TOWN OF LOXAHATCHEE GROVES

RESOLUTION NO. 2010-009

A RESOLUTION OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, RELATING TO THE PROVISION OF SOLID WASTE COLLECTION SERVICES, IN THE TOWN OF LOXAHATCHEE GROVES, FLORIDA; APPROVING THE ASSESSMENT RATE FOR SOLID WASTE COLLECTION SERVICES FOR FISCAL YEAR 2010-2011; IMPOSING A SOLID WASTE COLLECTION ASSESSMENT AGAINST ASSESSED PROPERTY LOCATED WITHIN THE TOWN OF LOXAHATCHEE GROVES FOR THE FISCAL YEAR BEGINNING ON OCTOBER 1, 2010; APPROVING THE ASSESSMENT ROLL; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Loxahatchee Groves, Florida, enacted Ordinance No. 2008-05, on July 1, 2008, which authorized the imposition of a Solid Waste Collection Assessment, pursuant to the procedures contained within the Town's Code of Ordinances (collectively, "the Ordinance") for the provision of Solid Waste Collection Services for single-family residential properties that receive residential solid waste collection services within the Town, and provided for findings of special benefit and the method of apportionment of the Solid Waste Collection Assessment; and

WHEREAS, the imposition of a Solid Waste Collection Assessment for Solid Waste Collection Services for each Fiscal Year is an equitable and efficient method of allocating and apportioning Solid Waste Collection Assessed Costs among parcels of Assessed Property; and,

WHEREAS, the Town Council desires to impose a Solid Waste Collection Assessment within the Town for the Fiscal Year beginning on October 1, 2010 using the tax bill collection method; and

WHEREAS, the Town Council, on July 20, 2010, adopted Resolution No. 2010-006 (the "2010 Preliminary Assessment Resolution"), referencing the Solid Waste Collection Services to be provided to Assessed Property, describing the method of apportioning the Solid Waste Collection Assessed Cost to compute the Solid Waste Collection Assessment for Solid Waste Collection Services against Assessed Property, estimating a rate of assessment, and directing the preparation of the Assessment Roll and provision of the notice to the affected landowners; and

WHEREAS, in order to impose the Solid Waste Collection Special Assessment for the Fiscal Year beginning October 1, 2010, the Ordinance requires the Town Council to adopt an Annual Rate Resolution, during its budget adoption process for each Fiscal Year, which establishes the rate of assessment and approves the Assessment Roll for the upcoming Fiscal Year, with such amendments as the Town Council deems appropriate, after hearing comments and objections of all interested parties; and

WHEREAS, the updated Assessment Roll has heretofore been made available for inspection by the public, as required by the Ordinance and Resolutions; and

WHEREAS, notice of a public hearing has been published and mailed, which provides notice to all interested persons of an opportunity to be heard. An affidavit regarding the form of notice of mailing is attached hereto as Appendix "A" and the proof of publication is attached hereto as Appendix "B"; and

WHEREAS, a public hearing was held on September 13, 2010, and comments and objections of all interested parties have been heard and considered;

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

SECTION 1. The aforementioned "WHEREAS" clauses are hereby ratified as true and correct and incorporated herein.

SECTION 2. AUTHORITY. This Resolution is adopted pursuant to the provisions of the Ordinance, the 2010 Preliminary Assessment Resolution, sections 166.021 and 166.041, Florida Statutes, and other applicable provisions of law.

SECTION 3. DEFINITIONS AND INTERPRETATION. This Resolution constitutes the Annual Assessment Resolution as defined in the Ordinance. All capitalized terms in this Resolution shall have the meanings defined in the Ordinance and the 2010 Preliminary Assessment Resolution.

SECTION 4. IMPOSITION OF SOLID WASTE COLLECTION ASSESSMENT.

(A) The parcels of Assessed Property described in the Assessment Roll, as updated and which is hereby approved, are hereby found to be specially benefitted by the provision of the Solid Waste Collection Services described in the 2010 Preliminary Assessment Resolution, in the amount of the Solid Waste Collection Assessment set forth in the Assessment Roll, a copy of which was present or available for inspection at the above-referenced public hearing and is incorporated herein by reference. It is hereby ascertained, determined, and declared that each parcel of Assessed Property within the Town will be specifically benefitted by the Town's provision of Solid Waste Collection, facilities and programs in an amount not less than the Solid Waste Collection Assessment of such parcel, computed in the manner set forth in the 2010 Preliminary Assessment Resolution. Adoption of this Annual Assessment Resolution constitutes a legislative determination that all assessed parcels derive a special benefit, as set forth in the Ordinance and the 2010 Preliminary Assessment Resolution, from the Solid Waste Collection Services to be provided, and a legislative determination that the Solid Waste Collection

Assessments are fairly and reasonably apportioned among the properties that receive the special benefit as set forth in the 2010 Preliminary Assessment Resolution.

(B) The method of computing the Solid Waste Collection Assessment described in the 2010 Preliminary Assessment Resolution, as modified, amended, and supplemented herein, is hereby approved.

(C) For the Fiscal Year beginning October 1, 2010, the estimated Solid Waste Collection Assessed Cost to be assessed is $470,385.00. The Solid Waste Collection Assessment to be assessed and apportioned among benefitted parcels pursuant to the Cost Apportionment and Parcel Apportionment to generate the estimated Solid Waste Collection Assessed Costs for the 2010-2011 Fiscal Year, commencing October 1, 2010, is hereby established at $372.73 annually, per residential unit. This assessment rate is hereby approved, and it is hereby determined that the assessed properties will receive a benefit from solid waste collection services in an amount not less than the amount they are assessed. Except as otherwise provided herein, the Solid Waste Collection Assessment for Solid Waste Collection Services in the amounts set forth in the Assessment Roll, as herein approved, are hereby levied and imposed on all parcels of Assessed Property described in the Assessment Roll.

(D) The Solid Waste Collection Assessment shall constitute a lien upon the Assessed Property so assessed equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem Assessment. Except as otherwise provided by law, such lien shall be superior in dignity to all other liens, titles, and claims, until paid.

(E) The Assessment Roll as herein approved, together with the correction of any errors or omissions as provided for in the Ordinance, shall be delivered to the Tax Collector for collection using the tax bill collection method in the manner prescribed by the Ordinance.

SECTION 5. CONFIRMATION OF PRELIMINARY ASSESSMENT RESOLUTION. The Preliminary Assessment Resolution adopted July 20, 2010, is hereby confirmed.

SECTION 6. EFFECT ON ADOPTION OF RESOLUTION. The adoption of this Annual Assessment Resolution shall be the final adjudication of the issues presented (including, but not limited to, the determination of special benefit and fair apportionment to the Assessed Property, the method of apportionment and assessment, the rate of assessment, the Assessment Roll and the levy and lien of the Solid Waste Collection Assessment), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 calendar days from the date of this Annual Assessment Resolution.

SECTION 7. SEVERABILITY. 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 8. CONFLICTS. That all prior Resolutions or parts of resolutions in conflict herewith, are hereby repealed to the extent of such conflict.

SECTION 9. EFFECTIVE DATE. This Annual Assessment Resolution shall take effect immediately upon its passage and adoption.

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RESOLVED AND ADOPTED by the Town Council of the TOWN OF LOXAHATCHEE GROVES, Florida, this 13th day of September, 2010.

TOWN OF LOXAHATCHEE GROVES, FLORIDA

ATTEST:

Ann Harper, Town Clerk

APPROVED AS TO LEGAL FORM:

Michael Cirullo, Town Attorney

ABSENT

Mayor David Browning

Dennis C. Lipp, Vice Mayor

Ron Jarriel, Council Member

ABSENT

Ryan Liang, Council Member

Jim Rockett, Council Member

MDC

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APPENDIX A

AFFIDAVIT OF MAILING

BEFORE ME, the undersigned authority, personally appeared Ann Harper, who, after being duly sworn, deposes and say:

1. Ann Harper, as Town Clerk for the Town of Loxahatchee Groves, Florida ("Town"), pursuant to the authority and direction received from the Town Council, timely directed the preparation of the Assessment Roll and the preparation and publication of notices in accordance with Sections 104 and 105 of Ordinance No. 2008-05, (the "Assessment Ordinance") in conformance with the Preliminary Rate Resolution adopted by the Town Council on July 20, 2010 (the "Preliminary Rate Resolution").

2. In accordance with the Assessment Ordinance and Chapter 92-264, Laws of Florida, as amended by Chapter 2003-348, Laws of Florida (collectively, the "Special Act"), I timely provided all necessary information for notification of the Solid Waste Special Assessment to the Property Appraiser of Palm Beach County to be included as part of the notice of proposed property taxes under Section 200.069, Florida Statutes, the truth-in-millage notification. The information provided to the Property Appraiser to be included on the truth-in-millage notification included the following: the Solid Waste Special Assessment rate expressed in dollars and cents per billing unit, the associated Solid Waste Special Assessment amount, and the purpose of the Solid Waste Special Assessment.

FURTHER AFFIANT SAYETH NOT.

Ann Harper

Ann Harper, Affiant

STATE OF FLORIDA
COUNTY OF PALM BEACH COUNTY

The foregoing Affidavit of Mailing was sworn to and subscribed before me this 14 day of September, 2010 by Ann Harper, Town Clerk, Town of Loxahatchee Groves, Florida, who is personally known to me ~~or has produced~~ _____ ~~as identification~~ and did take an oath.

FRANK R. SPENCE
MY COMMISSION EXPIRES
July 21, 2012
#DD 806140
Bonded thru
Notary Public Underwriters
NOTARY PUBLIC, STATE OF FLORIDA

Printed Name: __Frank R. Spence____
Notary Public, State of Florida at Large

My Commission Expires:
Commission No.:

APPENDIX B
PROOF OF PUBLICATION

THE PALM BEACH POST

Published Daily and Sunday
West Palm Beach, Palm Beach County, Florida

PROOF OF PUBLICATION

STATE OF FLORIDA
COUNTY OF PALM BEACH

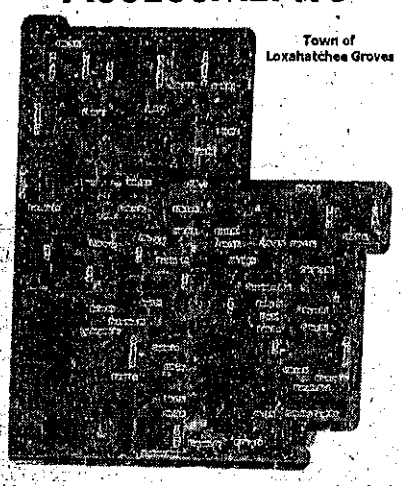
Before the undersigned authority personally appeared **Ellen Sanita**, who on oath says that she is **Call Center Revenue Manager** of The Palm Beach Post, a daily and Sunday newspaper, published at West Palm Beach in Palm Beach County, Florida; that the attached copy of advertising for a **Notice** in the matter **Solid Waste Assessments** was published in said newspaper in the issues of **August 19, 2010**. Affiant further says that the said The Post is a newspaper published at West Palm Beach, in said Palm Beach County, Florida, and that the said newspaper has heretofore been continuously published in said Palm Beach County, Florida, daily and Sunday and has been entered as second class mail matter at the post office in West Palm Beach, in said Palm Beach County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she/he has neither paid nor promised any person, firm or corporation any discount rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper. Also published in Martin and St. Lucie Counties.

Sworn to and subscribed before 19th day of August, A.D. 2010.
Who is personally known to me.

NOTARY PUBLIC-STATE OF FLORIDA
Karen M. McLinton
Commission #DD832672
Expires: NOV. 15, 2012
BONDED THRU ATLANTIC BONDING CO., INC.

NO. 5484155R

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 o Loxahatchee Groves will conduct a public hearing to conside imposing Solid Waste Collection Services Special Assessments upor residential dwellings that receive residential solid waste collectior services, for the provision by the Town of Loxahatchee Groves to suc properties within the Town of Loxahatchee Groves.

The hearing will be held at 5:05 p.m., on Monday, September 13, 2010, 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. Al affected property owners have a right to appear at the hearing and tc 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 billing units attributed to that parcel. The following table reflects the proposed Solid Waste Collection Services assessment schedule:

RESIDENTIAL UNITS FOR FISCAL YEAR 2010-2011: $372.73 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 by the tax collector on the ad valorem tax bill to be mailed in November 2010, 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 9:00 a.m. and 4:00 p.m.

Ann Harper, CMC
Town Clerk

PUB: The Palm Beach Post, August 19, 2010