



TOWN OF LOXAHATCHEE GROVES
TOWN COUNCIL MEETING AGENDA
TUESDAY, JULY 16, 2013 @ 7:00 P.M.

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, July 16, 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

2. CONSENT AGENDA

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- a. Minutes for Approval: Revised June 18, 2013; July 2, 2013 Budget Workshop; July 2, 2013 Regular Town Council Meeting

3. PUBLIC COMMENT

4. PRESENTATIONS - *None*

5. COMMITTEE REPORTS - *None*

6. PUBLIC HEARINGS (Ordinances 2nd Reading)

7. ORDINANCES (1st Reading) -

- a. Public Hearing:

ORDINANCE NO. 2013-04

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, UPDATING THE FIVE-YEAR SCHEDULE OF IMPROVEMENTS FOR THE CAPITAL IMPROVEMENTS ELEMENT OF THE TOWN OF LOXAHATCHEE GROVES COMPREHENSIVE PLAN PURSUANT TO STATE STATUTE; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

8. RESOLUTIONS

- a. Budgetary Decisions Related to Resolutions No. 2013-06 and 2013-07

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b. **RESOLUTION NO. 2013-06**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, RELATING TO THE PROVISION OF RESIDENTIAL SOLID WASTE COLLECTION SERVICES AND FACILITIES AND PROGRAMS ("SOLID WASTE COLLECTION SERVICES") IN THE TOWN OF LOXAHATCHEE GROVES, FLORIDA; PROVIDING FOR PURPOSE AND DEFINITIONS; PROVIDING FOR LEGISLATIVE DETERMINATIONS; ESTABLISHING THE ESTIMATED RATE FOR THE SOLID WASTE COLLECTION SERVICES ASSESSMENT FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2013; DIRECTING THE PREPARATION OF AN ASSESSMENT ROLL; AUTHORIZING A PUBLIC HEARING AND DIRECTING THE PROVISION OF NOTICE THEREOF; PROVIDING FOR CONFLICT, SEVERABILITY, AND AN EFFECTIVE DATE.

c. **RESOLUTION NO. 2013-07**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA ADOPTING A PROPOSED OPERATING MILLAGE RATE OF ____ FOR GENERAL OPERATING BUDGET PURPOSES FOR FISCAL YEAR 2013/14; APPROVING AND AUTHORIZING TRANSMITTAL OF THE FORM DR 420 TO THE PROPERTY APPRAISER; PROVIDING FOR THE ESTABLISHMENT OF AND SETTING FORTH THE DATE, TIME AND PLACE OF THE PUBLIC HEARING TO CONSIDER THE FISCAL YEAR 2013/14 PROPOSED MILLAGE RATE AND TENTATIVE BUDGET; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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d. **RESOLUTION NO. 2013-08**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ADOPTING A BUDGET AMENMENT FOR THE TOWN'S BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2012 AND ENDING SEPTEMBER 30, 2013; PROVIDING FOR SEVERABILITY, COFLICTS, AND AN EFECTIVE DATE.

9. ADMINISTRATIVE UPDATE – *Town Manager Kutney*

10. OLD BUSINESS - *None*

11. NEW BUSINESS

- a. Annual Management Team Evaluation (*Councilman Rockett*)
- b. Approval of Engineering Contracts with Keshavarz for General Engineering Services; Simmons & White for Traffic Engineering, A & B Engineering, Inc. for surveying
- c. Discussion of Land Use Policy for Southern Boulevard Corridor (*Councilman Goltzené*)
- d. Discussion of Roadway, Equestrian Trails and Greenway Advisory Committee (RETGAC) Proposal to Allow Golf Carts and Side-by-Side UTVs on Town Roads (*Councilman Goltzené*)

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12. CLOSING COMMENTS

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

13. ADJOURNMENT

The next Town Council Meeting is scheduled for Tuesday, August 6 , 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.



2. CONSENT AGENDA

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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.

MINUTES

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 Ryan Liang and Jim Rockett. 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 Garrett.

b. Pledge of Allegiance & Invocation – Mayor Browning

Town Council Minutes 6/18/13: Revised per motion of Councilman Rockett. Please see Page 12. Strike through is deleted language; red is added language

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c. Approval of Agenda

Motion: Councilman Liang made a motion to approve the Agenda. The motion was seconded by Vice Mayor Jarriel. The motion passed 5/0.

2. CONSENT AGENDA

a. Minutes for Approval: June 4, 2013

Councilman Rockett brought attention to the portion of the minutes under Resolution No. 2013-04, and stated that he thought there had been consensus of the Town Council regarding his suggestion that a statement of the balance sheet should always accompany any proposed budget changes. Also, he noted that, under the Administrative Update portion of the minutes, he thought that there had been consensus of the Town Council regarding his suggestion that the FAAC and the Town Council have input and review all bids prior to bids being put out.

Virginia Standish, member of FAAC: Recalled that there was a debate at the FAAC meeting, and she thought Chairman Chiu was under the impression that RFP and bids should be reviewed by the FAAC and the question was whether it was in the Resolution governing the FAAC or not.

Motion: Councilman Rockett made a motion to approve the Consent Agenda. The motion was seconded by Vice Mayor Jarriel. The motion passed 5/0.

Phil Liu, 142nd Terr: Commented that FAAC brought up reviewing the bids because it was not in the policy, and the Town Council could consider changing the policy if that was desired.

3. PUBLIC COMMENT

4. PRESENTATIONS - None

5. COMMITTEE REPORTS - None

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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.

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

Town Planning Consultant Fleischmann reviewed the staff report. He noted that the ordinance was approved on first reading, subject to two changes: revise the language of the ordinance so that it was more general and not specifically oriented towards dogs and cats, and to revise the language so that we could better understand the number of animals that may be permitted in any given facility. Those changes had been made. Regarding the number of animals, reference was made to other agencies that control the number of animals in any facility.

Councilman Goltzené suggested that since the reference to native wildlife would preclude animals that were not from Florida or North America, the word “native” should be removed wherever it was referenced as “native wildlife.” Staff was in agreement, and Mr. Fleischmann indicated that he would include reference to specific agencies that would govern animals that were not native wildlife.

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After further discussion, Town Attorney Cirullo advised that language would be added to item No. 6 of the Staff Alternate Proposal, indicating that the U.S. Department of the Interior and any other applicable agency regulations of such animals.

Mayor Browning mentioned that he has heard that people can hear the dogs from far distances, and he believed that noise could affect someone's lifestyle. He also discussed the facility being located on Southern or Okeechobee, if services to the public were offered. He noted that if they do not offer those services to the public they could put it anywhere in Loxahatchee Groves, and that he thought that needed to be changed – if it was going to go forward, it would need to be on Southern or Okeechobee.

Discussion took place regarding noise and noise regulations, and the approval by special exception, whereby neighboring parties would have a chance to comment and the Town Council would make a decision which would include compatibility with the neighborhood. It was noted that the Town Council could also attach conditions to any approval that would be necessary to make it compatible to the neighbors.

In response to Vice Mayor Jarriel, Town Planning Consultant Jim Fleischmann stated that the facility could have their services opened to the public, if they fronted on Okeechobee Blvd., or Southern Blvd.

MOTION: Councilman Goltzené made a motion to adopt Ordinance No. 2013-03, on second reading, with the conditions that the term “native” is deleted wherever necessary, per earlier discussion, and to allow the language suggested by Town Attorney Cirullo that language would be added to Staff’s Alternate Proposal Item F., No. 6, indicating the U.S. Department of the Interior and any other applicable agency with regulations of such animals. The motion was seconded by Councilman Rockett. (*Clarification was made after Public Comments that the requirement for a waste management plan was part of the motion to approve.*)

Public Comments:

Jeff Brophy, agent for Big Dog Ranch: Explained that the current facility is not specific to the dogs, and a new facility would be specific to the dogs. The dog rescue operation was always allowed in Loxahatchee Groves; what we came for was for approval of veterinarian services and dog boarding. The existence of the operation is allowed anywhere in the AR Zoning District without those two services. We understand that the discussion does not end tonight. All of the

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meetings so far have brought up different issues that we are taking into account, and we look forward to continuing the process with you and the community as we select a site. He thanked staff as they have worked very hard to put together something that is fair to the community and Big Dog Ranch.

John Ryan, 3508 A Road: Commented that he was generally in favor of this type of facility. He discussed the effect on water in the canals. The only restriction on sanitation is that there be approval by the Palm Beach County Health Dept. The real benefit along Okeechobee and Southern is that it could tie into city sewer. Perhaps in addition to Palm Beach County Health Department, conditions that the LGWCD may feel is necessary for things that would affect the quality of the water could be included.

Town Planning Consultant Fleischmann advised that Palm Beach County does have requirements for proximity to water and sewer requirements, but that is something that we can require in special exception application.

Jeff Brophy stated that if the facility was located on Southern or Okeechobee, the Palm Beach County Utility Department would require water and sewer hookup.

After further discussion regarding the effect on water and the waste generated in this type of facility, it was the **CONSENSUS OF THE TOWN COUNCIL that an additional requirement would be added to the Staff Alternate Proposal, Item F, that the applicant must have a waste management plan as part of their program.**

Public Comment:

Bill Kline, E Road: Commented regarding whether dogs would be enclosed in a building so that neighbors would not have to listen to barking; mentioned raising alligators, which was aquaculture and asked if there would be a problem with that.

Frank Schiola, 13434 Marcella Blvd.: Commented regarding the Town becoming the home of non-profits, who get all of the community services but don't pay for the benefits.

Town Attorney Cirullo requested clarification of the motion made by Councilman Goltzené, as to whether the requirement for a waste management plan was part of his motion. **Councilman Goltzené clarified that a waste management plan was part of his motion to approve.**

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On roll call the motion to adopt Ordinance No.2013-03, on second reading with the conditions that the term “native” is deleted wherever necessary, per earlier discussion, and to allow the language suggested by Town Attorney Cirullo that language would be added to Staff’s Alternate Proposal Item F., No. 6, indicating that the U.S. Department of the Interior and any other applicable agency with regulations of such animals and to add the requirement under Item F that there would be a waste management plan, seconded by Councilman Rockett was approved 4/1, with Mayor Browning casting a dissenting vote.

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

a. Public Hearing:

8. RESOLUTIONS

9. ADMINISTRATIVE UPDATE – *Town Manager Kutney*

- Administrative Policy 3-13 was approved at the last meeting under Consent Agenda; changes were made and the Town Council now had a final copy.
- On June 10, Vice Mayor Jarriel and staff had a conference call with FDOT, and provided our concerns and factors affecting a signal in that area.
- Update on Palm Beach County surplus property. Palm Beach County had requested a copy of the Town Council meeting minutes where acceptance of the property was approved, a confirmation acknowledgement that the Town was accepting the property in as is condition, and information on the proposed use of the property. After discussion, it was the **CONSENSUS OF THE TOWN COUNCIL** that the proposed use would be stated as: **Any public purpose authorized by law.**

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10. OLD BUSINESS

- a. Consideration of request of Bianca Berktold, 15045 Collecting Canal Rd., regarding permit to install swimming pool.

Town Manager Kutney provided an update on the request. He noted that staff met with Ms. Berktold on June 7, 2013, and there were two solutions for this situation: a ULDC text amendment, which would affect all properties in the Town with this situation; or a variance request. He indicated that the text amendment would probably be the less expensive route at a cost of approximately \$2,500, whereas a variance would have approximate costs of \$3,500, or higher. He also noted that handling these types of items on a cost recovery basis was very important to the FAAC, and that Ms. Berktold had requested that she return to the meeting tonight to address the Town Council. Town Planning Consultant Fleischmann had also gathered further information.

Town Planning Consultant Fleischmann addressed the Town Council, and made the following comments: that one of the big issues that we need to keep in mind is unintended consequences. We have one property that has an issue, and if we make some general code changes, there could be unintended consequences with other property owners requesting the same thing. I think the way to go is the variance. When I first was looking at the various alternatives, I thought a variance might be difficult to approve, but I did some additional research, a lot of which would make a case for variance. I found out that this property, along with the property to the north comes up to 5 acres. In 1973, this property was rezoned by the County Commission to residential estate, which allows 2.5 acre parcels under the zoning district. I think what happened was that a house was built on the 5 acres fairly central in the property. After the property was rezoned, the property was subdivided into two parcels, and now the northern property line comes close to this house. That is the reason why the rear setback does not meet either the Town or County requirement. On that basis, I think a fairly simple argument could be made to justify a variance on this property, and at the same time not incorporate general code language that could result in unintended consequences in this Town.

Councilman Goltzené commented that he did not think that these residents could be held responsible for things that had happened in the past. His understanding was that the Town ULDCs expanded the setbacks from what the County required, and that he thought that this was something that was going to affect everyone because of the setback issue.

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Councilman Rockett commented that our ULDC was in place when this property was purchased, and that he did not have a problem with asking for a variance.

Vice Mayor Jarriel commented that a variance should not be required. If the surrounding residents want her to put a pool in, and that brings the value of the property up that would bring revenue to the Town. A text amendment was needed, and the Berktolds should not have to pay for it. He stated that we handle each problem as it comes up before this Council. Both neighbors had approved of it, the value of the property would be increased, and a text amendment was needed.

Motion: Vice Mayor Jarriel made a motion to do a text amendment and take care of this accessory problem and the Town should have to pay for it, because it will benefit the residents of this community. Councilman Liang seconded the motion.

Town Planning Consultant Fleischmann explained what he meant by unintended consequences: I was not necessarily talking about swimming pools. Making changes for setbacks for accessory uses includes a whole variety of structures. It was possible to do a text amendment – Sec. 20-01(h) that talks about swimming pools specifically. Let's just amend that section, so we are allowing some relaxation for swimming pools, rather than making broad sweeping changes to accessory uses.

Further discussion took place regarding Palm Beach County setbacks, the Town setbacks, and accessory structures.

Town Manager Kutney clarified that the intent of the cost recovery program was that the applicant would be paying for the planner to change the code. If the Town Council was directing the Town Management firm to pay for it, it would take quite some time, as there were other priorities that needed attention.

Vice Mayor Jarriel stated that he said that he did not think the applicant should have to pay for it, but DID NOT say that he did not care about the Town spending money, and he wanted that clear in the record.

Councilman Goltzené commented that he did not think that the Management Company should have to do this text amendment; we ought to pay them. He also did not think that the Berktolds should have to pay. When people do things right we should not penalize the first person that points out something in the code.

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Vice Mayor Jarriel added to his motion to do a text amendment and take care of this accessory problem and the Town should have to pay for it, because it will benefit the residents of this community. He added that the text amendment be made specific for swimming pools and spas and screened enclosure. Councilman Liang seconded the amendment to the motion. On roll call vote, the motion passed 4/1 with Councilman Rockett casting a dissenting vote.

- b. Contracts for ITB 2013-001 (Gravel Road Grading, Mowing, and Vegetative Removal Services) –
 - i. LGWCD contracts – *Not finalized prior to Agenda disbursement.*

Town Manager Kutney advised that the contracts were now ready; however, Town Attorney Cirullo and he were speaking today about whether the Town Council wanted to ratify the contracts tonight, or wait until the LGWCD reviews them at their next meeting.

After discussion **MOTION: Councilman Rockett made a motion to accept the contracts with the Loxahatchee Groves Water Control District (LGWCD) for ITB 2012-001, for Road Grading and Base Rock, Road Repair, and Emergency Call Out, and that the Mayor signs it tonight. The motion was seconded by Vice Mayor Jarriel. On roll call vote, the motion passed 5/0.**

Public Comment:

John Ryan stated that a couple of the supervisors did have some comments and he understood that all had come into agreement. The LGWCD would have a meeting on June 24, 2013, and everyone could sign at that meeting.

- ii. Mowing and Vegetative Removal Contract – Sirdar Trucking, Inc.

Town Attorney Cirullo advised that the lowest bidder, C & C Loader, however they had withdrawn, so that Town went to the number two bidder, Sirdar Trucking, Inc. They had signed the contract, and a motion could be made confirming that the contract is being awarded to Sirdar Trucking Inc, and that the Town Council approves the contract and authorizes its execution.

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Motion: Councilman Rockett made a motion to approve and confirm the award of the contract for ITB 2013-001, with Sirdar Trucking, Inc., for mowing and vegetative removal. The motion was seconded by Councilman Liang. On roll call vote, the motion passed 5/0.

Vice Mayor Jarriel commented that he wanted Town Council consensus, so that there was no misunderstanding with the Management. Back in July, 2012, he had put in a request to have 161st Terrace North hedged, and neighbors were asking month after month about it. In December 2012, April 2013 and May 2013 he had also put in requests. The grader operator was complaining about the limbs hitting him and he cannot do a good job on the street, so he hoped that he could get consensus that 161st Terrace, a little over two miles long, would be at the top of the list, plus he could keep an eye on the new contractor and see what kind of job is done.

There was no action taken by the Town Council regarding Vice Mayor Jarriel's request.

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

Town Attorney Cirullo referred to his memorandum dated June 18, 2013, regarding Town of Loxahatchee Groves ("Town") adv. Day/Bert J. Harris Claim. He requested approval of two letters that he had prepared to forward them tomorrow to plaintiff's attorney, Bernard Lebedeker, Esq.

Motion: Councilman Rockett made a motion to authorize Town Attorney Cirullo to forward the letters he had prepared to Bernard Lebedeker, Esq., the plaintiff's attorney. The motion was seconded by Vice Mayor Jarriel. On roll call vote, the motion passed 5/0.

- 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*

Councilman Rockett addressed which fund to use to pay the LGWCD the \$28,893.02 debt assistance, before it is paid, and suggested that the 5c gas tax money could be used in accordance with FS 336.025. He explained that the process of OGEMing the roads was an enhancement to

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our roadway network and we were moving forward in getting transfer of title to the roads. He also requested that staff move forward with the Comp Plan amendment to use our 5c money for capital improvement. He said that money has been allocated out of our general funds, and we have not been committing any money out of the 5c fund money. He asked Town Attorney Cirullo if there was anything that says that we cannot use this paragraph to use the 5c funds, and that he would like to ask the Town Council to approve using the 5c money rather than the general fund.

Town Attorney Cirullo replied that there were different pools of gas tax money to be used for different things. He looked at the statute as providing flexibility when it was amended in 2003. He suggested that he could sit down with the Management Company and see if we can get our review of these funds consistent. Before the next meeting some guidance could be provided for the Town Council on this issue.

Councilman Goltzené commented that he thought the Town Council should wait for some guidance from Town Attorney Cirullo, because of the significant disagreement relative to the Town Management's stance on the subject.

Town Manager Kutney stated that staff was working on the CIP element, and planned to have it to the Planning and Zoning Board by July. He acknowledged that the Town Attorney and Town Management had a different opinion regarding the gas tax money, and that they would meet with the Town Attorney to discuss.

Councilman Rockett stated that we are using the general fund too quickly, and that where the 5c money can be used; that needs to be done. He stated that he did not agree with the North Road expenditure coming out of the general fund, and it should be taken out of the capital improvement fund.

Councilman Goltzené commented that, as he understood capital improvements, it was for things we own. In the end it may come down to an Attorney General's opinion. Unless someone has a deed, the law cannot be skirted, and things had to be done right and in the proper way. There were things that we have to think about when you declare what is a road and what is not a road.

Councilman Rockett replied that North Road was as public a road as anything in this community. This is a public road. I am not suggesting that we do anything that is not right.

Vice Mayor Jarriel commented that he happened to agree with Councilman Rockett. He agreed that North Road was a public road. We have been getting gas tax money from it ever since we incorporated. I think the 5c can be used.

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Town Manager Kutney ~~stated that staff would meet with the Town Attorney and~~ noted that the payment of North Road was pointed out by the auditor, ~~and that Management, the Town Attorney and the auditor had all discussed it.~~

Vice Mayor Jarriel ~~stated that your auditor came in front of this Council and he spoke and he didn't have a problem with it – it was management that brought it to his attention. That is specifically what he said -- management brought it to his attention so we need to concentrate and think about it.~~

Town Manager Kutney ~~responded that Management, the auditor and the Town Attorney all discussed it.~~

It was the CONSENSUS OF THE TOWN COUNCIL that discussion would occur with staff and Town Attorney and a report would be provided at the next meeting.

- 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*

Councilman Goltzené declared a voting conflict and removed himself from the dais.

Vice Mayor Jarriel explained the issue, which was that a small section of the Morello property had not been changed to commercial.

Town Planning Consultant Fleischmann distributed a map of the Town, and explained how the right of way was moved, and the County did not compensate to assign commercial designation to that piece of property. He explained that when the Morello properties came through for the rezoning, the three lots that had previously been given a commercial designation were simply assigned a commercial zoning designation, but that could not be done to the lot in question, because it did not have a future land use designation of commercial. He noted that he had talked to County staff and pointed out that it was a scrivener's error, but they did not agree. So, the property is left all by itself on the east side of C road that has a residential land use designation.

Town Council Minutes 6/18/13: Revised per motion of Councilman Rockett. Please see Page 12. Strike through is deleted language; red is added language

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Mr. Fleischmann stated that there were two alternatives to assigning a future land use designation to the property:

1. We are in the process of going through some land use amendments and we could make that change as part of the amendments we are doing along Southern Blvd.
2. We could do a small scale amendment separately and just address that parcel. The fastest way would be to address the parcel by itself. However, there was the issue of cost recovery. If we incorporated it into the land use plan amendments that would be the least costly approach, however, he did not know whether that would affect the work authorization to do the amendments.

Discussion took place regarding incorporating the Morello property into the overall land use plan amendments, or doing a small scale amendment separately to just address that property.

Town Attorney Cirullo stated that if you are going to allow someone to kind of hitch on to what we are doing, it needs to be clarified as to why we are doing it – scrivener’s error as opposed to something else. In dealing with specific property I would want the property owner to be an applicant, but the Town is the applicant for the overall text amendment. Those are two issues that we need to be concerned about.

After further discussion, **IT WAS THE CONSENSUS OF THE TOWN COUNCIL that Mr. Morello would be contacted and offered the two options to get the property zoned as commercial.**

- 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

Vice Mayor Jarriel commented that he would like to see the LGWCD add into their preliminary budget the \$150,000 for drainage improvements and the \$28,893 for the debt assessment that we agreed to last year.

- ii. Request \$28,893 Debt Assistance Subsidy to LGWCD – OGEM Roads

Town Council Minutes 6/18/13: Revised per motion of Councilman Rockett. Please see Page 12. Strike through is deleted language; red is added language

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- iii. Request to Allocate Fund to Employ Lobbyist to Assist Town Relative to Traffic Light – Southern Boulevard and “D” Road.

Vice Mayor Jarriel stated that he had done some research on lobbyists as far as obtaining traffic signals, and that he wanted the Town Council to keep in mind that if we want a light at Southern and D Road we may want to retain a lobbyist.

Councilman Goltzené commented that he did not have a problem of including the \$150,000 and \$28,893 in the preliminary budget for LGWCD, but that we need to be cognizant of reduced revenues and increased expenditures. He did not want to raise taxes to provide funds to the LGWCD. If the roads were turned over to the Town, then why the \$150,000? The other issue relative to who was going to raise taxes – right now the LGWCD was charging everybody, but when it comes to the Town taxes, all the ag properties and the churches were not paying. So, if we are raising the Town taxes in order to help the district, the homeowners are paying.

Councilman Rockett stated that the \$150,000 was for maintenance money, and that he would consider ratcheting that down relative to the number of roads they grade. He suggested that another category could also be added to identify their expenses incurred on maintenance.

Councilman Goltzené commented that he did think that the money should be focused – we would like to see some improvements on “x” road and have those projects discussed in advance between the Town staff and LGWCD staff. I would like to see some line item voting on some of these things as to whether we agree with it or not when doing the budget.

Vice Mayor Jarriel commented that drainage projects protect OGEM roads, and on any future road that was OGEMed we need to do a better job on drainage.

Town Manager Kutney stated that this has been a very useful discussion. I think you will see that I am looking for you to ratify that we will have the preliminary budget workshop on July 2nd prior to the regular TC meeting. I think when everyone sees the budget package you will be in a position to make decisions. He requested a motion tonight to have the Budget Workshop prior to the regular meeting on July 2, 2013.

Motion: Councilman Liang made a motion to have the Budget Workshop meeting on July 2, 2013, beginning at 6:00 p.m., with the Regular Town Council Meeting beginning at 8:00 p.m. The motion passed 5/0.

Town Council Minutes 6/18/13: Revised per motion of Councilman Rockett. Please see Page 12. Strike through is deleted language; red is added language

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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

Vice Mayor Jarriel stated that in order to get a traffic signal the road needs to be paved and he wanted the Town Council to think about that, and his request to OGEM “D” Road from Collecting Canal to Southern Boulevard.

Public Comment:

Virginia Standish, 15410 North Rd.: Commented that at the last Town Council meeting a reduction in garbage services was proposed as a way to save money, and all she had heard tonight was spend, spend, spend. Spoke about the traffic signal issue. Saw no reason for this Town to continue to pay for infrastructure for the outside world. Spoke about lobbyist. Spoke about OGEMing roads and strongly urged a slowdown.

John Ryan 3508 A Road: Several comments were made regarding Southern States Land and Timber, the Quit Claim deeds, the existence of public roads – there is a lot of misunderstanding and he would be glad to meet some time with any of the Town Council that want to go through information so that facts are known.

Marge Herzog, A Rd.: As part of the preliminary budget would like the Town Council to consider putting the LGWCD in charge of the signs within this Town. Right now the Town staff is assigning the responsibility for signs to Frank Schiola. Why are the taxpayers paying thousands of extra dollars to have someone else to it when the water LGWCD did it for so many years.

Councilman Goltzené responded and pointed out that there is a significant difference in the actual cost of the signs themselves; and if it was the LGWCD responsibility, we are all aware that there were a lot of signs that were never there. The Town has responsibility for Town roads, and most of the signs went up on Town roads as far as I can see.

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

Vice Mayor Jarriel explained that Mr. Kline wants to operate out of his home. He can explain his license.

Councilman Gotzené commented that Mr. Kline has to live with the rules. Mr. Kline is still sitting here and we had a solution for him that night. Town Manager Kutney knows what the solution is, and we voted on it, and then the rules came and said we couldn't do it. I think we should go back to what we had originally done and do what our professionals tell us. I am willing to listen to our professional staff as to how we can solve this problem.

Vice Mayor Jarriel stated that if we removed foot traffic, the state does not have a problem with that.

Town Manager Kutney advised that staff had received some new information. The approach staff was taking involved a number of issues, and ultimately it was recommended that staff needed to review the whole thing comprehensively. Staff had recently spoken with Lisa Ryan of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), and Mr. Kutney read her comments into the record (attached hereto). He advised that he thought staff could work with ATF, but it was going to take some very complicated and precise regulation to address this issue. Ms. Ryan had offered to come and speak to the Town Council, and Mr. Kutney offered to request that she attend a Town Council meeting to provide information.

Town Attorney Cirullo pointed out that we are prohibited by statute from gun specific regulations.

Mayor Browning noted that it had been suggested at the Town Council meeting, when the proposed ordinance had been heard, that we just take out the line that says no foot traffic, and asked if that would resolve the issue.

Town Manager Kutney replied that there are a number of problems and issues with the ULDC between residential enterprise, office use, and home occupation problems, and it is something that would need to be addressed.

Vice Mayor Jarriel stated that the one sentence regarding foot traffic could be removed in order to allow Mr. Kline to operate. He noted that Mr. Kline had specifically said that he does business with farmers.

Town Council Minutes 6/18/13: Revised per motion of Councilman Rockett. Please see Page 12. Strike through is deleted language; red is added language

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Councilman Goltzené agreed with Vice Mayor Jarriel.

Mayor Browning stated that he thought that taking the line out that says no foot traffic would take care of it.

Town Manager Kutney indicated that he believed the ordinance was tabled at second reading, and he would check on that and review what may be necessary as a result of discussion today. He asked if the Mayor and Town Council would like him to invite Ms. Ryan, from ATF, to the next meeting, per her offer. The response was no.

Mr. Billy Kline stated that he had received a permit from the County in the 1980's for E Road in Loxahatchee Groves. He was then told that he had to move to a commercial location, which he did for a few years. Palm Beach County had reversed their rules, and he now wanted to move it back to where he started it 31 years ago, however, Palm Beach County indicated that the Town was now incorporated and he would need to follow the Town ULDC.

Town Attorney Cirullo advised that a provisional motion could be made to take it off the table, and direct staff to put it on the table for the July meeting.

Motion: Councilman Goltzené made a provisional motion to take the ordinance off the table, and directed staff to put it on the table for the July 2, 2013, Town Council meeting. The motion was seconded by Councilman Liang. The motion passed 5/0.

12. CLOSING COMMENTS

a. Public

None

b. Town Attorney

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Provided update on Bryan Road; the history of properties was being reviewed in order to confirm easements. He requested confirmation with the Town Council that up to three title searches along Bryan Road could be ordered on some of those properties. The title search fee was \$250 each.

It was the **CONSENSUS OF THE TOWN COUNCIL TO CONFIRM THAT UP TO THREE TITLE SEARCHES COULD BE ORDERED ALONG BRYAN ROAD.**

Town Attorney Cirullo reminded all that he would be out of town from July 3rd and will be back in the office on July 15. He requested that any issues were provided to him early.

Town Manager Kutney noted that the Town Council meeting on July 16th would be heavy because Valley Crest and both PUDs were coming back. It was also budget review.

After discussion, it was **CONSENSUS OF THE TOWN COUNCIL that Valley Crest would be moved to the July 2, 2013, Town Council Meeting; and the PUDs would be moved to the August 6, 2013 Town Council Meeting. The second meeting in July would be limited to budget and Mr. Kline. All other applicants will go to first meeting in August, except for Valley Crest, which will be in July.**

c. Town Council Members

Councilman Rockett: I liked the capital presentation and fund balance and we should see that every time. Discussed budget calendar, and the business plan update, wherein Town Management priorities would be discussed. Appreciates everyone coming. *(See additional comments belo*

Councilman Liang: Thanks for coming

Vice Mayor Jarriel: Noted that there was a resident on Compton Road with a pothole issue. Asked Mr. Kutney if there was the capability of filling that. Mr. Kutney replied that he would have Mr. Schiola look at.

Councilman Goltzené: Thanks to everyone for coming.

Mayor Browning: Would like to find out what the residents of Loxahatchee Groves would like to see on Okeechobee. I would like to see in the next election that the people vote on what their vision is for Okeechobee – what is your vision - do you want commercial on Okeechobee. It is

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something that I would like to see happen. The last time we hired a lobbyist, that was a lot of trouble. Regarding the traffic signal, I am totally against having to make U turns to have to get from D Road to B Road.

Councilman Rockett: Regarding Input from residents on Okeechobee, suggested a straw poll type of input, perhaps with a survey. Noted the issue with Palm Beach State College, and that the Statutes say you cannot have a referendum on this type of issue. Town Attorney Cirullo said that he did not know if the statute covered a straw poll, and he would look into that. He noted that the timing and language would need to be verified with the Supervisor of Elections and he suggested that any technical changes to the Charter could be considered at the same time, if so desired. Those ordinances could be presented to the Town Council in October. Mr. Rockett noted that any question set forth regarding Okeechobee would need to be published saying that the information was for informational purposes only.

13. ADJOURNMENT

There being no further business, the Town Council Meeting of June 18, 2013, was adjourned at 10:50 p.m.

 Susan Eichhorn, Town Clerk

 David Browning, Mayor

(SEAL)

These minutes were approved by the Town Council on July 2, 2013

Town Council Minutes 6/18/13: Revised per motion of Councilman Rockett. Please see Page 12. Strike through is deleted language; red is added language

Ms. Ryan said the ATF is aware of many dealers that indicate on their applications that they are "internet only," but once they get approval, they have customers visit their homes to conduct business. The ATF is very cautious when it comes to home sales. Ms. Ryan said that firearms dealers that operate from home are often targeted by home invaders because guns are a very popular item for thieves, and homes provide much less security than a gun shop. This is a big problem for the ATF because guns become untraceable once they are stolen. Not only does Ms. Ryan caution against permitting foot traffic for firearms home sales, but she raises specific concerns with Mr. Kline's operation.

Ms. Ryan indicated that Mr. Kline's original license for firearms sales was for a storefront address located at 2511 Division Ave., West Palm Beach, FL. Her records show that around 2006, Mr. Kline requested that the license be transferred to his home address at 3191 "E" Road, Loxahatchee Groves, FL. According to her records, Mr. Kline would not qualify for grandfathering since he has not continuously operated from his home address. Another area of concern regarding Mr. Kline is the lack of transparency with his license application. He had indicated that he would be operating as internet only, but upon inspection it was discovered that he was allowing customers on site. Ms. Ryan explained that this is a consistent problem with gun dealers that operate out of their homes. Most of them apply under the guise of "internet only" because it is the easiest way to gain approval, but once they are issued the proper federal, local, and state documents, they allow customers on site.

Ms. Ryan reiterated that permitting home sales of firearms, where customers would be allowed on the premises, could be problematic. She would "caution against it." Ms. Ryan offered to speak with the Council to offer her knowledge and experience with these matters first hand.

Letter read into the record by
Town Manager Kutney
RE: Item 11. NEW BUSINESS, Item. f

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Tom Goltzene, hereby disclose that on June 18, 20 13 :

(a) A measure came or will come before my agency which (check one)

inured to my special private gain or loss;

inured to the special gain or loss of my business associate, GARY MORELLO;

inured to the special gain or loss of my relative, _____;

inured to the special gain or loss of _____, by whom I am retained; or

inured to the special gain or loss of _____, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Item No. 11. New Business - Agenda for Town Council Meeting of June 18, 2013

d. Discussion Relative to Assignment of Commercial Land Use to Morello Property - Southern Boulevard.

6.21.13
Date Filed

Tom Goltzene
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

TOWN OF LOXAHATCHEE GROVES
MINUTES - TOWN COUNCIL MEETING – BUDGET WORKSHOP
TUESDAY, JULY 2, 2013 @ 6:00 p.m.
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Town of Loxahatchee Groves
Town Council Meeting – BUDGET WORKSHOP
Tuesday, July 2, 2013 at 6:00 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
BUDGET WORKSHOP

1. OPENING

a. Call to Order & Roll Call

Mayor Browning called the meeting to order at 6:00 p.m. Present were Mayor David Browning, Vice Mayor Ronald D. Jarriel, and Councilmen Tom Goltzené and Jim Rockett. Councilman Liang arrived at the meeting at 6:30 p.m. Also present were Bill Underwood, Managing Partner Underwood Management Services Group (UMSG), Town Manager Mark Kutney, Town Clerk Susan Eichhorn, Town Attorney Michael D. Cirullo, Jr., and Town Planning Technician Braeden Garrett.

Minutes Town Council BUDGET WORKSHOP
6:00 p.m. on 07/02/2013

TOWN OF LOXAHATCHEE GROVES
MINUTES - TOWN COUNCIL MEETING – BUDGET WORKSHOP
TUESDAY, JULY 2, 2013 @ 6:00 p.m.
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b. Approval of Agenda

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

2. DISCUSSION OF FY2013-14 BUDGET AND CAPITAL IMPROVEMENT PROGRAM

Town Manager Kutney reviewed the highlights of the proposed budget for FY 2013-14: The millage rate is proposed to increase from 1.2 to 1.5. The big issue for discussion is the 3 mill equivalency requirement of the State, which equates to \$1,140,752.31. There are a number of revenue sources that make up the 3 mill equivalency. It is important that we meet it every year, or there are ramifications. Mr. Kutney then deferred to Mr. Underwood, who provided a power point presentation regarding the FY2014 proposed budget.

Mr. Underwood indicated that there were basically four funds that make up the total budget: Capital Improvement Fund, Solid Waste Fund, General Fund, and Transportation Fund. He explained that property values are down and the assessed taxable value dropped. Property taxes were about 22% of total general fund revenue. The recommended millage rate is 1.5000 mills; estimated revenue \$246,621. Additionally, a savings in solid waste was incorporated into this preliminary budget is a savings of solid waste. The Town must produce \$1,140,752.31 in revenue through specific sources to produce the 3 mill ad valorem tax equivalent. The sources that could be used to meet that number were: Ad Valorem Taxes, Palm Beach County Fire Municipal Services Taxing Unit, Utility Taxes, and Business Tax Receipts.

Discussion took place regarding the 3 mill equivalency requirement.

Town Attorney Cirullo advised that the issue would take some work with the Florida Department of Revenue (FDOT), who were the ultimate opinion makers. Some millage rate was going to have to be set, and he recommended setting a higher amount, because it could always be lowered when going through the budget process. The correct answer would be determined by the FDOR, and would be received before September.

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Mr. Underwood stated that the 3 mill equivalency could be met by adding solid waste under the tax bill.

Town Attorney Cirullo responded that if the Town Council wanted to consider doing that, the millage would have to be set at the rate to pay for that. The Town Council would have to give direction for the 16th that would include that in the millage so that it can be determined if that is something the Town Council can consider.

Public Comment:

Bill Louda, 1300 E Rd.: Commented that he had turned in a memo to the Town Council regarding traffic control and a traffic light at D and Southern. Suggested that a short section of D road be paved from Collecting Canal to Southern, so that a light can be obtained. He also brought up lack of funds for trails.

John Ryan, 3508 A Rd.: Commented regarding the 3 mill equivalency, and explained the process that the Town went through for incorporation. He referred to the Incorporation Bill, and the staff analysis with the FDOR comments, and suggested that those things should be the focus in any discussion with the FDOR. He maintained that the Bill was the law, not the Statute.

Town Attorney Cirullo stated that he would like to have the opportunity to review the staff analysis and that any discussion with the FDOR would include all of that information.

Discussion took place regarding a traffic signal at Okeechobee and “D” Road and having a cable design rather than a mast arm.

Further discussion took place regarding the following items:

- Adding the assessment from LGWCD to lower the millage rate
- Capital Improvements
- “D” Road improvements
- Funds allocated for Town Hall being used for other projects, such as trails
- Collecting Canal paving
- Funds for a traffic signal at Okeechobee and “D” Road included in this fiscal year
- \$28,893 subsidy to LGWCD
- Consensus was to carry over \$80,000 for trails and linear parks to FY2014 and include funds for trails and linear parks in upcoming years.

Minutes Town Council BUDGET WORKSHOP
6:00 p.m. on 07/02/2013

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Public Comment:

John Ryan, 3508 A Rd.: Commented that the LGWCD will have its preliminary budget meeting and the District Administrator had sent a letter to the Town requesting a contribution of \$28,893 toward OGEM road improvement project debt assessments. He requested that the Town Council determine if it would be included in the Town's budget.

Town Attorney Cirullo advised that a motion could not be made during a workshop meeting. The Town Council could adopt a motion at its regular meeting this evening, under New Business, to give formal direction

3. ADJOURNMENT

There being no further business, the Budget Workshop Meeting was adjourned at 7:55 p.m.

Susan Eichhorn, Town Clerk

David Browning, Mayor

(SEAL)

These minutes were approved by the Town Council on July 16, 2013

Minutes Town Council BUDGET WORKSHOP
6:00 p.m. on 07/02/2013

TOWN OF LOXAHATCHEE GROVES
TOWN COUNCIL MEETING MINUTES, TUESDAY, JULY 2, 2013
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Town of Loxahatchee Groves

Town Council Meeting

Tuesday, July 2, 2013 at **8:00** 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

1. OPENING

a. Call to Order & Roll Call

Mayor Browning called the meeting to order at 8:00 p.m. Present were Mayor David Browning, Vice Mayor Ronald D. Jarriel, and Councilmen Tom Goltzené Ryan Liang and Jim Rockett. 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 Garrett.

b. Pledge of Allegiance & Invocation – Mayor Browning

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c. Approval of Agenda

Councilman Rockett requested an addition to the Agenda, under New Business, as discussed in the Budget Workshop held earlier this evening, where it was determined that a motion would need to be made regarding the contribution of \$28,893 to the Loxahatchee Groves Water Control District (LGWCD) toward OGEM road improvement project debt assessments.

Mayor Browning requested an addition to the Agenda, under Presentations, that a representative from the Solid Gold Twirlers address the Town Council.

Motion: Councilman Rockett made a motion to approve the Agenda, as amended, and confirming receipt of all Addenda items. The motion was seconded by Councilman Liang. The motion passed 5/0

2. CONSENT AGENDA

- a. Invoice from Goren, Cherof, Doody & Ezrol, P.A.
- b. Minutes for Approval: June 18, 2013

Councilman Rockett stated that he would like to address the minutes and noted the addition to the Consent Agenda of an additional invoice in the amount of \$526.65 from Goren, Cherof, Doody & Ezrol, P.A.

Councilman Rockett made a Motion to approve the consent agenda as modified, seconded by Councilman Liang. The motion passed 5/0.

3. PUBLIC COMMENT

Bianca Berktold: 15045 Collecting Canal Rd: Commented regarding the text amendment that was approved at the last meeting regarding the setback for her pool, and that staff had indicated

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TOWN COUNCIL MEETING MINUTES, TUESDAY, JULY 2, 2013
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that there public projects that had priority. She added that she thought that the text amendment was not being made just for her.

Town Manager Kutney advised that he had spoken with Ms. Berktold today, and that he could come back with a list of public projects and the Town Council could direct which ones to delay in order to address this one.

Councilman Goltzené asked if there was anything that would allow her to commence her project while we work on ours.

Town Attorney Cirullo advised that the Town Council could declare zoning in progress. That means that people can come in and get those applications, but it is at their risk if the Town Council does not actually do it down the road. You would have to deal with the applications that came in during that time frame.

Town Manager Kutney stated that staff does not object, however we have an issue that anyone who pays cost recovery should come ahead of her. He noted that Ms. Berktold was going to have to pay \$60 for staff to review the permit, as long as she is willing to take the risk. The County will not look at it without the Town's stamp.

Motion: Vice Mayor Jarriel made a motion to declare zoning in progress to amend the ULDC for pools and setbacks, and it would be limited to that issue only. It would include pools, screen enclosures and spas. The motion was seconded by Councilman Goltzené. The motion passed 4/1, with Councilman Rockett dissenting.

Public Comment:

Virginia Standish, 15410 North Rd: Commented regarding discussion of trails in the community. Reminded the Town Council that as the roads and easements are being turned over to the Town to ask people on the non-road side of the canal to please remove their cross gates.

At this time, Councilman Rockett referred to the Minutes from the June 18, 2013 Town Council Meeting and stated that he recalled discussion regarding North Road funding, and that Vice Mayor Jarriel had made a remark concerning town staff bringing that to the attention of the auditor. He stated that remark was not included in the minutes and that it should be added. Vice Mayor Jarriel said that he did make that comment, and it should be included.

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Town Manager Kutney clarified that technically action minutes are what is required and the Town Clerk provides even more than just action minutes. Mayor Browning agreed regarding action minutes -- the minutes should just say discussion was held and the motion was made.

Motion: Councilman Rockett made a motion to table the Minutes of June 18, 2013, to the July 2, 2013 meeting. The motion was seconded by Vice Mayor Jarriel. The motion passed 3/2, with Mayor Browning and Councilman Goltzené dissenting.

4. PRESENTATIONS

a. Solid Gold Twirlers

Maria C.de laPena Hoff addressed the Town Council on behalf of the Solid Gold Twirlers group, and requested a donation to help travel expenses to compete in the nationals and AAU Junior Olympics.

Mayor Browning expressed concern with using taxpayers' money for such donations.

Motion: Vice Mayor Jarriel made a motion to donate \$300 to the Solid Gold Twirlers from the Special Events/Contributions account. The motion was seconded by Councilman Rockett. The motion passed 5/0.

5. COMMITTEE REPORTS

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

Virginia Standish provided FAAC report, clarifying that the report title should say May 2013. She corrected the communication tax revenue figure that she had provided at the last meeting, and stated that it is approximately \$136,000. She referred to the page of financial activity report under General Fund Revenue Budget and noted that there graph lines may not come out to where they actually should on the chart, because of printing/sizing issues.

Town Council Agenda
07/02/2013

TOWN OF LOXAHATCHEE GROVES
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Discussion took place regarding the possibility of losing the communication tax revenue over a period of time. Town Manager Kutney estimated that it would be a 3-5 year period, or perhaps even sooner.

Motion: Councilman Rockett made a motion to accept the May 2013 FAAC report. The motion was seconded by Councilman Liang. The motion passed 5/0.

6. PUBLIC HEARINGS (Ordinances 2nd Reading) –

7. ORDINANCES (1st Reading) - None

a. Public Hearing:

8. RESOLUTIONS

a. **RESOLUTION NO 2013-05**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, APPROVING THE VALLEY CREST SITE PLAN AMENDMENT, FOR LAND OWNED BY MAGIC PROPERTIES V, LLC, CONSISTING OF 5.0 ACRES MORE OR LESS, LOCATED AT 13710 OKEECHOBEE BOULEVARD; SOUTH SIDE OF OKEECHOBEE BOULEVARD APPROXIMATELY 0.25 MILES WEST OF “F” ROAD, LOXAHATCHEE GROVES, FLORIDA, LEGALLY DESCRIBED IN EXHIBIT “A” TO THIS RESOLUTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Town Attorney Cirullo advised that this was a quasi-judicial matter, and explained the process that would take place. He read Resolution No. 2013-05 by title, as printed above.

Town Attorney Cirullo then swore in all those who would be providing testimony.

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The public hearing was opened.

Town Planning Consultant Jim Fleischmann presented a brief explanation of the application. He reviewed the progress that had been made by Valley Crest since the project was approved in March. Based on staff review and recommendation of the Planning and Zoning Board, staff recommended approval of Res. 2013-05, subject to conditions as set forth.

Attorney David Coviello, on behalf of Valley Crest Properties stated that the applicant was in agreement with the conditions imposed.

Discussion took place regarding the regulations regarding vegetative waste and mulching, and additional safety features that would contain a fuel spill, such as a lip around the existing concrete pad. Harold Worthington, Valley Crest, stated that the tanks are double walled tanks. **It was the consensus of the Town Council that the applicant work with staff to get the fuel containment, also with herbicide and pesticide containment issues resolved.**

Public Comment:

Marge Herzog, A Road: Was sworn in and suggested that we give Mayor Browning a reprieve from the maintenance of the entrance sign that we have, and make it a condition to Valley Crest to maintain it.

Mayor Browning referred to the entrance sign at Folsom Rd. and Okeechobee Blvd., and Attorney Coviello stated that the applicant would consider maintaining that entrance sign.

Vice Mayor Jarriel asked about the tax revenue. Town Planning Consultant Fleischmann replied that he would say that there would likely be more tax revenue. Vice Mayor Jarriel also suggested periodical inspection of containment areas to show that there was no contamination of the ground.

The public hearing was closed.

Motion: Councilman Goltzené made a motion to approve Resolution No. 2013-05, subject to the conditions presented in Attachment D, and with condition that we have a spill containment area and that they have and provide to the Town an annual ground water analysis of their well. The motion was seconded by Councilman Rockett. On roll call vote the motion passed 5/0.

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9. ADMINISTRATIVE UPDATE – *Town Manager Kutney*

Town Manager Kutney provided an administrative update on the following issues:

- The Intergovernmental Coordination Committee meeting on June 28, 2013
- Southern Blvd. D Road signal – received an email from the Florida Department of Transportation (FDOT) they have decided that they would prefer to gather traffic data in November, rather than in September.
- Staff has been doing research regarding the residential enterprise issue. It appears from research that the last motion failed and Town Attorney Cirullo and I will get together on that before the July 16th meeting for possible inclusion on that Agenda, or on the August 2, 2013, Agenda. It may be best to get the ordinance to the Planning and Zoning Board. Town Attorney Cirullo and Town Manager Kutney agreed that they would discuss the issue, and confirm what the Planning and Zoning Board had done in order to determine what would need to happen next.

10. OLD BUSINESS

a. Addendum #1 – Re: Sirdar Trucking

Vice Mayor Jarriel recommended that Sirdar Trucking get started with the mowing and hedging on July 5, 2013, and suggested that the professional way to monitor the company was for the LGWCD board to direct Mike Walker, who rides the streets every day anyway, to do the monitoring, rather than having to pay Mr. Schiola for his time.

Town Manager Kutney replied that he would ask them to start on Friday, July 5th, and that he would give them 3 or 4 notices to proceed. He did not recommend another agency monitoring the Town vendors. There would still be a charge of the LGWCD did the monitoring. He stated that he understood Vice Mayor Jarriel's concerns, and that staff would try to do the monitoring as efficiently as possible.

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TOWN COUNCIL MEETING MINUTES, TUESDAY, JULY 2, 2013
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Discussion took place regarding the monitoring, the priority in which the work should be done, with the suggestion that Compton Road should be a priority. Town Manager Kutney explained that there was a Notice to Proceed process, and that Compton Road would be one of the top priorities. He wanted to be sure that the Sirdar Trucking people looked at it and provided some cost estimates.

Public Comment:

Marge Herzog A Rd.: Commented that Sirdar is a professional company, and I really think they are going to try to impress us.

11. NEW BUSINESS

- a. Addendum #3: Engineering Contracts (*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 prepared contracts, including fee schedules, regarding Keshavarz & Associates for general engineering and Simmons & White for traffic engineering. The contract for the surveying firm, A & B Engineering, Inc., had not yet been finalized.

Motion: Councilman Liang made a motion to table discussion of all of the Engineering Contracts to the July 1, 2013, Town Council meeting. The motion was seconded by Councilman Goltzené. The motion passed 5/0.

- b. Addendum #2 - Town Council Ratification of Selection of Solid Waste vendor (*If complete, may be addressed as addendum item*)

Town Manager Kutney referred to his Agenda Report, dated July 1, 2013, regarding staff recommendation for Town Council ratification of the recommended Option 1, Manual Curbside Service, and award Bid No. 2013-002 to the lowest responsible bidder, Waste Pro.

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Councilman Rockett made a motion to accept the staff recommendation to ratify Option 1, Manual Curbside Service and award Bid No. 2013-002 to Waste Pro. The motion was seconded by Councilman Goltzené.

Discussion took place regarding days of pickup. Town Manager Kutney stated that he would negotiate with the contractor the days chosen by the Town Council. Chris Schulle, Division Manager, Waste Pro, stated that the days are up to the Town Council, and that would not affect the bid. It was the consensus of the Town Council to keep the dates on Wednesday and Saturday.

The motion to accept the staff recommendation to ratify Option 1, Manual Curbside Service and award Bid no. 2013-002 to Waste Pro passed 5/0.

- c. Assistance to LGWCD With Debt Servicing on OGEM Roads.

Motion: Councilman Rockett made a motion on that we confirm that the LGWCD District will receive \$29,893 for assistance with the debt servicing on the OGEM roads. The motion was seconded by Vice Mayor Jarriel. The motion passed 5/0.

12. CLOSING COMMENTS

- a. Public

Mayor Browning read two public comment cards into the record:

Linda J. Cowart, 4156 161st Terr.N.: Regarding trimming trees and bushes on the roadway, and maintenance of trees planted in the right of way.

Patricia Jozayt, 4256 161st Terr.N.: Regarding limbs/trees trimmed off of the roadway. Having the ditch on the extension of "A" Rd. cleaned out.

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b. Town Attorney

Town Attorney Cirullo reported that he had a conversation with LGWCD counsel last week and they have told us that the transition of the OGEM roads will take place this fiscal year before the end of September.

c. Town Council Members

Councilman Rockett: Thanked everyone for being here.

Councilman Liang: Thanked everyone for coming

Vice Mayor Jarriel: Thanked everyone for coming. Have a good 4th of July.

Councilman Goltzené: All the same.

Mayor Browning: Thanks to everyone.

13. ADJOURNMENT

There being no further business, the Town Council Meeting of July 2, 2013, was adjourned at 10:20 p.m.

 Susan Eichhorn, Town Clerk

 David Browning, Mayor

(SEAL)

**These minutes were approved by the Town Council
 at the July 16, 2013 Town Council meeting.**

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7. a. Ordinance No. 2013-04



TOWN OF LOXAHATCHEE GROVES
OFFICE OF THE TOWN MANAGER
AGENDA REPORT

TO: Mark A. Kutney, Town Manager
FROM: Jim Fleischmann, Town Planning Consultant
DATE: July 10, 2013
SUBJECT: Five-Year Schedule of Capital Improvements.

I. BACKGROUND/HISTORY

Previously, Town Management Staff identified concerns with utilization of the 5 cent gas tax and inadequacies of the Comprehensive Plan as it related to planning for capital improvements. One of the concerns related to the fact that the Town's Capital Improvements Element (CIE) indicates that no capital projects have been scheduled for the planning period.

II. DISCUSSION

In order to address issues of the Comprehensive Plan and to implement Transportation Fund recommendations of the FY 2013-2014 Budget, Town Management is requesting Town Council to approve Ordinance 2013-04, including an updated Five-Year Schedule of Capital Improvements. By adopting Ordinance 2013-04, the Town will come into compliance with F.S. Section 336.025(b)3 which requires the CIE of the Town's Comprehensive Plan to identify projects to be funded with 5 cent gas tax revenues.

III. FISCAL IMPACT

The cost of preparing Ordinance 2013-04 and the revised Five-Year Schedule of Improvements is incurred by the Town due to the project being sponsored and directed by Town Council

IV. ATTACHMENTS

Proposed Ordinance 2013-04, including Exhibit A: Five-Year Schedule of Capital Improvements

V. REQUIRED ACTION

Consideration of Ordinance 2013-04, on first reading, adopting the updated Five-Year Schedule of Improvements.

TOWN OF LOXAHATACHEE GROVES

ORDINANCE NO. 2013-04

1 **AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF**
 2 **LOXAHATCHEE GROVES, FLORIDA, UPDATING THE FIVE-YEAR**
 3 **SCHEDULE OF IMPROVEMENTS FOR THE CAPITAL**
 4 **IMPROVEMENTS ELEMENT OF THE TOWN OF LOXAHATCHEE**
 5 **GROVES COMPREHENSIVE PLAN PURSUANT TO STATE STATUTE;**
 6 **PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY;**
 7 **AND PROVIDING FOR AN EFFECTIVE DATE.**

8
 9 **WHEREAS**, Section 163.3167, Florida Statutes, requires that each local government
 10 prepare a Comprehensive Plan in compliance with the Local Government Comprehensive
 11 Planning and Development Act, as amended; and

12 **WHEREAS**, Section 163.3177(3)(b), Florida Statutes, requires the Town to prepare an
 13 annual update to the Five Year Schedule of Improvements set forth in the Capital Improvements
 14 Element of the Comprehensive Plan; and

15 **WHEREAS**, updates to the Five Year Schedule of Improvements may be accomplished
 16 by ordinance and may not be deemed to be amendments to the Town's Comprehensive Plan; and

17 **WHEREAS**, the Town Council wishes to update the Five Year Schedule of
 18 Improvements in the Capital Improvements Element of the Town's Comprehensive Plan as set
 19 forth on Exhibit "A" hereto; and

20 **WHEREAS**, the Town Council determines that the adoption of this Ordinance is in the
 21 interests of the health, safety and welfare of the residents and citizens of the Town of
 22 Loxahatchee Groves.

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

25
 26 **Section 1: Recitals.** The foregoing recitals are hereby ratified as true and correct and
 27 incorporated herein.

28

TOWN OF LOXAHATACHEE GROVES**ORDINANCE NO. 2013-04**

1 **Section 2: Five-Year Schedule for Capital Improvement Element.** In accordance
2 with the requirements of Section 163.3177(3)(b), Florida Statutes, the Town Council hereby
3 adopts the Five Year Schedule of Improvements pursuant to the Capital Improvements Element
4 of its Comprehensive Plan, as set forth in Exhibit “A,” which is attached hereto and incorporated
5 herein by reference.

6 **Section 3: Conflicts.** All Ordinances or parts of Ordinances, Resolutions or parts of
7 Resolutions in conflict herewith, be and the same are hereby repealed to the extent of such
8 conflict.

9 **Section 4: Severability.** If any section, paragraph, sentence, clause, phrase, or word of
10 this Ordinance is for any reason held by the Court to be unconstitutional, inoperative, or void,
11 such holding shall not affect the remainder of this Ordinance.

12 **Section 5: Effective Date.** This ordinance shall take effect immediately upon adoption.

13
14 **PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF**
15 **LOXAHATCHEE GROVES, FLORIDA, ON FIRST READING, THIS 16th DAY OF**
16 **JULY, 2013.**

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TOWN OF LOXAHATACHEE GROVES

ORDINANCE NO. 2013-04

1
 2 **PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN**
 3 **LOXAHATCHEE GROVES, ON SECOND READING AND PUBLIC HEARING, THIS**
 4 **_____ DAY OF _____, 2013.**

7 **TOWN OF LOXAHATCHEE GROVES,**
 8 **FLORIDA**

10 ATTEST: _____
 11 Mayor David Browning

13 _____
 14 TOWN CLERK Vice Mayor Ron Jarriel

17 _____
 18 APPROVED AS TO LEGAL FORM: Council Member Tom Goltzené

19 _____
 20 Council Member Ron Jarriel

21 _____
 22 Office of the Town Attorney Council Member Ryan Liang

TOWN OF LOXAHATACHEE GROVES

ORDINANCE NO. 2013-04

EXHIBIT A

**Revised Loxahatchee Groves
Five-Year Schedule of Capital Improvements: FY 2014 – FY 2018**

(Underlined text is an update of the Five-Year Schedule of Capital Improvements)

TOWN OF LOXAHATACHEE GROVES

ORDINANCE NO. 2013-04

Table 9-1 - Summary of FY 2014 – 2018 Capital Improvements Projects

A. Necessary to Maintain LOS Standards: Loxahatchee Groves

<u>Comprehensive Plan Element</u>	<u>Project No. and Description</u>	<u>Comprehensive Plan Consistency (Objective/Policy Citation)</u>
TRAN-1	Non-District Town Road Survey (1)	Objective 2.6 and Policies 2.2.4, 2.7.1 and 2.7.9 Transportation Element
TRAN-2	Collecting Cana Road I OGEM Improvements (1,2)	Policy 2.1.3 Transportation Element
TRAN-3	Okeechobee Traffic Light @ "D" Rd. (1)	Policies 2.1.4 and 2.2.2, Transportation Element
TRAN-4	Town Road OGEM Projects –Specific Future Projects To Be Identified (1,2)	Policy 2.1.3 Transportation Element

(1) – Existing Deficiency ; (2) – Replacement Project; (3) – To Meet Future Need

B. FY 2014 to 2018 Improvements Necessary to Maintain LOS Standards: Outside Agencies

<u>Agency</u>	<u>Project No. and Description</u>	<u>Comprehensive Plan Consistency (Objective/Policy Citation)</u>
Palm Beach County School District	PSF-1 Palm Beach County School District 5-Year Capital Budget (FY 2013 – 2017) By Reference (3)	Policy 8A.3-A Public School Facilities Element
Florida Department of Transportation	#4282391 Bridge #930402 repair and rehab. West of "D" Road (1)	Policy 2.2.4 Transportation Element; Policy 9.2.10 Capital Improvements Element
Florida Department of Transportation	#4193452 Add lanes and reconstruct Southern Boulevard (3)	Policies 2.2.4 and 2.6.2 Transportation Element; Policy 9.2.10 Capital Improvements Element

(1) – Existing Deficiency; (2) – Replacement Project; (3) – To Meet Future Need

C. FY 2014 to 2018 Non-LOS Comprehensive Plan-Directed Improvements: Loxahatchee Groves

<u>Comprehensive Plan Element</u>	<u>Project No. and Description</u>	<u>Comprehensive Plan Consistency (Objective/Policy Citation)</u>
ROS-1	Equestrian Trails – Linear Park from "A" Road to Folsom Road (1,3)	Objective 2.3 Transportation Element
FLU-1	Town Hall – Phase 1 Town Hall Location Alternatives (1,2)	Objective 1.13 Future Land Use Element, Objective 7.1 Intergovernmental Coordination Element

(1) – Existing Deficiency; (2) – Replacement Project; (3) – To Meet Future Need

TOWN OF LOXAHATCHEE GROVES

ORDINANCE NO. 2013-04

D. FY 2014 to 2018 Other Infrastructure Improvements: Outside Agencies/Private Parties

<u>Project No. and Description</u>	<u>Public Agency/Private Party</u>	<u>Comprehensive Plan Consistency (Objective/Policy Citation)</u>
TRAN-5 "F" Road Pavement and OGEM Improvements: Southern Blvd. to Collecting Canal(1.3)	Grove Medical Plaza Site Plan Approval Condition	Policy 2.1.4 Transportation Element

* - Project included in the FY 2011 – 2015 Transportation Improvement Program (TIP) of the MPO.

(1) – Existing Deficiency ;(2) – Replacement Project; (3) – To Meet Future Need

Table 9-2 – FY 2014 – 2018

Schedule and Cost of Capital Improvements Projects

A. Necessary to Maintain LOS Standards

<u>Project Number*</u>	<u>Fiscal Year Cost (\$ 000's)</u>					<u>Total Cost (Dollars)</u>
	<u>2013/14</u>	<u>2014/15</u>	<u>2015/16</u>	<u>2016/17</u>	<u>2017/18</u>	
TRAN-1	100	100	0	0	0	200,000
TRAN-2	944	0	0	0	0	944,000
TRAN-3	220	250	0	0	0	470,000
TRAN-4	100	0	0	0	0	100,000
TRAN-5	214	0	0	0	0	214,000
FDOT #4282391	119	0	0	0	0	119,000
FDOT##4193452	5,200	0	0	0	34,500	39,700,000
Totals	6,897	350	0	0	34,500	41,747,000

* - Refer to Table 9-1A and 9-1B.

B. Non-LOS Comprehensive Plan-Directed Improvements

<u>Project Number*</u>	<u>Fiscal Year Cost (\$ 000's)</u>					<u>Total Cost (Dollars)</u>
	<u>2013/14</u>	<u>2014/15</u>	<u>2015/16</u>	<u>2016/17</u>	<u>2017/18</u>	
ROS-1	0	100	100	0	0	200,000
FLU-1	50	0	0	0	0	50,000
Totals	50	100	100	0	0	250,000
PBC School Dist.	5-Year Capital Budget (FY 2013 – 2017) Incorporated By Reference					

* - Refer to Tables 9-1C and 9-1D.

TOWN OF LOXAHATACHEE GROVES

ORDINANCE NO. 2013-04

Table 9-3 – Revenue Sources for Town Directed Capital Improvements Projects

Project Number*	Revenue Source	Fiscal Year Budget (\$000)					Total Cost (Dollars)
		2013/14	2014/15	2015/16	2016/17	2017/18	
TRAN-1	GF/GT	<u>100,000</u>	<u>100,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>200,000</u>
TRAN-2	GF/GT	<u>944,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>944,000</u>
TRAN-3	GF/GT	<u>220,000</u>	<u>250,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>470,000</u>
TRAN-4	GF	<u>100,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>100,000</u>
TRAN-5	P	<u>214,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>214,000</u>
ROS-1	GF	<u>0</u>	<u>100,000</u>	<u>100,000</u>	<u>0</u>	<u>0</u>	<u>200,000</u>
FLU-1	GF	<u>50,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>50,000</u>
Town Totals	GF/GT/P	<u>1,628,000</u>	<u>450,000</u>	<u>200,000</u>	<u>0</u>	<u>0</u>	<u>2,178,000</u>

* - Refer to Tables 9-1A, 9-1C and 9-1D.

Revenue Sources: GF-General Fund; GT-Gas Tax; G-Grant; P –Private Source



8. a. Budgetary Decisions Related to Resolutions No.
203-06 and 2013-07

Underwood Management Services Group, LLC

840 N.E. Stokes Terrace
Jensen Beach, Florida 34957
Telephone: 772.233.1511

William F. Underwood, II
Managing Partner
Email: umsg@att.net

July 8, 2013

Honorable Mayor and Town Council,

At the July 2, 2013, Budget Workshop for fiscal year 2014, several items for discussion was presented. Due to the nature of the meeting as a workshop, no votes could be taken regarding potential changes to the 2014 budget and it was difficult to determine whether or not a consensus existed.

The Town Council's initial discussion concerned the Five-year Capital Improvement Plan, followed by General Fund, Transportation, and Solid Waste Funds. Several issues modifying both the operational funds and the capital improvement plan budgets are identified below, and staff respectfully request the Council take votes on prospective changes to the various budgets.

In addition, critical decisions must be made by the Town Council at the July 16th meeting as they relate to setting the tentative millage rate for the General Fund, setting a solid waste assessment rate, or setting a higher tentative millage rate that incorporates both the solid waste expense and the General Fund expense (see questions 7 and 8 below).

The following is a framework the Council can use to discuss and vote on the specific inclusion or exclusion to the 2014 budget.

1. OGEM "D" Road from Southern Boulevard to Collecting Canal?
 - a. Approximate length is .41 miles and OGEM cost should be less than \$100,000, or
 - b. Create a 2 lane road with paving and guard rails approximate cost \$500,000 (Bill Louda recommendation).
2. OGEM Tangerine From "D" Road west to back entry into plaza
 - a. Approximate length is 0.1 miles and OGEM cost should be less than \$20,000
3. Eliminate Town Hall Alternative funding at \$50,000?
4. Trails and development of linear park from "A" Road to Folsom funded at \$80,000 in FY 2014; \$100,000 in FY 2015; and \$100,000 in FY 2016?
5. Mast arm or wire signalized intersection at "D" Road and Okeechobee funded at \$250,000?
 - a. No additional funding beyond FY 2014
6. LGWCD roads will be transferred to the Town before October 1, 2013 per Town Attorney Mike Cirullo
 - a. Provide funding as a grant from the General Fund for previously OGEM roads at \$28,934 per year after transfer, or provide a capital acquisition of the OGEM roads through the Transportation Fund?

Upon clarifying votes on the above issues, staff can prepare the Council budget for presentation and adoption. The critical decision to be made at this July 16th meeting is the concept of adopting a millage rate which provides the most flexibility to the Town Council:

- Is a higher millage rate that provides funding for both the General Fund and Solid Waste Fund which would be 3.8079 mills
 - Or fund the General Fund at 1.500 mills, and collect an assessment at \$343.25 for the Solid Waste Fund.
7. Set single family residential solid waste collection budget set for FY 2014 at \$428,770 incorporates the awarded bid to Waste Pro?
 - a. Fund collection through assessment of \$343.25 or fund collection through a millage rate of 2.6079? Thus avoiding any issue relative to FSS 218 state shared revenues.
 - b. Subsidize solid waste assessment (if implemented) for \$126,000 as prior year?
 8. Set General Fund millage at 1.500 mills or lower?
 - a. Action governed pending response from the Florida State Department of Revenue in order to comply with chapter 218 FSS complying to collect state shared revenues worth about \$797,000 in FY 2014.

Sincerely,



William F. Underwood, II
UMSG, LLC



8. b. Resolution No. 2013-06

TOWN OF LOXAHATCHEE GROVES

RESOLUTION NO. 2013-06

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, RELATING TO THE PROVISION OF RESIDENTIAL SOLID WASTE COLLECTION SERVICES AND FACILITIES AND PROGRAMS ("SOLID WASTE COLLECTION SERVICES") IN THE TOWN OF LOXAHATCHEE GROVES, FLORIDA; PROVIDING FOR PURPOSE AND DEFINITIONS; PROVIDING FOR LEGISLATIVE DETERMINATIONS; ESTABLISHING THE ESTIMATED RATE FOR THE SOLID WASTE COLLECTION SERVICES ASSESSMENT FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2013; DIRECTING THE PREPARATION OF AN ASSESSMENT ROLL; AUTHORIZING A PUBLIC HEARING AND DIRECTING THE PROVISION OF NOTICE THEREOF; PROVIDING FOR CONFLICT, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, Town of Loxahatchee Groves Ordinance No. 2008-05, entitled “Special Assessments,” adopted on July 1, 2008, provides for the home rule authority of the Town Council to levy and collect special assessments; and,

WHEREAS, Ordinance 2008-05, authorizes the Town to “create, install, improve, maintain and fund any and all costs associated with the Town establishing and operating a Town system of providing a solid waste collection services program (Solid Waste Collection Program) for residential and/or commercial service to the property owners, residents and citizens of the Town,” and provides findings of special benefit to real property as a result of such services; and,

WHEREAS, the Town has in place a Franchise Agreement (hereinafter “Franchisee”), pursuant to which the Town provides Solid Waste Collection Services to, among others, all residential properties that receive residential solid waste collection services within the Town; and,

WHEREAS, the Town believes it is in the best interests of the residents and residential property owners to collect funds for the costs of the Town’s Solid Waste Collection Services to all residential units that receive Solid Waste Collection Services provided by the Town, through its Franchise Agreement, through the levy and collection of a special assessment, as such will permit the payment for the services on an annual basis along with property taxes and other special assessments, reduce the costs of the Solid Waste Collection Program to the Town, and ensure that all properties that receive residential Solid Waste Collection Services provided by the Town through the Franchise Agreement pay for such so that no property is over-charged by virtue of the failure of other properties to pay for such; and,

WHEREAS, the Town’s Franchise Agreement with Franchisee provides for the levy and collection of a Solid Waste Collection Services Special Assessment by the Town, and remittance of payment to Franchisee; and,

WHEREAS, Solid Waste Collection Services provided by the Town through its Franchise Agreement as defined hereinafter provide the requisite special benefit to Assessed Property such that they may be funded through a special assessment; and,

WHEREAS, Town staff has reviewed the budget for Solid Waste Collection Services for residential units that receive residential Solid Waste Collection Services provided by the Town through the Franchise Agreement to ensure that the Solid Waste Collection Services Special Assessment meets the legal requirements for special benefit and fair apportionment; and,

WHEREAS, the Town Council determines that it is fair and equitable to levy and collect a non-ad valorem special assessment to fund the Solid Waste Collection Services provided by the Town through its Franchise Agreement, consistent with the methodology and allocation as provided hereinafter.

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

SECTION 1. RECITALS. The foregoing "WHEREAS" clauses are hereby ratified and confirmed by the Town Council and incorporated herein by this reference.

SECTION 2. AUTHORITY. This Resolution is adopted pursuant to the provisions of Ordinance No. 2008-05 (the "Ordinance"), Sections 166.021 and 166.041, Florida Statutes, and other applicable provisions of law.

SECTION 3. PURPOSE. This Resolution constitutes the Preliminary Assessment Resolution as defined in the Ordinance which initiates the process for developing the annual Assessment Roll and directs the imposition of a Solid Waste Collection Services Assessment as described hereinafter, for the Fiscal Year beginning October 1, 2013. Its purpose is to provide procedures and standards for the imposition of a Solid Waste Collection Services Assessment for all residential units that receive solid waste collection services within the Town under the general home rule powers of a municipality to impose special assessments, and to authorize a procedure for the funding of Solid Waste Collection Services for these residential properties, facilities, or programs providing special benefits to Assessed Properties within the Town.

SECTION 4. DEFINITIONS. All capitalized words and terms not otherwise defined herein shall have the meanings set forth in the Ordinance. Unless the context indicates otherwise, words imparting the singular number, include the plural number, and vice versa. As used in this Resolution, the following terms shall have the following meanings unless the context hereof otherwise requires:

"Assessed Property" means all single family residential units that receive a special benefit from the delivery by the Town of the Solid Waste Collection Services, programs or facilities described herein.

"Assessment Coordinator" means the person designated by the Town to administer the Town's Solid Waste Collection Services, facility, or program, or such person's designee.

"Assessment Roll" means the special assessment roll relating to the residential Solid Waste Collection Services Assessment approved herein, or an Annual Rate Resolution pursuant to the Final Resolution.

"Cost Apportionment" means the apportionment of the residential Solid Waste Collection Services Assessed Cost among all single-family residential units that receive residential Solid Waste Collection Services pursuant to the apportionment methodology described in Section 8 of this Preliminary Assessment Resolution.

"Dwelling Unit" means a Building, or a portion thereof, available to be used for residential purposes, consisting of one or more rooms arranged, designed, used, or intended to be used as living quarters for one family only.

"Estimated Solid Waste Collection Services Assessment Rate Schedule" means that rate schedule attached hereto as Appendix "A" and hereby incorporated herein by reference, specifying the Solid Waste Collection Services Assessed Costs determined in Section 9 of this

Preliminary Assessment Resolution and the estimated Solid Waste Collection Services Assessments established in Section 9 of this Preliminary Assessment Resolution.

“Improvement Codes” mean the building use codes (also known as DOR codes) assigned by the Property Appraiser to Tax Parcels within the Town.

"Residential Property" means those Tax Parcels with a Code Description designated as Single-Family "Residential" within the Improvement Codes and those otherwise designated as “Residential” within the Improvement Codes that receive residential Solid Waste Collection Services by the Town through the Franchise Agreement.

“Solid Waste Collection Services” shall mean the collection of solid waste as defined in Section 109 of Town Ordinance 2008-005, and as provided pursuant to the Franchise Agreement with Franchisee.

“Solid Waste Collection Services Assessment” means a special assessment lawfully imposed by the Town against Assessed Property to fund all or any portion of the cost for Town’s Solid Waste Collection Services for residential properties, facilities, or programs providing a special benefit to property as a consequence of a logical relationship to the value, use, or characteristics of property. Solid Waste Collection Services funded by this Solid Waste Collection Services Assessment include those services provided pursuant to the Town’s Franchise Agreement for residential Solid Waste Collection Services.

“Solid Waste Collection Services Cost” means the amount necessary in any Calendar Year to fund the provision of the Town’s Solid Waste Collection Services for residential properties, facilities, or programs that provide a special benefit to Assessable Property, through the Franchise Agreement. In addition, Solid Waste Collection Services Cost shall include all costs associated with the structure, implementation, collection, and enforcement of the Solid

Waste Collection Services Assessment, including costs for providing required notice, legal and management staff costs, any service charges of the Tax Collector or Property Appraiser, and amounts necessary to off-set discounts received for early payment of Solid Waste Collection Services Assessments pursuant to the Uniform Assessment Collection Act.

“Tax Collector” shall mean the Tax Collector of Palm Beach County.

"Tax Parcel" means a parcel of property located within the Town to which the Property Appraiser has assigned a distinct ad valorem property tax identification number.

“Uniform Assessment Collection Act” means Sections 197.3632 and 197.3635, Florida Statutes, as amended, and any successor statutes authorizing the collection of non-ad valorem special assessments on the same bill as ad valorem taxes, and any regulations pertaining thereto.

SECTION 5. PROVISION AND FUNDING OF SOLID WASTE COLLECTION SERVICES.

(A) Upon the imposition of the Solid Waste Collection Services Assessment for Solid Waste Collection Services for residential properties, facilities, or programs against Assessed Property located within the Town, the Town shall provide Solid Waste Collection Services to such Assessed Property through the Franchise Agreement. The cost to provide such Solid Waste Collection Services, facilities, or programs to residential properties, as described herein, shall be funded in whole or in part from proceeds of the Solid Waste Collection Services Assessments.

(B) It is hereby ascertained, determined, and declared that each parcel of Assessed Property located within the Town will be benefited by the Town's provision of Solid Waste Collection Services for properties, facilities, and programs in an amount not less than the Solid Waste Collection Services Assessment imposed against such parcel, computed in the manner set forth in this Preliminary Assessment Resolution.

SECTION 6. IMPOSITION AND COMPUTATION OF SOLID WASTE COLLECTION SERVICES ASSESSMENTS. Solid Waste Collection Services Assessments shall be imposed against all residential dwelling units that receive Solid Waste Collection Services, as provided herein. The Cost Apportionment described herein is approved and adopted as the methodology to impose and compute the Solid Waste Collection Services Assessment.

SECTION 7. LEGISLATIVE DETERMINATIONS OF AUTHORITY, SPECIAL BENEFIT AND FAIR APPORTIONMENT. The Town Council adopts the following legislative findings relating to the Solid Waste Collection Services special assessment:

AUTHORITY

7.1 Pursuant to Article VIII, Section 2(b) of the Florida Constitution, and Sections 166.021 and 166.041, Florida Statutes, the Town Council has all powers of local self-government to perform municipal functions and render municipal services except when prohibited by law and such power may be exercised by the enactment of Town ordinances or resolutions.

7.2 The Town Council may exercise any governmental, corporate, or proprietary power for a municipal purpose except when expressly prohibited by law, and the Town Council may legislate on any subject matter on which the Florida Legislature may act, except those subjects described in (a), (b), (c), and (d) of Section 166.021(3), Florida Statutes. The subject matter of paragraphs (a), (b), (c), and (d) of Section 166.021(3), Florida Statutes, are not relevant to the imposition of assessments related to Solid Waste Collection Services, facilities or programs.

7.3 Section 403.706(1), Florida Statutes, provides that the Town is responsible to collect and transport solid waste from within its boundaries to a solid waste disposal facility.

7.4 To fulfill its obligations, the Town entered into a Franchise Agreement with Franchisee for the collection and transport of solid waste from, among others, single-family residential properties, and certain multi-family residential properties that receive residential solid waste collection services, within the Town.

SPECIAL BENEFIT

7.5 The Town provides Solid Waste Collection Services to the Assessed Properties through its Franchise Agreement. All Assessed Properties receive residential Solid Waste Collection Services, and therefore are required to receive the Town's Solid Waste Collection Services through the Town's Franchise Agreement.

7.6 The special benefit provided to the Assessed Properties as a result of the provision of Solid Waste Collection Services by the Town through its Franchise Agreement, and as a result of the Solid Waste Collection Services Assessment include, by way of example and not limitation, the availability and use of Solid Waste Collection Services by the owners and occupants of the Assessed Properties, the enhancement of environmentally responsible use and enjoyment of developed residential properties in the Town, the protection of public health and safety, ensuring sanitary collection and disposal of solid waste from residential units in the Town, a potential increase in value to property, and better service to landowners and tenants.

7.7 The Town's provision of Solid Waste Collection Services through its Franchise Agreement possesses a logical relationship to the use and enjoyment of the Assessed Properties by:

7.7.1 protecting and potentially increasing the value of the residential units by providing solid waste services;

7.7.2 enhancing the environmentally responsible use of residential land in the Town;

7.7.3 protecting the health of intended occupants in the use and enjoyment of residential units by ensuring the proper collection and disposal of solid waste from the Assessed Properties;

7.8 Commercial properties, and multi-family residential properties in the Town that receive commercial solid waste collection services are not specially benefited by the Town's Solid Waste Collection Services funded by the Solid Waste Collection Special Assessment in that those properties receive volume-based solid waste collection services. Commercial properties and multi-family residential properties in the Town that do not receive residential solid waste collection services are not benefited by the provision of the residential Solid Waste Collection Services provided by the Town through its Franchise Agreement. Moreover, given the fact that commercial properties, and residential properties that receive commercial solid waste services, receive Solid Waste Collection Services on a volume basis, it is impossible to determine the exact annual costs that can be apportioned to each property, thereby making it impossible to ensure that an assessment levied upon these properties can be fairly apportioned. Therefore, it is fair and reasonable not to levy a special assessment for the funding of residential solid waste collection services upon those properties. The cost of services provided to properties that are not assessed shall not be paid by any funds collected pursuant to the Town's Solid Waste Collection Special Assessment.

IMPOSITION AND COLLECTION

7.9 The Solid Waste Collection Services Assessments to be imposed pursuant to this Resolution shall constitute non-ad valorem assessments within the meaning and intent of the Uniform Assessment Collection Act.

7.10 The Solid Waste Collection Services Assessment imposed pursuant to this Resolution is imposed by the Town of Loxahatchee Groves' Town Council, not the Palm Beach County Board of County Commissioners, Property Appraiser or Tax Collector. Any activity of the Property Appraiser or Tax Collector under the provisions of this Resolution shall be construed as ministerial.

7.11 So long as the Solid Waste Special Assessment is levied, the Assessed Properties will not be billed directly by the Town for the Solid Waste Collection Services they receive from the Town through the Franchise Agreement.

APPORTIONMENT

7.12 The size or the value of the Residential Property does not determine the scope of the required solid waste services. The potential demand for Solid Waste Collection Services is driven by the existence of a Dwelling Unit.

7.13 Apportioning the Solid Waste Assessed Costs for Solid Waste Collection Services attributable to Residential Property on a per Dwelling Unit basis is required to avoid cost inefficiency and unnecessary administration and is a fair and reasonable method.

7.14 Because commercial properties, and multi-family residential properties that receive commercial solid waste collection services, do not benefit from the provision of Solid Waste Collection Services by the Town through the Franchise Agreement, the Solid Waste Collection Services Assessed Costs are not apportioned to those properties.

SECTION 8. COST APPORTIONMENT AND PARCEL APPORTIONMENT METHODOLOGIES. The Franchise Agreement provides for an annual charge to the Assessed Properties for the Solid Waste Collection Services provided by the Town through its Franchise Agreement. The Solid Waste Collection Services Costs include other costs associated with the Solid Waste Collection Special Assessment, which are then allocated to the Assessed Properties in addition to the annual charge in the Franchise Agreement to determine the Assessment Amount. The Assessment Amount is then multiplied by the number of Dwelling Units on such Tax Parcel. For the Fiscal Year commencing October 1, 2013, the annual charge per Dwelling Unit in the City is \$_____.

SECTION 9. DETERMINATION OF SOLID WASTE COLLECTION ASSESSED COSTS; ESTABLISHMENT OF ANNUAL SOLID WASTE COLLECTION ASSESSMENT RATES.

(A) The Solid Waste Collection Service Assessed Costs to be assessed and apportioned among Assessed Properties pursuant to the Cost Apportionment for the Fiscal Year commencing October 1, 2013, is the amount determined in the manner described in Section 8 above, and within the Estimated Solid Waste Collection Services Assessment Rate Schedule, attached hereto as Appendix A. The approval of the Estimated Solid Waste Collection Services Assessment Rate Schedule by the adoption of this Preliminary Assessment Resolution determines the amount of the Solid Waste Collection Services Assessed Costs.

(B) The estimated Solid Waste Collection Services Assessments specified in the Estimated Solid Waste Collection Services Assessment Rate Schedule are hereby established to fund the Solid Waste Collection Services Assessed Costs determined to be assessed in the Fiscal Year beginning October 1, 2013.

(C) The estimated Solid Waste Collection Services Assessments established in this Preliminary Assessment Resolution shall be the estimated assessment rates applied by the Assessment Coordinator in the preparation of the updated Assessment Roll for the Fiscal Year beginning October 1, 2013, as provided in Section 10 of this Preliminary Assessment Resolution.

SECTION 10. ANNUAL ASSESSMENT ROLL.

(A) The Assessment Coordinator is hereby directed to prepare, or cause to be prepared, an Assessment Roll for the Fiscal Year beginning October 1, 2013, in the manner provided in this Preliminary Assessment Resolution. The Assessment Coordinator shall apportion the estimated Solid Waste Collection Service Assessed Cost to be recovered through Solid Waste Collection Services Assessments in the manner set forth in this Preliminary Assessment Resolution. A copy of this Preliminary Assessment Resolution, the Ordinance, and the Assessment Roll shall be maintained on file in the office of the Town Clerk and open to public inspection. The foregoing shall not be construed to require that the Assessment Roll proposed for the Fiscal Year beginning October 1, 2013, be in printed form if the amount of the Solid Waste Collection Services Assessment for each parcel of property can be determined by the use of a computer terminal available to the public.

(B) It is hereby ascertained, determined, and declared that the method of determining the Solid Waste Collection Services Assessments for the Town's Solid Waste Collection Services as set forth in this Preliminary Assessment Resolution is a fair and reasonable method of apportioning the Solid Waste Collection Services Assessed Cost among parcels of Assessed Property located within the Town, as the methodology and apportionment assures that no property is assessed an amount greater than the benefit which it receives from the residential Solid Waste Collection Services provided by the Town through its Franchise Agreement; and,

SECTION 11. AUTHORIZATION OF PUBLIC HEARING. There is hereby established a public hearing to be held at _____ p.m., on September __, 2013, at the Loxahatchee Groves Water Control District Headquarters, 101 West "D" Road, Town of Loxahatchee Groves, Florida, at which time the Town Council will receive and consider any comments on the Solid Waste Collection Services Assessment from the public and affected property owners and consider imposing the Solid Waste Collection Services Assessment and collecting such assessments on the same bill as ad valorem taxes.

SECTION 12. NOTICE BY PUBLICATION. The Town Manager, or his designee, shall publish notice of the public hearing authorized by Section 11 hereof, in the manner and time provided within the Ordinance. The notice shall be published no later than twenty (20) days prior to the date of the public hearing authorized in Section 11 above, in substantially the form attached hereto as Appendix B.

SECTION 13. NOTICE BY MAIL. The Town Manager, or his designee, shall also ensure timely notice by use of the TRIM notice forwarded annually by the Property Appraiser's Office, or by U.S. Mail as may be required by law(including Chapter 2003-348 Laws of Florida, a special act relating to the annual TRIM notice in Palm Beach County), to the Owner of each parcel of Assessed Property, at least twenty (20) days prior to the public hearing, as required by the Ordinance, and the Uniform Assessment Collection Act.

SECTION 14. PROOF OF NOTICE. The Town Manager, or his designee, may provide proof of such notice by affidavit, if any is required pursuant to the Ordinance or Resolution.

SECTION 15. APPLICATION OF ASSESSMENT PROCEEDS. Proceeds derived by the Town from the Solid Waste Collection Services Assessments will be utilized solely for

the provision of Solid Waste Collection Services, facilities, and programs by the Town to Assessed Properties, through its Franchise Agreement, as described herein.

SECTION 16. CONFLICT. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 17. SEVERABILITY. If any clause, section, other part or application of this Resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or application, it shall not affect the validity of the remaining portions or applications of this Resolution.

SECTION 18. EFFECTIVE DATE. This Preliminary Assessment Resolution shall take effect immediately upon its passage and adoption.

ADOPTED by the Town Council of the TOWN OF LOXAHATCHEE GROVES, FLORIDA, this ____ day of ____, 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

APPENDIX A**ESTIMATED SOLID WASTE COLLECTION SERVICES
ASSESSMENT RATE SCHEDULE**

SECTION A-1 DETERMINATION OF SOLID WASTE COLLECTION SERVICES ASSESSED COSTS. The estimated Solid Waste Collection Services Assessed Costs to be assessed for the Fiscal Year commencing October 1, 2013, is \$_____.

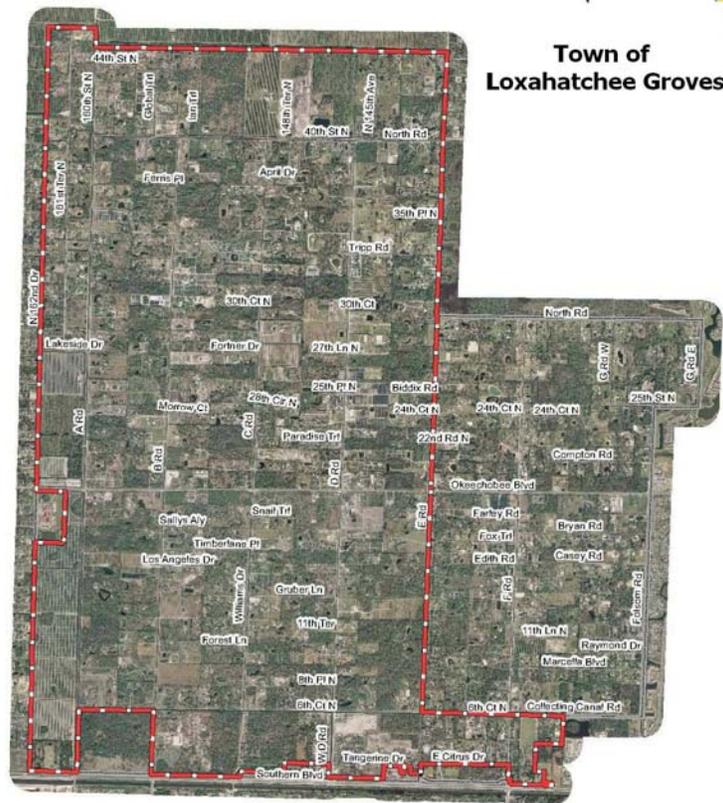
SECTION A-2 ESTIMATED SOLID WASTE COLLECTION SERVICES ASSESSMENTS. The estimated Solid Waste Collection Services Assessments to be assessed and apportioned among benefitted parcels pursuant to the Cost Apportionment and Parcel Apportionment to generate the estimated Solid Waste Collection Services Assessed Cost for the Fiscal Year commencing October 1, 2013, are hereby established as follows for the purpose of this Preliminary Assessment Resolution:

RESIDENTIAL UNITS: \$ _____ **PER UNIT**

APPENDIX B

FORM OF NOTICE TO BE PUBLISHED

To be published no later than August ____, 2013.



NOTICE OF HEARING TO IMPOSE AND PROVIDE FOR COLLECTION OF SOLID WASTE COLLECTION SERVICES SPECIAL ASSESSMENTS

Notice is hereby given that the Town Council of the Town of Loxahatchee Groves will conduct a public hearing to consider imposing Solid Waste Collection Services Special Assessments upon residential dwellings that receive residential solid waste collection services, for the Solid Waste Collection Services provided by the Town to such properties within the Town of Loxahatchee Groves.

The hearing will be held at ____ p.m., on September ____, 2013, at Loxahatchee Groves Water Control District Headquarters, 101 West "D" Road, Town of Loxahatchee Groves, Florida, for the purpose of receiving public comment on the proposed assessments. All affected property owners have a right to appear at the hearing and to file written objections with the Town Council within 20 days of this notice. If a person decides to appeal any decision made by the Town Council with respect to any matter considered at the hearing, such person will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made. In accordance with the Americans with Disabilities Act, persons needing a special accommodation or an interpreter to participate in this proceeding should contact the Town Clerk's Office at (561) 793-2418, at least seven days prior to the date of the hearing.

The assessment for each parcel of property will be based upon each parcel's classification and the total number of dwelling units attributed to that parcel. The proposed Solid Waste Collection Services Assessment is as follows:

RESIDENTIAL DWELLING UNITS FOR FISCAL YEAR 2013-2014: \$_____ PER UNIT

Copies of the Assessment Ordinance, the Preliminary Assessment Resolution and the preliminary Assessment Roll are available for inspection at the Town Clerk's Office, 14579 Southern Blvd, Suite #2, Loxahatchee Groves, Florida 33470.

The assessments will be collected on the ad valorem tax bill to be mailed in November 2013, as authorized by section 197.3632, Florida Statutes. Failure to pay the assessments will cause a tax certificate to be issued against the property, which may result in a loss of title.

If you have any questions, please contact the Town Clerk at (561) 793-2418, Monday through Friday between 8:00 a.m. and 5:00 p.m.

TOWN CLERK TOWN OF LOXAHATCHEE GROVES.



8. c. Resolution No. 2013-07

TOWN OF LOXAHATCHEE GROVES

RESOLUTION NO. 2013-07

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA ADOPTING A PROPOSED OPERATING MILLAGE RATE OF ____ FOR GENERAL OPERATING BUDGET PURPOSES FOR FISCAL YEAR 2013/14; APPROVING AND AUTHORIZING TRANSMITTAL OF THE FORM DR 420 TO THE PROPERTY APPRAISER; PROVIDING FOR THE ESTABLISHMENT OF AND SETTING FORTH THE DATE, TIME AND PLACE OF THE PUBLIC HEARING TO CONSIDER THE FISCAL YEAR 2013/14 PROPOSED MILLAGE RATE AND TENTATIVE BUDGET; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Florida Statute 200.065 (TRIM), the Palm Beach County Property Appraiser has certified the taxable value within the jurisdiction of the Town of Loxahatchee Groves, including a copy of the Statement required to be submitted under Florida Statute Section 195.073(3) (a/k/a Form DR 420); and

WHEREAS, pursuant to Florida Statute Section 200.065(2)(b), the Town must advise the Palm Beach County Property Appraiser of its proposed millage rate, of its rolled back rate computed pursuant to Florida Statute Section 200.065(1), and of the date, time and place at which a public hearing will be held to consider the proposed millage rate, proposed millage levy for voted debt service, and the tentative budget;

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

Section 1. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Resolution.

Section 2: The Town Manager, or his designee, is hereby authorized and instructed to complete and transmit the DR 420 to the Palm Beach County Property Appraiser, and to take such further action as is reasonably required pursuant to Section 200.065, Florida Statutes.

Section 3: The Town Council hereby adopts a proposed operating millage rate of _____ for General Fund budget purposes for Fiscal Year 2013-2014. The rolled back rate is _____ mills.

Section 4: The Town Council of the Town of Loxahatchee Groves hereby sets September 3, 2013 at 7:00 P.M. at The Loxahatchee Groves Water Control District Headquarters, 101 West "D" Road, Loxahatchee Groves, Florida 33470, as the date, time and place of the Public Hearing to consider the proposed millage rate and the tentative budget.

Section 5: That if any clause, section or other part of this Resolution shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part shall be considered as eliminated and in no way affecting the validity of the other provisions of this Resolution.

Section 6: That all Resolutions or parts of Resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

Section 7: That this Resolution shall be effective immediately upon adoption.

ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, THIS 16th DAY OF JULY, 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



8. d. Resolution No. 2013-08

TOWN OF LOXAHATCHEE GROVES

RESOLUTION NO. 2013-08

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE 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.

WHEREAS, pursuant to Section 166.241(4), Florida Statutes, the Town may amend its adopted budget for the Fiscal Year beginning October 1, 2012 and ending September 30, 2013, at any time within a fiscal year, and

WHEREAS, the Town Management has concluded a review of the budget and expenditures during the Fiscal Year beginning October 1, 2012 and ending September 30, 2013, and is recommending amendments to the Town's budget as set forth in Exhibit A" hereto.

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

Section 1. Each "WHEREAS" clause set forth above is true and correct and herein incorporated by this reference.

Section 2. The Town's adopted budget for the Fiscal Year beginning October 1, 2012, and ending September 30, 2013, is hereby amended as set forth in Exhibit "A", attached hereto and expressly made a part hereof.

Section 3. If any clause, section, or other part of this Resolution shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part shall be considered as eliminated and shall in no way affect the validity of the remaining portions of this Resolution.

Section 4. All resolutions or parts of resolutions in conflict herewith are hereby repealed

to the extent of such conflict.

Section 5. This Resolution shall become effective immediately upon its passage and adoption.

PASSED AND ADOPTED BY THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, THIS _____ DAY OF JULY, 2013.

ATTEST:

TOWN OF LOXAHATCHEE GROVES,
FLORIDA

TOWN CLERK

Mayor David Browning

APPROVED AS TO LEGAL FORM:

Vice Mayor Ron Jarriel

Office of the Town Attorney

Council Member Tom Goltzene

Council Member Ryan Liang

Council Member Jim Rockett

EXHIBIT "A"

**(BUDGET AMENDMENTS FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2012
AND ENDING ON SEPTEMBER 30, 2013)**

**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	3,980.00	210,005
	TAXES SUBTOTAL	206,025	3,980.00	210,005
001-314-100-000	ELECTRIC UTILITY TAX	202,000		202,000
001-314-510-000	COMMUNICATION SERVICES TAX	116,726		116,726
001-316-200-000	COUNTY OCCUPATIONAL LICENSES	3,800		3,800
	TAXES SUBTOTAL	322,526	0.00	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	6,500		6,500
001-329-100-000	PLANNING & ZONING PERMIT	500		500
	PERMITS, FRANCHISE FEES & SPECIAL SUBTOTAL	215,000	0.00	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	7,500		7,500
001-343-349-000	COST RECOVERY FEES	35,000		35,000
	CHARGES FOR SERVICES	42,500	0.00	42,500
001-351-100-000	COURT FINES	2,500		2,500
001-354-100-000	CODE ENFORCEMENT FINES	5,000	0.00	5,000
	JUDGEMENTS, FINES & FORFEITS SUBTOTAL	7,500	0.00	7,500
MISCELLANEOUS				
001-361-100-000	INTEREST	3,600	0.00	3,600
001-369-000-000	OTHER MISC INCOME	500		500
	OTHER MISC. REVENUE SUBTOTAL	4,100	0.00	4,100
001-385-100-000	TRANSFER FROM SANITATION FUND	-		-
001-399-000-000	TRANSFER FROM FUND BALANCE	497,330	26,422.00	523,752
	OTHER NON-OPERATING SOURCES TOTAL	497,330	26,422.00	523,752
	GRAND TOTAL REVENUE	1,584,878	30,402	1,615,280

**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	15,000		15,000
001-511-400-000	TRAVEL	2,000		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	0.00	15,000
001-511-500-000	EDUCATION AND TRAINING	1,000	0.00	1,000
001-511-510-000	OFFICE SUPPLIES	300	0.00	300
001-511-520-000	OPERATING SUPPLIES	300	0.00	300
001-511-540-000	BOOKS, PUBLICATIONS AND DUES	4,785	0.00	4,785
001-511-820-000	SPECIAL EVENTS/CONTRIBUTIONS	3,350	0.00	3,350
	LEGISLATIVE TOTAL	43,235	0.00	43,235
EXECUTIVE				
001-512-340-000	OTHER SERVICES	256,414	0.00	256,414
001-512-400-000	TRAVEL	1,500	0.00	1,500
001-512-410-000	COMMUNICATION SERVICES - (Moved to Gen Govt)	-	0.00	-
001-512-420-000	POSTAGE & FREIGHT	1,500	0.00	1,500
001-512-490-000	LEGAL ADVERTISING - (New)	1,000	0.00	1,000
001-512-492-000	OTHER OPERATING EXPENSES	944	0.00	944
001-512-493-000	ELECTION EXPENSE	7,010	0.00	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	277,538	0.00	277,538
FINANICAL AND ADMINSTRATIVE				
001-513-320-000	ACCOUNTING AND AUDITING	16,500	0.00	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	22,250	0.00	22,250
LEGAL COUNSEL				
001-514-310-000	PROFESSIONAL SERVICES	120,000	0.00	120,000
001-514-312-000	LEGAL -COMP PLAN	-		-
	LEGAL SERVICES TOTAL	120,000	0.00	120,000
PLANNING & ZONING				
001-515-310-000	PROFESSIONAL SERVICES	59,493	0.00	59,493
001-515-340-000	OTHER SERVICES	76,740	0.00	76,740
001-515-343-000	PLANNING & ZONING CONTRACT	-	0.00	-
001-515-347-000	COMPREHENSIVE PLAN	-	0.00	-
001-515-349-000	COST RECOVERY EXPENDITURES	35,000	0.00	35,000
001-515-990-000	LEGAL ADVERTISING - (New)	6,000	0.00	6,000
	COMPREHENSIVE PLANNING AND ZONING TOTAL	177,233	0.00	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	26,000	0.00	26,000
001-519-354-000	CODE COMPLIANCE	39,000	0.00	39,000
001-519-410-000	COMMUNICATION SERVICES	5,700	0.00	5,700
001-519-440-000	RENTALS AND LEASES	20,000	0.00	20,000
001-519-450-000	INSURANCE	17,500	0.00	17,500
001-519-460-000	R & M BUILDINGS	2,426	0.00	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	3,000	0.00	3,000
001-519-491-000	COMPUTER SERVICES	5,631	0.00	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	10,893.00	28,893
001-519-820-000	LOXAHATCHEE GROVES CERT	3,000	0.00	3,000
001-519-900-000	TRANSFER TO TRANSPORTATION FUND	-	0.00	-
001-519-910-000	TRANSFER TO SANITATION FUND	126,000	11,309.00	137,309
001-519-920-000	TRANSFER TO CAPITAL PROJECTS FUND	400,000	0.00	400,000
001-519-990-000	CONTINGENCY	-	0.00	-
OTHER GENERAL GOVERNMENT SERVICES TOTAL		671,537	22,202.00	693,739
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	6,000	0.00	6,000
001-539-310-000	PROFESSIONAL SERVICES	-	0.00	-
PUBLIC WORKS TOTAL		6,000	0.00	6,000
GRAND TOTAL EXPENDITURES		1,593,078	22,202.00	1,615,280

**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

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

101-541-468-000	TOWN ROADS MAINT. - 6 c	80,000		80,000
101-541-468-100	TRAFFIC CONTROL SIGNS - 6 c	16,245		16,245
101-541-469-000	ROAD MAINTENANCE DISTRICT - 6 c	150,000		150,000
101-541-631-000	ROAD AND STREETS - NEW CONSTRUCTION -	-		-
101-541-632-000	SPECIAL PROJECTS	-		-
101-541-633-000	22nd ROAD DITCH	-		-
101-541-634-000	148th TERR BRIDGE(5)/CULVERT	-		-
101-541-990-000	TRANSFER TO FUND BALANCE (5 CT)	117,326		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 2012-13

Account Number		FY11-12 ADOPTED BUDGET	FY11-12 CHANGE	FY11-12 AMENDED BUDGET
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ESTIMATED REVENUES

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

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	3,691	350,052
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	11,309	137,309
Total Revenue		469,969	15,000	484,969

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	15,000	16,500
405-534-490-000	LEGAL ADVERTISING	872	-	872
405-534-595-000	TOLG MANAGEMENT FEES	-		-
Total Expenditure		469,969	15,000	484,969

**All Funds
Fiscal Year 2012-13**

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

001	GENERAL FUND	1,584,878	30,402	1,615,280
101	TRANSPORTATION FUND	366,571	-	366,571
305	CAPITAL IMPROVEMENT FUND	1,312,466	-	1,312,466
405	SOLID WASTE FUND	469,969	15,000	484,969
Total Estimated Revenue		3,733,884	45,402	3,779,286

APPROPRIATIONS

001	GENERAL FUND	1,593,078	22,202	1,615,280
101	TRANSPORTATION FUND	366,571	-	366,571
305	CAPITAL IMPROVEMENT FUND	1,312,466	-	1,312,466
405	SOLID WASTE FUND	469,969	15,000	484,969
Total Appropriations		3,742,084	37,202	3,779,286

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	(\$97,330)
FY 2013 July Transfer to Solid Waste Fund	<u>(\$26,422)</u>
Mid-year projection FY 13	<u>\$389,867</u>
Reimburse Transportation Fund for Capital Expenditure (North Road OGEM)	<u>(\$138,844)</u>
FY 2013 Est. Total Fund Balance	<u>\$251,023</u>

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	<u>\$437,338</u>	FY 2013 Est. Total Fund Balance	<u>\$464,191</u>

** 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	<u>(\$15,308)</u>

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	<u>\$1,400,000</u>



11. a. Annual Management Team Evaluation
(Councilman Rockett)

Susan Eichhorn

From: Jim Rockett
Sent: Tuesday, July 09, 2013 12:33 PM
To: Mark Kutney
Cc: Susan Eichhorn
Subject: 7/16/13 Town Council Agenda

Just a reminder, I presume the annual Management Team evaluation is to be included on 7/16 as per contract (by August 1st)

Best regards,

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: July 10, 2013

SUBJECT: Review of Contract for Town Management Services

Pursuant to the attached email, Councilman Rockett has requested that the subject above be placed on the July 16, 2013 agenda. The agreement identifies the following services and description of duties:

As the chief administrative officer, the Town Manager shall:

- a. Direct and supervise the administration of all departments, offices, and agencies of the town, except the office of town attorney, and except as otherwise provided by this charter or by law.
- b. Appoint, suspend, or remove any employee of the town or appointive administrative officer provided for, by, or under this charter, except the office of town attorney, and except as may otherwise be provided by law, this charter, or personnel rules adopted pursuant to the charter. The Town Manager may authorize any administrative officer who is subject to his or her direction and supervision to exercise these powers with respect to subordinates in that officer's department, office, or agency.
- c. Ensure that all laws, provisions of this charter, Town's Vision and acts of the Council are faithfully executed.
- d. Prepare and submit the annual budget and capital program to the council in the form prescribed by ordinance.
- e. Attend meetings of the town council.
- f. Draw and sign vouchers upon depositories as provided by ordinance and keep, or cause to be kept, a true and accurate account of same.

- g. Sign all licenses issued by the town, issue receipts for all moneys paid to the Town of Loxahatchee Groves, and deposit such moneys in the proper depositories on the first banking day after receipt.
- h. Provide administrative services in support of the official duties of the mayor and the council.
- i. Keep the council advised as to the financial condition and future needs of the town and make recommendations to the council concerning the affairs of the Town.
- j. Sign contracts pursuant to and consistent with the authority provided by the Town's Charter and Ordinances.
- k. Provide administrative and staff support to all advisory committees, and boards, formed and appointed by the Town Council.
- l. Submit to the council, and make available to the public, the Town Management Report on finances and administrative activities of the Town as of the end of June of each fiscal year. This Town Management Report will be part of the annual evaluation process by the Town Council.
- m. Perform such other duties as are specified in this charter or as may be required by the council.

Further, Town Clerk Operational Responsibilities are called out in the agreement.

TOWN CLERK OPERATIONAL RESPONSIBILITIES:

- o Administers records management and election procedures in accordance with State Statutes and Town Charter and Code of Ordinances; attends Town Council meetings and prepares minutes;
- o Acts as the Town election official and coordinates all activities relating to the Election Process for all elections.
- o Maintains Town records and provides records and documents to the public and staff; interprets State, County and Town rules and regulations for records management and election procedures; ensures all Town documents are processed pursuant to legal procedures; interprets state and Town laws, rules, and regulations regarding the functions of the office.
- o Prepare Council Agenda for Regular Meetings, Special Meetings, Workshops and Committee Meeting Packets

- o Town Clerk or Town Staff Designee shall attend all Town Council Regular Meetings, Special Meetings, Workshops and Committee and Board Meetings to record and transcribe the minutes.
- o Prepares and finalizes meeting minutes for Town Council approval
- o Prepared and finalized minutes for Committee and Board meetings
- o Index final adopted version of the minutes of Council meetings.
- o Records all meetings and uploads to the Town's website
- o Index ordinances and resolutions
- o Maintain index of agreements/contracts between Town and various entities or individuals.
- o Answer telephone, correspondence and citizen inquiries, including those regarding Town records or ordinances.
- o Prepare proclamations and certificates.
- o Prepare and transmit deeds to the Clerk of Court for recording in the public records of Palm Beach County.
- o Prepare legal notices and advertisements as required by Florida State Statutes

FINANCIAL MANAGEMENT OPERATIONAL RESPONSIBILITIES:

- o Follows all statutory requirements in maintaining the proper municipal accounting and financial systems necessary for proper reporting and auditing. Provides professional advice to Town Council.
- o Oversees the posting and reconciliation of ledgers and accounts.
- o Forecasts, estimates, and monitors the financial condition of the Town to assure the fiscal well being of the Town.
- o Prepares annual department budget requests for submission to the Town Manager.
- o Directs the preparation of state and federal financial reports.
- o Maintains accounting and budgetary procedures in accordance with the Town's Accounting Policy and Procedures Manual, a copy of which is available through the Town Clerk's Office.
- o Prepares monthly and annual reports of financial activities, consistent with or equivalent to the Town's current format.
- o The Financial Manager shall review and approve the monthly and annual reports prior to their presentation to the Financial Advisory and Audit Committee and Town Council.

- o Processes all invoices and payments
- o Manages all investments and operating bank accounts
- o Prepare and transmit all information necessary for yearly audit

Based upon the above, the Town Management Company is of the opinion that it continues to comply and meet the standards enumerated above. Additionally, since March, the Town Manager provides a weekly report of significant events .At the request of Councilman Rockett, the Town Manager has also offered the Town Council briefings for each Council Agenda or any time for matters requiring input. At the present time, Vice Mayor Jarriel and Councilman Goltzene have scheduled regular meetings with the Town Manager.

The Town Management Company would welcome any line item review of **EXHIBIT “A”** Scope of Work Ongoing and One Time Tasks that is a component to the Professional Services Agreement.

Should there be any questions, Town Management is available to discuss and address.



11. b. Engineering Contracts



TOWN OF LOXAHATCHEE GROVES
OFFICE OF THE TOWN MANAGER
AGENDA REPORT

Revised July 10, 2013

TO: Mayor and Town Council

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

DATE: May 14, 2013

SUBJECT: Request For Qualifications RFQ No. 2013-001 Professional Engineering Services-
Town Council Ratification of Selected Respondents **Approval of Engineering
Contracts**

I. BACKGROUND/HISTORY

During the last year it was discovered that the Town and its current Engineering vendor did not have a signed contract to provide engineering services. Further, the Town Management Staff recommended that due to future identified projects it would be necessary to engage several Engineering Consultants for Town assignments. Town Council authorized Town Management to proceed and procure professional engineering services. Town Management prepared and issued RFQ No. 2013-001 for professional engineering services that included: General Town Engineering Services; Traffic Engineering Services; Land Surveying Services; Environmental Engineering Services; and Civil Engineering Inspection Services.

The RFQ was issued and noticed on the Town's web site on February 1, 2013 and published in the Palm Beach Post on February 7 and February 12, 2013. The RFQ was also available at the Onvia website. The due date for respondents to submit their RFQ transmittals was March 22, 2013 at 2:00 p.m. On March 22nd the Town received nine (9) transmittals for engineering services and one (1) transmittal for land surveying services. Attached is a copy of the submittal sheet by respondents to the RFQ. In accordance with Florida Statute 287.055, the "Consultants' Competitive Negotiation Act" and to assist Town Management in the review of the RFQ respondents, a working group was convened to review the RFQ transmittals and serve as a Selection Committee for ranking and selection. The working group consisted of Stephen Yohe, District Administrator of the Loxahatchee Groves Water Control District, Jim Fleischmann, Town Planning Consultant, Dr. Bill Louda, a member of the Roadways, Equestrian Trails and Greenways Committee (RETGAC) and the Town Manager.

The working group/selection committee met on April 30, 2013 to review the respondents and rank the Top three firms in each category. After further review, The Town Management Staff decided to roll in environmental engineering and civil engineering inspection services with the general town engineering services.

The working group/selection committee selected Erdman & Anthony; Keshavarz & Associates; and Simmons & White, Inc. to give presentations for general town engineering services. For land surveying services, the committee selected A & B Engineering; Keshavarz & Associates; and Keith and Schnars. For traffic engineering services, the committee selected Simmons & White, Inc.; Stanley Consultants; and Calvin Giordano & Associates.

II. DISCUSSION

On May 9, 2013 the working group/selection committee heard presentations from the aforementioned firms above. Upon completion of the presentations, the selection committee recommended the following: general town engineering – **Keshavarz & Associates**; land surveying services- **A& B Engineering**; and traffic engineering services – **Simmons & White, Inc.** Copies of the selected firms transmittals are attached to this agenda item. The Town Council may ratify the choices of the working group/selection committee or opt to entertain presentations from any of the firms. **On July 2, 2013 the Town Manager added the contracts for Keshavarz & Associates and Simmons & White for Town Council approval as an addendum item. However, Town Council opted to defer the approval to July 16, 2013 in order to have additional time for review of said contracts. Since that meeting, Town Management and Town Attorney's Office has reconciled the third agreement with A& B Engineering for land surveying services. Therefore all three agreements are now ready for Town Council disposition.**

III. FISCAL IMPACT

Dependent upon the volume of work awarded and projects undertaken

IV. ATTACHMENTS

Submittal Sheet of Respondents to the RFQ

Correspondence to the Short Listed Firms with May 9, 2013 Schedule

Selected Firms RFQ submittals (Keshavarz & Associates; A & B Engineering and Simmons & White, Inc.).

Agreements with Keshavarz & Associates, A& B Engineering and Simmons & White

V. REQUIRED ACTION

Ratify the recommended firms by the working group/selection committee and authorize the Town Manager and Town Attorney to draft a contract and complete a competitive negotiation with the most qualified firm for Town Council Approval. **Approve the three agreements with the aforementioned vendors above.**

**AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES FOR
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

KESHAVARZ & ASSOCIATES, INC., a Florida corporation, with an address of 711 North Dixie Highway, Suite 201, West Palm Beach, Florida 33401, hereafter referred to as “ENGINEER,” (with the TOWN and ENGINEER 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, the TOWN has a variety of operational and infrastructural needs which involve the assistance of licensed professionals; and

WHEREAS, the TOWN has identified specifically a need for a TOWN Engineer who will provide professional engineering services, which may include but are not limited to consultation, civil engineering design, environmental engineering design, civil engineering inspection services, assistance with construction documents, bidding services, construction administration services, on-site representation, assistance with budget estimates, services to secure engineering, drainage, and all other required permits for various engineering projects, as well as all other civil engineering services/miscellaneous civil engineering projects for the TOWN; and

WHEREAS, the TOWN undertook a competitive selection process in accordance with the Consultants’ Competitive Negotiation Act (CCNA), Section 287.055, Florida Statutes, requesting responses to an Invitation to its Request for Qualifications for General Town Engineering Services, Traffic Engineering, Land Surveying, Environmental Engineering Services, and Civil Engineering Inspection Services No. 2013-001 (the “RFQ”), attached hereto as **Exhibit “A,”** and incorporated herein; and

WHEREAS, the ENGINEER’s response to the RFQ (“Response”), attached hereto as **Exhibit “B,”** and incorporated herein, was the response selected by the TOWN Council as the most qualified response for professional engineering services; and

WHEREAS, TOWN has determined that ENGINEER has the experience, expertise, equipment, and materials to provide such professional engineering services, and is capable of providing the necessary materials and manpower to address the aforementioned engineering issues of the TOWN, 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, ENGINEER has stated that it has staff currently employed and available and who are certified to perform such services; and

WHEREAS, ENGINEER agrees to commit the necessary personnel to perform the services at the corresponding rates as may be reviewed; and

WHEREAS, ENGINEER is willing to provide said services to the City pursuant to the terms and conditions set forth herein; and

WHEREAS, the TOWN Council and the ENGINEER 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 ENGINEER agree as follows:

ARTICLE 1 - 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 – PROFESSIONAL ENGINEERING SERVICES

2.1 The TOWN agrees to engage ENGINEER to perform the Services as described in **Exhibit “C,”** which is attached hereto and incorporated herein by reference.

2.2 ENGINEER shall perform the above Services as described in **Exhibit “C”** through its designated representatives, employees, or agents as may be designated by ENGINEER.

2.3 ENGINEER may provide additional services not included on **Exhibit “C”** to TOWN upon the execution of a written Amendment to this Agreement, as provided in Section 10.8 of this Agreement.

2.4 In connection with professional services to be rendered pursuant to this Agreement, ENGINEER further agrees to:

2.4.1 Maintain an adequate staff of qualified personnel at all times to ensure its performance of its obligations pursuant to the terms of this Agreement.

2.4.2 Comply within all Federal, State, and Local laws or ordinances applicable to the

performance of its obligations pursuant to the terms of this Agreement.

2.4.3 Cooperate fully with the TOWN in the scheduling and coordination of all services performed pursuant to the terms of this Agreement.

2.4.4 Confer with the TOWN staff at any time during the term of this Agreement in order to address issues of performance.

2.5 ENGINEER hereby represents to TOWN, with full knowledge that TOWN is relying upon these representations when entering into this Agreement with ENGINEER, that ENGINEER has the professional expertise, experience and manpower to perform the services to be provided by ENGINEER pursuant to the terms of this Agreement.

2.6 ENGINEER assumes professional and technical responsibility for performance of its services to be provided hereunder in accordance with recognized professional standards of good engineering practice. If within one year following completion of its services, such services fail to meet the aforesaid standards, and the TOWN promptly advises ENGINEER thereof in writing, ENGINEER agrees to re-perform such deficient services without charge to the TOWN.

ARTICLE 3 – CONFLICT OF INTEREST

ENGINEER agrees not to accept employment during the time this Agreement is in effect from any builder, land developer, utility company or others doing construction work within the corporate limits of the Town of Loxahatchee Groves which might be construed as a conflict of interest with ENGINEER's work for TOWN. The Town Manager, or his/her authorized representative, shall make the determination, in his or her sole discretion, of what is deemed a conflict.

ARTICLE 4 – TIME FOR PERFORMANCE

ENGINEER shall perform the services as identified in Section 2.1 as soon as is reasonably practicable.

ARTICLE 5 – PAYMENT

5.1 As set forth in **Exhibit "D,"** ENGINEER shall provide the following services to TOWN at the following prices to include cost for time and expenses.

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

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

- 5.4 All invoices must have a Notice to Proceed issued by the TOWN before it will be considered for payment.
- 5.5 All Notices to Proceed must provide a work authorization number, the scope of work to be completed including sufficient detail reflecting all engineering services or such other authorized services by the TOWN that have been performed, and time of completion. Notwithstanding the foregoing, the TOWN shall have no obligation to engage the services of ENGINEER for a specified number of times.
- 5.6 ENGINEER will submit an invoice for costs for such work. Should the TOWN determine that the documentation for such services is incomplete, it shall request additional information from the ENGINEER within ten (10) working days of receipt of the original invoice.
- 5.7 The TOWN shall pay the ENGINEER within thirty (30) days of receipt of the final written invoice and documentation from the ENGINEER.
- 5.8 The TOWN's obligation is limited to its payment obligation and shall have no obligation to any other person or entity.
- 5.9 Notwithstanding the foregoing, in accordance with section 287.055, Florida Statutes, all of ENGINEER's services shall meet the following cost limitations: professional services for study activity projects should not exceed two-hundred thousand dollars (\$200,000.00); or professional services for construction projects should not exceed two million dollars (\$2,000,000.00); or professional services for work of a specified nature as outlined in the future continuing contract with the TOWN.
- 5.10 TOWN makes no warranty to ENGINEER as to the types, volume, or quantities of service that ENGINEER will actually be required to perform. ENGINEER's services shall be based on TOWN activities and are dependent upon changing circumstances and the conduct of business within the TOWN.

ARTICLE 6 – CHANGES TO SCOPE OF WORK AND ADDITIONAL WORK

TOWN or ENGINEER may request changes that would increase, decrease, or otherwise modify the Scope of Services to be provided under this Agreement. Such changes or additional services must be in accordance with the provisions of the Code or Ordinances of the TOWN and must be contained in a written amendment, executed by the parties hereto, with the same formality and with equality and dignity prior to any deviation from the terms of this Agreement, including the initiation of any additional or extra work. In no event will the ENGINEER be compensated for any work which has not been described in a separate written agreement executed by the Parties hereto.

ARTICLE 7 - TERM OF AGREEMENT

- 7.1 This Agreement shall be deemed to have commenced on the Effective Date provided below, and shall continue for three (3) years with an option for the TOWN to exercise at its sole discretion (which does not confer any rights upon ENGINEER) for two (2) additional three (3) year periods, or until terminated as provided in Sections 7.2 through 7.7, below. The TOWN shall exercise its option by providing ENGINEER 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.
- 7.2 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 ENGINEER 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 ENGINEER shall extend this Agreement for a period equal to such delay and during this period such delay shall not constitute a delay by ENGINEER for which liquidated damages are due.
- 7.3 Notwithstanding Section 7.2, this Agreement may be terminated for cause by either Party upon ninety (90) days' notice 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.
- 7.4 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.
- 7.5 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 ENGINEER 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 ENGINEER up to the time of termination. Upon such termination, the TOWN may, without penalty or other obligation to ENGINEER, elect to employ other persons to perform the same or similar services.
- 7.6 Notice of termination shall be provided in accordance with Article 9, "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, ENGINEER shall be paid for any services performed to the date the Agreement is terminated; however, upon being notified of TOWN's election to terminate, ENGINEER shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. ENGINEER acknowledges and agrees that Ten Dollars (\$10.00) of the compensation to be paid by TOWN, the adequacy of which is hereby acknowledged by ENGINEER, is given as specific consideration to ENGINEER for TOWN's right to terminate this Agreement for convenience.

- 7.7 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 ENGINEER for any additional compensation, other than that provided herein, or for any consequential or incidental damages.

ARTICLE 8 - INDEMNIFICATION; INSURANCE

- 8.1 Independent Contractor: ENGINEER 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. ENGINEER further acknowledges that the TOWN's duty under this Agreement is limited to contributing the identified funds to ENGINEER and that ENGINEER will use the funds to perform professional engineering services to the TOWN in the manner provided herein. ENGINEER 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 ENGINEER and the TOWN and the TOWN will not be liable for any obligation incurred by ENGINEER, 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 ENGINEER improvements or any matter that is the responsibility of ENGINEER under this Agreement, ENGINEER will indemnify and hold harmless the TOWN in the manner and to the extent set forth in Section 8.2, below.
- 8.2 Hold Harmless and Indemnification: ENGINEER 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, 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 ENGINEER, 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 ENGINEER to comply with any of the provisions of the Agreement or the failure of ENGINEER 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. ENGINEER 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 ENGINEER, or any approved subcontractors, as provided above, for which ENGINEER's liability to such employee or former employee would otherwise be limited to payments under state Workers' Compensation or similar laws.

ENGINEER 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 action related, directly or indirectly, to ENGINEER's performance under the Agreement, compliance with which is left by the Agreement to ENGINEER, and (ii) any and all claims, and/or suits for labor and materials furnished by ENGINEER or utilized in the performance of the Agreement or otherwise.

Where not specifically prohibited by law, ENGINEER 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 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.

- 8.3 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 ENGINEER 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. ENGINEER shall not commence nor continue to provide any services pursuant to this Agreement unless all required insurance remains in full force and effect. ENGINEER shall be liable to TOWN for any lapses in service resulting from a gap in insurance coverage.

8.3.1 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 ENGINEER. 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	\$ 500,000
	2. General Aggregate	500,000
C.	Worker's Compensation Insurance	
D.	Professional Liability/Errors and Omissions	
	1. Each Occurrence	\$1,000,000
	2. General Aggregate	\$1,000,000

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

A.	Worker's Compensation	Statutory
B.	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 ENGINEER, 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.

8.3.2 ENGINEER 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.

8.3.3 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. ENGINEER 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 9 - NOTICES

- 9.1 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:

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 ENGINEER:

Maziar Keshavarz, P.E., Principal
Keshavarz & Associates, Inc.
711 North Dixie Highway
Suite 201
West Palm Beach, FL 33401

ARTICLE 10 - MISCELLANEOUS PROVISIONS

- 10.1 **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.
- 10.2 **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.
- 10.3 **THIRD PARTY BENEFICIARIES:** Neither TOWN nor ENGINEER 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.
- 10.4 **SEVERABILITY:** The invalidity of any provision of this Agreement shall in no way affect the validity of any other provision.
- 10.5 **ENTIRE AGREEMENT:** It is understood and agreed that this Agreement incorporates and includes the RFQ, ENGINEER’s Response, 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.

- 10.6 **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.
- 10.7 **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.
- 10.8 **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.
- 10.9 **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.
- 10.10 **LICENSES.** All drivers must be properly licensed operators, if applicable. ENGINEER 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. ENGINEER shall be responsible for providing phone numbers where employees can be reached. The inability of the TOWN to make contact with ENGINEER or an employee thereof within a reasonable amount of time is cause for the TOWN to terminate this Agreement as described in Section 7 of this Agreement.
- 10.11 **AFFIRMATIVE ACTION/EQUAL OPPORTUNITY EMPLOYER.** Pursuant to the RFQ and its Response, ENGINEER shall adhere to an affirmative action policy. In the performance of this Agreement, ENGINEER 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.
- 10.12 **PROTECTION OF TOWN PROPERTY.** At all times during the performance of this Agreement, ENGINEER 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.

- 10.13 **CONFLICTS.** ENGINEER 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 RFQ No. 2013-01 including all addendums, and ENGINEER's Response to the RFQ as Exhibit "B". In the event that there is any conflict between any of the contract documents and the terms of this Agreement, this Agreement shall prevail.
- 10.14 **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.
- 10.15 **OWNERSHIP OF DOCUMENTS.** Reports, surveys, plans, studies and other data provided or created 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 ENGINEER's work product for its intended purposes. In the event of termination of this Agreement, any reports, photographs, surveys and other data and documents prepared by ENGINEER, whether finished or unfinished shall become the property of TOWN and shall be delivered by ENGINEER to the TOWN Manager within seven (7) days of termination of this Agreement by either party. Any compensation due to ENGINEER shall be withheld until all documents are received as provided herein.
- 10.16 **NO CONTINGENT FEES.** ENGINEER warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the ENGINEER, 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 ENGINEER, 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.
- 10.17 **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.
- 10.18 **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.
- 10.19 **HEADINGS.** Headings herein are for convenience of reference only and shall not be considered on any interpretation of this Agreement.

10.20 **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.

10.21 **AUDIT AND INSPECTION RIGHTS AND RETENTION OF RECORDS.**

10.21.1 **AUDITS.** TOWN shall have the right to audit the books, records and accounts of ENGINEER that are related to this Agreement. ENGINEER shall keep such book, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement. Such retention of such records and documents shall be at ENGINEER's expense. ENGINEER shall comply with inspection and reproduction obligations of Florida law relating to public records in its possession. If any audit has been initiated and 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 ENGINEER's records, ENGINEER shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by ENGINEER. 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.

10.21.2 **COMPLIANCE WITH FLORIDA'S PUBLIC RECORDS ACT.** (1) Pursuant to section 119.0701, Florida Statutes, ENGINEER shall (a) keep and maintain public records that ordinarily and necessarily would be required by TOWN in order to perform the service; (b) provide the public with access to such public records on the same terms and conditions that the TOWN would provide the records and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by law; (c) ensure that public records that are exempt or that are confidential and exempt from public record requirements are not disclosed except as authorized by law; and (d) ENGINEER shall meet all requirements for retaining public records and transfer to the TOWN, at no cost, all public records in possession of the ENGINEER upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt. (2) ENGINEER shall preserve and maintain all financial records, supporting documents, statistical records, and any other documents pertinent to this 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 ENGINEER is notified in writing by the TOWN of the need to extend the retention period. (3) All records stored electronically must be provided to the TOWN in a format that is compatible with the information technology systems of the agency.

10.21.3 **GENERALLY.** In addition, ENGINEER 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, ENGINEER shall provide a complete copy of all working papers to TOWN, prior to final payment, in accordance with this Agreement and the Schedule for ENGINEER's services.

10.22 PALM BEACH COUNTY OFFICE OF THE INSPECTOR GENERAL.

ENGINEER 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 ENGINEER and, any, if applicable, subcontractors and lower tier subcontractors. ENGINEER understands and agrees that in addition to all other remedies and consequences provided by law, failure of ENGINEER 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. ENGINEER 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 ENGINEER, and if applicable, subcontractors and lower tier subcontractors.

10.23 DRAFTING. This Agreement has been negotiated and drafted by all Parties hereto and shall not be more strictly construed against any Party because of such Party's preparation of this Agreement.

(REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK)

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement between TOWN and ENGINEER 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 the ENGINEER, signing by and through its _____, authorized to execute same 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 **ENGINEER** this _____ day of _____, 2013

KESHAVARZ & ASSOCIATES, INC.

BY: _____

As _____,

ATTEST:

(CORPORATE SEAL)

STATE OF FLORIDA)
) SS
COUNTY OF PALM BEACH)

BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared _____ of Keshavarz &

Associates, Inc. who is personally known to me or has produced _____ as identification, and acknowledged execution of the foregoing Agreement as the proper official of Keshavarz & Associates, Inc. of for the use and purposes mentioned in it and that the instrument is the act and deed of the Corporation.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal at in the State and County aforesaid on this _____ day of _____, 2013.

NOTARY PUBLIC

My Commission Expires:

EXHIBIT "A"
THE RFQ

EXHIBIT "B"
ENGINEER'S RESPONSE

**EXHIBIT “C”
ENGINEER’S SCOPE OF SERVICES**

A. General Town Engineering Services:

Provide general consultation, civil engineering design, construction documents, bidding services, construction administration services, on-site representation, preliminary budget estimates, services to secure engineering, drainage, and all other required permits and other civil engineering services/miscellaneous civil engineering projects for the Town of Loxahatchee Groves. Required consultation services may be required to ensure compliance with FDEP, SFWMD, PBC Health Department and other applicable federal, state and local regulatory agencies. Upon request, the consultant may be asked to perform other services including the performance of responsible engineering related administrative work. The consultant may also be requested to attend Town of Loxahatchee Groves Town Council meetings, Loxahatchee Groves Water Control District meetings and any other selected meetings.

B. Environmental Engineering Services:

Provide general consultation, environmental engineering design, construction documents, bidding services, construction administration services, on-site representation, preliminary budget estimates, services to secure building and all other required permits and environmental engineering services for the Town of Loxahatchee Groves. The consultant may be requested to provide hazardous waste remediation, noise management studies, wetlands mitigation and other miscellaneous assignments. Environmental engineering services may also include environmental impact statements, phase one environmental analyses and other related environmental engineering services.

C. Civil Engineering Inspection Services:

Provide general consultation, civil engineering inspection services related to the conducting of field inspections regarding paving, grading, drainage, trail system improvements and other related inspections as required for the Town of Loxahatchee Groves. The consultant may also review preliminary and final plats, site and development plans, and civil engineering plans to the Town of Loxahatchee Groves specifications, Town Code of Ordinances and best engineering practices and techniques. Develop and revise as needed standard design details and construction specifications for town roadway and drainage systems.

**EXHIBIT “D”
ENGINEER’S FEE SCHEDULE**

H:_GOV CLIENTS\LOX 1574_070240 GM\AGMTS 2013\General Town Engineering - Final Proposed 070213.docx



KESHAVARZ & ASSOCIATES
Civil Engineers – Land Surveyors

TIME & EXPENSE RATES
Town of Loxahatchee Groves
Effective June 2013

Principal (P.E.)	\$215.00 per hour
Senior Project Manager (P.E.)	160.00 per hour
Project Manager (P.E.)	140.00 per hour
Project Engineer (P.E.)	115.00 per hour
Project Engineer (E.I.T.)	95.00 per hour
Construction Project Manager	120.00 per hour
Field Engineering Representative/Liaison	85.00 per hour
Principal Surveyor (P.S.M.)	150.00 per hour
Professional Surveyor (P.S.M.)	125.00 per hour
Project Surveyor (S.I.T.)	90.00 per hour
Survey Crew	125.00 per hour
Global Positioning System (GPS) Receiver	25.00 per hour
Total Station with Data Collection	10.00 per hour
Senior Engineering Technician/CADD	85.00 per hour
Senior Surveying Technician/CADD	85.00 per hour
Engineering Technician/CADD Technician	80.00 per hour
Regulatory Liaison	80.00 per hour
Administrator	70.00 per hour
Bond Copies/Black line/Blueprints	2.50 each
Plot Media	10.00 each
CAD Drawing Files/Digital Transmission	50.00 each
Mileage	0.50 per mile
Deliveries	40.00 each
Other Supplies	Cost plus 20%

**AGREEMENT FOR PROFESSIONAL TRAFFIC ENGINEERING
SERVICES FOR 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

SIMMONS & WHITE, INC., a Florida corporation, with an address of 5601 Corporate Way, #200, West Palm Beach, FL 33407, hereafter referred to as “TRAFFIC ENGINEER,” (with the TOWN and TRAFFIC ENGINEER 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, the TOWN has a variety of operational and infrastructural needs which involve the assistance of licensed professionals; and

WHEREAS, section 316.006(2), Florida Statutes, grants to chartered municipalities original jurisdiction over all streets and highways located within their boundaries, except state roads, and grants to those municipalities the ability to place and maintain such traffic control devices which conform to the manual and specifications of the Department of Transportation upon all streets and highways under their original jurisdiction; and

WHEREAS, the TOWN has identified specifically a need for a Traffic Engineer who will provide professional traffic engineering services, which may include but are not limited to general consultation, traffic engineering design, review, and preparation of traffic studies, and other related traffic engineering services for the TOWN; and

WHEREAS, the TOWN undertook a competitive selection process in accordance with the Consultants’ Competitive Negotiation Act (CCNA), Section 287.055, Florida Statutes, requesting responses to an Invitation to its Request for Qualifications for General Town Engineering Services, Traffic Engineering, Land Surveying, Environmental Engineering Services, and Civil Engineering Inspection Services No. 2013-001 (the “RFQ”), attached hereto as **Exhibit “A,”** and incorporated herein; and

WHEREAS, the TRAFFIC ENGINEER’s response to the RFQ (“Response”), attached hereto as **Exhibit “B,”** and incorporated herein, was the response selected by the TOWN Council as the most qualified response for professional engineering services; and

WHEREAS, TOWN has determined that TRAFFIC ENGINEER has the experience, expertise, equipment, and materials to provide such professional engineering services, and is capable of providing the necessary materials and manpower to address the aforementioned engineering issues of the TOWN, 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, TRAFFIC ENGINEER has stated that it has staff currently employed and available and who are certified to perform such services; and

WHEREAS, TRAFFIC ENGINEER agrees to commit the necessary personnel to perform the services at the corresponding rates as may be reviewed; and

WHEREAS, TRAFFIC ENGINEER is willing to provide said services to the City pursuant to the terms and conditions set forth herein; and

WHEREAS, the TOWN Council and the TRAFFIC ENGINEER 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, TOWN and TRAFFIC ENGINEER agree as follows:

ARTICLE 1 - 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 – PROFESSIONAL TRAFFIC ENGINEERING SERVICES

2.1 The TOWN agrees to engage TRAFFIC ENGINEER to perform the Services as described in **Exhibit “C,”** which is attached hereto and incorporated herein by reference.

2.2 TRAFFIC ENGINEER shall perform the above Services as described in **Exhibit “C”** through its designated representatives, employees, or agents as may be designated by TRAFFIC ENGINEER.

2.3 TRAFFIC ENGINEER may provide additional services not included on **Exhibit “C”** to TOWN upon the execution of a written Amendment to this Agreement, as provided in Section 10.8 of this Agreement.

2.4 In connection with professional services to be rendered pursuant to this Agreement, TRAFFIC ENGINEER further agrees to:

2.4.1 Maintain an adequate staff of qualified personnel at all times to ensure its performance of its obligations pursuant to the terms of this Agreement.

- 2.4.2 Comply within all Federal, State, and Local laws or ordinances applicable to the performance of its obligations pursuant to the terms of this Agreement.
- 2.4.3 Cooperate fully with the TOWN in the scheduling and coordination of all services performed pursuant to the terms of this Agreement.
- 2.4.4 Confer with the TOWN staff at any time during the term of this Agreement in order to address issues of performance.
- 2.5 TRAFFIC ENGINEER hereby represents to TOWN, with full knowledge that TOWN is relying upon these representations when entering into this Agreement with TRAFFIC ENGINEER, that TRAFFIC ENGINEER has the professional expertise, experience and manpower to perform the services to be provided by TRAFFIC ENGINEER pursuant to the terms of this Agreement.
- 2.6 TRAFFIC ENGINEER assumes professional and technical responsibility for performance of its services to be provided hereunder in accordance with recognized professional standards of good engineering practice. If within one year following completion of its services, such services fail to meet the aforesaid standards, and the TOWN promptly advises TRAFFIC ENGINEER thereof in writing, TRAFFIC ENGINEER agrees to re-perform such deficient services without charge to the TOWN.

ARTICLE 3 – CONFLICT OF INTEREST

TRAFFIC ENGINEER agrees not to accept employment during the time this Agreement is in effect from any builder, land developer, utility company or others doing construction work within the corporate limits of the Town of Loxahatchee Groves which might be construed as a conflict of interest with TRAFFIC ENGINEER's work for TOWN. The Town Manager, or his/her authorized representative, shall make the determination, in his or her sole discretion, of what is deemed a conflict.

ARTICLE 4 – TIME FOR PERFORMANCE

TRAFFIC ENGINEER shall perform the services as identified in Section 2.1 as soon as is reasonably practicable.

ARTICLE 5 – PAYMENT

- 5.1 As set forth in **Exhibit "D,"** TRAFFIC ENGINEER shall provide the following services to TOWN at the following prices to include cost for time and expenses.
- 5.2 Upon the commencement of this Agreement, TRAFFIC ENGINEER will provide the TOWN invoices on a monthly basis in a timely manner for work actually completed by TRAFFIC ENGINEER for the previous month.
- 5.3 Invoices submitted by TRAFFIC ENGINEER to TOWN must be submitted on the fifth

- (5th) day of each month for the previous month's work performed.
- 5.4 All invoices must have a Notice to Proceed issued by the TOWN before it will be considered for payment.
 - 5.5 All Notices to Proceed must provide a work authorization number, the scope of work to be completed including sufficient detail reflecting all engineering services or such other authorized services by the TOWN that have been performed, and time of completion. Notwithstanding the foregoing, the TOWN shall have no obligation to engage the services of TRAFFIC ENGINEER for a specified number of times.
 - 5.6 TRAFFIC ENGINEER will submit an invoice for costs for such work. Should the TOWN determine that the documentation for such services is incomplete, it shall request additional information from the TRAFFIC ENGINEER within ten (10) working days of receipt of the original invoice.
 - 5.7 The TOWN shall pay the TRAFFIC ENGINEER within thirty (30) days of receipt of the final written invoice and documentation from the TRAFFIC ENGINEER.
 - 5.8 The TOWN's obligation is limited to its payment obligation and shall have no obligation to any other person or entity.
 - 5.9 Notwithstanding the foregoing, in accordance with section 287.055, Florida Statutes, all of TRAFFIC ENGINEER's services shall meet the following cost limitations: professional services for study activity projects should not exceed two-hundred thousand dollars (\$200,000.00); or professional services for construction projects should not exceed two million dollars (\$2,000,000.00); or professional services for work of a specified nature as outlined in the future continuing contract with the TOWN.
 - 5.10 TOWN makes no warranty to TRAFFIC ENGINEER as to the types, volume, or quantities of service that TRAFFIC ENGINEER will actually be required to perform. TRAFFIC ENGINEER's services shall be based on TOWN activities and are dependent upon changing circumstances and the conduct of business within the TOWN.

ARTICLE 6 – CHANGES TO SCOPE OF WORK AND ADDITIONAL WORK

TOWN or TRAFFIC ENGINEER may request changes that would increase, decrease, or otherwise modify the Scope of Services to be provided under this Agreement. Such changes or additional services must be in accordance with the provisions of the Code or Ordinances of the TOWN and must be contained in a written amendment, executed by the parties hereto, with the same formality and with equality and dignity prior to any deviation from the terms of this Agreement, including the initiation of any additional or extra work. In no event will the TRAFFIC ENGINEER be compensated for any work which has not been described in a separate written agreement executed by the Parties hereto.

ARTICLE 7 - TERM OF AGREEMENT

- 7.1 This Agreement shall be deemed to have commenced on the Effective Date provided below, and shall continue for three (3) years with an option for the TOWN to exercise at its sole discretion (which does not confer any rights upon TRAFFIC ENGINEER) for two (2) additional three (3) year periods, or until terminated as provided in Sections 7.2 through 7.7, below. The TOWN shall exercise its option by providing TRAFFIC ENGINEER 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.
- 7.2 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 TRAFFIC ENGINEER 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 TRAFFIC ENGINEER shall extend this Agreement for a period equal to such delay and during this period such delay shall not constitute a delay by TRAFFIC ENGINEER for which liquidated damages are due.
- 7.3 Notwithstanding Section 7.2, this Agreement may be terminated for cause by either Party upon ninety (90) days' notice 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.
- 7.4 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.
- 7.5 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 TRAFFIC ENGINEER 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 TRAFFIC ENGINEER up to the time of termination. Upon such termination, the TOWN may, without penalty or other obligation to TRAFFIC ENGINEER, elect to employ other persons to perform the same or similar services.
- 7.6 Notice of termination shall be provided in accordance with Article 9, "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, TRAFFIC ENGINEER shall be paid for any services performed to the date the Agreement is terminated; however, upon being notified of TOWN's election to terminate, TRAFFIC ENGINEER shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. TRAFFIC ENGINEER acknowledges and agrees that Ten Dollars (\$10.00) of the compensation to be paid by TOWN, the adequacy of which is hereby acknowledged by TRAFFIC ENGINEER, is given as specific consideration to TRAFFIC ENGINEER for TOWN's right to terminate this Agreement for convenience.

- 7.7 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 TRAFFIC ENGINEER for any additional compensation, other than that provided herein, or for any consequential or incidental damages.

ARTICLE 8 - INDEMNIFICATION; INSURANCE

- 8.1 Independent Contractor: TRAFFIC ENGINEER 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. TRAFFIC ENGINEER further acknowledges that the TOWN's duty under this Agreement is limited to contributing the identified funds to TRAFFIC ENGINEER and that TRAFFIC ENGINEER will use the funds to perform professional traffic engineering services to the TOWN in the manner provided herein. TRAFFIC ENGINEER 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 TRAFFIC ENGINEER and the TOWN and the TOWN will not be liable for any obligation incurred by TRAFFIC ENGINEER, 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 TRAFFIC ENGINEER improvements or any matter that is the responsibility of TRAFFIC ENGINEER under this Agreement, TRAFFIC ENGINEER will indemnify and hold harmless the TOWN in the manner and to the extent set forth in Section 8.2, below.
- 8.2 Hold Harmless and Indemnification: TRAFFIC ENGINEER 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, 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 TRAFFIC ENGINEER, 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 TRAFFIC ENGINEER to comply with any of the provisions of the Agreement or the failure of TRAFFIC ENGINEER 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. TRAFFIC ENGINEER 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 TRAFFIC ENGINEER, or any approved subcontractors, as provided above, for which TRAFFIC ENGINEER's liability to such employee or former employee would otherwise be limited to payments under state Workers' Compensation or similar laws.

TRAFFIC ENGINEER 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 action related, directly or indirectly, to TRAFFIC ENGINEER's performance under the Agreement, compliance with which is left by the Agreement to TRAFFIC ENGINEER, and (ii) any and all claims, and/or suits for labor and materials furnished by TRAFFIC ENGINEER or utilized in the performance of the Agreement or otherwise.

Where not specifically prohibited by law, TRAFFIC ENGINEER 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 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.

8.3 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 TRAFFIC ENGINEER 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. TRAFFIC ENGINEER shall not commence nor continue to provide any services pursuant to this Agreement unless all required insurance remains in full force and effect. TRAFFIC ENGINEER shall be liable to TOWN for any lapses in service resulting from a gap in insurance coverage.

8.3.1 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 TRAFFIC ENGINEER. 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	\$ 500,000
2.	General Aggregate	500,000
C.	Worker’s Compensation Insurance	
D.	Professional Liability/Errors & Omissions	
1.	Each Occurrence	\$1,000,000
2.	General Aggregate	\$2,000,000

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

A.	Worker's Compensation	Statutory
B.	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 TRAFFIC ENGINEER, 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.

8.3.2 TRAFFIC ENGINEER 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.

8.3.3 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. TRAFFIC ENGINEER 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 9 - NOTICES

9.1 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:

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 TRAFFIC ENGINEER:

Robert F. Rennebaum, P.E.
 Simmons & White, Inc.
 5601 Corporate Way, #200
 West Palm Beach, FL 33407

ARTICLE 10 - MISCELLANEOUS PROVISIONS

- 10.1 **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.
- 10.2 **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.
- 10.3 **THIRD PARTY BENEFICIARIES:** Neither TOWN nor TRAFFIC ENGINEER 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.
- 10.4 **SEVERABILITY:** The invalidity of any provision of this Agreement shall in no way affect the validity of any other provision.

- 10.5 **ENTIRE AGREEMENT:** It is understood and agreed that this Agreement incorporates and includes the RFQ, TRAFFIC ENGINEER's Response, 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.
- 10.6 **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.
- 10.7 **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.
- 10.8 **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.
- 10.9 **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.
- 10.10 **LICENSES.** All drivers must be properly licensed operators, if applicable. TRAFFIC ENGINEER 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. TRAFFIC ENGINEER shall be responsible for providing phone numbers where employees can be reached. The inability of the TOWN to make contact with TRAFFIC ENGINEER or an employee thereof within a reasonable amount of time is cause for the TOWN to terminate this Agreement as described in Section 7 of this Agreement.
- 10.11 **AFFIRMATIVE ACTION/EQUAL OPPORTUNITY EMPLOYER.** Pursuant to the RFQ and its Response, TRAFFIC ENGINEER shall adhere to an affirmative action policy. In the performance of this Agreement, TRAFFIC ENGINEER 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.

- 10.12 **PROTECTION OF TOWN PROPERTY.** At all times during the performance of this Agreement, TRAFFIC ENGINEER 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.
- 10.13 **CONFLICTS.** TRAFFIC ENGINEER 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 RFQ No. 2013-01 including all addendums, and TRAFFIC ENGINEER's Response to the RFQ as Exhibit "B". In the event that there is any conflict between any of the contract documents and the terms of this Agreement, this Agreement shall prevail.
- 10.14 **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.
- 10.15 **OWNERSHIP OF DOCUMENTS.** Reports, surveys, plans, studies and other data provided or created 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 TRAFFIC ENGINEER's work product for its intended purposes. In the event of termination of this Agreement, any reports, photographs, surveys and other data and documents prepared by TRAFFIC ENGINEER, whether finished or unfinished shall become the property of TOWN and shall be delivered by TRAFFIC ENGINEER to the TOWN Manager within seven (7) days of termination of this Agreement by either party. Any compensation due to TRAFFIC ENGINEER shall be withheld until all documents are received as provided herein.
- 10.16 **NO CONTINGENT FEES.** TRAFFIC ENGINEER warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the TRAFFIC ENGINEER, 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 TRAFFIC ENGINEER, 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.
- 10.17 **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.

- 10.18 **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.
- 10.19 **HEADINGS.** Headings herein are for convenience of reference only and shall not be considered on any interpretation of this Agreement.
- 10.20 **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.
- 10.21 **AUDIT AND INSPECTION RIGHTS AND RETENTION OF RECORDS.**

10.21.1 **AUDITS.** TOWN shall have the right to audit the books, records and accounts of TRAFFIC ENGINEER that are related to this Agreement. TRAFFIC ENGINEER shall keep such book, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement. Such retention of such records and documents shall be at TRAFFIC ENGINEER's expense. TRAFFIC ENGINEER shall comply with inspection and reproduction obligations of Florida law relating to public records in its possession. If any audit has been initiated and 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 TRAFFIC ENGINEER's records, TRAFFIC ENGINEER shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by TRAFFIC ENGINEER. 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.

10.21.2 **COMPLIANCE WITH FLORIDA'S PUBLIC RECORDS ACT.** (1) Pursuant to section 119.0701, Florida Statutes, TRAFFIC ENGINEER shall (a) keep and maintain public records that ordinarily and necessarily would be required by TOWN in order to perform the service; (b) provide the public with access to such public records on the same terms and conditions that the TOWN would provide the records and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by law; (c) ensure that public records that are exempt or that are confidential and exempt from public record requirements are not disclosed except as authorized by law; and (d) TRAFFIC ENGINEER shall meet all requirements for retaining public records and transfer to the TOWN, at no cost, all public records in possession of the TRAFFIC ENGINEER upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt. (2) TRAFFIC ENGINEER shall preserve and maintain all financial records, supporting documents, statistical records, and any other documents pertinent to this 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 TRAFFIC ENGINEER is notified in writing by the TOWN of the need to extend the retention period. (3) All records stored electronically must be provided to the TOWN in a format that is compatible with the information technology systems of the agency.

10.21.3 **GENERALLY.** In addition, TRAFFIC ENGINEER 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, TRAFFIC ENGINEER shall provide a complete copy of all working papers to TOWN, prior to final payment, in accordance with this Agreement and the Schedule for TRAFFIC ENGINEER's services.

10.22 **PALM BEACH COUNTY OFFICE OF THE INSPECTOR GENERAL.** TRAFFIC ENGINEER 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 TRAFFIC ENGINEER and, any, if applicable, subcontractors and lower tier subcontractors. TRAFFIC ENGINEER understands and agrees that in addition to all other remedies and consequences provided by law, failure of TRAFFIC ENGINEER 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. TRAFFIC ENGINEER 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 TRAFFIC ENGINEER, and if applicable, subcontractors and lower tier subcontractors.

10.23 **DRAFTING.** This Agreement has been negotiated and drafted by all Parties hereto and shall not be more strictly construed against any Party because of such Party's preparation of this Agreement.

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IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement between TOWN and TRAFFIC ENGINEER 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 the TRAFFIC ENGINEER, signing by and through its _____, authorized to execute same 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 **TRAFFIC ENGINEER** this _____ day of _____, 2013

SIMMONS & WHITE, INC.

BY: _____

As _____,

ATTEST:

(CORPORATE SEAL)

STATE OF FLORIDA)
) SS
COUNTY OF PALM BEACH)

BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared _____ of Simmons & White, Inc., who is personally known to me or has produced _____ as identification, and acknowledged execution of the foregoing Agreement as the proper official of

Simmons & White, Inc. of for the use and purposes mentioned in it and that the instrument is the act and deed of the Corporation.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal at in the State and County aforesaid on this _____ day of _____, 2013.

NOTARY PUBLIC

My Commission Expires:

EXHIBIT "A"
THE RFQ

EXHIBIT "B"
TRAFFIC ENGINEER'S RESPONSE

EXHIBIT “C”
TRAFFIC ENGINEER’S SCOPE OF SERVICES

Provide general consultation, traffic engineering design, review and preparation of traffic studies, and other related traffic engineering services for the Town of Loxahatchee Groves. The scope of the aforementioned services provided by TRAFFIC ENGINEER to TOWN may include, but are not limited to, the following:

- 1) Arterial analysis;
- 2) Traffic signal warrant analysis;
- 3) Traffic signal design;
- 4) Traffic calming studies and design;
- 5) Intersection design, sidewalk, turn lanes, street light studies, and design;
- 6) Ingress/egress; number, location and geometry;
- 7) Access layout and geometric design;
- 8) Number and layout of parking stall/aisles;
- 9) Vehicular storage at ingress/egress locations;
- 10) Loading Zones;
- 11) Sight lines/visibility triangles;
- 12) On/off street parking impacts;
- 13) Pedestrian/vehicular conflicts;
- 14) Attendance at any TOWN meetings involving such projects of TRAFFIC ENGINEER;
- 15) Assistance with review of any development petitions and traffic impact studies to ensure compliance with local and state laws;
- 16) Coordination with TOWN to resolve any issues involving interpretation and implementation of any traffic standards, if applicable;
- 17) Providing specialized studies and written reports on traffic issues when warranted;
- 18) Providing input relative to zoning amendments as they involve traffic and transportation planning; and
- 19) Other tasks as needed.

EXHIBIT "D"
TRAFFIC ENGINEER'S FEE SCHEDULE

H:_GOV CLIENTS\LOX 1574_070240 GM\AGMTS 2013\Traffic Engineering Services - Final Proposed 070213.docx



Fee Schedule

Principal	-	\$160.00
Traffic Principal	-	\$185.00
Expert Testimony	-	\$250.00
Senior Traffic Engineer	-	\$150.00
Senior Technician	-	\$100.00
Clerical	-	\$ 50.00

Plus reimbursement for direct non-salary expenses including, but not limited to, automobile travel at \$.60 per mile, long distance telephone, printing, postage, courier and reproduction.

Payments shall be made upon monthly billing, payable within 21 days from the date of invoice. Any billing dispute or discrepancy shall be set forth in writing and delivered to Simmons & White, Inc. prior to the due date for payment. Any matter not set forth in writing and delivered prior to the due date shall be deemed waived and the invoice shall be deemed correct and due in full. Past due payments shall include interest from the date of invoice at a simple interest rate of 1-1/2 percent per month.

In the event any invoice or any portion thereof remains unpaid for more than forty-five (45) days following the invoice date, the Consultant may initiate legal proceedings to collect the same and recover, in addition to all amounts due and payable, including accrued interest, its reasonable attorney's fees and other expenses related to the proceeding. Such expenses shall include, but not be limited to the cost, determined by the Consultant's normal hourly billing rates, of the time devoted to such proceeding by its employees.

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Simmons & White, Inc.
5601 Corporate Way Suite 200 West Palm Beach Florida 33407
T: 561.478.7848 F: 561.478.3738 www.simmonsandwhite.com
Certificate of Authorization Number 3452

Palm Beach County Traffic Signal Continuing Services

FEE SCHEDULE

Effective August 16, 2013 through August 15, 2014

8 ½" x 11" Copies	-	\$0.25/copy
8 ½" x 14" Copies	-	\$0.30/copy
11" x 17" Copies	-	\$0.75/copy
24" x 36" Copies	-	\$2.00/copy
24" x 36" Mylar	-	\$18.00/each
Postage	-	Cost
Courier/Fed Ex	-	Cost
Chief Engineer	-	\$160.00/Hr
Senior Engineer	-	\$150.00/Hr
Senior Utility Coordinator	-	\$100.00/Hr
Senior Designer	-	\$ 90.00/Hr

These rates do not exceed a 3.0 multiplier.

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**AGREEMENT FOR PROFESSIONAL LAND SURVEYING SERVICES
FOR 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

A&B ENGINEERING, INC. a Florida corporation, with an address of 3461 Fairlane Farms Road, Wellington, FL 33414, hereafter referred to as “SURVEYOR,” (with the TOWN and SURVEYOR 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, the TOWN has a variety of operational and infrastructural needs which involve the assistance of licensed professionals; and

WHEREAS, the TOWN has identified specifically a need for a SURVEYOR who will provide professional land surveying services, which may include but are not limited to land surveying, layout work, producing “as-built” drawings, doing public records research, preparing easements, and other related land surveying services for the TOWN; and

WHEREAS, the TOWN undertook a competitive selection process in accordance with the Consultants’ Competitive Negotiation Act (CCNA), Section 287.055, Florida Statutes, requesting responses to an Invitation to its Request for Qualifications for General Town Engineering Services, Traffic Engineering, Land Surveying, Environmental Engineering Services, and Civil Engineering Inspection Services No. 2013-001 (the “RFQ”), attached hereto as **Exhibit “A,”** and incorporated herein; and

WHEREAS, the SURVEYOR’s response to the RFQ (“Response”), attached hereto as **Exhibit “B,”** and incorporated herein, was the response selected by the TOWN Council as the most qualified response for professional engineering services; and

WHEREAS, TOWN has determined that SURVEYOR has the experience, expertise, equipment, and materials to provide such professional engineering services, and is capable of providing the necessary materials and manpower to address the aforementioned engineering issues of the TOWN, 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, SURVEYOR has stated that it has staff currently employed and available and who are certified to perform such services; and

WHEREAS, SURVEYOR agrees to commit the necessary personnel to perform the services at the corresponding rates as may be reviewed; and

WHEREAS, SURVEYOR is willing to provide said services to the City pursuant to the terms and conditions set forth herein; and

WHEREAS, the TOWN Council and the SURVEYOR 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, TOWN and SURVEYOR agree as follows:

ARTICLE 1 - 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 – PROFESSIONAL LAND SURVEYING SERVICES

- 2.1 The TOWN agrees to engage SURVEYOR to perform the Services as described in **Exhibit “C,”** which is attached hereto and incorporated herein by reference. All services performed by SURVEYOR shall be performed in accordance with Chapters 472 and 177, Florida Statutes, and Rule Chapter 5J-17 of the Florida Administrative Code.
- 2.2 SURVEYOR shall perform the above Services as described in **Exhibit “C”** through its designated representatives, employees, or agents as may be designated by SURVEYOR.
- 2.3 SURVEYOR may provide additional services not included on **Exhibit “C”** to TOWN upon the execution of a written Amendment to this Agreement, as provided in Section 10.8 of this Agreement.
- 2.4 In connection with professional services to be rendered pursuant to this Agreement, SURVEYOR further agrees to:
- 2.4.1 Maintain an adequate staff of qualified personnel at all times to ensure its performance of its obligations pursuant to the terms of this Agreement.
- 2.4.2 Comply within all Federal, State, and Local laws or ordinances applicable to the performance of its obligations pursuant to the terms of this Agreement.
- 2.4.3 Cooperate fully with the TOWN in the scheduling and coordination of all services

performed pursuant to the terms of this Agreement.

- 2.4.4 Confer with the TOWN staff at any time during the term of this Agreement in order to address issues of performance.
- 2.5 SURVEYOR hereby represents to TOWN, with full knowledge that TOWN is relying upon these representations when entering into this Agreement with SURVEYOR, that SURVEYOR has the professional expertise, experience and manpower to perform the services to be provided by SURVEYOR pursuant to the terms of this Agreement.
- 2.6 SURVEYOR assumes professional and technical responsibility for performance of its services to be provided hereunder in accordance with recognized professional standards of good engineering practice. If within one year following completion of its services, such services fail to meet the aforesaid standards, and the TOWN promptly advises SURVEYOR thereof in writing, SURVEYOR agrees to re-perform such deficient services without charge to the TOWN.

ARTICLE 3 – CONFLICT OF INTEREST

SURVEYOR agrees not to accept employment during the time this Agreement is in effect from any builder, land developer, utility company or others doing construction work within the corporate limits of the Town of Loxahatchee Groves which might be construed as a conflict of interest with SURVEYOR's work for TOWN. The Town Manager, or his/her authorized representative, shall make the determination, in his or her sole discretion, of what is deemed a conflict.

ARTICLE 4 – TIME FOR PERFORMANCE

SURVEYOR shall perform the services as identified in Section 2.1 as soon as is reasonably practicable.

ARTICLE 5 – PAYMENT

- 5.1 As set forth in **Exhibit "D,"** SURVEYOR shall provide the following services to TOWN at the following prices to include cost for time and expenses.
- 5.2 Upon the commencement of this Agreement, SURVEYOR will provide the TOWN invoices on a monthly basis in a timely manner for work actually completed by SURVEYOR for the previous month.
- 5.3 Invoices submitted by SURVEYOR to TOWN must be submitted on the fifth (5th) day of each month for the previous month's work performed.
- 5.4 All invoices must have a Notice to Proceed issued by the TOWN before it will be considered for payment.

- 5.5 All Notices to Proceed must provide a work authorization number, the scope of work to be completed including sufficient detail reflecting all engineering services or such other authorized services by the TOWN that have been performed, and time of completion. Notwithstanding the foregoing, the TOWN shall have no obligation to engage the services of SURVEYOR for a specified number of times.
- 5.6 SURVEYOR will submit an invoice for costs for such work. Should the TOWN determine that the documentation for such services is incomplete, it shall request additional information from the SURVEYOR within ten (10) working days of receipt of the original invoice.
- 5.7 The TOWN shall pay the SURVEYOR within thirty (30) days of receipt of the final written invoice and documentation from the SURVEYOR.
- 5.8 The TOWN's obligation is limited to its payment obligation and shall have no obligation to any other person or entity.
- 5.9 Notwithstanding the foregoing, in accordance with section 287.055, Florida Statutes, all of SURVEYOR's services shall meet the following cost limitations: professional services for study activity projects should not exceed two-hundred thousand dollars (\$200,000.00); or professional services for construction projects should not exceed two million dollars (\$2,000,000.00); or professional services for work of a specified nature as outlined in the future continuing contract with the TOWN.
- 5.10 TOWN makes no warranty to SURVEYOR as to the types, volume, or quantities of service that SURVEYOR will actually be required to perform. SURVEYOR's services shall be based on TOWN activities and are dependent upon changing circumstances and the conduct of business within the TOWN.

ARTICLE 6 – CHANGES TO SCOPE OF WORK AND ADDITIONAL WORK

TOWN or SURVEYOR may request changes that would increase, decrease, or otherwise modify the Scope of Services to be provided under this Agreement. Such changes or additional services must be in accordance with the provisions of the Code or Ordinances of the TOWN and must be contained in a written amendment, executed by the parties hereto, with the same formality and with equality and dignity prior to any deviation from the terms of this Agreement, including the initiation of any additional or extra work. In no event will the SURVEYOR be compensated for any work which has not been described in a separate written agreement executed by the Parties hereto.

ARTICLE 7 - TERM OF AGREEMENT

- 7.1 This Agreement shall be deemed to have commenced on the Effective Date provided below, and shall continue for three (3) years with an option for the TOWN to exercise at its sole discretion (which does not confer any rights upon SURVEYOR) for two (2) additional three (3) year periods, or until terminated as provided in Sections 7.2 through

- 7.7, below. The TOWN shall exercise its option by providing SURVEYOR 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.
- 7.2 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 SURVEYOR 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 SURVEYOR shall extend this Agreement for a period equal to such delay and during this period such delay shall not constitute a delay by SURVEYOR for which liquidated damages are due.
- 7.3 Notwithstanding Section 7.2, this Agreement may be terminated for cause by either Party upon ninety (90) days' notice 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.
- 7.4 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.
- 7.5 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 SURVEYOR 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 SURVEYOR up to the time of termination. Upon such termination, the TOWN may, without penalty or other obligation to SURVEYOR, elect to employ other persons to perform the same or similar services.
- 7.6 Notice of termination shall be provided in accordance with Article 9, "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, SURVEYOR shall be paid for any services performed to the date the Agreement is terminated; however, upon being notified of TOWN's election to terminate, SURVEYOR shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. SURVEYOR acknowledges and agrees that Ten Dollars (\$10.00) of the compensation to be paid by TOWN, the adequacy of which is

hereby acknowledged by SURVEYOR, is given as specific consideration to SURVEYOR for TOWN's right to terminate this Agreement for convenience.

- 7.7 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 SURVEYOR for any additional compensation, other than that provided herein, or for any consequential or incidental damages.

ARTICLE 8 - INDEMNIFICATION; INSURANCE

- 8.1 Independent Contractor: SURVEYOR 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. SURVEYOR further acknowledges that the TOWN's duty under this Agreement is limited to contributing the identified funds to SURVEYOR and that SURVEYOR will use the funds to perform professional surveying services to the TOWN in the manner provided herein. SURVEYOR 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 SURVEYOR and the TOWN and the TOWN will not be liable for any obligation incurred by SURVEYOR, 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 SURVEYOR improvements or any matter that is the responsibility of SURVEYOR under this Agreement, SURVEYOR will indemnify and hold harmless the TOWN in the manner and to the extent set forth in Section 8.2, below.

- 8.2 Hold Harmless and Indemnification: SURVEYOR 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, 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 SURVEYOR, 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 SURVEYOR to comply with any of the provisions of the Agreement or the failure of SURVEYOR 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. SURVEYOR 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 SURVEYOR, or any approved subcontractors, as provided above, for which SURVEYOR's liability to such employee or former employee would otherwise be limited to payments under state Workers' Compensation or similar laws.

SURVEYOR 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 action related, directly or indirectly, to SURVEYOR's performance under the Agreement, compliance with which is left by the Agreement to SURVEYOR, and (ii) any and all claims, and/or suits for labor and materials furnished by SURVEYOR or utilized in the performance of the Agreement or otherwise.

Where not specifically prohibited by law, SURVEYOR 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 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.

- 8.3 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 SURVEYOR 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. SURVEYOR shall not commence nor continue to provide any services pursuant to this Agreement unless all required insurance remains in full force and effect. SURVEYOR shall be liable to TOWN for any lapses in service resulting from a gap in insurance coverage.

8.3.1 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 SURVEYOR. 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	\$ 500,000
	2. General Aggregate	500,000
C.	Worker's Compensation Insurance	
D.	Professional Liability/Errors and Omissions	
	1. Each Occurrence	\$1,000,000
	2. General Aggregate	\$2,000,000

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

A.	Worker's Compensation	Statutory
B.	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 SURVEYOR, 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.

8.3.2 SURVEYOR shall name the TOWN as an additional insured on each of the policies required herein except its professional liability policy and shall hold the TOWN harmless on account of claims or damages to persons, property or premises arising out of the services provided hereunder.

8.3.3 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. SURVEYOR 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 9 - NOTICES

- 9.1 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:

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 SURVEYOR:

Dennis D. Painter, RLS
 Vice President/Project Manager
 A&B Engineering, Inc.
 3461 Fairlane Farms Road
 Wellington, FL 33414

ARTICLE 10 - MISCELLANEOUS PROVISIONS

- 10.1 **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.
- 10.2 **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.
- 10.3 **THIRD PARTY BENEFICIARIES:** Neither TOWN nor SURVEYOR 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.
- 10.4 **SEVERABILITY:** The invalidity of any provision of this Agreement shall in no way affect the validity of any other provision.
- 10.5 **ENTIRE AGREEMENT:** It is understood and agreed that this Agreement incorporates and includes the RFQ, SURVEYOR's Response, 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.
- 10.6 **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.

- 10.7 **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.
- 10.8 **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.
- 10.9 **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.
- 10.10 **LICENSES.** All drivers must be properly licensed operators, if applicable. SURVEYOR 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. SURVEYOR shall be responsible for providing phone numbers where employees can be reached. The inability of the TOWN to make contact with SURVEYOR or an employee thereof within a reasonable amount of time is cause for the TOWN to terminate this Agreement as described in Section 7 of this Agreement.
- 10.11 **AFFIRMATIVE ACTION/EQUAL OPPORTUNITY EMPLOYER.** Pursuant to the RFQ and its Response, SURVEYOR shall adhere to an affirmative action policy. In the performance of this Agreement, SURVEYOR 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.
- 10.12 **PROTECTION OF TOWN PROPERTY.** At all times during the performance of this Agreement, SURVEYOR 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.
- 10.13 **CONFLICTS.** SURVEYOR 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 RFQ No. 2013-01 including all addendums, and SURVEYOR's Response to the RFQ as Exhibit "B". In the event that there is any

conflict between any of the contract documents and the terms of this Agreement, this Agreement shall prevail.

- 10.14 **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.
- 10.15 **OWNERSHIP OF DOCUMENTS.** Reports, surveys, plans, studies and other data provided or created 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 SURVEYOR's work product for its intended purposes. In the event of termination of this Agreement, any reports, photographs, surveys and other data and documents prepared by SURVEYOR, whether finished or unfinished shall become the property of TOWN and shall be delivered by SURVEYOR to the TOWN Manager within seven (7) days of termination of this Agreement by either party. Any compensation due to SURVEYOR shall be withheld until all documents are received as provided herein.
- 10.16 **NO CONTINGENT FEES.** SURVEYOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the SURVEYOR, 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 SURVEYOR, 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.
- 10.17 **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.
- 10.18 **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.
- 10.19 **HEADINGS.** Headings herein are for convenience of reference only and shall not be considered on any interpretation of this Agreement.
- 10.20 **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.
- 10.21 **AUDIT AND INSPECTION RIGHTS AND RETENTION OF RECORDS.**

10.21.1 **AUDITS.** TOWN shall have the right to audit the books, records and accounts of SURVEYOR that are related to this Agreement. SURVEYOR shall keep such book, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement. Such retention of such records and documents shall be at SURVEYOR's expense. SURVEYOR shall comply with inspection and reproduction obligations of Florida law relating to public records in its possession. If any audit has been initiated and 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 SURVEYOR's records, SURVEYOR shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by SURVEYOR. 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.

10.21.2 **COMPLIANCE WITH FLORIDA'S PUBLIC RECORDS ACT.** (1) Pursuant to section 119.0701, Florida Statutes, SURVEYOR shall (a) keep and maintain public records that ordinarily and necessarily would be required by TOWN in order to perform the service; (b) provide the public with access to such public records on the same terms and conditions that the TOWN would provide the records and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by law; (c) ensure that public records that are exempt or that are confidential and exempt from public record requirements are not disclosed except as authorized by law; and (d) SURVEYOR shall meet all requirements for retaining public records and transfer to the TOWN, at no cost, all public records in possession of the SURVEYOR upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt. (2) SURVEYOR shall preserve and maintain all financial records, supporting documents, statistical records, and any other documents pertinent to this 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 SURVEYOR is notified in writing by the TOWN of the need to extend the retention period. (3) All records stored electronically must be provided to the TOWN in a format that is compatible with the information technology systems of the agency.

10.21.3 **GENERALLY.** In addition, SURVEYOR 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, SURVEYOR shall provide a complete copy of all working papers to TOWN, prior to final payment, in accordance with this Agreement and the Schedule for SURVEYOR's services.

10.22 **PALM BEACH COUNTY OFFICE OF THE INSPECTOR GENERAL.** SURVEYOR 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 SURVEYOR and, any, if applicable, subcontractors and lower tier subcontractors. SURVEYOR understands and agrees that in addition to all other remedies and consequences provided by law, failure of SURVEYOR 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. SURVEYOR 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 SURVEYOR, and if applicable, subcontractors and lower tier subcontractors.

10.23 **DRAFTING.** This Agreement has been negotiated and drafted by all Parties hereto and shall not be more strictly construed against any Party because of such Party's preparation of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement between TOWN and SURVEYOR 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 the SURVEYOR, signing by and through its _____, authorized to execute same 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 **SURVEYOR** this _____ day of _____, 2013

A&B ENGINEERING, INC.

BY: _____

ATTEST:

As _____,

(CORPORATE SEAL)

STATE OF FLORIDA)
) SS
COUNTY OF PALM BEACH)

BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared _____ of A&B Engineering, Inc., who is personally known to me or has produced _____ as identification, and acknowledged execution of the foregoing Agreement as the proper official of A&B Engineering, Inc. of for the use and purposes mentioned in it and that the instrument is the act and deed of the Corporation.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal at in the State and County aforesaid on this _____ day of _____, 2013.

NOTARY PUBLIC

My Commission Expires:

EXHIBIT "A"
THE RFQ

EXHIBIT "B"
SURVEYOR'S RESPONSE

**EXHIBIT “C”
SURVEYOR’S SCOPE OF SERVICES**

Provide land surveying, do layout work, produce “as-built” drawings, do public records research, prepare easements, and other related land surveying services for the Town of Loxahatchee Groves. The scope of the aforementioned services provided by SURVEYOR to TOWN may include, but are not limited to, the following:

- 1) Topographic surveys;
- 2) Boundary surveys;
- 3) As-built surveys;
- 4) Construction layout;
- 5) Control surveys;
- 6) Hydrographic surveys;
- 7) Land platting;
- 8) Mean high water line surveys;
- 9) Quantity surveys;
- 10) Special purpose or miscellaneous surveys; and
- 11) Any other such surveying services as may be warranted by TOWN.

All surveying and/or any mapping work and services shall be performed by duly licensed Florida surveyors and mappers, as applicable and as required by law. Staff members shall be licensed to the extent required by law and certified to conform to the level of tasks being performed by the individual.

EXHIBIT "D"
LAND SURVEYOR'S FEE SCHEDULE

H:_GOV CLIENTS\LOX 1574_070240 GM\AGMTS 2013\Land Surveying - Final Proposed 070213.docx

A & B ENGINEERING, INC.**FEE SCHEDULE
for
LAND SURVEYING SERVICES
for the
TOWN OF LOXAHATCHEE GROVES**

January, 2013

REGISTERED LAND SURVEYOR	\$130.00/HR.
CAD/SURVEY TECHNICIAN	\$80.00/HR.
SURVEY FIELD CREW	\$140.00/HR.
SINGLE PERSON FIELD TECHNICIAN	\$90.00/HR.

Normal working hours are Monday through Friday, 8 am to 4:30 pm.

Authorized time over 40 hours or after normal working hours charged at 1-1/2 times normal rates shown hereon.



11. c. Discussion of Land Use Policy for Southern
Boulevard Corridor (*Councilman Goltzené*)

7/8/2013

Agenda Items to be added to the July 16, 2013 Town Council Agenda:

Requested by Councilman Goltzené 

1. Discussion of Land Use Policy for Southern Boulevard Corridor.
2. Discussion of RETGAC Proposal to Allow Golf Carts and Side-by-Side UTVs on Town Roads.

1.2 *Objective:*

The Town may consider limited new residential and non-residential development shall support development of rural-style commercial center along the Southern Boulevard Corridor.

1.2.1 *Policy:*

The Town shall limit new commercial development to areas south of East Citrus Road border to border.

1.2.2 *Policy*

The Town shall examine a special taxing district for non-residential uses south East Citrus Road East border to border by December 2010.

1.2.3 *Policy:*

The Town shall endorse a substantial equestrian facility along the Southern Boulevard Corridor.

1.2.4 *Policy:*

The Town shall consider extension of Tangerine Drive from the equivalent of 161st Terrace to E Road.

1.3 *Objective:*

The Town shall strive to encourage a rural community design and look.

1.3.1 *Policy:*

The Town shall adopt an ordinance for non-residential development that reflects and updates the Rural Vista Guidelines by January 2010.

1.4 *Objective:*

The Town shall effectively manage and monitor development and redevelopment to assure that facilities and services meet adopted levels of service.

1.4.1 *Policy:*

Development orders and permits will be conditioned on the availability of the facilities and services necessary to serve the proposed development.

1.4.2 *Policy:*

Land use regulations shall require that facilities and services meet the established level of service standards and are available concurrent with the impacts of development.

1.4.3 *Policy:*

Providers of public facilities must be able to authorize service to the various land uses at the same time as the land uses are permitted.

1.4.4 *Policy:*

Ensure that new development bears a proportionate fair share of the cost for public facility improvements needed to accommodate the impacts of new

1.11.1 Policy:

Inconsistent uses are hereby defined as any uses which are located on a site where they would not be permitted by this comprehensive plan.

1.11.2 Policy:

The Town shall adopt and maintain land development regulations -which protect the rights of property owners to continue non-conforming uses, but which, at a minimum, provide for the termination of such rights upon the abandonment of a non-conforming use for an extended period of time.

1.11.3 Policy:

Uses that Are Non-Conforming Due to Density. Existing legally permitted and constructed structures as of the date of adoption of the comprehensive plan may remain. If the legally permitted structure is damaged, destroyed or redeveloped so as to require substantial improvement, it may be repaired, replaced or restored to the same density, provided that the development is brought into compliance with all other applicable codes and regulations.

1.11.4 Policy:

Owners of non-conforming lots of record that were legally established prior to the date of incorporation may construct one single family home on their lot.

1.11.5 Policy:

Existing naturist resorts- recreational vehicle park which includes private club and accessory recreational facilities legally established prior to the date of incorporation may remain.

1.12 Objective: The Town shall consider changes to the future land use plan based upon energy-efficient land use patterns and discouragement of sprawl accounting for existing and future energy electric power generation and transmission systems.

1.12.1 Policy:

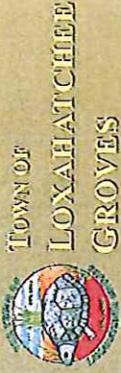
The Town shall ensure the Town's comprehensive plan and land development code does not prevent the construction of electric substations within the Town.

1.12.2 Policy:

The land development code shall allow for use of alternate, renewable sources of energy including the use of solar panels.

1.12.3. Policy:

The Town shall encourage development of a rural-style commercial center along the Southern Boulevard Corridor to provide a center of accessible shopping, recreation, and employment opportunities for Loxahatchee Groves' residents.



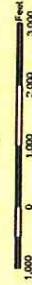
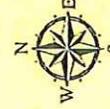
TOWN OF LOXAHATCHEE GROVES FUTURE LAND USE MAP

Future Land Use
Amendment 11-1.3B
RR-5 to MLU-2

Refer to Special Policy 1.15.2
(Ord. 2011-017)

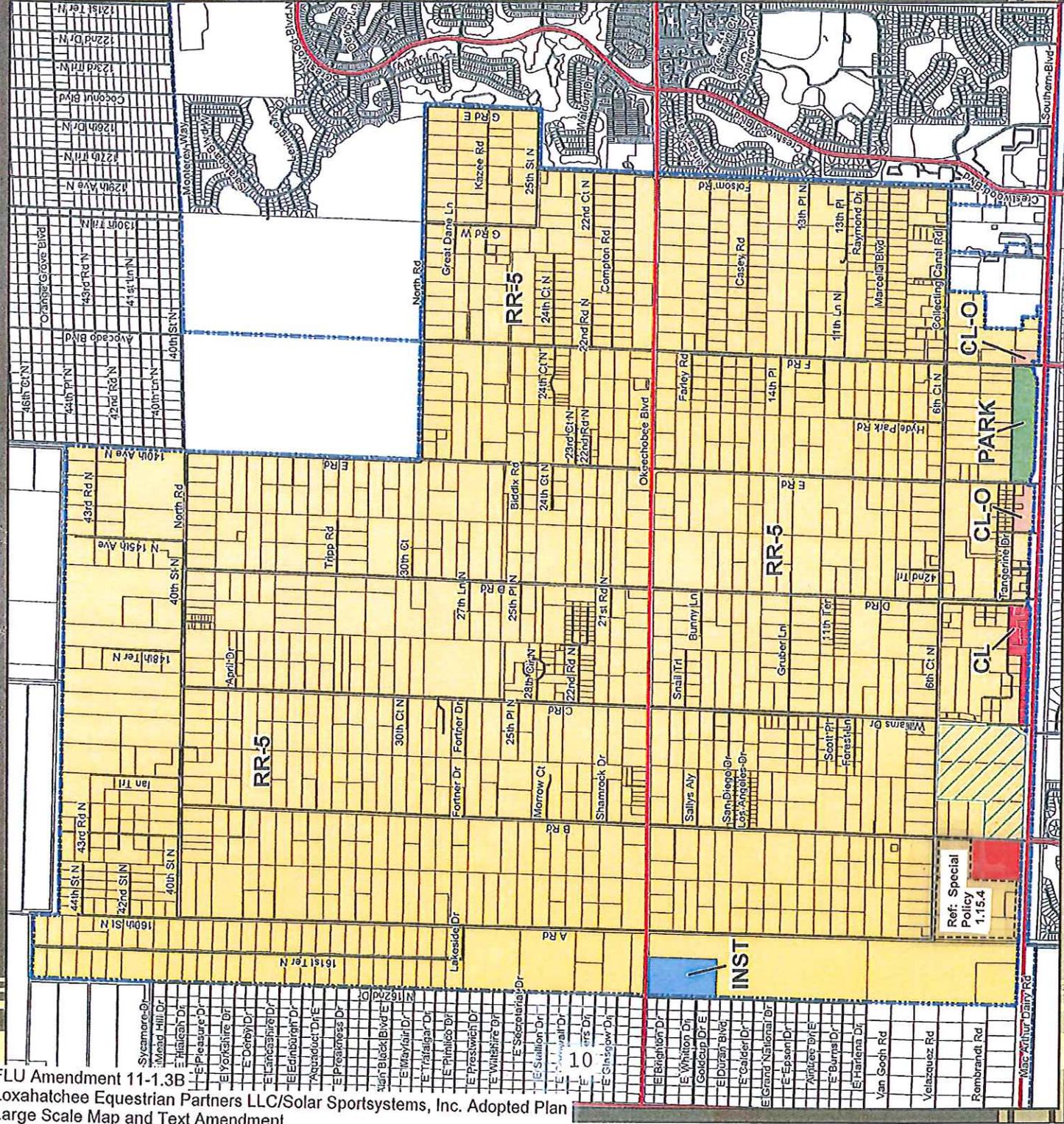
Future Land Use

- RR-5 (Rural Residential, 1 Unit per 5 acres)
- PARK
- INST (Institutional)
- CL-O (Commercial Low Office)
- CL (Commercial Low)

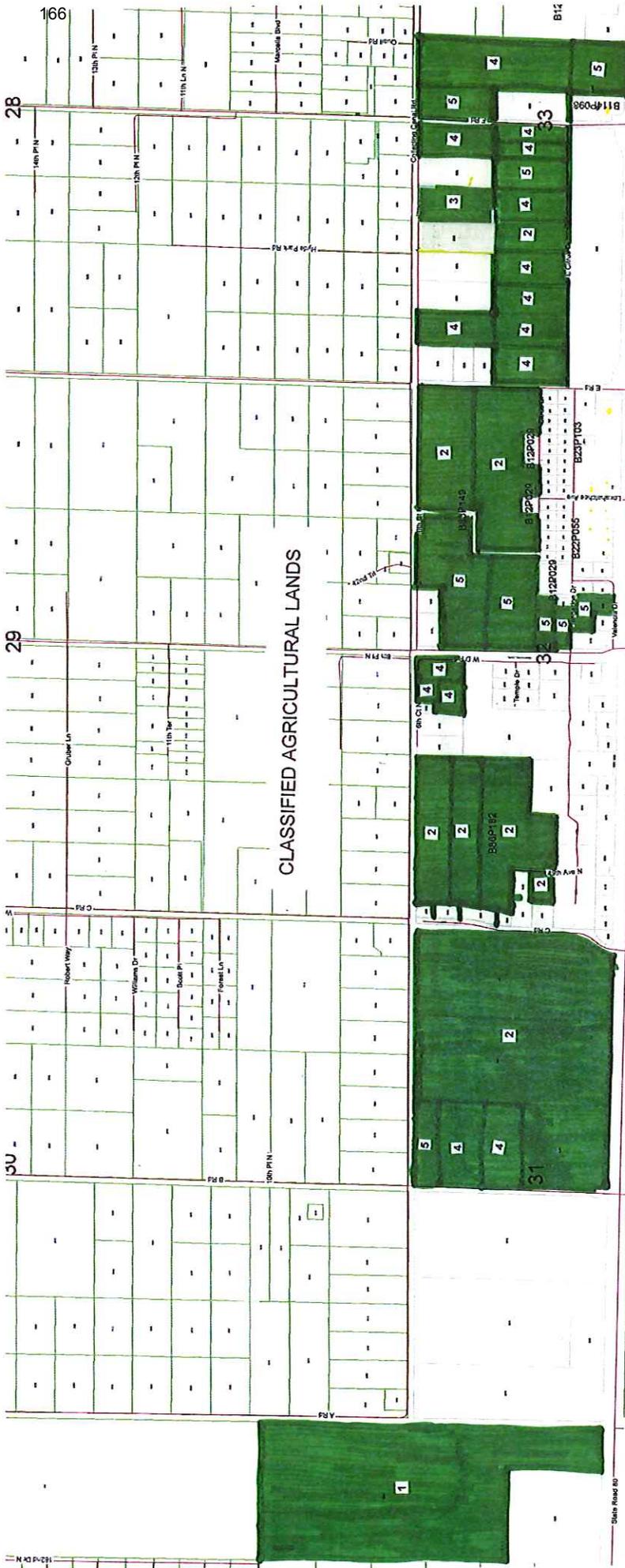


Town Of Loxahatchee Groves
14579 Southern Boulevard, Suite #2
Loxahatchee Groves, FL 33470
Phone (851) 793-2420

Revision Date: 07/14/2010
Contact: James Groves, Clerk
Flammarion, Lee Groves, F.U.J. and
Saucers: Land Research Management, INC.
FAU Center for Geo-Information Science

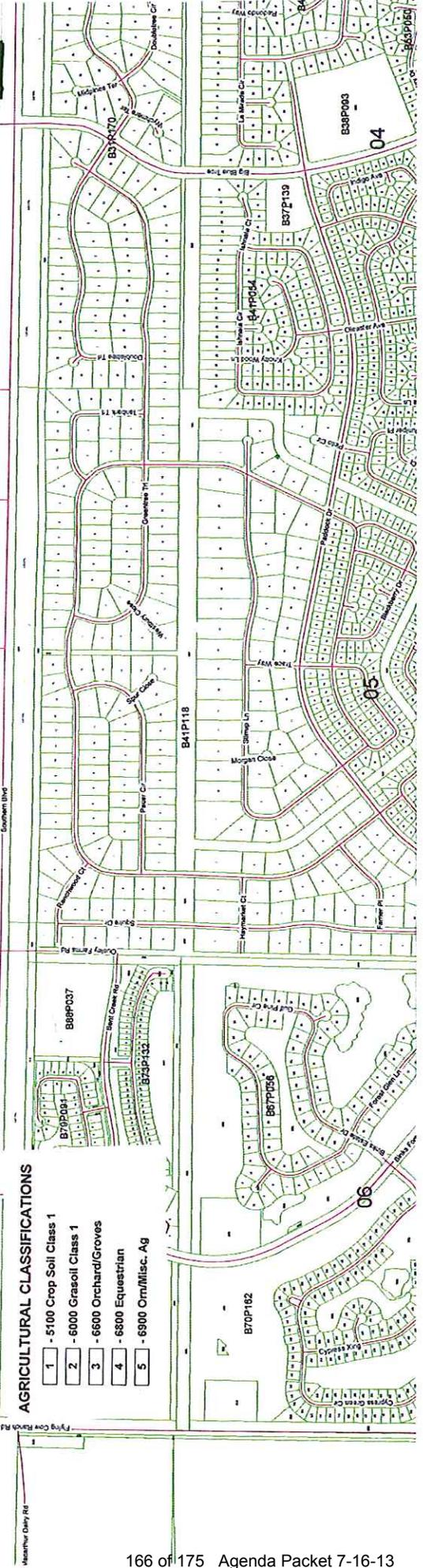


FLU Amendment 11-1.3B
Loxahatchee Equestrian Partners LLC/Solar Sportsystems, Inc. Adopted Plan
Large Scale Map and Text Amendment



AGRICULTURAL CLASSIFICATIONS

- 1 - 5100 Crop Soil Class 1
- 2 - 6000 Grass Soil Class 1
- 3 - 6600 Orchard/Groves
- 4 - 6800 Equestrian
- 5 - 6900 Om/Misc. Ag



Southern Blvd.Ag Land Use Inventory

No.	PCN	Location	Acres	Land Use	Units	Bldg.(sq.ft.)	Address/Owner
1	41-40-43-36-00-000-1000	W of A	86.51	5100 - CropSoil Class I	0	0	16121 SR 80/Duck Puddle South, Palm Beach
Subtotal	5100 - CropSoil Class 1		86.51				
8	41-41-43-17-01-805-0010/804-0030/806-0010	B-C	89.76	6000 - Grasoil Class 1	0	0	SR 80/Solar Ssportsystems, Inc., Lox. Equestrian Partners, New York
15	41-41-43-32-05-000-0030	C-D	11.95	6000 - Grasoil Class 1	0	0	570 C Road/Liu Nen-Chin & Liu Wen Mei
16	41-41-43-32-05-000-0020	C-D	10.18	6000 - Grasoil Class 1	0	0	550 C Road/Tai Evelyn Moding S Rev. Trust, Boca Raton
17	41-41-43-32-05-000-0010	C-D	17.58	6000 - Grasoil Class 1	0	0	530 C road/Haley Family LTD & Jimco of florida LLC, Pompano each
19	41-41-43-17-01-807-0040	C-D	1.40	6000 - Grasoil Class 1	0	812	249 149th Avenue North/ 3E Tree Farm Properties, 248 C Road
84	41-41-43-32-04-000-0030	D-E	15.3	6000 - Grasoil Class 1	0	0	727 E Road/Leland Wright, POB Lox
85	41-41-43-32-04-000-0040	D-E	20.31	6000 - Grasoil Class 1	0	0	235 E Road/Tuyet Merkert, 2791 D Road
123	41-41-43-17-01-907-0020	E-F	5.21	6000 - Grasoil Class 1	1	4,326	13717 E. Citrus/William & Mary Bieme, 13717 E. Citrus
Subtotal	6000 - Grasoil Class 1		171.69				
116	41-41-43-17-01-906-0070	E-F	5.22	6600 - Orchard/Groves	2	4,326	13650 6th Court North/Nancy Drysdale 13650 6th Court North
Subtotal	6600 - Orchard/Groves		5.22				
6	41-41-43-17-01-804-0010	B-C	8.12	6800 - Equestrian	1	2,648	444 B Road/Seth Brier, 556 B Road
7	41-41-43-17-01-804-0040	B-C	7.50	6800 - Equestrian	1	2,282	556 B Road/Elaine Smiley, 556 B Road
51	41-41-43-17-01-809-0010	C-D	2.06	6800 - Equestrian	1	1,008	14576 6th Court North/Donald Hope, 14576 6th Court North
52	41-41-43-17-01-809-0200	C-D	1.00	6800 - Equestrian	0	0	14560 6th Court North/James Gordon, POB Lox
53	41-41-43-17-01-809-0020	D-E	1.99	6800 - Equestrian	1	1,794	125 W. D Road/James C. and Janet Gordon, POB Lox
112	41-41-43-17-01-908-0020	E-F	5.36	6800 - Equestrian	1	4,355	13868 6th Court North/Edgar & Eliesa Prettel, 13868 6th Court North
118	41-41-43-17-01-906-0010	E-F	5.22	6800 - Equestrian	1	2,567	13528 6th Court North/Merve & Theresa Young,13528 6th Court North
119	41-41-43-17-01-908-0050	E-F	6.03	6800 - Equestrian	0	0	13967 E. Citrus/James Smigel & Lisa Smigel Hendrickson, 13899 E. Citrus
120	41-41-43-17-01-908-0030	E-F	5.21	6800 - Equestrian	2	3,589	13899 E. Citrus/James Smigel & Lisa Smigel Hendrickson, 13899 E. Citrus
121	41-41-43-17-01-907-0060	E-F	5.22	6800 - Equestrian	0	4,962	13839 E. Citrus/Citrus Road Property LLC., Ohio
122	41-41-43-17-01-907-0040	E-F	5.22	6800 - Equestrian	1	3,134	13785 E. Citrus/Steven & Barbara Miles, 13785 E. Citrus
124	41-41-43-17-01-906-0080	E-F	5.21	6800 - Equestrian	1	2,354	13667 E. Citrus/bobbie Reagan, 13667 E. Citrus
126	41-41-43-17-01-906-0030	E-F	2.61	6800 - Equestrian	1	2,551	13557 E. Citrus/Bryan & Marti Pritchard, 13557 E. Citrus
127	41-41-43-17-01-906-0020	E-F	2.61	6800 - Equestrian	1	2,181	13529 E. Citrus/Peter Laane & Julia Tideslay, Wellington
130	41-41-43-17-01-905-0010	E-F	17.4	6800 - Equestrian	1	648	150 F Road/Marti Miller & Brian Richard, 150 F Road
Subtotal	6800 - Equestrian		80.76				
5	41-41-43-17-01-804-0050	B-C	5.03	6900 - Om/Misc. Ag.	0	0	B Road/Red Clover Lawn Serice, West Palm Beach
56	41-41-43-32-04-000-0020	D-E	15.27	6900 - Om/Misc. Ag.	0	0	322 D Roar/Tuyet Merkert Tr, 2791 D Road

58	41-41-43-32-04-000-0010	D-E	10.00	6900 - Orm/Misc. Ag.	0	0	0	230 D Road/James C and Janet L Gordon, POB Lox
59	41-41-43-32-01-000-3010	D-E	1.78	6900 - Orm/Misc. Ag.	0	0	0	D Road/James C and Janet L Gordon, POB Lox
60	41-41-43-17-01-908-0160	D-E	1.42	6900 - Orm/Misc. Ag.	0	0	0	D Road/James C and Janet L Gordon, POB Lox
63	41-41-43-17-01-908-0130	D-E	2.28	6900 - Orm/Misc. Ag.	1	1,896	0	171 Valencia Drive/Charles Valcovich, 171 Valencia Drive
125	41-41-43-17-01-906-0050	E-F	5.21	6900 - Orm/Misc. Ag.	1	3,007	0	13593 E. Citrus/W.J. & Immacolaata Zottoli, 13593 E. Citrus
129	41-41-43-17-01-905-0030	E-F	5	6900 - Orm/Misc. Ag.	0	0	0	550 F Road/Merve & Theresa Young, 13538 6th Court North
133	41-41-43-17-01-905-0020	E-F	6.12	6900 - Orm/Misc. Ag.	1	3,339	0	13415 SR 80/Rosa Marron & Dora, Paulise Romero, WPB
Subtotal	6900 - Orm/Misc. Ag		52.11					

Total
694.73

Map #	Owner	Acres	Vacant	Developed	Sq. Ft.	Approved	Name
1	Southern Mgt. Corp.	19.61	0.00	19.61	1,680	1,500	Hot Shots Paint Ball
2	Simon Trust*	21.73	21.73	0.00	0	94,655	Lox Groves Commons
						R - 103,000 O - 44,000	
3	Solar Sportsystems/Lox Equestrian Partners	90.32	90.32	0.00	0	CLF - 128 beds	Lox Town Center
4	Gaspar Morello*	1.85	1.85	0.00	0	8,058	NA
5	Merkert Trust*	0.76	0.76	0.00	0	3,310	NA
6	FMM 1 LLC	1.76	1.76	0.00	0	7,666	NA
7	Wellington Hess	0.83	0.00	0.83	1,980	2,000	Shell Gas/Convenience
8	Akram & Muean Ayesh*	2.63	2.63	0.00	0	11,456	NA
9	Akram & Sameera Ayesh	0.62	0.00	0.62	4,680	4,680	Lox. AG Supermarket
10	Rick & Cindy Morrow	1.06	0.00	1.06	4,575	4,575	Lox. Post Office
11	Yee's Corporation	5.90	0.00	5.90	22,400	44,650	Palms West Plaza
12	Yee's Corporation	1.00	1.00	0.00	0	7,400	NA
13	Donald Denhoff	1.49	0.00	1.49	3,625	3,625	Wellington Animal Hospital
14	Royals OK Lunch, Inc.	9.23	9.23	0.00	0	37,408	Southern Crossing
15	Groves Medical Plaza LLC	3.43	3.43	0.00	0	26,000	Grove Medical Plaza
16	Marron & Romero	6.12	0.00	6.12	3,339	3,886	Farmer's Daughter Produce Market
17	Everglades Farm Equipment	3.01	0.00	3.01	9,370	9,275	Everglades Farm Equip.
Totals		171.35	132.71	38.64	51,649	417,144	

* - Approved space = 0.1 F.A.R.

Map PCN	Location	Acres	Use	DU	Size	Address
61	41-41-43-17-01-908-0100	0.35	0100 - Single Family	1	1,176	14413 Tangerine/Victor & Stacey Tamayo, 14413 Tangerine Dr.
73	41-41-43-32-01-000-3120	0.35	0100 - Single Family	2	1,794	14327 Tangerine Drive/Lois Roth, POB Lox
75	41-41-43-32-01-000-3140	0.35	0100 - Single Family	1	1,456	233 Tangerine Drive/Larry Willhite, 233 Tangerine Drive
77	41-41-43-32-01-000-3160	0.35	0100 - Single Family	1	768	14283 Tangerine Drive/Frank & Maria Cruz, 14263 Tangerine Drive
78	41-41-43-32-01-000-3170	0.35	0100 - Single Family	1	1,930	14266 Citrus Drive/Charles Beneby, 14266 Citrus Drive
79	41-41-43-32-01-000-3180	0.35	0100 - Single Family	1	2,185	14265 Tangerine Drive/Paul & Lisa Cruz, 14265 Tangerine Drive
80	41-41-43-32-01-000-3190	0.35	0100 - Single Family	1	1,247	14244 Citrus Drive/Federal National Mortgage Assn., California
81	41-41-43-32-01-000-3200	0.35	0100 - Single Family	0	0	Tangerine Drive/Robert Mohammed, 14229 Tangerine Drive
83	41-41-43-32-01-000-3220	0.35	0100 - Single Family	1	1,488	14229 Citrus Drive/Richard & Anne Mohammed, 14229 Tangerine Drive
89	41-41-43-32-02-000-3240	0.35	0100 - Single Family	1	1,543	14199 Tangerine/Candice Gordon, 14199 Tangerine Dr.
90	41-41-43-32-02-000-3260	0.35	0100 - Single Family	1	1,336	14181 Tangerine/John Stanford 14181 Tangerine Dr.
91	41-41-43-32-02-000-3280	0.35	0100 - Single Family	1	1,336	14161 Tangerine/Miguel Mejia, 14161 Tangerine Dr.
82	41-41-43-32-02-000-3300	0.35	0100 - Single Family	1	1,336	14141 Tangerine/Nancy Neil 14141 Tangerine Dr.
93	41-41-43-32-02-000-3320	0.35	0100 - Single Family	1	1,126	345 Tangerine Drive/Edna Ornelas, 345 Tangerine Drive
94	41-41-43-32-02-000-3340	0.35	0100 - Single Family	1	1,336	14103 Tangerine/Caroline Dumornay, 14103 Tangerine Dr.
95	41-41-43-32-02-000-3360	0.35	0100 - Single Family	1	1,252	346 Tangerine Drive/William & Jerry Jarriel, 365 Tangerine Drive
96	41-41-43-32-02-000-3380	0.35	0100 - Single Family	1	1,336	14067 Tangerine/James Thompson, WPB
97	41-41-43-32-02-000-3400	0.35	0100 - Single Family	1	1,934	14047Tangerine/Joseph & Emmy Lou Murray, 14047Tangerine Dr.
99	41-41-43-32-02-000-3230	0.35	0100 - Single Family	1	1,437	14198 Citrus Drive/Jacob & Rhonda Guardian Fox, c/o 14198 Citrus Dr.
100	41-41-43-32-02-000-3250	0.35	0100 - Single Family	1	2,282	14180 Citrus Drive/Jerry Banner, 14180 Citrus Drive
101	41-41-43-32-02-000-3270	0.35	0100 - Single Family	1	2,002	14140 Citrus Drive/Michael and Wendi Suarez, 14140 Citrus Drive
102	41-41-43-32-02-000-3290	0.35	0100 - Single Family	1	1,793	14140 Citrus Drive/Michael and Wendi Suarez, 14140 Citrus Drive
103	41-41-43-32-02-000-3310	0.35	0100 - Single Family	1	1,793	14122 Citrus Drive/Sonia Correa, 14122 Citrus Drive
104	41-41-43-32-02-000-3330	0.35	0100 - Single Family	1	2,559	14102 Citrus Drive/Paul & Juanita Johnson, 14102 Citrus Drive
105	41-41-43-32-02-000-3350	0.35	0100 - Single Family	1	2,002	14084 Citrus Drive/Calvin & Lyssia Lyerla, 14084 Citrus Drive
106	41-41-43-32-02-000-3370	0.35	0100 - Single Family	1	1,475	14006 Citrus Drive/Richard & Marla Maroe, 14006 Citrus Drive
107	41-41-43-32-02-000-3390	0.35	0100 - Single Family	1	1,235	14046 Citrus Drive/Mario & Erin Rodriguez, 14046 Citrus Drive
87	41-41-43-32-02-000-2211	0.43	0100 - Single Family	1	1,056	354 Tangerine Drive/Guy Harmon 354 Tangerine Drive
50	41-41-43-17-01-809-0150	0.47	0100 - Single Family	1	1,092	14576 6th Court North/Donald Hope, 14576 6th Court North
98	41-41-43-32-02-000-3420	0.51	0100 - Single Family	1	2,057	14025Tangerine/Elizabeth & Koko Llari, 14025Tangerine Dr.
42	41-41-43-17-01-809-0080	0.53	0100 - Single Family	1	1,060	150 Temple Drive/Martha Holland, 150 Temple Drive
46	41-41-43-17-01-809-0050	0.53	0100 - Single Family	1	1,060	151 Temple Drive/Vilai Dejpol, 151 Temple Drive
66	41-41-43-32-01-000-2060	0.54	0100 - Single Family	1	2,877	191 Valencia Drive/Lawrence & Tracey Meyer, Wellington
85B	41-41-43-17-01-980-0080	0.55	0100 - Single Family	1	3,127	13295 Citrus Drive/Moise & Elena Maris, Wellington
38	41-41-43-17-01-809-0170	0.91	0100 - Single Family	0	3,312	245 W. D Road/Lox Groves WCD, POB Lox
41	41-41-43-17-01-809-0070	1	0100 - Single Family	1	1,518	100 Temple Drive/Edward Kirby, 100 Temple Drive

47	41-41-43-17-01-809-0040	C-D	1	0100 - Single Family	1,008	125 Temple Drive/Richard & Jean Thompson, 125 Temple Drive
85A	41-41-43-17-01-980-0060	D-E	2	1.02 0100 - Single Family	2,623	345 Citrus Drive/Carl, Hobart, Brenda Skagge, 345 W. Citrus Drive
88	41-41-43-32-02-000-2250	D-E	2	1.05 0100 - Single Family	3,658	14413 Tangerine/Victor & Stacey Tamayo, 14413 Tangerine Dr.
43	41-41-43-17-01-809-0090	C-D	1	1.06 0100 - Single Family	1,248	154 Temple Drive/Tedd & Tracy Kenny, 154 Temple Drive
45	41-41-43-17-01-809-0060	C-D	1	1.06 0100 - Single Family	1,020	175 Temple Drive/Varsha Chandra & Mohammed Hassan, West Palm Beach
13	41-41-43-17-01-807-0020	C-D	1	1.25 0100 - Single Family	2,165	322 C Road/Lawrence & Yvonne Gaines, 322 C Road
14	41-41-43-17-01-807-0030	C-D	1	1.25 0100 - Single Family	2,404	248 C Road/Thomas & Irene Goltzene, POB Lox
40	41-41-43-17-01-809-0100	C-D	0	1.26 0100 - Single Family	0	259 W. D Road/Linda & Sacha Heeraman, POB Lox
30	41-41-43-17-01-808-0050	C-D	1	1.35 0100 - Single Family	976	14792 Tangerine Drive/Navidad Martinez, POB Lox
29	41-41-43-17-01-808-0010	C-D	1	1.36 0100 - Single Family	1,120	14754 Tangerine Drive/Navidad Martinez, POB Lox
18	41-41-43-17-01-807-0010	C-D	1	1.4 0100 - Single Family	3,378	328 149th Avenue/Master Realty of palm Beach, Inc., Lake Worth
111	41-41-43-17-01-908-0150	E-F	1	1.65 0100 - Single Family	4,417	434 E Road/Jerry & Maima Bullard, 434 E Road
39	41-41-43-17-01-809-0110	C-D	1	2 0100 - Single Family	2,206	14405 Tangerine Drive/Gerardo & Belena Tamez, 14405 Tangerine
48	41-41-43-17-01-809-0180	C-D	1	2.22 0100 - Single Family	3,072	6th Court North/John Wright (Confidential)
49	41-41-43-17-01-809-0140	C-D	1	2.22 0100 - Single Family	1,730	14620 6th Court North/Paul Coleman, 14620 6th Court North
109	41-41-43-17-01-908-0140	E-F	1	2.9 0100 - Single Family	2,784	14156 6th Court North/Russell Dunn, 14156 6th Court North
131	41-41-43-17-01-905-0050	E-F	1	4.98 0100 - Single Family	5,024	392 F Road/Thomas Gardner, North Carolina
113	41-41-43-17-01-907-0050	E-F	1	5.22 0100 - Single Family	3,924	13848 6th Court North/Samsonis Danae & Steven Komar, 13848 6th Court North
114	41-41-43-17-01-907-0030	E-F	1	5.22 0100 - Single Family	672	13788 6th Court North/Delfina, Jesus, Patricia Perez 13788 6th Court North
117	41-41-43-17-01-906-0060	E-F	1	5.22 0100 - Single Family	2,724	13596 6th Court North/Charlotte Fournier 13596 6th Court North
115	41-41-43-17-01-907-0080	E-F	1	5.36 0100 - Single Family	1,682	13720 6th Court North/George Castillo, 13720 6th Court North
44	41-41-43-17-01-809-0030	C-D	1	14.8 0100 - Single Family	1,798	14561 Tangerine Drive/Thomas & Beth Newman, Cape Coral
Totals					79.77	58



**11. d. Discussion of RETGAC Proposal to Allow Golf
Carts and Side-by-Side UTVs on Town Roads
(Councilman Goltzené)**

7/8/2013

Agenda Items to be added to the July 16, 2013 Town Council Agenda:

Requested by Councilman Goltzené 

1. Discussion of Land Use Policy for Southern Boulevard Corridor.
2. Discussion of RETGAC Proposal to Allow Golf Carts and Side-by-Side UTVs on Town Roads.