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CITY OF POMPANO BEACH
Broward County, Florida

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF POMPANO BEACH AND W. D. THOMPSON, INC. D/B/A BEACH RAKER FOR THE PROVIDING OF BEACH CLEANING AND DEBRIS REMOVAL SERVICES; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed Ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

WHEREAS, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That an Agreement between the City of Pompano Beach and W. D. Thompson, Inc. d/b/a Beach Raker for the providing of Beach Cleaning and Debris Removal Services, a copy of which Agreement is attached hereto and incorporated herein by reference as if set forth in full, is hereby approved.

SECTION 2. That the proper City officials are hereby authorized to execute said Agreement.

SECTION 3. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of

this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 4. This Ordinance shall become effective upon passage.

PASSED FIRST READING this 26th day of June, 2007.

PASSED SECOND READING this 10th day of July, 2007.



LAMAR FISHER, MAYOR

ATTEST:



MARY L. CHAMBERS, CITY CLERK

GBL/jrm
3/30/07
L:ord/2007-173

AGREEMENT

THIS AGREEMENT, made this 16th day of July, 2007, by
and between:

CITY OF POMPANO BEACH, a municipal corporation of the
State of Florida, hereinafter referred to as "CITY,"

and

W. D. THOMPSON, INC., a Florida corporation, d/b/a **BEACH
RAKER**, hereinafter referred to as "CONTRACTOR."

WITNESSETH:

WHEREAS, CONTRACTOR desires to provide beach cleaning and debris removal
services to the CITY; and

WHEREAS, the CITY desires to utilize such service.

NOW, THEREFORE, in consideration of the mutual covenants, promises and
agreements herein contained, CONTRACTOR and the CITY agree as follows:

1. This Agreement is for a three-year period commencing on June 1, 2007 and
ending September 30, 2010.
2. For the term of the contract, the CITY will pay to the CONTRACTOR the sum of
Five Thousand Six Hundred Dollars (\$5,600.00), per month.
3. The CONTRACTOR will provide beach cleaning and debris removal services for
the CITY. Beach cleaning service will include the use of a mechanical beach sanitizer.

4. Scope of Work.

A. The cleaning schedule shall include all tide lines within the boundary area, seven days per week. This area may be cleaned with the sanitizer or tractor/rake depending on conditions. Regardless of the method used, the CONTRACTOR shall remove all seaweed, rock and debris to a depth of no less than two inches (2"). The CONTRACTOR shall make a minimum of four passes but will be required to clean the area from the high tide line to the water's edge. The CONTRACTOR shall work all holidays.

B. Areas to be cleaned (lineal footage) include:

(1)	SE 12 th Street	46'
(2)	SE 8 th Street	50'
(3)	SE 6 th Street	50'
(4)	SE 4 th Street	50'
(5)	SE 2 nd Street	50'
(6)	Main Beach	2955'
(7)	NE 10 th Street	25'
(8)	NE 13 th Street	50'
(9)	NE 16 th Street	130'

The area from the tide lines west to the vegetation lines shall be sanitized daily.

C. Due to ever changing conditions at the beach, the Parks and Recreation Director or his/her designee may approve a variance in cleaning procedures to permit the CONTRACTOR to respond to unusual conditions.

5. Equipment.

The CONTRACTOR shall provide all equipment required for beach cleaning service. Equipment shall include a mechanical beach sanitizer, additional equipment as deemed necessary by the CONTRACTOR and backup equipment to provide uninterrupted service in the event of a mechanical breakdown. All equipment shall be demonstrated to show its effectiveness

and be approved by the Parks and Recreation Director or his/her designee. The CONTRACTOR shall submit a list and description of all equipment available for use on the CITY beach. The CONTRACTOR shall comply with all governmental environmental regulations regarding vehicle operations on the beach. The Fleet Manager will review and consult with city staff to ensure compliance by the CONTRACTOR.

6. Equipment Storage.

The CITY shall provide a storage area and water for the CONTRACTOR to clean and store the equipment that the CONTRACTOR uses on the city beach at the Ocean Side Parking Lot. The CONTRACTOR shall keep this area in a clean and orderly condition. None of the CONTRACTOR's equipment shall be stored on the City beach or City right-of-way. If the CONTRACTOR is required to vacate the storage area provided by the CITY, the CITY will use its best efforts to provide comparable space in close proximity to the CITY's beach. In the event that the CITY is unable to provide comparable space in close proximity to the CITY's beach, the CONTRACTOR will be required to provide space for its own equipment and have the right to charge the CITY for additional costs incurred by the CONTRACTOR, based upon current rental/lease property rates at the time and mutually agreed to by both the CONTRACTOR and the CITY.

7. Debris and Trash Removal.

The CONTRACTOR shall be responsible to remove and dispose of all trash and debris, including wood, plastic, glass and metal objects deposited on the CITY's beach by the ocean or by bather usage on the day of collection. Seaweed and rock may be buried on the beach above the high tide line provided it is suitably clean and devoid of debris, litter, tar, etc. Debris

shall not be stored at the equipment storage area and must be properly disposed of in a manner compatible with all governmental requirements.

8. Hazard Management.

The CONTRACTOR agrees to grade areas of beach and remove fill from place to place in order to correct hazardous conditions that may develop from time to time.

9. Erosion Control.

The CITY is from time to time in need of certain measures for erosion control and beach repair. The CONTRACTOR agrees to provide limited beach repair and erosion control measures to the extent of the reasonable capability of their equipment. The following services are included:

- A. Backfilling of washouts.
- B. Grading of excessive sand deposits.
- C. Grading of escarpments to a more easily navigated slope.

10. Hours of Operation.

The CONTRACTOR may begin work at 6:30 a.m. and work until 10:00 a.m. If, in the case of an extremely heavy accumulation of debris, the CONTRACTOR finds it necessary to work past 10:00 a.m., approval can be obtained from the Parks and Recreation Director or his/her designee. Severe weather conditions shall be the only acceptable reason for not providing cleaning service on a scheduled day. For each day that the CONTRACTOR fails to provide service without an acceptable reason, there shall be a deduction for 1/25 of the CONTRACTOR's monthly payment.

11. Holidays.

The CONTRACTOR shall work all holidays.

12. Permits and Licenses.

The CONTRACTOR shall be required to obtain all necessary permits and licenses to operate this type of business and provide the CITY with a copy. The CONTRACTOR shall obtain and comply with all Sea Turtle regulatory requirements during the Sea Turtle Nesting Season from March 1 through October 31.

13. The CONTRACTOR shall be required to establish and maintain an office in Broward County, Florida, for the duration of the contract.

14. This Agreement is expressly subject to cancellation by the CITY if the City Commission should determine at a hearing held upon recommendation of the Parks and Recreation Director or his/her designee, after reasonable notice to the CONTRACTOR, that the work is not being done satisfactorily and if, in the opinion of the City Commission, the CONTRACTOR is unable to present a reasonable explanation for the unsatisfactory performance. Further, if in the sole discretion of the Parks and Recreation Director or his/her designee, the work is not done satisfactorily, the Parks and Recreation Director or his/her designee shall have the power and authority to withhold payment until services and work are performed which the Parks and Recreation Director or his/her designee deems satisfactory and in the best interests of the CITY.

15. CITY has the option to renew this Agreement for two (2) additional three-year periods with a three percent (3%) increase per period after the initial period. CITY shall give the CONTRACTOR notice in writing of its desire to renew this Agreement at least ninety (90) days prior to the normal expiration of the Agreement. The Agreement shall then be renewed upon acceptance by the CONTRACTOR, at least sixty (60) days prior to the normal expiration.

16. The CONTRACTOR shall provide insurance as required on Exhibit "A," which is attached hereto and incorporated herein by reference.

17. The CONTRACTOR further agrees to hold harmless the CITY for any liability which it may incur as a result of the service performed pursuant to this Agreement and further agrees to indemnify the CITY for any liability or judgment rendered in a court of law against the CITY, which action resulted from the acts of the CONTRACTOR or any of his agents or employees in the use of the equipment called for and used in performing the services required by this Agreement, which responsibility shall not be limited to the insurance coverage provided. The CONTRACTOR further agrees to defend the CITY in any such action. Additionally, the CONTRACTOR hereby agrees that he will absolve and hold harmless the CITY from any responsibility for damage or injury to any and all personal property owned, leased or otherwise in possession and control of the CONTRACTOR when such property is parked or stored at the Municipal Beach Parking Lot or as set forth in Paragraph No. 6 herein.

18. In the event of hurricane, tropical storm, heavy oil accumulation or abnormal accumulation of marine vegetation, the CITY reserves the right to use its own forces or contract for additional services to get the beach cleaned as rapidly as possible.

19. In providing services pursuant to this Agreement, the CONTRACTOR shall act as an independent CONTRACTOR and for his own account and not as an agent, representative or employee of the CITY. CITY shall not be responsible for the wages or salaries of any employee or representative of the CONTRACTOR, nor for any debts, liabilities or other obligations of the CONTRACTOR. His employees shall not be considered as CITY employees or subject to supervision by CITY officials.

20. Whenever either party to this Agreement desires to give notice unto the other, it must be given by written notice, sent by registered United States mail, with return receipt requested, addressed to the party for whom it is intended, at the place last specified, and the place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following respective places for giving of notice, to-wit:

FOR CITY: Parks and Recreation Director
1801 NE 6th Street
Pompano Beach, Florida 33060

FOR CONTRACTOR: Beach Raker
Post Office Box 4777
Fort Lauderdale, Florida 33338

21. The CONTRACTOR is not permitted to assign, transfer, convey, sublet or otherwise dispose of this Agreement or of his right, title or interest therein or the power to execute this Agreement, to any other person, company or corporation without the previous consent of the City commission; that neither said Agreement nor the rights herein granted shall be assignable or transferable by any process or proceeding in court or by judgment, execution, proceedings in insolvency or bankruptcy, either voluntary or involuntary, or receivership proceedings, and in the event of the insolvency or bankruptcy, either voluntary or involuntary of the CONTRACTOR, the CITY may at its option terminate and cancel said Agreement without any notice of any kind whatsoever, in which event all rights of the CONTRACTOR hereunder shall immediately cease and terminate.

22. This document incorporates and includes all prior negotiations, correspondence, conversations, 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.


It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

IN WITNESS WHEREOF, the parties to this Agreement between the City of Pompano Beach and W. D. Thompson, Inc. d/b/a Beach Raker have set their hands and seals on the day and year first written herein above.

"CITY":

Witnesses:

CITY OF POMPANO BEACH

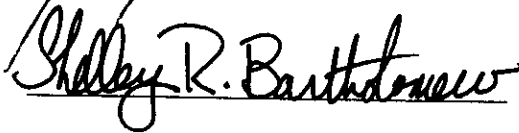


Shelley R. Bartholomew

By:



LAMAR FISHER, MAYOR



Mary L. Chambers

By:



HYLLIS KORAB
INTERIM CITY MANAGER

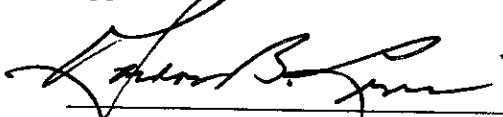
Attest:



MARY L. CHAMBERS
CITY CLERK

(SEAL)

Approved by:



GORDON B. LINN, ESQ.
CITY ATTORNEY

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 16th day of July, 2007 by LAMAR FISHER as Mayor of the City of Pompano Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who is personally known to me.

NOTARY'S SEAL:



Asceletha Hammond
NOTARY PUBLIC, STATE OF FLORIDA

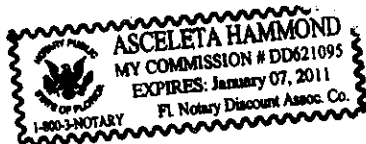
Asceletha Hammond
(Name of Acknowledger Typed, Printed or Stamped)

Commission Number

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 16th day of July, 2007 by PHYLLIS KORAB, as Interim City Manager of the City of Pompano Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who is personally known to me.

NOTARY'S SEAL:



Asceletha Hammond
NOTARY PUBLIC, STATE OF FLORIDA

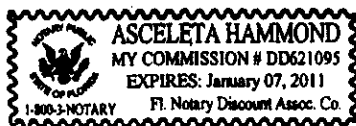
Asceletha Hammond
(Name of Acknowledger Typed, Printed or Stamped)

Commission Number

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 16th day of July, 2007 by MARY L. CHAMBERS as City Clerk of the City of Pompano Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who is personally known to me.

NOTARY'S SEAL:



Asceletha Hammond
NOTARY PUBLIC, STATE OF FLORIDA

Asceletha Hammond
(Name of Acknowledger Typed, Printed or Stamped)

Commission Number

"CONTRACTOR":

Witnesses:

Alan A. Bender
Elizabeth Jakobs

W. D. THOMPSON, INC.
d/b/a BEACH RAKER

By: [Signature]

Timothy Greener
Typed or Printed Name

Title: President.

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 16 day of July, 2007 by Timothy Greener as President of W. D. THOMPSON, Inc. d/b/a BEACH RAKER, on behalf of the corporation. He/she is personally known to me or who has produced _____
(type of identification) as identification.

NOTARY'S SEAL:

NOTARY PUBLIC - STATE OF FLORIDA
Anne Hollady
Commission # DD623822
Expires: FEB. 01, 2011
BONDED THRU ATLANTIC BONDING CO., INC.

Anne Hollady
NOTARY PUBLIC, STATE OF FLORIDA

(Name of Acknowledger Typed, Printed or Stamped)

Commission Number

GBL/jrm
5/24/07
l:agr/recr/2007-1069