

## **HURRICANE AND DISASTER DEBRIS REMOVAL AND DISPOSAL INTERLOCAL AGREEMENT**

This Interlocal Agreement is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by and between the City of Pompano Beach (“**CITY**”) and Town of Lauderdale-By-The-Sea (“**TOWN**”) (collectively, the “**PARTIES**”), both municipal corporations organized and existing pursuant to the laws of the State of Florida.

### **RECITALS**

#### **WHEREAS,**

1. In 2017, Hurricane Irma hit South Florida, creating massive amounts of hurricane debris in the Town.
2. There were fuel shortages throughout Florida due to evacuations, return of evacuees, widespread use of generators, hurricane preparation, and ongoing rescue and recovery efforts.
3. The **TOWN** is a small barrier island community consisting of 1.57 square miles and having approximately 6,000 residents, which has limited resources for hurricane and disaster recovery, while the **CITY** is in the area and has a greater capacity for hurricane and disaster recovery.
4. The Florida Interlocal Cooperation Act of 1969 (Section 163.01, Fla. Stat.) authorizes municipalities to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage, and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities. Section 163.01(4), Florida Statutes, allows a municipality to exercise jointly with another municipality “any power, privilege, or authority which such agencies share in common and which each might exercise separately” by entering into an Interlocal Agreement.
5. The **TOWN** and **CITY** have agreed that if there is an opportunity where resources can be shared more efficiently and effectively, and fuel can be conserved, the **TOWN** may be allowed to send its hurricane or other disaster-related debris (“**Debris**”) to the City of Pompano Beach for storage, processing, transportation and disposal of processed debris.

**NOW THEREFORE**, in consideration of the terms, conditions, and covenants expressed below, the parties agree as follows:

1. The **TOWN** desires to obtain services from the **CITY**, and the **CITY** agrees to provide such services to **TOWN**, for the storage, processing, transportation and disposal of **TOWN**’s processed debris.

2. The **CITY** shall establish Debris Management Sites (“**DMS**”) during an incident of a hurricane or other disaster to store and process acceptable debris. If, during such an event, the **CITY** has the resources and capacity to accept and haul away debris from the **TOWN**, the **CITY** will communicate such resources and capacity to **TOWN** and, within 72 hours after receiving such communication, the **TOWN** must elect whether to participate.
3. The **CITY** may also extend the use of Citizen drop-off locations to the **TOWN**, if a drop-off location is established at a DMS. Once extended to the **TOWN**, the **TOWN** may elect to use **CITY** Citizen drop-off locations.
4. The **CITY**, at its sole discretion, shall determine the availability of and access to its DMSs. Where availability and access to a DMS are granted to the **TOWN**, **CITY** shall determine the acceptable volume and type of debris for delivery to a DMS. Notwithstanding the **CITY**’s determination, the **CITY** reserves the right to prioritize acceptable volumes and types of materials for processing and disposal.
5. The Parties acknowledge, understand and agree that the **TOWN** shall be responsible for the costs of collection, storage, processing, transportation and disposal of debris from the **TOWN**.
6. The **CITY** currently contracts for disaster debris recovery services and intends to use the same contractor to provide the disaster debris services described in this Interlocal Agreement, at the actual cost charged to **CITY**, not including the cost for **CITY** employees and other 3<sup>rd</sup> parties to provide related services.
7. Once acceptable debris is delivered from **TOWN** to the approved DMS, and the **TOWN** hauler has satisfied all requirements for delivering debris, **CITY** will take possession of the debris and perform appropriate and necessary management, storage, processing, transportation, and disposal of the debris at the **TOWN**’s expense.
8. The **CITY** will not accept the following unauthorized debris for off-loading, processing, or disposal, including, but not limited to, white goods; chemical, biological, radiological, or nuclear-contaminated debris; animal carcasses; hazardous waste; motor vehicles or marine vessels; garbage (municipal solid waste); electronic waste; industrial waste; infectious waste; plastic bags (except for clear bags); sand; soil; mud; or sediment. Such unauthorized debris will not be accepted at **CITY** designated DMS locations from **TOWN** or its contractors. Any loads from the **TOWN** containing these or other unacceptable debris shall be refused and directed to return such debris to **TOWN**. Any costs related to the delivery and review of debris and the refusal and direction to return unacceptable debris shall be borne by the **TOWN**.
9. Acceptable debris for storage, processing, transportation and disposal shall include vegetative debris comprised of whole trees; tree stumps smaller than 24 inches in diameter; tree branches; tree trunks; and other leafy material. Mixed debris is also acceptable, where

such debris includes vegetative debris, construction and demolition debris and other types of bulk debris, but not UNAUTHORIZED DEBRIS.

10. Serialized, four-part Load Tickets shall be used for recording cubic yards/tons of acceptable debris removed from TOWN. All tickets shall be distributed in numerical order and the numbering system shall be unique to the City of Pompano Beach. Each Load Ticket shall contain the following information:

- a. -Preprinted ticket number
- b. -Assigned vehicle/equipment number
- c. -VIN number (if, requested)
- d. -Vehicle/equipment driver's name
- e. -Contract number
- f. -Contractor name
- g. -Date
- h. -Loading time
- i. -Dumping time
- j. -Maximum capacity in cubic yards
- k. -Load size, either in tons or cubic yards
- l. -Debris classification
- m. -Assigned Work Zone
- n. -Dumpsite location (DMS/final disposition site)
- o. -Work zone monitor's signature
- p. -Dumping site supervisor's signature (DMS/final disposition site)

11. The original Load Ticket shall be initiated by the TOWN's Work Zone Monitor and used to record all pertinent information above, including departure time, and signed by the TOWN's Work Zone Monitor indicating that the information on the Load Ticket is correct.

- a. The Work Zone Monitor shall give all copies of the initial Load Ticket to the TOWN's hauler/driver prior to departure from the Work Zone.
- b. Upon arrival at the DMS, the TOWN's hauler/driver shall give all copies of the Load Ticket to the CITY DMS Tower Inspector.
- c. The DMS Tower Inspector, or an authorized CITY representative, shall visually inspect each load hauled to the DMS to verify that the contents are in accordance with the definition of acceptable debris and does not contain any UNAUTHORIZED DEBRIS.
- d. The DMS Tower Inspector shall note on the Load Ticket the arrival time of the TOWN's hauler/driver.

e. The DMS Tower Inspector and an authorized TOWN representative shall visually verify the load volume (in cubic yards) or weight (in tons, when a scale is available) recorded on the Load Ticket and any other information, including but not limited to the truck number, truck capacity and Work Zone location.

f. The DMS Tower Inspector and the TOWN'S representative shall sign and date the Load Ticket to indicate acceptance of the load and the information recorded on it.

g. The DMS Tower Inspector shall retain two copies of the Load Ticket for the CITY's records, give one copy to the hauler/driver and give the remaining copy to the TOWN'S representative for the TOWN's records.

h. Final Disposition Load Ticket. The DMS Tower Inspector shall issue a new Load Ticket for the final disposition of acceptable debris for loads that originate at the DMS.

i. The DMS Tower Inspector and the TOWN'S representative shall sign the Final Disposition Load Ticket indicating that all information provided is accurate.

j. The DMS Tower Inspector shall retain one copy of the Final Disposition Load Ticket for the CITY'S records. One copy shall be provided to the TOWN's representative in the tower and two copies shall be given to the hauler prior to departure from the DMS.

12. TOWN, in consultation with the **CITY**, shall coordinate its debris storage, processing, transportation and disposal following any hurricane or disaster with CITY's cleanup activities. TOWN shall identify its personnel, contractors or agents responsible for debris collection, processing, transportation and disposal to ensure proper handling by CITY. TOWN agrees to reimburse the **CITY** for all direct and indirect costs for the storage, processing, transportation and disposal of debris collected in or from the **TOWN** within forty-five (45) days following delivery of **CITY's** invoice to **TOWN**.

13. TOWN shall also cooperate in good faith with the **CITY** and **CITY's** contractors in the disaster recovery and cleanup process and respond in good faith to specific requests from the **CITY** or its contractor. **TOWN** shall maintain its contracts in good standing unless cancelled pursuant to the terms and conditions of the contracts, and, in the event that the contracts are terminated or modified, immediately notify the **CITY** of such termination or modification.

14. This Agreement shall become effective upon the date of the last executing governing body and shall remain in effect for a period of five (5) years, with one five (5) year renewal period. Either party shall have the right and option, but shall in no way be obligated, to seek the one five (5) year renewal period extensions of the term (each an "Extension Period"), on the terms and conditions as set forth in this Agreement. Should either party wish to extend this Agreement for the Extension Period, written notice must

be provided to the other party not least than ninety (90) days prior to the last day of the term. If the substance of the Agreement does not change during the renewal periods, CITY Manager may renew the Agreement without further City Commission action.

15 Notwithstanding the foregoing, both party shall have the right to terminate this Agreement at any time and for any reason with thirty (30) days advance written notice provided to the other party. The continuation of this Agreement beyond the end of its term and any extensions is subject to both the appropriation by the Party's governing body and the availability of funds in accordance with Chapter 166, Florida Statutes.

16. This Agreement may be terminated for convenience in whole or in part in writing by either party, provided that no termination may be effected unless the other party is given not less than thirty (30) days prior written notice of intent to terminate.

17. This Agreement may be modified only by a written amendment executed by both parties with the same formality of this Agreement.

18. Any notice from either party to the other party shall be in writing and shall be by certified U.S. mail, return receipt requested, or by overnight courier or by hand delivery.

Notice to the **CITY** shall be addressed as follows:

City Manager  
City of Pompano Beach  
100 West Atlantic Blvd.  
Pompano Beach, FL 33060

Notice to the **TOWN** shall be addressed as follows:

Town Manager  
Town of Lauderdale-By-The-Sea  
4501 N. Ocean Drive  
Lauderdale-By-The-Sea, FL 33308

19. The parties agree, to the extent provided by law, to indemnify and hold harmless the other party and all their officers, elected or otherwise, employees, volunteers and agents, from and against any and all losses, penalties, fines, damages, settlements, judgments, regulatory orders, regulatory consent orders, claims, costs, charges, expenses, or liabilities of any kind, including any award of attorney fees and any award of costs at trial or on appeal, in connection with or arising directly or indirectly out of any act or omission by the other Party or by any officer, employee, agent, invitee, contractor, or subcontractor of the other Party in relation to this Agreement, and in connection with or arising from any loss, damage, or injury to persons or property arising from the party's negligence or failure to comply with all the terms and conditions of this Agreement. If a claim is litigated and names TOWN as a party defendant and claims negligence on the part of CITY, the TOWN shall be held harmless as to all costs and expenses associated with the litigation related to that claim, including but not limited to costs, attorneys' fees, paralegal expenses, attorneys' fees at trial or on appeal, monies paid in settlement or monies

paid to satisfy any judgment. Similarly, if a claim is litigated and names CITY as a party defendant and claims negligence on the part of TOWN, the CITY shall be held harmless as to all costs and expenses associated with the litigation related to that claim, including but not limited to costs, attorneys' fees, paralegal expenses, attorneys' fees at trial or on appeal, monies paid in settlement or monies paid to satisfy any judgment. Nothing in this Agreement shall be deemed a waiver by either party of its immunities provided by law, including those set forth in Section 768.28, Florida Statutes.

20. If any provision of this Agreement is held by a court of competent jurisdiction to be unconstitutional, unenforceable, invalid, or illegal in any respect, such decision shall not affect or impair any of the remaining provisions of this Agreement, and the parties shall, to the extent they deem to be necessary and appropriate, take such actions as are necessary to correct any such provision.

21. This Agreement contains the entire agreement between the parties, and cancels and supersedes all prior negotiations, representations, understandings, or agreements, either written or oral, between the parties with respect to the subject matter.

22. This Agreement is governed by and construed in accordance with the laws of the State of Florida. Venue for any lawsuit by either party against the other party or otherwise arising out of this Agreement, and for any other legal proceeding, shall be in the courts in and for Broward County, Florida, or in the event of federal jurisdiction, in the Southern District of Florida.

23. The effectiveness of this Agreement is conditioned on the **TOWN's** filing this Agreement, at the **TOWN's** expense, with the Clerk of Circuit Court of Broward County, Florida, in accordance with Section 163.01, Florida Statutes (2018).

24. Incorporation by Reference. All Recitals stated above are true and correct and are incorporated by reference.

25. The Parties shall each individually maintain throughout the term of this Agreement any and all applicable insurance coverage required by Florida law for governmental entities. Nothing in this Agreement is intended to serve as a waiver by either party of sovereign immunity or of Section 768.28, Florida Statutes. Nothing in this Agreement shall be construed as consent by either governmental entity to be sued by third parties in any matter arising out of this Agreement.

26. The Parties shall comply with all statutes, laws, ordinances, rules, regulations and lawful orders of the United States of America, State of Florida and of any other public authority which may be applicable.

27. Dispute Resolution. The Parties recognize that they are entities subject to dispute resolution procedures set out in Chapter 164, Florida Statutes. In the event of a dispute between the parties concerning this Interlocal Agreement, the Parties agree to attempt to resolve the dispute as expeditiously as feasible. Specifically, their respective staffs will meet within ten (10) days of provision of notice of the dispute and attempt in good faith to resolve the dispute. They may jointly agree to a mediator to expedite and effectuate a

resolution. If they are unable to agree upon a mediator, within ten (10) business days, they shall jointly request that the Chief Judge of the 17th Judicial Circuit to appoint a mediator qualified in construction law to mediate the dispute in accordance with the court's pre-suit mediation procedures. The mediation shall occur within ten (10) business days after the mediator is appointed. If the dispute cannot be resolved at this level, the Chapter 164 remedies shall be available. Each party shall pay equally in the cost of the mediation.

28. Public Records. The **PARTIES** shall comply with all public records requirements of Chapter 119, Florida Statutes, as may be required by law.

## **PUBLIC RECORDS CUSTODIAN**

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

### **CITY CLERK**

**100 W. Atlantic Blvd., Suite 253  
Pompano Beach, Florida 33060  
(954) 786-4611  
[RecordsCustodian@copbfl.com](mailto:RecordsCustodian@copbfl.com)**

**[REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK]**

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be executed the day and year written above.

Witnesses:

**CITY OF POMPANO BEACH**

\_\_\_\_\_

By: \_\_\_\_\_  
REX HARDIN, MAYOR

\_\_\_\_\_

By: \_\_\_\_\_  
GREGORY P. HARRISON, CITY MANAGER

Attest:

\_\_\_\_\_  
ASCELETA HAMMOND, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
MARK E. BERMAN, CITY ATTORNEY

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by **REX HARDIN** as Mayor, **GREGORY P. HARRISON** as City Manager, and **ASCELETA HAMMOND** 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:

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF FLORIDA

\_\_\_\_\_  
(Name of Acknowledger Typed, Printed or Stamped)


\_\_\_\_\_  
Commission Number

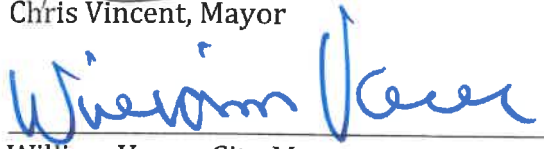


**TOWN OF LAUDERDALE-BY-THE-SEA**

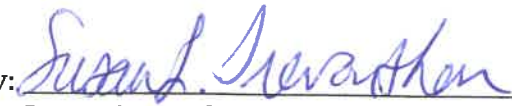
ATTEST:

  
Tedra Allen, City Clerk

  
Chris Vincent, Mayor

  
William Vance, City Manager

Approved as to form and sufficiency:

By:   
Susan Trevarthen, City Attorney

JES  
8/22/19  
l:agr/pw/2019-1152