preserve and maintain all financial records, supporting documents, statistical records, and any other documents pertinent to his Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement, unless SIRDAR is notified in writing by the TOWN of the need to extend the retention period. Such retention of such records and documents shall be at SIRDAR's expense. SIRDAR shall comply with inspection and reproduction obligations of Florida law relating to public records in its possession. If any audit has been initiated an audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by the TOWN to be applicable to SIRDAR's records, SIRDAR shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by SIRDAR. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for TOWN'S disallowance and recovery of any payment upon such entry.

In addition, SIRDAR shall respond to the reasonable inquiries of any successor companies and allow and successor companies to receive working papers relating to matters of continuing significance. In addition, SIRDAR shall provide a complete copy of all working papers to TOWN, prior to final payment, in accordance with this Agreement and the Schedule for SIRDAR's services.

7.22 PALM BEACH COUNTY OFFICE OF THE INSPECTOR GENERAL. SIRDAR is aware that the Inspector General of Palm Beach County has the authority to investigate and audit matters relating to the negotiation and performance of this Agreement, and in furtherance thereof may demand and obtain records and testimony from SIRDAR and, any, if applicable, subcontractors and lower tier subcontractors. SIRDAR understands and agrees that in addition to all other remedies and consequences provided by law, failure of SIRDAR or, if applicable, subcontractors and lower tier subcontractors to fully cooperate with the Inspector General when requested will be deemed to be a breach of this Agreement. SIRDAR shall be responsible for all costs incurred by it or the TOWN as a result of any investigation by the Inspector General

which results in an adverse determination caused by SIRDAR, and if applicable, subcontractors and lower tier subcontractors.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement between TOWN and SIRDAR TRUCKING, INC., on the respective dates under each signature: TOWN, signing by and through its _____, authorized to execute same by Council action on the ____ day of _____, 2013 and Sirdar Trucking, Inc., signing by and through its _____, authorized to execute same by action on the ____ day of _____, 2013.

Executed by **TOWN** this _____ day of _____, 2013

TOWN OF LOXAHATCHEE GROVES,
a Florida Municipal Corporation

By: _____
David Browning, Mayor

ATTEST:

By: _____
Town Clerk

[TOWN SEAL]

APPROVED AS TO FORM:

By: _____
Town Attorney

Executed by **SIRDAR TRUCKING, INC.**, this 6 day of JUNE, 2013

SIRDAR TRUCKING, INC.,
a State of Florida corporation

By: Phoanathie Sirdar

Title: President

ATTEST:

By: A Sirdar
Secretary

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Agreement for Maintenance of Mowing & Vegetative Removal Services
Town of Loxahatchee Groves and Sirdar Trucking, Inc.

EXHIBIT A
TOWN ROADS LIST

**Agreement for Maintenance of Mowing & Vegetative Removal Services
Town of Loxahatchee Groves and Sirdar Trucking, Inc.**

EXHIBIT "A"

Town Roads List

TOWN ROAD NAME	PLAT DESIGNATION	MILEAGE
10TH PLACE NORTH	BLOCK B	0.081
11TH LANE NORTH	BLOCK F	0.351
11TH TERRACE	BLOCK C	0.244
12TH PLACE NORTH	BLOCK E	0.197
131ST TERRACE NORTH	BLOCK F	0.147
13TH PLACE NORTH	BLOCK F (FOLSOM)	0.282
13TH PLACE NORTH	BLOCK F (F ROAD)	0.166
140TH STREET NORTH	CUT-THRU / SUNSPORT	0.100
145TH AVENUE NORTH	T: 43S / R: 41E	0.457
147TH AVENUE NORTH	BLOCK C	0.126
147TH DRIVE NORTH	BLOCK C	0.115
148TH TERRACE NORTH	T: 43S / R: 41E	0.339
149TH AVENUE NORTH	BLOCK I	0.126
14TH PLACE NORTH	BLOCK E	0.257
152ND WAY NORTH	BLOCK B	0.068
160TH STREET NORTH	T: 43S / R: 41E	0.394
161ST TERRACE NORTH	T: 43S / R: 40E	2.014
17TH ROAD NORTH	BLOCK B	0.076
21ST ROAD NORTH	BLOCK C	0.126
22ND COURT NORTH	BLOCK F	0.292
22ND ROAD NORTH	BLOCK C (C ROAD)	0.248
22ND ROAD NORTH	BLOCK E (E ROAD)	0.156
22ND ROAD NORTH	BLOCK F (F ROAD)	0.210
23RD COURT NORTH	BLOCK E	0.189
24TH CIRCLE NORTH	BLOCK C	0.177
24TH COURT NORTH	BLOCK C (C ROAD)	0.282
24TH COURT NORTH	BLOCK D (E ROAD)	0.194
24TH COURT NORTH	BLOCK E (WEST F)	0.250
24TH COURT NORTH	BLOCK F (EAST F)	0.406
25TH PLACE NORTH	BLOCK B (C ROAD)	0.136
27TH LANE NORTH	BLOCK C	0.135
30TH COURT NORTH	BLOCK B (C ROAD)	0.141
30TH COURT NORTH	BLOCK D (D ROAD)	0.132
34TH PLACE NORTH	BLOCK C	0.135
35TH PLACE NORTH	BLOCK D	0.127

EXHIBIT "A"

Town Roads List

TOWN ROAD NAME	PLAT DESIGNATION	MILEAGE
41ST ROAD NORTH	T: 43S / R: 41E	0.068
42ND ROAD NORTH	T: 43S / R: 41E	0.153
42ND STREET NORTH	T: 43S / R: 41E (OFF 160TH)	0.234
43RD ROAD NORTH	T: 43S / R: 41E (GLOBAL)	0.194
43RD ROAD NORTH	T: 43S / R: 41E (140TH)	0.394
44TH STREET NORTH	T: 43S / R: 41E (OFF 160TH)	0.235
8TH PLACE NORTH	BLOCK C	0.319
APRIL DRIVE	BLOCK C	0.164
BIDDIX ROAD	BLOCK D	0.191
BRYAN ROAD	BLOCK F	0.749
BUNNY LANE	BLOCK C	0.244
CANAL MAINTENANCE RD	T: 43S / R: 41E (40TH ST N)	1.462
(WILSON) CASEY ROAD	BLOCK F	0.748
CITRUS DRIVE	BLOCK K	0.243
COMPTON ROAD	BLOCK F	0.748
EAST CITRUS DRIVE	BLOCK K	0.501
EDITH ROAD	BLOCK E	0.197
FARLEY ROAD	BLOCK E	0.197
FERRIS LANE	BLOCK A	0.194
FLAMINGO DRIVE	BLOCK C	0.186
FOREST LANE	BLOCK B	0.188
FORTNER DRIVE	BLOCK B (B ROAD)	0.126
FORTNER DRIVE	BLOCK B (C ROAD)	0.135
FOX TRAIL	BLOCK E	0.204
GLOBAL TRAIL	T: 43S / R: 41E	0.519
GREAT DANE LANE	BLOCK F	0.130
GRUBER LANE	BLOCK C	0.489
HYDE PARK ROAD	BLOCK E	0.518
IAN TRAIL	T: 43S / R: 41E	0.384
JEWEL LANE	BLOCK B	0.103
KAZEE ROAD	BLOCK G	0.432
KERRY LANE	BLOCK E	0.260
LOS ANGELES DRIVE	BLOCK B	0.244
LOXAHATCHEE AVENUE	BLOCK K	0.180
MARCELLA BOULEVARD	BLOCK F	0.749

EXHIBIT "A"

Town Roads List

TOWN ROAD NAME	PLAT DESIGNATION	MILEAGE
MARCH CIRCLE	BLOCK F	0.174
MORROW COURT	BLOCK B	0.180
ORANGE AVENUE	BLOCK K	0.075
PARADISE TRAIL	BLOCK C	0.186
PERKINS DRIVE	BLOCK F	0.336
PINEAPPLE DRIVE	BLOCK I	0.434
QUAIL ROAD	BLOCK F	0.135
RACKLEY ROAD	BLOCK F	0.146
RAYMOND DRIVE	BLOCK F	0.337
ROBERTS WAY	BLOCK B	0.229
SALLY'S ALLEY	BLOCK B	0.244
SAN DIEGO DRIVE	BLOCK B	0.244
SCOTTS PLACE	BLOCK B	0.213
SHAMROCK DRIVE	BLOCK B	0.244
SIXTH COURT NORTH	BLOCK I (WEST D)	0.177
SIXTH COURT NORTH	BLOCK K (EAST D)	1.733
SNAIL TRAIL	BLOCK C	0.244
TANGERINE DRIVE	BLOCK K	0.510
TEMPLE DRIVE	BLOCK I	0.100
TIMBERLANE PLACE	BLOCK B	0.219
TRIPP ROAD	BLOCK D	0.242
VALENCIA DRIVE	BLOCK K	0.136
WEST "B" ROAD	BLOCK A	0.340
WEST "C" ROAD	BLOCK B	0.623
WEST "D" ROAD	BLOCK I (SOUTH C.C.)	0.314
WEST 'D' ROAD	BLOCK C (NORTH C.C.)	0.388
WEST 'F' ROAD	BLOCK E	0.198
WILLIAMS DRIVE	BLOCK B	0.193
	MONTHLY MILEAGE =	29.552



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

06/06/13

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 B-Safe Insurance 4772-A Okeechobee Blvd. West Palm Beach, FL 33417 Phone (561)471-0100 Fax (561)697-2966		CONTACT NAME: PHONE (A/C, No, Ext): (561)471-0100 FAX (A/C, No): (561)697-2966 E-MAIL: agency@bsafeins.com ADDRESS:	
INSURED SIRDAR TRUCKING 13332 71st Pl N Royal Palm Beach, FL 33412- (561) 791-3964		INSURER(S) AFFORDING COVERAGE INSURER A: ATLANTIC CASUALTY INSURER B: GMAC INSURER C: INSURER D: INSURER E: INSURER F:	

COVERAGES

CERTIFICATE NUMBER:

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 SUBR INSR	Y/N	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR <input type="checkbox"/> _____ <input type="checkbox"/> _____ GENL AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	Y	N	L017000779-3	03/09/2013	03/09/2014	EACH OCCURRENCE \$ 1,000,000.00
	DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000.00						
B	<input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS <input type="checkbox"/> _____ <input type="checkbox"/> _____	N	N	2001660583	10/26/2012	10/26/2013	INCLUDED \$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DEV <input type="checkbox"/> RETENTIONS						COMBINED SINGLE LIMIT (Ea accident) \$ 500,000.00 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ PIP DED \$ 10,000.00 EACH OCCURRENCE \$ AGGREGATE \$ WC STATUTORY LIMITS <input type="checkbox"/> OTH-ER
	WORKERS COMPENSATION AND EMPLOYERS LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXC? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
 CERTIFICATE HOLDER IS LISTED AS AN ADDITIONAL INSURED



CERTIFICATE HOLDER

CANCELLATION

TOWN OF LOXAHATCHEE GROVES
 14579 SOUTHERN BLVD SUITE 2
 LOXAHATCHEE, FL 33470

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

BORIS JOFRE

TOWN OF LOXAHATCHEE GROVES

MEMORANDUM NO. 2013-17

TO: Mayor David Browning
Members of the Town Council

CC: Mark Kutney, Town Manager
Susan Eichhorn, Town Clerk

FROM: Michael D. Cirullo, Jr., Office of the Town Attorney *MDC*

DATE: June 18, 2013

RE: Town of Loxahatchee Groves ("Town") adv. Day/Bert J Harris Claim

As I advised in Memorandum 2013-06, dated March 27, 2013, on January 22, 2013, William Day's counsel, Bernard Lebedeker, Esquire, filed with the Town a written claim pursuant to the Bert J Harris, Jr. Private Property Rights Protection Act (the "Act"), set forth in Section 70.001, Florida Statutes. Pursuant to the Act, the Town must provide a written settlement offer and a written statement of allowable uses within 150 days of receipt of the claim, which is June 21, 2013.

Attached for consideration by the Town Council are the following documents:

- Written Offer of Settlement
- Written Statement of Allowable Uses

Both have been reviewed by the Town's defense counsel in the current litigation in the event that they are not accepted by the Days.

It is requested that the Town Council adopt a Motion authorizing the two attached letters to be forwarded to the Days' counsel.

MDC:clb

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TOWN OF LOXAHATCHEE GROVES

MEMORANDUM NO. 2013-06

TO: Mayor David Browning
Members of the Town Council

CC: Mark Kutney, Town Manager
Susan Eichhorn, Town Clerk

FROM: Michael D. Cirullo, Jr., Office of the Town Attorney *MDC*

DATE: March 27, 2013

RE: Town of Loxahatchee Groves ("Town") adv. Day/Bert J Harris Claim

Although the Town Council has been advised informally and verbally during Council meetings of the filing of the above referenced claim, the purpose of this memorandum is to formally provide information on the claim and the process.

On January 22, 2013, William Day's counsel, Bernard Lebedeker, Esquire, filed with the Town a written claim pursuant to the Bert J Harris, Jr. Private Property Rights Protection Act (the "Act"), set forth in Section 70.001, Florida Statutes. The use provides for compensation to a property owner when "a specific action of a governmental entity has inordinately burdened an existing use of real property or a vested right to a specific use of real property."

The Act

In order to file an action against a governmental entity for a claim pursuant to the Act, the property owner must provide the governmental entity 150 days' notice (90 for properties classified agricultural) prior to filing the action. During the notice period, the governmental entity must take four (4) actions:

1. Provide a written notice of the claim to owners of real property contiguous to the owner's property at addresses listed on the county tax rolls.
2. Provide notice within 15 days after the claim is presented) to the Florida Department of Legal Affairs (the Florida Attorney General);
3. Make a written settlement offer to effectuate one of eleven options in the statute; and,
4. Issue a written statement of allowable uses, which identifies the allowable uses to which the subject property may be put. If the governmental entity does not provide the written statement of allowable uses, it is deemed a denial and the property owner may proceed with litigation.

The 11 options to effectuate a settlement are:

1. An adjustment of land development or permit standards or other provisions controlling the development or use of land.
2. Increases or modifications in the density, intensity, or use of areas of development.
3. The transfer of developmental rights.
4. Land swaps or exchanges.
5. Mitigation, including payments in lieu of onsite mitigation.
6. Location on the least sensitive portion of the property.
7. Conditioning the amount of development or use permitted.
8. A requirement that issues be addressed on a more comprehensive basis than a single proposed use or development.
9. Issuance of the development order, a variance, special exception, or other extraordinary relief.
10. Purchase of the real property, or an interest therein, by an appropriate governmental entity or payment of compensation.
11. No changes to the action of the governmental entity.

Section 70.001(4)(c), Florida Statutes.

Attorney's fees may be awarded by the trial court to the prevailing party. However, the settlement offer and statement of allowable uses must be considered by the trial court in deciding whether to award attorney's fees.

- If the property owner prevails, the trial court must also find that the governmental entity's settlement offer and statement of allowable uses did not constitute a bona fide offer which would have reasonably resolved the claim.
- If the governmental entity prevails, the trial court must also find that the property owner did not accept a bona fide settlement offer, including statement of allowable uses, which would have reasonably resolved the claim fairly to the property owner had it been accepted.

Status of Day Claim

The Day Claim is based upon the Town Council's denial of their application for a small scale land use amendment on their property located at 12900 Okeechobee Boulevard, Loxahatchee Groves, Florida. The Days claim that the current value of the property is \$280,000.00, and that the value of the property had the land use amendment been approved would have been \$3,040,000.00. It appears that they are claiming the difference between the two values (approximately \$2,760,000.00) as their damages.

The property is not classified agriculture, so the notice period for the claim is 150 days. As the Claim was received by the Town on January 22, 2013, the 150 day notice period expires on **June 21, 2013**.

The town has satisfied both notice requirements. Notice to Florida Department of Legal Affairs, Office of the Attorney General was sent out on February 6, 2011. Notices to contiguous property owners were sent out on February 11, 2013.

The next step for the Town is to provide a written settlement offer pursuant to Section 70.001(3)(c), Florida Statutes, and a statement of allowable uses.

Note that the pre-suit notice period pursuant to the Act is not “pending litigation” that would permit the Town Council to conduct closed door attorney-client meetings (also known as “shade meetings”). *Opinion of the Florida Attorney General 2009-25 (June 10, 2009)*. As a result, any direction from the Town Council would need to be provided at regular or special Town Council meetings.

It is my recommendation that this important item be considered in two parts, at two different upcoming meetings, by the Town Council:

1. Report and Direction by Town Council on the preparation of a settlement offer and statement of allowable uses; and,
2. Approval of written settlement offer and statement of allowable uses, and authority to send to the Days.

I will coordinate with Town Management on the placement of these items on Town Council Meeting Agendas. In the meantime, if you require any additional information or have any questions, please contact me.

MDC:clb

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GOREN, CHEROF, DOODY & EZROL, P.A.

ATTORNEYS AT LAW

SUITE 200

3099 EAST COMMERCIAL BOULEVARD

FORT LAUDERDALE, FLORIDA 33308

PHONE: (954) 771-4500

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www.cityatty.com

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DAVID N. TOLGES

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DELRAY BEACH, FL 33483
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JACOB G. HOROWITZ
SHANA H. BRIDGEMAN
STACEY R. WEINGER
BRIAN J. SHERMAN
BRAM A. MARAVENT

STEVEN L. JOSIAS, OF COUNSEL

PLEASE REPLY TO FORT LAUDERDALE

June 19, 2013

Bernard Lebedeker, Esquire
Burman, Critton, Luttier & Coleman, LLP
303 Banyan Blvd., Suite 400
West Palm Beach, Florida 33401

RE: Town of Loxahatchee Groves/Frankie and Willie Day Bert J. Harris Claim –
Written Settlement Offer

Dear Mr. Lebedeker,

Pursuant to Section 80.001(4)(c), Florida Statutes, the Town of Loxahatchee Groves, Florida hereby makes the following Offer of Settlement related to the above referenced claim.

The Town will permit the use of the real property located at 12900 Okeechobee Boulevard (“Property”) as a special exception for a Retail Nursery upon satisfaction of the requirements for a special exception use as set forth in the Town’s Unified Land Development Code. In addition, the Town will permit the continuing use of the Property as a single family dwelling, along with any accessory uses that are permitted in the Agricultural Zoning (AR) zoning district. If it can be confirmed that the acreage of the Property, including lands previously taken for road right of way, is at least ten (10) acres, the Property can developed with a second single-family residential dwelling. Also, the Town will permit the use of the Property as set forth in the accompanying Statement of Allowable Uses, subject to compliance with the Town ULDC.

Sincerely,

Michael D. Cirullo, Jr.
Town Attorney

cc: Mayor David Browning
Members of the Town Council
Mark Kutney, Town Manager
Michael Burke, Town Special Counsel

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GOREN, CHEROF, DOODY & EZROL, P.A.

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STEVEN L. JOSIAS, OF COUNSEL

PLEASE REPLY TO FORT LAUDERDALE

June 19, 2013

Bernard Lebedeker, Esquire
Burman, Critton, Luttier & Coleman, LLP
303 Banyan Blvd., Suite 400
West Palm Beach, Florida 33401

RE: Town of Loxahatchee Groves/Frankie and Willie Day Bert J. Harris Claim –
Written Statement of Allowable Uses

Dear Mr. Lebedeker,

Pursuant to Section 80.001(5)(a), Florida Statutes, the Town of Loxahatchee Groves, Florida hereby issues the following Statement of Allowable Uses of the real property located at 12900 Okeechobee Boulevard ("Property"). The Property has a current Comprehensive Plan Land Use Designation of Rural Residential – 5, and a zoning designation of Agricultural Residential (AR). The allowable uses of the Property are set forth in Section 20-015, Town of Loxahatchee Groves Unified Land Development Code (ULDC). The existing use of the Property as a single family dwelling is permitted. If it can be confirmed that the acreage of the Property, including lands previously taken for road right of way, is at least ten (10) acres, the Property can developed with a second single-family residential dwelling. In addition, other permitted uses of the Property are as follows:

Section 20-015. - Permitted uses.

Plots located in the Agricultural Residential (AR) zoning districts may be used for the following specified uses.

Principal Uses	Agricultural Residential (AR)
Single Family Dwelling	Permitted
Mobile Home	Permitted w/ Special Exception

Public Schools	Permitted
Congregate Living Facility, Type 1	Permitted
Non-Profit Community Recreational Facilities	Permitted w/Special Exception
Essential Services	Permitted
Commercial Equestrian Operations	Permitted w/Special Exception
Wholesale Nursery	Permitted
Retail Nursery	Permitted w/Special Exception
Aviculture	Permitted subject to Article 80
Commercial Kennels	Not Permitted
Chipping and Mulching	Permitted subject to Article 80
Feed Lots	Not Permitted
Commercial Animal Manure Management	Not Permitted
Commercial Chipping and Mulching	Permitted subject to Article 80
Rescued Animal Care	Permitted w/Special Exception
Outdoor Events	Permitted w/Special Exception
Agriculture	Permitted
Bona Fide Agriculture	Permitted
Wireless Communication Facilities	Permitted w/Special Exception

Accessory Uses	Agricultural Residential (AR)
Accessory Dwelling	Permitted
Groom's Quarter	Permitted
Caretaker's Quarter	Permitted
Home Offices	Permitted subject to Article 80
Residential Enterprise	Permitted subject to Article 80
Wholesale Nursery	Permitted
Retail Nursery	Permitted w/Special Exception
U-Pick Farms	Permitted w/Special Exception
Private Kennels	Permitted

Private Stables	Permitted
Yard Sales	Permitted subject to Article 80

Very truly yours,

MICHAEL D. CIRULLO, JR.

MDC:clb

cc: Mayor David Browning
Members of the Town Council
Mark Kutney, Town Manager
Michael Burke, Town Special Counsel

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Perla D. Underwood

From: Jim Rockett
Sent: Monday, June 10, 2013 11:19 PM
To: Mark Kutney
Cc: Susan Eichhorn; William Underwood
Subject: RE: 6/18/13 TC agenda item

Mark, I want the Council to discuss and direct Town Management as to what fund to use to pay the LGWCD the \$28,893.02 debt assistance, before it's paid. I will suggest that the monies come out of the 5 cent Gas Tax funds received this year and not from General Funds as was in the budget amendment. The 5 cent Gas Tax fund is the same source that the 2012/2013 management proposed budget suggested when it recommended transferring \$300,000 to the LGWCD for debt relief. We should also discuss funding transfers for 2013/2014 for the same \$29K as well as the 6 cent Gas Tax maintenance funding transfer amount.

This is also the time to have the Balance sheet 9/30/2013 projection to be prepared by Town Mgmt available for All the funds that dovetails the recent 2012/2013 budget amendment.

Jim Rockett
Council Member



Town of Loxahatchee Groves
14579 Southern Blvd, Suite 2
Loxahatchee Groves, FL 33470
(561) 793-2418: Phone
(561) 793-2420: Fax
www.loxahatcheegroves.org

Please Note: please direct all future correspondence to jrockett@loxahatcheegrovesfl.gov



TOWN OF LOXAHATCHEE GROVES
OFFICE OF THE TOWN MANAGER
AGENDA REPORT

TO: Mayor and Town Council

FROM: Mark A. Kutney, Town Manager, AICP, ICMA-CM

DATE: June 11, 2013

SUBJECT: Agenda Request Gas Tax Funds/Statement of Estimated Changes in Fund Balances

I. BACKGROUND/HISTORY

The Town Manager received a request from Councilman Rockett to discuss the \$28,893.02 debt assistance to the LGWCD and request that such payment come from the 5 cent gas tax received this year and not the general fund as indicated in the recent budget amendment. Councilman Rockett also requested discussion of the same funding transfer for FY 14 and requested a “Balance Sheet” to include FY21013 projections for all funds to include the recent budget amendment.

II. DISCUSSION

Town Management would advise the Town Council that the Local Option Five cent fund discussion was proposed in concert with the transfer of roads to the Town. Further, that transfer envisioned and required that the Town amend and achieve a revised and approved Capital Improvement Plan element in the Town’s Comprehensive Plan. The two actions above would allow the use of those funds for capital improvements and these two conditions are still in the process of being achieved.

The State of Florida provides guidance relative to the Local Option Five cent as follows: “the tax proceeds shall be used for transportation expenditures needed to meet the requirements of the capital improvements of an adopted comprehensive plan (emphasis added) or for expenditures needed to meet immediate local transportation problems and for other transportation related expenditures that are critical for building comprehensive roadway networks by local governments. Expenditures for the construction of new roads, the reconstruction or resurfacing

of existing paved roads or the paving of existing graded roads shall be deemed to increase capacity and such projects shall be included in the capital improvements element of an adopted comprehensive plan. Routine maintenance of roads is not considered an authorized expenditure. (emphasis added)”

Therefore, Town Management believes that the debt assistance must come from the general fund.

III. FISCAL IMPACT

Funds must be utilized from the General Fund as indicated in the recent budget amendment.

IV. ATTACHMENTS

2012 Local Government Financial Information Handbook excerpt

Statement of Estimated Changes in Fund Balances

FY2013 Budget Amendment (approved June 4, 2013)

V. REQUIRED ACTION

No action is needed at this time.

1 to 5 Cents Local Option Fuel Tax
Sections 206.41(1)(e) and 336.025, Florida Statutes

Summary:

County governments are authorized to levy a tax of 1 to 5 cents upon every net gallon of motor fuel sold within a county. Diesel fuel is not subject to this tax. This tax shall be levied by an ordinance adopted by a majority plus one vote of the membership of the governing body or voter approval in a countywide referendum. The tax proceeds may be used for transportation expenditures needed to meet the requirements of the capital improvements element of an adopted local government comprehensive plan or for expenditures needed to meet immediate local transportation problems and for other transportation-related expenditures that are critical for building comprehensive roadway networks by local governments.

General Law Amendments:

Chapter 2012-174, L.O.F., (CS/CS/HB 599) revises the imposition and rate change date for the 1 to 5 cents fuel tax from July 1st of each year to October 1st. Additionally, the legislation incorporates the installation, operation, maintenance, and repair of street lighting, traffic signs, traffic engineering, signalization, and pavement markings as permitted uses of the tax proceeds. These changes became effective on July 1, 2012.

Authorization to Levy:

The tax on motor fuel may be levied by an ordinance adopted by a majority plus one vote of the county's governing body or upon approval by referendum. All impositions and rate changes of the tax shall be levied before October 1st, to be effective January 1st of the following year. However, levies of the tax which were in effect on July 1, 2002, and which expire on August 31st of any year may be reimposed at the current authorized rate to be effective September 1st of the year of expiration. A decision to rescind the tax may not take effect on any other date than December 31st and shall require a minimum of 60 days notice to the Department of Revenue (DOR) of such decision.

The county may, prior to the tax levy, establish by interlocal agreement with one or more of its respective municipalities representing a majority of the county's incorporated area population, a distribution formula for dividing the entire tax proceeds among the county government and all eligible municipalities. If no interlocal agreement is adopted before the tax's effective date, the revenues shall be distributed according to the transportation expenditures methodology described in detail in the section, Distribution of Proceeds, discussed below. If no interlocal agreement exists, a new agreement may be established prior to June 1st of any year. However, any interlocal agreement established after the initial tax levy or rate change shall under no circumstances materially or adversely affect the rights of holders of outstanding bonds, which are backed by these taxes, and the amounts distributed to each local government shall not be reduced below the amount necessary for the payment of principal and interest and reserves for principal and interest as required under the covenants of any bond resolution outstanding on the date of establishment of the new interlocal agreement.

Counties Eligible to Levy:

All counties are eligible to levy this tax. However, counties and municipalities must meet the same eligibility requirements as specified for the Local Government Half-cent Sales Tax Program and the County and Municipal Revenue Sharing Programs in order to receive proceeds from this tax. Any funds otherwise undistributed because of ineligibility shall be distributed to eligible governments within the county in same proportion as other local option fuel tax monies.

Distribution of Proceeds:

The tax proceeds shall be distributed by the DOR according to the distribution factors determined at the local level by interlocal agreement between the county and municipalities within the county’s boundaries. If the interlocal agreement does not provide for automatic adjustments or periodic review of the distribution method by the local government entities, then the parties to the agreement shall review and hold public hearings on the terms of the agreement at least every two years. If no interlocal agreement is established, then the distribution shall be based on the transportation expenditures of each local government for the immediately preceding 5 fiscal years, as a proportion of the total of such expenditures for the county and all municipalities within the county. These proportions shall be recalculated every 10 years based on the transportation expenditures of the immediately preceding 5 years.

This recalculation shall under no circumstances materially or adversely affect the rights of holders of bonds outstanding on July 1, 1986, which are backed by the proceeds. The amounts distributed to the county government and each municipality shall not be reduced below the amount necessary for the payment of principal and interest and reserves for principal and interest as required under the covenants of any bond resolution outstanding on the date of the recalculation.

Authorized Uses of Proceeds:

The tax proceeds shall be used for transportation expenditures needed to meet the requirements of the capital improvements element of an adopted comprehensive plan or for expenditures needed to meet immediate local transportation problems and for other transportation-related expenditures that are critical for building comprehensive roadway networks by local governments. Expenditures for the construction of new roads, the reconstruction or resurfacing of existing paved roads, or the paving of existing graded roads shall be deemed to increase capacity and such projects shall be included in the capital improvements element of an adopted comprehensive plan. Routine maintenance of roads is not considered an authorized expenditure.

Local governments may use the services of the Division of Bond Finance of the State Board of Administration to issue any bonds through these provisions and may pledge the revenues from these local option fuel taxes to secure the payment of bonds. Counties and municipalities may join together for the issuance of these bonds.

Attorney General Opinions:

Florida’s Attorney General has issued the following legal opinions relevant to this revenue source.

<u>Opinion #</u>	<u>Subject</u>
94-20	Local option gas tax revenues
94-67	Referendum vote creating the City of Port LaBelle
97-25	County local option fuel tax funding transit operations
2002-02	Local option fuel tax, used for bicycle paths
2010-29	Local option fuel tax, use for electricity and water

The full texts of these opinions are available via a searchable on-line database.¹ Local government officials seeking more clarification should review the opinions in their entirety. The statutory language pertaining to this revenue source has been amended since its authorization. The reader should keep the date of the opinion

1. <http://myfloridalegal.com/ago.nsf/Opinions>

in mind when reviewing its relevance to current law or any interpretations that have been articulated in Florida case law.

Statement of Estimated Changes in Fund Balances

General Fund

CAFR UNASSIGNED FUND BALANCE

9/30/12 Fund Balance	<u>\$1,311,888</u>
FY2013 Fiscal Policy Reserve @ 25%	(\$398,270)
FY 2013 Transfer to CIP	(\$400,000)
FY 2013 Mid-year Transfer to GF Operations	<u>(\$97,330)</u>
Mid-year projection FY 13	<u>\$416,289</u>
Reimburse Transportation Fund for Capital Expenditure (North Road OGEM)	<u>(\$138,844)</u>
FY 2013 Est. Total Fund Balance	\$277,445

Transportation Fund

CAFR UNASSIGNED FUND BALANCE

<u>5 cent Fund Balance</u>		<u>6 cent Fund Balance</u>	
9/30/12 Fund Balance	<u>\$320,012</u>	9/30/12 Fund Balance	<u>\$322,347</u>
FY 2013 Estimated Change	<u>\$117,326</u>	FY 2013 Estimated Change**	<u>\$141,844</u>
FY 2013 Est. Total Fund Balance	\$437,338	FY 2013 Est. Total Fund Balance	\$464,191

** Includes the reimbursement from General Fund for North Road OGEM project

Solid Waste Fund

CAFR UNASSIGNED FUND BALANCE

9/30/12 Fund Balance	<u>\$31,689</u>
Fiscal Policy Reserve @ 10%	(\$46,997)
FY 2013 Estimated Change	<u>-</u>
Est. Total Fund Balance 9/30/12	(\$15,308)

Actual results may require a contribution from the General Fund to meet the Fiscal Policy

Capital Improvement Program

CAFR ASSIGNED FUND BALANCE

9/30/12 ASSIGNED Fund Balance	<u>\$1,000,000</u>
FY 2013 Estimated Change	<u>\$400,000</u>
FY 2013 Est. Total ASSIGNED Fund Balance	\$1,400,000

**GENERAL FUND:
Fiscal Year 2012-13**

Account Number		FY12-13 ADOPTED BUDGET	FY12-13 CHANGE	FY12-13 AMENDED BUDGET
ESTIMATED REVENUES				
TAXES				
001-311-100-000	AD VALOREM TAXES @ 1.2000	206,025		206,025
	TAXES SUBTOTAL	206,025	0.00	206,025
001-314-100-000	ELECTRIC UTILITY TAX	202,000		202,000
001-314-510-000	COMMUNICATION SERVICES TAX	136,726	(20,000.00)	116,726
001-316-200-000	COUNTY OCCUPATIONAL LICENSES	5,000	(1,200.00)	3,800
	TAXES SUBTOTAL	343,726	(21,200.00)	322,526
001-323-100-000	FPL FRANCHISE FEE	206,000		206,000
001-323-125-000	HAULER LICENSING FEE	2,000		2,000
001-323-300-000	PBC WATER UTILITY FRANCHISE FEE	10,500	(4,000.00)	6,500
001-329-100-000	PLANNING & ZONING PERMIT	30,000	(29,500.00)	500
	PERMITS, FRANCHISE FEES & SPECIAL SUBTOTAL	248,500	(33,500.00)	215,000
001-335-120-000	STATE REVENUE SHARING	77,873	0.00	77,873
001-335-180-000	HALF CENT SALES TAX	212,024	0.00	212,024
	INTERGOVERNMENTAL REVENUE SUBTOTAL	289,897	0.00	289,897
001-341-000-000	GENERAL GOVERNMENT CHARGES	5,000	2,500.00	7,500
001-343-349-000	COST RECOVERY FEES	20,000	15,000.00	35,000
	CHARGES FOR SERVICES	25,000	17,500.00	42,500
001-351-100-000	COURT FINES	-	2,500.00	2,500
001-354-100-000	CODE ENFORCEMENT FINES	5,000	0.00	5,000
	JUDGEMENTS, FINES & FORFEITS SUBTOTAL	5,000	2,500.00	7,500
MISCELLANEOUS				
001-361-100-000	INTEREST	3,600	0.00	3,600
001-369-000-000	OTHER MISC INCOME	5,000	(4,500.00)	500
	OTHER MISC. REVENUE SUBTOTAL	8,600	(4,500.00)	4,100
001-385-100-000	TRANSFER FROM SANITATION FUND	-		-
001-399-000-000	TRANSFER FROM FUND BALANCE	400,000	97,330.00	497,330
	OTHER NON-OPERATING SOURCES TOTAL	400,000	97,330.00	497,330
	GRAND TOTAL REVENUE	1,526,748	66,330.00	1,593,078

**GENERAL FUND:
Fiscal Year 2012-13**

Account Number		FY12-13 ADOPTED BUDGET	FY12-13 CHANGE	FY12-13 AMENDED BUDGET
APPROPRIATIONS				
LEGISLATIVE				
001-511-310-000	PROFESSIONAL SERVICES	20,000	(5,000.00)	15,000
001-511-400-000	TRAVEL	3,000	(1,000.00)	2,000
001-511-490-000	POSTAGE & FREIGHT - (Was legal advertising)	-		-
001-511-492-000	OTHER OPERATING EXPENSES	1,500		1,500
001-511-499-000	OTHER CURRENT CHARGES - New Town Counsel Compensaton	-	15,000.00	15,000
001-511-500-000	EDUCATION AND TRAINING	1,000		1,000
001-511-510-000	OFFICE SUPPLIES	300	0.00	300
001-511-520-000	OPERATING SUPPLIES	300		300
001-511-540-000	BOOKS, PUBLICATIONS AND DUES	7,785	(3,000.00)	4,785
001-511-820-000	SPECIAL EVENTS/CONTRIBUTIONS	5,350	(2,000.00)	3,350
	LEGISLATIVE TOTAL	39,235	4,000.00	43,235
EXECUTIVE				
001-512-340-000	OTHER SERVICES	254,635	1,779.00	256,414
001-512-400-000	TRAVEL	1,000	500.00	1,500
001-512-410-000	COMMUNICATION SERVICES - (Moved to Gen Govt)	-	0.00	-
001-512-420-000	POSTAGE & FREIGHT	1,000	500.00	1,500
001-512-490-000	LEGAL ADVERTISING - (New)	500	500.00	1,000
001-512-492-000	OTHER OPERATING EXPENSES	944	0.00	944
001-512-493-000	ELECTION EXPENSE	8,010	(1,000.00)	7,010
001-512-510-000	OFFICE SUPPLIES	8,600	0.00	8,600
001-512-521-000	LOXAHATCHEE GROVES C.E.R.T. - (Moved to Gen Govt)	-		-
001-512-540-000	BOOKS, PUBLICATIONS AND DUES	570	0.00	570
	EXECUTIVE TOTAL	275,259	2,279.00	277,538
FINANICAL AND ADMINSTRATIVE				
001-513-320-000	ACCOUNTING AND AUDITING	18,000	(1,500.00)	16,500
001-513-470-000	PRINTING AND BINDING	4,750	0.00	4,750
001-513-490-000	LEGAL ADVERTISING	1,000	0.00	1,000
001-513-493-000	ELECTION EXPENSE - (Moved to Executive)	-	0.00	-
	FINANICAL AND ADMINSTRATIVE TOTAL	23,750	(1,500.00)	22,250
LEGAL COUNSEL				
001-514-310-000	PROFESSIONAL SERVICES	60,000	60,000.00	120,000
001-514-312-000	LEGAL -COMP PLAN	-		-
	LEGAL SERVICES TOTAL	60,000	60,000.00	120,000
PLANNING & ZONING				
001-515-310-000	PROFESSIONAL SERVICES	40,000	19,493.00	59,493
001-515-340-000	OTHER SERVICES	76,200	540.00	76,740
001-515-343-000	PLANNING & ZONING CONTRACT	-	0.00	-
001-515-347-000	COMPREHENSIVE PLAN	5,000	(5,000.00)	-
001-515-349-000	COST RECOVERY EXPENDITURES	25,000	10,000.00	35,000
001-515-990-000	LEGAL ADVERTISING - (New)	2,500	3,500.00	6,000
	COMPREHENSIVE PLANNING AND ZONING TOTAL	148,700	28,533.00	177,233

**GENERAL FUND:
Fiscal Year 2012-13**

Account Number		FY12-13 ADOPTED BUDGET	FY12-13 CHANGE	FY12-13 AMENDED BUDGET
OTHER GENERAL GOVERNMENT				
001-519-315-000	SPECIAL MAGISTRATE	16,000	10,000.00	26,000
001-519-354-000	CODE COMPLIANCE	41,000	(2,000.00)	39,000
001-519-410-000	COMMUNICATION SERVICES	5,100	600.00	5,700
001-519-440-000	RENTALS AND LEASES	16,305	3,695.00	20,000
001-519-450-000	INSURANCE	16,500	1,000.00	17,500
001-519-460-000	R & M BUILDINGS	2,126	300.00	2,426
001-519-470-000	PRINTING AND BINDING	-	0.00	-
001-519-480-000	PROMOTIONAL ACTIVITIES	-	0.00	-
001-519-490-000	COMPUTER EQUIP SOFTWARE & HARDWARE REPAIR	4,500	(1,500.00)	3,000
001-519-491-000	COMPUTER SERVICES	11,131	(5,500.00)	5,631
001-519-494-000	INSPECTOR GENERAL OFFICE FEE	5,280	0.00	5,280
001-519-810-000	AIDS TO GOVERNMENT AGENCIES GRANT - LGWCD	-	18,000.00	18,000
001-519-820-000	LOXAHATCHEE GROVES CERT	2,000	1,000.00	3,000
001-519-900-000	TRANSFER TO TRANSPORTATION FUND	-	0.00	-
001-519-910-000	TRANSFER TO SANITATION FUND	126,000	0.00	126,000
001-519-920-000	TRANSFER TO CAPITAL PROJECTS FUND	400,000	0.00	400,000
001-519-990-000	CONTINGENCY	49,577	(49,577.00)	-
OTHER GENERAL GOVERNMENT SERVICES TOTAL		695,519	(23,982.00)	671,537
LAW ENFORCEMENT				
001-521-341-000	PROFESSIONAL SERVICES-PBSO	274,785		274,785
001-521-342-000	CONTRACTUAL-ADDL PBSO	500	0.00	500
LAW ENFORCEMENT TOTAL		275,285	0.00	275,285
PUBLIC WORKS				
001-539-340-000	OTHER SERVICES	9,000	(3,000.00)	6,000
001-539-310-000	PROFESSIONAL SERVICES	-	0.00	-
PUBLIC WORKS TOTAL		9,000	(3,000.00)	6,000
GRAND TOTAL EXPENDITURES		1,526,748	66,330.00	1,593,078

**Transportation Fund
Fiscal Year 2012-13**

Account Number		FY12-13 ADOPTED BUDGET	FY12-13 CHANGE	FY12-13 AMENDED BUDGET
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ESTIMATED REVENUES				
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101-312-410-000	FIRST LOCAL OPTION FUEL TAX (6 CENT)	249,245		249,245
101-312-420-000	SECOND LOCAL OPTION FUEL (5 CENT)	117,326	-	117,326
101-363-990-000	CONTRIBUTION FROM GENERAL FUND	-		-
001-399-000-000	TRANSFER FROM FUND BALANCE (6 CT)	-	-	-
Total Revenue		366,571	0	366,571

APPROPRIATIONS				
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101-541-468-000	TOWN ROADS MAINT. - 6 c	40,000	40,000	80,000
101-541-468-100	TRAFFIC CONTROL SIGNS - 6 c	9,245	7,000	16,245
101-541-469-000	ROAD MAINTENANCE DISTRICT - 6 c	-	150,000	150,000
101-541-631-000	ROAD AND STREETS - NEW CONSTRUCTION -	150,000	(150,000)	-
101-541-632-000	SPECIAL PROJECTS	50,000	(50,000)	-
101-541-633-000	22nd ROAD DITCH	-	0	-
101-541-634-000	148th TERR BRIDGE(5)/CULVERT	-	0	-
101-541-990-000	TRANSFER TO FUND BALANCE (5 CT)	117,326	0	117,326
101-541-996-000	TRANSFER TO FUND BALANCE (6 CT)		3,000	3,000
Total Expenditure		366,571	-	366,571

**CAPITAL IMPROVEMENT FUND
Fiscal Year 2011-12**

Account Number		FY11-12 ADOPTED BUDGET	FY11-12 CHANGE	FY11-12 AMENDED BUDGET
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ESTIMATED REVENUES				
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305-363-990-000	CONTRIBUTION FROM GENERAL FUND	400,000		400,000
305-399-000-000	TRANSFER FROM FUND BALANCE	912,466		912,466
Total Revenue		1,312,466	-	1,312,466

APPROPRIATIONS				
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305-519-600-000	DEVELOP TOWN HALL ALTERNATIVES	500,000		500,000
305-541-341-000	TRAILS (Name change Linear Park/Grant Match)	200,000		200,000
305-541-346-000	OGEM PAVING/COST SHARING	-		-
305-541-434-000	ROAD & DRAINAGE IMPROVEMENT	362,466		362,466
305-541-436-000	TRAFFIC LIGHT OKEECHOBEE BLVD	250,000		250,000
Total Expenditure		1,312,466	-	1,312,466

**Solid Waste Fund
Fiscal Year 2012-13**

Account Number		FY12-13 ADOPTED BUDGET	FY12-13 CHANGE	FY12-13 AMENDED BUDGET
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ESTIMATED REVENUES

405-323-125-000	HAULERS LICENSING FEE - Moved to Gen l	-	-	-
405-325-205-000	SOLID WASTE ASSESSMENTS (1,260 units)	346,361	-	346,361
405-325-206-000	DISCOUNT FEES	(10,392)	-	(10,392)
405-343-120-000	SWA RECYCLING INCOME	8,000	-	8,000
405-363-990-000	CONTRIBUTION FROM GENERAL FUND	126,000	-	126,000
Total Revenue		469,969	-	469,969

APPROPRIATIONS

405-534-345-000	CONTRACTUAL-WASTE OVERSIGHT	12,000	-	12,000
405-534-346-000	PBC ADMINISTRATION FEE 1%	3,463	-	3,463
405-534-420-000	POSTAGE & FREIGHT	500	-	500
405-534-434-000	SOLID WASTE CONTRACTOR	451,634	-	451,634
405-534-436-000	OTHER SANITATION SERVICES	1,500	-	1,500
405-534-490-000	LEGAL ADVERTISING	872	-	872
405-534-595-000	TOLG MANAGEMENT FEES	-	-	-
Total Expenditure		469,969	-	469,969

**All Funds
Fiscal Year 2011-12**

Fund #		FY11-12 ADOPTED BUDGET	FY11-12 CHANGE	FY11-12 AMENDED BUDGET
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ESTIMATED REVENUES

001	GENERAL FUND	1,526,748	66,330	1,593,078
101	TRANSPORTATION FUND	366,571	-	366,571
305	CAPITAL IMPROVEMENT FUND	1,312,466	-	1,312,466
405	SOLID WASTE FUND	469,969	-	469,969
	Total Estimated Revenue	3,675,754	66,330	3,742,084

APPROPRIATIONS

001	GENERAL FUND	1,526,748	66,330	1,593,078
101	TRANSPORTATION FUND	366,571	-	366,571
305	CAPITAL IMPROVEMENT FUND	1,312,466	-	1,312,466
405	SOLID WASTE FUND	469,969	-	469,969
	Total Appropriations	3,675,754	66,330	3,742,084

Perla D. Underwood

----- Forwarded Message -----

From: Ronald Jarriel <jarriel@bellsouth.net>
To: Mark Kutney <mkutney@loxahatcheegrovesfl.gov>
Sent: Tuesday, June 11, 2013 7:12 PM
Subject: Agenda Items for Tuesday, June 18, 2013

Mark,

Here are some items I'd like to place on the Town Council Agenda on June 18, 2013:

- 1) Direction to assist residents with a variance ULDC text amendment change for accessory structures.
- 2) Morello property on Southern Blvd., assign commercial land use to property.
- 3) Preliminary budget request for 2014:
 - a) \$150,000 gas tax funds to LGWCD for substantial drainage projects to protect OGEMed roads and to benefit the residents of Loxahatchee Groves.
 - b) \$28,893 for the subsidy for the OGEMed roads debt assessment to LGWCD.
 - c) Cost of lobbyist to assist in getting a red light at Southern Blvd. & "D" Roads and possibly other grants.
 - d) OGEM "D" Rd. from Collecting Canal to Southern Blvd. to assist in getting a red light.

4) Discussion: Bill Kline's gun license issue

If you have any questions, please feel free to call me.

Thank you,

Ron Jarriel, Vice Mayor
Town of Loxahatchee Groves



**TOWN OF LOXAHATCHEE GROVES
OFFICE OF THE TOWN MANAGER
AGENDA REPORT**

TO: Mayor and Town Council

FROM: Mark A. Kutney, Town Manager, AICP, ICMA-CM

DATE: June 11, 2013

SUBJECT: Preliminary Budget Request for 2014

I. BACKGROUND/HISTORY

On June 11, 2013, Vice Mayor Ron Jarriel requested that a preliminary budget request containing four (4) items be placed on the agenda for discussion. However, Town Management has set aside July 2, 2013 for a Budget Workshop Meeting with Town Council to begin at 6:30 p.m., followed by the regularly scheduled Town Council Meeting to commence following adjournment of the Workshop Meeting.

II. DISCUSSION

As you may recall from the Preliminary Budget Calendar provided, the recommended Budget Book is scheduled to be submitted to the Town Council on June 24 2013. At this point in time, Town Council has not been presented with budget materials for their review and collective discussion. Town Management believes it would be more effective to defer any discussions relative to the 2014 Budget until the aforementioned workshop above rather than piecemeal discussions at several different Town Council meetings. In that manner, Town Council can review the budget in comprehensive detail.

III. FISCAL IMPACT

To be determined, but there are no immediate problems with deferral to July.

IV. ATTACHMENTS

Preliminary Budget Calendar

V. REQUIRED ACTION

Defer 2014 Budget discussion to the recommended Workshop set for July 2, 2013.

Draft Preliminary Budget Calendar

Date	Com Mtg	CIP	Event
Tuesday, May 28, 2013		X	Present Capital Program to FAAC; Town Council electronically
Saturday, June 01, 2013			Preliminary property tax base available
Saturday, June 08, 2013	X		Preliminary Business Plan Initiatives and individual Council discussion Revenue and expenditure draft estimates
Tuesday, June 18, 2013			Council update – Annual Budget – Business Plan Initiative update, if applicable
Monday, June 24, 2013			Recommended budget book completed and submitted to Town Council and FAAC
Saturday, June 29, 2013			TENTATIVE: Final property tax base available
Monday, July 01, 2013			Tentative Property Value submitted by Property Appraiser to Town
Tuesday, July 16, 2013	X		Adoption of preliminary millage and assessment rates Set date, time and location of Tentative Budget Hearing (1st Hearing)
Friday, July 19, 2013			Millage and assessment rates provided to County
Sunday, August 04, 2013			Deadline for Tentative Millage and Budget Adoption
Saturday, August 24, 2013			Advertise assessment hearings scheduled for September 13 th
Tuesday, September 03, 2013	X	X	TENTATIVE: Hearing / adoption of tentative millage rate and tentative annual budget
Friday, September 06, 2013	X	X	Transmit Tentative Millage rate to County
Thursday, September 12, 2013	X		TENTATIVE DEADLINE: Hearing / adoption of Garbage assessment rates
Saturday, September 21, 2013			Advertise millage and budget hearings – September 24 th
Tuesday, September 24, 2013	X	X	TENTATIVE: FINAL Budget and Millage Adoption
Friday, September 27, 2013			TRIM compliance package to County and DOR