

TOWN OF MIAMI LAKES, FLORIDA

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AGENDA
Regular Council Meeting
February 6, 2018
6:30 PM
Government Center
6601 Main Street
Miami Lakes, Florida 33014

1. **CALL TO ORDER:**
2. **ROLL CALL:**
3. **MOMENT OF SILENCE**
4. **PLEDGE OF ALLEGIANCE:**
5. **SPECIAL PRESENTATIONS:**
6. **PUBLIC COMMENTS:**

All comments or questions from the attending public to the Council shall be directed to the Mayor, in a courteous tone. No person other than the Council and the person recognized by the Mayor as having the floor, shall be permitted to enter into discussion without the permission of the Mayor. To ensure the orderly conduct and efficiency of the meeting, public comments shall be limited to three (3) minutes maximum per person; however, the Mayor may authorize the extension of the aforesaid time frame, and any extension shall apply to other individuals speaking on the same subject.

No clapping, applauding, heckling, verbal outburst in support of, or in opposition to a speaker or his/her remarks shall be permitted. Should a member of the audience become unruly, or behave in any manner that disrupts the orderly and efficient conduct of the meeting, the Mayor is given the right and the authority to require such person to leave the Council Chambers.

As a courtesy to others, all electronic devices must be set to silent mode to avoid disruption of the proceedings.

Remote Public Comments: Please register with the Town Clerk from the date the agenda is released (Wednesday before the meeting) to the date before the meeting. For additional information, please contact Clerk@miamilakes-fl.gov

7. **ORDER OF BUSINESS(DEFERRALS/ADDITIONS/DELETIONS):**
8. **APPOINTMENTS:**
9. **COMMITTEE REPORTS:**

10. CONSENT CALENDAR:

A. Approval of Minutes

- January 16, 2018 Regular Council Meeting
- January 17, 2018 Sunshine Meeting
- January 26, 2018 Sunshine Meeting

B. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AWARDEING WORK ORDER, UNDER CONTRACT NO. 2017-32CGA FOR MISCELLANEOUS CIVIL ENGINEERING AND RELATED SERVICES, FOR LAKE QUALITY ASSESSMENT, WITH CALVIN GIORDANO AND ASSOCIATES, IN AN AMOUNT NOT TO EXCEED \$36,269.89; AUTHORIZING THE TOWN MANAGER TO IMPLEMENT TERMS AND CONDITIONS OF CONTRACT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE WORK ORDER; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE. (Rey)

C. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AUTHORIZING THE TOWN MANAGER TO AWARD A CONTRACT 2018-09 TO R.J. BEHAR & COMPANY, INC. FOR MISCELLANEOUS CONSTRUCTION ENGINEERING & INSPECTION SERVICES; AUTHORIZING THE TOWN MANAGER TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE CONTRACT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE CONTRACT; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE. (Rey)

D. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, SCHEDULING A SPECIAL ELECTION ON AUGUST 28, 2018, IN ACCORDANCE WITH SECTION 2.5 OF THE TOWN CHARTER; SETTING QUALIFYING DATES; AUTHORIZING THE TOWN CLERK, TOWN MANAGER AND TOWN ATTORNEY TO TAKE ALL NECESSARY ACTIONS; PROVIDING FOR INCORPORATION OF RECITALS AND PROVIDING FOR AN EFFECTIVE DATE. (Gastesi)

E. A. A RESOLUTION OF THE TOWN COUNCIL THE TOWN OF MIAMI LAKES EXPRESSING ITS INTENT TO UTILIZE THE UNIFORM METHOD OF LEVYING, COLLECTING AND ENFORCING NON AD VALOREM ASSESSMENTS FOR THE LAKE HILDA MULTIPURPOSE MAINTENANCE SPECIAL TAXING DISTRICT LOCATED ENTIRELY WITHIN THE TOWN WHICH HEREINAFTER MAY BE LEVIED BY THE TOWN IN ACCORDANCE WITH SECTION 197.3632, FLORIDA STATUTE PROVIDING FOR INCORPORATION OF RECITALS; AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY TO TAKE NECESSARY MEASURES TO IMPLEMENT THE RESOLUTION; AUTHORIZING THE TOWN MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH MIAMI-DADE COUNTY PROPERTY APPRAISER AND THE TAX COLLECTOR; PROVIDING FOR INSTRUCTIONS TO THE TOWN CLERK; AND PROVIDING FOR AN EFFECTIVE DATE. (Rey)

B. A RESOLUTION OF THE TOWN COUNCIL THE TOWN OF MIAMI LAKES EXPRESSING ITS INTENT TO UTILIZE THE UNIFORM METHOD OF LEVYING, COLLECTING AND ENFORCING NON AD VALOREM ASSESSMENTS FOR THE MIAMI LAKES SECTION ONE SPECIAL TAXING DISTRICT LOCATED ENTIRELY WITHIN THE TOWN WHICH HEREINAFTER MAY BE LEVIED BY THE TOWN IN ACCORDANCE WITH SECTION 197.3632, FLORIDA STATUTE PROVIDING FOR INCORPORATION OF RECITALS; AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY TO TAKE NECESSARY MEASURES TO IMPLEMENT THE RESOLUTION; AUTHORIZING THE TOWN MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH MIAMI-DADE COUNTY PROPERTY APPRAISER AND THE TAX COLLECTOR; PROVIDING FOR INSTRUCTIONS TO THE TOWN CLERK; AND PROVIDING FOR AN EFFECTIVE DATE. (Rey)

C. A RESOLUTION OF THE TOWN COUNCIL THE TOWN OF MIAMI LAKES EXPRESSING ITS INTENT TO UTILIZE THE UNIFORM METHOD OF LEVYING, COLLECTING AND ENFORCING NON AD VALOREM ASSESSMENTS FOR THE ROYAL OAKS EAST SECURITY GUARD SPECIAL TAXING DISTRICT LOCATED ENTIRELY WITHIN THE TOWN WHICH HEREINAFTER MAY BE LEVIED BY THE TOWN IN ACCORDANCE WITH SECTION 197.3632, FLORIDA STATUTE PROVIDING FOR INCORPORATION OF RECITALS; AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY TO TAKE NECESSARY MEASURES TO IMPLEMENT THE RESOLUTION; AUTHORIZING THE TOWN MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH MIAMI-DADE COUNTY PROPERTY APPRAISER AND THE TAX COLLECTOR; PROVIDING FOR INSTRUCTIONS TO THE TOWN CLERK; AND PROVIDING FOR AN EFFECTIVE DATE. (Rey)

D. A RESOLUTION OF THE TOWN COUNCIL THE TOWN OF MIAMI LAKES EXPRESSING ITS INTENT TO UTILIZE THE UNIFORM METHOD OF LEVYING, COLLECTING AND ENFORCING NON AD VALOREM ASSESSMENTS FOR THE ROYAL OAKS SECTION ONE SPECIAL TAXING DISTRICT LOCATED ENTIRELY WITHIN THE TOWN WHICH HEREINAFTER MAY BE LEVIED BY THE TOWN IN ACCORDANCE WITH SECTION 197.3632, FLORIDA STATUTE PROVIDING FOR INCORPORATION OF RECITALS; AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY TO TAKE NECESSARY MEASURES TO IMPLEMENT THE RESOLUTION; AUTHORIZING THE TOWN MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH MIAMI-DADE COUNTY PROPERTY APPRAISER AND THE TAX COLLECTOR; PROVIDING FOR INSTRUCTIONS TO THE TOWN CLERK; AND PROVIDING FOR AN EFFECTIVE DATE. (Rey)

E. A RESOLUTION OF THE TOWN COUNCIL THE TOWN OF MIAMI LAKES EXPRESSING ITS INTENT TO UTILIZE THE UNIFORM METHOD OF LEVYING, COLLECTING AND ENFORCING NON AD VALOREM ASSESSMENTS FOR THE MIAMI LAKES - LOCH LOMOND

SECURITY GUARD SPECIAL TAXING DISTRICT LOCATED ENTIRELY WITHIN THE TOWN WHICH HEREINAFTER MAY BE LEVIED BY THE TOWN IN ACCORDANCE WITH SECTION 197.3632, FLORIDA STATUTE PROVIDING FOR INCORPORATION OF RECITALS; AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY TO TAKE NECESSARY MEASURES TO IMPLEMENT THE RESOLUTION; AUTHORIZING THE TOWN MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH MIAMI-DADE COUNTY PROPERTY APPRAISER AND THE TAX COLLECTOR; PROVIDING FOR INSTRUCTIONS TO THE TOWN CLERK; AND PROVIDING FOR AN EFFECTIVE DATE. (Rey)

F. A RESOLUTION OF THE TOWN COUNCIL THE TOWN OF MIAMI LAKES EXPRESSING ITS INTENT TO UTILIZE THE UNIFORM METHOD OF LEVYING, COLLECTING AND ENFORCING NON AD VALOREM ASSESSMENTS FOR THE LAKE PATRICIA MULTIPURPOSE MAINTENANCE SPECIAL TAXING DISTRICT LOCATED ENTIRELY WITHIN THE TOWN WHICH HEREINAFTER MAY BE LEVIED BY THE TOWN IN ACCORDANCE WITH SECTION 197.3632, FLORIDA STATUTE PROVIDING FOR INCORPORATION OF RECITALS; AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY TO TAKE NECESSARY MEASURES TO IMPLEMENT THE RESOLUTION; AUTHORIZING THE TOWN MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH MIAMI-DADE COUNTY PROPERTY APPRAISER AND THE TAX COLLECTOR; PROVIDING FOR INSTRUCTIONS TO THE TOWN CLERK; AND PROVIDING FOR AN EFFECTIVE DATE. (Rey)

F. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AUTHORIZING THE TOWN MANAGER TO APPLY FOR AND IF AWARDED EXECUTE AN AGREEMENT BETWEEN THE TOWN OF MIAMI LAKES AND THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES SMALL COMMUNITY ENERGY EFFICIENT LIGHTING GRANT PROGRAM; AUTHORIZING THE TOWN MANAGER TO TAKE ALL STEPS NECESSARY TO APPLY FOR, EXECUTE AND SATISFY THE REQUIREMENTS OF THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES SMALL COMMUNITY ENERGY EFFICIENT LIGHTING GRANT PROGRAM; AUTHORIZING IMPLEMENTATION OF THIS RESOLUTION; AND PROVIDING FOR AN EFFECTIVE DATE. (Rey)

11. ORDINANCES-FIRST READING:

A. AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA RELATING TO CONDITIONAL USES; AMENDING SECTION 13-303, ENTITLED "CONDITIONAL USES", ESTABLISHING PROVISIONS REGARDING THE CESSATION OF OPERATIONS OF USES CLASSIFIED AS CONDITIONAL USES AND ANNUAL CERTIFICATE OF USE RENEWAL; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING

FOR INCLUSION INTO THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE. (Cid)

- B. AN ORDINANCE OF THE TOWN OF MIAMI LAKES, FLORIDA; AMENDING THE OFFICIAL ZONING MAP TO REZONE A 2.07 +/- ACRE PROPERTY LOCATED AT 14575 NW 77 AVENUE (FRONTAGE ROAD), AS MORE PARTICULARLY DESCRIBED AT ATTACHMENT "A", FROM THE GU, INTERIM DISTRICT, TO RO-13, LOW DENSITY RESIDENTIAL/OFFICE DISTRICT; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FINDINGS; PROVIDING FOR DIRECTION TO THE ADMINISTRATIVE OFFICIAL; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (Rey)

12. ORDINANCES-SECOND READING (PUBLIC HEARING):

- A. AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA RELATING TO GOVERNMENTAL FACILITIES; AMENDING DIVISION 24, ENTITLED "GP GOVERNMENTAL PROPERTY DISTRICT," OF ARTICLE IV, ZONING DISTRICT REGULATIONS, OF CHAPTER 13, LAND DEVELOPMENT CODE; ESTABLISHING PROVISIONS FOR THE REVIEW AND APPROVAL OF GOVERNMENTAL FACILITIES; PROVIDING FOR COMPLIANCE WITH STATE STATUTES; PROVIDING FOR ADOPTION OF RECITALS; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION INTO THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE. (Rodriguez)
- B. AN ORDINANCE GRANTING TO FLORIDA POWER & LIGHT COMPANY, ITS SUCCESSORS AND ASSIGNS, AN ELECTRIC FRANCHISE, IMPOSING PROVISIONS AND CONDITIONS RELATING THERETO, PROVIDING FOR MONTHLY PAYMENTS TO THE TOWN OF MIAMI LAKES, FLORIDA, AND PROVIDING FOR AN EFFECTIVE DATE. (Rey)
- C. AN ORDINANCE OF THE TOWN OF MIAMI LAKES, AMENDING THE TOWN'S CODE OF ORDINANCES AT CHAPTER 35, ARTICLE II, COMMUNICATIONS FACILITIES IN PUBLIC RIGHTS-OF-WAY; RELATING TO THE PLACEMENT OF UTILITIES OTHER THAN COMMUNICATION FACILITIES LOCATED WITHIN THE RIGHTS-OF-WAY, BOTH ABOVE AND BELOW GROUND; CREATING ARTICLE III, PROVIDING FOR REGULATIONS RELATING TO THE PLACEMENT OF COMMUNICATION FACILITIES, WIRELESS FACILITIES, PASS-THROUGH FACILITIES, AND OTHER SIMILAR FACILITIES, WITHIN THE TOWNS RIGHTS-OF-WAY, BOTH ABOVE AND BELOW GROUND; PROVIDING FOR INCLUSION INTO THE CODE; PROVIDING FOR ORDINANCES IN CONFLICT, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE. (Rey)
- D. AN ORDINANCE OF THE TOWN OF MIAMI LAKES, FLORIDA, AMENDING ORDINANCE NO. 17-213; AMENDING THE TOWN'S FISCAL YEAR 2017-2018 BUDGET; PROVIDING FOR EXPENDITURE OF FUNDS; PROVIDING FOR AMENDMENTS; PROVIDING FOR CONFLICTS; AUTHORIZING THE TOWN MANAGER TO TAKE ALL ACTIONS NECESSARY TO IMPLEMENT THE TERMS AND

CONDITIONS OF THIS ORDINANCE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (Rey)

13. RESOLUTIONS:

- A. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, WAIVING COMPETITIVE PROCUREMENT PROCEDURE UNDER SECTION 5(D) OF ORDINANCE 17-203; APPROVING THE SIX-MONTH EXTENSION AMENDMENT TO CONTRACT 2012-29 FOR LITTER/DEBRIS PICK-UP & DISPOSAL; AUTHORIZING THE TOWN MANAGER TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE CONTRACT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE AMENDMENT TO CONTRACT 2012-29; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR AN EFFECTIVE DATE. (Rey)**
- B. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, PROVIDING FOR SUBMISSION TO THE ELECTORS FOR APPROVAL OR DISAPPROVAL OF A PROPOSED CHARTER AMENDMENT; PROVIDING THE REQUISITE BALLOT LANGUAGE FOR SUBMISSION TO THE ELECTORATE; CALLING A SPECIAL ELECTION ON THE PROPOSED AMENDMENTS TO THE TOWN CHARTER TO BE HELD ON AUGUST 28, 2018; PROVIDING FOR NOTICE; PROVIDING FOR SEVERABILITY; PROVIDING FOR RELATED MATTERS; AND PROVIDING FOR AN EFFECTIVE DATE.**

14. NEW BUSINESS:

- A. Town Election Date- Charter Change (Daubert)**
- B. Ordinance on color pallet restriction (Ruano)**
- C. Bob Graham Education Center Civic Engagement Academy (Cid)**
- D. Town Manager Monthly Police Activity Report. (Cid)**

15. ATTORNEY'S REPORT:

- A. Attorney's Reports**

ADJOURNMENT:

This meeting is open to the public. A copy of this Agenda and the backup therefore, has been posted on the Town of Miami Lakes Website at miamilakes-fl.gov and is available at Town Hall, 6601 Main Street, Miami Lakes 33014. In accordance with the Americans with Disabilities Act of 1990, all persons who are disabled and who need special accommodations to participate in this meeting because of that disability should contact Town Hall at 305-364-6100 two days prior to the meeting.

Anyone wishing to appeal any decision made by the Miami Lakes Town Council with respect to any matter considered at this meeting or hearing 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 record includes the testimony and evidence upon which the

appeal is to be based.

Any member of the public wishing to speak on a public hearing matter on this Agenda or under public comments for items not on this Agenda, should fill out a speaker card and provide it to the Town Clerk, prior to commencement of the meeting. Any person presenting documents to the Town Council should provide the Town Clerk with a minimum of 15 copies.



Town of Miami Lakes Memorandum

To: Honorable Mayor and Councilmembers
From: Gina M. Inguanzo, Town Clerk
Subject: Approval of Minutes
Date: 2/6/2018

Recommendation:

Approval of Minutes

- January 16, 2018 Regular Council Meeting
- January 17, 2018 Sunshine Meeting
- January 26, 2018 Sunshine Meeting

ATTACHMENTS:

Description

January 16, 2018 Regular Council Meeting

January 17, 2018 Sunshine Meeting

January 26, 2018 Sunshine Meeting

MINUTES
Regular Council Meeting
January 16, 2018
6:30 p.m.
Government Center
6601 Main Street
Miami Lakes, Florida 33014

1. CALL TO ORDER:

Mayor Manny Cid called the meeting to order at 6:45 p.m.

2. ROLL CALL:

The Town Clerk, Gina Inguanzo, called the roll with the following Councilmembers being present: Luis Collazo, Ceasar Mestre, Nelson Rodriguez, Marilyn Ruano, Vice Mayor Frank Mingo and Mayor Manny Cid. Councilmember Tim Daubert was absent.

3. MOMENT OF SILENCE:

Rabbi Mendel Weiss from Shabbat Miami Lakes Temple led the invocation.

4. PLEDGE OF ALLEGIANCE:

PFC Bruce W. Carter Young Marines led the Pledge of Allegiance.

5. SPECIAL PRESENTATIONS:

Principal Lourdes Diaz from Miami Lakes Educational Center was recognized for being named the 2017-2018 North Region Principal of the Year in the Town of Miami Lakes.

Rabbi Mendel Weiss was recognized for his successful event of the Ice Menorah Lighting during the month of December.

6. PUBLIC COMMENTS:

Neil Robinson came before the Town Council to provide an update on the resolution supporting the inaugural of the Cultural Affairs Committee Martin Luther King unity breakfast event and the upcoming event, Jazz in the Park.

Pedro Fiallo came before the Town Council to thank the Mayor and Councilmembers for their help in the community and he also stated that he supported an increase in Mayoral and Councilmember compensation.

Claudia Luces came before the Town Council to speak on her concerns regarding the blasting issues. Mrs. Luces also spoke on her support of item 14C.

Luis Martinez came before the Town Council to speak on his support of the amended item, 12A.

Abel Fernandez came before the Town Council to speak on his concerns regarding blasting issues.

Carol Wyllie came before the Town Council to speak on the proposed item, 12A.

Lynn Matos came before the Town Council to speak on the upcoming event of Food and Wine Festival.

Mayor Wayne Slaton came before the Town Council to speak on his support of item 14E, Good Governance.

Dr. Alessandri came before the Town Council to speak on his support of item 14D, Special Needs Committee.

7. ORDER OF BUSINESS (DEFERRALS/ADDITIONS/DELETIONS):

Councilmember Rodriguez motioned to move up item 14B. Mayor Cid moved 15A to be discussed before 14B; the Mayor also pulled item 10D. The Town Manager deferred item 12B to the February 6th, 2018 meeting and Councilmember Mestre withdrew item 14A. Councilmember Rodriguez motioned to approve the new Order of Business. Councilmember Collazo seconded the motion, and all were in favor.

Under the New Business items, Mayor Cid reopened the Order of Business and motioned to add 13B, a follow up resolution regarding the passive park over I-75. Councilmember Mestre seconded the motion and the motion passed, 6-0, with Councilmember Daubert absent.

8. APPOINTMENTS:

Edgar Alba was reappointed to the Cultural Affairs Committee, nominated by Councilmember Tim Daubert.

Steven Brimo was appointed to the Economic Development Committee, nominated by Councilmember Tim Daubert.

Marcos Gutierrez was appointed to the Sports Hall of Fame Committee, nominated by Councilmember Tim Daubert.

Elsa Reus was reappointed to the Cultural Affairs Committee, nominated again by Mayor Manny Cid.

9. COMMITTEE REPORTS:

Vice Chair Rudy Lloredo, of the Neighborhood Improvement Committee, reported on the projects the committee has organized throughout the year of 2017 such as the bike ride event. Mr. Lloredo also reported that the committee is currently seeking partnerships for their events and continues to implement events to make the Town more mobile.

Chairman Michael Huffaker, of the Economic Development Committee, reported on the highlights of 2017 such as the Best of Miami Lakes Campaign, a Facebook Live at Shula's Spa, and networking events in the community.

10. CONSENT CALENDAR:

Councilmember Mestre motioned to approve items 10A, 10B, and 10C under the Consent Calendar. Vice Mayor Mingo seconded the motion and the motion passed, 6-0, with Councilmember Daubert being absent.

A. Approval of Minutes

- December 5, 2017 Regular Council Meeting

Approved on Consent.

B. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, APPROVING AN INTERLOCAL AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE TOWN OF MIAMI LAKES REGARDING FILM PERMITTING; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF THE TOWN; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE. (Rey)

Approved on Consent.

C. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, APPROVING THE PROJECT AGREEMENT BETWEEN KIMLEY-HORN AND ASSOCIATES, INC. AND THE TOWN OF MIAMI LAKES FOR A STORM WATER MASTER PLAN UPDATE; AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY TO IMPLEMENT THE TERMS AND CONDITIONS OF THE AGREEMENT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE. (Rey)

Approved on Consent.

- D. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AWARDED CONTRACT ITB 2018-11 FOR THE MARY COLLINS COMMUNITY CENTER WINDOWS AND DOORS REPLACEMENT PROJECT TO HARTZELL CONSTRUCTION, INC. ("HARTZELL") IN AN AMOUNT NOT TO EXCEED \$56,000.00; AUTHORIZING THE TOWN MANAGER TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE CONTRACT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE CONTRACT; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR AN EFFECTIVE DATE. (Rey)

This item was pulled under the Order of Business by Mayor Cid.

Mayor Cid motioned to approve item 10D. Councilmember Rodriguez seconded the motion and the motion passed, 6-0, with Councilmember Daubert being absent.

11. ORDINANCES- FIRST READING:

- A. AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA RELATING TO GOVERNMENTAL FACILITIES; AMENDING DIVISION 24, ENTITLED "GP GOVERNMENTAL PROPERTY DISTRICT," OF ARTICLE IV, ZONING DISTRICT REGULATIONS, OF CHAPTER 13, LAND DEVELOPMENT CODE; ESTABLISHING PROVISIONS FOR THE REVIEW AND APPROVAL OF GOVERNMENTAL FACILITIES; PROVIDING FOR COMPLIANCE WITH STATE STATUTES; PROVIDING FOR ADOPTION OF RECITALS; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION INTO THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE. (Rodriguez)

The Town Attorney, Raul Gastesi, read the title of the ordinance into the record.

Mayor Cid opened the public hearing.

There being no else wishing to speak, Mayor Cid closed the hearing.

Director of Planning, Darby Delsalle, presented item 11A and answered questions posed by the Town Council.

Councilmember Rodriguez motioned to approve the ordinance in first reading and Councilmember Mestre seconded the motion. The Town Clerk called the roll and the motion passed, 6-0, with Councilmember Daubert being absent.

- B. AN ORDINANCE OF THE TOWN OF MIAMI LAKES, AMENDING THE TOWN'S CODE OF ORDINANCES AT CHAPTER 35, ARTICLE II, COMMUNICATIONS FACILITIES IN PUBLIC RIGHTS-OF-WAY; RELATING TO THE PLACEMENT OF UTILITIES OTHER THAN COMMUNICATION

FACILITIES LOCATED WITHIN THE RIGHTS-OF-WAY, BOTH ABOVE AND BELOW GROUND; CREATING ARTICLE III, PROVIDING FOR REGULATIONS RELATING TO THE PLACEMENT OF COMMUNICATION FACILITIES, WIRELESS FACILITIES, PASS-THROUGH FACILITIES, AND OTHER SIMILAR FACILITIES, WITHIN THE TOWNS RIGHTS-OF-WAY, BOTH ABOVE AND BELOW GROUND; PROVIDING FOR INCLUSION INTO THE CODE; PROVIDING FOR ORDINANCES IN CONFLICT, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE. (Rey)

The Town Attorney, Raul Gastesi, read the title of the ordinance into the record.

Mayor Cid opened the public hearing.

There being no one wishing to speak, Mayor Cid closed the public hearing.

Director of Planning, Darby Delsalle, presented item 11B and answered questions posed by the Town Council.

Councilmember Mestre motioned to approve the ordinance in first reading and Councilmember Rodriguez seconded the motion. The Town Clerk called the roll and the motion passed, 6-0, with Councilmember Daubert being absent.

- C. AN ORDINANCE OF THE TOWN OF MIAMI LAKES, FLORIDA, AMENDING ORDINANCE NO. 17-213; AMENDING THE TOWN'S FISCAL YEAR 2017-2018 BUDGET; PROVIDING FOR EXPENDITURE OF FUNDS; PROVIDING FOR AMENDMENTS; PROVIDING FOR CONFLICTS; AUTHORIZING THE TOWN MANAGER TO TAKE ALL ACTIONS NECESSARY TO IMPLEMENT THE TERMS AND CONDITIONS OF THIS ORDINANCE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (Rey)

The Town Attorney, Raul Gastesi, read the title of the ordinance into the record.

Assistant Town Manager, Andrea Agha, presented item 11C and answered questions posed by the Town Council.

Councilmember Mestre motioned to approve the ordinance in first reading and Vice Mayor Mingo seconded the motion. The Town Clerk called the roll and the motion passed, 6-0, with Councilmember Daubert being absent.

12. ORDINANCES -SECOND READING:

- A. AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, RELATING TO ARCHITECTURAL DESIGN STANDARDS; AMENDING CHAPTER 13, LAND DEVELOPMENT CODE; OF ARTICLE III, AMENDING SECTION 13-304(H); AND CREATING SECTION 13-311,

ENTITLED, "DESIGN AND ARCHITECTURAL STANDARDS," TO ESTABLISH DESIGN AND ARCHITECTURAL REVIEW STANDARDS FOR MULTIFAMILY RESIDENTIAL AND NONRESIDENTIAL DEVELOPMENT; PROVIDING FOR INCLUSION INTO THE CODE; PROVIDING FOR ORDINANCES IN CONFLICT, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE. (Mestre)

The Town Attorney, Raul Gastesi, read the title of the ordinance into the record.

Mayor Cid opened the public hearing.

There being no one wishing to speak, Mayor Cid closed the public hearing.

Director of Planning, Darby Delsalle, presented item 11B and answered questions posed by the Town Council.

Councilmember Mestre motioned to approve the ordinance in second reading and Vice Mayor Mingo seconded the motion. The Town Clerk called the roll and the motion passed, 6-0, with Councilmember Daubert being absent.

- B. AN ORDINANCE GRANTING TO FLORIDA POWER & LIGHT COMPANY, ITS SUCCESSORS AND ASSIGNS, AN ELECTRIC FRANCHISE, IMPOSING PROVISIONS AND CONDITIONS RELATING THERETO, PROVIDING FOR MONTHLY PAYMENTS TO THE TOWN OF MIAMI LAKES, FLORIDA, AND PROVIDING FOR AN EFFECTIVE DATE. (Rey)

This item was deferred to the Regular Council Meeting scheduled to take place on February 6th, 2018.

- C. AN ORDINANCE OF THE TOWN OF MIAMI LAKES, FLORIDA, AMENDING SECTION 2.52 OF THE CODE TITLED SALARY AND BENEFITS OF MAYOR; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (Rey)

The Town Attorney, Raul Gastesi, read the title of the ordinance into the record.

Councilmember Rodriguez motioned to approve the ordinance in second reading and Councilmember Mestre seconded the motion.

Vice Mayor Mingo opened the public hearing.

There being no one wishing to speak, Vice Mayor Mingo closed the public hearing.

The Town Clerk called the roll and the motion passed, 5-0, with Councilmember Daubert being absent and Mayor Cid having been recused.

- D. AN ORDINANCE OF THE TOWN OF MIAMI LAKES FLORIDA, RELATING TO ELECTIONS; AMENDING SECTION 10.21 OF THE CODE OF TOWN ORDINANCES TO PROVIDE NEW QUALIFYING DATES FOR TOWN ELECTIONS; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE. (Gastesi)

The Town Attorney, Raul Gastesi, read the title of the ordinance into the record.

Assistant Town Attorney, Lorenzo Cobiella, explained item 11D and answered questions posed by the Town Council.

Councilmember Collazo motioned to the Ordinance in second reading and Councilmember Mestre seconded the motion. The Town Clerk called the roll and the motion passed, 6-0, with Councilmember Daubert being absent.

13. RESOLUTIONS:

- A. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, WAIVING THE COMPETITIVE PROCUREMENT PROCEDURES UNDER SECTION 5(D) OF ORDINANCE 17-203; AWARDING CONTRACT 2018-05 FOR THE CONSTRUCTION OF THE GOVERNMENT CENTER EMERGENCY GENERATOR ENCLOSURE TO LA PERLA CONTRACTORS, INC. IN AN AMOUNT NOT TO EXCEED \$210,000.00; AUTHORIZING THE TOWN MANAGER TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE CONTRACT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE CONTRACT; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR AN EFFECTIVE DATE. (Rey)

The Town Attorney, Raul Gastesi, read the Resolution into the record.

Town Manager, Alex Rey, explained item 13A and answered questions posed by the Town Council.

Councilmember Mestre motioned to approve item 13A, Vice Mayor Mingo seconded the motion and all were in favor.

- B. RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES DIRECTING THE FLORIDA DEPARTMENT OF TRANSPORTATION TO DEVELOP THE BRIDGE JOINING N.W. 154th STREET OVER INTERSTATE 75; PROVIDING FOR AUTHORIZATION OF TOWN OFFICIALS; PROVIDING FOR AUTHORIZATION OF THE TOWN CLERK; PROVIDING FOR

INCORPORATION OF RECITALS AND PROVIDING FOR AN EFFECTIVE DATE. (Rey)

Town Attorney, Raul Gastesi, read the resolution into the record.

Councilmember Rodriguez motioned to approve item 13B. Councilmember Mestre seconded the motion and the motion passed unanimously.

14. NEW BUSINESS:

A. Metal Detectors (Mestre)

Councilmember Mestre withdrew this item under the new Order of Business.

B. Request for Resolution for the Passive Park over I-75 (Bridge Park) (Rodriguez)

Councilmember Rodriguez motioned to have staff create a Resolution in reference to converting the bridge over I-75 into a passive linear park. The motion was seconded by Councilmember Mestre and the motion passed, 6-0, with Councilmember Daubert being absent. Mayor Cid motioned to reopen the Order of Business and Councilmember Rodriguez seconded the motion. The motion passed, 6-0, with Councilmember Daubert being absent.

C. Mobility Fee (Collazo)

Councilmember Collazo motioned for staff to reevaluate the mobility fee ordinance and report back to the Town Council with recommendations of changes, if any, that would help the Town continue to reach its mobility goals effectively. The evaluation would include, but not be limited to, a review of the current fee structure, forecasted development projects and roadway improvements projected tax revenue from new or redevelopments, subject to forecasted to be impacted by a mobility fee. Alternative approaches or hybrid models and any other recommendations based on this evaluation. Once the staff completes its evaluation and presents its findings to the Town Council then we'll have an opportunity to exercise our oversight function to discuss these findings and determine how they can be applied or changed if at all. Councilmember Ruano seconded the motion.

D. Special Needs Committee (Ruano)

Councilmember Ruano motioned to have the Special Needs Committee reactivated for residents in need of such services along with renaming the Committee to Special Need Advisory Board or Special Needs Advisory Committee. Councilmember Rodriguez seconded the motion and the motion passed, 6-0, with Councilmember Daubert being absent.

E. Good Governance (Cid)

Mayor Cid made a motion to place on the ballot of August 2018, a charter question, requiring future Councilmembers to obtain an educational training set forth by an Ordinance. Councilmember Rodriguez seconded the motion and the motion passed, 6-0, with Councilmember Daubert being absent.

F. Concealed carry (Mestre, Rodriguez)

Councilmember Mestre motioned that the Town Attorney research into preparing an ordinance which allows Councilmembers to carry a concealed weapon while sitting on the dais solely for protection. Councilmember Rodriguez seconded the motion. The Town Clerk called the roll and the motion failed, 3-3, with Councilmember Daubert being absent and the following councilmembers voting in opposition: Councilmember Collazo, Vice Mayor Mingo and Mayor Cid.

G. Social Media Strategy (Cid)

Mayor Cid made a motion requesting that staff present a social media strategy plan to the Town Council in which the strategy would be planned in house. Councilmember Rodriguez seconded the motion and the motion passed, 6-0, with Councilmember Daubert being absent.

Mayor Cid motioned to extend the meeting to 11:30 p.m. Councilmember Collazo seconded the motion and the motion passed unanimously.

H. Hotel Taxes (Cid)

Mayor Cid made a motion requesting that the Town Manager research information regarding hotel taxes in the Town of Miami Lakes. Councilmember Mestre seconded the motion and the motion passed, 6-0, with Councilmember Daubert being absent.

I. Ordinance and Town Code dealings with ATV's and Off-Road Vehicles (Rodriguez, Collazo)

Councilmember Rodriguez motioned to waive section 7.2 of the Special Rules of Order. Councilmember Mestre seconded the motion and the motion passed unanimously.

Councilmember Rodriguez motioned that staff research into adding a citation fee to ATV drivers that are driving recklessly. Councilmember Collazo seconded the motion and the motion passed unanimously. Councilmember Daubert was absent.

15. MANAGER'S REPORT:

A. Human Trafficking Awareness

The Town Manager, Alex Rey, reported on a request of Michelle Rodriguez, a resident of Miami Lakes, to host a lecture and Q&A session at Town Hall regarding Human Trafficking Awareness on Saturday, January 27th, 2018 from 2 to 4 P.M. Michelle spoke before the Town Council requesting to use the Council Chambers to hold the seminar. Mayor Cid motioned to allow the session to be held in Town Hall. Councilmember Collazo seconded the motion and the motion passed unanimously.

B. Bandshell Report

The Chief of Operations Officer, Tony Lopez, reported on the findings and recommendations on placing a permanent bandshell in the Town. Tony Lopez reported on an alternative option, an Airnasium, to place at the Optimist Park which would include a bandshell option as well.

C. License Plate Recognition

Major Ruiz reported on his findings of automated License Plate Recognition Systems (LPRS). He discussed the cost and difference of fixed LPRS and variable smart sign LPRS. Major Ruiz recommended placing fixed LPRS in four (4) different intersections in the Town. Councilmember Mestre motioned to move forward with Major Ruiz's recommendation. Mayor Cid seconded the motion and the motion passed, 6-0, with Councilmember Daubert being absent.

Mayor Cid made a motion to extend the meeting until 11:45 p.m. Councilmember Collazo seconded the motion and the motion passed unanimously.

16. ATTORNEY'S REPORT:

A. Attorney's Report on Pending Litigation

The Town Attorney, Raul Gastesi, reported on the litigation expenses regarding the Pizzi Criminal matter.

ADJOURNMENT:

There being no further business to come before the Town Council, the meeting adjourned at 11:32 p.m.

Approved on this 6th day of February 2018.

Attest:

Manny Cid, Mayor

Gina M. Inguanzo, Town Clerk

MINUTES
Sunshine Meeting
January 17, 2018
11:00 A.M.
Government Center
6601 Main Street
Miami Lakes, Florida 33014

1. Call to Order:

Meeting began at 11:10 a.m.

Present at the meeting were: Councilmember Marilyn Ruano, Mayor Manny Cid, Dr. Michael Alessandri from UM/NSU CARD, and Assistant to the Mayor, Joseph Sosa.

2. Items Discussed:

A. Autism Awareness

Mayor Cid and Councilmember Ruano discussed with Dr. Alessandri the possible programs that can be implemented in the Town of Miami Lakes through the Special Needs Committee. Dr. Alessandri expressed interest in joining the Special Needs Committee to help facilitate it's programs.

3. Actions to be Taken:

A. Reactivate the Special Needs Town Committee to initiate discussions and possible programs for Autism Awareness in the community.

4. Adjournment:

This meeting was adjourned at 12:00 p.m.

Approved on this 6th day of February 2018.

Manny Cid, Mayor

Attest:

Gina M. Inguanzo, Town Clerk

MINUTES
Sunshine Meeting
January 26, 2018
9:30 A.M
Government Center
6601 Main Street
Miami Lakes, Florida 33014

1. Call to Order:

Meeting began at 9:40 a.m.

Present at the meeting were: Councilmembers Luis Collazo, Nelson Rodriguez, Marilyn Ruano, Vice Mayor Mingo and Mayor Manny Cid, Town Manager Alex Rey, Assistant Town Manager Andrea Agha and Deputy Town Clerk Nicole Cuellar.

2. Items Discussed:

A. Championed Items for 2018

Mayor Cid opened the meeting discussing the championed items to follow for the year 2018.

Vice Mayor Mingo started by speaking on his item, Par 3, and its status. He stated that the state and the Graham's are currently working on environmental solution due to the found arsenic and facilitating parking at the park.

Councilmember Ruano spoke on her item, Autism Awareness. She discussed her previous meetings with Dr. Alessandri of the UM/NSU Center for Autism & Related Disabilities and the South Florida Autism Charter School professors. She expressed her desire for Miami Lakes to become an all-inclusive community for individuals with Autism by bringing programs that can help the community. These programs are still pending.

Councilmember Collazo spoke on his item regarding Madden's Hammock, he stated there is pending feedback from attorney's. Councilmember Collazo also provided a status regarding the senior center, assessment by the community is still pending. The Town Manager informed the Council on pending work regarding the design of the center.

Councilmember Rodriguez provided an update on the bridge park tour, which he took along with Mayor Cid, and he mentioned that the resolution on this matter was passed during the January 2018 regular council meeting and sent to the Florida Department of Transportation. He also discussed the current transition from the on-demand bus to Freebee and stated that the residents have responded with positive feedback. As for the fire rescue item, there is a pending report from the Town Manager.

3. Actions to be Taken:

- A. The Town Council will meet again during a Sunshine meeting to report new findings and status updates of each Championed Action plan.

4. Adjournment:

This meeting was adjourned at 12:08 p.m.

Approved on this 6th day of February 2018.

Manny Cid, Mayor

Attest:

Gina M. Inguanzo, Town Clerk



Town of Miami Lakes Memorandum

To: Honorable Mayor and Councilmembers
From: Alex Rey, Town Manager
Subject: Award of a Work Order to Calvin Giordano and Associates for the Lake Quality Assessment
Date: 2/6/2018

Recommendation:

It is recommended that the Town Council authorize the Town Manager to execute a work order with Calvin Giordano and Associates ("CGA") for the Lake Quality Assessment, in an amount not to exceed \$36,269.89. Funds in the amount of \$50,000 are budgeted for this project in the Stormwater Utility Fund for FY2017-18.

Background:

In June 2017, the Town engaged in a competitive solicitation process in accordance with Section 5 of Ordinance 17-203 for the selection of several engineering firms to provide continuing engineering design and consulting services on projects in which the total construction cost is under \$2 million, or study activities under \$200,000. Firms were selected across several engineering disciplines based on their qualifications. CGA was selected as one of the highest-ranked firms to provide environmental/ecological engineering services on an ongoing, and project-specific basis. The Town Council approved of a contract award to CGA at the September 2017 Regular Council Meeting.

In May 2006, the Town Council approved an agreement between the Florida International University ("FIU") and the Town of Miami Lakes ("Town") (Resolution No. 06-402) for the project entitled "Monitoring, Assessment, Education and Management of Aquatic Resources." The project scope of services included, among other things, a survey and catalog of the lakes and their conditions; assessment of each lake including attributes, best probable use, and possible management recommendations; and suggestions for restoration efforts, as needed. FIU provided the Town a final report dated March 4, 2008 which included key findings and recommendations.

Keeping the Town's lakes clean and safe is important for the people that live on the lakes and the surrounding areas. Programs can be developed to protect and promote urban conservation and environmental education. To this end, Town Staff met with CGA on November 28, 2017 to begin negotiations on a scope of services to develop measures to protect and support the long-term viability of the Town's lakes. Specific tasks include gathering and investigating background information and the current status of the lakes; developing suggested

maintenance and program scenarios; producing guidelines for homeowners, homeowner's associations (HOAs), businesses and the Town; and a report to the Town outlining maintenance and program options with actionable objectives and performance measures.

Town Staff attended the Neighborhood Improvement Committee (NIC) meeting on January 18, 2018 and presented to the committee the proposed scope of services. The committee members expressed enthusiasm with this initiative and showed support for the Town's efforts regarding the water quality and ecological health of the lakes system. In addition, the assessment is an initiative outlined in the Town's strategic plan to meet the Town's goal of achieving universal environmental sustainability in public and private environments, operations and infrastructure.

ATTACHMENTS:

Description

Consultant Work Order Proposal

Resolution

Calvin, Giordano & Associates, Inc.

1800 Eller Drive, Suite 600

Fort Lauderdale, FL 33316

Consultant Project Proposal

January 22, 2018

Dear Mr. Acosta:

Calvin, Giordano & Associates, Inc. (CGA) proposes to provide the services identified below for the project entitled Lake Quality Assessment pursuant to the Professional Service Agreement provided by Town of Miami Lakes for Civil Engineering Services (2017-32), dated 11/9/2017.

I. General

This project involves the development of measures to protect, and support the long term viability of the Town's lakes. The specific tasks include gathering and investigating background information and investigating the current status of the lakes; developing suggested maintenance and program scenarios; attending public outreach and Town meetings; and producing Guidelines for Homeowners, HOA's, businesses and the Town, and a report to the Town outlining maintenance and program options with actionable objectives and performance measures. Once it is determined what the number of water quality samples that will need to additionally be taken, at what locations and for what parameters, this particular task will be treated as an additional service.

II. Scope of Work

Task 1. Conduct Background and Site Investigations:

- a. Investigate current lake maintenance programs and identify responsible parties,
- b. Determine what specifically the Town is responsible for relating to lakes,
- c. Review historic *Lake Study Report* by FIU,
- d. Investigate and determine what water quality testing may currently be conducted, at what locations and for what parameters, and how long that testing has been conducted to establish historic base line,
- e. Obtain map of outfalls and drainage system,
- f. Obtain map of Town Parks,
- g. Identify if and where any lake interconnects occur, or connections to canals,
- h. Coordinate with Miami-Dade County to obtain testing data in adjacent canals,
- i. Review drainage maintenance and cleaning program, specifically to look for problem catch basins connected to lakes,
- j. Review current Street Sweeping Program conducted by the Town,
- k. Conduct site inspection of the lakes to investigate current conditions and characteristics,
- l. Review adjacent upland uses to determine potential pollutant sources, and
- m. Review Town Stormwater Master Plan for future planned projects to incorporate requirements.

Deliverables under Task 1 include a brief memorandum summarizing the data collected and the results of the review and site investigations.

Task 2. Develop Suggested Maintenance and Program Scenarios:

- a. Conduct review of current related BMP's, Ordinances and technologies to determine specific points that are feasible and applicable to the Town,
- b. Identify what if any additional testing parameters and tracking is needed and where,
- c. Review NPDES and CRS requirements to incorporate any crossover requirements,
- d. Identify applicable social media and web information the Town can post,
- e. Create PowerPoint presentation for HOA's,
- f. Create menu of maintenance and program options for residents, HOA's and the Town,
- g. Prioritize maintenance and program options, and
- h. Develop Actionable Objectives and Performance Measures relating to lake viability, and
- i. Develop general lake quality standards and BMPS applicable to all lakes based on use.

Deliverables under Task 2 include:

- A draft and final report outlining the information obtained and developed during this task,
- A draft and final document with Guidelines for HOA's and businesses,
- A draft and final document with Guidelines for Homeowners, and
- A draft and final document with Guidelines for the Town to implement.

Task 3. Meeting Attendance:

- a. Conduct four (4) public outreach meetings,
- b. Attend four (4) meetings with the Town Staff, and
- c. Attend two (2) Town Council meetings.

Task 4. Water Sampling and Reporting:

- a. Collect water samples, appropriately document and deliver to a DEP certified lab to analyze for parameters yet to be determined. Provide overview report on final results.

III. Subconsultants

The following Subconsultants will assist in the performance of the Services under the Agreement.

Subconsultant's Name	Specialty of Expertise
TBD	DEP Certified Lab

IV. Schedule of Work – Time for Performance

Consultant will submit the deliverable and perform the Services as stated in the table below:

Schedule of Deliverables			
Task, Sub-Task or Activity ID #	Major Task, Sub-Task Activity, or Deliverable	Duration (specify weeks or calendar days)	Delivery (cumulative weeks or calendar days)
Task 1	Conduct Background and Site Investigations	6 weeks	NTP+6 weeks
Task 2	Develop Suggested Maintenance and Program Scenarios	12 weeks	NTP+18 weeks
Task 3	Meeting Attendance (throughout contract)	22 weeks	NTP+22 weeks
Task 4	Water Quality Sampling and Reporting	52 weeks	NTP+52 weeks

V. Compensation

Consultant shall perform the Work detailed in this Proposal for a total not to exceed thirty-six thousand, two hundred and sixty-nine dollars and eighty-nine cents, \$36,269.89. The Consultant will be paid based on a fixed fee basis. The Town shall not be liable for any fee, cost, expense or reimbursable expense or other compensation beyond this amount unless approved in a supplemental Work Order. The fee may include an allowance for Reimbursable Expenses required in connection with the Work, in an amount not to exceed that stated in the table below. Reimbursable Expenses will be used and compensated for in accordance with the Agreement and must conform to the limitations of Florida Statutes § 112.061.

The following is a summary of the method and amount of compensation to be paid for each Task or Activity as identified in Section IV above.

Schedule of Deliverables			
Task, Sub-Task or Activity ID #	Major Task, Sub-Task Activity, or Deliverable	Fee Amount	Fee Basis
Task 1.	Conduct Background Investigations	\$8,605.84	fixed fee
Task 2.	Develop Suggested Maintenance and Program Scenarios	\$20,238.22	fixed fee
Task 3	Meeting Attendance	\$4,128.71	fixed fee
Reimbursable	Reimbursable Expenses	\$3,297.12	fixed fee
Task 4	Water Quality Sampling and Reporting	\$TBD	fixed fee
	<i>Subtotal – Professional Fees</i>	\$32,972.77	
	<i>Allowance for Reimbursable Expenses</i>	\$3,297.12	
	TOTAL	\$36,269.89	

VI. Exclusions from Basic Services

The following services are not included in the Basic Services to be performed under this Work Order:

Under Task 4, it has not yet been determined the number of water quality samples that will need to additionally be taken, at what locations and for what parameters. This will be addresses as an Additional Service when determined.

VII. Town Furnished Documents & Data

GIS and/or CAD file of outfalls, drainage system, lakes and parks; current town street sweeping protocols and route; identification of lake to lake interconnects and lake to canal interconnects; ongoing water quality testing parameters, locations and results; ongoing drainage maintenance protocols and identification of problem catch basins and areas; list of lakes the Town is responsible for maintaining and maintenance protocols; list of responsible entities for non-Town maintained lakes; and identification of public access points for each lake.

VIII. Additional Services

Under Task 4, it has not yet been determined the number of water quality samples that will need to additionally be taken, at what locations and for what parameters. This will be addresses as an Additional Service when determined.

Calvin, Giordano & Associates, Inc.

Shelley Eichner
Signature

Shelley Eichner / Senior Vice President
Name/Title

1/22/2018
Date

Town of Miami Lakes

Dept. Approval: _____
Signature

Carlos Acosta
Public Works Director

Procurement: _____
Signature

Thomas Fossler
Procurement Manager

Town Manager: _____
Signature

Alex Rey
Town Manager

Work Order No.: _____
(Assigned by the Town upon approval, if applicable)

TOWN OF MIAMI LAKES

Consultant Fee Proposal Worksheet

Consultant Name: Calvin, Giordano & Associates, Inc.

Contract No.: 2017-32

Date: 1/24/2018

Work Order No:

Project: Lake Quality Assessment

Project No.: 17-9546.1

Description: Development of guidlines to protect, and support the long term viability of the Town's lakes.

STAFF CLASSIFICATION																
Job Classification Assigned Staff Approved Rate	Project Manager		LA Administrator		Senior LA		LA Designer		Env Administrator		Env Specialist				Staff Hours	Salary
	Rate: \$75.86		Rate: \$56.90		Rate: \$50.17		Rate: \$36.90		Rate: \$47.44		Rate: \$36.24		Rate:		By	Cost By
Task	Man hours	Cost/ Task	Man hours	Cost/ Task	Man hours	Cost/ Task	Man hours	Cost/ Task	Man hours	Cost/ Task	Man hours	Cost/ Task	Man hours	Cost/ Task	Task	Task
1 Conduct background and site investigations									32	\$1,518	40	\$1,450			72	\$2,968
2 Review and develop 3 Guidelines and 1 Report									86	\$4,080	80	\$2,899			166	\$6,979
3 Meeting Attendance									30	\$1,423					30	\$1,423
4 Water Sampling and Reporting									TBD		TBD					
5																
6																
7																
8																
9																
10																
11																
12																
13																
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17																
18																
19																
20																
21																
22																
23																
24																
25																
26																
27																
Total Staff Hours									148		120				268	
Total Staff Cost										\$7,021.12		\$4,348.80				\$11,369.92

Total % of Work by Position

55.2%

44.8%

Note: Fee for the Principal(s) of the firm are not to be included above as the multiplier is not applicable to their hours. The fee is to be shown below and entered as a separately

Estimate of Principal's Fee

Total hours \$220.00 / hour = \$ -

Notes:

1. This sheet is to be used by Prime Consultant to calculate the Grand Total Fee and one is to be used for each Subconsultant
2. Manually enter fee from each subconsultant. Unused subconsultant rows may be hidden
3. Where applicable the basis for work activity descriptions shall be the FICE/FDOT Standard Scope and Staff Hour Estimation Handbook.

1 - SUBTOTAL ESTIMATED FEE:

(multiplier 2.9)

Subconsultant: Sub 1
Subconsultant: Sub 2
Subconsultant: Sub 3
Subconsultant: Sub 4

Principal's Fee

2 - SUBTOTAL ESTIMATED FEE:

Geotechnical Field/Lab Testing:
Survey Fee (or Survey Crew Fee):
Other Misc. Fee:

3 - SUBTOTAL ESTIMATED FEE:

Additional Services (Allowance)
Reimbursables (Allowance)

GRAND TOTAL ESTIMATED FEE:

\$32,972.77

\$32,972.77

\$ -

\$32,972.77

\$3,297.12

\$36,269.89

RESOLUTION NO. 18-_____

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AWARDED WORK ORDER, UNDER CONTRACT NO. 2017-32CGA FOR MISCELLANEOUS CIVIL ENGINEERING AND RELATED SERVICES, FOR LAKE QUALITY ASSESSMENT, WITH CALVIN GIORDANO AND ASSOCIATES, IN AN AMOUNT NOT TO EXCEED \$36,269.89; AUTHORIZING THE TOWN MANAGER TO IMPLEMENT TERMS AND CONDITIONS OF CONTRACT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE WORK ORDER; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, after undergoing a competitive bid process, the Town of Miami Lakes (the “Town”) during its September 2017 Town Council Meeting awarded a contract to Calvin Giordano and Associates for Civil Engineering design and construction for projects in which total costs are under Two Million Dollars (\$2,000,000), or study activities under Two Hundred Thousand Dollars (\$200,000); and

WHEREAS, keeping the Town’s lakes clean and safe is important for the people that live on lakes and in the surrounding areas; and

WHEREAS, maintenance of water quality and ecological health of the Town’s lake system plays an important role in meeting the Town’s goal of achieving universal environmental sustainability in public and private environments, operations and infrastructure; and

WHEREAS, CGA has agreed to perform a Lake Quality Assessment in order to help the Town identify and develop measures to protect and support the long-term viability of the Town’s lakes; and

WHEREAS, the Town Council finds that approval of work order for Lake Quality Assessment under Contract 2017-32CGA between CGA and the Town in the amount not to exceed budgeted funds in the amount of \$36,269.89, is necessary and appropriate.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL FOR THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The foregoing recitals are true and correct and are incorporated herein by reference.

Section 2. Approval of Services Under Contract 2017-32CGA. The Town Council hereby approves a work order for Lake Quality Assessment between the Town and CGA, pursuant to contract 2017-32CGA in an amount not to exceed \$36,269.89.

Section 3. Authorization of Town Officials. The Town Manager and/or his designee and the Town Attorney are authorized to take all steps necessary to implement the work order for Lake Quality Assessment.

Section 4. Authorization of Fund Expenditure. The Town Manager is authorized to expend budgeted funds for an amount of \$36,269.89 for work order in accordance with Contract No. 2017-32CGA, for Lake Quality Assessment.

Section 5. Effective Date. This Resolution shall be effective immediately upon adoption.

Passed and adopted this 6th day of February 2018.

The foregoing resolution was offered by _____ who moved its adoption. The motion was seconded by _____ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid _____

Vice Mayor Frank Mingo _____

Councilmember Luis Collazo _____

Councilmember Timothy Daubert _____

Councilmember Ceasar Mestre _____

Councilmember Nelson Rodriguez _____

Councilmember Marilyn Ruano _____

Manny Cid
MAYOR

Attest:

Gina Inganzo
TOWN CLERK

Approved as to form and legal sufficiency:

Raul Gastesi, Jr.
Gastesi & Associates, P.A.
TOWN ATTORNEY

EXHIBIT “A”



Town of Miami Lakes Memorandum

To: Honorable Mayor and Councilmembers
From: Alex Rey, Town Manager
Subject: Award of RFQ 2018-09 Miscellaneous CEI Services
Date: 2/6/2018

Recommendation:

It is recommended that the Town Council authorize the Town Manager to award a contract to R.J. Behar & Company, Inc. ("RJB"), the highest-ranked Proposer, for Miscellaneous Construction Engineering & Inspection Services on an as needed basis in an amount not to exceed budgeted funds. The contract will be for an initial term of three (3) years, with two (2) one-year renewal options. Work Orders exceeding the Town Manager's purchasing authority under Section 4(a) of Ordinance 17-203 will be presented to the Town Council for approval.

Background:

In February 2017, the Town of Miami Lakes received approval for Local Agency Program ("LAP") recertification, allowing the Town to perform all associated activities of the Federal-Aid Highway Program ("FHWA"), including, but not limited to, Title VI compliance, ADA compliance, grant management and fiscal accountability, procurement of professional service and construction administration in adherence to all federal and state requirements. This certification provides the Town access to federal monies through the LAP to fund local roadway improvement projects. The Town anticipates several current and future LAP projects that will require FDOT-approved construction engineering and inspection consultants to provide construction administration in accordance with LAP regulatory requirements; however, pursuant to the LAP certification requirements the Town is required to outsource construction engineering services and local agency resident compliance.

The Services to be provided under this contract will meet the State requirement and consist of project specific construction engineering and inspection services for the Town on an as needed basis for current and future projects, especially those projects utilizing federal funds. Pursuant to Florida Statutes 287.055, the Consultants' Competitive Negotiation Act ("CCNA"), projects issued under the awarded contract are limited to those in which the construction cost is under \$2 million.

The Town issued Request for Qualifications ("RFQ") 2018-09 for Miscellaneous Construction Engineering & Inspection Services on November 15, 2017. The RFQ was advertised in the Miami Daily Business Review, posted to DemandStar, Public Purchase, and posted in the Government Center Lobby.

To qualify for award, prospective Proposers were required to:

1 . Be a State of Florida licensed Engineering firm or be a licensed Engineering firm in any other State

provided the firm possesses a Certificate of Authorization to offer Engineering services in the State of Florida;

2. Is FDOT prequalified for the following work types:

- a. 10.1 – Roadway Construction Engineering Inspection,
- b. 10.3 – Construction Materials Inspection,
- c. 10.4 – Minor Bridge and Miscellaneous Structures, and
- d. 9.3 – Highway Materials Testing;

3. Possesses a minimum of seven (7) years' experience in performing similar work; and

4. Has a Resident Compliance Specialist on staff to assist on LAP projects; and

5. Has provided CEI Services on at least five (5) LAP projects in the past seven (7) years.

On the date of the proposal deadline, December 15, 2017, we received six (6) proposals from the following Proposers:

1. R.J. Behar & Company, Inc. ("RJB")
2. WSP USA, Inc. ("WSP")
3. AE Engineering, Inc. ("AE")
4. Creative Engineering Group, Inc. ("CEG")
5. Calvin, Giordano & Associates, Inc. ("CGA")
6. New Millennium Engineering, Inc. ("Millennium")

Procurement performed a due diligence review of the proposals for responsiveness and found three of the six proposals were non-responsive. Those proposals, submitted by AE, CEG, and Millennium, were deemed non-responsive for defects in the proposal such as missing elements, or for failing to meet the minimum qualification requirements. All three proposals did not include the requisite number of references for completed LAP projects to qualify for award.

The review of remaining proposals did not reveal any material defects in the proposals, nor in the Proposers' qualifications. Each Proposer has been in business for more than seven years, they are appropriately licensed to do the work, were prequalified in the correct work types, had resident compliance specialists on staff, and provided references for at least five (5) LAP projects. Procurement did not find any issues that would indicate any of the remaining Proposers were incapable of performing the Work.

An Evaluation Committee was appointed, comprised of the following members:

1. Carmen Olazabal, Consultant, 4CityConsulting, Inc.
2. Tony Lopez, Chief of Operations, Town of Miami Lakes
3. Carlos Acosta, Public Works Director, Town of Miami Lakes
4. Vanessa Delgado, Public Works Manager, Town of Miami Lakes

The Evaluation Committee was provided the responsive proposals and met on January 6, 2018, to evaluate and rank the proposals. At the conclusion of this meeting, the Evaluation Committee moved to establish the following ranking:

1. RJB – 410 points
2. CGA – 353 points
3. WSP – 342 points

RJB, the highest-ranked Proposer, is a small business enterprise with approximately 36 employees. The firm has been in business for over 17 years and has had little employee turnover in that time. RJB has completed over 40 federally funded projects administrated by the FHWA, including LAP and Federal American Recovery and Reinvestment Act projects. Each of the proposed members of RJB's team are certified under FDOT's Construction Training Qualification Program and are familiar with all of the required contract provisions for Federal-Aid construction contracts, including all monitoring and reporting requirements, contract and project billing documentation, and ensuring accurate and timely LAP reimbursement through FDOT.

The Evaluation Committee noted that RJB's proposal demonstrated a strong understanding of local Miami-Dade CIP projects and provided the most tailored approach specific to the Town's future plans. RJB's proposal also included a strong team of key personnel. Each member of the team possessed strong qualifications, many having over 20 years of experience, and had worked together on several past projects, demonstrating unique team cohesion.

Based on the Evaluation Committee's established ranking, it is recommended that the Town Council authorize

the Town Manager award a contract to R.J. Behar & Company, Inc. for Miscellaneous Construction Engineering & Inspection Services in an amount not to exceed budgeted funds. In the event an agreement cannot be reached with the top-ranked Proposer, it is further recommended that the Town Manager terminate negotiations, and instead, proceed with negotiations with each of the next highest-ranked Proposers in order until an agreement can be reached.

ATTACHMENTS:

Description

Resolution

RESOLUTION NO. 18-_____

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AUTHORIZING THE TOWN MANAGER TO AWARD A CONTRACT 2018-09 TO R.J. BEHAR & COMPANY, INC. FOR MISCELLANEOUS CONSTRUCTION ENGINEERING & INSPECTION SERVICES; AUTHORIZING THE TOWN MANAGER TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE CONTRACT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE CONTRACT; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Miami Lakes (the “Town”) issued Request for Qualifications (“RFQ”) 2018-09 for Miscellaneous Construction Engineering and Inspection Services in accordance with Florida Statute 287.055, the Consultants’ Competitive Negotiation Act (“CCNA”), on November 15, 2018; and

WHEREAS, prior to the issuance of the RFQ, the Town was approved for Local Agency Program (“LAP”) recertification; and

WHEREAS, LAP recertification will allow the Town to pursue Federal Government funding of local roadway improvement projects; and

WHEREAS, Federal Government funding pursuant to LAP requires the Town to enter into a contract with a Federal Department of Transportation (“FDOT”) approved construction engineering and inspection consultants in accordance with LAP requirements; and

WHEREAS, Town received six (6) Proposals in response thereto, of which three (3) were deemed non-responsive; and

WHEREAS, an Evaluation Committee was appointed and convened on January 6, 2018 to evaluate the received Proposals and establish a ranking based on the Evaluation Criteria contained within RFQ 2018-09; and

WHEREAS, the Evaluation Committee found R.J. Behar and Company as the highest ranked Proposer, followed by Calvin, Giordano and Associates and WSP USA, Inc.; and

WHEREAS, the Town Manager recommends negotiating a three (3) year agreement with two (2) one (1) year renewal options with R.J. Behar and Company for an amount not to exceed budgeted funds; and

WHEREAS, it is further recommended, that should negotiations be unsuccessful, then the Town Manager shall terminate negotiations and proceed to negotiate with the next highest-ranked Proposer in order until an agreement can be reached;

WHEREAS, the Town Council approves of the Town Manager's recommendations, authorizes him to enter negotiations with Miller Legg and, upon mutual agreement, award a contract in substantially the same form as attached hereto as Exhibit "A" for architectural services on an as needed basis for the Town of Miami Lakes.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:

Section 1. **Recitals.** The foregoing Recitals are true and correct and incorporated herein by this reference.

Section 2. **Approval of the Contract.** The Town Council hereby approves the award of contracts for miscellaneous architectural and related services for construction projects not exceeding \$2,000,000 per project and study activities not exceeding \$200,000 per study to Miller Legg, as set forth herein.

Section 3. Authorization of Town Officials. The Town Manager and/or his designee and the Town Attorney are authorized to take all steps necessary to implement the terms and conditions of the Miscellaneous Architectural & Related Services Contract.

Section 4. Authorization of Fund Expenditure. The Town Manager is authorized to expend budgeted funds to implement the terms and conditions of this Resolution and the Miscellaneous Architectural & Related Services Contract. All work order related to this Contract which are great than \$25,000.00 shall be brought back to the Town Council for approval via resolution.

Section 5. Execution of the Contract. The Town Manager is authorized to execute the Miscellaneous Architectural & Related Services Contract in substantially the form attached hereto as Exhibits "A" with Miller Legg for miscellaneous architectural and related services, subject to approval as to form and legality by the Town Attorney.

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

THIS SPACE INTENTIONALLY LEFT BLANK

PASSED AND ADOPTED this ____ day of _____, _____.

The foregoing resolution was offered by _____ who moved its adoption. The motion was seconded by _____ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Nelson Rodriguez	_____
Councilmember Luis Collazo	_____
Councilmember Timothy Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Marilyn Ruano	_____

Manny Cid
MAYOR

Attest:

Gina Inguanzo
TOWN CLERK

Approved as to form and legal sufficiency:

Raul Gastesi, Jr.
Gastesi & Associates, P.A.
TOWN ATTORNEY

EXHIBIT A

Standard PSA for Architectural Services



Town of Miami Lakes Memorandum

To: Honorable Mayor and Councilmembers
From: Raul Gastesi, Town Attorney
Subject: Special Election
Date: 2/6/2018

Recommendation:

To discuss setting the date for a Special Election when a vacancy occurs, when six months or more remain in the unexpired term, and the nomination from the Mayor has been confirmed by the Council.

Background:

In accordance with Section 2.5(c)ii of the Town Charter, if six months or more remain in the unexpired term, the vacancy shall be filled by a nomination of the Mayor made within 30 calendar days following the occurrence of the vacancy, subject to confirmation of the Council. The nominee shall fill the vacancy until the next regularly scheduled election in Miami-Dade County at which time an election shall be held to fill the vacancy.

At the July 26, 2017 Special Call Meeting, the Town Council unanimously confirmed the appointment of Mrs. Marilyn Ruano to occupy Seat 3, recently vacated by Vice Mayor Tony Lama. It is known to us that Miami-Dade County will be having a Primary Election on August 28, 2018.

Thus, in accordance with our Town Charter, the Town of Miami Lakes shall have the Special Election on August 28, 2018, the date of the County's next scheduled election.

ATTACHMENTS:

Description

Resolution

RESOLUTION NO. 18-____

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, SCHEDULING A SPECIAL ELECTION ON AUGUST 28, 2018, IN ACCORDANCE WITH SECTION 2.5 OF THE TOWN CHARTER; SETTING QUALIFYING DATES; AUTHORIZING THE TOWN CLERK, TOWN MANAGER AND TOWN ATTORNEY TO TAKE ALL NECESSARY ACTIONS; PROVIDING FOR INCORPORATION OF RECITALS AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on July 25, 2017, Vice Mayor Tony Lama resigned from office, creating a vacancy in Seat 3 of the Town Council, of the Town of Miami Lakes (“Town”); and

WHEREAS, pursuant to Section 2.5 (c)ii of the Town Charter, upon the occurrence of a vacancy on the Town Council, should six months or more remain in the unexpired term of the vacant councilmember’s seat, the term shall be filled by a nomination of the mayor made within thirty (30) calendar days, subject to confirmation by the Town Council; and

WHEREAS, pursuant to Section 2.5 (c)ii of the Town Charter, the nominee shall fill the vacancy until the next regularly scheduled election in Miami-Dade County at which time the vacancy shall be permanently filled; and

WHEREAS, the next scheduled Miami-Dade County Election shall be held on August 28, 2018; and

WHEREAS, on July 26, 2017, at a Special Call Meeting, the Town Council unanimously confirmed the appointment of Mrs. Marilyn Ruano to Seat 3; and

WHEREAS, according to the Town Charter, an election for Seat Three should be held on August 28, 2018, the next available date provided to the Town by the Miami-Dade County Department of Elections; and

WHEREAS, according to Section 10.21 (c), as amended by Ordinance 18-219, qualifying dates shall be commence at noon on May 28, 2018 and conclude at noon on June 4, 2018; and

WHEREAS, campaign finance reports will be set by the Town Clerk.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:

Section 1. **Recitals.** The foregoing Recitals are true and correct and incorporated herein by this reference.

Section 2. **Scheduling of Special Election and Setting Qualifying Dates.** In accordance with Section 2.5, the Town Council hereby requests the Town Clerk to schedule a Special Election on August 28, 2018, for Seat 3 of the Town Council. Qualifying for this seat shall run from noon, May 28, 2018 through noon, June 4, 2018.

Section 3. **Authorization of Town Officials.** The Town Manager, Town Attorney and Town Clerk are hereby authorized to take all steps necessary to complete the execution of the terms of this Resolution.

Section 4. **Effective Date.** This Resolution shall take effect immediately upon adoption.

THIS SPACE INTENTIONALLY LEFT BLANK

Passed and adopted this _____ day of _____, 2018.

The foregoing resolution was offered by _____ who moved its adoption. The motion was seconded by _____ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Frank Mingo	_____
Councilmember Luis Collazo	_____
Councilmember Timothy Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Nelson Rodriguez	_____
Councilmember Marilyn Ruano	_____

Manny Cid
MAYOR

Attest:

Gina Inguanzo
TOWN CLERK

Approved as to form and legal sufficiency:

Raul Gastesi, Jr.
Gastesi & Associates, P.A.
TOWN ATTORNEY



Town of Miami Lakes Memorandum

To: Honorable Mayor and Councilmembers
From: Alex Rey, Town Manager
Subject: Non-Ad valorem Assessments of Special Taxing Districts
Date: 2/6/2018

Recommendation:

It is recommended that the Town Council request to the Property Appraiser to include our proposed or adopted non-ad valorem assessments for collecting its benefit and maintenance assessments and to place the six special taxing districts non-ad valorem assessments on the TRIM notices and for the Tax Collector to place them on the tax bill.

Background:

In September 2017, the Town Council approved the transfer of six special taxing districts by passing a resolution for each of the six districts. Upon the passing of these resolutions by the Town, a public hearing was held on November 7, 2017 by the Board of County Commissioners (BCC) to consider approving a resolution to authorize the execution an interlocal agreement to transfer the Special Taxing Districts to the Town of Miami Lakes and another resolution to call special elections for the approval or disapproval designating the Town of Miami Lakes as governing body of the special taxing districts. Both Resolutions were approved. (Annex 1- 6).

In December 2017, The Town requested an extension until March 1st, 2018 to use the uniform method of collection, pursuant to section, 197.3632 (3)(a).

On January 23rd special elections were conducted via mail-in ballot to all of the voters within the district boundaries for all six special taxing districts in the Town of Miami Lakes. In each case, the majority vote of returned ballots ratified each district's desire to transfer, as following:

Contest Name	Choice Name	Total Votes	Percent of Votes	Ballots Cast
MIAMI LAKES - LOCH LOMOND: SPECIAL TAXING DISTRICT PROPOSAL	YES	159	89.83%	177
MIAMI LAKES - LOCH LOMOND: SPECIAL TAXING DISTRICT PROPOSAL	NO	18	10.17%	177
LAKE PATRICIA: SPECIAL TAXING DISTRICT PROPOSAL	YES	45	88.24%	51
LAKE PATRICIA: SPECIAL TAXING DISTRICT PROPOSAL	NO	6	11.76%	51
LAKE HILDA: SPECIAL TAXING DISTRICT PROPOSAL	YES	66	88%	75
LAKE HILDA: SPECIAL TAXING DISTRICT PROPOSAL	NO	9	12%	75
MIAMI LAKES SECTION ONE: SPECIAL TAXING	YES	717	80.67%	885

DISTRICT PROPOSAL	YES	272	88.81%	525
MIAMI LAKES SECTION ONE: SPECIAL TAXING DISTRICT PROPOSAL	NO	58	19.33%	525
ROYAL OAKS EAST: SPECIAL TAXING DISTRICT PROPOSAL	YES	207	92%	525
ROYAL OAKS EAST: SPECIAL TAXING DISTRICT PROPOSAL	NO	18	8%	525
ROYAL OAKS SECTION I: SPECIAL TAXING DISTRICT PROPOSAL	YES	212	86.18%	247
ROYAL OAKS SECTION I: SPECIAL TAXING DISTRICT PROPOSAL	NO	34	13.82%	247

By the Town passing this resolution prior March 1st, 2018, it meets the roll requirements and deadlines for non-ad valorem assessments; therefore, the Property Appraiser will be able to place the Town's non-ad valorem assessments on the TRIM notices, and the Tax Collector will be able to place them on the tax bill.

This resolution also authorizes the Town Manager to execute an inter-governmental agreement between the Property Appraiser, Tax Collector and the Town.

ATTACHMENTS:

Description

Lake Hilda Resolution

Section One Special Taxing District

Royal Oaks East Special Taxing District

Royal Oaks Section One

Loch Lomond Resolution

Lake Patricia Resolution

Sample Interlocal Agreement

Annex 1

Annex 1A

Annex 2

Annex 2A

Annex 3

Annex 3A

Annex 4

Annex 4A

Annex 5

Annex 5A

Annex 6

Annex 6A

Non Ad Valorem Timeline

RESOLUTION NO. 2018 ____

A RESOLUTION OF THE TOWN COUNCIL THE TOWN OF MIAMI LAKES EXPRESSING ITS INTENT TO UTILIZE THE UNIFORM METHOD OF LEVYING, COLLECTING AND ENFORCING NON AD VALOREM ASSESSMENTS FOR THE LAKE HILDA MULTIPURPOSE MAINTENANCE SPECIAL TAXING DISTRICT LOCATED ENTIRELY WITHIN THE TOWN WHICH HEREINAFTER MAY BE LEVIED BY THE TOWN IN ACCORDANCE WITH SECTION 197.3632, FLORIDA STATUTE PROVIDING FOR INCORPORATION OF RECITALS; AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY TO TAKE NECESSARY MEASURES TO IMPLEMENT THE RESOLUTION; AUTHORIZING THE TOWN MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH MIAMI-DADE COUNTY PROPERTY APPRAISER AND THE TAX COLLECTOR; PROVIDING FOR INSTRUCTIONS TO THE TOWN CLERK; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on September 5, 2017, the Town of Miami Lakes (the “Town”) approved the transfer six (6) special taxing districts, including Lake Hilda Multipurpose Maintenance Special Taxing District (“Lake Hilda”) from Miami-Dade County (the “County”) to the Town; and

WHEREAS, on November 7, 2017, the County passed a resolution authorizing the transfer of Lake Hilda, and the execution of an interlocal agreement between the Town and the County to effectuate the transfer; and

WHEREAS, during the month of December the Town requested an extension from Miami-Dade County Property Appraiser to adopt a resolution in order to utilize the Uniform Method of Collection pursuant to Florida Statute § 197.3632; and

WHEREAS, on January 23, 2017, Special Elections were conducted via mail-in ballot for six Special Taxing Districts to the Town of Miami Lakes for all voters within the district boundaries; and

WHEREAS, the voters within Lake Hilda voted in favor of the transfer; and

WHEREAS, the Town desires to use the Uniform Method of Collection and enter into an interlocal agreement with the Property Appraiser, Tax Collector and the Town in order to effectuate the collection of non-ad valorem taxes for Lake Hilda.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE
TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:**

Section 1. Recitals. The foregoing Recitals are true and correct and incorporated herein by this reference.

Section 2. Authorization of Town Officials. The Town Manager and/or his designee and the Town Attorney are authorized to take all steps necessary to implement the terms and conditions of this Resolution.

Section 3. Authorization to Execute Interlocal Agreement. The Town Manager is authorized to execute an Interlocal Agreement(s), similar and with substantially the same content and form as attached, and to execute any required agreements and/or documents to implement the terms and conditions of the Interlocal Agreement(s), to execute any extension and/or amendments to the Interlocal Agreement, subject to approval as to form and legality by the Town Attorney.

Section 4. Instructions to the Town Clerk. The Town Council hereby directs the Town Clerk to transmit a copy of this Resolution to Mayor Carlos A. Gimenez, and members of the Miami-Dade County Board of County Commissioners, Hon. Pedro J. Garcia, Property Appraiser for Miami-Dade County and Miami-Dade County Tax Collector.

Section 5. Effective Date. This Resolution shall take effect immediately upon adoption.

***** THIS SECTION HAS BEEN PURPOSEFULLY LEFT BLANK *****

The foregoing resolution was offered by Councilmember _____ who moved for adoption. The motion was seconded by Councilmember _____ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Frank Mingo	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Nelson Rodriguez	_____
Councilmember Marilyn Ruano	_____

Passed and adopted this _____ day of _____, 2018.

Manny Cid
Mayor

Attest:

Gina M. Inganzo
Town Clerk

Approved as to form and legal sufficiency:

Raul Gastesi, Jr.
Gastesi & Associates, P.A.
Town Attorney

RESOLUTION NO. 2018 ____

A RESOLUTION OF THE TOWN COUNCIL THE TOWN OF MIAMI LAKES EXPRESSING ITS INTENT TO UTILIZE THE UNIFORM METHOD OF LEVYING, COLLECTING AND ENFORCING NON AD VALOREM ASSESSMENTS FOR THE MIAMI LAKES SECTION ONE SPECIAL TAXING DISTRICT LOCATED ENTIRELY WITHIN THE TOWN WHICH HEREINAFTER MAY BE LEVIED BY THE TOWN IN ACCORDANCE WITH SECTION 197.3632, FLORIDA STATUTE PROVIDING FOR INCORPORATION OF RECITALS; AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY TO TAKE NECESSARY MEASURES TO IMPLEMENT THE RESOLUTION; AUTHORIZING THE TOWN MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH MIAMI-DADE COUNTY PROPERTY APPRAISER AND THE TAX COLLECTOR; PROVIDING FOR INSTRUCTIONS TO THE TOWN CLERK; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on September 5, 2017, the Town of Miami Lakes (the “Town”) approved the transfer six (6) special taxing districts, including Miami Lakes Section One Special Taxing District (“Section One”) from Miami-Dade County (the “County”) to the Town; and

WHEREAS, on November 7, 2017, the County passed a resolution authorizing the transfer of Section One, and the execution of an interlocal agreement between the Town and the County to effectuate the transfer; and

WHEREAS, during the month of December the Town requested an extension from Miami-Dade County Property Appraiser to adopt a resolution in order to utilize the Uniform Method of Collection pursuant to Florida Statute § 197.3632; and

WHEREAS, on January 23, 2017, Special Elections were conducted via mail-in ballot for six Special Taxing Districts to the Town of Miami Lakes for all voters within the district boundaries; and

WHEREAS, the voters within Section One voted in favor of the transfer; and

WHEREAS, the Town desires to use the Uniform Method of Collection and enter into an interlocal agreement with the Property Appraiser, Tax Collector and the Town in order to effectuate the collection of non-ad valorem taxes for Section One.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE
TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:**

Section 1. Recitals. The foregoing Recitals are true and correct and incorporated herein by this reference.

Section 2. Authorization of Town Officials. The Town Manager and/or his designee and the Town Attorney are authorized to take all steps necessary to implement the terms and conditions of this Resolution.

Section 3. Authorization to Execute Interlocal Agreement. The Town Manager is authorized to execute an Interlocal Agreement(s), similar and with substantially the same content and form as attached, and to execute any required agreements and/or documents to implement the terms and conditions of the Interlocal Agreement(s), to execute any extension and/or amendments to the Interlocal Agreement, subject to approval as to form and legality by the Town Attorney.

Section 4. Instructions to the Town Clerk. The Town Council hereby directs the Town Clerk to transmit a copy of this Resolution to Mayor Carlos A. Gimenez, and members of the Miami-Dade County Board of County Commissioners, Hon. Pedro J. Garcia, Property Appraiser for Miami-Dade County and Miami-Dade County Tax Collector.

Section 5. Effective Date. This Resolution shall take effect immediately upon adoption.

***** THIS SECTION HAS BEEN PURPOSEFULLY LEFT BLANK *****

The foregoing resolution was offered by Councilmember _____ who moved for adoption. The motion was seconded by Councilmember _____ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Frank Mingo	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Nelson Rodriguez	_____
Councilmember Marilyn Ruano	_____

Passed and adopted this _____ day of _____, 2018.

Manny Cid
Mayor

Attest:

Gina M. Inganzo
Town Clerk

Approved as to form and legal sufficiency:

Raul Gastesi, Jr.
Gastesi & Associates, P.A.
Town Attorney

RESOLUTION NO. 2018 ____

A RESOLUTION OF THE TOWN COUNCIL THE TOWN OF MIAMI LAKES EXPRESSING ITS INTENT TO UTILIZE THE UNIFORM METHOD OF LEVYING, COLLECTING AND ENFORCING NON AD VALOREM ASSESSMENTS FOR THE ROYAL OAKS EAST SECURITY GUARD SPECIAL TAXING DISTRICT LOCATED ENTIRELY WITHIN THE TOWN WHICH HEREINAFTER MAY BE LEVIED BY THE TOWN IN ACCORDANCE WITH SECTION 197.3632, FLORIDA STATUTE PROVIDING FOR INCORPORATION OF RECITALS; AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY TO TAKE NECESSARY MEASURES TO IMPLEMENT THE RESOLUTION; AUTHORIZING THE TOWN MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH MIAMI-DADE COUNTY PROPERTY APPRAISER AND THE TAX COLLECTOR; PROVIDING FOR INSTRUCTIONS TO THE TOWN CLERK; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on September 5, 2017, the Town of Miami Lakes (the “Town”) approved the transfer six (6) special taxing districts, including Royal Oaks East Special Taxing District (“Royal Oaks East”) from Miami-Dade County (the “County”) to the Town; and

WHEREAS, on November 7, 2017, the County passed a resolution authorizing the transfer of Royal Oaks East, and the execution of an interlocal agreement between the Town and the County to effectuate the transfer; and

WHEREAS, during the month of December the Town requested an extension from Miami-Dade County Property Appraiser to adopt a resolution in order to utilize the Uniform Method of Collection pursuant to Florida Statute § 197.3632; and

WHEREAS, on January 23, 2017, Special Elections were conducted via mail-in ballot for six Special Taxing Districts to the Town of Miami Lakes for all voters within the district boundaries; and

WHEREAS, the voters within Royal Oaks East voted in favor of the transfer; and

WHEREAS, the Town desires to use the Uniform Method of Collection and enter into an interlocal agreement with the Property Appraiser, Tax Collector and the Town in order to effectuate the collection of non-ad valorem taxes for Royal Oaks East.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE
TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:**

Section 1. Recitals. The foregoing Recitals are true and correct and incorporated herein by this reference.

Section 2. Authorization of Town Officials. The Town Manager and/or his designee and the Town Attorney are authorized to take all steps necessary to implement the terms and conditions of this Resolution.

Section 3. Authorization to Execute Interlocal Agreement. The Town Manager is authorized to execute an Interlocal Agreement(s), similar and with substantially the same content and form as attached, and to execute any required agreements and/or documents to implement the terms and conditions of the Interlocal Agreement(s), to execute any extension and/or amendments to the Interlocal Agreement, subject to approval as to form and legality by the Town Attorney.

Section 4. Instructions to the Town Clerk. The Town Council hereby directs the Town Clerk to transmit a copy of this Resolution to Mayor Carlos A. Gimenez, and members of the Miami-Dade County Board of County Commissioners, Hon. Pedro J. Garcia, Property Appraiser for Miami-Dade County and Miami-Dade County Tax Collector.

Section 5. Effective Date. This Resolution shall take effect immediately upon adoption.

***** THIS SECTION HAS BEEN PURPOSEFULLY LEFT BLANK *****

The foregoing resolution was offered by Councilmember _____ who moved for adoption. The motion was seconded by Councilmember _____ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Frank Mingo	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Nelson Rodriguez	_____
Councilmember Marilyn Ruano	_____

Passed and adopted this _____ day of _____, 2018.

Manny Cid
Mayor

Attest:

Gina M. Inganzo
Town Clerk

Approved as to form and legal sufficiency:

Raul Gastesi, Jr.
Gastesi & Associates, P.A.
Town Attorney

RESOLUTION NO. 2018 ____

A RESOLUTION OF THE TOWN COUNCIL THE TOWN OF MIAMI LAKES EXPRESSING ITS INTENT TO UTILIZE THE UNIFORM METHOD OF LEVYING, COLLECTING AND ENFORCING NON AD VALOREM ASSESSMENTS FOR THE ROYAL OAKS SECTION ONE SPECIAL TAXING DISTRICT LOCATED ENTIRELY WITHIN THE TOWN WHICH HEREINAFTER MAY BE LEVIED BY THE TOWN IN ACCORDANCE WITH SECTION 197.3632, FLORIDA STATUTE PROVIDING FOR INCORPORATION OF RECITALS; AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY TO TAKE NECESSARY MEASURES TO IMPLEMENT THE RESOLUTION; AUTHORIZING THE TOWN MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH MIAMI-DADE COUNTY PROPERTY APPRAISER AND THE TAX COLLECTOR; PROVIDING FOR INSTRUCTIONS TO THE TOWN CLERK; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on September 5, 2017, the Town of Miami Lakes (the “Town”) approved the transfer six (6) special taxing districts, including Royal Oaks Section One Special Taxing District (“Royal Oaks Section One”) from Miami-Dade County (the “County”) to the Town; and

WHEREAS, on November 7, 2017, the County passed a resolution authorizing the transfer of Royal Oaks East, and the execution of an interlocal agreement between the Town and the County to effectuate the transfer; and

WHEREAS, during the month of December the Town requested an extension from Miami-Dade County Property Appraiser to adopt a resolution in order to utilize the Uniform Method of Collection pursuant to Florida Statute § 197.3632; and

WHEREAS, on January 23, 2017, Special Elections were conducted via mail-in ballot for six Special Taxing Districts to the Town of Miami Lakes for all voters within the district boundaries; and

WHEREAS, the voters within Royal Oaks Section One voted in favor of the transfer; and

WHEREAS, the Town desires to use the Uniform Method of Collection and enter into an interlocal agreement with the Property Appraiser, Tax Collector and the Town in order to effectuate the collection of non-ad valorem taxes for Royal Oaks Section One.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE
TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:**

Section 1. Recitals. The foregoing Recitals are true and correct and incorporated herein by this reference.

Section 2. Authorization of Town Officials. The Town Manager and/or his designee and the Town Attorney are authorized to take all steps necessary to implement the terms and conditions of this Resolution.

Section 3. Authorization to Execute Interlocal Agreement. The Town Manager is authorized to execute an Interlocal Agreement(s), similar and with substantially the same content and form as attached, and to execute any required agreements and/or documents to implement the terms and conditions of the Interlocal Agreement(s), to execute any extension and/or amendments to the Interlocal Agreement, subject to approval as to form and legality by the Town Attorney.

Section 4. Instructions to the Town Clerk. The Town Council hereby directs the Town Clerk to transmit a copy of this Resolution to Mayor Carlos A. Gimenez, and members of the Miami-Dade County Board of County Commissioners, Hon. Pedro J. Garcia, Property Appraiser for Miami-Dade County and Miami-Dade County Tax Collector.

Section 5. Effective Date. This Resolution shall take effect immediately upon adoption.

***** THIS SECTION HAS BEEN PURPOSEFULLY LEFT BLANK *****

The foregoing resolution was offered by Councilmember _____ who moved for adoption. The motion was seconded by Councilmember _____ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Frank Mingo	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Nelson Rodriguez	_____
Councilmember Marilyn Ruano	_____

Passed and adopted this _____ day of _____, 2018.

Manny Cid
Mayor

Attest:

Gina M. Inganzo
Town Clerk

Approved as to form and legal sufficiency:

—

Raul Gastesi, Jr.
Gastesi & Associates, P.A.
Town Attorney

RESOLUTION NO. 2018 ____

A RESOLUTION OF THE TOWN COUNCIL THE TOWN OF MIAMI LAKES EXPRESSING ITS INTENT TO UTILIZE THE UNIFORM METHOD OF LEVYING, COLLECTING AND ENFORCING NON AD VALOREM ASSESSMENTS FOR THE MIAMI LAKES - LOCH LOMOND SECURITY GUARD SPECIAL TAXING DISTRICT LOCATED ENTIRELY WITHIN THE TOWN WHICH HEREINAFTER MAY BE LEVIED BY THE TOWN IN ACCORDANCE WITH SECTION 197.3632, FLORIDA STATUTE PROVIDING FOR INCORPORATION OF RECITALS; AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY TO TAKE NECESSARY MEASURES TO IMPLEMENT THE RESOLUTION; AUTHORIZING THE TOWN MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH MIAMI-DADE COUNTY PROPERTY APPRAISER AND THE TAX COLLECTOR; PROVIDING FOR INSTRUCTIONS TO THE TOWN CLERK; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on September 5, 2017, the Town of Miami Lakes (the “Town”) approved the transfer six (6) special taxing districts, including Miami Lakes-Loch Lomond Security Guard Special Taxing District (“Loch Lomond”) from Miami-Dade County (the “County”) to the Town; and

WHEREAS, on November 7, 2017, the County passed a resolution authorizing the transfer of Loch Lomond, and the execution of an interlocal agreement between the Town and the County to effectuate the transfer; and

WHEREAS, during the month of December the Town requested an extension from Miami-Dade County Property Appraiser to adopt a resolution in order to utilize the Uniform Method of Collection pursuant to Florida Statute § 197.3632; and

WHEREAS, on January 23, 2017, Special Elections were conducted via mail-in ballot for six Special Taxing Districts to the Town of Miami Lakes for all voters within the district boundaries; and

WHEREAS, the voters within Loch Lomond voted in favor of the transfer; and

WHEREAS, the Town desires to use the Uniform Method of Collection and enter into an interlocal agreement with the Property Appraiser, Tax Collector and the Town in order to effectuate the collection of non-ad valorem taxes for Loch Lomond.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE
TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:**

Section 1. Recitals. The foregoing Recitals are true and correct and incorporated herein by this reference.

Section 2. Authorization of Town Officials. The Town Manager and/or his designee and the Town Attorney are authorized to take all steps necessary to implement the terms and conditions of this Resolution.

Section 3. Authorization to Execute Interlocal Agreement. The Town Manager is authorized to execute an Interlocal Agreement(s), similar and with substantially the same content and form as attached, and to execute any required agreements and/or documents to implement the terms and conditions of the Interlocal Agreement(s), to execute any extension and/or amendments to the Interlocal Agreement, subject to approval as to form and legality by the Town Attorney.

Section 4. Instructions to the Town Clerk. The Town Council hereby directs the Town Clerk to transmit a copy of this Resolution to Mayor Carlos A. Gimenez, and members of the Miami-Dade County Board of County Commissioners, Hon. Pedro J. Garcia, Property Appraiser for Miami-Dade County and Miami-Dade County Tax Collector.

Section 5. Effective Date. This Resolution shall take effect immediately upon adoption.

***** THIS SECTION HAS BEEN PURPOSEFULLY LEFT BLANK *****

The foregoing resolution was offered by Councilmember _____ who moved for adoption. The motion was seconded by Councilmember _____ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Frank Mingo	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Nelson Rodriguez	_____
Councilmember Marilyn Ruano	_____

Passed and adopted this _____ day of _____, 2018.

Manny Cid
Mayor

Attest:

Gina M. Inganzo
Town Clerk

Approved as to form and legal sufficiency:

—

Raul Gastesi, Jr.
Gastesi & Associates, P.A.
Town Attorney

RESOLUTION NO. 2018 ____

A RESOLUTION OF THE TOWN COUNCIL THE TOWN OF MIAMI LAKES EXPRESSING ITS INTENT TO UTILIZE THE UNIFORM METHOD OF LEVYING, COLLECTING AND ENFORCING NON AD VALOREM ASSESSMENTS FOR THE LAKE PATRICIA MULTIPURPOSE MAINTENANCE SPECIAL TAXING DISTRICT LOCATED ENTIRELY WITHIN THE TOWN WHICH HEREINAFTER MAY BE LEVIED BY THE TOWN IN ACCORDANCE WITH SECTION 197.3632, FLORIDA STATUTE PROVIDING FOR INCORPORATION OF RECITALS; AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY TO TAKE NECESSARY MEASURES TO IMPLEMENT THE RESOLUTION; AUTHORIZING THE TOWN MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH MIAMI-DADE COUNTY PROPERTY APPRAISER AND THE TAX COLLECTOR; PROVIDING FOR INSTRUCTIONS TO THE TOWN CLERK; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on September 5, 2017, the Town of Miami Lakes (the “Town”) approved the transfer six (6) special taxing districts, including Lake Patricia Multipurpose Maintenance Special Taxing District (“Lake Patricia”) from Miami-Dade County (the “County”) to the Town; and

WHEREAS, on November 7, 2017, the County passed a resolution authorizing the transfer of Lake Patricia, and the execution of an interlocal agreement between the Town and the County to effectuate the transfer; and

WHEREAS, during the month of December the Town requested an extension from Miami-Dade County Property Appraiser to adopt a resolution in order to utilize the Uniform Method of Collection pursuant to Florida Statute § 197.3632; and

WHEREAS, on January 23, 2017, Special Elections were conducted via mail-in ballot for six Special Taxing Districts to the Town of Miami Lakes for all voters within the district boundaries; and

WHEREAS, the voters within Lake Patricia voted in favor of the transfer; and

WHEREAS, the Town desires to use the Uniform Method of Collection and enter into an interlocal agreement with the Property Appraiser, Tax Collector and the Town in order to effectuate the collection of non-ad valorem taxes for Lake Patricia.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE
TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:**

Section 1. Recitals. The foregoing Recitals are true and correct and incorporated herein by this reference.

Section 2. Authorization of Town Officials. The Town Manager and/or his designee and the Town Attorney are authorized to take all steps necessary to implement the terms and conditions of this Resolution.

Section 3. Authorization to Execute Interlocal Agreement. The Town Manager is authorized to execute an Interlocal Agreement(s), similar and with substantially the same content and form as attached, and to execute any required agreements and/or documents to implement the terms and conditions of the Interlocal Agreement(s), to execute any extension and/or amendments to the Interlocal Agreement, subject to approval as to form and legality by the Town Attorney.

Section 4. Instructions to the Town Clerk. The Town Council hereby directs the Town Clerk to transmit a copy of this Resolution to Mayor Carlos A. Gimenez, and members of the Miami-Dade County Board of County Commissioners, Hon. Pedro J. Garcia, Property Appraiser for Miami-Dade County and Miami-Dade County Tax Collector.

Section 5. Effective Date. This Resolution shall take effect immediately upon adoption.

The foregoing resolution was offered by Councilmember _____ who moved for adoption. The motion was seconded by Councilmember _____ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Frank Mingo	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Nelson Rodriguez	_____
Councilmember Marilyn Ruano	_____

Passed and adopted this _____ day of _____, 2018.

Manny Cid
Mayor

Attest:

Gina M. Inganzo
Town Clerk

Approved as to form and legal sufficiency:

Raul Gastesi, Jr.
Gastesi & Associates, P.A.
Town Attorney

**INTERGOVERNMENTAL COOPERATION AGREEMENT
BY AND AMONG
MIAMI-DADE COUNTY PROPERTY APPRAISER
AND
MIAMI –DADE COUNTY TAX COLLECTOR
AND
CITY OF CORAL GABLES**

THIS INTERGOVERNMENTAL COOPERATION AGREEMENT (the “Agreement”) is made and entered into as of the ____ day of _____, 2017, by and among Miami-Dade County Office of the Property Appraiser (hereinafter referred to as (“Property Appraiser”), Florida, Miami-Dade County on behalf of the Tax Collector (hereinafter referred to as “Tax Collector”), Florida, and the City of Coral Gables, Florida (hereinafter referred to as “City”).

WITNESSETH:

WHEREAS, the City intends to adopt non-ad valorem assessments or special assessments for the provision of design, acquisition, and construction of streetscape improvements for the Miracle Mile Assessment Area and the Giralda Avenue Assessment Area within the City of Coral Gables; and

WHEREAS, the City intends to utilize the uniform method of collection, as outlined in Sections 197.3632 and 197.3635, Florida Statutes, for collecting the above-referenced non-ad valorem special assessments for the aforementioned services; and

WHEREAS, the City has requested that the Property Appraiser include its adopted non-ad valorem assessments for the provision of design, acquisition, and construction of streetscape improvements for the Miracle Mile Assessment Area and the Giralda Avenue Assessment Area on the Notice of Proposed Property Taxes as specified in Section 200.069, Florida Statutes (“TRIM Notice”); and

WHEREAS, the City has requested that the Tax Collector include its adopted non-ad valorem assessments for the provision of design, acquisition, and construction of streetscape improvements for the Miracle Mile Assessment Area and the Giralda Avenue Assessment Area on the Combined Notice of Ad Valorem and Non-Ad Valorem Assessments provided for in Section 197.3635, Florida Statutes; and

WHEREAS, pursuant to Section 197.3632, Florida Statutes, the City, the Property Appraiser, and the Tax Collector must enter into a written agreement evidencing the Property Appraiser's and the Tax Collector's agreement to place the City's herein specified non-ad valorem assessments on the TRIM Notice and tax bill; and

WHEREAS, the City represents that it has duly complied with the Notice provisions and adopted Resolution No. 2016-256 in compliance with the required resolutions set forth in Section 197.3632 Florida Statutes, so as to entitle the City to utilize the non-ad valorem method of collection, and the Tax Collector and Property Appraiser have relied on these representations, and

NOW, THEREFORE, for good and valuable consideration and intending to be legally bound hereby, the City, the Property Appraiser, the Tax Collector agree as follows:

1. The City, Property Appraiser, and Tax Collector shall abide by all statutes, rules and regulations pertaining to the levy and collection of non-ad valorem assessments, including the provisions of sections 197.3632, 197.3635, Florida Statutes, as amended, and any applicable rules duly promulgated by the Department of Revenue.
2. The Property Appraiser agrees to place the City's non-ad valorem assessments for the provision of design, acquisition, and construction of

streetscape improvements for the Miracle Mile Assessment Area and the Giralda Avenue Assessment Area within the City of Coral Gables on the Notice of Proposed Property Taxes and Proposed or Adopted Non-Ad Valorem Assessments prepared in accordance with Section 200.069, Florida Statutes.

3. The Tax Collector agrees to the City's request to place its adopted non-ad valorem assessments for the provision of design, acquisition, and construction of streetscape improvements for the Miracle Mile Assessment Area and the Giralda Avenue Assessment Area within the City of Coral Gables on the Combined Notice of Ad Valorem Taxes and Non-Ad Valorem Assessments in accordance with Section 197.3635, Florida Statutes.
4. The City agrees that all certified assessment rolls will be maintained and transmitted to the Property Appraiser and the Tax Collector on compatible electronic medium as defined in Section 197.3632(1), Florida Statutes.
5. The City agrees that, in consideration for services herein agreed to be performed by the Tax Collector, the Tax Collector shall be entitled to retain, in the Tax Collector's sole discretion, the actual costs of collection not to exceed two percent (2%) on the amount of special assessments collected and remitted.
6. **Duration of this Agreement.** This Agreement shall take effect upon signing and shall extend to the collection of special assessments for each fiscal year thereafter until canceled by any Party pursuant to Section 10 herein.

7. **Severability of the Provisions in this Agreement.** The provisions in this Agreement, except for Section 4, are intended to be severable. If any provision of this Agreement shall be held to be invalid or unenforceable in whole or in part, such provision shall be ineffective to the extent of such invalidity or unenforceability without in any manner affecting the validity or enforceability of the remaining provisions of this Agreement.
8. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.
9. **Amendments or Modifications of this Agreement.** It is anticipated by the parties that the terms and conditions of this Agreement will be periodically amended or modified. Such amendments or modifications must be in writing and must be duly executed by all parties to this Agreement.
10. **Terms and Cancellation.** The Term of this Agreement shall commence upon the date first above written and shall run through the end of the calendar year and shall automatically be renewed thereafter, for successive terms, not to exceed one year each. Any party may cancel this Agreement at the end of the term upon written notice to the other parties prior to the end of the term.
11. **Intent to be Legally Bound.** By signing this Agreement, the Parties hereto confirm and state that they have carefully read this Agreement, that they know the contents hereof, that they fully expect to carry out each and every provision, and that they intend to be legally bound by the rights and obligations set forth herein.

12. **Indemnification and Hold Harmless** The City shall indemnify and hold harmless, to the extent permitted by Florida law and without waiving its right of sovereign immunity, the Property Appraiser, Tax Collector and their respective officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the Property Appraiser, Tax Collector or their respective officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the negligent or intentional acts or omissions of the City or its employees, agents, servants, partners principals, or subcontractors arising out of, relating to, or resulting from the performance of the Agreement. The City shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the Property Appraiser or Tax Collector where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorneys' fees which may issue thereon.
13. **Headings.** The headings for each paragraph in this Agreement are for the purposes of reference only and shall not limit or otherwise affect the meaning of any provision.
14. **Complete Agreement.** This document shall represent the complete agreement of the Parties.

IN WITNESS WHEREOF, the Parties hereto execute this Agreement, and they affirm that they have the power to do so on behalf of the City, the Tax Collector, and the Property Appraiser.

(S E A L)

CITY OF CORAL GABLES, FLORIDA

A municipal corporation of the
State of Florida

ATTEST:

By: _____

By: _____

(name and title)

(name and title)

MIAMI-DADE COUNTY, FLORIDA
OFFICE OF THE PROPERTY APPRAISER

By: _____

Pedro J. Garcia
Property Appraiser

ATTEST:

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

By: _____

Harvey Ruvin
County Clerk

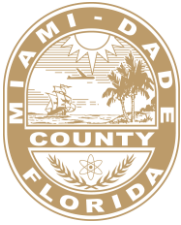
By: _____

Carlos A. Gimenez
Mayor

Approved as to legal sufficiency for Miami-Dade County and the Office of the Property Appraiser:

By: _____

Assistant County Attorney



Requirements and Deadlines for TRIM Notice

Following is a list of requirements, deadlines, and information required to place non-ad valorem assessments as districts on the TRIM notices and tax bills:

1. **By January 1st**, an adopted resolution which is authorized to impose non-Ad Valorem assessments. If the Property Appraiser, Tax Collector and local government agree, by March 1st.
2. Any questions, comments, concerns, or submissions regarding this process may be addressed to PA-RollMgmt@miamidade.gov.
3. By **May 1st** a list of all eligible districts must be submitted to the PA's Office. The list must identify:
 - a. New districts for this year,
 - b. Existing districts from prior years that will remain, and
 - c. Any district that is to be removed for the current year.Based on the number of districts submitted, it may be required to assign new district numbers. The Property Appraiser's Information Services Division will notify you when the district numbers have been determined.
4. By **June 1st** (per FL Statutes) the Office of the Property Appraiser will provide roll files with folios in order to complete your roll submission.
5. By **June 11th** the district should submit the following two test files:
 - a. Rate file – containing district numbers and rates.
 - b. Folio file – containing folio numbers with district information.Note: these files have specific file formats and limits that must be adhered to (see attachment).
6. By **July 13th** all inserts should be submitted for review. The Office of the PA needs a copy of the inserts to help process TRIM groupings. Please check with your counsel to make sure the inserts comply with the following:
 - a. Must adhere to FL Statute 197.3632(4)(b).
 - b. List a schedule of all rates applicable.
 - c. Must describe the non-ad valorem assessment.
 - d. Must clearly identify appropriate contact name, phone, or email in the event citizens have question(s).

- e. Must use regular copy paper (8½ x 11 10M) in order to contain the postal cost.
- f. Limited to one (1) page printed on front and back.
- g. In the case of a CDD the insert **must** include:
In addition to what has been stated above the amount of debt, how the debt is allocated among the properties, payoff date, contact name(s) and phone number(s).

7. By **July 17th** the district must provide the following:

- a. Final **folio and rate files** for the TRIM notices.
- b. Description of “Purpose of Assessment” as it will appear on the TRIM. As an example, “City of Miami Waste District”.
- c. Submit primary and emergency contact form (attached) to parties that can address questions the PA might have about the assessment.
- d. The format of the Folio file does not have a column for the assessment amount. The assessment will be calculated as a function of (rate x units).
- e. Upon request, arrangements will be made to facilitate the transfer of larger files that cannot be emailed.

8. By **July 23rd**:

- a. Finalized inserts need to be delivered by the jurisdiction to the mailing vendor for stuffing. Inserts are **not** to be folded as our mailing vendor will take care of this.
- b. The jurisdiction must make arrangements to print **one insert per folio**. Please print at least 3% extra which may be used as surplus.
- c. Printer/Mailing vendor information:

ArrowMail

9825 NW 17th Street, Miami, FL. 33172

Attention: Patrick Riboul patrickr@arrowmailservice.com 305.591.0024, or
Ivan Vargas ivanv@arrowmailservice.com 305.591.0024

9. By **August 24th** TRIM notices will be in the mail.

10. By **September 15th** (per FL Statutes), the final roll that will appear on the Tax Bill is due to the Property Appraiser’s Office. This is similar to 7a above. Miami-Dade County Districts have until September 25th.

11. After **November 1st**, municipalities that require making corrections can contact the PA roll support team for logon credentials and for further instructions. **Please note that the only corrections allowed at this time are reductions to the unit count.**

12. PLEASE REFER TO THE FLORIDA STATUTES FOR THE FULL REQUIREMENTS

Additionally, you are required to meet all the deadlines and requirements set forth in Sections 197.363, 197.3631, 197.3632, 197.3632(4)(a), and 197.3632(4)(a), of the Florida Statutes, which in part require that:

- a. A local government shall adopt a non-Ad Valorem assessment roll at a public hearing held between January 1st and September 15th if:
 1. The non-Ad Valorem assessment is levied for the first time;
 2. The non-Ad Valorem assessment is increased beyond the maximum rate authorized by law or judicial decree at the time of initial imposition;
 3. The local government's boundaries have changed, unless all newly affected property owners have provided written consent for such assessment to the local governing board; or
 4. There is a change in the purpose for such assessment or in the use of the revenue generated by such assessment.
- b. The resolution shall clearly state its intent to use the uniform method of collecting such assessment. The local government shall publish notice of its intent to use the uniform method for collecting such assessment as follows: weekly in a newspaper of general circulation within each county contained in the boundaries of the local government for four (4) consecutive weeks preceding the hearing;
- c. The resolution shall state the need for the levy and shall include a legal description of the boundaries of the real property subject to the levy. If the resolution is adopted, the local government board shall send a copy of it by U. S. mail to the Property Appraiser, Tax Collector and Florida Department of Revenue by January 10th or, if the Property Appraiser, Tax Collector and local government agree, by March 10th.
- d. A local governing board shall enter into a written agreement with the Property Appraiser and Tax Collector providing reimbursement of necessary administrative costs incurred under this section.
- e. The local government shall notice by mail to each person owning property subject to the assessment and shall include information such as purpose of the assessment, amount to be levied, unit of measure, total revenue to be collected, etc. see **197.3632(4)(b)**.

Failure to meet any of these deadlines and/or Florida Statute requirements may result in the non-Ad Valorem assessments not appearing on the TRIM Notices or Tax Bills.

If you have questions or need further information please contact us at:

PA-RollMgmt@miamidade.gov

Quick Reference

1. Please address any questions, comments, concerns to:
Ramon Padron, Tax Roll Coordinator 305.375.4414
Darren Ondarza, Tax Roll Support 305.375.4796
Jose Nodarse, Chief, Information Services Division 305.375.4105
email us at PA-RollMgmt@miamidade.gov.
2. By **January 1st**, an adopted resolution authorizing non-Ad Valorem assessments.
3. By **May 1st**, provide a list of all eligible districts.
4. By **June 1st** the PA will provide the roll file with folios for your roll submission.
5. By **June 11th** the jurisdiction must submit test files.
6. By **July 13th** and not later, all inserts must be submitted for review and approval.
7. By **July 17th** the jurisdiction must provide final Folio files, assessment purpose, and contact information.
8. By **July 23rd** the PA will advise you the date to deliver your inserts to the mailing vendor.
9. Printer/Mailing vendor information:
ArrowMail
9825 NW 17th Street
Miami, FL. 33172
Attention: Patrick Riboul patrickr@arrowmailservice.com 305.591.0024, or
Ivan Vargas ivanv@arrowmailservice.com 305.591.0024
10. By **August 24th** (per FL Statutes), TRIM will be in the mail.
11. By **September 15th** (per FL Statutes), the final roll that will appear on the Tax Bill is due to the PA.
12. After **November 1st**, jurisdictions may make roll reductions to the units only.



Town of Miami Lakes Memorandum

To: Honorable Mayor and Councilmembers
From: Alex Rey, Town Manager
Subject: Florida Department of Agriculture and Consumer Services Florida Small Community Energy Efficient Lighting Grant Program
Date: 2/6/2018

Recommendation:

It is recommended that the Town Council authorize the Town Manager to apply to the Florida Department of Agriculture and Consumer Services Florida Small Community Energy Efficient Lighting Grant Program and execute the grant agreement in an amount of \$250,000 with a Town match of \$25,000. Match funds are budgeted in the Parks Capital Fund.

Background:

Presently, a solicitation is available from the Florida Department of Agriculture and Consumer Services Florida Small Community Energy Efficient Lighting Grant Program. The purpose of this grant program is to assist eligible small local government entities in the State of Florida (local municipalities with a population of up to 50,000); in reducing their total energy use, increase energy efficiency, reduce energy costs through the replacement of inefficient lighting with energy efficient lighting, and evaluate actual energy savings received as a result of the project. Projects must be completed by May 31, 2019.

The Town intends to apply for monies for an LED retrofit of sports field lighting of two fields at Royal Oaks Park. The park's present lighting system is over thirteen years old uses a metal halide lighting system that has an estimated \$38,000 annual electrical cost. Retrofitting the complete sports field lighting system at the park to LED technology would generate a projected annual savings of \$24,000 with a \$14,000 annual electrical cost. The proposed project for two fields would generate a projected savings of \$12,000 annually which would allow the Town to recover its grant matching dollars in two to three years.

Retrofitting the Town's existing lighting infrastructure to more energy efficient lighting is one of the Town's strategic plan initiatives to reach the goal of achieving universal environmental sustainability in public and private environments, operations and infrastructure. The grant application must include a Resolution from the Town Council in support of the application.

Under the solicitation, the maximum grant project amount is not to exceed \$250,000 with a minimum of a 10%

match of \$25,000. The Town intends to pursue the maximum grant amount for this project and fund the match from the Parks Capital Fund.

ATTACHMENTS:

Description

Florida Department of Agriculture Grant

FDACS Grant Application

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AUTHORIZING THE TOWN MANAGER TO APPLY FOR AND IF AWARDED EXECUTE AN AGREEMENT BETWEEN THE TOWN OF MIAMI LAKES AND THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES SMALL COMMUNITY ENERGY EFFICIENT LIGHTING GRANT PROGRAM; AUTHORIZING THE TOWN MANAGER TO TAKE ALL STEPS NECESSARY TO APPLY FOR, EXECUTE AND SATISFY THE REQUIREMENTS OF THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES SMALL COMMUNITY ENERGY EFFICIENT LIGHTING GRANT PROGRAM; AUTHORIZING IMPLEMENTATION OF THIS RESOLUTION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Miami Lakes (the "Town") strives to provide energy efficient lighting as part of its overall goal of achieving universal environmental sustainability in public and private environments as detailed in the Town's Strategic Plan; and

WHEREAS, the Florida Department of Agriculture and Consumer Services has a solicitation available to assist small local government entities with reduction of total energy use titled "Small Community Energy Efficient Lighting Grant Program" (the "Grant"); and

WHEREAS, if obtained, the Grant will allow the Town to retrofit its thirteen-year-old sports field lighting at Royal Oaks Park, and achieve an estimated Twenty-Four Thousand Dollars (\$24,000) in annual savings; and

WHEREAS, the proposed project and application is for Two Hundred Fifty Thousand Dollars (\$250,000), with a 10% match from the Town equal to Twenty-Five Thousand Dollars (\$25,000); and

WHEREAS, the Twenty-Five Thousand Dollars (\$25,000) match funds are budgeted; and

WHEREAS, the Town Manager believes it is in the best interest of the Town to apply for, and if granted apply for the Grant; and

WHEREAS, the Town Council believes it is in the best interest of the Town to apply for, and if granted execute.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL FOR THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The foregoing recitals are true and correct and are incorporated herein by reference.

Section 2. Authorization to Apply for and if Awarded Execute Agreement. The Town Manager is authorized to apply for and if awarded execute an agreement with the Florida Department of Agriculture and Consumer Services for the Small Community Energy Efficient Lighting Grant Program.

Section 3. Authorization of Fund Expenditures. If granted, the Town Manager is authorized to expend budgeted funds in the amount not to exceed \$25,000.00 in order to meet the (10%) match requirement and implement the terms and agreement of this Resolution.

Section 4. Authorization of Town Officials. The Town Manager and/or his designee and the Town Attorney are authorized to take all actions necessary to implement this Resolution.

Section 5. Effective Date. This Resolution shall be effective immediately upon adoption.

*****THIS SECTION HAS BEEN LEFT INTENTIONALLY BLANK*****

PASSED AND ADOPTED this 5th day of February, 2018.

Motion to adopt by _____, second by _____.

FINAL VOTE AT ADOPTION

Mayor Manny Cid _____

Vice Mayor Frank Mingo _____

Councilmember Luis Collazo _____

Councilmember Ceasar Mestre _____

Councilmember Frank Mingo _____

Councilmember Nelson Rodriguez _____

Councilmember Marilyn Ruano _____

Manny Cid
MAYOR

Attest:

Approve as to Form and Legal Sufficiency

Gina Inguanzo
TOWN CLERK

Raul Gastesi, P.A.
TOWN ATTORNEY



ADAM H. PUTNAM
COMMISSIONER

Florida Department of Agriculture and Consumer Services
Division of Administration

**Notice of Federal Financial Assistance Funding
Opportunity Request for Applications**

2 CFR 200

Funding Opportunity Number (DE-FOA-0000052)

I. Overview

Federal Funds Recipient:	Florida Department of Agriculture and Consumer Services, Office of Energy (FDACS OOE)
Funding Opportunity Title:	Florida Small Community Energy Efficient Lighting Grant Program
Announcement Type:	Request for Federal Financial Assistance Applications Initial Announcement
Funding Opportunity Number:	DE-FOA-0000052
Catalog of Federal Domestic Assistance (CFDA) Number:	81.041
Federal Agency Name:	U.S. Department of Energy (USDOE)

The information requested is pursuant to 2 CFR and the federal awarding agency statutory authority.

Specific Authorities:

Energy Policy and Conservation Act, as amended (42 USC Subsection 6321); American Recovery and Reinvestment Act of 2009 (Public Law III-5); 10 CFR 420, State Energy Program (SEP); and Section 377.703 (2)(b), Florida Statutes.

II. Key Dates

Action Item	Timeframe	Location
Notice of Federal Financial Assistance Funding Opportunity Advertisement	From 01/12/2018 To 02/27/2018	Posted electronically via: <ul style="list-style-type: none">• www.FreshFromFlorida.com,• Vendor Bid System, and• FDACS OOE website.
Application Submission Deadline	02/27/2018 at 4:00 p.m. Eastern Time	
Evaluation of Applications	From 02/27/2018 To 04/11/2018	Review and evaluation of applications begins
Award Notice	04/16/2018	

Subrecipient Agreement End Date (anticipated)	05/31/2020	
Submission of Questions		<p>Programmatic questions must be submitted electronically to:</p> <p>Gail Stafford, Compliance Administrator FDACS Office of Energy ATTN: Small Community Energy Efficient Lighting 600 South Calhoun Street, Ste. B-04 Tallahassee, FL 32399-0001 PHONE: (850) 617-7470 FAX: (850) 617-7471 EMAIL: Energy@FreshFromFlorida.com</p>
Responses to Questions Posted		<p>Posted electronically via:</p> <ul style="list-style-type: none"> • http://www.FreshFromFlorida.com/offices/energy/ and • Vendor Bid System.

III. Submission Dates, Times and Location

The submission deadline is February 27, 2018 at 4:00 P.M. Eastern Time.

The required application packet consists of:

- Attachment A, FDACS-02032 – Application for Federal Financial Assistance
- Attachment B, Supplemental Project Budget Detail
- Attachment C, Conflict of Interest Statement
- Attachment D, Project Location Detail Sheet

An applicant is required to submit the original signed application packet and three (3) hard copies of the application package.

Electronic application submissions will not be accepted.

Each applicant may submit only ONE (1) application. However, the applicant may propose multiple project activities and/or multiple project locations in the one application.

An application packet may be sent by U.S. Mail, courier, overnight or hand delivered to the FDACS Purchasing Office no later than the submission deadline.

It is the applicant's responsibility to ensure its submittal at the proper place and time indicated in the notice of federal financial assistance funding opportunity notice. **No extensions. No exceptions.**

Hard copy applications must be received by the FDACS Purchasing Office by February 27, 2018 at 4:00 P.M. Eastern Time. Completed hard copy application packages shall be mailed or delivered to:

Florida Department of Agriculture and Consumer Services
Purchasing Office
407 South Calhoun Street
Mayo Building - Room SB-8
Tallahassee, FL 32399-0800

IV. Federal Financial Assistance Funding Opportunity Description

This funding was allocated to the Florida Department of Agriculture and Consumer Services, Office of Energy from the U.S. Department of Energy (USDOE). The department will use \$1,000,000 for the creation of the Florida Small Community Energy Efficiency Lighting Grant Program.

The purpose of this grant program is to assist eligible small local government entities (local municipalities with a population of up to 50,000; and counties with an unincorporated population of up to 200,000) in reducing their total energy use, increase

energy efficiency, reduce energy costs through the replacement of inefficient lighting with energy efficient lighting, and evaluate actual energy savings received as a result of the project. Projects must be completed by May 31, 2019. Energy savings must be tracked by the subrecipient for at least one year following completion of the project and reported to the department.

The department is issuing this Notice of Federal Financial Assistance (NOTICE) entitled “Florida Small Community Energy Efficient Lighting Grant Program.” The department will use \$1,000,000 from the USDOE for the creation of this program, under Title III, Energy Policy and Conservation Act. These funds are also subject to the requirements of the American Recovery and Reinvestment Act (ARRA).

Title III, as amended, authorizes USDOE to administer the State Energy Program (SEP). All grant awards made under this NOTICE shall comply with applicable law, including regulations contained in 10 CFR Part 420, 2 CFR 200 and other procedures applicable to this regulation as USDOE and the state of Florida may, from time-to-time, prescribe for the administration of financial assistance. The goal of the SEP is to provide leadership to maximize the benefits of energy efficiency and renewable energy through communications and outreach activities, technology deployment and accessing new partnerships and resources.

This competitive grant program is designed to provide funding to eligible local governments (see details under Eligibility section below) to make energy efficient upgrades to indoor or outdoor lighting in publicly accessible, community-oriented facilities, such as libraries, museums, parks, and community centers (examples given for illustrative purposes only). Actual eligibility of project applicants and locations will be determined based on the definitions below and on other criteria addressed in this NOTICE, its attachments and associated documents.

USDOE provided the following guidance to states in regards to the SEP:

- **Alignment with national goals:** USDOE continues to encourage states to develop strategies that align their goals and objectives to national goals. The Energy Policy Act of 2005 and the Energy Independence and Security Act of 2007 include the following national goals to be addressed at the state and local level: increasing jobs, reducing U.S. oil dependency through increases in energy efficiency and deployment of renewable energy technologies, promoting economic vitality through an increase in “green jobs” and reducing greenhouse gas emissions.
- **Market Transformation:** USDOE requests that states continue to focus their program efforts on market transformation initiatives and actions that align with national goals. Market transformation is defined as: “Strategic interventions that cause lasting changes in the structure or function of a market or the behavior of market participants, resulting in an increase in adoption of energy efficiency and renewable energy products, services and practices.”

- **SEP Strategic Plan:** The SEP Strategic Plan establishes the following four goals for SEP:
 - o Increase energy efficiency to reduce energy costs and consumption for consumers, businesses and government.
 - o Reduce reliance on imported energy.
 - o Improve the reliability of electricity and fuel supply and the delivery of energy services.
 - o Reduce the impacts of energy production and use on the environment.
- **USDOE Objectives:** USDOE has established the following objectives that complement program goals articulated in the SEP Strategic Plan:
 - o Transform energy markets in partnership with states to accelerate near-term deployment of energy efficiency and renewable technologies.
 - o Promote an integrated portfolio of energy efficiency and renewable energy solutions to meet US energy security, economic vitality and environmental quality objectives.
 - o Strengthen core state energy programs to develop and adopt leading market transformation initiatives.

V. **Statutes and Regulations**

Recipients of grant funds must comply with the State of Florida and Federal regulations as applicable to this program and described in this NOTICE in the following attachments:

- Attachment E, Other Requirements.

The department is dedicated to ensuring Floridians have a sustainable, diverse, and reliable energy portfolio that benefits Florida's economy. In focusing the government's policy and efforts to benefit and protect our state, its citizens, and its resources, all applicants shall adhere to the policy of the State of Florida, as stated in Section 377.601, Florida Statutes.

Section 377.601, Florida Statutes states that:

- The department is responsible for performing or coordinating the functions of any federal energy programs delegated to the state, including energy supply, demand, conservation, or allocation.
- The department shall coordinate efforts to seek federal support or other support for state energy activities, including energy conservation, research, or development, and is responsible for the coordination of multiagency energy conservation programs and plans.
- The department shall promote energy efficiency and conservation in all energy use sectors throughout the state and be the state agency primarily responsible for this function.
- The department shall coordinate energy-related programs of state government. The department shall provide assistance to other state agencies, counties,

municipalities, and regional planning agencies to further and promote their energy planning activities.

- The department shall promote the development and use of renewable energy resources, energy efficiency technologies, and conservation measures.

Grant activities funded under this NOTICE must meet the following conditions:

- Activities must be eligible under 42 U.S.C. Section 17154 regarding the use of federal funds.
- As defined in 40 U.S.C. 276a to a 7: When required by federal program legislation, all construction contracts awarded by the recipients and subrecipients of more than \$2,000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR part 5, “Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction”).
- Applicants to this NOTICE are encouraged to review *A Desk Guide to the Davis Bacon Act* available on the USDOE website at <https://energy.gov/gc/downloads/desk-guide-davis-bacon-act-0>.
- Activities involving Public Buildings and Public Works are subject to the Buy American Provision.
- All activities must comply with the National Environmental Policy Act (NEPA) of 1969 – 42 U.S.C. Section 4321 et seq. **Therefore, only projects and activities that USDOE has determined will be excluded from NEPA review through a Categorical Exclusion (CE or sometimes CX) will be deemed eligible projects by the Department under this solicitation.** Categorical Exclusion means a category of actions for which neither an Environmental Assessment (EA) nor an Environmental Impact Statement (EIS) is normally required. **Due to NEPA requirements for outdoor lighting at public parks, the only eligible projects are those that do not require new poles or the replacement or relocation of existing poles.**
- Activities that have limited potential to impact historic properties (any property 50 years or older and possessing “historical significance”) will require review in accordance with National Historic Preservation Act (NHPA) of 1966, Section 106, as amended.
- See the Florida Department of Financial Services, *Reference Guide for State Expenditures* for state requirements.

Prohibited Use of Funds:

In accordance with federal regulations, applicants are prohibited from using financial assistance:

- For any casino or other gambling establishment, aquarium, zoos, golf course, or swimming pool;
- For any other activities prohibited by federal law.

Additionally, in accordance with federal regulations, applicants are prohibited from using SEP financial assistance:

- For construction, such as construction of mass transit systems and exclusive bus lanes or for the construction of buildings or structures;
- To purchase land, a building or structure or any interest therein;
- To subsidize fares for public transportation;
- To subsidize utility rate demonstrations or state tax credits for energy conservation or renewable energy measures;
- To conduct or purchase equipment to conduct research, development or demonstration of energy efficiency or renewable energy techniques and technologies not commercially available;
- For facilities that are federally owned or rented by the federal government (federal facilities are ineligible for assistance); and
- For any other activities prohibited by federal law.

In accordance with Section 216.347, Florida Statutes, applicants are prohibited from using funds provided by this agreement for the purpose of lobbying the Legislature, the judicial branch, or any state agency.

VI. Award Information

Total amount of funding available	\$1,000,000
Anticipated number of awards	5 to 20
Maximum grant award to a single applicant	\$250,000
Minimum grant award to a single applicant	\$50,000
Period of Performance	06/1/2018 through 05/31/2020

VII. Definitions

For the purpose of this NOTICE, the following terms are defined:

Administrative Costs: Allowable, reasonable, and allocable direct and indirect costs related to overall management of the awarded grant. For this grant:

- Salaries and Fringe Benefits are considered Administrative Costs.
- The total amount of Administrative Costs cannot exceed ten percent (10%) of the total project cost.

Applicant: Entity that submits an application for federal financial assistance under this notice of funding opportunity.

Application Packet: Complete written response of the applicant to the notice of federal financial assistant funding opportunity including properly completed forms, supporting documents and attachments.

Business hours: 8 a.m. to 5 p.m. Eastern Time on business days.

Business days: Monday through Friday, excluding federal and state holidays.

Calendar days: All days, including weekends and holidays.

CFDA: Catalog of Federal Domestic Assistance.

CFR: Code of Federal Regulations.

Cost Reimbursement: A reimbursement payment to the grantee of reasonable costs previously expended in connection with the performance of work, not to exceed the amount set forth in the budget. See the Department of Financial Services, *Reference Guide for State Expenditures*.

Cost Sharing (Matching Funds): Actual cash outlays and non-cash contributions paid by the subrecipient for products and services related to this program.

Energy efficient measures: Related to energy efficiency improvements or retrofits that reduce energy consumption by replacing older, less efficient items with energy efficient or renewable energy equipment.

FDACS (Department or department): Florida Department of Agriculture and Consumer Services, an agency of the State of Florida.

Grant: See Subrecipient Agreement.

Grant Manager: An employee of the department, who is designated to be responsible for the monitoring and management of the subrecipient agreement.

Grantee: See Subrecipient.

Local governmental entity: As defined in Section 215.97(2)(k), Florida Statutes, a county as a whole, municipality or special district or any other entity EXCLUDING a district school board, charter school, Florida College System institution, or public university, however styled, which independently exercises any type of governmental function within the state.

Note: Eligible local government applicants to this program are restricted, based on population, to the following:

1. Florida municipalities with a population of up to 50,000; and
2. Florida counties with an unincorporated population of up to 200,000.

Public-use facilities: Facilities open to the public and used for the public welfare more than fifty percent of operating hours, including but not limited to libraries, museums, parks, and community centers. For the purpose of this NOTICE, this term does not include hospitals, clinics, firehouses, sewer plants, water plants, jailhouses, and school buildings. Buildings that are used for the general conduct of government business such

as city halls, county administrative offices and courthouses and are not accessible to the public are NOT eligible for funding under this NOTICE.

Recipient: The prime entity receiving federal financial assistance from a federal agency. In this NOTICE, *recipient* is interchangeable with *department*.

Subrecipient: The entity (successful applicant) receiving federal financial assistance via the recipient. In this NOTICE, the term *subrecipient* is interchangeable with the term *grantee*.

Subrecipient Agreement: Formal agreement that will be awarded to the successful applicant under this notice of federal financial assistance funding opportunity. In this NOTICE, the term *Grant Agreement* is interchangeable with the term *Subrecipient Agreement*.

Total Project Cost: The combined total of grant and match resources contributed to this project.

Vendor Bid System (VBS): State of Florida internet-based vendor information system.

VIII. Eligibility Information

Eligible Applicants

Eligible applicants for this program include:

1. Florida municipalities with a population of up to 50,000; and
2. Florida counties with an unincorporated population of up to 200,000.

Only one application is allowed per applicant. However, the applicant may propose multiple project activities and/or multiple project locations in the one application.

The scope of work must be performed within the State of Florida.

Eligible Projects and Activities

This competitive grant program is designed to provide funding to small local governments for energy efficient upgrades to indoor or outdoor lighting at publicly accessible, community-oriented facilities, including but not limited to libraries, civic centers, museums, community centers, and parks. **Eligible public facilities must be owned by the applicant.**

Eligible buildings are considered public facilities, where services are provided directly for the benefit of the general public on a continuing basis. Projects must be completed by May 31, 2019. Energy savings must be tracked by the subrecipient for at least one year following completion of the project and reported to the department.

Examples of projects that would be eligible under this grant program:

- Energy efficient indoor light fixtures.
- Energy efficient security lighting attached to the outside of the building.
- Energy efficient public lighting fixtures or community park lighting fixtures.

Due to NEPA requirements, for outdoor lighting at public parks, only projects that do not require new poles or the replacement or relocation of existing poles are eligible.

Final determination of project eligibility will be made by the department.

Up to ten percent of grant funds may be used for administrative expenses, including the cost of the reporting requirements of the program.

Ineligible Activities:

Activities that are NOT eligible under this grant include, but are not limited to:

- Projects related to regular maintenance or repairs.
- Repairs or replacement of equipment purchased new within the last ten (10) years.
- Replacement of lighting fixtures not permanently incorporated into a building or permanently attached to a pole or other structure. Mobile or portable lighting is not eligible.
- Projects that require digging or ground disturbance (projects not categorically excluded under NEPA).
- Computers, laptops, tablets, printers, monitors, televisions, phones, tools, etc.
- Research, development or proposed use of technology that is not commercially available.
- Projects at locations anywhere outside the applicant's jurisdiction or state of Florida.
- Projects at buildings, parks or other facilities not owned by the applicant.
- Non-replacement equipment (i.e., lighting fixtures are not being installed where lighting fixtures did not previously exist).
- New construction.
- Purchase of additional buildings.
- Land acquisition.
- Legal costs.

Energy efficient lighting retrofits cannot include projects in building space where the primary purpose of that space is the administration or business of government. Most government buildings including, but not limited to city hall, county administration buildings, police stations, or fire stations, would be ineligible project locations under this program.

Previous energy efficient lighting retrofits for local governments that have been funded competitively under the State of Florida's SEP, SEP-ARRA, and EECBG programs, are not eligible to be further retrofitted under this NOTICE.

Previous applicants with new lighting retrofit projects may apply under this NOTICE.

IX. Cost Sharing (Matching) Requirements

Applicants for this program must provide cost share (match) for a minimum of ten percent (10%) of the total project cost. Total project cost is the combined total of grant and match resources contributed to this project.

Although cost share (match) beyond the required ten percent (10%) is not required for this federal financial assistance funding opportunity, applicants are encouraged to provide additional cost share as this will contribute to an applicant's total application score.

Applicants will be required to submit documentation for the cost sharing. Cost share may either be in the form of cash contribution, donated services, donated equipment or donated property. Cost share used in previous subrecipient awards or in other current subrecipient awards cannot be used for this subrecipient award.

Third party cost share must be supported by a commitment letter, including the commitment amount, to be considered under the cost share percentage criteria. The commitment letter must be on letterhead and signed by an authorized signatory of the third party.

Matching funds will be verified by department staff prior to execution of the grant agreement.

Expenses related to a proposed project incurred prior to the award announcement are NOT eligible as matching funds or in-kind contributions.

Matching funds must be documented by supporting documentation in the same manner as request for cost reimbursement.

Matching funds must be expended in concurrence with grant funds.

X. Funding Source and/or Restrictions

Funding is available for project work initiated and completed during the award period.

Funding is subject to the amount of spending authority allocated by the Florida Legislature.

If funds are not available to award the total amount requested by an applicant due to awards of grants to previously submitted, eligible applications, the department may award partial grants to applicants up to the amount of the fiscal appropriation. The

department shall award grants based on the process laid out under Part XXII of this NOTICE.

The allowability of costs shall be in accordance with the federal financial assistance cost principles applicable to the subrecipient.

Energy efficient lighting retrofits cannot include projects in building space where the primary use of that space is administration or government purposes. Most government buildings including, but not limited to city halls, county administration buildings, police stations, or fire stations, would be ineligible project locations under this program.

In accordance with federal regulations, applicants are prohibited from using financial assistance:

- For gambling establishments, aquariums, zoos, golf courses or swimming pools;
- For any other activities prohibited by federal law.

In accordance with Section 216.347, Florida Statutes, the subrecipient is hereby prohibited from using funds for the purpose of lobbying the Legislature, the judicial branch or a State agency.

XI. Public Records

Article 1, section 24, Florida Constitution, guarantees every person access to all public records, and Section 119.011, Florida Statutes, provides a broad definition of public record. As such, all responses to a federal financial assistance funding opportunity are public records unless exempt by law. Any applicant claiming that its response contains information that is exempt from the public records law shall clearly segregate and mark that information and provide the specific statutory citation for such exemption.

XII. Cost of Preparation

The department is not liable for any costs incurred by the applicant in response to this NOTICE.

XIII. Request Application Packet

The application packet FDACS-02032 (Attachment A); the Supplemental Budget Plan (Attachment B); Conflict of Interest Statement (Attachment C); and the Project Location Detail Sheet (Attachment D) are available online at the Vendor Bid System.

If you are unable to access the internet, a written request for the application packet should be submitted to:

Vianka Colin
Florida Department of Agriculture and Consumer Services
Purchasing Office
407 South Calhoun Street
Mayo Building – Room SB-8
Tallahassee, FL 32399-0800
Telephone: (850) 617-7188
Email: Vianka.Colin@FreshFromFlorida.com

XIV. General Instructions for Application Packet

Applications submitted in response to this NOTICE shall become the property of the department and are subject to public record disclosure pursuant to Florida Law. All proposals received shall remain confidential until agreements are fully executed.

Applicants are prohibited from contacting any and all reviewers selected by the department, during the application review period. Contacting any reviewer will result in disqualification.

Department staff will perform an Eligibility Review on all grant applications. Once an application is deemed eligible, the application will be scored on the evaluation criteria listed in Part XXII of this NOTICE.

Carefully review all materials and prepare the responses accordingly.

The application packet must be complete and provide all the required information by the submission deadline to be considered. Application packets that fail to provide all the required forms and signatures will be considered non-responsive and consequently will be removed from the evaluation process.

Ensure that all attachments reflect the applicant's name and funding opportunity number.

Unless otherwise noted, application packets must be submitted on 8 ½" by 11" plain white paper with 1" margins, using Tahoma 12-point font and one-sided, single-spaced pages. Pages must be consecutively numbered for ease of reading.

In addition to the completed and signed application packet FDACS-02032 (Attachment A), the applicant must also submit the Supplemental Budget Plan (Attachment B); Conflict of Interest Statement (Attachment C); and the Project Location Detail Sheet (Attachment D).

All fields in the application package should be filled out. **If a field does not apply, indicate N/A in the field.**

Pages, including attachments (such as copies of proof of required registrations, signature authority, letters of support, as applicable), should be numbered sequentially.

Pages submitted beyond the page limits will NOT be reviewed. Any content that exceeds the page limits or allocated space for each section of the application will not be reviewed.

An eligible applicant can submit only one application for funding under this program. If multiple applications are submitted by an entity, only the first date/time stamped application will be considered. If multiple applications are submitted in the same package, the entire package will be rejected.

XV. Application Package Components

FDACS forms must be used. Substitute forms will not be reviewed. Do not alter the forms unless the page indicates that it can be modified. Applications that do not include all required pages will be removed from the evaluation process.

A complete application package consists of:

- **Attachment A**, FDACS-02032 Application for Federal Financial Assistance Subaward;
- **Attachment B**, Supplemental Budget Plan;
- **Attachment C**, Conflict to Interested Statement; *and*
- **Attachment D**, Project Information Detail Sheet.

Attachment A, FDACS-02032 Application for Federal Financial Assistance Subaward, includes the following pages:

- Coversheet
- Key Contact
- Project Narrative
- Scope of Work
- Budget Plan Narrative
- Budget Plan
- Key Person/Staff
- Performance Site/Locations
- Assurances
- Lobbying Form
- Debarments, Suspension, Ineligibility
- Certification Statement

XVI. Clarifications/Revisions

Before award, the department reserves the right to seek clarifications or request any information deemed necessary for proper evaluation of submissions from all applicants deemed eligible for the subrecipient agreement. Failure to provide requested information may result in rejection of the application.

XVII. Application Eligibility Review

The department reserves the right to reject any and all applications or waive any minor deficiencies when to do so would be in the best interest of the State of Florida, and to reject the proposal of an applicant whom the department determines is not in a position to perform the scope of work. Minor deficiencies are those which will not have a significant or adverse effect on overall completion or performance.

Minor Application Deficiencies

Application minor deficiencies include:

1. The application did not include a signed Conflict of Interest Form, and if applicable, support letters or signature delegation authority.
2. Department staff was unable to confirm match commitment through documentation provided in the application.

Applications with minor deficiencies will be notified, in writing, and provided 10 business days from receipt of the deficiency letter to correct minor deficiencies and resubmit their corrected application. Department staff must receive corrected application packages by 5:00 p.m. Eastern Time on the 10th business day from the date that the applicant received their deficiency letter. The deficiency letter will be sent using United States Post Office certified mail, and the date of receipt will be based on the date of the certified mail receipt.

Failure to rectify the deficiencies within the allotted time will result in the rejection of the application.

An initial review of all applications will be completed and applications failing to submit all required information will be removed from consideration.

Eligibility Review

All applications will be reviewed for eligibility. Applications will be deemed ineligible for the following reasons:

- a. The applicant is not eligible. Eligible applicants for this program include:
 1. Florida municipalities with a population of up to 50,000; and
 2. Florida counties with a population of up to 200,000.
- b. The applicant did not use Application form FDACS-02032 (rev. 06/16);

- c. Any fields in the Application form FDACS-02032 (rev. 06/16), are incomplete;
- d. The applicant did not sign;
- e. The applicant did not meet the criteria set forth in Part XXI-XXIV of this NOTICE;
- f. The applicant's application was not received by the department by the date and time specified in this NOTICE.
- g. The department has a pending civil or administrative action against the applicant;
- h. The applicant has entered into a consent order with department, unless the applicant has satisfied all requirements for corrective actions and has paid all costs, civil penalties, damages, and other financial assessments required by the consent order;
- i. The application did not obtain the minimum score of 75 out of a possible 140.
- j. The applicant submitted more than one application in the same package.
- k. The applicant did not meet the minimum cost share requirement in the application.

If department staff determines that an application is ineligible, it will be removed from further consideration. Determination of eligibility is at the sole discretion of department staff. An application that includes several activities, some of which are determined ineligible, may be considered after the ineligible activities are removed. The application will be evaluated based on the remaining eligible activities. The department reserves the right to waive minor deficiencies in applications submitted.

XVIII. DUNS

Applicants are required to provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number on the application.

XIX. System for Award Management (SAM) Registration

The applicant must be registered in the System of Award Management (SAM) <https://www.sam.gov>. The applicant will be required to maintain a registration for the duration of the award.

XX. Late Applications

Applications received by the department after the application submission deadline will be rejected as untimely and will be returned to the applicant.

XXI. Evaluation Criteria

An initial review of all applications will be completed and applications failing to submit all required information will be removed from consideration.

Each complete application will be evaluated and scored based on the criteria listed below. The maximum point values for individual criteria are listed behind each item. For each item, an evaluator may award any whole number value between zero and the maximum point value for that item.

Project Narrative: Up to 50 points will be awarded based upon the extent to which the project narrative demonstrates a clear understanding of the grant purpose and the expected project outcomes. The applicant's project narrative score will be based upon the following criteria:

- Does the applicant provide a statement as to the need for the federal financial assistance? (5 pts)
- Does the application describe how the applicant meets the eligibility requirements, including status as a local government and verifiable population data? (5 pts)
- Does the applicant identify each project location listed in the Performance Site / Locations section of the FDACS-02032, including the facility name and physical address? (5 pts)
- Does the applicant describe the use of the facility, how each project location is accessible to the public, its hours of operation, how often the location is used, and who typically uses it? (5 pts)
- Does the applicant describe the existing lighting type and usage at each proposed project location? (5 pts)
- Does the applicant describe what energy efficient lighting retrofits are being proposed for each project location, and why? (5 pts)
- Does the applicant tie the need for assistance to the purpose of the grant? (5 pts)
- Are the expected project outcomes related to the purpose of the grant? (5 pts)
- Does the applicant provide details as to the implementation strategies? (5 pts)
- Does the applicant provide a timeline which coincides with the award period? (5 pts)

Scope of Work: Up to 25 points will be awarded based upon the goals, measurable objectives and activities presented in the scope of work. The application must include a clear and complete plan for the project. The applicant's scope of work score will be based upon the following criteria:

- Does the applicant describe specific project objectives, tasks and deliverables? (5 pts)
- Do the objectives and tasks relate to the project narrative? (5 pts)
- Is the timeline for each task reasonable? (5 pts)
- Does the applicant indicate who is responsible for completing each task? (5 pts)
- Is the scope of work feasible for completion during the award period? (5 pts)

Budget Narrative: Up to 15 points will be awarded based upon the relationship between the scope of work and the itemized budget narrative. The application must

demonstrate the need and reasonableness of the projected costs. The applicant's budget narrative score will be based upon the following criteria:

- Did the applicant provide an itemized budget narrative? (3 pts)
- Does the budget narrative relate to the details in the scope of work? (3 pts)
- Did the applicant identify and itemize the respective amounts of grant funds and cost share (matching funds) for each task and project location, as applicable? (3 pts)
- Does the budget narrative indicate a basis for how budget line item amounts were estimated? (3 pts)
- Is the budget realistic? Is each itemized budget line reasonable and necessary? (3 pts)

Project Team: Up to 10 points will be awarded based upon the staff qualifications and capacity of the applicant. The application must include the background and qualifications of key personnel to carry out the proposed project plan. The application should demonstrate the adequacy of the applicant to support the project – facilities, equipment, supplies, etc. The applicant's project team score will be based upon the following criteria:

- Did the applicant include the background and qualifications of key personnel? (2 pts)
- Did the applicant address the ability and experience of the applicant (entity) and the project team to manage state/federal funds? (2 pts)
- Does it appear the applicant and project team have sufficient ability and experience to manage projects such as the one proposed in the application? (2 pts)
- Does the application list adequate equipment, supplies and other resources to complete the project on time? (2 pts)
- Does the applicant indicate the project is ready to implement quickly? (2 pts)

Energy Efficiency Potential: Up to 15 points will be awarded based upon the anticipated benefit of this project will result in energy cost savings and reduced energy consumption. The applicant should include information on the potential energy reduction of the proposed plan based upon current annual energy usage and potential energy usage over the period of the first year following energy efficiency measures.

- Did the applicant provide data for each proposed project location showing the energy usage for each proposed project location? (5 pts)
- Did the applicant discuss anticipated energy savings for each location? (5 pts)
- Did the applicant describe how the anticipated energy savings were determined? (5 pts)

Demonstration of Need: Up to 15 points will be awarded based upon the degree to which the need for the building or outdoor lighting project is demonstrated, considering the age and type of the lighting to be upgraded, whether any prior energy efficiency measures have been conducted at the proposed site and how long ago. If an energy audit was conducted, does this activity appear on the energy audit report for this location?

- The applicant demonstrates awareness of previously completed, similarly situated projects and the energy savings resulting from such projects. (5 pts)

- The applicant discusses the likelihood for the proposed project activities being able to pay for themselves in energy savings within the next five years. (5 pts)
- To what extent has the need or recommendation for the proposed project activities been documented in an energy audit (preferred) or from other sources, where the grantee has cited the recommending source and the source's qualifications. (5 pts)

Matching Funds: The department wants to encourage applicants to use other sources of funding (i.e. matching funds) in combination with SEP funding. Up to 10 points will be awarded based upon the following scoring scale for Matching Funds as a percentage of Total Project Cost: The application must demonstrate the need and reasonableness of the projected costs. The applicant's matching funds score will be based upon the following criteria:

- 1 point = 10% of the Total Project Cost.
- 2 points = Greater than 10% up to and including 20% of the Total Project Cost.
- 3 points = Greater than 20% up to and including 30% of the Total Project Cost.
- 4 points = Greater than 30% up to and including 40% of the Total Project Cost.
- 5 points = Greater than 40% up to and including 50% of the Total Project Cost.
- 6 points = Greater than 50% up to and including 60% of the Total Project Cost.
- 7 points = Greater than 60% up to and including 70% of the Total Project Cost.
- 8 points = Greater than 70% up to and including 80% of the Total Project Cost.
- 9 points = Greater than 80% up to and including 90% of Total Project Cost.
- 10 points = Greater than 90% of Total Project Cost.

Total Points possible: **140**

Minimum score to be considered for funding: **75**

Each reviewer's scores shall be totaled and the total score for all reviewers shall be divided by the number of reviewers. The highest averaged scored application shall be ranked number one, the second highest averaged scored application shall be ranked number two, and so on, until all eligible applications are ranked.

In the instance of a ranking tie between two or more applications, the application proposing the higher percentage of matching funds shall be ranked higher. In the instance of a ranking tie between two or more applications, and those applications propose the same percentage of match, the application submitted earlier in date shall be ranked higher.

The final list for funding will be approved by the Director of the Florida Department of Agriculture and Consumer Services, Office of Energy and posted on the department's webpage. The department reserves the right to recommend partial funding of applications.

XXII. Evaluator(s)

The department's evaluators will consist of three individuals who the department determines have experience and knowledge in the program areas. The evaluators will conduct a fair, impartial and comprehensive evaluation of applications received in response to this NOTICE.

Each complete, eligible proposal will be scored by department evaluators and staff, utilizing whole numbers only, using the following point structure. Applications not receiving the minimum score of **75** out of **140** will NOT be eligible for funding, even if unobligated funds remain.

XXIII. Anticipated Announcement and Award Dates

The evaluation and selection process is expected to be no longer than 45 days after the submission deadline. The announcement of the awards will be within 50 days after the submission deadline.

XXIV. Award Notice

Upon the completion of the department's evaluation of applications, all applicants will be notified regarding their status.

The department reserves the right to negotiate and/or adjust the final award amount and scope of work prior to award.

Department staff shall conduct site visits prior to awards which could affect the timeline for execution of the Subrecipient (Grant) Agreements.

The successful applicants will have thirty (30) days to fully execute the Subrecipient Agreement. Failure by the subrecipient to sign and return the Subrecipient Agreement, within 30 days upon receipt of the agreement, shall constitute forfeiture of the award.

Although it is the intent of the department to expedite the subrecipient grant award process as much as possible, applicants should be aware that execution of a Subrecipient Agreement could be delayed due to the departmental review. Projects should be scheduled accordingly. No costs to be charged against the subrecipient award or counted as match can be incurred before the Subrecipient Agreement is executed.

XXV. Programmatic, Administrative and National Policy Requirements

The applicant shall be in compliance with all laws, rules and regulations applicable to the federal funds provided by the federal financial assistance funding opportunity.

The applicant shall maintain an accounting system and a set of accounting records which allow for the identification of revenues and expenditures related to this funding opportunity.

Tracking and reporting of grant funding must be separate from other applicant funds to meet state and federal reporting requirements. The terms and conditions of the funding award agreement will specify the format, tools, and information required for reporting programmatic and energy metrics as specified by the state government.

The department may request additional reporting information for one year after the project work is completed.

Recipients should review the Department of Financial Services, *Reference Guide to State Expenditures* and, as applicable, Chapter 287, Florida Statutes, and 2 CFR 200 (as applicable).

Pursuant to Executive Order 96-236, effective October 1, 1996, the following standard provision shall apply to any contract awarded as a result of this NOTICE:

The employment of unauthorized aliens by any contractor is considered a violation of section 274A(e) of the Immigration and Nationality Act. If the contractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of the contract.

All projects receiving funding from the USDOE through the SEP program must comply with the National Environmental Policy Act (NEPA) of 1969 – 42 U.S.C. Section 4321 et seq. Therefore, only projects and activities that USDOE has determined will be excluded from NEPA review through a Categorical Exclusion (CE or sometimes CX) will be deemed eligible projects by the department under this solicitation. Categorical Exclusion means a category of actions for which neither an Environmental Assessment (EA) nor an Environmental Impact Statement (EIS) is normally required.

For a copy of the current Subrecipient (Grant) Agreement template, please go to: <http://www.FreshFromFlorida.com/offices/energy/>.

PLEASE NOTE THAT THIS GRANT AGREEMENT TEMPLATE IS SUBJECT TO CHANGE BY DEPARTMENT DETERMINATION WITHOUT NOTICE.

XXVI. Acknowledgment of Funding

The subrecipient shall have an acknowledgement of the U.S Department of Energy support placed on any publication written or published or audiovisual produced with grant support and, if feasible, on any publication reporting the results of, or describing, a grant-supported activity, or audiovisuals produced with grant support. This requirement does not apply to audiovisuals produced as research instruments or for documenting experimentations or findings and not intended for presentation or distribution to the public.

XXVII. Performance Report

All grant recipients will be required to submit monthly progress reports, annual program reports (if the project period exceeds one year), and a final report to the department as specified in funding award Grant Agreement using the format and content shown on the department's performance progress report. The performance progress report is downloadable: Subrecipient Quarterly Performance Progress Report (FDACS 02018). A modified form may be provided to the subrecipient to allow for monthly reporting.

Failure to submit a required report or submission of an unsatisfactory report is sufficient grounds for termination of the grant agreement.

XXVIII. Reimbursement Requests

The department shall pay the recipient on a cost reimbursement basis, not to exceed the awarded amount.

The department will not reimburse costs incurred prior to execution of the Grant Agreement.

Grantees must first expend the funds and then submit source documentation to the department for reimbursement from grant funds. The department will issue payment(s) upon acceptance and approval of required reports, services and invoices by the assigned Department Grant Manager in compliance with applicable Florida Statutes, Florida Department of Financial Services rules and/or U.S. government requirements, subject to limitations described in this NOTICE document. Please keep these cost reimbursement requirements in mind when planning cash-flow needs for your proposed project.

All reimbursement requests must be submitted using the department's standard payment request packet, unless otherwise noted in the special conditions of the subrecipient agreement, and provide supporting documentation for each cost. The subrecipient shall submit the payment request packet to the recipient's grant manager

not more often than monthly, but not less often than quarterly. To be eligible for reimbursement, costs shall be allowable, necessary and reasonable, and must be submitted by budget category consistent with the budget plan submitted with applicant's application. The payment request packet is downloadable: Subrecipient Payment Request Form (FDACS 02019).

Bills for any authorized travel expenses shall be submitted and paid in accordance with the rates specified in Section 112.061, Florida Statutes, governing payments by the State for travel expenses. Any travel expenses must be specified in the budget plan and scope of work.

The FDACS agreement with the federal agency is a cost reimbursement format; therefore, no advance payments will be provided.

Any work performed on the project and/or any expenditure made prior to a fully executed subrecipient agreement and written authorization from the department is ineligible for reimbursement.

XXIX. Disclaimer

The receipt of applications in response to NOTICE does not imply or guarantee that any one or all qualified applications will result in a subrecipient agreement with the department.

The department is the only entity who can award Florida Small Community Energy Efficient Lighting grants under this program or commit the State of Florida to the expenditure of public funds appropriated for these grants. A commitment by any entity other than the department, either explicit or implied, is invalid. The commitment of State funds is contingent upon budget authority from the State Legislature.

XXX. Questions

Applicants shall address all programmatic questions regarding this NOTICE to the FDACS OOE Compliance Administrator. All questions submitted shall be published and answered in a manner that all applicants will be able to view. Each applicant is responsible for monitoring the grant website for new or changing information.

Questions concerning the technical aspects of the proposal shall be directed to:

Gail Stafford, Compliance Administrator
FDACS, Office of Energy
ATTN: Florida Small Community Energy Efficient Lighting Grant Program
600 South Calhoun Street, Ste B-04

Tallahassee, FL 32399-0001
Telephone: (850) 617-7470
FAX: (850) 617-7471
Email: Energy@FreshFromFlorida.com

Questions regarding procedures for submittal of proposals should be submitted to:

Vianka Colin
Florida Department of Agriculture and Consumer Services
Purchasing Office
407 South Calhoun Street
Mayo Building – Room SB-8
Tallahassee, FL 32399-0800
Telephone: (850) 617-7188
Email: Vianka.Colin@FreshFromFlorida.com

Any appeals related to a department decision pursuant to this grant program shall be in accordance with Chapter 120, Florida Statutes.

The Florida Department of Agriculture and Consumer Services offers its programs to all eligible persons regardless of race, color, national origin, religion, gender, age, disability, marital or veteran status, or any other legally protected status.



ADAM H. PUTNAM
COMMISSIONER

Florida Department of Agriculture and Consumer Services
Division of Administration

APPLICATION FOR FEDERAL FINANCIAL ASSISTANCE SUBAWARD

2 CFR 200

Instructions for Application Packet - Coversheet

*Each field of the coversheet must be completed.

*If a field does not apply, indicate N/A in the field.

1. Federal Financial Assistance Funding Opportunity Number - Record the number shown on the Notice of Funding Opportunity.
2. Amount of funds requested for this project - List the total amount of funds required to complete the scope of work.
3. Subrecipient Legal Name - Record the legal name of applicant that will undertake the scope of work. The name must match the name listed in SAM.
4. Subrecipient FEIN - Record the employer or taxpayer identification number as assigned by the Internal Revenue Service.
5. Subrecipient DUNS Number - Record the applicant's DUNS number received from Dun and Bradstreet Data Universal Numbering System (DUNS).
6. Subrecipient Registered in SAM - All applicants must be registered in the System of Award Management (SAM) to obtain federal financial assistance. Individuals are not required to register in SAM.
7. Street Address - Record the street address as recognized by the U.S. Postal Service. Do not record a P.O. Box.
8. City - Record the city.
9. State - Record the state.
10. Zip Code plus 4 - Record the nine-digit U.S. Postal Code.
11. Mailing address (if different from above) - Record a different mailing address.
12. Phone Number - Record a 10 digit (xxx-xxx-xxxx) daytime phone number.
13. Fax Number - Record a 10 digit (xxx-xxx-xxxx) fax number.
14. Is the subrecipient delinquent on any federal debt? Record yes or no. The question applies to the applicant. Categories of federal debt include, but are not limited to, delinquent loans, tax, and audit disallowances. If yes, provide an explanation.
15. Cost Sharing (Match) - Record the value of cost share to be provided.
16. Congressional District - Record the applicant's congressional district.
17. Name and contact information for matters involving this application.
18. Subrecipient Type - Circle the type of subrecipient.
19. Descriptive title of Subrecipient Project - Record a brief descriptive title of the project.
20. Funding Period - Enter the dates, within the award period, as to when the project will begin and finish.
21. Location of Proposed Program/Project - Record the physical address of where the scope of work will be completed.
22. Total # of full-time employees - Record the number of full-time employees. A full-time employee works 40 hours per week.
23. Total # of part-time employees - Record the number of part-time employees. A part-time employee works less than 40 hours per week.
24. Is your organization a 501(c)(3) tax exempt organization? Record yes or no.
25. Has your organization previously received federal financial assistance from FDACS? Record yes or no. Please answer yes if the funding has been received within the last three years.
26. The application must be signed and dated by an authorized representative of the applicant organization.



ADAM H. PUTNAM
COMMISSIONER

Florida Department of Agriculture and Consumer Services
Division of Administration

APPLICATION FOR FEDERAL FINANCIAL ASSISTANCE SUBAWARD

2 CFR 200

1. Federal Financial Assistance Funding Opportunity Number:		2. Amount of funds requested for this project:	
3. Subrecipient Legal Name:			
4. Subrecipient FEIN:		5. Subrecipient DUNS Number:	
6. Subrecipient Registered in SAM :			
7. Street Address:			
8. City:		9. State:	
10. Zip Code plus 4:			
11. Mailing address (If different from above):			
12. Phone Number:		13. Fax Number:	
14. Is the subrecipient delinquent on any federal debt?		15. Costing Sharing (Match):	
16. Congressional District:			
17. Name and contact information of person to be contacted on matters involving this application:			
Name:			
Phone Number:		Email:	
18. Subrecipient Type: (Circle one) Indian Tribal Government Individual Institution of Higher Education Local Government Non-Profit Organization State Government Other			
19. Descriptive Title of Subrecipient Project:			
20. Funding Period:		21. Location of Proposed Program/ Project:	
Start Date		End Date	
22. Total # of full-time employees:		23. Total # of part-time employees:	
24. Is your organization a 501(c)(3) tax exempt organization?			
25. Has your organization previously received federal financial assistance from FDACS?			
26. By signing this application, I certify that the statements herein are true, complete and accurate to the best of my knowledge. I have also provided the required attachments and assurances. I agree to comply with all terms and conditions if I accept an award.			
Authorized Representative Name:		Title:	
Phone Number:		Email:	
Signature of Authorized Representative:			Date Signed:



ADAM H. PUTNAM
COMMISSIONER

Florida Department of Agriculture and Consumer Services
Division of Administration

KEY CONTACT FORM

2 CFR 200

Instructions for Application Packet - Key Contact Form

*Each field of the key contact form must be completed.

*If a field does not apply, indicate N/A in the field.

1. Federal Financial Assistance Funding Opportunity Number - Record the number shown on the Notice of Funding Opportunity.
2. Subrecipient FEIN - Record the employer or taxpayer identification number as assigned by the Internal Revenue Service.
3. Subrecipient Legal Name - Record the legal name of applicant that will undertake the scope of work. The name must match the name listed in SAM.
4. Contact Project Role: Authorized Representative - Record requested information.
5. Contact Project Role: Grant Manager - Record requested information.
6. Contact Project Role: Fiscal Contact - Record requested information.
7. Contact Project Role: Principal Investigator - Record requested information.



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Florida Department of Agriculture and Consumer Services
Division of Administration

KEY CONTACT FORM

2 CFR 200

Federal Financial Assistance Funding Opportunity Number:		Subrecipient FEIN:	
Subrecipient Legal Name:			
Contact Project Role: Authorized Representative			
Name:			
Title:		Phone Number:	Fax Number:
Street Address:			
City:	State:	Zip Code plus 4:	
Mailing address (If different from above):			
Contact Project Role: Grant Manager			
Name:			
Title:		Phone Number:	Fax Number:
Street Address:			
City:	State:	Zip Code plus 4:	
Mailing address (If different from above):			
Contact Project Role: Fiscal Contact			
Name:			
Title:		Phone Number:	Fax Number:
Street Address:			
City:	State:	Zip Code plus 4:	
Mailing address (If different from above):			

Contact Project Role: Principal Investigator		
Name:		
Title:	Phone Number:	Fax Number:
Street Address:		
City:	State:	Zip Code plus 4:
Mailing address (If different from above):		



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Florida Department of Agriculture and Consumer Services
Division of Administration

PROJECT NARRATIVE

2 CFR 200

Instructions for Application Packet - Project Narrative

1. Federal Financial Assistance Funding Opportunity Number - Record the number shown on the Notice of Funding Opportunity.
2. Amount of funds requested for this project - List the total amount of funds required to complete the scope of work.
3. Subrecipient Legal Name - Record the legal name of applicant that will undertake the scope of work. The name must match the name listed in SAM. **Please note section XII Public Records in the Notice of Federal Financial Assistance Funding Opportunity before including any proprietary or confidential information.**
4. The header section of each page of the project narrative must have the funding opportunity number, subrecipient federal identification number and subrecipient legal name.
5. The project narrative must not exceed (insert #) 8 ½" by 11" single sided pages. Additional pages beyond the page limitation will not be considered.
6. The project narrative must include, but is not limited to:
 - A statement of need for the federal financial assistance and how the project will address the need.
 - A description of the expected project outcomes. The measurable objectives and specific targets of the expected project outcomes should be specified.
 - A plan of action to achieve the projected outcomes and how the plan of action will be accomplished.
 - A timeline of activities or implementation schedule.
 - Collaboration details, if any.
 - Information on key personnel including their background and experience with the project objectives. An indication of the amount of effort the key personnel will provide to the project.
 - Precise location of the project or the area to be served/benefited by the project.
 - A statement of whether this project relates to any other project, current or anticipated.



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Florida Department of Agriculture and Consumer Services
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PROJECT NARRATIVE

2 CFR 200

1. Federal Financial Assistance Funding Opportunity Number:	2. Amount of funds requested for this project:
3. Subrecipient Legal Name:	
Please note section XII Public Records in the Notice of Federal Financial Assistance Funding Opportunity before including any proprietary or confidential information.	
Project Narrative:	



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Florida Department of Agriculture and Consumer Services
Division of Administration

SCOPE OF WORK

2 CFR 200

Instructions for Application Packet - Scope of Work

1. Federal Financial Assistance Funding Opportunity Number - Record the number shown on the Notice of Funding Opportunity.
2. Subrecipient FEIN - Record the employer or taxpayer identification number as assigned by the Internal Revenue Service.
3. Subrecipient Legal Name - Record the legal name of applicant that will undertake the scope of work. The name must match the name listed in SAM. **Please note section XII Public Records in the Notice of Federal Financial Assistance Funding Opportunity before including any proprietary or confidential information.**
4. The header section of each page of the scope of work must have the funding opportunity number, subrecipient federal identification number and subrecipient legal name.
5. The scope of work must not exceed (insert #) 8 ½" by 11" single sided pages. Additional pages beyond the page limitation will not be considered.
6. The scope of work must include, but is not limited to:
 - Describe in detail the activity or work to be conducted. Include project location information.
 - Describe specific project objectives, tasks, and deliverables and related timelines for each. Include who will perform the tasks.
 - Objectives and tasks should relate to the project narrative.
 - Discuss how the scope of work is feasible and can be completed within the award period.
 - Provide quantifiable, measureable and verifiable units of deliverables.
 - Deliverables must be directly related to the scope of work.



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Florida Department of Agriculture and Consumer Services
Division of Administration

SCOPE OF WORK

2 CFR 200

1. Federal Financial Assistance Funding Opportunity Number:	2.Subrecipient FEIN:
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3. Subrecipient Legal Name:

Please note section XII Public Records in the Notice of Federal Financial Assistance Funding Opportunity before including any proprietary or confidential information.

Performance Measures					
Deliverable #	Tasks	Task Description	Indicator	Costs per Unit	Outcome Measures

Describe in detail the activity or work to be conducted.



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Florida Department of Agriculture and Consumer Services
Division of Administration

BUDGET PLAN NARRATIVE
2 CFR 200

Instructions for Application Packet - Budget Plan Narrative

1. Federal Financial Assistance Funding Opportunity Number - Record the number shown on the Notice of Funding Opportunity.
2. Subrecipient FEIN - Record the employer or taxpayer identification number as assigned by the Internal Revenue Service.
3. Subrecipient Legal Name - Record the legal name of applicant that will undertake the scope of work. The name must match the name listed in SAM. **Please note section XII Public Records in the Notice of Federal Financial Assistance Funding Opportunity before including any proprietary or confidential information.**
4. The header section of each page of the budget plan narrative must have the funding opportunity number, subrecipient federal identification number and subrecipient legal name.
5. The budget plan narrative must not exceed (insert #) 8 ½" by 11" single sided pages. Additional pages beyond the page limitation will not be considered.
6. Describe line items for each applicable budget category shown on the budget plan. Provide sufficient detail to clearly indicate the estimated funding amounts for each project task contained in the scope of work.
7. Project costs will be evaluated for reasonableness and necessity. Any travel costs must be in compliance with the State of Florida travel rules.
8. Indirect costs are at the rate approved by the applicant's cognizant agency. A copy of the approved rate must be attached to the application. If the applicant has never received a negotiated indirect cost, provide a statement indicating the applicant is electing to charge a de minimis rate of 10% of modified total direct costs.



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Florida Department of Agriculture and Consumer Services
Division of Administration

BUDGET PLAN NARRATIVE

2 CFR 200

Federal Financial Assistance Funding Opportunity Number:		Subrecipient FEIN:
Subrecipient Legal Name:		
Direct Costs		
Personnel Costs		
	Example	
	Example	
Fringe Benefits		
Travel (if authorized)		
Equipment (if authorized)		
Supplies		
Contractual (if authorized)		
Other Expenses		
Indirect Costs		
Indirect Charges		



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Florida Department of Agriculture and Consumer Services
Division of Administration

BUDGET PLAN

2 CFR 200

Instructions for Application Packet - Budget Plan

1. Federal Financial Assistance Funding Opportunity Number - Record the number shown on the Notice of Funding Opportunity.
2. Subrecipient FEIN - Record the employer or taxpayer identification number as assigned by the Internal Revenue Service.
3. Subrecipient Legal Name - Record the legal name of applicant that will undertake the scope of work. The name must match the name listed in SAM.

The header section of the budget plan must have the funding opportunity number, subrecipient federal identification number and subrecipient legal name.

The applicant shall submit a budget plan for its projected costs to implement the scope of work submitted with the application. The budget plan shall provide the estimated costs by category in order to carry out the scope of work.



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Florida Department of Agriculture and Consumer Services
Division of Administration

BUDGET PLAN

2 CFR 200

Federal Financial Assistance Funding Opportunity Number:				Subrecipient FEIN:	
Subrecipient Legal Name:					
Category	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total Estimated Budget
Personnel					
Fringe Benefits					
Travel (if authorized)					
Equipment (if authorized)					
Supplies					
Contractual (if authorized)					
Other Expenses					
Total Direct Charges					
Indirect Charges					
Total Amount					



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Florida Department of Agriculture and Consumer Services
Division of Administration

KEY PERSON / STAFF

2 CFR 200

Instructions for Application Packet - Key Person / Staff

1. Federal Financial Assistance Funding Opportunity Number - Record the number shown on the Notice of Funding Opportunity.
2. Subrecipient FEIN - Record the employer or taxpayer identification number as assigned by the Internal Revenue Service.
3. Subrecipient Legal Name - Record the legal name of applicant that will undertake the scope of work. The name must match the name listed in SAM.

The header section of the key person/staff must have the funding opportunity number, subrecipient federal identification number and subrecipient legal name.

Each application must include descriptions of key personnel and their qualifications to meet the requirements of the notice of funding opportunity. An individual form will be completed for each key person/staff member. Include an estimate of the number or hours or percentage of time devoted to the project.

Key personnel are individuals who contribute in a substantive and meaningful way to the execution or development of the project. Reimbursement of salary costs are not required for an individual to be considered key personnel. Consultants or contract employees may be included if they meet the definition.



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Florida Department of Agriculture and Consumer Services
Division of Administration

KEY PERSON / STAFF

2 CFR 200

An individual form must be completed for each key person/staff member. Include an estimate of the number of hours or percentage of time devoted to the project.

Federal Financial Assistance Funding Opportunity Number:	Subrecipient FEIN:
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Subrecipient Legal Name:

Person Name:	Title:	Hours or % of time devoted to the project:
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Phone Number:	Email Address:	
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Qualifications:



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Florida Department of Agriculture and Consumer Services
Division of Administration

PERFORMANCE SITE / LOCATIONS

2 CFR 200

Instructions for Application Packet - Performance Site / Locations

1. Federal Financial Assistance Funding Opportunity Number - Record the number shown on the Notice of Funding Opportunity.
2. Subrecipient FEIN - Record the employer or taxpayer identification number as assigned by the Internal Revenue Service.
3. Subrecipient Legal Name - Record the legal name of applicant that will undertake the scope of work. The name must match the name listed in SAM.

Each application must include a list of site(s)/location(s) where the work will be performed.

The reimbursement of facilities cost will only be allowable for site(s)/location(s) listed on the form. The allocation of facilities cost must be based upon the square footage used by the project activities.



ADAM H. PUTNAM
COMMISSIONER

Florida Department of Agriculture and Consumer Services
Division of Administration

PERFORMANCE SITE / LOCATIONS

2 CFR 200

Federal Financial Assistance Funding Opportunity Number:		Subrecipient FEIN:	
Subrecipient Legal Name:			
I am submitting an application as an individual, and not on behalf of a company, state, local, or tribal government, academia, or other type of organization.			Check Box
Project/Performance Site Primary Location			
Street Address:			
City:		State:	Zip Code plus 4:
Mailing address (If different from above):			
Phone Number:	Fax Number:	County:	Project/Performance Site Congressional District:
Project/Performance Site Location 1			
Street Address:			
City:		State:	Zip Code plus 4:
Mailing address (If different from above):			
Phone Number:	Fax Number:	County:	Project/Performance Site Congressional District:
Project/Performance Site Location 2			
Street Address:			
City:		State:	Zip Code plus 4:
Mailing address (If different from above):			
Phone Number:	Fax Number:	County:	Project/Performance Site Congressional District:
Project/Performance Site Location 3			
Street Address:			
City:		State:	Zip Code plus 4:

Mailing address (If different from above):			
Phone Number:	Fax Number:	County:	Project/Performance Site Congressional District:
Project/Performance Site Location 4			
Street Address:			
City:	State:	Zip Code plus 4:	
Mailing address (If different from above):			
Phone Number:	Fax Number:	County:	Project/Performance Site Congressional District:
Project/Performance Site Location 5			
Street Address:			
City:	State:	Zip Code plus 4:	
Mailing address (If different from above):			
Phone Number:	Fax Number:	County:	Project/Performance Site Congressional District:
Project/Performance Site Location 6			
Street Address:			
City:	State:	Zip Code plus 4:	
Mailing address (If different from above):			
Phone Number:	Fax Number:	County:	Project/Performance Site Congressional District:
Project/Performance Site Location 7			
Street Address:			
City:	State:	Zip Code plus 4:	
Mailing address (If different from above):			
Phone Number:	Fax Number:	County:	Project/Performance Site Congressional District:



ADAM H. PUTNAM
COMMISSIONER

Florida Department of Agriculture and Consumer Services
Bureau of Finance and Accounting

**FEDERAL ASSURANCE FOR FEDERAL FINANCIAL
ASSISTANCE SUBRECIPIENT AWARD**

CFR 200

Federal Financial Assistance Funding Opportunity Number:
Subrecipient Legal Name:
Subrecipient FEIN:
As the duly authorized representative of the Subrecipient, I certify that to the extent applicable, the Subrecipient:
1. Has the legal authority to apply for federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the Recipient, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the subrecipient award; and will establish a proper accounting system in accordance with generally accepted accounting principles or Recipient directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frames after receipt of approval of the Recipient.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681- 1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee- 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and 2 CFR, Part 200 Uniform Administrative Requirements, Costs Principles and Audit Requirements for Federal Awards, Subpart F Audit Requirements.
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

19. Will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. 7104) which prohibits grant award recipients or a subrecipient from (1) Engaging in severe forms of trafficking in persons during the period of time that the award is in effect, (2) Procuring a commercial sex act during the period of time that the award is in effect or, (3) Using forced labor in the performance of the award or subawards under the award.	
20. Will comply with and enforce the requirements for a drug-free workplace as mandated in 2 CFR Part 421, "Requirements for Drug-Free Workplace".	
21. Will comply with 2 CFR 417, Subpart C to ensure that any vendor or subcontractor that carries out the provisions of this agreement are not debarred or suspended.	
22. Will comply with the Executive Order 13513 entitled "Federal Leadership on Reducing Text Messaging While Driving" by prohibiting employees, contractors, and subcontractors from texting while driving on official business and or in federally owned, rented or leased vehicles or privately owned vehicles when on official government business or when performing any work for or on behalf of or in cooperation with the federal government.	
Authorized Representative Name:	Title:
Signature of Authorized Representative:	Date Signed:
Applicant Organization:	



ADAM H. PUTNAM
COMMISSIONER

Florida Department of Agriculture and Consumer Services
Division of Administration

CERTIFICATION REGARDING LOBBYING

2 CFR 200

Federal Financial Assistance Funding Opportunity Number:

Subrecipient Legal Name:

Subrecipient FEIN:

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities" in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

4. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty or not less than \$10,000 and not more than \$100,000 for each such failure.

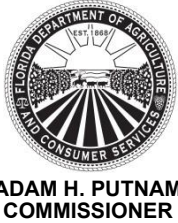
Authorized Representative Name:

Title:

Signature of Authorized Representative:

Date Signed:

Applicant Organization:



ADAM H. PUTNAM
COMMISSIONER

Florida Department of Agriculture and Consumer Services
Division of Administration

**CERTIFICATION REGARDING DEBARMENTS, SUSPENSION,
INELIGIBILITY AND VOLUNTARY EXCLUSION - LOWER TIER
FEDERALLY FUNDED TRANSACTIONS**

2 CFR 200

Federal Financial Assistance Funding Opportunity Number:

Subrecipient Legal Name:

Subrecipient FEIN:

This certification is pursuant to Executive Order 12549, Debarment and Suspension and implemented at 2 CFR parts 180 and 1880.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certifications set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification. In addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", "proposal", and "voluntarily excluded", as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

<p>8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.</p>	
<p>9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participating in this transactions, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.</p>	
<p>Certification</p>	
<p>1. The prospective lower tier participant certifies to the best of its knowledge and belief, that it and its principals;</p>	
<p style="padding-left: 20px;">a. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency.</p>	
<p style="padding-left: 20px;">b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;</p>	
<p style="padding-left: 20px;">c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and</p>	
<p style="padding-left: 20px;">d. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.</p>	
<p>2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective lower tier participant shall attach an explanation to this proposal.</p>	
<p>Authorized Representative Name:</p>	<p>Title:</p>
<p>Signature of Authorized Representative:</p>	<p>Date Signed:</p>
<p>Applicant Organization:</p>	



ADAM H. PUTNAM
COMMISSIONER

Florida Department of Agriculture and Consumer Services
Division of Administration

CERTIFICATION STATEMENT

2 CFR 200

Federal Financial Assistance Funding Opportunity Number:	
Subrecipient Legal Name:	
Subrecipient FEIN:	
By signing this page, the undersigned certifies that:	
A. This application is in all respects fair and submitted in good faith, without collusion or fraud;	
B. If selected through this application process, the subrecipient will work in good faith and in partnership with the Florida Department of Agriculture and Consumer Services to manage its subrecipient agreement in a timely and accurate manner;	
C. Any funds awarded as a result of this application process will not be used to supplant or replace any state or local funds;	
D. Any funds awarded as a result of this application process will not be used as matching funds to apply for or receive other federal funds;	
E. No federal funds will be used as match for funds awarded as a result of this application process.	
F. The undersigned has full authority to bind the applicant.	
Authorized Representative Name:	Title:
Signature of Authorized Representative:	Date Signed:
Applicant Organization:	



FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

ATTACHMENT B

GRANT APPLICATION SUPPLEMENTAL PROJECT BUDGET DETAIL

A. BUDGET SUMMARY:

Summarize the Total Project Cost by budget (including both requested grant funds and match/leveraged funds) by Budget Category and round each Budget Category subtotal to the nearest whole dollar value. Use the format in the following table.

Budget Category	Grant Funds	Cost Share: Matching Funds and Other In-Kind Contributions	
		Funding	Source of Funds
1. Salaries			
2. Fringe Benefits			
3. Supplies/Other Expenses			
4. Equipment			
5. Contractual Services			
Total Project Budget	\$	\$	
Total Project Cost	\$	= Grants Funds + Cost Share	
Cost Share Percentage	\$	= Cost Share / Total Project Cost	

GRANT APPLICATION SUPPLEMENTAL PROJECT BUDGET DETAIL (cont.)

F. TOTAL BUDGET BY TASK:

Summarize the Total Project Cost budget by Project Task using the format in the following table. Project Tasks should correspond to the “Project Description” section. The cost standard used to estimate costs must be provided as supporting documentation. The independent evaluators will review standards for cost reasonableness and may request justification of the cost reasonableness of any budgetary item. If the applicant cannot justify a cost, Department staff will reduce the line item budget at the time of agreement negotiation.

Project Task		Grant Funds	Cost Share: Matching Funds and Other In-Kind Contributions	
			Matching Funds	Source
1				
2				
3				
4				
5				
6				
7				
Totals:		\$	\$	
Total Project Cost:		\$	= Grant Funds + Cost Share	

GRANT APPLICATION SUPPLEMENTAL PROJECT BUDGET DETAIL (cont.)

G. BUDGET DETAIL:

Provide a detailed, line-item budget using the worksheet format shown below. Provide accurate calculations to justify the cost of each budget line-item. Round only the subtotals for each Budget Category amount to the nearest whole dollar value. Use additional lines if necessary. For each budget line-item, identify in the appropriate column if the cost is: 1) Grant or Match, 2) a Direct cost used to calculate Indirect Costs (if approved) and 3) whether the cost is Administrative in nature. Administrative costs are allowable, reasonable, and allocable direct costs related to overall management of the awarded grant.

For this grant, Salaries and Fringe Benefits are considered Administrative costs. Administrative costs are not eligible for reimbursement, but may be included as cost share. The total amount of Administrative costs cannot exceed 10% of the total project cost.

A description of what is required for each Budget Category is as follows:

1. Salaries – Identify the persons to be compensated for work on this project by name (if known), position, and title. Show the hourly cost and total hours to be charged for each person or position. Divide annual salaries by 2080 hours and nine month academic salaries by 1560 hours, to find the hourly rate. *Salaries may only be included as cost share for this grant program.*
2. Fringe Benefits – Multiply the rate by the total salaries to which fringe benefits apply. If the rate is variable, explain and show calculations. *Fringe Benefits may only be included as cost share for this grant program.*
3. Supplies & Other Expenses – List expendable supplies by category description, unit costs and quantity. List other expenses not included in any of the other categories. Examples would be printing, copying, postage, communications, etc. Non-expendable equipment valued at less than \$1,000 may be listed also. Include only expenses directly related to the project, not expenses of a general nature. Also, if under \$1,000 per unit, Grantee must track computers, iPads, and other eligible electronic devices in the same manner as equipment.
4. Equipment – List non-expendable personal property/equipment valued at \$1,000 or more by description, unit cost, and quantity.
5. Contractual Services – Subcontractors should provide the same information required by this budget table, with the following exceptions: (a) when professional services are provided at a pre-existing approved rate or fee shown on the budget; or (b) the subcontract is to be obtained competitively. For either (a) or (b), show an estimated maximum amount. *Contractual services will be defined in accordance with the State of Florida Statewide Financial Statements Capital Asset Policy and must comply with Chapter 287, Florida Statutes.*
6. Total Budget Category – Show the total of all line-items within a Budget Category.
Total Budget – Show the total of all categories.

1. Salaries								
Salaries (Name/Position)	Hourly Cost (\$)	*	Hours/wk. or % FTE	=	Total Gross Salary (\$)	Grant = G or Match = M	Direct costs used to calculate Indirect Cost? Y/N	Admin. Cost? Y/N
	\$	*		=	\$		N	
	\$	*		=	\$		N	
	\$	*		=	\$		N	
	\$	*		=	\$		N	
Sub-Totals for Salaries Category					\$			

2. Fringe Benefits									
Name of Employee	Amount Gross Salary (\$)	Approved % per Work Plan or enter "N/A" & provide break-out	Benefit # 1 & Cost	Benefit # 2 & Cost	Benefit # 3 & Cost	Total Fringe Benefits (\$)	Grant = G or Match = M	Direct costs used to calculate Indirect Cost? Y/N	Admin. Cost Y/N
	\$		\$	\$	\$	\$		N	
	\$		\$	\$	\$	\$		N	
	\$		\$	\$	\$	\$		N	
Sub-Total of Fringe Benefits Category						\$			

3. Supplies – Other Expenses								
Description	Unit Cost (\$)	*	Quantity	=	Total Cost (\$)	Grant = G or Match = M	Direct costs used to calculate Indirect Cost? Y/N	Admin. Cost Y/N
	\$	*		=			N	
	\$	*		=			N	
	\$	*		=			N	
	\$	*		=			N	
Sub-Total of Supplies – Other Expenses Category					\$			

4. Equipment								
Description	Unit Cost (\$)	*	Quantity	=	Total Cost (\$)	Grant = G or Match = M	Direct costs used to calculate Indirect Cost? Y/N	Admin. Cost Y/N
	\$	*		=			N	
	\$	*		=			N	
	\$	*		=			N	
	\$	*		=			N	
Sub-Total of Equipment Category					\$			

5. Contractual Services									
Name of Vendor	Description	Fee/Rate (\$)	*	Quantity	=	Total Cost (\$)	Grant = G or Match = M	Direct costs used to calculate Indirect Cost? Y/N	Admin. Cost Y/N
		\$	*		=			N	
		\$	*		=			N	
		\$	*		=			N	
		\$	*		=			N	
Sub-Total of Contractual Services Category						\$			

6. Total Project Budget					
Budget Category	Total Costs for Budget Category	=	Total Grant Costs	+	Total Match Costs
1. Salaries	\$	=	\$	+	\$
2. Fringe Benefits	\$	=	\$	+	\$
3. Supplies/Other Expenses	\$	=	\$	+	\$
4. Equipment	\$	=	\$	+	\$
5. Contractual Services	\$	=	\$	+	\$
Total Project Budget	\$	=	\$	+	\$

H. COMMITMENT LETTERS FROM THIRD PARTIES:

Provide a letter of commitment for any third parties working on the project in partnership with the lead applicant. The letter must include the dollar amount of match committed, be on letterhead, and be signed by an authorized signatory. (Limit one page per letter, or two pages if letter includes more detailed budget information.) A letter of commitment is required for any application including matching funds (or cost share) from a third party.



FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

ATTACHMENT C
CONFLICT OF INTEREST STATEMENT

I, _____, as authorized representative
of _____ (organization) certify that neither
member of this firm nor any person having interest in this firm has been awarded a contract by
the Florida Department of Agriculture and Consumer Services on a non-competitive basis to:

1. Develop this Notification of Federal Financial Assistance Funding Opportunity
(NOTICE);
2. Perform a feasibility study concerning the scope of work contained in this NOTICE;
3. Develop a program similar to what is contained in this NOTICE.

Authorized Representative

Date



FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

ATTACHMENT D

PROJECT LOCATION INFORMATION SHEET

Complete one Project Location Information Sheet per Project/Performance Site/Location listed in form FDACS-02032.

PROJECT/PERFORMANCE LOCATION INFORMATION				Location #:	
Location Name or Identifier					
Street Address					
City		State		Zip+4	
Owned By					
Operated or Managed By					
Brief description of location <i>This is a physical description that might include age, number and type of structures, square footage, materials, special features, etc.</i>					
Function or Purpose of Location <i>What is this location used for? By whom?</i>					
Hours of operation <i>When? By whom? How often? To what extent? How much or what part(s) of the location is used?</i>					
Part(s) of facility/location to be modified <i>– Include age of part(s) of building or equipment to be retrofitted, if known</i>					
Short description of proposed activities <i>List the proposed retrofit activities for this location and indicate for each whether it was recommended in an energy audit</i>					
Date and provider of last energy audit for this location					
Current and anticipated energy use – <i>Provide information regarding the previous 12 months of utility bills. Explain how much energy savings are anticipated from this project, and what the basis is for those numbers.</i>					
Anticipated Costs for This Location		Grant funds: \$ Cost share: \$ Location's Total Project Cost (total of above): \$			



FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

ATTACHMENT E

OTHER INFORMATION

A. MODIFICATIONS

Notices of any modifications to this application process or application will be posted at <http://www.FreshFromFlorida.com/Offices/Energy/>.

B. PARTIAL GRANTS

If funds are not available to award the total amount requested by an applicant, the department may award partial grants to applicants up to the amount of the fiscal appropriation. The department shall award grants based on the process laid out under Parts XXI-XXIV of this NOTICE.

C. COMMITMENT OF PUBLIC FUNDS

The department is the only entity who can award Florida Small Community Energy Efficient Lighting grants under this program or commit the State of Florida to the expenditure of public funds appropriated for these grants. A commitment by any entity other than the department, either explicit or implied, is invalid. The commitment of State funds is contingent upon budget authority from the State Legislature.

D. TRACKING AND REPORTING

Tracking and reporting of grant funding must be separate from other applicant funds to meet state and federal reporting requirements. The terms and conditions of the funding award agreement will specify the format, tools, and information required for reporting programmatic and energy metrics as specified by the state government.

Recipients should review the department of Financial Services, Reference Guide to State Expenditures and, and, as applicable, Chapter 287, Florida Statutes and Section 215.97, Florida Statutes, as applicable.

E. PROGRESS REPORTS AND ASSOCIATED DOCUMENTATION

All grant recipients will be required to submit monthly progress reports, annual program reports (if the project period exceeds one year), and a final report to the department as specified in funding award Grant Agreement.

The department may request additional reporting information for up to one year after the closing date of the grant.

F. PROPRIETARY APPLICATION INFORMATION

Any material submitted in response to this application process will become a public record pursuant to Chapter 119, Florida Statutes. Any claim of confidentiality is waived upon submission, unless addressed as set forth below.

DISCLOSURE AND OWNERSHIP OF PLAN CONTENTS: An applicant's response to this application process shall be a public record and subject to production, disclosure, inspection and copying consistent with the requirements of Chapter 119, Florida Statutes. All information in an application (including, without limitation, technical and price information), and any Grant Agreement resulting from this application process, which will incorporate the successful application, will be a matter of public record, subject to the provisions of Florida's Public Records Act, Chapter 119, Florida Statutes, regardless of copyright status.

Submission of an application shall constitute a waiver of any copyright protection which might otherwise apply to the department's production, disclosure, inspection and copying of such application and Grant Agreement, or any part thereof, except those parts asserted to be exempt under Chapter 119, Florida Statutes. The application, upon submission, and the Grant Agreement shall be the property of the department. The department reserves the right to use any and all information contained in an application received to this application process.

Guidelines:

1. The principles of least access, separation of functions, and need to know should guide the determination of user authorizations, rather than rank, position or precedent. Group level authorizations should be avoided.
2. Confidential information should be marked or flagged as confidential, or other designation which clearly distinguishes them from non-confidential information. Data or files containing confidential information need not be considered confidential if the information is encrypted with encryption keys properly controlled.
3. Confidential information in magnetic or electronic form should contain the markings in a manner appropriate to the media such that special protection requirements will be apparent to anyone accessing the data.
4. Confidential information in hard copy should have markings on each page. Physical markings should also be applied to the exterior of all input/output media such as diskettes, tapes, and volumes which contain confidential information.
5. Magnetic media and hard copy data which has contained confidential information should not be disposed of or removed from department security controls without assurance that confidential information has been deleted and cannot be recovered. Processes to delete information from magnetic media include complete degaussing, electronic overwriting, and physical destruction. Media which has been subjected to a deletion process should be tested periodically as a separate function in order to validate continued effectiveness of the process.
6. Divisions may elect to establish more than one level or category of sensitivity, considering the vulnerabilities associated with the number of employees who would

otherwise have access to more confidential information than required by their duties. In such event, the different sets of confidential information must be distinguishable and the controls for each must be defined.

7. Procedures for removal of confidential information from records should be devised such that the desensitized version may be available to the public in accordance with the Florida Public Records Act. Any collection of automated information or data which the owner has determined to contain no confidential information is, by definition, public information.
8. Unless extraordinary steps are taken to ensure control, the use of end user computing for mission critical tasks should be avoided. Absent the types of controls ordinarily found in larger processing environments (e.g., backing up, access restrictions, and individual accountability for changes to data), end user computing are highly vulnerable to risks associated with data integrity, disclosure, and loss. The use of end user computing workstations for mission critical tasks should be strictly reviewed and only permitted where adequate controls are in place to provide continued data confidentiality, integrity, and availability.

G. GRANT AGREEMENT AND CONDITIONS

All terms and conditions within the Grant Agreement and associated attachments shall apply.

The department will have the right to access any books, documents, papers and records of the grant recipients which are directly pertinent to the Grant Agreement, for the purpose of making audit examinations, excerpts and transcriptions.

A monthly and annual progress report and a final project report will be required of all selected grant recipients. Additional progress reports may be required if grants are extended past the initial deadline. Failure to submit a required report or submission of an unsatisfactory report is sufficient grounds for termination of the grant agreement.

H. RECORDS RETENTION, ACCESS, AND AUDITS

The recipient shall maintain books, records and documents directly pertinent to the performance under this agreement, in accordance with generally accepted accounting principles consistently applied. The department, the state or their authorized representatives shall have access to such records for audit purposes during the term of the agreement and for five (5) years following the contract termination date or date of final payment, whichever is later. If an audit, litigation, or other action involving the records is started before the end of the five-year period, the records must be retained until all issues arising out of the action are resolved or until the end of the five-year period, whichever is later.

I. LOBBYING

CERTIFICATION REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS FOR EXPENDITURE OF FEDERAL FUNDS

Any person awarded a grant in response to this NOTICE MUST execute form FDACS-01522. The Certification for Debarment and Suspension and Other Responsibility Matters is

required by 2 CFR Part 200 for expenditures \$25,000 and above. The Certification for Lobbying is required by 2 CFR Part 200 for expenditures \$100,000 and above.

In accordance with Section 216.347, Florida Statutes, the Grantee is hereby prohibited from using funds provided by this Agreement for the purpose of lobbying the Legislature, the judicial branch or a State agency.

J. NON-DISCRIMINATION STATEMENT

The recipient shall not discriminate on the basis of race, sex, religion, color, national origin, age, or disability and shall comply with all applicable state and federal laws and regulations related thereto, including without limitation, the Americans with Disabilities Act (42 USC 12101 et. Seq.); Section 504 of the Rehabilitation Act of 1973 (29 USC 795); and the Age Discrimination Act of 1975 (42 USC 6101-6107).

To file a complaint of discrimination, write USDOE, Director, Office of Civil Rights, 1000 Independence Avenue, SW, Washington, DC 20585 or call (202) 586-2218 (voice and TDD). USDOE is an equal opportunity provider and employer.

K. EMPLOYMENT OF UNAUTHORIZED ALIENS

Pursuant to Executive Order 96-236, effective October 1, 1996, the following standard provision shall apply to any contract awarded as a result of this NOTICE.

The employment of unauthorized aliens by any recipient is considered a violation of section 274A(e) of the Immigration and Nationality Act. If the recipient knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of the contract.

L. APPELLATE RIGHTS

Any appeals related to a department decision pursuant to this grant program shall be in accordance with Chapter 120, Florida Statutes.

The Florida Department of Agriculture and Consumer Services offers its programs to all eligible persons regardless of race, color, national origin, religion, gender, age, disability, marital or veteran status, or any other legally protected status.



FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES COMMISSIONER ADAM H. PUTNAM

January 24, 2018

ADDENDUM 1

TO: Vendors

FROM: Vianka Colin, Purchasing Director

RE: Notice of Federal Financial Assistance
Funding Opportunity Number DE-FOA-0000052

This addendum is to provide all potential bidders with answers to questions received in reference to Notice of Federal Financial Assistance Funding Opportunity Number DE-FOA-0000052. **Deletions are struck through, and additions are highlighted.**

Questions / Answers

1. Please advise how to access the [Notice of Federal Funding Availability \(NOTICE\)](#) for the Florida Small Community Energy Efficient Lighting Grant Program. This link takes me here: http://www.myflorida.com/apps/vbs/vbs_search_r2.criteria_form, and I am unaware of the Commodity Code, UNSPSC Commodity, or keyword.

To access, select "Grant Opportunities" under Advertisement Type and "Department of Agriculture" under Agency. No other information is needed on the form. Also, the link for direct access is provided below:

http://www.myflorida.com/apps/vbs/vbs_ad_r2.view_ad?advertisement_key_num=137479

2. Must the Applicant Municipality own the property, or is a lease/joint use agreement sufficient to be an applicant and recipient of funds?

For the purposes of this Notice, the applicant must own the public facilities to be eligible for assistance.

3. The City of Lake Worth is interested in applying for funding under the Florida Small Community Energy Efficient Lighting Grant Program to install energy efficient lighting in outdoor and indoor areas accessible to the public. The City owns its own electric utility that serves not only the City but neighboring communities, including the Village of Palm Springs. Can the City's application include these areas outside of the municipality, or will the Village of Palm Springs have to submit a separate application?

For the purposes of this Notice, a separate application must be submitted by the local government entity that owns the facility.

ADDENDUM 1

January 24, 2018

Page 2

4. Is there a match that is required for the grant program?

Applicants for this program must provide cost share (match) for a minimum of ten percent (10%) of the total project cost. Total project cost is the combined total of grant and match resources contributed to this project.

5. The City of Satellite Beach (pop. 10,000) is building a walking trail around a stormwater pond. In an attempt to reduce our total energy use, increase energy efficiency and reduce future energy costs, we would like to install solar bollards to light the path versus hard-wired electric bollards.

Due to the competitive nature of the Small Community Energy Efficient Lighting Program, the Department cannot provide comments on potential projects that may be submitted for funding. This competitive grant program is designed to provide funding to small local governments for energy efficient upgrades to indoor or outdoor lighting at publicly accessible, community-oriented facilities, including but not limited to libraries, civic centers, museums, community centers and parks. Examples of projects that would be eligible under this grant program:

- *Energy efficient indoor light fixtures.*
- *Energy efficient security lighting attached to the outside of the building.*
- *Energy efficient public lighting fixtures or community park lighting fixtures.*

6. The link in this grant solicitation, "Please see the [NOTICE](#) for full details regarding program requirements and application submittal", does not give me information. I am trying to determine how this grant opportunity may assist our county. Please advise.

Please see response to Question #1.

All other terms, conditions and specifications of this Notice of Federal Financial Assistance will remain the same. If you have any questions regarding this addendum, please feel free to contact this office at (850) 617-7181.



FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES COMMISSIONER ADAM H. PUTNAM

January 30, 2018

ADDENDUM 2

TO: Vendors

FROM: Vianka Colin, Purchasing Director

RE: **Notice of Federal Financial Assistance
Funding Opportunity Number DE-FOA-0000052**

This addendum is to provide all potential bidders with answers to questions received in reference to Notice of Federal Financial Assistance Funding Opportunity Number DE-FOA-0000052. **Deletions are struck through, and additions are highlighted.**

Questions / Answers

1. **Page 2 of 25 asks for the funding period. Is this the period of performance 06/01/18 through 05/31/20?**

The funding period is the date, within the period of performance, that the project will begin and end.

2. **Page 5 of 25 asks for contact information for the Principal Investigator. May you please explain what is meant by Principal Investigator?**

Principal Investigator is the lead individual responsible for conducting research paid for by a grant. Since this is not a research grant opportunity, the fields in the "Contact Project Role: Principal Investigator" section should indicate "N/A".

3. **Pages 6, 8, 10 of 25 indicate that certain sections of the application must not exceed a certain number of pages; however, the number of pages aren't specified. For example, page 6 of 25 reads "The project narrative must not exceed (insert #) 8 ½ "by 11" single sided pages". Is there someplace that I can go to obtain this information?**

Page 6 (Project Narrative) - "The project narrative must not exceed three (3) 8 ½" by 11" single sided pages. Additional pages beyond the page limitation will not be considered."

Page 8 (Scope of Work) - "The scope of work must not exceed two (2) 8 ½" by 11" single sided pages per Performance Site/Location. Additional pages beyond the page limitation will not be considered."

Page 10 (Budget Plan Narrative) - "The budget plan narrative must not exceed two (2) 8 ½" by 11" single sided pages. Additional pages beyond the page limitation will not be considered."

4. **Must we provide supporting documentation for the items expressed in the application such as resumes, personnel reports showing salaries and fringe benefits, etc.? Or are we only required to submit attachments A-D?**

Please read the entire Notice for all the required information, including support documentation regarding Third Party cost share, energy use data, and if applicable, authorized signature delegation(s) and approved indirect cost rates. Resumes are not required, however, applications must include the background and qualifications of key personnel to carry out the proposed project plan.

5. **Are we eligible to apply for the Florida Small Communities Energy Efficient Lighting Grant, or is it only for replacing existing lighting? Should I read this to understand that new installations are not eligible?**

For the purposes of this Notice new installations are not eligible. The purpose of this program is to assist local governments in reducing their total energy use, increase energy efficiency, reduce energy costs through the replacement of inefficient lighting with energy efficient lighting and evaluate actual energy savings received as a result of the project.

6. **I am unable to find the notice for this grant opportunity. When I click on the NOTICE link on your site, I am taken to what appears to be a bids page on MyFlorida. Can you please help me with this?**

To access the Notice from this link, select "Grant Opportunities" under Advertisement Type, and "Department of Agriculture" under Agency. No other information is needed on the form.

The link for direct access to the Notice is

http://www.myflorida.com/apps/vbs/vbs_ad_r2.view_ad?advertisement_key_num=137479

All other terms, conditions and specifications of this Notice of Federal Financial Assistance will remain the same. If you have any questions regarding this addendum, please feel free to contact this office at (850) 617-7181.



Town of Miami Lakes Memorandum

To: The Honorable Mayor and Councilmembers
From: Alex Rey, Town Manager
Subject: Conditional Uses
Date: 2/6/2018

Recommendation:

Staff recommends approval of the ordinance amending the Conditional Use provisions to provide for the sunseting of such approvals when the uses cease operations.

Background:

On May 2, 2017, the Town Council of the Town of Miami Lakes directed the Town Manager to explore provisions addressing the disposition of conditional uses that have ceased operations, and to return, if possible, with an amendment to the Land Development Code (LDC) that allows such conditional use approvals to expire once they cease to operate for a specified period of time. The principal concern was whether the approval should continue to be valid even when the owner has ceased to operate the business that received the conditional approval.

The proposed amendment codifies the circumstances under which such approvals would expire. The amendment also provides for the sun setting of nonconforming conditional uses that have ceased operation for a year or more. It also clarifies that any addition, expansion, or intensification of a nonconforming Conditional Use requires a new Conditional Use review. The amendment also provides for administrative adjustments to Conditional Uses where it is deemed that such changes comply with Code and that any impact is minor.

To date, staff confirmed the operational status of the existing conditional uses authorized within the Town. If adopted, implementation of the ordinance will commence with notifying those uses about the ordinance and making them aware of the annual certificate of use renewal requirement. Any business that is not in operation pursuant to the Conditional Use approval within 12 months of the effective date of the ordinance would be deemed to have abandoned such use.

Thereafter, notice will be sent in June of each year in concert with the annual Business Tax Receipt program. Enforcement of the ordinance will be channeled through established procedures of Code as provided at Chapter 8.

On January 23, 2018, the Planning and Zoning Board, acting in their capacity as the Local Planning Agency, voted in favor of the ordinance, recommending its approval to the Town Council.

ATTACHMENTS:

Description

Ordinance - Conditional Uses - First Reading

LPA Submittal

ORDINANCE NO. 18-_____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA RELATING TO CONDITIONAL USES; AMENDING SECTION 13-303, ENTITLED “CONDITIONAL USES”, ESTABLISHING PROVISIONS REGARDING THE CESSATION OF OPERATIONS OF USES CLASSIFIED AS CONDITIONAL USES AND ANNUAL CERTIFICATE OF USE RENEWAL; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION INTO THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE. (Ceaser Mestre)

WHEREAS, section 13-303 of the Town’s Land Development Code provides for review of conditional uses, which are uses that would not be appropriate within a particular zoning district unless otherwise controlled as to number, area, location, hours of operation, and relation to the neighborhood or impacted vicinity, so as to promote the public health, safety, welfare, order, comfort, convenience, appearance, or prosperity of the neighborhood; and

WHEREAS, section 13-303 does not address the status of such uses when they cease to operate; and

WHEREAS, on May 2, 2017, the Town Council of the Town of Miami Lakes directed the Town Manager to explore provisions that address disposition of conditional uses that have ceased operations; and

WHEREAS, on January 23, 2018, the Planning and Zoning Board, acting in its capacity as the Local Planning Agency, heard the item at a duly noticed public hearing and forwarded a recommendation of approval to the Miami Lakes Town Council; and

WHEREAS, on February 6, 2018, the Town Council at a duly noticed public hearing, moved the item on First Reading; and

WHEREAS, on _____, 2018, the Town Council considered the ordinance at a duly advertised public hearing; and

WHEREAS, to that end, the Town Council of the Town of Miami Lakes hereby finds and declares that adoption of this Ordinance is appropriate and advances the public interest.

THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES AS FOLLOWS:

Section 1. Recitals. Each of the above stated recitals is true and correct and is incorporated herein by this reference.

Section 2. Amendment. Section 13-303, Conditional Uses, of the Town's Land Development Code is hereby amended as provided at Exhibit A:

Section 3. Repeal of Conflicting Provisions. All provisions of the Code of the Town of Miami Lakes that are in conflict with this Ordinance are hereby repealed.

Section 4. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Inclusion in the Town Code. It is the intention of the Town Council, and it is hereby ordained, that the provisions of this Ordinance shall become and be made part of the Town Code and that if necessary the sections of this Ordinance may be renumbered or re-lettered

to accomplish such intentions; and that the word “Ordinance” shall be changed to “Article”, “Division” or other appropriate word.

Section 6. Effective Date. That this Ordinance shall be effective immediately upon its adoption on second reading.

The foregoing Ordinance was offered by Councilmember _____, who moved its adoption on first reading. The motion was seconded by Councilmember _____ and upon being put to a vote, the vote was as follows:

FIRST READING

The foregoing ordinance was offered by Councilmember _____ who moved its adoption on first reading. The motion was seconded by Councilmember _____ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Nelson Rodriguez	_____
Councilmember Tim Daubert	_____
Councilmember Luis Collazo	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Marilyn Ruano	_____

Passed on first reading this _____ day of February, 2018.

SECOND READING

The foregoing ordinance was offered by Councilmember _____ who moved its adoption on second reading. The motion was seconded by Councilmember _____ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Nelson Rodriguez	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Marilyn Ruano	_____

Passed and adopted on second reading this _____ day of _____, 2018.

Manny Cid,
MAYOR

Attest:

Gina Inguanzo
TOWN CLERK

Approved as to form and legal sufficiency:

Raul Gastesi, Jr.
Gastesi & Associates, P.A.
TOWN ATTORNEY

EXHIBIT A
ORDINANCE

Sec. 13-303. - Conditional use approval.

- (a) *Generally.* ~~The purpose of this section is to ensure that a~~ A conditional use, ~~is a use that would not be appropriate without restriction throughout the land use district, but which, if controlled as to number, area, location, hours of operation, and relation to the neighborhood or impacted vicinity, would promote the public health, safety, welfare, order, comfort, convenience, appearance, or prosperity of the neighborhood.~~ A conditional use ; shall only be permitted on specific sites as provided in a particular zoning district or as provided in this chapter, where the proposed use may be adequately accommodated without generating adverse impacts on properties and land uses within the immediate vicinity. This section sets forth the procedures and criteria for approval of conditional uses on specific sites. A conditional use shall be permitted only upon a finding that the proposed use satisfies the specific review criteria of this section and other requirements of this chapter. An approval of a conditional use does not eliminate the need for other approvals, which may be required under this chapter, including but not limited to site plan review. Site plan approvals shall be processed concurrently with the conditional use application (and, if required, the site plan public hearing shall be held jointly with the conditional use public hearing) and the requirements of Sections 13-301 through 13-304, as applicable, shall be met. Any uses specified in this chapter as an "unusual use" shall be treated and processed as a conditional use under this section.

* * *

(c) Change or cessation of operation of a conditional use.

- (1) A change of conditional use to another conditional use shall require a review of a new application pursuant to this section.
- (2) A change of a conditional use to a permitted use shall operate as a cessation of the conditional use.
- (3) An expansion or intensification of a conditional use shall require a review of a conditional use application pursuant to this section. This shall also apply to an existing use that was legally established prior to March 6, 2018 and is classified as a conditional use pursuant to this chapter as of March 6, 2018. However, if the Administrative Official determines that the requested expansion or intensification is minor, the Administrative Official shall have the authority to review and approve, or approve with modifications or conditions the minor change, providing the change complies with the following:
 - a. Is compliant with the minimum requirements of Chapter 13;
 - b. Does not violate any conditions of the original approval;
 - c. Is compliant with concurrency requirements; and

Additions to the text are shown in underlined; deletions from the text are shown in ~~strickthrough~~.

Omitted portions of this ordinance are shown as “* * *”.

- d. Satisfactorily addresses land use compatibility, buffering, screening, and landscaping.
- (4) Unless otherwise specifically authorized by Town Council issued conditional use development order, should a conditional use cease operation for more than twelve (12) continuous months, any use of the same property or portion thereof shall only be one that is permitted under this chapter and any reinstitution of the conditional use shall require a review of a new application pursuant to this section. For purposes of an existing use that was legally established prior to March 6, 2018 and is classified as a conditional use pursuant to this chapter as of March 6, 2018, the twelve (12) continuous month period shall be counted from March 6, 2018. The issuance or existence of a required license, permit or other governmental authorization to conduct such conditional use shall not mean that the use has not ceased, but the lack of any such required license, permit or authority shall create a rebuttable presumption that the use has ceased. Actions or activities of the property owner or agent of the property owner attempting to lease or rent the premises shall not be considered a use of the property in determining whether a conditional use has ceased.
- (d) *Certificate of Use Renewal.* Beginning March 6, 2018, all property with a conditional use permit must annually renew its certificate of use on a time schedule consistent with the renewal of business tax receipts.



Town of Miami Lakes Memorandum

To: Honorable Chair and Members of the Land Planning Agency
From: Darby Delsalle, AICP, Planning Director
Subject: Conditional Uses
Date: 1/23/2018

Recommendation:

Staff recommends approval of the ordinance amending the Conditional Use provisions to provide for the sunseting of such approvals when the uses cease operations.

Background:

On May 2, 2017, the Town Council of the Town of Miami Lakes directed the Town Manager to explore provisions addressing the disposition of conditional uses that have ceased operations, and to return, if possible, with an amendment to the Land Development Code (LDC) that allows such conditional use approvals to expire once they cease to operate for a specified period of time. The principal concern is whether conditions within the neighborhood may have changed to point where the original approval is no longer in harmony with the original approval of a Conditional Use that ceased operations. The question at hand in such a situation is, should the reestablishment of the Conditional Use require a new zoning application, and/or should these approvals sunset after the use has ceased for a period of time. The proposed amendment would codify the conditions under which such approvals would expire. This provision also provides for the sunseting of nonconforming conditional uses that have ceased operation. Language is also provided to clarify the appropriate procedure for the addition, expansion, or intensification of a nonconforming Conditional Uses. Those application will require Conditional Use review. Finally, language is provided to provide for administrative adjustments to Conditional Uses where it is deemed such changes comply with Code and any impact is minor.

ATTACHMENTS:

Description

Staff Report

Ordinance



Department of Planning, Zoning and Code Compliance
6601 Main Street • Miami Lakes, Florida 33014
Office: (305) 364-6100 • Fax: (305) 558-8511
Website: www.miamilakes-fl.gov

Staff Analysis and Recommendation

To: Honorable Chair and Members of the Local Planning Agency
From: Darby P. Delsalle, AICP, Planning Director
Subject: Conditional Use Expirations
Date: January 23, 2018

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA RELATING TO CONDITIONAL USES; AMENDING SECTION 13-303, ENTITLED "CONDITIONAL USES", ESTABLISHING PROVISIONS REGARDING THE CESSATION OF OPERATIONS OF USES CLASSIFIED AS CONDITIONAL USES AND ANNUAL CERTIFICATE OF USE RENEWAL; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION INTO THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE. (Ceaser Mestre)

A. BACKGROUND

On May 2, 2017, the Town Council of the Town of Miami Lakes directed the Town Manager to explore provisions that address the disposition of conditional uses that have ceased operations, and to return, if possible, with an amendment to the Land Development Code (LDC) that allows such conditional use approvals to expire once they cease to operate for a specified period of time. As provided by Code, Conditional Uses are uses that would not be appropriate without additional restriction throughout a land use district in which they are located unless otherwise "controlled as to number, area, location, hours of operation, and relation to the neighborhood or impacted vicinity, so as to promote the public health, safety, welfare, order, comfort, convenience, appearance, or prosperity of the neighborhood." The principal concern is whether conditions within the neighborhood have changed to point where the original approval is no longer in harmony with the original approval of a Conditional Use that ceases operations. The question at hand in such a situation is, should the reestablishment of the Conditional Use require a new zoning application.

In the absence of greater specificity within the Town's LDC, general law provides for Conditional Use approvals to "run with the land" unless otherwise specified within a development order. In other words, unless it is so specified in the approving development order itself, a Conditional Use approval could potentially remain in perpetuity regardless of the amount of time that has passed

since its original approval or its cessation of operations. Our community is not static, it continues to change overtime as vacant parcels are built upon, residents move in, and business are established. A dormant approval reactivated after several years of inactivity may result in unintended land use conflicts not originally contemplated at the time of its approval, or for that matter, the approval of subsequent development in and around the neighborhood.

The majority of the Conditional Uses granted by the Town Council included a trigger within the development order that allowed the approval to sunset. They are typically tied to the renewal of the Business Tax Receipt (BTR), the Certificate Use (CU), or both. A complete list of those approvals was compiled, and the Town's Code Compliance Division is actively reaching out to those active businesses that need to renew their approvals. Code Compliance is also verifying those uses that have since shuttered so those related approvals can be closed-out. The proposed amendment would codify the conditions under which such approvals would expire.

It is worth noting that there remains other uses that were approved prior to the Town's Conditional Use provisions, that if they were to be established today, would be so classified. It is possible that some of those uses may have also ceased operations. The proposed amendment seeks to address this condition consistent with those approved through current Town requirements. Finally, and particularly as it pertains to such uses approved prior to the Town's Conditional Use provisions, language is provided clarifying that any addition, expansion, or intensification of a nonconforming Conditional Use requires review through the Conditional Use provisions.

B. STAFF RECOMMENDATION

Based on the analysis provided below and other factors contained in this report, Staff recommends approval of the ordinance amending the Conditional Use provisions to provide for the sunseting of such approvals when the uses cease operations.

C. ANALYSIS

The Land Development Code provides that all proposed amendments to the LDC shall be evaluated by the Administrative Official, the Local Planning Agency and the Town Council, and that, in evaluating the proposed amendment, the criteria in Subsection 13-306(b) shall be considered. All portions of this report are hereby incorporated into all portions of this analysis. The following is a staff analysis of the criteria as applied to this ordinance.

1. Whether the proposal is consistent with the Comprehensive Plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program.

Analysis: It is the continuing objective the Comprehensive Development Master Plan to ensure a proper mix of permitted uses in a manner that minimizes impact and maximizes benefit to the community. This is particularly reflective of the Objective 1.2 as provided below:

Objective 1.2: LAND DEVELOPMENT CODE

Maintain an effective and efficient Land Development Code (LDC), which implements the community vision underlying the goals, objectives and policies of adopted Comprehensive Plan, regulates the quality, scope and impacts of new development and redevelopment, coordinates future land uses with topography and soil conditions, and incorporates innovative land development techniques.

The proposed amendment allows conditional use approvals to sunset after they cease operations. This provision is provided for as the community is not static, change occurs overtime. Uses that expire are not always taken into account when new development comes on line. The provision provides for reconsideration when a Conditional use is reactivated so that its full impact can be mitigated within the existing community.

Finding: Complies

2. Whether the proposal is in conformance with all applicable requirements of this Code of Ordinances, including this chapter.

Analysis: The proposed ordinance conforms with the Town's LDC's. A review of the LDC's found no conflicts.

Finding: Complies.

3. Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether such changes support or work against the proposed change in land use policy.

Analysis: See Section "A", Background, and Criterion 1. Unless otherwise specified within the development order, a Conditional Use approval "runs with the land." In other words, the approval never expires unless superseded by a follow up development order that specifically sunsets it. Conditions within the Town are not static, and older approvals may not be taken into account as the Town continues to grow and change. The proposed provisions address this concern by providing provisions that allow Conditional Use approvals to expire should operations cease over a period of time.

Finding: Complies.

4. Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved, the impact on adjacent or neighboring properties, consistency with existing development, as well as compatibility with existing and proposed land use.

Analysis: See Section "A", Background, and Criteria 1 and 3. The proposed ordinance does not change the existing permitted use of land. It does provide for procedures to reestablish a conditional use that has ceased operations to ensure continued compatibility with the neighborhood in which it is located.

Finding: Complies.

5. **Whether, and the extent to which, the proposal would result in demands on transportation systems, public facilities and services, exceeding the capacity of such facilities and services, existing or programmed, including schools, transportation, water and wastewater services, solid waste disposal, drainage, water supply, recreation, education, emergency services, and similar necessary facilities and services.**

Analysis: See Section “A”, Background, and Criteria 1, 3, and 4. The very intent of the proposed ordinance is to ensure such potential impacts can be reviewed prior to the reestablishment of a Conditional Use.

Finding: Complies.

6. **Whether, and the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetland protection, preservation of any groundwater aquifers, wildlife habitats, and vegetative communities.**

Analysis: See Section “A”, Background, and Criteria 1, 3, 4, and 5. Implementation of the ordinance seeks to ensure that the natural environment is not negatively affected.

Finding: Complies.

7. **Whether, and the extent to which, the proposal would adversely affect the property values in the affected area, or adversely affect the general welfare.**

Analysis: See Section “A”, Background, and Criteria 1, 3, 4, and 5. Implementation of the ordinance seeks to ensure property values are not negatively affected.

Finding: Complies.

8. **Whether the proposal would result in an orderly and compatible land use pattern. Any positive and negative effects on such pattern shall be identified.**

Analysis: See Section “A”, Background, and Criteria 1, 3, 4, and 5. The very intent of the proposed ordinance is to ensure the orderly and compatible land use pattern of development.

Finding: Complies.

9. **Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and intent of this chapter.**

Analysis: See Section “A”, Background, and Criteria 1, 3, 4, 5, and 8. No portion of the proposed amendment is in conflict with the existing regulations of the LDC. The proposed ordinance provides a review procedure for previously authorized Conditional Uses to reestablish operations while ensuring such uses are in harmony with the intent and purpose of the LDC.

Finding: Complies.

10. Other matters which the Local Planning Agency or the Town Council, in its legislative discretion, may deem appropriate.

Analysis: See Summary Section and all portions of this analysis. The Local Planning Agency and the Town Council may consider other appropriate factors to determine whether the proposed code amendment is appropriate and consistent with the public interest. The Analysis Section addressed the conditions suggested by the Planning and Zoning Board.

Finding: As determined by the Town Council.

ORDINANCE NO. 18-_____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA RELATING TO CONDITIONAL USES; AMENDING SECTION 13-303, ENTITLED “CONDITIONAL USES”, ESTABLISHING PROVISIONS REGARDING THE CESSATION OF OPERATIONS OF USES CLASSIFIED AS CONDITIONAL USES AND ANNUAL CERTIFICATE OF USE RENEWAL; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION INTO THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE. (Ceaser Mestre)

WHEREAS, section 13-303 of the Town’s Land Development Code provides for review of conditional uses, which are uses that would not be appropriate within a particular zoning district unless otherwise controlled as to number, area, location, hours of operation, and relation to the neighborhood or impacted vicinity, so as to promote the public health, safety, welfare, order, comfort, convenience, appearance, or prosperity of the neighborhood; and

WHEREAS, section 13-303 does not address the status of such uses when they cease to operate; and

WHEREAS, on May 2, 2017, the Town Council of the Town of Miami Lakes directed the Town Manager to explore provisions that address disposition of conditional uses that have ceased operations; and

WHEREAS, on <DATE> 2018, the Planning and Zoning Board, acting in its capacity as the Local Planning Agency, heard the item at a duly noticed public hearing and forwarded a recommendation of approval to the Miami Lakes Town Council; and

WHEREAS, on <DATE>, 2018, the Town Council at a duly noticed public hearing, moved the item on First Reading; and

WHEREAS, on <DATE>, 2018, the Town Council considered the ordinance at a duly advertised public hearing; and

WHEREAS, to that end, the Town Council of the Town of Miami Lakes hereby finds and declares that adoption of this Ordinance is appropriate and advances the public interest.

THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES AS FOLLOWS:

Section 1. Recitals. Each of the above stated recitals is true and correct and is incorporated herein by this reference.

Section 2. Amendment. Section 13-303, Conditional Uses, of the Town's Land Development Code is hereby amended as provided at Exhibit A:

Section 3. Repeal of Conflicting Provisions. All provisions of the Code of the Town of Miami Lakes that are in conflict with this Ordinance are hereby repealed.

Section 4. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Inclusion in the Town Code. It is the intention of the Town Council, and it is hereby ordained, that the provisions of this Ordinance shall become and be made part of the Town Code and that if necessary the sections of this Ordinance may be renumbered or re-lettered

to accomplish such intentions; and that the word “Ordinance” shall be changed to “Article”, “Division” or other appropriate word.

Section 6. Effective Date. That this Ordinance shall be effective immediately upon its adoption on second reading.

The foregoing Ordinance was offered by Councilmember _____, who moved its adoption on first reading. The motion was seconded by Councilmember _____ and upon being put to a vote, the vote was as follows:

FIRST READING

The foregoing ordinance was offered by Councilmember _____ who moved its adoption on first reading. The motion was seconded by Councilmember _____ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Nelson Rodriguez	_____
Councilmember Tim Daubert	_____
Councilmember Luis Collazo	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Marilyn Ruano	_____

Passed on first reading this _____ day of February, 2018.

[THIS SPACE INTENTIONALLY LEFT BLANK]

SECOND READING

The foregoing ordinance was offered by Councilmember _____ who moved its adoption on second reading. The motion was seconded by Councilmember _____ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Nelson Rodriguez	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Marilyn Ruano	_____

Passed and adopted on second reading this _____ day of _____, 2018.

Manny Cid
MAYOR

Attest:

Gina Inguanzo
TOWN CLERK

Approved as to form and legal sufficiency:

Raul Gastesi, Jr.
Gastesi & Associates, P.A.
TOWN ATTORNEY

EXHIBIT A
ORDINANCE

Sec. 13-303. - Conditional use approval.

- (a) *Generally.* ~~The purpose of this section is to ensure that a~~ A conditional use, is a use that would not be appropriate without restriction throughout the land use district, but which, if controlled as to number, area, location, hours of operation, and relation to the neighborhood or impacted vicinity, would promote the public health, safety, welfare, order, comfort, convenience, appearance, or prosperity of the neighborhood. A conditional use ; shall only be permitted on specific sites as provided in a particular zoning district or as provided in this chapter, where the proposed use may be adequately accommodated without generating adverse impacts on properties and land uses within the immediate vicinity. This section sets forth the procedures and criteria for approval of conditional uses on specific sites. A conditional use shall be permitted only upon a finding that the proposed use satisfies the specific review criteria of this section and other requirements of this chapter. An approval of a conditional use does not eliminate the need for other approvals, which may be required under this chapter, including but not limited to site plan review. Site plan approvals shall be processed concurrently with the conditional use application (and, if required, the site plan public hearing shall be held jointly with the conditional use public hearing) and the requirements of Sections 13-301 through 13-304, as applicable, shall be met. Any uses specified in this chapter as an "unusual use" shall be treated and processed as a conditional use under this section.

* * *

(c) Change or cessation of operation of a conditional use.

- (1) A change of conditional use to another conditional use shall require a review of a new application pursuant to this section.
- (2) A change of a conditional use to a permitted use shall operate as a cessation of the conditional use.
- (3) An expansion or intensification of a conditional use shall require a review of a conditional use application pursuant to this section. This shall also apply to an existing use that was legally established prior to March 6, 2018 and is classified as a conditional use pursuant to this chapter as of March 6, 2018. However, if the Administrative Official determines that the requested expansion or intensification is minor, the Administrative Official shall have the authority to review and approve, or approve with modifications or conditions the minor change, providing the change complies with the following:
 - a. Is compliant with the minimum requirements of Chapter 13;
 - b. Does not violate any conditions of the original approval;
 - c. Is compliant with concurrency requirements; and
 - d. Satisfactorily addresses land use compatibility, buffering, screening, and landscaping.

(4) Unless otherwise specifically authorized by Town Council issued conditional use development order, should a conditional use cease operation for more than twelve (12) continuous months, any use of the same property or portion thereof shall only be one that is permitted under this chapter and any reinstitution of the conditional use shall require a review of a new application pursuant to this section. For purposes of an existing use that was legally established prior to March 6, 2018 and is classified as a conditional use pursuant to this chapter as of March 6, 2018, the twelve (12) continuous month period shall be counted from March 6, 2018. The issuance or existence of a required license, permit or other governmental authorization to conduct such conditional use shall not mean that the use has not ceased, but the lack of any such required license, permit or authority shall create a rebuttable presumption that the use has ceased. Actions or activities of the property owner or agent of the property owner attempting to lease or rent the premises shall not be considered a use of the property in determining whether a conditional use has ceased.

(d) *Certificate of Use Renewal.* Beginning March 6, 2018, all property with a conditional use permit must annually renew its certificate of use on a time schedule consistent with the renewal of business tax receipts.



Town of Miami Lakes Memorandum

To: The Honorable Mayor and Councilmembers
From: Alex Rey, Town Manager
Subject: 14575 NW 77th Avenue Rezoning
Date: 2/6/2018

Recommendation:

Staff recommends approval of the proposed ordinance rezoning the property as described in Exhibit "A" of said ordinance, from GU, Interim District, to RO-13, Low Density Residential/Office.

Background:

The subject property is an irregularly shaped and undeveloped lot consisting of three (3) parcels, much of which is encumbered by easements owned by Florida Power and Light (FPL). FPL has transmission lines that traverse 80% of the land. The property is located at the south end of NW 77 Avenue east of the Palmetto Expressway (SR 826). The Applicant is requesting a rezoning for this undeveloped property as part of a development plan to construct an office building at the site. The applicant's development application could proceed without the rezoning given the nature of the GU, Interim zoning district, which is a place holder of sorts for lands not previously assigned a more specific designation. Development of a GU parcel follows the trending of development of other contiguous properties, in this case RO-13. For purposes of greater clarity, it is preferred that the land be rezoned consistent with the adjacent office/residential district and the underlying Office/Residential land use designation. By squarely aligning the property with the zoning regulations that would otherwise apply, future development of the land may follow a more predictable path.

It is the Applicant's intent to bring to the Town Council a site plan application for an office building on the property when this rezoning request returns for second reading. Nevertheless, this rezoning request should stand on its own merits as a RO-13 zoning is most appropriate for the property regardless of any current or future site plan request.

On January 23, 2018, the Planning and Zoning Board, acting in their capacity as the Local Planning Agency voted in favor of the ordinance recommending its approval to the Town Council.

ATTACHMENTS:

Description

Ordinance - First Reading - NW 77
LPA Submittal

ORDINANCE NO.18-_____

AN ORDINANCE OF THE TOWN OF MIAMI LAKES, FLORIDA; AMENDING THE OFFICIAL ZONING MAP TO REZONE A 2.07 +/- ACRE PROPERTY LOCATED AT 14575 NW 77 AVENUE (FRONTAGE ROAD), AS MORE PARTICULARLY DESCRIBED AT ATTACHMENT "A", FROM THE G U , INTERIM DISTRICT, TO RO-13, LOW DENSITY RESIDENTIAL/OFFICE DISTRICT; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FINDINGS; PROVIDING FOR DIRECTION TO THE ADMINISTRATIVE OFFICIAL; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 13-306 of the Code of the Town of Miami Lakes ("Town Code"), Alari Holding 1, LLC., (the "Applicant") applied for an amendment to the Official Zoning Map from the G U , Interim District, to the RO-13, Low Density Residential/Office District on a 2.07 +/- acre property located 14575 NW 77th Avenue, Miami Lakes, Florida (the "Property") as described at Exhibit "A", attached hereto and incorporated herein by reference; and

WHEREAS, a map depicting the Property to be rezoned is attached as Exhibit "B", attached hereto and incorporated herein by reference; and

WHEREAS, Subsection 13-306(b) provides that proposed amendments to the Official Zoning Map be evaluated by the Administrative Official, the Local Planning Agency and the Town Council; and

WHEREAS, the Administrative Official reviewed the proposed amendment to the Official Zoning Map and recommends approval, as set forth in the Staff Analysis and Recommendation dated January 23, 2018; and

WHEREAS, the Town Council appointed the Planning and Zoning Board as the Local Planning Agency (LPA) for the Town pursuant to Section 163.3174, Florida Statutes; and

WHEREAS, on January 23, 2018, after conducting a properly noticed quasi-judicial public hearing, the Planning and Zoning Board, acting in its capacity as the Local Planning Agency, acted in accordance with state law, and in specific compliance with Section 163.3174, Florida Statutes and has reviewed and recommends approval of the rezoning; and

WHEREAS, on February 5, 2018, after conducting a properly noticed quasi-judicial public hearing and considering the comments of the public, and the recommendations of Local Planning Agency and the Administrative Official, the Town Council moved the proposed amendment on first reading; and

WHEREAS, on _____ 2018, the Town Council conducted a properly advertised quasi-judicial public hearing on the proposed amendment; and

WHEREAS, the Town Council finds it in the public interest to adopt the proposed amendment to the Official Zoning Map.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The foregoing recitals are true and correct and are incorporated herein by this reference.

Section 2. Findings. After considering Staff's Recommendation and Analysis, both submitted in writing and presented orally and which is accepted as substantial competent evidence, testimony of the Applicant, and the public, the Town Council finds, pursuant to Subsection 13-306(b) of the Town Code, that the proposed amendment to the Official Zoning Map is consistent with the Town of Miami Lakes Comprehensive Plan and the criteria for evaluation of an amendment to the Official Zoning Map found in Subsection 13-306(b) of the Town Code.

Section 3. Approval of Rezoning. The Town Council hereby adopts the amendment to the

Official Zoning Map for the Property described at Exhibit "A" and depicted in Exhibit "B", from the GU, Interim District, to the RO-13, Low Density Residential/Office District.

Section 4. Direction to the Administrative Official. Pursuant to Subsection 13-306(d), the Town Council hereby directs the Administrative Official to make the appropriate changes to the Official Zoning Map to implement the terms of this Ordinance.

Section 5. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 6. Effective date. This Ordinance shall become effective after second reading and upon the Applicant's payment in full of all fees associated with the Applicant's request.

FIRST READING

The foregoing ordinance was offered by Councilmember _____ who moved its adoption on first reading. The motion was seconded by Councilmember _____ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Frank Mingo	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Nelson Rodriguez	_____
Councilmember Marilyn Ruano	_____

Passed on first reading this _____ day of February, 2018.

SECOND READING

The foregoing ordinance was offered by Councilmember _____ who moved its adoption on second reading. The motion was seconded by Councilmember _____ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Nelson Rodriguez	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Marilyn Ruano	_____

Passed and adopted on second reading this _____ day of March, 2018.

Manny Cid
Mayor

Attest:

Gina M. Inguanzo
Town Clerk

Approved as to form and legal sufficiency:

Raul Gastesi, Jr.
Gastesi & Associates, P.A.
Town Attorney

EXHIBIT A

LEGAL DESCRIPTION

EXHIBIT B

MAP



Town of Miami Lakes Memorandum

To: Honorable Chairman and Members of the Local Planning Agency
From: Darby Delsalle, AICP, Director
Subject: NW 77th Ave Rezoning
Date: 1/23/2018

Recommendation:

Staff recommends approval of the proposed ordinance rezoning the property as described in Exhibit "A" of said ordinance, from GU, Interim District, to RO-13, Low Density Residential/Office.

Background:

The subject property is an irregularly shaped and undeveloped lot consisting of three (3) parcels, much of which is encumbered by easements owned by Florida Power and Light (FPL). FPL has transmission lines that traverse approximately two-thirds (2/3) of the land. The property is located at the south end of NW 77 Avenue east of the Palmetto Expressway (SR 826). The Applicant is requesting a rezoning for this undeveloped property as part of a larger development plan to construct an office building at the site. The applicant's development application could proceed without the rezoning given the nature of the GU, Interim zoning district, which is a place holder of sorts for lands not previously assigned a more specific designation. Development of a GU parcel follows the trending of development of other contiguous properties, in this case RO-13. For purposes of greater clarity, it is preferred that the land be rezoned consistent with the adjacent office/residential district and the underlying Office/Residential land use designation. By squarely aligning the property with the zoning regulations that would otherwise apply, future development of the land may follow a more predictable path. It is the Applicant's intent to bring to the Town Council a site plan application for an office building on the property when this rezoning request returns for second reading. Nevertheless, this request should stand on its own merits as a RO-13 rezoning is most appropriate for the property regardless of any current or future site plan request.

ATTACHMENTS:

Description

Ordinance

Exhibit A - Survey

Exhibit B - Proposed zoning map

Staff Report

ORDINANCE NO.18- ____

AN ORDINANCE OF THE TOWN OF MIAMI LAKES, FLORIDA; AMENDING THE OFFICIAL ZONING MAP TO REZONE A 2.07 +/- ACRE PROPERTY LOCATED AT 14575 NW 77 AVENUE (FRONTAGE ROAD), AS MORE PARTICULARLY DESCRIBED AT ATTACHMENT “A”, FROM THE G U , INTERIM DISTRICT, TO RO-13, LOW DENSITY RESIDENTIAL/OFFICE DISTRICT; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FINDINGS; PROVIDING FOR DIRECTION TO THE ADMINISTRATIVE OFFICIAL; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 13-306 of the Code of the Town of Miami Lakes ("Town Code"), Alari Holding 1, LLC., (the "Applicant") applied for an amendment to the Official Zoning Map from the G U , Interim District, to the RO-13, Low Density Residential/Office District on a 2.07 +/- acre property located 14575 NW 77th Avenue, Miami Lakes, Florida (the "Property") as described at Exhibit "A", attached hereto and incorporated herein by reference; and

WHEREAS, a map depicting the Property to be rezoned is attached as Exhibit “B”, attached hereto and incorporated herein by reference; and

WHEREAS, Subsection 13-306(b) provides that proposed amendments to the Official Zoning Map be evaluated by the Administrative Official, the Local Planning Agency and the Town Council; and

WHEREAS, the Administrative Official reviewed the proposed amendment to the Official Zoning Map and recommends approval, as set forth in the Staff Analysis and Recommendation dated <DATE>, 2018; and

WHEREAS, the Town Council appointed the Planning and Zoning Board as the Local Planning Agency (LPA) for the Town pursuant to Section 163.3174, Florida Statutes; and

WHEREAS, on January 23, 2018, after conducting a properly noticed quasi-judicial public hearing, the Planning and Zoning Board, acting in its capacity as the Local Planning Agency, acted in accordance with state law, and in specific compliance with Section 163.3174, Florida Statutes and has reviewed and recommends approval of the rezoning; and

WHEREAS, on February _____, 2018, after conducting a properly noticed quasi-judicial public hearing and considering the comments of the public, and the recommendations of Local Planning Agency and the Administrative Official, the Town Council moved the proposed amendment on first reading; and

WHEREAS, on March _____, 2018, the Town Council conducted a properly advertised quasi-judicial public hearing on the proposed amendment; and

WHEREAS, the Town Council finds it in the public interest to adopt the proposed amendment to the Official Zoning Map.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The foregoing recitals are true and correct and are incorporated herein by this reference.

Section 2. Findings. After considering Staff's Recommendation and Analysis, both submitted in writing and presented orally and which is accepted as substantial competent evidence, testimony of the Applicant, and the public, the Town Council finds, pursuant to Subsection 13-306(b) of the Town Code, that the proposed amendment to the Official Zoning Map is consistent with the Town of Miami Lakes Comprehensive Plan and the criteria for evaluation of an amendment to the Official Zoning Map found in Subsection 13-306(b) of the

Town Code.

Section 3. Approval of Rezoning. The Town Council hereby adopts the amendment to the Official Zoning Map for the Property described at Exhibit "A" and depicted in Exhibit "B", from the GU, Interim District, to the RO-13, Low Density Residential/Office District.

Section 4. Direction to the Administrative Official. Pursuant to Subsection 13-306(d), the Town Council hereby directs the Administrative Official to make the appropriate changes to the Official Zoning Map to implement the terms of this Ordinance.

Section 5. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 6. Effective date. This Ordinance shall become effective after second reading and upon the Applicant's payment in full of all fees associated with the Applicant's request .

FIRST READING

The foregoing ordinance was offered by Councilmember _____ who moved its adoption on first reading. The motion was seconded by Councilmember _____ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Nelson Rodriguez	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Marilyn Ruano	_____

Passed on first reading this _____ day of February, 2018.

SECOND READING

The foregoing ordinance was offered by Councilmember _____ who moved its adoption on second reading. The motion was seconded by Councilmember _____ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Nelson Rodriguez	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Marilyn Ruano	_____

Passed and adopted on second reading this _____ day of March, 2018.

Manny Cid
Mayor

Attest:

Gina M. Inguanzo
Town Clerk

Approved as to form and legal sufficiency:

Raul Gastesi, Jr.
Gastesi & Associates, P.A.
Town Attorney

EXHIBIT A





LEGAL DESCRIPTION

EXHIBIT B

MAP

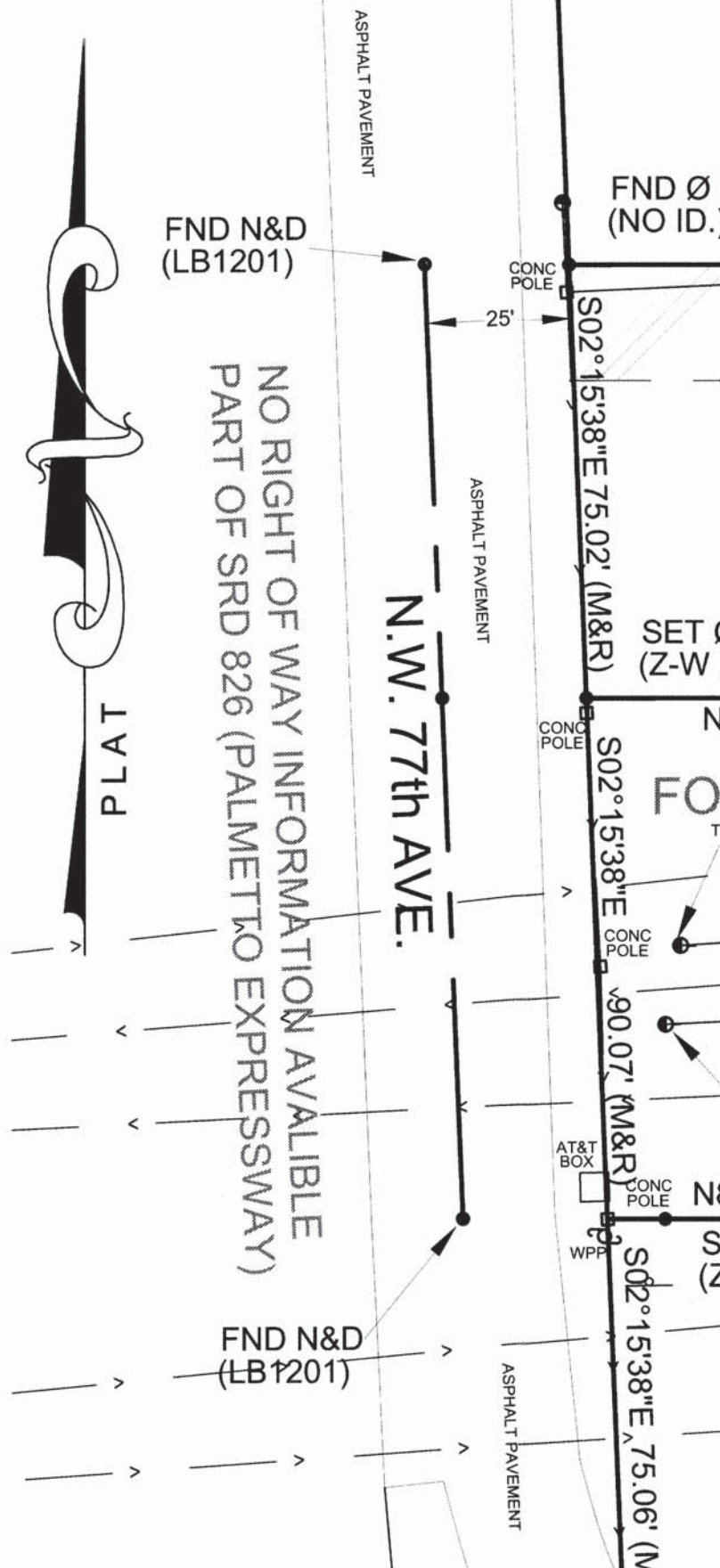
SYMBOL LEGEND:

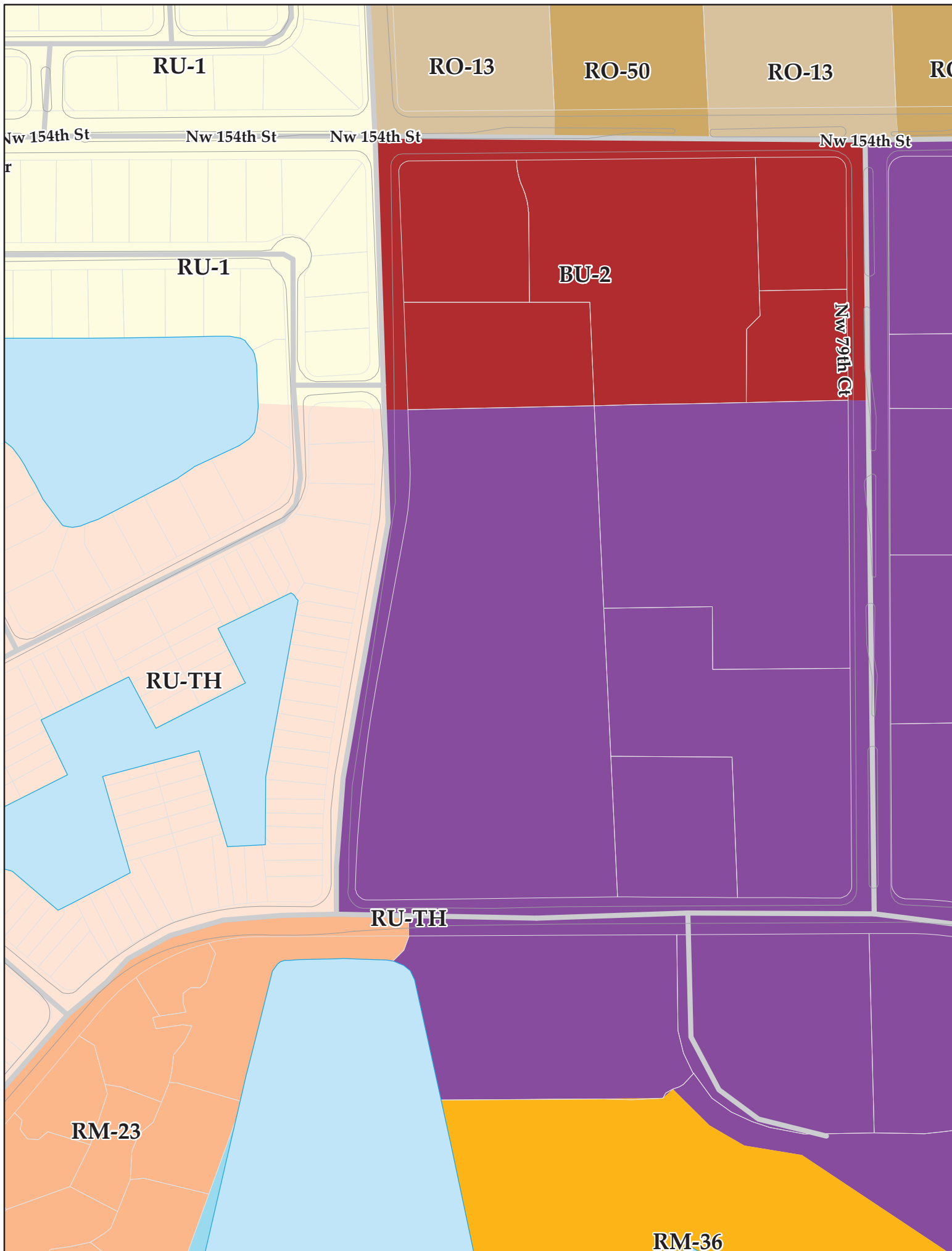
BOUNDARY

-  LIGHT POLE
-  TYPICAL STATION
-  UTILITY POLE
-  MAIL BOX
-  ELECTRIC BOX
-  TRAFFIC SIGNAL BOX
-  FIRE HYDRANT
-  STORM SEWER/CATCH BASIN
-  WATER METER
-  SIGN
-  TELEPHONE BOX
-  WATER VALVE
-  ELEVATIONS
-  TRAFFIC LANE FLOW
-  CENTER LINE
-  MONUMENT LINE
-  DIAMETER.

ABBREVIATIONS:

A	=	ARC
A/C	=	AIR CONDITIONER
BLDG	=	BUILDING
CH	=	CHORD LENGTH
C & G	=	CURB AND GUTTER
CH BR	=	CHORD BEARING
CB	=	CATCH BASIN
CBS	=	CONCRETE BLOCK STUCCO
CLR	=	CLEAR
CLF	=	CHAIN LINK FENCE
CONC	=	CONCRETE
D	=	DELTA
E	=	EAST
EB	=	ENGINEERING BUSINESS LICENSE NUMBER
EL	=	ELEVATION
ELEC	=	ELECTRIC
ELEV	=	ELEVATION
ENC	=	ENCROACHMENT
EP	=	EDGE OF PAVEMENT
FEMA	=	FEDERAL EMERGENCY MANAGEMENT AGENCY
FIP	=	FOUND IRON PIPE
FIR	=	FOUND IRON ROD
FIRM	=	FLOOD INSURANCE RATE MAP
FND	=	FOUND
FPL	=	FLORIDA POWER AND LIGHT CO.
GNSS	=	GLOBAL NAVIGATION SATELLITE SYSTEM
GPS	=	GLOBAL POSITIONING SYSTEM
IP	=	IRON PIPE
L	=	LENGTH
LB	=	SURVEYING & MAPPING BUSINESS LICENSE NUMBER
LS	=	LAND SURVEYOR
M & R	=	MEASURED AND RECORD
MEAS	=	MEASURED
MH	=	MAN HOLE
N	=	NORTH
N/A	=	NOT APPLICABLE
N & DISC	=	NAIL & DISC
NAD27	=	NORTH AMERICAN DATUM OF 1927
NAD83	=	NORTH AMERICAN DATUM OF 1983
NAD83/90	=	NORTH AMERICAN DATUM OF 1983, 1990 ADJUSTMENT
NFIP	=	NATIONAL FLOOD INSURANCE PROGRAM
NGS	=	NATIONAL GEODETIC SURVEY
No	=	NUMBER





RU-1

RO-13

RO-50

RO-13

RO

Nw 154th St

Nw 154th St

Nw 154th St

Nw 154th St

r

RU-1

BU-2

Nw 79th Ct

RU-TH

RU-TH

RM-23

RM-36



Planning Department
6601 Main Street • Miami Lakes, Florida 33014
Office: (305) 364-6100 • Fax: (305) 558-8511
Website: www.miamilakes-fl.gov

Staff Analysis and Recommendation

To: Honorable Chairman and Members of the Local Planning Agency

From: Darby Delsalle, AICP, Planning Director

Subject: **HEARING NUMBER:** ZONE2017-0614
APPLICANT: Alari Holdings I, LLC
FOLIO: 32-2023-001-0550;
32-2023-001-0560;
32-2023-001-0541
LOCATION: 14575 NW 77 Avenue
ZONING GU – Interim District
FUTURE LAND USE: Office/Residential

Date: January 23, 2017

A. REQUEST

In accordance with the Town of Miami Lakes Land Development Code (the “Code”), Alari Holdings I, LLC (the “Applicant”) is requesting an amendment to the Official Zoning Map (a “rezoning”) from the GU, Interim District, to RO-13, Low Density Residential/Office District for the property described at Exhibit “A” of the proposed ordinance.

B. SUMMARY

The Applicant is requesting a rezoning for this undeveloped property as part of a larger development plan to construct an office building at the site. The applicant’s development application could proceed without the rezoning given the nature of the GU, Interim zoning district. The GU district is a place holder of sorts for lands not previously assigned a more specific designation. Development of a GU parcel is supposed to follow the trending of development of other contiguous properties, in this case RO-13. It is preferred, however, to simply have land rezoned consistent with the adjacent office/residential district and the underlying Office/Residential land use designation. By squarely aligning the property with the zoning regulations that would otherwise apply, future development of the land may follow a more predictable path.

It is the Applicant’s intent to bring to the Town Council a site plan application for an office building on the property when this rezoning request returns for second reading. Nevertheless, this request

should stand on its own merits, as a RO-13 rezoning is most appropriate for the property regardless of any current or future site plan request.

C. STAFF RECOMMENDATION

Based on the analysis provided below and other factors contained in this report, Staff recommends that the Town Council approve the proposed ordinance rezoning of the property as described in Exhibit "A" of said ordinance, from GU, Interim District, to RO-13, Low Density Residential/Office.

D. BACKGROUND

Existing Zoning District: GU, Interim District

Proposed Zoning District: RO-13 Low Density Residential/ Office

Future Land Use Designation: OR Office/Residential

Subject Site:

The subject property is an irregularly shaped and undeveloped lot consisting of three (3) parcels, much of which is encumbered by easements owned by Florida Power and Light (FPL). FPL has transmission lines that traverse approximately two-thirds (2/3) of the land. The property is located at the south end of NW 77 Avenue east of the Palmetto Expressway (SR 826). East of the property is an area zoned GU that is developed as an FPL transfer station. The land north of the property is zoned RO-13 and developed with a two (2) story office building; the lands to immediate south are zoned GU and part of FDOT's rights-of-way for SR 826.

Surrounding Property:

	Land Use Designation	Zoning District
North:	OFFICE RESIDENTIAL (OR)	RO-13 Low Density Residential/Office
South:	LOW DENSITY RESIDENTIAL (LD)	Interim District (GU)
East:	LOW DENSITY RESIDENTIAL (LD)	Interim District (GU)
West:	LOW DENSITY RESIDENTIAL (LD)	Interim District (GU)

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Subject Property Location Map:

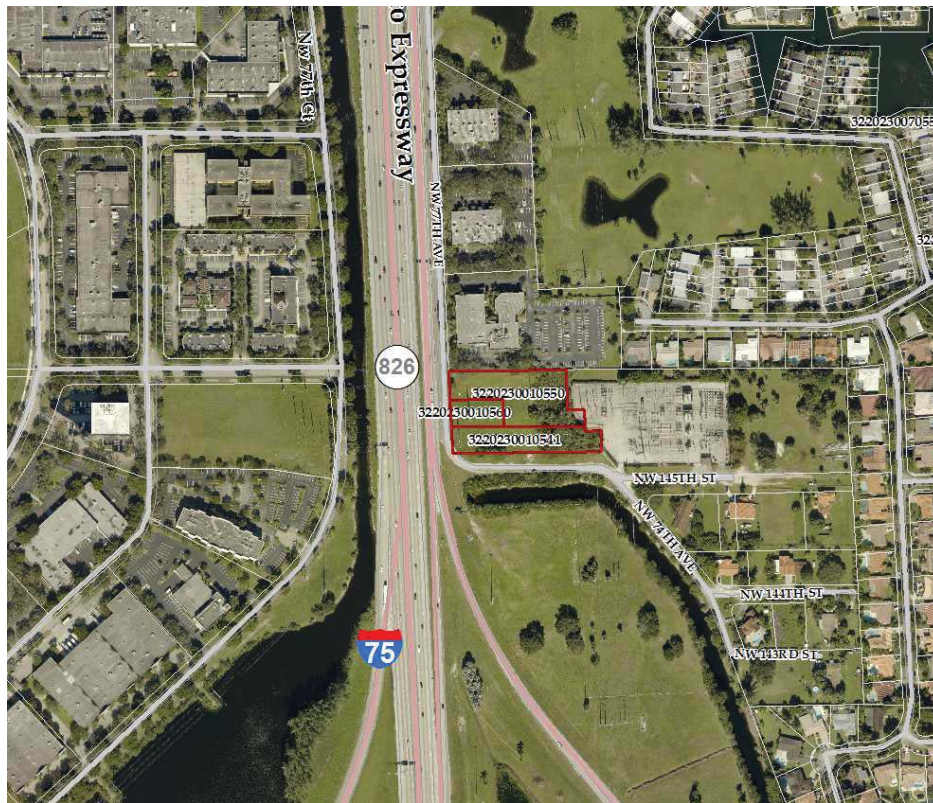


Figure 1: Location aerial and folio numbers

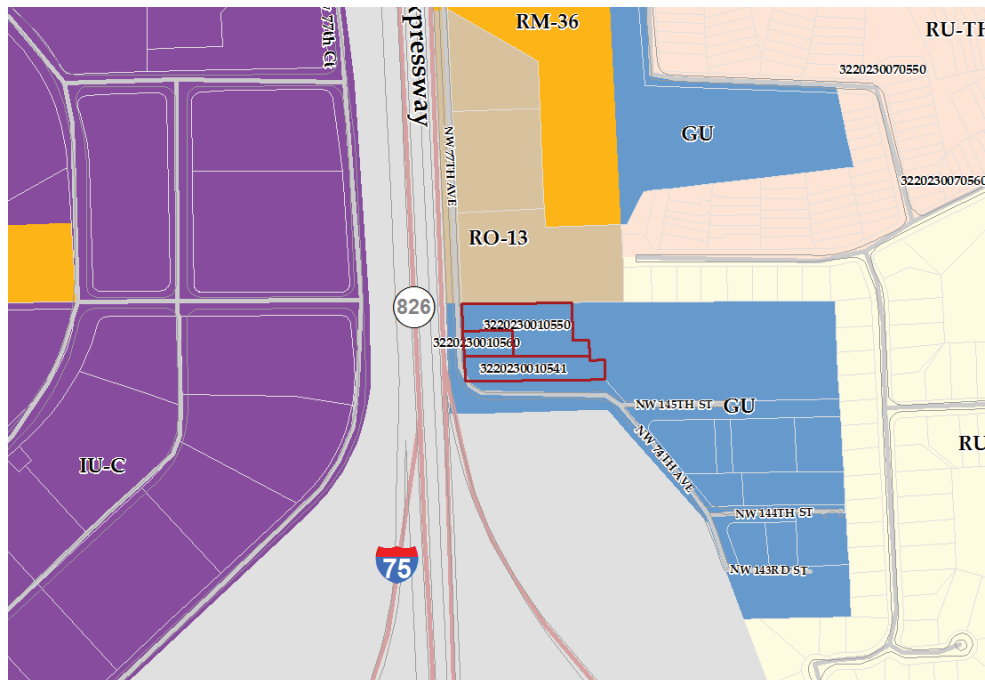


Figure 2: Existing zoning map



Figure 3: Existing Future Land Use map

E. ADJACENT MOBILITY PROJECTS

On April, 25, 2016, the Town Council of the Town of Miami Lakes adopted Ordinance No. 16-192, establishing the Town's Mobility Fee Program. The program is a replacement for traditional transportation concurrency review as provided for by Florida Statutes, and seeks to enhance internal Town mobility through the use of several modalities. The comprehensive approach identifies specific projects throughout the Town, all aimed at improving traffic and mobility improvements. The projects identified below have been adopted by the Town Council as part of that initiative and are described herein due to their adjacency to the proposal that is the subject of this report.

Initiative: Reconfiguration of the SR 826/Palmetto Expressway and NW 154th Street, which includes the following:

- a. Widening of NW 154th Street from NW 82nd Avenue to NW 77th Avenue;
- b. Direct ramp to I-75 from NW 154th Street;
- c. East-West underpass across the Palmetto Expressway at NW 146th Street.

Status: Project is in the design phase with an expected completion by 2nd Quarter 2018. Construction is to commence FY 2021. Project will alleviate congestion on NW 154th Street, by providing an enhanced access point onto I-75, and creating an additional east/west connectivity point within the Town.

Initiative: Adaptive Signalization on NW 154th Street from NW 87th Avenue to NW 77th Avenue.

Status: The Town Council approved the procurement of the Adaptive Signalization equipment and has entered an Inter-local for its installation, maintenance and operation. Miami-Dade County Traffic Engineering is completing assessment of existing infrastructure for compatibility.

Initiative: Greenway Trail along NW 77th Court from NW 170th Street to its terminus at the proposed dog park near NW 82nd Avenue.

Status: Project is in the design phase and provides for a ten (10) foot shared use pathway. Construction to be aligned with FDOT's SR 826 project with provides improvement in and around NW 154th Street with a projected start of FY 2021.

Initiative: Construction of a new Park-and-Ride Facility at Par 3 near NW 77th Avenue.

Status: Town is working with the Graham Companies on the land transfer for the Park-N-Ride Facility and is coordinating with Miami-Dade County Public Works and Transportation to secure funding through Miami-Dade County road impact fees.

F. Open Building Permit(s) / Open Code Compliance Violation(s)

There are no open building permits associated with this property.

G. ZONING HISTORY

The site is currently undeveloped. It has been zoned GU since the Town's incorporation.

H. PROCEDURALLY

This application is initiated by the owner of the land involved, and it is part and parcel with a development plan to construct an office building on the property. As such, this particular request, and any companion applications as provided under separate cover, shall proceed under quasi-judicial rules as the benefit inures to that specified development plan. When this item returns for second reading, it will be accompanied by a site plan request. The rezoning request shall be voted on before the site plan request.

I. ANALYSIS

The Land Development Code (LDC) provides that all proposed amendments to the Official Zoning Map and to the text of the LDC shall be evaluated by the Administrative Official, the Local Planning Agency and the Town Council, and that, in evaluating the proposed amendment, the criteria in Subsection 13-306(b) shall be considered. All portions of this report are hereby incorporated into all portions of this analysis. The following is a staff analysis of the criteria as applied to this application:

1. **Whether the proposal is consistent with the Comprehensive Plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program.**

The following is a broad review of the relevant Goals Objectives and Policies (GOP's) of the Comprehensive Plan. Portions of Element 8, Capital Improvement Element, that address Level of Service (LOS) standards, as found more specifically at Policy 8.3.5, are not specifically enumerated here as they merely are a redundancy of the GOP's analyzed below. The review provided below includes that policy by reference¹.

Analysis: The uses permitted with the proposed RO-13 zoning is consistent with the underlying land use designation of Office Residential (OR) which is defined as follows:

**Office/Residential (OR)* - Uses allowed in this category include both professional and clerical offices, hotels, motels, public facilities and residential uses. Office developments may range from small-scale professional office to large-scale office parks. A specific objective in designing developments to occur in this category is that the development should be compatible with any existing or future adjacent residential uses. The maximum scale and intensity of office, hotel and motel development in OR areas shall be based on such factors as site size, availability of services, accessibility, and proximity and scale of adjacent residential uses. Residential uses are also allowed in the OR category. Residential development may be authorized at a density up to one (1) density category higher than the average of adjacent residential land uses. When residential uses are mixed with office uses, the overall scale and intensity shall be no greater than that which would be approved if the parcel was in either office only or residential use only, whichever is higher. However, residential use shall not be developed on over 50% of the area of any individual site. Within the OR category, business uses ancillary and to serve the on-site uses may be integrated in an amount not to exceed 15 percent of the total floor area. However, the Office/Residential designation does not authorize any other business or commercial uses. The maximum floor area ratio (FAR) permitted is 0.4 for a one-story building, plus 0.2 for each

¹ Element 8, Capital Improvement Element, of the Comp Plan, provides for Level of Service infrastructure standards within the Town. Policies 2.1.8, 2.2.1, 2.2.2, 4A.1.1, 4B.1, 5.1.1, 8.3.1 are a restatement of Policy 8.3.5 of that element. In the interest of avoiding redundancy, portions of that Policy are not restated here in this report. The analysis provided herein shall equally apply to that policy.

additional story, not to exceed a total FAR of 2.0. The maximum height permitted in this category is 2 stories, not to exceed 35 feet; however, the maximum height can be exceeded with approval through a public hearing.

Finding: Complies

Policy 2.1.8: In-lieu of traditional transportation concurrency, the Town shall mitigate the mobility impacts of development and redevelopment, and provide a portion of funding needed to implement the improvements identified in the Element, through a mobility fee.

Analysis: See Summary Section, Background Section, and Adjacent Mobility Project Section. Development of this property could proceed without a rezoning. However, the rezoning of this property does serve to properly align the zoning of the land with those to its north that share frontage on NW 77th Avenue, and to provide for a more predictable development standard. Development along this frontage road adjacent to the SR-826 consists of one and two-story office buildings. As such, rezoning of the land to RO-13 provides no greater impact than already potentially exists with the current GU zoning. A number of mobility projects are scheduled for the adjacent roadway connection points as more particularly described at Section E above. Any development of the project is subject to a mobility fee to be determined at time a site plan application and review. A more complete analysis of this standard will be provided at the time of site plan review.

Finding: Consistent.

Objective 2.2: MULTIMODAL LEVELS-OF-SERVICE

Achieve the adopted levels-of-service for vehicular, bicycle, pedestrian and transit modes.

Analysis: See Policy 2.1.8.

Finding: Conditionally complies as provided for at Policy 2.1.8.

Policy 2.2.1: For purposes of capital improvements planning, the Town hereby adopts the following vehicular level of service (LOS) standards:

West of Palmetto Expressway (outside urban infill area): LOS D (90% of capacity at peak hour) or better, except State urban Minor arterial roads which may operate at LOS "E" (100% of capacity at peak hour) or above.

Analysis: See Section E, Mobility Projects, and Policy 2.1.8. The proposed project will benefit from several proposed transportation improvements in the neighboring areas as further specified in Section E, Mobility Projects, of this report.

Finding: Consistent

Policy 4A.1.1: To assure adequate level of service for potable water, the Town hereby adopts the following LOS standard:

- a. Regional Treatment. The regional treatment system shall operate with a rated maximum daily capacity of no less than 2% above the maximum daily flow for the preceding year, and an average daily capacity of 2% above the average daily system demand for the preceding 5 years.
- b. Delivery. Water shall be delivered to users at a pressure no less than 20 pounds per square inch (psi) and no greater than 100 psi. Unless otherwise approved by the Miami-Dade Fire Department, minimum fire flows based on the land use served shall be maintained as follows:

<u>Land Use</u>	<u>Min. Fire Flow (gpm)</u>
Single Family Residential Estate	500
Single Family and Duplex; Residential on minimum lots of 7,500 sf	750
Multi-Family Residential;	1,500
Semi-professional Offices Hospitals; Schools	2,000
Business and Industry	3,000

- c. Water Quality. Water quality shall meet all federal, state and county primary standards for potable water.
- d. Countywide Storage. Storage capacity available throughout the County for finished water shall equal no less than 15% of the countywide average daily demand.
- e. Maintain the potable water standard of 91 gallons/capita/day.

Policy 4A.2.1: Encourage future development into areas that are already served, or programmed to be served, by MDWASD potable water facilities.

Policy 4B.1.1: To assure adequate level of service for sanitary sewer service, the Town hereby adopts the following LOS standard:

Regional Plants. Regional wastewater treatment plants shall operate with a physical capacity of no less than the annual average daily sewage flow.

Effluent. Effluent discharged from wastewater treatment plants shall meet all federal, state, and county standards.

System. The system shall maintain capacity to collect and dispose of 102 percent of average daily sewage demand for the preceding five years.

Maintain the sanitary sewer standard of 81.9 gallons/capita/day.

Policy 4B.2.1: Encourage future development into areas that are already served, or programmed to be served, by MDWASD sanitary sewer facilities.

Analysis: See Summary Section, Background Section, and Adjacent Mobility Project Section. Development of this property could proceed without a rezoning. However, the rezoning of this property does serve to properly align the zoning of the land with those to its north that share frontage on NW 77th Avenue, and to provide for a more predictable development standard. Development along this frontage road adjacent to the SR-826 consists of one and two-story office buildings. As such, rezoning of the land provides no greater impact than already potentially exists with the current zoning. It will be required that any future construction of the site builds out the required infrastructure for potable water and sewer services. A more complete analysis of this standard will be provided at the time of site plan review.

Finding: Complies.

2. Whether the proposal is in conformance with all applicable requirements of this Code of Ordinances, including this chapter.

Analysis: See Summary Section and Section 1. The application was properly noticed pursuant to Section 13-309 of the Town's Land Development Code. A review of the Land Development Code found no provisions in conflict with the request. The request complies with the underlying land use designation.

Finding: Complies.

3. **Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether such changes support or work against the proposed change in land use policy.**

Analysis: See Summary Section and Criterion 1. Give that development could proceed without the rezoning, best practices would prefer the rezoning to eliminate any potential unpredictability of development moving forward.

Finding: Complies.

4. **Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved, the impact on adjacent or neighboring properties, consistency with existing development, as well as compatibility with existing and proposed land use.**

Analysis: See Summary Section and Background Section, and Criteria 1 and 3.

Finding: Complies.

5. **Whether, and the extent to which, the proposal would result in demands on transportation systems, public facilities and services, exceeding the capacity of such facilities and services, existing or programmed, including schools, transportation, water and wastewater services, solid waste disposal, drainage, water supply, recreation, education, emergency services, and similar necessary facilities and services.**

Analysis: See Criterion 1 and all portions of this report. Any development of the site will require compliance with the mobility fee program and water/sewer allocation by Miami-Dade County. Fuller compliance review will be completed at the time of site plan review.

Finding: Complies.

6. **Whether, and the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetland protection, preservation of any groundwater aquifers, wildlife habitats, and vegetative communities.**

Analysis: No natural features have been identified in the area proposed for rezoning that would potentially be vulnerable to negative impacts of the proposed development permitted by the RO-13 regulations. A fuller review will be required by the Miami-Dade County prior to construction activities.

Finding: Complies.

7. **Whether, and the extent to which, the proposal would adversely affect the property values in the affected area, or adversely affect the general welfare.**

Analysis: See Summary Section and Background Section. The proposed rezoning is not expected to affect adversely property values in the area, or the general welfare. It merely aligns the zoning of the property to the underlying land use on those contiguous properties north of the lot.

Finding: Complies

8. **Whether the proposal would result in an orderly and compatible land use pattern. Any positive and negative effects on such pattern shall be identified.**

Analysis: See Criteria 1, 3, and 7.

Finding: Complies.

9. **Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and intent of this chapter.**

Analysis: See Summary Section and Criteria 1, 3, and 7.

Finding: Complies.

10. **Other matters which the Local Planning Agency or the Town Council, in its legislative discretion, may deem appropriate.**

Analysis: See Summary Section and all portions of this analysis. The Local Planning Agency and the Town Council may consider other appropriate factors to determine whether the proposed rezoning is appropriate and consistent with the public interest. The Analysis Section addressed the conditions suggested by the Planning and Zoning Board.

Finding: As determined by the Town Council.



Town of Miami Lakes Memorandum

To: The Honorable Mayor and Councilmembers
From: Alex Rey, Town Manager
Subject: Government Facilities Zoning
Date: 2/6/2018

Recommendation:

Based on the analysis provided in the Staff Analysis and Recommendation report, Staff recommends approval of the ordinance amending the Government Property Zoning, GP section of the Land Development Code, to remedy the specified deficiencies and to provide for communication facilities.

Background:

On October 6, 2015, the Town Council directed the Town Manager to explore amendments to the Town Code that would provide for a procedure to authorize the location of communication facilities on Town owned property. Site planning on governmentally controlled properties is provided by the GP, Government Property District, regulations which provide for the required review procedures. However, a close examination of the Code found three deficiencies that needed to be addressed. The first relates to an automatic rezoning provision which automatically changes the zoning of land upon the purchase or sale of a governmental entity. The second deficiency that the provisions do not provide for is a minor administrative site plan adjustment procedure as would be afforded to a privately held piece of land. Third, the permitted uses needs to be expanded to include communication facilities and other necessary uses that serve the Town's residents. The attached ordinance remedies those deficiencies.

On November 14, 2017, the Planning and Zoning Board, acting in their capacity as the Local Planning Agency, voted to recommend approval of the ordinance to the Town Council. The item was moved on first reading at the Town Council's regular meeting of January 16, 2018.

ATTACHMENTS:

Description

Ordinance

First Reading Submittal

ORDINANCE NO. 18-_____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA RELATING TO GOVERNMENTAL FACILITIES; AMENDING DIVISION 24, ENTITLED "GP GOVERNMENTAL PROPERTY DISTRICT," OF ARTICLE IV, ZONING DISTRICT REGULATIONS, OF CHAPTER 13, LAND DEVELOPMENT CODE; ESTABLISHING PROVISIONS FOR THE REVIEW AND APPROVAL OF GOVERNMENTAL FACILITIES; PROVIDING FOR COMPLIANCE WITH STATE STATUES; PROVIDING FOR ADOPTION OF RECITALS; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION INTO THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.
(Nelson Rodriguez)

WHEREAS, on March 12, 2013, the Town adopted Ordinance No. 13-155, which among other provisions, provided for the siting, construction and review of governmental facilities on publicly owned land, and whereby through either purchase or sale of such land, said land is automatically rezoned as result of such transaction; and

WHEREAS, the adopted provisions, which were largely copied from the prior Miami-Dade County Code, do not provide for the standard zoning procedures when changing the permitted use of land; and

WHEREAS, it is generally accepted that government facilities are required to deliver the necessary services to ensure the general health, safety and welfare, of its citizens; and that such facilities are commonly located in a variety of zoning districts where such lands are available, or most practicable to ensure the delivery of such services; and

WHEREAS, to that end, and consistent with other governments in the practice of their service delivery, and as provided in large part by Chapter 13 of the Town's Code, an exclusive site

plan review procedure is provided for to ensure the availability of needed facilities to deliver the services desired and demanded by Town residents; and

WHEREAS, the proposed ordinance clarifies the exclusive site plan procedure afforded to the Town, and deletes other outdated provisions; and

WHEREAS, on October 6, 2015, the Town Council directed the Town Manager to explore amendments to the Town Code that would provide for a procedure to authorize the location of telecommunication equipment and facilities on Town owned property;

WHEREAS, the proposed ordinance makes such equipment and facilities possible, subject to notice and public hearing requirements before the Town Council; and

WHEREAS, the Administrative Official reviewed the proposed amendment and recommends approval, as set forth in the Staff Analysis and Recommendation dated November 14, 2017, and incorporated into this Ordinance by reference; and

WHEREAS, the Town Council appointed the Planning and Zoning Board as the Local Planning Agency (LPA) for the Town pursuant to Section 163.3174, Florida Statutes; and

WHEREAS, on November 14, 2017, after conducting a properly noticed public hearing, the Planning and Zoning Board, acting in its capacity as the Local Planning Agency, acted in accordance with state law, and in specific compliance with Section 163.3174, Florida Statutes and reviewed and recommended approval to the Miami Lakes Town Council; and

WHEREAS, on January 16, 2017, the Town Council after conducting a properly noticed public hearing adopted the item for First Reading; and

WHEREAS, on <DATE> ____, 2017, after conducting a properly noticed public hearing and considering the recommendations of the public, the Local Planning Agency, and the Administrative Official; the Town Council finds that the proposed amendment is consistent with

the Town of Miami Lakes Comprehensive Plan and the criteria for evaluation of an amendment to the Land Development Code at section 13-306(b) of the Town Code; and

WHEREAS, to that end, the Town Council of the Town of Miami Lakes hereby finds and declares that adoption of this Ordinance is appropriate and advances the public interest.

THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES AS FOLLOWS:

Section 1. Recitals. Each of the above stated recitals are true and correct and are incorporated herein by this reference.

Section 2. Amendment. Division 24, of Article IV of Chapter 13, entitled “GP Governmental Property District,” of the Town’s Land Development Code is hereby amended as provided at Exhibit A:

Section 3. Repeal of Conflicting Provisions. All provisions of the Code of the Town of Miami Lakes that are in conflict with this Ordinance are hereby repealed.

Section 4. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Inclusion in the Town Code. It is the intention of the Town Council, and it is hereby ordained, that the provisions of this Ordinance shall become and be made part of the Town Code and that if necessary the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word “Ordinance” shall be changed to “Article”, “Division” or other appropriate word.

Section 6. Effective Date. That this Ordinance shall be effective immediately upon its adoption on second reading.

The foregoing Ordinance was offered by Councilmember _____,
who moved its adoption on first reading. The motion was seconded by Councilmember
_____ and upon being put to a vote, the vote was as follows:

FIRST READING

The foregoing ordinance was offered by Councilmember _____ who moved
its adoption on first reading. The motion was seconded by Councilmember _____
and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Nelson Rodriguez	_____
Councilmember Tim Daubert	_____
Councilmember Luis Collazo	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Marilyn Ruano	_____

Passed on first reading this _____ day of _____, 2018.

[THIS SPACE INTENTIONALLY LEFT BLANK]

SECOND READING

The foregoing ordinance was offered by Councilmember _____ who moved its adoption on second reading. The motion was seconded by Councilmember _____ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Nelson Rodriguez	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Marilyn Ruano	_____

Passed and adopted on second reading this _____ day of _____, 2018.

Manny Cid
MAYOR

Attest:

Gina Inguanzo
TOWN CLERK

Approved as to form and legal sufficiency:

Raul Gastesi, Jr.
Gastesi & Associates, P.A.
TOWN ATTORNEY

EXHIBIT A
ORDINANCE

CHAPTER 13 LAND DEVELOPMENT CODE

* * *

ARTICLE IV ZONING DISTRICT REGULATIONS

* * *

DIVISION 24 ~~GP-GF~~-GOVERNMENTAL FACILITIES ~~PROPERTY~~ DISTRICT

13-842. Uses permitted.

The Town Council may establish the uses listed in this Division without regard to the zoning or use classification of any particular site or location of any governmental facility on any lands leased or owned by a governmental entity within the Town's jurisdiction. The procedure to establish such facilities as provided in this Division shall be exclusive to the Town. ~~No land, body of water and/or structure shall be maintained, used or permitted to be used, and no structure shall be hereafter maintained, erected, constructed, moved, reconstructed or structurally altered or permitted to be erected, constructed, moved, reconstructed or structurally altered for any purpose in a GP District which is designed, arranged, or intended to be used or occupied for any purpose other than the following:~~

- (a+) Public parks, playgrounds and buildings, and structures supplementary and incidental to such uses;
- (b2) Fire stations;
- (c3) Police stations;
- (d4) Public auto inspection stations;
- (e5) Public water and sewer treatment and distribution facilities;
- (f6) Public libraries;
- (g7) Public buildings and centers;
- (h8) Public hospitals, nursing homes and health facilities;
- (i9) Public auditoriums, arenas, museums, art galleries;
- (j10) Maximum and minimum detention facilities;
- (k11) Solid waste collection and disposal facilities;
- (l12) Public maintenance and equipment yards;
- (m13) Public bus stations and rapid transit stations and facilities;
- (n14) Public airports and heliports;
- (o) Utilities, including telecommunication facilities;
- (p) Equipment yards, plant nurseries;
- (q15) And other similar governmental uses or other facilities which serve the general health and welfare of the public.

13-843. ~~Designation of property.~~

~~All governmental property in the Town of Miami Lakes heretofore and hereafter purchased and/or designated for a governmental use shall be so noted in the public records and maps of the Department. If a specific governmental use or uses has or have been designated pursuant to Section 13-844 of the Code for a particular property, the public records and maps of the Department shall~~

so reflect said designation(s). All land subject to the permitted uses enumerated in Section 13-842 and owned in fee simple by a governmental entity shall be designated as governmental property. The designation GP shall be deemed an overlay zoning district and shall be in addition to any other zoning district by which the property is designated. If applicable, a GP District shall automatically revert to its other district classification if the property is no longer utilized as provided in Section 13-842 of the Code.

~~13-844. Exclusive procedure.~~

~~(a) The procedure provided herein shall be exclusive in the Town; provided, however, that unless a governmental facility is authorized as a designated permitted use in a zoning district, the Town Council shall not be bound by the procedures herein contained in constructing, erecting or operating any governmental facility listed below in the Town, and the Town Council may establish any governmental facility listed as follows where the Town Council may direct without regard to the zoning or use classification of any particular site or location: Public parks, playgrounds and buildings, and structures supplementary and incidental to such uses; domestic violence centers; fire stations; police stations; public auto inspection stations; public water and sewer treatment and distribution facilities; public libraries; public buildings and centers; public hospitals, nursing homes and health facilities; public auditoriums, arenas, museums, art galleries and convention halls; maximum and minimum detention facilities; solid waste collection and disposal facilities; public maintenance and equipment yards; public bus stations and Rapid Transit stations and facilities; and uses determined by the Town Council to be similar to those listed above.~~

~~(b) Exclusive site plan review procedure.~~

The site plan procedures in this Division shall be exclusive to the Town as further provided below:

~~(a)~~ Public hearing and notice required. The Town Council may only authorize the erection, construction and operation of the governmental facilities enumerated in this Division Subsection (a) above by resolution following public hearing. The said public hearing shall be held upon at least 15 days' notice of the time and place of such hearing published in a newspaper of general circulation in the Town, which publication shall include the time and place of hearing before the Town Council. A courtesy notice containing general information as to the date, time, and place of the hearing, the property location and general nature of the application may be mailed to the property owners of record, within a radius of 300 feet of the property described in the application, or such greater distance as the Director may prescribe; provided, however, that failure to mail or receive such courtesy notice shall not affect any action or proceeding taken hereunder. To provide additional notice to the public, the property shall be posted by a sign or signs indicating the action desired and the time and place of the public hearing thereon. Failure to post such property shall not affect any action taken hereunder. At the public hearing the Town Council shall consider, among other factors, the type of function involved, the public need therefor, the existing land use pattern in the area, alternative locations for the facility and the nature of the impact of the facility on the surrounding property. After considering these said factors, the Town Council shall take such action as is necessary to provide for and protect the public health, safety and welfare of the citizens and residents of the Town of Miami Lakes.

~~(b)(4)~~ In the event the Town Council authorizes the construction, erection, use or operation of a governmental facility in accordance with the procedures delineated above, or in the event

- the Council otherwise determines that ~~Town-owned~~ property should be utilized by the Town for a particular public purpose, the property shall be posted by a sign or signs conspicuously located thereon indicating the governmental facility or use authorized for the property. Such sign or signs may be removed upon the commencement of construction. The Town Manager or designee shall periodically check the property to ensure that the signs provided for in this subsection remain in existence and accurately depict the proposed use of the subject property. This subsection shall be construed as directory only and failure to comply with the provisions hereof shall not affect the validity of the Town Council's action authorizing the use of the property for the designated purposes.
- (c) Notice exemption. Any facility which is designated as or intended to be operated as a domestic violence center at the time of consideration, planning, erection, construction or acquisition, shall be exempt from the notice and public hearing provisions set forth in Subsection (b) above.
- (d) Minor site plan amendments. The Administrative Official, upon a determination that a requested site plan change of a previously approved governmental facility is minor, shall have the authority to review and approve, approve with modifications and/or conditions or deny the minor change or amendment, providing the amended site plan complies with the following:
- (1) Is compliant with the minimum requirements of this code;
 - (2) Does not increase the intensity of the project;
 - (3) Does not violate any conditions of the original approval;
 - (4) Does not increase the floor area of the project;
 - (5) Is compliant with concurrency requirements; and
 - (6) Satisfactorily addresses land use compatibility, buffering, screening, and landscaping.
- (e) Deferral. A council member may request a deferral of consideration of any item relating to the construction, erection, use or operation of a governmental facility for up to 30 days the first time the item appears on a council agenda or the first time the item is raised at a Town Council meeting if the proposed construction, erection, use or operation of the governmental facility affects that council member's district exclusively or primarily. Upon the council member's invoking this right, discussion upon that item shall cease and the council shall move to another item of business.
- (f) Issuance of permits upon appeal. Notwithstanding any contrary provisions of this Division, during an appeal of a development order for a government facility approved pursuant to this section, zoning approvals relating to that development order being appealed shall be issued upon the request of the applying government, providing that:
- (1) The applying government indicates in writing that it will conform as necessary to any subsequent changes mandated as a result of the appellate process by the court or by the Town Council; and
 - (2) That other applicable requirements of law are met.
- ~~(d) The procedure established by this chapter shall be the exclusive procedure when applicable to any airport zoning regulations, and no application for a district boundary change, change in zoning regulations, appeals of administrative decisions, special exceptions or unusual and new uses or variances shall be considered or granted by any Town Board unless the same is~~

~~provided for by this chapter and only by the procedure and method so provided; provided, however, the Town Council may change the zoning regulations without following the procedure provided therefore in this article; provided, however, that no such change will be made unless the written recommendation of the Director are first considered by the Town Council. No special permit shall be considered or granted by any Town Board.~~



Town of Miami Lakes Memorandum

To: The Honorable Mayor and Councilmembers
From: Alex Rey, Town Manager
Subject: Government Facilities Zoning
Date: 1/16/2018

Recommendation:

Based on the analysis provided in the Staff Analysis and Recommendation report, Staff recommends approval of the ordinance amending the Government Property Zoning, GP section of the Land Development Code, to remedy the specified deficiencies and to provide for communication facilities.

Background:

On October 6, 2015, the Town Council directed the Town Manager to explore amendments to the Town Code that would provide for a procedure to authorize the location of communication facilities on Town owned property. Site planning on governmentally controlled properties is provided by the GP, Government Property District, regulations which provide for the required review procedures. However, a close examination of the Code found three deficiencies that needed to be addressed. The first relates to an automatic rezoning provision which automatically changes the zoning of land upon the purchase or sale of a governmental entity. The second deficiency that the provisions do not provide for is a minor administrative site plan adjustment procedure as would be afforded to a privately held piece of land. Third, the permitted uses needs to be expanded to include communication facilities and other necessary uses that serve the Town's residents.

The attached ordinance remedies those deficiencies.

On November 14, 2017, the Planning and Zoning Board, acting in their capacity as the Local Planning Agency, voted to recommend approval of the ordinance to the Town Council.

ATTACHMENTS:

Description

Ordinance

LPA Submittal

ORDINANCE NO. 18- _____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA RELATING TO GOVERNMENTAL FACILITIES; AMENDING DIVISION 24, ENTITLED “GP GOVERNMENTAL PROPERTY DISTRICT,” OF ARTICLE IV, ZONING DISTRICT REGULATIONS, OF CHAPTER 13, LAND DEVELOPMENT CODE; ESTABLISHING PROVISIONS FOR THE REVIEW AND APPROVAL OF GOVERNMENTAL FACILITIES; PROVIDING FOR COMPLIANCE WITH STATE STATUTES; PROVIDING FOR ADOPTION OF RECITALS; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION INTO THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.
(Rodriguez)

WHEREAS, on March 12, 2013, the Town adopted Ordinance No. 13-155, which among other provisions, provided for the siting, construction and review of governmental facilities on publicly owned land, and whereby through either purchase or sale of such land, said land is automatically rezoned as result of such transaction; and

WHEREAS, the adopted provisions, which were largely copied from the prior Miami-Dade County Code, do not provide for the standard zoning procedures when changing the permitted use of land; and

WHEREAS, it is generally accepted that government facilities are required to deliver the necessary services to ensure the general health, safety and welfare, of its citizens; and that such facilities are commonly located in a variety of zoning districts where such lands are available, or most practicable to ensure the delivery of such services; and

WHEREAS, to that end, and consistent with other governments in the practice of their service delivery, and as provided in large part by Chapter 13 of the Town’s Code, an exclusive site plan review procedure is provided for to ensure the availability of needed facilities to deliver the services desired and demanded by Town residents; and

WHEREAS, the proposed ordinance clarifies the exclusive site plan procedure afforded to the Town, and deletes other outdated provisions; and

WHEREAS, on October 6, 2015, the Town Council directed the Town Manager to explore amendments to the Town Code that would provide for a procedure to authorize the location of telecommunication equipment and facilities on Town owned property;

WHEREAS, the proposed ordinance makes such equipment and facilities possible, subject to notice and public hearing requirements before the Town Council; and

WHEREAS, the Administrative Official reviewed the proposed amendment and recommends approval, as set forth in the Staff Analysis and Recommendation dated November 14, 2017, and incorporated into this Ordinance by reference; and

WHEREAS, the Town Council appointed the Planning and Zoning Board as the Local Planning Agency (LPA) for the Town pursuant to Section 163.3174, Florida Statutes; and

WHEREAS, on November 14, 2017, after conducting a properly noticed public hearing, the Planning and Zoning Board, acting in its capacity as the Local Planning Agency, acted in accordance with state law, and in specific compliance with Section 163.3174, Florida Statutes and reviewed and recommended approval to the Miami Lakes Town Council; and

WHEREAS, on January 16, 2017, the Town Council after conducting a properly noticed public hearing adopted the item for First Reading; and

WHEREAS, on <DATE> ___, 2017, after conducting a properly noticed public hearing and considering the recommendations of the public, the Local Planning Agency, and the Administrative Official; the Town Council finds that the proposed amendment is consistent with the Town of Miami Lakes Comprehensive Plan and the criteria for evaluation of an amendment to the Land Development Code at section 13-306(b) of the Town Code; and

WHEREAS, to that end, the Town Council of the Town of Miami Lakes hereby finds and declares that adoption of this Ordinance is appropriate and advances the public interest.

**THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF
MIAMI LAKES AS FOLLOWS:**

Section 1. Recitals. Each of the above stated recitals are true and correct and are incorporated herein by this reference.

Section 2. Amendment. Division 24, of Article IV of Chapter 13, entitled “GP Governmental Property District,” of the Town’s Land Development Code is hereby amended as provided at Exhibit A:

Section 3. Repeal of Conflicting Provisions. All provisions of the Code of the Town of Miami Lakes that are in conflict with this Ordinance are hereby repealed.

Section 4. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Inclusion in the Town Code. It is the intention of the Town Council, and it is hereby ordained, that the provisions of this Ordinance shall become and be made part of the Town Code and that if necessary the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word “Ordinance” shall be changed to “Article”, “Division” or other appropriate word.

Section 6. Effective Date. That this Ordinance shall be effective immediately upon its adoption on second reading.

The foregoing Ordinance was offered by Councilmember _____,
who moved its adoption on first reading. The motion was seconded by Councilmember
_____ and upon being put to a vote, the vote was as follows:

FIRST READING

The foregoing ordinance was offered by Councilmember _____ who moved
its adoption on first reading. The motion was seconded by Councilmember _____
and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Frank Mingo	_____
Councilmember Tim Daubert	_____
Councilmember Luis Collazo	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Marilyn Ruano	_____

Passed on first reading this _____ day of _____, 2018.

[THIS SPACE INTENTIONALLY LEFT BLANK]

SECOND READING

The foregoing ordinance was offered by Councilmember _____ who moved its adoption on second reading. The motion was seconded by Councilmember _____ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid _____

Vice Mayor Frank Mingo _____

Councilmember Luis Collazo _____

Councilmember Tim Daubert _____

Councilmember Ceasar Mestre _____

Councilmember Nelson Rodriguez _____

Councilmember Marilyn Ruano _____

Passed and adopted on second reading this _____ day of _____, 2018.

Manny Cid
MAYOR

Attest:

Gina Inguanzo
TOWN CLERK

Approved as to form and legal sufficiency:

Raul Gastesi, Jr.
Gastesi & Associates, P.A.
TOWN ATTORNEY

EXHIBIT A
ORDINANCE

CHAPTER 13 LAND DEVELOPMENT CODE

* * *

ARTICLE IV ZONING DISTRICT REGULATIONS

* * *

DIVISION 24 ~~GP-GF-GOVERNMENTAL FACILITIES~~ PROPERTY DISTRICT

13-842. Uses permitted.

The Town Council may establish the uses listed in this Division without regard to the zoning or use classification of any particular site or location of any governmental facility on any lands leased or owned by a governmental entity within the Town's jurisdiction. The procedure to establish such facilities as provided in this Division shall be exclusive to the Town. ~~No land, body of water and/or structure shall be maintained, used or permitted to be used, and no structure shall be hereafter maintained, erected, constructed, moved, reconstructed or structurally altered or permitted to be erected, constructed, moved, reconstructed or structurally altered for any purpose in a GP District which is designed, arranged, or intended to be used or occupied for any purpose other than the following:~~

- (a) Public parks, playgrounds and buildings, and structures supplementary and incidental to such uses;
- (b) Fire stations;
- (c) Police stations;
- (d) Public auto inspection stations;
- (e) Public water and sewer treatment and distribution facilities;
- (f) Public libraries;
- (g) Public buildings and centers;
- (h) Public hospitals, nursing homes and health facilities;
- (i) Public auditoriums, arenas, museums, art galleries;
- (j) Maximum and minimum detention facilities;
- (k) Solid waste collection and disposal facilities;
- (l) Public maintenance and equipment yards;
- (m) Public bus stations and rapid transit stations and facilities;
- (n) Public airports and heliports;
- (o) Utilities, including telecommunication facilities;
- (p) Equipment yards, plant nurseries;
- (q) And other similar governmental uses or other facilities which serve the general health and welfare of the public.

~~13-843. Designation of property.~~

~~All governmental property in the Town of Miami Lakes heretofore and hereafter purchased and/or designated for a governmental use shall be so noted in the public records and maps of the Department. If a specific governmental use or uses has or have been designated pursuant to Section 13-844 of the Code for a particular property, the public records and maps of the Department shall so reflect said designation(s). All land subject to the permitted uses enumerated in Section 13-842 and owned in fee simple by a governmental entity shall be designated as governmental property. The designation GP shall be deemed an overlay zoning district and shall be in addition to any other zoning district by which the property is designated. If applicable, a GP District shall automatically revert to its other district classification if the property is no longer utilized as provided in Section 13-842 of the Code.~~

~~13-844. Exclusive procedure.~~

~~(a) The procedure provided herein shall be exclusive in the Town; provided, however, that unless a governmental facility is authorized as a designated permitted use in a zoning district, the Town Council shall not be bound by the procedures herein contained in constructing, erecting or operating any governmental facility listed below in the Town, and the Town Council may establish any governmental facility listed as follows where the Town Council may direct without regard to the zoning or use classification of any particular site or location: Public parks, playgrounds and buildings, and structures supplementary and incidental to such uses; domestic violence centers; fire stations; police stations; public auto inspection stations; public water and sewer treatment and distribution facilities; public libraries; public buildings and centers; public hospitals, nursing homes and health facilities; public auditoriums, arenas, museums, art galleries and convention halls; maximum and minimum detention facilities; solid waste collection and disposal facilities; public maintenance and equipment yards; public bus stations and Rapid Transit stations and facilities; and uses determined by the Town Council to be similar to those listed above.~~

~~(b) Exclusive site plan review procedure.~~

The site plan procedures in this Division shall be exclusive to the Town as further provided below:

(a) Public hearing and notice required. The Town Council may only authorize the erection, construction and operation of the governmental facilities enumerated in this Division Subsection (a) above by resolution following public hearing. The said public hearing shall be held upon at least 15 days' notice of the time and place of such hearing published in a newspaper of general circulation in the Town, which publication shall include the time and place of hearing before the Town Council. A courtesy notice containing general information as to the date, time, and place of the hearing, the property location and general nature of the application may be mailed to the property owners of record, within a radius of 300 feet of the property described in the application, or such greater distance as the Director may prescribe; provided, however, that failure to mail or receive such courtesy notice shall not affect any action or proceeding taken hereunder. To provide additional notice to the public, the property shall be posted by a sign or signs indicating the action desired and the time and place of the public hearing thereon. Failure to post such property shall not affect any action taken hereunder. At the public hearing the Town Council shall consider, among other factors, the type of function involved, the public need therefor, the existing land use pattern in the area, alternative locations for the facility and the nature of

the impact of the facility on the surrounding property. After considering these said factors, the Town Council shall take such action as is necessary to provide for and protect the public health, safety and welfare of the citizens and residents of the Town of Miami Lakes.

- (b)(4) In the event the Town Council authorizes the construction, erection, use or operation of a governmental facility in accordance with the procedures delineated above, or in the event the Council otherwise determines that ~~Town-owned~~ property should be utilized by the Town for a particular public purpose, the property shall be posted by a sign or signs conspicuously located thereon indicating the governmental facility or use authorized for the property. Such sign or signs may be removed upon the commencement of construction. The Town Manager or designee shall periodically check the property to ensure that the signs provided for in this subsection remain in existence and accurately depict the proposed use of the subject property. This subsection shall be construed as directory only and failure to comply with the provisions hereof shall not affect the validity of the Town Council's action authorizing the use of the property for the designated purposes.
- (c) Notice exemption. Any facility which is designated as or intended to be operated as a domestic violence center at the time of consideration, planning, erection, construction or acquisition, shall be exempt from the notice and public hearing provisions set forth in Subsection (b) above.
- (d) Minor site plan amendments. The Administrative Official, upon a determination that a requested site plan change of a previously approved governmental facility is minor, shall have the authority to review and approve, approve with modifications and/or conditions or deny the minor change or amendment, providing the amended site plan complies with the following:
- (1) Is compliant with the minimum requirements of this code;
 - (2) Does not increase the intensity of the project;
 - (3) Does not violate any conditions of the original approval;
 - (4) Does not increase the floor area of the project;
 - (5) Is compliant with concurrency requirements; and
 - (6) Satisfactorily addresses land use compatibility, buffering, screening, and landscaping.
- (e) Deferral. A council member may request a deferral of consideration of any item relating to the construction, erection, use or operation of a governmental facility for up to 30 days the first time the item appears on a council agenda or the first time the item is raised at a Town Council meeting if the proposed construction, erection, use or operation of the governmental facility affects that council member's district exclusively or primarily. Upon the council member's invoking this right, discussion upon that item shall cease and the council shall move to another item of business.
- (f) Issuance of permits upon appeal. Notwithstanding any contrary provisions of this Division, during an appeal of a development order for a government facility approved pursuant to this section, zoning approvals relating to that development order being appealed shall be issued upon the request of the applying government, providing that:
- (1) The applying government indicates in writing that it will conform as necessary to any subsequent changes mandated as a result of the appellate process by the court or by the Town Council; and

(2) That other applicable requirements of law are met.

- ~~(d) The procedure established by this chapter shall be the exclusive procedure when applicable to any airport zoning regulations, and no application for a district boundary change, change in zoning regulations, appeals of administrative decisions, special exceptions or unusual and new uses or variances shall be considered or granted by any Town Board unless the same is provided for by this chapter and only by the procedure and method so provided; provided, however, the Town Council may change the zoning regulations without following the procedure provided therefore in this article; provided, however, that no such change will be made unless the written recommendation of the Director are first considered by the Town Council. No special permit shall be considered or granted by any Town Board.~~



Town of Miami Lakes Memorandum

To: Honorable Chairman Rodriguez and Members of the Planning Board
From: Darby Delsalle, AICP, Planning Director
Subject: Governmental Facilities
Date: 12/12/2017

Recommendation:

Based on the analysis provided in the Staff Analysis and Recommendation report, Staff recommends approval of the ordinance amending the Government Property Zoning, GP section of the Land Development Code, to remedy the specified deficiencies and to provide for communication facilities.

Background:

On October 6, 2015, the Town Council directed the Town Manager to explore amendments to the Town Code that would provide for a procedure to authorize the location of communication facilities on Town owned property. Site planning on governmentally controlled properties is provided by the GP, Government Property District, regulations which provide for the required review procedures. However, a close examination of the Code found three deficiencies that needed to be addressed. The first relates to an automatic rezoning provision which automatically changes the zoning of land upon the purchase or sale of a governmental entity. The second deficiency that the provisions do not provide for is a minor administrative site plan adjustment procedure as would be afforded to a privately held piece of land. Third, the permitted uses needs to be expanded to include communication facilities and other necessary uses that serve the Town's residents.

The attached ordinance remedies those deficiencies.

ATTACHMENTS:

Description

Staff Report

Ordinance



Department of Planning, Zoning and Code Compliance
6601 Main Street • Miami Lakes, Florida 33014
Office: (305) 364-6100 • Fax: (305) 558-8511
Website: www.miamilakes-fl.gov

Staff Analysis and Recommendation

To: Honorable Chair and Members of the Local Planning Agency
From: Darby P. Delsalle, AICP, Planning Director
Subject: Government Property Zoning Update
Date: November 14, 2017

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA RELATING TO GOVERNMENTAL FACILITIES; AMENDING DIVISION 24, ENTITLED "GP GOVERNMENTAL PROPERTY DISTRICT," OF ARTICLE IV, ZONING DISTRICT REGULATIONS, OF CHAPTER 13, LAND DEVELOPMENT CODE; ESTABLISHING PROVISIONS FOR THE REVIEW AND APPROVAL OF GOVERNMENTAL FACILITIES; PROVIDING FOR COMPLIANCE WITH STATE STATUTES; PROVIDING FOR ADOPTION OF RECITALS; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION INTO THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE. (Nelson Rodriguez)

A. BACKGROUND

On October 6, 2015, the Town Council directed the Town Manager to explore amendments to the Town Code that would provide for a procedure to authorize the location of communication facilities on Town owned property. Site planning on governmentally controlled properties is provided by the GP, Government Property District, regulations which provide for the required review procedures. However, a close examination of the Code found three deficiencies that needed to be addressed. The first relates to an automatic rezoning provision which automatically changes the zoning of land upon the purchase or sale of a governmental entity. The second deficiency that the provisions do not provide for is a minor administrative site plan adjustment procedure as would be afforded to a privately held piece of land. Third, the permitted uses needs to be expanded to include communication facilities and other necessary uses that serve the Town's residents.

B. PROPOSED CHANGES

The following described elements are presented in the same order that they appear in the proposed ordinance.

Automatic Rezoning Provision Eliminated. The first deficiency of the Town's Code violates Florida Statute 166.041, which provides for specific procedures for municipalities adopting ordinances and resolutions, including unique notice procedures when a city is changing the zoning designation of land. The current code creates an automatic rezoning by virtue of a real estate transaction. Not only does that violate FS 166.041, the action is not necessary. The Town's existing land use categories within its Comprehensive Development Master Plan already provides for a broad range of governmental uses without the need for rezoning. The proposed amendment converts the action to a public hearing site plan. This amendment properly aligns the GP district with State Statute and the Town's Comprehensive Development Master Plan (CDMP).

Minor Administrative Site Plan Adjustment. The second adjustment to the GP district includes the provision of a minor administrative site plan adjustment procedure. Government properties will continue to require public hearing to ensure participation of the public in the siting of such facilities. However, if the Code is left unadjusted, every minor modification would require rehearing of that site plan by the council.

Permitted Uses. The third adjustment to the Code eliminates redundancy of permitted uses stated within the Code, and ensures the list of permitted uses is inclusive enough to provide the services demanded by the Town's residents. It also includes provisions for the siting of communication facilities.

C. STAFF RECOMMENDATION

Based on the analysis provided below and other factors contained in this report, Staff recommends approval of the ordinance amending the Government Property Zoning, GP section of the LDC to remedy the outlined deficiencies.

D. ANALYSIS

The Land Development Code provides that all proposed amendments to the LDC shall be evaluated by the Administrative Official, the Local Planning Agency and the Town Council, and that, in evaluating the proposed amendment, the criteria in Subsection 13-306(b) shall be considered. All portions of this report are hereby incorporated into all portions of this analysis. The following is a staff analysis of the criteria as applied to this ordinance.

1. Whether the proposal is consistent with the Comprehensive Plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program.

Analysis: See Section "A", Background and Section "B", Proposed Changes of this report. As presented in Sections "A" and "B", the proposed ordinance provides a site plan review procedure consistent with State Law that allows for site planning of government facilities that serve the public. The amendment also provides a provision to accommodate communication facilities as demand for such service continues to grow. The program, as proposed conforms to the following policy of CDMP below:

Policy 1.1.14: Discourage land use patterns indicative of urban sprawl in the Future Land Use Map and any amendment applications by encouraging

compact development, mixed use where appropriate and efficient use of public facility capacity and resources.

Policy 1.4.2: Work with county and regional utility service providers, as needed, to help locate suitable land for expansion or replacement of their operations and services.

Finding: Complies

2. Whether the proposal is in conformance with all applicable requirements of this Code of Ordinances, including this chapter.

Analysis: See Section “A”, Background and Section “B”, Proposed Changes of this report. The proposed ordinance conforms with the Town’s LDC’s. A review of the LDC’s found no conflicts. The amendment brings the Town’s code into alignment with State Statute and the Town’s CDMP.

Finding: Complies.

3. Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether such changes support or work against the proposed change in land use policy.

Analysis: See Section “A”, Background and Section “B”, Proposed Changes of this report. The current GP district was largely reflected of a dated code copied over from Miami-Dade County when the Town established its own LDC. This update properly aligns the GP district to the Town’s CDMP and State law.

Finding: Complies.

4. Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved, the impact on adjacent or neighboring properties, consistency with existing development, as well as compatibility with existing and proposed land use.

Analysis: See Section “A”, Background and Section “B”, Proposed Changes of this report, and Criteria 1 and 3. The proposed ordinance properly aligns the GP code with the Town’s LDC.

Finding: Complies.

5. Whether, and the extent to which, the proposal would result in demands on transportation systems, public facilities and services, exceeding the capacity of such facilities and services, existing or programmed, including schools, transportation, water and wastewater services, solid waste disposal, drainage, water supply, recreation, education, emergency services, and similar necessary facilities and services.

Analysis: The proposed ordinance does not impact the above systems.

Finding: Complies.

6. **Whether, and the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetland protection, preservation of any groundwater aquifers, wildlife habitats, and vegetative communities.**

Analysis: The proposed ordinance does not impact the above systems.

Finding: Complies.

7. **Whether, and the extent to which, the proposal would adversely affect the property values in the affected area, or adversely affect the general welfare.**

Analysis: See Section “A”, Background and Section “B”, Proposed Changes of this report. The proposed ordinance properly aligns the GP provisions with the Town’s code and State law, while also ensuring the Town has at its capacity to site facilities need to serve its residents. This includes the ability to site communication facilities on Town property thus easing the burden from privately owned lands. The result is improved service delivery which contributes to increased property values.

Finding: Complies.

8. **Whether the proposal would result in an orderly and compatible land use pattern. Any positive and negative effects on such pattern shall be identified.**

Analysis: See Section “A”, Background, Section “B”, Proposed Changes, and Criterion 7 of this report.

Finding: Complies.

9. **Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and intent of this chapter.**

Analysis: See Section “A”, Background, Section “B”, Proposed Changes, and Criteria 1, 3, and 7 of this report. No portion of the proposed amendment is in conflict with the existing regulations of the LDC. The proposed ordinance provides an opportunity for to ensure the Town has the capacity to provide services demanded by its residents.

Finding: Complies.

10. **Other matters which the Local Planning Agency or the Town Council, in its legislative discretion, may deem appropriate.**

Analysis: See Summary Section and all portions of this analysis. The Local Planning Agency and the Town Council may consider other appropriate factors to determine whether the proposed FLUM amendment is appropriate and consistent with the public interest. The Analysis Section addressed the conditions suggested by the Planning and Zoning Board.

Finding: As determined by the Town Council.

ORDINANCE NO. 17-_____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA RELATING TO GOVERNMENTAL FACILITIES; AMENDING DIVISION 24, ENTITLED "GP GOVERNMENTAL PROPERTY DISTRICT," OF ARTICLE IV, ZONING DISTRICT REGULATIONS, OF CHAPTER 13, LAND DEVELOPMENT CODE; ESTABLISHING PROVISIONS FOR THE REVIEW AND APPROVAL OF GOVERNMENTAL FACILITIES; PROVIDING FOR COMPLIANCE WITH STATE STATUTES; PROVIDING FOR ADOPTION OF RECITALS; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION INTO THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.
(Nelson Rodriguez)

WHEREAS, on March 12, 2013, the Town adopted Ordinance No. 13-155, which among other provisions, provided for the siting, construction and review of governmental facilities on publicly owned land, and whereby through either purchase or sale of such land, said land is automatically rezoned as result of such transaction; and

WHEREAS, the adopted provisions, which were largely copied from the prior Miami-Dade County Code, do not provide for the standard zoning procedures when changing the permitted use of land; and

WHEREAS, it is generally accepted that government facilities are required to deliver the necessary services to ensure the general health, safety and welfare, of its citizens; and that such facilities are commonly located in a variety of zoning districts where such lands are available, or most practicable to ensure the delivery of such services; and

WHEREAS, to that end, and consistent with other governments in the practice of their service delivery, and as provided in large part by Chapter 13 of the Town's Code, an exclusive site plan review procedure is provided for to ensure the availability of needed facilities to deliver the services desired and demanded by Town residents; and

WHEREAS, the proposed ordinance clarifies the exclusive site plan procedure afforded to the Town, and deletes other outdated provisions; and

WHEREAS, on October 6, 2015, the Town Council directed the Town Manager to explore amendments to the Town Code that would provide for a procedure to authorize the location of telecommunication equipment and facilities on Town owned property; and

WHEREAS, the proposed ordinance makes such equipment and facilities possible, subject to notice and public hearing requirements before the Town Council; and

WHEREAS, the Administrative Official reviewed the proposed amendment and recommends approval, as set forth in the Staff Analysis and Recommendation dated November 14, 2017, and incorporated into this Ordinance by reference; and

WHEREAS, the Town Council appointed the Planning and Zoning Board as the Local Planning Agency (LPA) for the Town pursuant to Section 163.3174, Florida Statutes; and

WHEREAS, on November 14, 2017, after conducting a properly noticed public hearing, the Planning and Zoning Board, acting in its capacity as the Local Planning Agency, acted in accordance with state law, and in specific compliance with Section 163.3174, Florida Statutes and reviewed and recommended approval to the Miami Lakes Town Council; and

WHEREAS, on <DATE> ____, 2017, the Town Council after conducting a properly noticed public hearing adopted the item for First Reading; and

WHEREAS, on <DATE> ___, 2017, after conducting a properly noticed public hearing and considering the recommendations of the public, the Local Planning Agency, and the Administrative Official; the Town Council finds that the proposed amendment is consistent with the Town of Miami Lakes Comprehensive Plan and the criteria for evaluation of an amendment to the Land Development Code at section 13-306(b) of the Town Code; and

WHEREAS, to that end, the Town Council of the Town of Miami Lakes hereby finds and declares that adoption of this Ordinance is appropriate and advances the public interest.

THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES AS FOLLOWS:

Section 1. Recitals. Each of the above stated recitals are true and correct and are incorporated herein by this reference.

Section 2. Amendment. Division 24, of Article IV of Chapter 13, entitled “GP Governmental Property District,” of the Town’s Land Development Code is hereby amended as provided at Exhibit A:

Section 3. Repeal of Conflicting Provisions. All provisions of the Code of the Town of Miami Lakes that are in conflict with this Ordinance are hereby repealed.

Section 4. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Inclusion in the Town Code. It is the intention of the Town Council, and it is hereby ordained, that the provisions of this Ordinance shall become and be made part of the

Town Code and that if necessary the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word “Ordinance” shall be changed to “Article”, “Division” or other appropriate word.

Section 6. Effective Date. That this Ordinance shall be effective immediately upon its adoption on second reading.

The foregoing Ordinance was offered by Councilmember _____, who moved its adoption on first reading. The motion was seconded by Councilmember _____ and upon being put to a vote, the vote was as follows:

FIRST READING

The foregoing ordinance was offered by Councilmember _____ who moved its adoption on first reading. The motion was seconded by Councilmember _____ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Frank Mingo	_____
Councilmember Tim Daubert	_____
Councilmember Luis Collazo	_____
Councilmember Ceasar Mestre	_____
Councilmember Nelson Rodriguez	_____
Councilmember Marilyn Ruano	_____

Passed on first reading this _____ day of _____, 2017.

[THIS SPACE INTENTIONALLY LEFT BLANK]

SECOND READING

The foregoing ordinance was offered by Councilmember _____ who moved its adoption on second reading. The motion was seconded by Councilmember _____ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Frank Mingo	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Nelson Rodriguez	_____
Councilmember Marilyn Ruano	_____

Passed and adopted on second reading this _____ day of _____, 2017.

Manny Cid
MAYOR

Attest:

Gina Inguanzo
TOWN CLERK

Approved as to form and legal sufficiency:

Raul Gastesi, Jr.
Gastesi & Associates, P.A.
TOWN ATTORNEY

EXHIBIT A
ORDINANCE

CHAPTER 13 LAND DEVELOPMENT CODE

* * *

ARTICLE IV ZONING DISTRICT REGULATIONS

* * *

DIVISION 24 ~~GP-GF~~-GOVERNMENTAL FACILITIES ~~PROPERTY~~ DISTRICT

13-842. Uses permitted.

The Town Council may establish the uses listed in this Division without regard to the zoning or use classification of any particular site or location of any governmental facility on any lands leased or owned by a governmental entity within the Town's jurisdiction. The procedure to establish such facilities as provided in this Division shall be exclusive to the Town. ~~No land, body of water and/or structure shall be maintained, used or permitted to be used, and no structure shall be hereafter maintained, erected, constructed, moved, reconstructed or structurally altered or permitted to be erected, constructed, moved, reconstructed or structurally altered for any purpose in a GP District which is designed, arranged, or intended to be used or occupied for any purpose other than the following:~~

- (~~a~~+) Public parks, playgrounds and buildings, and structures supplementary and incidental to such uses;
- (~~b~~2) Fire stations;
- (~~c~~3) Police stations;
- (~~d~~4) Public auto inspection stations;
- (~~e~~5) Public water and sewer treatment and distribution facilities;
- (~~f~~6) Public libraries;
- (~~g~~7) Public buildings and centers;
- (~~h~~8) Public hospitals, nursing homes and health facilities;
- (~~i~~9) Public auditoriums, arenas, museums, art galleries;
- (~~j~~10) Maximum and minimum detention facilities;
- (~~k~~11) Solid waste collection and disposal facilities;
- (~~l~~12) Public maintenance and equipment yards;
- (~~m~~13) Public bus stations and rapid transit stations and facilities;
- (~~n~~14) Public airports and heliports;
- (o) Utilities, including telecommunication facilities;
- (p) Equipment yards, plant nurseries;
- (~~q~~15) And other similar governmental uses or other facilities which serve the general health and welfare of the public.

13-843. ~~Designation of property.~~

~~All governmental property in the Town of Miami Lakes heretofore and hereafter purchased and/or designated for a governmental use shall be so noted in the public records and maps of the Department. If a specific governmental use or uses has or have been designated pursuant to Section 13-844 of the Code for a particular property, the public records and maps of the Department shall~~

so reflect said designation(s). All land subject to the permitted uses enumerated in Section 13-842 and owned in fee simple by a governmental entity shall be designated as governmental property. The designation GP shall be deemed an overlay zoning district and shall be in addition to any other zoning district by which the property is designated. If applicable, a GP District shall automatically revert to its other district classification if the property is no longer utilized as provided in Section 13-842 of the Code.

~~13-844. Exclusive procedure.~~

~~(a) The procedure provided herein shall be exclusive in the Town; provided, however, that unless a governmental facility is authorized as a designated permitted use in a zoning district, the Town Council shall not be bound by the procedures herein contained in constructing, erecting or operating any governmental facility listed below in the Town, and the Town Council may establish any governmental facility listed as follows where the Town Council may direct without regard to the zoning or use classification of any particular site or location: Public parks, playgrounds and buildings, and structures supplementary and incidental to such uses; domestic violence centers; fire stations; police stations; public auto inspection stations; public water and sewer treatment and distribution facilities; public libraries; public buildings and centers; public hospitals, nursing homes and health facilities; public auditoriums, arenas, museums, art galleries and convention halls; maximum and minimum detention facilities; solid waste collection and disposal facilities; public maintenance and equipment yards; public bus stations and Rapid Transit stations and facilities; and uses determined by the Town Council to be similar to those listed above.~~

~~(b) Exclusive site plan review procedure.~~

The site plan procedures in this Division shall be exclusive to the Town as further provided below:

~~(a)~~ Public hearing and notice required. The Town Council may only authorize the erection, construction and operation of the governmental facilities enumerated in this Division Subsection (a) above by resolution following public hearing. The said public hearing shall be held upon at least 15 days' notice of the time and place of such hearing published in a newspaper of general circulation in the Town, which publication shall include the time and place of hearing before the Town Council. A courtesy notice containing general information as to the date, time, and place of the hearing, the property location and general nature of the application may be mailed to the property owners of record, within a radius of 300 feet of the property described in the application, or such greater distance as the Director may prescribe; provided, however, that failure to mail or receive such courtesy notice shall not affect any action or proceeding taken hereunder. To provide additional notice to the public, the property shall be posted by a sign or signs indicating the action desired and the time and place of the public hearing thereon. Failure to post such property shall not affect any action taken hereunder. At the public hearing the Town Council shall consider, among other factors, the type of function involved, the public need therefor, the existing land use pattern in the area, alternative locations for the facility and the nature of the impact of the facility on the surrounding property. After considering these said factors, the Town Council shall take such action as is necessary to provide for and protect the public health, safety and welfare of the citizens and residents of the Town of Miami Lakes.

~~(b)(4)~~ In the event the Town Council authorizes the construction, erection, use or operation of a governmental facility in accordance with the procedures delineated above, or in the event

- the Council otherwise determines that ~~Town-owned~~ property should be utilized by the Town for a particular public purpose, the property shall be posted by a sign or signs conspicuously located thereon indicating the governmental facility or use authorized for the property. Such sign or signs may be removed upon the commencement of construction. The Town Manager or designee shall periodically check the property to ensure that the signs provided for in this subsection remain in existence and accurately depict the proposed use of the subject property. This subsection shall be construed as directory only and failure to comply with the provisions hereof shall not affect the validity of the Town Council's action authorizing the use of the property for the designated purposes.
- (c) Notice exemption. Any facility which is designated as or intended to be operated as a domestic violence center at the time of consideration, planning, erection, construction or acquisition, shall be exempt from the notice and public hearing provisions set forth in Subsection (b) above.
- (d) Minor site plan amendments. The Administrative Official, upon a determination that a requested site plan change of a previously approved governmental facility is minor, shall have the authority to review and approve, approve with modifications and/or conditions or deny the minor change or amendment, providing the amended site plan complies with the following:
- (1) Is compliant with the minimum requirements of this code;
 - (2) Does not increase the intensity of the project;
 - (3) Does not violate any conditions of the original approval;
 - (4) Does not increase the floor area of the project;
 - (5) Is compliant with concurrency requirements; and
 - (6) Satisfactorily addresses land use compatibility, buffering, screening, and landscaping.
- (e) Deferral. A council member may request a deferral of consideration of any item relating to the construction, erection, use or operation of a governmental facility for up to 30 days the first time the item appears on a council agenda or the first time the item is raised at a Town Council meeting if the proposed construction, erection, use or operation of the governmental facility affects that council member's district exclusively or primarily. Upon the council member's invoking this right, discussion upon that item shall cease and the council shall move to another item of business.
- (f) Issuance of permits upon appeal. Notwithstanding any contrary provisions of this Division, during an appeal of a development order for a government facility approved pursuant to this section, zoning approvals relating to that development order being appealed shall be issued upon the request of the applying government, providing that:
- (1) The applying government indicates in writing that it will conform as necessary to any subsequent changes mandated as a result of the appellate process by the court or by the Town Council; and
 - (2) That other applicable requirements of law are met.
- ~~(d) The procedure established by this chapter shall be the exclusive procedure when applicable to any airport zoning regulations, and no application for a district boundary change, change in zoning regulations, appeals of administrative decisions, special exceptions or unusual and new uses or variances shall be considered or granted by any Town Board unless the same is~~

~~provided for by this chapter and only by the procedure and method so provided; provided, however, the Town Council may change the zoning regulations without following the procedure provided therefore in this article; provided, however, that no such change will be made unless the written recommendation of the Director are first considered by the Town Council. No special permit shall be considered or granted by any Town Board.~~



Town of Miami Lakes Memorandum

To: Honorable Mayor and Councilmembers
From: Alex Rey, Town Manager
Subject: FPL Franchise Agreement
Date: 2/6/2018

Recommendation:

It is recommended that the Town adopts its own franchise agreement with Florida Power and Light (FPL) for a period of 30 years. Pursuant to our Charter, this agreement needs to be approved through an Ordinance. The effective date of this ordinance shall be when the Current Agreement between Miami Dade County and FPL terminates by the expiration of time, May 25, 2020 or on the effective date of a new franchise agreement between Miami-Dade County and FPL. The Town is expected to receive approximately \$1.2 million per year during the duration of this agreement.

Background:

Miami-Dade County entered into a 30 year agreement with FPL for an electrical franchise agreement on May 25, 1990. Any municipalities that incorporated after the effective date of that agreement were prohibited from entering into their own franchise agreement until the expiration or renewal of that agreement. The Town of Miami Lakes was incorporated on December 5, 2000, and it is therefore one of those municipalities currently covered under this agreement. The County, thru an interlocal, has shared the revenues derived from within the Town of Miami Lakes boundaries with the Town. The County's agreement allows FPL to off-set property taxes paid from the 6% franchise fee charged, as a result, over the last ten years we have seen our revenues reduced from \$2,079,921 to \$1,200,000; while most of the agreements that FPL has with the various municipalities do not have this off-setting cost.

Over the last few months, staff initiated negotiations to have our own separate agreement with FPL, in expectation that the County will be renegotiating and executing a new agreement prior to the end of the term of their existing agreement.

Under this agreement the Town grants FPL the nonexclusive right, privilege and franchise (hereinafter called "franchise") to construct, operate and maintain in, under, upon, along, over and across the present and future roads, streets, alleys, bridges, easements, rights-of-way and other public places (hereinafter called "public rights-of-way") within the Town. Furthermore, the Town agrees not to engage in the distribution and/or sale, in competition with FPL, of electric capacity and/or electric energy to any retail customer or to any electrical distribution system established solely to serve any retail customer presently served by FPL within the Town's

limits; and (b) not to participate in any proceeding or contractual arrangement which would be to obligate FPL to transmit and/or distribute, electric capacity and/or electric energy from any third party(ies) to any other retail customer's facility. Nothing in this agreement prohibits the Town to generate electric capacity and/or energy at any facility owned or leased by the Town for storage or utilization at that facility or other Town-owned or leased facilities or use renewable energy sources to generate electric capacity or sell electrical capacity to FPL.

This agreement provides for a reduced rate of 3.6% from the County's current rate of 6% of FPL's billed revenues (less actual write-offs) from the sale of electrical energy to residential, commercial and industrial customers within the Town. Additionally, the agreement provides for a monthly payment rather than an annual payment, which will make it easier to track our revenues and the Town's ability to periodically request a list of FPL customers within Town boundaries to ensure the Town is collecting the full franchise fee.

Also, important to note. A change was made between first and second reading removing an audit fee provision and providing notice requirements in the event that a rate change is effectuated via Town resolution.

ATTACHMENTS:

Description

ML Franchise Agreement Ordinance

ORDINANCE NO. 2018-_____

AN ORDINANCE GRANTING TO FLORIDA POWER & LIGHT COMPANY, ITS SUCCESSORS AND ASSIGNS, AN ELECTRIC FRANCHISE, IMPOSING PROVISIONS AND CONDITIONS RELATING THERETO, PROVIDING FOR MONTHLY PAYMENTS TO THE TOWN OF MIAMI LAKES, FLORIDA, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Miami Lakes (the “Town”) recognizes that the Town and its citizens need and desire the continued benefits of electric service; and

WHEREAS, the provision of such service requires substantial investments of capital and other resources in order to construct, maintain and operate facilities essential to the provision of such service in addition to costly administrative functions, and the Town does not desire to undertake to provide such services at this time; and

WHEREAS, Florida Power & Light Company is a public utility that has the demonstrated ability to supply such services; and

WHEREAS, there is currently in effect a franchise agreement between Miami-Dade County and Florida Power & Light Company, the terms of which are set forth in Miami-Dade County Ordinance 89-81, passed and adopted, which grants a thirty (30) year non-exclusive electric franchise to Florida Power & Light Company to utilize public rights of way throughout the unincorporated and incorporated areas of Miami-Dade County, Florida, in return for Florida Power & Light Company paying the County certain franchise fees, among other things as expressly provided herein (“Current Franchise Agreement”); and

WHEREAS, on July 10, 2007, the Town entered into an interlocal agreement with Miami-Dade County for payment to the Town of that portion of the franchise fees remitted by Florida Power & Light Company to the County for rights to utilize public rights of way located within the Town; and

WHEREAS, Florida Power & Light Company and the Town desire to enter into a new franchise agreement (“New Franchise Agreement”) providing for the payment of fees to the Town in exchange for the nonexclusive right and privilege of supplying electricity and other services within the Town free of competition from the Town, pursuant to certain terms and conditions; and

WHEREAS, the Town Council deems it to be in the public interest to enter into this agreement addressing certain rights and responsibilities of the Parties as they relate to the use of the public rights-of-way within the Town's jurisdiction.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA:

Section 1. Incorporation of Recitals. The above-stated recitals are true and correct and are incorporated herein by this reference.

Section 2. Grant of Electric Utility Franchise; Term of Franchise. There is hereby granted to Florida Power & Light Company, its successors and assigns (hereinafter called "FPL"), for the period of thirty (30) years from the effective date hereof, the nonexclusive right, privilege and franchise (hereinafter called "franchise") to construct, operate and maintain in, under, upon, along, over and across the present and future roads, streets, alleys, bridges, easements, rights-of-way and other public places (hereinafter called "public rights-of-way") throughout all of the incorporated areas, as such incorporated areas may be constituted from time to time, of the Town of Miami Lakes, Florida, and its governmental successors by operation of law, if any, (hereinafter called the "Town"), in accordance with FPL's customary practices, and practices prescribed herein, with respect to construction and maintenance, electric light and power facilities, including, without limitation, conduits, poles, wires, transmission and distribution lines, and all other facilities installed in conjunction with or ancillary to all of FPL's operations (herein called "facilities"), for the purpose of supplying electricity and other services to the Town and its successors, the inhabitants thereof, and persons beyond the limits thereof.

Section 3. Facilities Requirements.

- (a) FPL's facilities shall be installed, constructed, erected, located or relocated so as to not unreasonably interfere with the convenient, safe, continuous use or the maintenance, improvement, extension or expansion of any public "road" as defined under the Florida Transportation Code, nor unreasonably interfere with traffic over the public rights-of-way, nor unreasonably interfere with reasonable egress from and ingress to abutting property.
- (b) To minimize conflicts with the standards set forth in subsection (a) above, the location, relocation, installation, construction, or erection of all facilities shall be made as representatives of the Town may prescribe in accordance with the Town's reasonable

rules and regulations with reference to the placing and maintaining in, under, upon, along, over and across said public rights-of-way; provided, however, that such rules or regulations (i) shall be for a valid municipal purpose; (ii) shall not prohibit the exercise of FPL's right to use said public rights-of-way for reasons other than unreasonable interference with traffic; (iii) shall not unreasonably interfere with FPL's ability to furnish reasonably sufficient, adequate and efficient electric service to all of its customers; and (iv) shall not require the relocation of any of FPL's facilities installed before or after the effective date hereof in public rights-of-way unless or until widening or otherwise changing the configuration of the paved portion of any public right-of-way used by motor vehicles causes such installed facilities to unreasonably interfere with the convenient, safe, or continuous use, or the maintenance, improvement, extension, or expansion of any such public "road," or unless such relocation is required by state or federal law.

- (c) Such rules and regulations shall recognize that FPL's above-grade facilities installed after the effective date hereof should be installed near the outer boundaries of the public rights-of-way to the extent possible.
- (d) When any portion of a public right-of-way is excavated, damaged, or impaired by FPL (or any of FPL's agents, contractors, or subcontractors) because of the installation, inspection, or repair of any of FPL's facilities, the portion of the public right-of-way so excavated, damaged, or impaired shall, within a reasonable time after such excavation, damage, or impairment, be restored by FPL at its expense to a condition at least equal to its original condition before such damage.
- (e) The Town shall not be liable to FPL for any cost or expense in connection with any relocation of FPL's facilities required under this New Franchise Agreement, except, however, FPL shall be entitled to reimbursement of its costs from others.
- (f) FPL shall comply with the Town's valid code and permit requirements and regulations, including those relating to rights-of-way. Except as expressly provided, nothing herein shall limit or alter the Town's existing rights with respect to the use or management of its rights-of-way. Any changes in law on utility easements shall not affect this New Franchise Agreement.

Section 4. Indemnification of the Town. The acceptance of this New Franchise Agreement shall be deemed an agreement on the part of FPL to the following: (a) that FPL will indemnify and save the Town harmless from any and all damages, claims, liability, losses and causes of action of any kind or nature arising out of an error, omission, or negligent act of FPL, its contractors or any of their agents, representatives, employees, or assigns, or anyone else acting by or through them, and arising out of or concerning the construction, operation or maintenance of its facilities hereunder; and (b) that FPL will pay all damages, claims, liabilities and losses of any kind or nature whatsoever, in connection therewith, including the Town's attorney's fees and costs in the defense of any action in law or equity brought against the Town, including appellate fees and costs and fees and costs incurred to recover attorney's fees and costs from FPL, arising from the error, omission, or negligent act of FPL, its contractors or any of their agents, representatives, employees, or assigns, or anyone else acting by or through them, and arising out of or concerning the construction, operation or maintenance of its facilities hereunder.

Section 5. Rates, Rules and Regulations of FPL. All rates and rules and regulations established by FPL from time to time shall be subject to such regulation as may be provided by law.

Section 6(a). Franchise Fee; Calculation; Payment. Notwithstanding any other provision in this New Franchise Agreement, as a consideration for this franchise, FPL shall pay to the Town, commencing ninety (90) days after the effective date hereof, and each month thereafter for the remainder of the term of this franchise, an amount which added to the amount of all licenses, excises, fees, charges and other impositions of any kind whatsoever (except ad valorem property taxes and non-ad valorem tax assessments on property) levied or imposed by the Town against FPL's property, business or operations and those of its subsidiaries during FPL's monthly billing period ending sixty (60) days prior to each such payment will equal three and 6/10 (3.6%) percent of FPL's billed revenues (less actual write-offs) from the sale of electrical energy to residential, commercial and industrial customers (as such customers are defined by FPL's tariff) within the Town's boundaries for the monthly billing period ending sixty (60) days prior to each such payment, and in no event shall payments for the rights and privileges granted herein exceed 3.6 % of such revenues for any monthly billing period of FPL (except as expressly provided in this New Franchise Agreement). For purposes of this section, the term "write-offs" refers to uncollectable billed revenues from the sale of electrical energy to residential, commercial, and industrial customers within the Town's boundaries.

The Town understands and agrees that such revenues as described in the preceding paragraph are limited to the precise revenues described therein, and that such revenues do not include by way of example and not limitation: (a) revenues from the sale of electrical energy for Public Street and Highway Lighting (service for lighting public ways and areas); (b) revenues from Other Sales to Public Authorities (service with eligibility restricted to governmental entities); (c) revenues from Sales to Railroads and Railways (service supplied for propulsion of electric transit vehicles); (d) revenues from Sales for Resale (service to other utilities for resale purposes); (e) Late Payment Charges; (f) Field Collection Charges; (g) other service charges.

Section 6(b). Rate Adjustment Clause. The Grantor shall, as provided herein, have the right to change the percentage remitted by the Grantor to any rate between 0.5 percent and 6.0 percent via resolution adopted by the Town Council. The Grantor may not exercise such right more than once in any calendar year. If the Grantor changes the rate, Grantor shall give Grantee at least 60 days advance written notice prior to the effective date of the new rate, which date shall always be on the first day of a "billing cycle" of the Grantee, and the Grantee shall have 60 days after such new effective date to begin remitting the fee provided for herein to the Grantor.

Section 6(c). Increased Benefits Clause. If during the term of this New Franchise Agreement, FPL enters into a franchise agreement with any other municipality located in Miami-Dade County or Broward, County Florida, or with Miami-Dade County itself or with Broward County itself, each such municipality or county referred to herein as an "Other Governmental Entity," the terms of which provide for the payment of franchise fees by FPL at a rate greater than six (6%) percent of FPL's residential, commercial and industrial revenues (as such customers are defined by FPL's tariff), under the same terms and conditions as specified in Section 6(a) hereof, FPL, upon written request of the Town, shall negotiate and enter into a new franchise agreement with the Town in which the percentage to be used in calculating monthly payments under Section 6(a) hereof shall be no greater than that percentage which FPL has agreed to use as a basis for the calculation of payments to any such Other Governmental Entity, provided, however, that if the franchise with such Other Governmental Entity contains additional benefits given to FPL in exchange for the increased franchise rate, which such additional benefits are not contained in this New Franchise Agreement, such new franchise agreement shall include those additional or reasonably equivalent benefits to FPL.

Subject to all limitations, terms and conditions specified in the preceding sentence, the Town shall have the sole discretion to determine the percentage to be used in calculating monthly payments, and FPL shall have the sole discretion to determine those benefits to which it would be entitled, under any such new franchise agreement.

Section 7. Non-Competition by Town. As a further consideration, during the term of this franchise or any extension thereof, the Town agrees: (a) not to engage in the distribution and/or sale, in competition with FPL, of electric capacity and/or electric energy to any ultimate consumer of electric utility service (herein called a "retail customer") or to any electrical distribution system established solely to serve any retail customer presently served by FPL within the Town's limits; and (b) not to participate in any proceeding or contractual arrangement, the purpose or terms of which would be to obligate FPL to transmit and/or distribute, electric capacity and/or electric energy from any third party(ies) to any other retail customer's facility(ies). Nothing specified herein shall prohibit the Town from engaging with other utilities or persons in wholesale transactions which are subject to the provisions of the Federal Power Act, as may be amended from time to time.

The Town may, if permitted by law, (i) generate electric capacity and/or energy at any facility owned or leased by the Town for storage or utilization at that facility or other Town-owned or leased facilities as chosen by the Town, and (ii) use renewable energy sources to generate electric capacity and/or energy for use in demonstration projects or at Town facilities, including but not limited to, Government Center (a/k/a Town Hall), and (iii) sell electric capacity and/or energy to FPL or other wholesale purchasers in compliance with applicable tariffs, and/or federal or state laws, rules and regulations controlling such transactions. The term "retail customer," for purposes of this section shall not include the Town itself.

Nothing herein shall prohibit the Town, if permitted by law, (i) from purchasing electric capacity and/or electric energy from any other person, or (ii) from seeking to have FPL transmit and/or distribute to any facility(ies) of the Town electric capacity and/or electric energy purchased by the Town from any other person; provided, however, that before the Town elects to purchase electric capacity and/or electric energy from any other person, the Town shall notify FPL. Such notice shall include a summary of the specific rates, terms and conditions which have been offered by the other person and identify the Town's facilities to be served under the offer. FPL shall thereafter have 90 days to evaluate the offer and, if FPL offers rates, terms and conditions which are equal to or better than those offered by the other person, the Town shall be obligated to continue to

purchase from FPL electric capacity and/or electric energy to serve the previously identified facilities of the Town for a term no shorter than that offered by the other person. If FPL does not agree to rates, terms and conditions which equal or better the other person's offer, all of the remaining terms and conditions of this franchise shall remain in effect.

Section 8. Competitive Disadvantage; FPL's Rights. If the Town grants a right, privilege or franchise to any other person to construct, operate or maintain electric light and power facilities within any part of the Town's boundaries in which FPL may lawfully serve or compete on terms and conditions which FPL reasonably determines are more favorable than the terms and conditions contained herein, FPL may at any time thereafter terminate this franchise if such terms and conditions are not remedied within the time period provided hereafter. FPL shall give the Town at least one hundred eighty (180) days advance written notice of its intent to terminate. Such notice shall, without prejudice to any of the rights reserved for FPL herein, advise the Town of such terms and conditions that it considers more favorable and the objective basis or bases of the claimed competitive disadvantage. The Town shall then have ninety (90) days in which to correct or otherwise remedy the terms and conditions complained of by FPL, and the Town and FPL agree to negotiate in good faith toward a mutually acceptable resolution of FPL's claims during this 90-day period. If FPL reasonably determines that such terms or conditions are not remedied by the Town within said time period, and if no mutually acceptable resolution is reached by FPL and the Town through negotiation, FPL may terminate this franchise agreement by delivering written notice to the Town's Clerk, Town's Manager, and Town's Attorney, and termination shall be effective on the date of delivery of such notice. Nothing contained herein shall be construed as constraining the Town's rights to legally challenge at any time FPL's determination leading to termination under this Section.

Section 9. Legislative or Regulatory Action. If as a consequence of any legislative, regulatory or other action by the United States of America or the State of Florida (or any department, agency, authority, instrumentality or political subdivision of either of them) any person is permitted to provide electric service within the Town's boundaries to a customer then being served by FPL, or to any new applicant for electric service within any part of the Town's boundaries in which FPL may lawfully serve, and FPL reasonably determines that its obligations hereunder, or otherwise resulting from this franchise in respect to rates and service, place it at a material competitive disadvantage with respect to such other person, FPL may, at any time after the taking of such action, terminate this franchise if such competitive disadvantage is not remedied as provided hereafter. Such competitive

disadvantage can be remedied by either of the following methods: (i) if the Town either cannot legally, or does not, charge a franchise fee to other electricity supplier(s), then the Town can remedy the disadvantage by reducing FPL's franchise fee rate to zero; or (ii) if the Town is able to charge, and does charge, such other electricity supplier(s) a franchise fee at a rate less than the 3.6% rate calculated as provided in Section 6 of this Agreement, or such other rate selected by the Town pursuant to Section 6(b) of this Agreement, then the Town can remedy the disadvantage by reducing FPL's franchise fee rate to the same rate, with the same applicability and calculation methodology, as applies to such other electricity supplier(s). If the Town does not implement either of the foregoing solutions, FPL may terminate the Agreement, in accordance with the following process: FPL shall give the Town at least one hundred eighty (180) days advance written notice of its intent to terminate. Such notice shall, without prejudice to any of the rights reserved for FPL herein, advise the Town of the consequences of such action which resulted in the competitive disadvantage and the objective basis or bases of the claimed competitive disadvantage, and the Town and FPL agree to negotiate in good faith toward a mutually acceptable resolution of FPL's claimed disadvantage during this 180-day period. If such competitive disadvantage is, in the reasonable determination of FPL, not remedied by the Town within said time period, and if no mutually acceptable resolution of the matter is reached through negotiation, FPL may terminate this franchise agreement by delivering written notice to the Town's Clerk and termination shall take effect on the date of delivery of such notice. Nothing contained herein shall be construed as constraining the Town's rights to legally challenge at any time FPL's determination of competitive disadvantage leading to termination under this section.

Section 10. FPL's Failure to Comply. Failure on the part of FPL to comply in any material respect with any of the provisions of this franchise shall be grounds for forfeiture, but no such forfeiture shall take effect if the reasonableness or propriety thereof is protested by FPL until there is final determination (after the expiration or exhaustion of all rights of appeal) by a court of competent jurisdiction within Miami-Dade County, Florida that FPL has failed to comply in a material respect with any of the provisions of this franchise, and FPL shall have six (6) months after such final determination to make good the default before a forfeiture shall result with the right of the Town at its discretion to grant such additional time to FPL for compliance as necessities in the case require.

Section 11. Town's Failure to Comply. Failure on the part of the Town to comply in material respect with any of the provisions of this ordinance, including, but not limited to: (a) denying FPL use of public rights-of-way for reasons other than as set forth in Section 3 of this New Franchise

Agreement; (b) imposing conditions for use of public rights-of-way contrary to Federal or Florida law or the express terms and conditions of this franchise; (c) unreasonable delay in issuing FPL a use permit, if any, to construct its facilities in public rights-of-way, shall constitute breach of this franchise. FPL shall notify the Town of any such breach in writing sent by United States Certified Mail, return receipt requested, or via a nationally recognized overnight courier service, and the Town shall then remedy such breach within ninety (90) days and if it is not a breach that can be remedied within ninety (90) days, then as soon as practicable. Should the breach not be timely remedied, FPL shall be entitled to seek a remedy available under law or equity from a court of competent jurisdiction, including the remedy of obtaining judicial relief that permits the withholding of franchise fees. The Parties recognize and agree that nothing in this franchise agreement constitutes or shall be deemed to constitute a waiver of either party's delegated sovereign right of condemnation and that either party, in its sole discretion, may exercise such right.

Section 12. Audit and Inspection. The Town may, upon reasonable notice and within ninety (90) days after each anniversary date of this franchise, at the Town's expense, examine FPL's records relating to the calculation of the franchise payment for the year preceding such anniversary date. Such examination shall be during normal business hours at FPL's office where such records are maintained. Records not prepared by FPL in the ordinary course of business or as required herein may be provided at the Town's expense and as the Town and FPL may agree in writing. Information identifying FPL's customers by name or their electric consumption shall not be taken from FPL's premises. Such audit shall be impartial and all audit findings, whether they decrease or increase payment to the Town, shall be reported to FPL. The Town's examination of the records of FPL in accordance with this Section shall not be conducted by any third party employed or retained by the Town whose fee, in whole or part, for conducting such audit is contingent on findings of the audit. At the Town's request no more than once annually, FPL will provide to the Town an electronic version of a billing list of all FPL customer addresses within the incorporated areas of the Town.

The Town will respect FPL's confidential documents. The Town will be given access to confidential documents while on FPL premises, but shall not remove those confidential documents from FPL premises unless expressly authorized to do so by FPL. Information relative to this audit and likely to be deemed confidential by FPL includes, but is not limited to, nonpublic customer or

customer account information, nonpublic policies and procedures, and any other nonpublic information that gives FPL an opportunity to gain an advantage over its competitors.

Section 13. Severability. The provisions of this ordinance are interdependent upon one another, and if any of the provisions of this ordinance are found or adjudged to be invalid, illegal, void or of no effect by a court of competent jurisdiction (after the expiration of all rights of appeal), such finding or adjudication shall not affect the validity of the remaining provisions for a period of ninety (90) days, during which, the Parties will negotiate in good faith to amend this New Franchise Agreement so as to restore to the maximum extent permissible, the original economic bargain embodied in this ordinance. If an agreement to amend the ordinance is not reached at the end of such ninety (90) day period, this entire ordinance shall become null and void and of no further force or effect.

Section 14. Town acknowledges it is fully informed concerning the existing franchise granted by Miami-Dade County, Florida, to the FPL herein, and accepted by the FPL as set out in Ordinance No. 60-16 adopted on May 3, 1960, and subsequently renewed and accepted by the FPL as set out in Ordinance No. 89-81 adopted on September 5, 1989 by the Board of County Commissioners of Miami-Dade County, Florida, and as adopted by the Town on July 10, 2007 in an interlocal agreement with Miami-Dade County ("Existing Agreement"). The Town agrees to indemnify and hold FPL harmless against any and all liability, loss, cost, damage and expense incurred by FPL in respect to any claim asserted by Miami-Dade County against FPL arising out of the franchise set out in the above referenced ordinances for the recovery of any sums of money paid by FPL to Town under the terms of this New Franchise Agreement. FPL acknowledges and the Town hereby relies on then Dade County Resolution No. R-709-78 adopted on June 20, 1978 in the granting of this franchise.

Section 15. Definitions. As used herein "person" means an individual, a partnership, a corporation, a business trust, a joint stock company, a trust, an incorporated association, a joint venture, a governmental authority or any other entity of whatever nature.

Section 16. Repeal. All ordinances and parts of ordinances and all resolutions and parts of resolutions in conflict herewith are hereby repealed.

Section 17. Effective Date. As a condition precedent to the taking effect of this ordinance, FPL shall file its acceptance hereof with the Town's Clerk within thirty (30) days of adoption of this ordinance. The effective date of this ordinance shall be when the Current Agreement terminates by

the expiration of time or on the effective date of a new franchise agreement between Miami-Dade County and FPL.

Section 18. Pre-Suit Dispute Resolution. The Parties to this franchise agree that it is in each of their respective best interests to avoid costly litigation as a means of resolving disputes which may arise hereunder. Accordingly, the Parties agree that they will meet at the senior management level in an attempt to resolve any disputes within thirty (30) days of notification of the dispute.

Section 19. Governing Laws. This New Franchise Agreement shall be governed and construed by the applicable laws of the Federal Government, State of Florida, Miami-Dade County, and the Codes and Ordinances of the Town of Miami Lakes.

Section 20. Venue. In the event that any legal proceeding is brought to enforce the terms of this franchise, it shall be brought by either party hereto in Miami-Dade County, Florida, or, if a federal claim, in the U.S. District Court in and for the Southern District of Florida, Miami Division.

Section 21. Entire Agreement. This New Franchise Agreement is intended to constitute the sole and entire agreement between the Town and FPL with respect to the subject matter hereof and correctly sets forth the rights, duties, and obligations of each of the other as of its date. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force or effect, and this agreement supersedes all prior drafts and verbal or written agreements, commitments, or understandings, which shall not be used to vary or contradict the expressed terms herein. Both parties have been represented by counsel of their choosing with regard to this agreement.

Section 22. Modification. It is further understood 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.

Section 23. Notice. Except in exigent circumstances, and except as may otherwise be specifically provided for in this franchise, all notices by either party shall be made by United States Certified Mail, return receipt requested, or via a nationally recognized overnight courier service. Any notice given by facsimile or email is deemed to be supplementary, and does not alone constitute notice hereunder. All notices shall be addressed as follows:

To the Town:

Town Manager
Town Hall
6601 Main Street
Miami Lakes, FL 33014

To FPL:

Vice President, External Affairs
700 Universe Boulevard
Juno Beach, FL 33408

Copy to:

Town Attorney
8105 NW 155 Street
Miami Lakes, FL 33016

Copy to:

General Counsel
700 Universe Boulevard
Juno Beach, FL 33408

Any changes to the above shall be in writing and provided to the other party as soon as practicable.

Section 24. Compliance with Federal, State and Local Laws. The Town and FPL agree to comply with and observe all applicable Federal, State and valid and non-preempted local laws, rules, regulations, codes and ordinances, as they may be amended from time to time.

Section 25. Nondiscrimination. FPL represents and warrants to the Town that FPL does not and will not engage in discriminatory practices and that there shall be no discrimination in connection with FPL's performance under this Franchise on account of race, color, sex, religion, age, handicap, marital status or national origin. FPL further covenants that no otherwise qualified individual shall, solely by reason of his/her race, color, sex, religion, age, handicap, marital status or national origin, be excluded from participation in, be denied services, or be subject to discrimination under any provision of this franchise.

Section 26. Approval of Agreement. Execution of this agreement by the Town Manager, the Town Attorney, and the Town Clerk, shall constitute evidence of its approval after public hearing by the Town Council.

Section 27. Attorney's Fees and Costs. In the event either the Town or FPL must initiate litigation to enforce this New Franchise Agreement, the prevailing party shall be entitled to an award of reasonable attorney's fees and costs, at all levels of litigation, including trials and appeals, including fees for litigating entitlement to and amount of attorney's fees.

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FIRST READING

The foregoing ordinance was moved for adoption on first reading by Councilmember _____ . The motion was seconded by Councilmember _____ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid.	_____
Vice Mayor Frank Mingo	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Nelson Rodriguez	_____
Councilmember Marilyn Ruano	_____

Passed and adopted on first reading this _____ day of _____, 2018.

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SECOND READING

The foregoing ordinance was moved for adoption on second reading by Councilmember _____ . The motion was seconded by Councilmember _____ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid.	_____
Vice Mayor Frank Mingo	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Nelson Rodriguez	_____
Councilmember Marilyn Ruano	_____

Passed and adopted on second reading this __ day of _____, 2018.

Manny Cid
MAYOR

Attest:

Gina Inguanzo
TOWN CLERK

Approved as to form and legal sufficiency:

Raul Gastesi, Jr.
Gastesi & Associates, P.A.
TOWN ATTORNEY



Town of Miami Lakes Memorandum

To: The Honorable Mayor and Councilmembers
From: Alex Rey, Town Manager
Subject: Utility and Communication Facilities in the ROW
Date: 2/6/2018

Recommendation:

It is recommended the Town Council approve the proposed ordinance relating to communications equipment and other utilities within the Town's rights-of-way.

Background:

On March 7, 2017, in response to potential new rules being contemplated by State of Florida Legislature, the Town Council imposed a six (6) month moratorium on the installation of the communication equipment within the Town's rights-of-way. On June 23, 2017, the Governor of the State of Florida signed into law HB 687, titled the "Advanced Wireless Infrastructure Deployment Act." The bill, adopted by the State Legislature near the end of their 2017 legislative session, amended Section 337.401 of Florida Statute and provided for new rules and review procedures regarding small and micro wireless facilities within public rights-of-way. This action imposed the new rules on every municipal jurisdiction in the State. In light of the newly enacted bill, the Town Council extended the moratorium an additional six (6) months to thoroughly review the amended statutes, evaluate their implication, and prepare an ordinance that ensures our local codes comport with State Statutes. As part of the Town's review of its existing Code, other provisions regarding utilities within the rights-of-way were also examined. The result is the attached ordinance which provides for two (2) Article in Chapter 35 of the Town's Code of Ordinances. Article II provides for non-communication utilities (power, gas, water, etc) located in the rights-of-way, and Article III addresses communication facilities (antennas, cable TV, communication poles, etc.) so located. The attached ordinance seeks only to provide appropriate rules for utilities and communication facilities located within rights-of-ways.

The drafting of the ordinance was conducted in an open manner that began with a Council Workshop held on March 13, 2017. Additional discussion was provided on July 25th, 2017 when the moratorium was extended six (6) months. The meeting was advertised and members of the utility and communication industry both attended and spoke. Staff shared drafts of the proposed ordinance with representatives from the utility and communication industries on multiple occasions (10/18/2017, 10/27/2017, 11/22/2017, and 12/13/2017) and met with them several times (3/28/17, 11/02/2017, 11/22/2017, 12/14/2017 and 12/18/2017) to discuss their concerns. Staff believes the result of this effort is an ordinance that complies with State Statutes, addresses the operational demands of the utility and communication industries, and appropriately responds to the Town's

interest in protecting and regulation its rights-of-way. The following is a brief description of Article II and Article III of Chapter 35.

Article II addresses utilities within the rights-of-way. Certain portions of the Town's existing laws regarding the regulations of utilities remains unchanged, some of which are relocated within the ordinance for clarity, while other provisions are added. Among the added provisions is the requirement of registration. The intent is to put in place a mechanism that would ensure indemnification to the Town in case of any damage, and the assurance to maintain the integrity and safety of the Town's rights-of-way. This includes security funds, bonding, and insurance requirements to ensure the Town is properly protected. It also provides for the option of a utility to enter into a Franchise Agreement if it is desired to achieve greater specificity of terms. With the exception of franchising and bonding, the registration standard is similar to the one provided for in Article III. The remaining provisions provide a framework for equipment/facility location and enforcement provisions. Article II does not interfere with the State's ability to regulate the utility industry, nor does it infringe upon the utilities duty to provide service as may be so required. Attachment A provides a fuller summary of Article II.

Article III addresses communication facilities within the rights-of-way. As with Article II, much of the prior Town Code was retained and simply relocated for clarity into this new Article. The separation of the Articles provides clarity between standards for utilities and those for communication facilities. The language being added to the Town's Code relates more specifically to HB 687 which addresses small and micro cell facilities, their siting standards, and the review procedure that must be followed. Attachment B provides a fuller summary of Article III.

Provided at Attachment "C" are the key definitions related to the new statute (HB 687) and the new permitting "shot clocks," (review time tables) outline therein. As reflected in the shot clocks, changes introduced by the new legislation include a negotiation period that provides the Town and the applicant an opportunity to collaboratively consider applications for telecommunication facilities within the public rights-of-way. The provision provides flexibility for the Town to address citing concerns while giving the applicant an assurance that they can meet their demands in a timely fashion. Another change to the Code provides for the applicant to apply for a single building permit to address multiple locations (up to 30). However, each location may be considered individually with review and response times independently tracked accordingly. The new code now requires all correspondence, including those related to approvals and denials, issued by a local jurisdiction to the applicant, to be by electronic mail. Specific statutory review criteria and design standards are provided within the ordinance that govern the Town's basis for approval or denial. Provisions added to the Code address review criteria of stealth and concealment options, the distance between poles, pole height and collocation are as follows:

It is important to note, Florida Statute 337.401(7), attached herein ("Attachment D"), does not permit municipalities to be more restrictive than what is set forth by State Law, but provides for certain processes, clear definitions, and review criteria, to facilitate the placement of communication facilities in the rights-of-way while considering the community's desires for these services and the industries needs in providing the utility.

On December 12, 2017, the Planning and Zoning Board, acting in their capacity as the Local Planning Agency (LPA) heard the item at a publicly advertised hearing, and voted to recommend approval to the Town Council. The LPA submittal package, which includes a fuller staff report, is provided at Attachment "E".

This item was moved on First Reading at the Town Council's Regular hearing of January 16, 2018. At that meeting, a representative of the communication industry submitted a letter which opposed to two provisions of the ordinance (Attachment "F"):

1. Annual renewal of registration (which they prefer every five (5) years):

While we appreciate that annual renewal may be challenging for the industry, the Town prefers this schedule as it allows for ease of oversight in identifying and managing facilities within our rights-of-way. Additionally, the annual schedule aligns with other processes implemented by the Town, such as Business Tax Receipts and

Certificates of Use, as we continue to ensure the proper management of the Town.

2. Required security fund:

The industry argues that the Security Fund is unnecessary as the Town opted to collect a Communication Services Tax, which is used for the general operations of the Town and serves in lieu of building permit fees and any construction bonding that may be associated thereto. However, the Security Fund, serves a separate purpose. Its intent is to maintain the integrity of the Town's rights-of-way in the event a facility is abandoned, or restoration of the right-of-way is required due to damages not corrected by the provider. There are regular occurrences where a contractor or subcontractor fails to leave the Right-of-Way in the same or better condition as before work commenced on a timely basis. It should also be noted that the ordinance permits the Communication related company to submit a Corporate Assurance in lieu of a direct \$50,000 deposit.

ATTACHMENTS:

Description

Ordinance

First Reading Submittal

Attachment F

ORDINANCE NO. 18-__

AN ORDINANCE OF THE TOWN OF MIAMI LAKES, AMENDING THE TOWN'S CODE OF ORDINANCES AT CHAPTER 35, ARTICLE II, COMMUNICATIONS FACILITIES IN PUBLIC RIGHTS-OF-WAY; RELATING TO THE PLACEMENT OF UTILITIES OTHER THAN COMMUNICATION FACILITIES LOCATED WITHIN THE RIGHTS-OF-WAY, BOTH ABOVE AND BELOW GROUND; CREATING ARTICLE III, PROVIDING FOR REGULATIONS RELATING TO THE PLACEMENT OF COMMUNICATION FACILITIES, WIRELESS FACILITIES, PASS-THROUGH FACILITIES, AND OTHER SIMILAR FACILITIES, WITHIN THE TOWN'S RIGHTS-OF-WAY, BOTH ABOVE AND BELOW GROUND; PROVIDING FOR INCLUSION INTO THE CODE; PROVIDING FOR ORDINANCES IN CONFLICT, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the provision of communications services and other utilities to residents of and visitors to the Town of Miami Lakes (the "Town") is both an important amenity and a necessity of public and private life in the Town; and

WHEREAS, the demand for communications services has grown in recent years, and continues to grow exponentially, requiring the continual upgrading of communications facilities and services to satisfy a growing demand; and

WHEREAS, Section 337.401 of Florida Statutes states that since both Federal and State Law require the nondiscriminatory treatment to providers of all communications services it is the intent of the State Legislature that municipalities treat providers of communication services in a nondiscriminatory and competitively neutral manner when imposing rules or regulations governing the placement or maintenance of communications facilities in the Town's rights-of-way; and

WHEREAS, rules and regulations imposed by a municipality relating to communication service providers that desire to place or maintain communications facilities in the Town's rights-of-way must be generally nondiscriminatory and competitively neutral and, notwithstanding any other law, may not require providers of communications services to apply for or enter into an individual license, franchise, or other agreement with the Town as a condition of placing or maintaining communications facilities in the Town's rights-of-way; and

WHEREAS, Section 337.401(3)(g) of Florida Statutes provides that a municipality may not use its authority over the placement of facilities in its rights-of-way as a basis for asserting or exercising regulatory control over a provider of communications services regarding matters within the exclusive jurisdiction of the Florida Public Service Commission or the Federal Communications Commission, including, but not limited to, the operations, systems, qualifications, services, service quality, service territory, and prices of a provider of communications services; and

WHEREAS, the Florida legislature, during their 2017 legislative session, adopted Florida Statutes 337.401(7), titled the "Advanced Wireless Communications Act," which detail a municipality's regulatory authority to regulate wireless facilities within its rights-of-ways; and

WHEREAS, it is the Town's intent to exercise its authority over communication service providers, communication facility providers and pass-through providers' placement and maintenance of facilities in its rights-of-way; and

WHEREAS, it is also the Town's intent to treat each such provider in a reasonable, nondiscriminatory, and competitively neutral manner in exercising such authority; which authority is limited to only those matters necessary to manage the its rights-of-way; and

WHEREAS, the Town's rights-of-way are essential for the travel of persons and the transport of goods throughout the Town; and are a unique and physically limited resource requiring proper management by the Town in order to maximize efficiency, minimize costs to Town taxpayers for the foregoing uses, reasonably balance the potential inconvenience to and negative effects upon the public from the placement and maintenance of communications facilities in the rights-of-way against the substantial benefits that accrue from such placement and maintenance, and promote the public health, safety and general welfare; and

WHEREAS, it is the further intent of the Town to exercise its authority to adopt reasonable rules and regulations to the fullest extent allowed by Federal and State law; and

WHEREAS, the Town has reviewed its ordinances and has received input from representatives of the communications service industry, and as a result of the foregoing has concluded that Town's Code of Ordinances must be updated and amended in order to conform with Federal and State laws and rules, regarding the placement and maintenance of new, existing, and expanded communications facilities in the Town's rights-of-way; and

WHEREAS, adoption of the following ordinance is necessary to satisfy the above objectives; and

WHEREAS, the Town Council believes it is in the best interest of the Town to adopt this ordinance amending Chapter 35, Article II and Creating Chapter 35, Article III for inclusion the Town's Code of Ordinances.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA AS FOLLOWS:

Section 1. Recitals. Each of the above stated recitals are true and correct and are incorporated herein by this reference.

Section 2. Findings. After considering Staff's report, both submitted in writing and presented orally and the public comment, the Town Council finds that the proposed amendment is consistent with the Town of Miami Lakes Comprehensive Plan Code.

Section 3. Approval. The Town Council hereby adopts the amendment as provided at Exhibit "A," and as incorporated herein.

Section 4. Repeal of Conflicting Provisions. All provisions of the Code of the Town of Miami Lakes that are in conflict with this Ordinance are hereby repealed.

Section 5. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 6. Inclusion in the Town Code. It is the intention of the Town Council, and it is hereby ordained, that the provisions of this Ordinance shall be included in the Town Code.

Section 7. Effective date. This Ordinance shall become effective immediately upon adoption.

FIRST READING

The foregoing ordinance was offered by Councilmember _____ who moved its adoption on first reading. The motion was seconded by Councilmember _____ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Frank Mingo	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Nelson Rodriguez	_____
Councilmember Marilyn Ruano	_____

Passed on first reading this _____ day of _____, 2018.

SECOND READING

The foregoing ordinance was offered by Councilmember _____ who moved its adoption on second reading. The motion was seconded by Councilmember _____ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Frank Mingo	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Nelson Rodriguez	_____
Councilmember Marilyn Ruano	_____

Passed and adopted on second reading this _____ day of _____, 2018.

Manny Cid
Mayor

Attest:

Gina M. Inguanzo
Town Clerk

Approved as to form and legal sufficiency:

Raul Gastesi, Jr.
Gastesi & Associates, P.A.
Town Attorney

EXHIBIT A
PROPOSED ORDINANCE

ARTICLE II. – ~~COMMUNICATIONS~~ UTILITY FACILITIES IN PUBLIC RIGHTS-OF-WAY

DIVISION 1. Generally.

Sec. 35-25 Intent and Purpose.

It is the intent of the Town of Miami Lakes to promote the public health, safety and general welfare by: providing regulations governing the placement or maintenance of utilities, other than Communications Facilities, in the Town's Public Rights-of-way; adopting and administering reasonable rules and regulations not inconsistent with State and Federal law, as each may be amended from time to time, and other Federal and State law; establishing reasonable rules and regulations necessary to manage the placement or maintenance of utilities, in the Town's Public Rights-of-way by all utility providers; minimizing disruption to the Town's Public Rights-of-way; establishing reasonable rules and regulations necessary to manage the placement or maintenance of utilities; and minimizing disruption to the Town's Public Rights-of-way. In regulating its Public Rights-of-way, the Town shall be governed by and shall comply with all applicable Federal and State Laws.

To the extent that the provisions of Article II do not conflict with Federal and State law, and any applicable franchise agreement, Utilities seeking to place or maintain Utilities, in the Town's Public Rights-of-way shall comply with the provisions of this Article. Persons seeking to place or maintain Utilities on private real- property or other real- property to which the Town, Miami-Dade County, the School District of Miami-Dade County, the South Florida Water Management District, the State of Florida or the Federal Government own a fee simple or leasehold interest in real property, located within the municipal boundaries of the Town shall comply with the provisions of the Chapter 13, Land Development Code (LDC), to the extent it applies.

35-265. - Definitions.

For purposes of this ~~Article~~ article the following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words not otherwise defined in this section or in any permit that may be granted pursuant to this article shall be given the meaning set forth in the Communications Act of 1934, 47 USC 151 et seq., as amended (collectively the "Communications Act"), and if not defined in the Communications Act, as defined by Florida Statutes; and, if not defined by Florida Statutes, shall be construed to mean the common and ordinary meaning.

Abandonment, or Abandoned means 90 or more consecutive days with the absence of any active user of a Facility. An Abandoned utility shall be removed or cured as required by this Article. This term shall not include cessation of all use of a Facility within a physical structure where the physical structure continues to be used for some purpose or use accessory to the utility. The term shall also exclude the temporary cessation of the provision of Facility where the Utility intends to re-establish the provision of Facility's services in the future. The temporary cessation with intent to re-activate must be documented to the satisfaction of the Town Public Works Director. ~~means the permanent cessation of all uses of a communications facility, provided that this term shall not include cessation of all use of a communication facility within a physical~~

~~structure where the physical structure continues to be used. By way of example, and not limitation, cessation of all use of a cable within a conduit, where the conduit continues to be used, shall not be an "abandonment" of a communications facility in the public rights-of-way.~~

Applicable Codes means uniform building, fire electrical, plumbing, or mechanical codes adopted a recognized national code organization or local amendments to those codes enacted solely to address threats of destruction of property or injury to persons, or local codes ordinances adopted to implement this Article. The term includes objective design standards provided in this Article that may require a new utility pole that replaces an existing utility pole to be of substantially similar design, or that may require reasonable spacing requirements concerning the location of ground-mounted equipment. The term includes objective design standards provided in this Article that may require a small wireless facility to meet reasonable location context, color, stealth, and concealment requirements; however, such design standards may be waived upon a showing that the design standards are not reasonably combative for the particular location of the small wireless facility or that the design standards impose an excessive expense. The waiver shall be granted or denied within 45 days after the date of the request.

Communications Facility or Communications System means any permanent or temporary plant, equipment and property, including, but not limited to, cables, wires, conduits, ducts, fiber optics, poles, Antennas, converters, splice boxes, cabinets, hand holes, manholes, vaults, drains, surface location markers, appurtenances and other equipment or pathway placed or maintained or to be placed or maintained in the public rights-of-way of the Town and used or capable of being used to transmit, convey, route, receive, distribute, provide or offer Communication Services. Pursuant to F.S. § 337.401(6)(c), Communication Facility for purposes of this article shall not include communications facilities owned, operated or used by electric utilities or regional transmission organizations exclusively for internal communications purposes.

~~*Communications Services* means the transmission, conveyance or routing of voice, data, audio, video or any other information or signals to a point, or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave or other medium or method now in existence or hereafter devised, regardless of the protocol used for such transmission or conveyance. For the purpose of this article, cable service, as defined in F.S. § 202.11(2), is not included in this definition and cable service providers or providers of service via an open video system may be subject to other ordinances of the Town and shall require separate authorization from the Town.~~

~~*Communications Services Provider* means any person making available or providing communications services through the placement or maintenance of a communications facility in public rights-of-way.~~

Emergency means situations of a serious nature, developing suddenly and unexpectedly, and demanding immediate action that will affect public safety, disruption of utility service, or damage to the Rights-of-Way, and conditions that affects the public's health, safety or welfare.

Facility or Facilities means any tangible thing located in any Public Rights-of-way used to deliver the services of a Utility.

~~*FCC* means the Federal Communications Commission.~~

Florida Building Code means the Florida Building Code promulgated under Chapter 553, *Florida Statutes* and includes the Miami-Dade County Amendments thereto as both may be amended from time to time.

In Public Rights-of-Way or In the Public Rights-of-Way means over, above, in, on or under the Public Rights-of-way within the Town over which the Town has jurisdiction, control and authority to regulate. The term also includes those Rights-of-way over which the County or State has

jurisdiction and authority under the Florida Transportation Code, Chapter 334, Florida Statutes, as same may be amended from time to time, but where the County or State or both have delegated to the Town the authority to regulate the registration, permitting, placement, installation and maintenance of Facilities in accordance with Chapter 35 of the Town Code of Ordinances. ~~means in, on, over, under or across the public rights-of-way.~~

LDC. means the, Chapter 13 of the Town of Miami Lakes Code of Ordinances, titled “Land Development Code.

Occupant means electric, gas (natural, manufactured or similar gaseous substance), water or sewer utility, or other similar type of entity that places or maintains facilities of whatever type in the Town's Public Roads or Public Rights-of-Way.

Permit means the Public Right-of-way permit that must be obtained before a Person may construct in the Public Right-of-way and shall include, but not be limited to Town Right-of-Way engineering and construction permits issued by the Town Public Works Director.

Person means any individual, firm, association, joint venture, partnership, estate, trust, business trust, syndicate, fiduciary, corporation, organization or legal entity of any kind, successor, assignee, transferee, personal representative and all other groups or combinations, but shall not include the Town to the extent permitted by applicable law.

Place or Maintain or Placement or Maintenance or Placing or Maintaining means to erect, construct, install, maintain, place, repair, extend, expand, remove, occupy, locate or relocate. A ~~communications-services-provider~~ Utility that owns or exercises physical control over ~~communications-facilities~~ Facilities in public rights-of-way, such as the physical control to maintain and repair, is "placing or maintaining" the facilities. A party providing service only through resale or only through use of a third party's unbundled network elements is not "placing or maintaining" the ~~communications-facilities~~ Facilities through which such service is provided.

Public Rights-of-Way means a public right-of-way, public utility easement, highway, street, bridge, tunnel, pier, waterway, dock, wharf, court, lane, path or alley or any other property for which the Town has jurisdiction and control and may lawfully grant access to such property pursuant to applicable law, and includes the surface, the air space over the surface and the area below the surface to the extent the Town holds a property interest therein. Public Rights-of-Way shall not include:

- (1) Private property;
- (2) Any real or personal Town property except as described above; or
- (3) Town buildings, fixtures, poles, conduits, facilities or other structures or improvements, regardless of whether they are situated in the Public Rights-of-Way.

Registrant or Facility Owner means a ~~communications-services-provider~~ Utility or other person that has registered with the Town in accordance with the provisions of this article.

Registration and Register means the process described in this article whereby a Utility ~~Communication Services Provider~~, provides certain information to the Town by which it is determined whether the Person will be authorized to obtain Permits to Place or Maintain Facilities within the Town's Public Rights-of-Way.

Town means the Town of Miami Lakes, Florida, an incorporated municipality of the State of Florida, in its present form or in any later reorganized, consolidated or enlarged form.

User means electric, gas (natural, manufactured or similar gaseous substance), water or sewer utility, ~~cable television~~ or other similar type of entity that places or maintains facilities of whatever type in the Town's Public Roads or Public Rights-of-Way.

Utility means any Person or entity that is an electric, gas, water, steam waste, disposal, or similar service consumed by the public, and who owns or operates appurtenant facilities or equipment that are situated with the Public Rights-of-way for transmission of such Utility's goods, commodities or services.

Utility Pole means a pole or similar structure that is used in whole or in part to provide for electric distribution, lighting, traffic control, signage, or a similar function. The term includes the vertical support structure for traffic lights but does not include a horizontal structure to which signal lights or other traffic control devices are attached and does not include a pole or similar structure.

Utility Service or Services shall mean those services that are provided by a Utility other than those classified as a communication facility or service.

~~35-26. Intent and purpose:~~

~~(a) It is the intent of the Town and the purpose of this article to promote the public health, safety and general welfare by:~~

- ~~(1) Providing for the placement and maintenance of communications facilities in the public rights-of-way within the Town;~~
- ~~(2) Adopting and administering reasonable rules and regulations consistent with State and Federal law, including F.S. § 337.401 and the Town's home-rule authority, and in accordance with the provisions of the Federal Telecommunications Act of 1996 and other Federal and State law;~~
- ~~(3) Establishing reasonable rules and regulations necessary to manage the placement and maintenance of communications facilities in the public rights-of-way by all communications services providers after the effective date of the ordinance from which this article is derived; and~~
- ~~(4) Minimizing disruption to the public rights-of-way.~~

~~In regulating its public rights-of-way, the Town shall be governed by and shall comply with all applicable Federal and State laws.~~

~~(b) It is the intent of the Town that this article will not preempt the Town's authority to require a franchise from users and/or occupants, other than communications service providers, of the Town's public roads and/or public rights-of-way. It is the intent of the Town to require users and/or occupants, other than communications service providers, of the Town's public rights-of-way to obtain a separate franchise before placing or maintaining facilities in the Town's public rights-of-way.~~

DIVISION 2. Registration.

35-27. - Registration for placing or maintaining, utilities ~~communications facilities~~ in public rights-of-way.

(a) Registration. A Utility, Communications Service provider that desires to place or maintain a communications facility Facility in public rights-of-way in the Town shall first register with the Town in accordance with this Division ~~article~~. Subject to the terms and conditions prescribed in this Division ~~article~~, a registrant may place or maintain a Facility.

~~Communications Facility~~ in public rights-of-way. A ~~Utility Communications Services Provider~~ with an existing ~~facility~~ Facility in the public rights-of-way of the Town as of the effective date of the ordinance from which this ~~Division article~~ is derived has 120 days from the effective date of the ordinance from which this ~~Division article~~ is derived to comply with the terms of this ~~Division article~~, including, but not limited to, registration, or shall be in violation thereof.

- (b) No property right arises from Registration. A registration shall not convey any title, equitable or legal, in the public rights-of-way. Registration under this article governs only the placement or maintenance of Facility in Public Rights-of-Way. Registration does not excuse a Utility, Communications or advanced wireless infrastructure services provider from obtaining appropriate access or pole attachment agreements before locating its ~~facilities~~ Facilities on the Town's or another person's ~~facilities~~ Facilities. Registration does not excuse a ~~communications services provider~~ Utility from complying with all applicable law, including Town ordinances, codes or regulations, including this article.
- (c) Registration is non-exclusive. Registration does not in and of itself establish a right to Place or Maintain, or establish priority for the Placement or Maintenance of a Facility, in the Town's Public Rights-of-way, but shall establish for the Registrant a right to apply for a Permit, if permitting is required by the Town. Registrations are expressly subject to any further amendment to or replacement of this Article and further subject to any additional Town ordinances or regulations, as well as any State or federal laws that may be enacted.
- (d) Content of Registration. Each ~~Utility, Communications services provider~~ that desires to place or maintain a ~~Communications Facility~~ Facility in Public Rights-of-Way in the Town shall file an original registration along with two complete copies with the Town that shall include the following information:
- (1) Name of the applicant;
 - (2) Name, address, telephone number, e-mail address and mobile phone number of the applicant's primary contact person in connection with the registration. Additionally, the applicant shall provide emergency contact information. The primary contact person shall be able to provide information regarding the registrant's Utility, Communications facilities in the public rights-of-way, and shall be able to accept and coordinate any damage claims. The registrant shall also provide a secondary contact person enabling the Town to contact appropriate registrant's personnel in emergency situations, including, but not limited to, when registrant's construction or equipment has caused damage to other property. The registrant shall also provide the Town with a current telephone number for the secondary contact person which shall be available and monitored 24 hours per day, every day, by the registrant, to be utilized by the Town in case of an emergency. Such information shall be updated as necessary by the registrant to provide the Town with current and accurate information;
 - (3) Evidence of the insurance coverage required under this article and acknowledgment that the registrant has received and reviewed a copy of this article;
 - (4) A copy of Federal or State certification authorizing the applicant to provide Utility, Communications services, if any;
 - (5) If the applicant is a corporation and does not submit a State certification pursuant to Subsection (c)(4) of this section, proof of authority to do business in the State of Florida, which may be satisfied by the number of the corporate certification or other means; and
 - (6) A security fund in accordance with this article.

- (e) Review and reporting. The Town Manager or designee shall review the information submitted by the Applicant. If the Applicant submits information in accordance with Subsection (de) of this section, the Registration shall be effective and the Town shall notify the applicant of the effectiveness of Registration in writing. The Applicant may not apply for a permit to place or maintain Utility, Communications facilities ~~Facilities~~ in the Public Rights-of-Way under this article unless and until it has been notified that its application is complete and effective. If the Town determines that the information has not been submitted in accordance with Subsection (c) of this section, the Town shall notify the applicant in writing of the noneffectiveness of registration and reasons for the noneffectiveness. ~~The Town shall so notify an Applicant within 30 days after receipt of registration information from the Applicant.~~
- (fe) Cancellation. A registrant may cancel a registration upon written notice to the Town that the registrant will no longer place or maintain any Facility ~~communications facilities~~ in public rights-of-way and will no longer need to obtain permits to perform work in the public rights-of-way. A registrant cannot cancel a registration if the registrant continues to place or maintain a Facility Communication Facility in public rights-of-way.
- (f) ~~Registration shall be nonexclusive. Registration shall not establish any right or priority to place or maintain a communications facility in any particular area in public rights-of-way within the Town. Registrations are expressly subject to any future amendment to or replacement of this article and further subject to any additional Town ordinances, as well as any State or Federal laws that may be enacted.~~
- (fg) Annual Renewal. A registrant shall ~~renew~~ update its registration with the Town by April 1 of ~~each even-numbered~~ years in accordance with the registration requirements in this article; except that a registrant that initially registers during the even-numbered year when renewal would be due, or the odd-numbered year immediately preceding such even-numbered year, shall not be required to renew until the next even-numbered year. Within 30 days of any change in the information required to be submitted pursuant to Subsection of this section, a registrant shall provide updated information to the Town. If no information in the then-existing registration has changed, the renewal may state that no information has changed. Failure to renew a registration may, at the Town's discretion, result in the Town restricting the issuance of additional permits until the ~~communications services provider~~ Utility has complied with the registration requirements of this article.
- (h) Permit Required. ~~In accordance with applicable Town ordinances, codes or regulations and this article, a permit shall be required of a Communications services provider that desires to place or maintain a Communications Facility in Public Rights of Way. An effective registration shall be a condition precedent of obtaining a Permit.~~
- (hi) Compensation. ~~Except as may be provided for in a separate franchise agreement, a~~ A Registrant that places or maintains a Communications Facilities Facility in the public rights-of-way shall be required to pay compensation to the Town as required by applicable law and ordinances of the Town. A Registrant that places or maintains a Facility Communications Facilities in the public rights-of-way, ~~other than a Registrant that provides communications services as defined in F.S. § 202.012(3), within the Town,~~ shall pay to the Town the fees required by Florida Law and the Town's ordinances and resolutions. Such registrants shall pay such amounts initially before obtaining permits and then annually thereafter in accordance with the Town's requirements.

- (i) *Failure to Register.* A Registrant shall bear the responsibility to maintain his registration updated with the Town at all times. A Registrant's failure to Register, or renew Registration may result in Civil Penalties.

Sec. 35-28. Insurance.

- (a) *General.* A Registrant shall provide, pay for and maintain satisfactory to the Town the types of insurance described herein. All insurance shall be from responsible companies duly authorized to do business in the State of Florida and having an A.M. Best A-VII or better rating. All liability policies shall provide that the Town is an additional insured as to the activities under this Article. The required coverages must be evidenced by properly executed certificates of insurance forms. The certificates must be signed by the authorized representative of the insurance company and shall be filed and maintained with the Town annually. Thirty (30) days advance written notice by registered, certified or regular mail or facsimile as determined by the Town must be given to the Town's Risk Manager of any cancellation, intent not to renew or reduction in the policy coverages. The insurance requirements may be satisfied by evidence of self-insurance or other types of insurance acceptable to the Town.
- (b) *Insurance Coverage and Limits of Insurance Coverage.* The insurance coverage and limits of coverage of insurance required shall be not less than the following:
- (1) *Worker's compensation and employer's liability insurance.* Requirements as spelled out in Florida Chapter 440.
- (2) *Comprehensive general liability.* Commercial general liability occurrence form, including premises/operations, independent contractor's contractual liability, product/completed operations; X, C, U coverage; and personal injury coverage for limits of no less than one million dollars (\$1,000,000) per occurrence, combined single limit and two million dollars (\$2,000,000) in the aggregate.
- (3) *Commercial Automobile liability.* Commercial automobile liability coverage for all owned, non-owned and hired vehicles involved in operations under this Article XII for limits of no less than one million dollars (\$1,000,000) per occurrence combined single limit each accident.
- (4) *Commercial excess or umbrella liability.* Commercial excess or umbrella liability coverage may be used in combination with primary coverage to achieve the required limits of liability.
- (c) *Proof of Insurance.* Upon the effective date of the Registration, the Registrant shall submit to the Town proof that it has obtained the insurance required under this Section 35-35, including a certificate of insurance signed by the insurance agent.
- (d) *Authority to decrease limits.* The Town shall have the authority to increase or decrease the policy limits set forth above and shall provide each Registrant with at least thirty (30) days advance written notice of such change. Within thirty (30) days from receipt of a notice to increase its policy limits, the Registrant shall submit to the Town proof of such increased coverage.
- (e) *Duration.* The coverage provided herein shall be for a period not less than the period for which the indemnification obligations under Town Code Section 35-29 hereof are imposed.
- (f) *Abandonment.* Failure to maintain required coverage shall be deemed an Abandonment. Failure to maintain all the required insurance coverage shall be deemed an Abandonment of all of the Facilities of the Registrant.

35-29. Indemnification.

- (a) Liability. By reason of the acceptance of a Registration under this Article or the grant of a Permit under this Article, the Town does not assume any liability:
- (1) For injuries to persons, damage to property, or loss of service claims by parties other than the Registrant or the Town;
 - (2) For claims or penalties of any sort resulting from the installation, presence, maintenance, or operation of Facilities by Registrants or activities of Registrants.
- (b) Hold harmless. By registering with the Town, a Registrant agrees, or by applying for and accepting a Permit under this Article, a Permittee is required, to defend, indemnify, and hold the Town whole and harmless from all costs, liabilities, and claims for damages of any kind arising out of the construction, presence, installation, maintenance, repair or operation of its Facilities, whether any act or omission complained of is authorized, allowed, or prohibited by a Permit, inspection of plans or work by the Town. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the Registrant or to the Town; and the Registrant, in defending any action on behalf of the Town, shall be entitled to assert in any action every defense or immunity that the Town could assert in its own behalf. Nothing herein shall be construed as a waiver of the protections, limitations and immunities provided in Section 768.28, Florida Statutes, as same may be amended from time to time. The provisions of this Section 35-36 include, but are not limited to, the Town's reasonable attorneys' fees incurred in defending against any such claim, suit or proceeding(s).
- (c) Notification of issues. The Town agrees to notify the Registrant, in writing, within a reasonable time of the Town receiving notice, of any issue it determines may require indemnification.
- (d) Limitations. This indemnification obligation is not limited in any way by a limitation of the amount or type of damages or compensation payable by or for the registrant under workers' compensation, disability or other employee benefit acts, or the acceptance of insurance certificates required under this article, or the terms, applicability or limitations of any insurance held by the Registrant.
- (e) Investigation by registrant. The Registrant shall investigate, handle, respond to, provide defense for, and defend any such claims at its sole expense and shall bear all other costs and expenses related thereto even if the claim is groundless, false or fraudulent and if called upon by the Town, the Registrant shall assume and defend not only itself but also the Town in connection with any such claims and any such defenses shall be at no cost or expense whatsoever to the Town provided that the Town (exercisable by the Town Attorney), shall retain the right to select counsel of its own choosing.
- (f) Waiver rights. The Town does not and shall not waive any rights against the Registrant which it may have by reason of this indemnification, or because of the acceptance by, or the Registrant's deposit with the Town of any of the insurance policies required by this Article for Registration.
- (g) Damages. This indemnification by the Registrant shall apply to all damages and claims for damages of any kind suffered regardless of whether such insurance policies shall have been determined to be applicable to any such damages or claims for damages.
- (h) Defense and immunity. Nothing contained in this Section shall be construed or interpreted:
- (1) as denying to either party any remedy or defense available to such party under the laws of the State of Florida; or
 - (2) as a waiver of sovereign immunity beyond the waiver provided in Section 768.28, Florida Statutes as same may be amended from time to time.

- (i) Term. The indemnification requirements under this Section and this Article shall survive and be in full force and effect for a period of five (5) years after the termination or cancellation of a Registration.

35-30. - Force majeure. In the event a registrant's performance of or compliance with any of the provisions of this article is prevented by a cause or event not within the registrant's control, such inability to perform or comply shall be deemed excused and no penalties or sanctions shall be imposed as a result; provided, however, that such owner uses all practicable means to expeditiously cure or correct any such inability to comply. For purposes of this article, causes or events not within a registrant's control shall include, without limitation, acts of God, floods, earthquakes, landslides, hurricanes, fires and other natural disasters, acts of public enemies, riots or civil disturbances, sabotage, strikes and restraints imposed by order of a governmental agency or court. Causes or events within a registrant's control, and thus not falling within this section, shall include, without limitation, registrant's financial inability to perform or comply, economic hardship, and misfeasance, malfeasance or nonfeasance by any of a registrant's directors, officers, employees, contractors or agents.

35-31. - Termination of registration.

(a) Involuntary Termination. The involuntary termination of a previously effective registration may only be accomplished by an action of the Town Manager and such action may be appealed to the Town Council. The Town may declare the registration terminated and revoke and cancel all privileges granted under that registration if:

- (1) A Federal or Florida authority suspends, denies or revokes a registrant's certification or license to provide communications service;
- (2) The Registrant's placement and maintenance of the Public Rights-of-Way or other roads or property within the Town presents an extraordinary danger to the general public or other users of the public rights-of-way; or
- (3) The registrant voluntarily abandons all of its communications facilities in Public Rights-of-Way.

(b) Notification. Prior to such termination for any of the reasons set forth in this section, the Town Manager or his designee shall notify the registrant in writing, setting forth the matters pertinent to such reasons and describing the proposed action of the Town with respect thereto. The registrant shall have 60 days after receipt of such notice within which to cure the violation.

(c) In the event of a vote by the Town Council to terminate the registration, the registrant shall, within 30 days following such termination, provide an acceptable plan for transferring ownership of the Facilities to another Person in accordance with this Article or shall remove or abandon the Facilities and take such steps as are necessary to render every portion of the Facilities remaining in the public rights-of-way safe. If the registrant has either abandoned its Facilities or chooses to abandon its Facilities, the Town may:

- (1) Require the registrant or the registrant's bonding company to remove some or all of the Facilities from the public rights-of-way and restore the public rights-of-way to its condition immediately prior to the removal;
- (2) Require that some or all of the Facilities be removed, and the public rights-of-way restored to their original condition at the registrant's expense, using Town employees, agents or contractors, and charge any and all costs to the registrant and require reimbursement; or
- (3) Utilize or allow other persons to utilize the registrant's abandoned Facilities.

(d) *Survival of obligations.* The obligations of the registrant hereunder shall survive the termination of a registration. In the event of a declaration of termination of registration, this provision does not permit the Town to cause the removal of any Facilities that are used to provide another service for which the registrant holds a valid certification or license with the governing Federal or State agency, where required, and is properly registered with the Town, for such certificated service, where required.

35-32. - Transfer of control, sale, or assignment of assets.

(a) *Transfer of control, sale, or assignment of assets.* If a Registrant transfers, sells or assigns its Registration or its Facilities in the Public Rights-of-Way, incident to a transfer, sale or assignment of the registrant's assets, the transferee, buyer or assignee shall be obligated to comply with the terms of this article. Written notice of any such transfer, sale or assignment shall be provided to the Town within 20 days of the effective date of the transfer, sale or assignment. If the transferee, buyer or assignee is a current registrant, then the transferee, buyer or assignee is not required to re-register. If the transferee, buyer or assignee is not a current registrant, then the transferee, buyer or assignee shall register as provided herein within 60 days of the transfer, sale or assignment. If permit applications are pending in the registrant's name, the transferee, buyer or assignee shall notify the Town that the transferee, buyer or assignee is the new applicant.

(b) *Subordination.* Any mortgage, pledge, lease or other encumbrance on the Facilities shall be subject and subordinate to the rights of the Town under this Article and Applicable Law.

35-33. - Conditional use of public rights-of-way.

(a) *Authorization required.* In the event a registrant desires to use its existing Facilities or to construct new Facilities for the purpose of providing other utility or nonutility services to existing or potential consumers or resellers, for providing any other services other than the provision of Utility Services or for providing any other use to existing or potential consumers, a registrant shall seek such additional and separate authorization from the Town for such activities as may be required by applicable law.

(b) *Towns rights.* To the extent that any person or registrant leases or otherwise uses the Facilities of a Person that is duly registered or otherwise authorized to place or to maintain Facilities in the public rights-of-way of the Town, such person or registrant shall make no claim, nor assert any right, which will impede the lawful exercise of the Town's rights, including requiring the removal of such Facilities from the public rights-of-way of the Town, regardless of the effect on a registrant's ability to place or maintain its own Facilities in public rights-of-way of the Town.

35-34 *Security fund.* A Security Fund shall be required to be kept on file with the Town in the form of an annual bond, letter of credit or cash deposit in the minimum amount of \$50,000.00, which shall be established in the Town's favor to secure the restoration of the public rights-of-way and to ensure the faithful performance of the construction or other work in the public rights-of-way or required repairs caused by damages to the rights-of-way or the removal of any abandoned Facility. The form of the bond or other guarantee and the terms thereto shall be approved by the Town Attorney.

~~35-28. - Requirement for franchise for other users or occupants of the public rights-of-way.~~

- (a) ~~Franchise or other agreement required.~~ Other users and/or occupants of the Town's public roads and/or public rights of way other than communications service providers shall be required to obtain a franchise or other agreement from the Town prior to performing construction or placing facilities in the Town's public rights of way, or obtaining a permit from the Town to perform construction or to place facilities in the Town's public rights of way or other roads or property within the Town. The terms set out in this article, to be included in such franchises or agreements, are minimum standards and shall not be construed as prohibiting the Town from including any and all other terms, conditions and/or other requirements the Town so desires in any franchise or agreement. Such users and/or occupants shall enter into a franchise agreement or other agreement approved by the Town Council.
- (b) ~~Franchise application.~~ Any user and/or occupant other than a communications service provider, including governmental units, desiring to place or maintain facilities in the Town's public rights of way shall file an application with the Town requesting that the Town enter into a franchise agreement with said user and/or occupant. The application shall include, at a minimum, the following information:
- (1) Identity of the user and/or occupant, address and telephone number and primary contact person; and
 - (2) A statement of whether the applicant presently serves any customers at retail within the jurisdictional limits of the Town at the time of the application or whether the applicant simply intends to lease its facilities to other users and/or occupants who will be providing direct service to retail customers within the jurisdictional limits of the Town.
- (c) ~~Application fee.~~ Each application requesting the Town to enter into a franchise agreement shall be accompanied by an initial nonrefundable application fee in the amount established by resolution. The fee amount shall approximate the Town's costs and expenses incurred in connection with processing the application. All reasonable expenses incurred by the Town in processing the application, including, but not limited to, consulting and legal costs, shall be offset from the filing fee.
- (d) ~~Cost recovery.~~ If the Town's expenses, as referenced in Subsection (c) of this section, exceed the amount of the application fee, the applicant shall pay the difference within 30 days of the date it receives notice of such additional expenses. If the additional fees are not received by the Town within 30 days of the date of notice, the Town shall notify such applicant, and the applicant shall pay an additional late fee at the rate of 18 percent per annum of the amount unpaid or underpaid; provided, however, that such rate does not exceed the maximum amount allowed under the applicable law. In such case, the rate will be the maximum allowed by law. If the Town does not receive said fee in total within 60 days of the date of notice, the Town shall notify the applicant in writing and may, in the Town's sole discretion, refuse in good faith to execute the franchise agreement, or may terminate in good faith the franchise agreement without any penalty and/or liability.
- (e) ~~Construction bond.~~ All franchise agreements between the Town and any user and/or occupant shall contain a provision for a construction bond in an amount to be determined by the Town Manager, which shall be established in the Town's favor to secure the restoration of the public rights of way and to ensure the faithful performance of the construction or other work in the public rights of way. The form of the bond and the terms thereto shall be approved by the Town Attorney.
- (f) ~~Security fund.~~ All franchise agreements between the Town and any user and/or occupant shall contain a provision for a security fund, which shall be required to be kept on file with the Town

~~in the form of an annual bond, letter of credit or cash deposit in the minimum amount of \$50,000.00. The form of the bond or other guarantee and the terms thereto shall be approved by the Town Attorney.~~

DIVISION 3. Permitting and Placement of Facilities in the Public Rights-of-Way.

~~35-3529.~~ - Placement or maintenance of Utilities facilities in public rights-of-way, in general.

(a) Compliance. Registrants and users and/or occupants agree at all times to comply with and abide by all applicable provisions of Federal and State law and Town ordinances, codes and regulations in placing or maintaining Facilities in public rights-of-way.

(b) Permit Required. A Registrant shall not commence to place or, maintain a Facility in a Town Public Right-of-way until all applicable Permits, if required, have been issued, except in the case of routine maintenance or an emergency as provided for in this Article. In such cases deemed an emergency situation by the Utility owner, the Registrant shall apply for Permits within 15 days of the incident or repair, whichever comes sooner. ~~No person shall commence to place or to maintain communications facilities or other facilities or to perform construction in the public rights-of-way or other roads or property within the Town until the Town or other appropriate authority has issued all applicable permits, except in the case of an emergency. The term "emergency" means a condition that affects the public's health, safety or welfare, which includes an unplanned out-of-service condition of a preexisting service.~~ Registrants and users and/or occupants shall provide prompt notice to the Town of the placement or maintenance of a ~~facility~~ Facility in public rights-of-way in the event of an emergency. The Registrant acknowledges that as a condition of granting a permit(s), the Town may impose reasonable conditions governing the Placement or Maintenance of a Facility in the Town's Public rights-of-way related to the public, health, safety and welfare as permitted and set forth in Section 337.401 of Florida Statutes as same may be amended from time to time; however, no such imposed conditions shall prohibit or otherwise adversely impact the provision of Utility Services. Permits shall apply only to the areas of the Town's Public Rights-of-way specifically identified in the Permit. As a condition of granting such permits, the Town may impose reasonable rules or regulations governing the placement or maintenance of facilities in public rights-of-way or other roads or property within the Town. Permits shall apply only to the areas of public rights-of-way or other roads or property within the Town specifically identified in the permit. The Town may issue a blanket permit to cover certain activities, such as routine maintenance and repair activities, that may otherwise require individual permits or may impose lesser requirements. All applicants for Facility work within the Rights-of-Way shall pay applicable building and/or public works permit fees as provided by Town Ordinance or as may be required by State Law.

(c) Required information. As part of any permit application to place a new or to replace an existing ~~communications facility or other facility~~ Facility in public rights-of-way or other roads or property within the Town, the applicant shall provide information concerning the ~~communications facility or other facility~~ Facility that sets forth the following, as required by the Town Manager:

(1) An engineering plan signed and sealed by a Florida Registered Professional Engineer, or prepared by a person who is exempt from such registration requirements as provided in Section 471.003 of Florida Statutes, identifying the location of the proposed facility, and including:

- a. A description of any facility to be installed;
 - b. The facility's ~~length-dimensions~~ in feet;
 - c. Site plan indicating where ~~Where~~ the facility is to be located; and
 - d. Ability to demonstrate compliance with the Florida Building Code, for wind load requirements unless otherwise exempted by Florida Statutes; and
 - e. For new Utilities, or any excavation work, a geotechnical report for the existing soil conditions, or a soil statement by a Florida licensed professional engineer, attesting to the soil conditions.
- (2) ~~A description of the manner in which the communications facility or other facility will be installed, i.e., anticipated construction methods and/or techniques;~~
- (3) ~~A traffic maintenance plan for any disruption of the public rights-of-way or other roads or property within the Town;~~
- (42) Plans and information, ~~Information as required by this Article, on the ability of the public rights-of-way to accommodate the proposed Facility communications facility or other facility, if available; such information shall be provided without certification as to correctness, to the extent obtained from other persons with communications facilities or other facilities in the public rights-of-way;~~
- (53) ~~If appropriate, given the Facility communications facility or other facility proposed, an estimate of the cost of restoration to the public rights-of-way;~~
- (64) ~~The timetable for construction of the project or each phase thereof, and the areas of the Town which will be affected;~~
- (7) ~~The use of door hangers to notify residents living within a 300-foot radius of the project; and~~
- 8
- (5) A description of the type of Facility and the manner in which the Facility will be installed and/or modified (i.e. anticipated construction methods or techniques).
- (6) A temporary sidewalk closure plan, if appropriate given the Facility proposed, to accommodate Placement or Maintenance of the Facility.
- (7) A temporary traffic lane closure and management of traffic (MOT) plan, if appropriate given the Facility proposed, to accommodate installation and/or modification of the Facility.
- (8) A proposed timetable for Placement or Maintenance of the proposed Facility or each phase of the Placement or Maintenance thereof, and the intended areas of the Town to be served by the Facility.
- (9) Registrants shall not place or maintain signage on Facilities in Town Public Rights-of-way, unless otherwise required by federal or State law; however, that Existing Structures that lawfully supported signage before being Repurposed may continue to support signage as otherwise permitted by law or Town Code, as same may be amended from time to time.
- (10) Such additional information requested by the Town that the Town finds reasonably necessary to review the permit application to ensure continued level of service delivery of its Rights-of-Way.
- (d) Public accessibility, safety, and sufficiency of spacing. ~~To the extent that such regulations do not interfere with the ability of a Utility to deliver and provide service to its customers, the Town shall have the power to prohibit or to limit the placement of new or existing telecommunication facilities or other facilities in that area of the public rights-of-way, or to~~

~~safely accommodate additional installations at any location, or for the protection of existing communication facilities or other facilities public rights-of-way or to accommodate Town plans for public improvements or projects that the Town determines are in the public's interest or to the extent permitted by applicable law, afforded by Florida Law to regulate Facilities to ensure that they meet Town requirements for public accessibility, safety and sufficiency of spacing, to ensure compliance with State of Florida and local laws and ordinances. In determining whether to permit and reasonably limit, or impose conditions or prohibit a Facility to be placed or located within the Town's Public Rights-of-way, the Town Public Works Director shall consider the following standards and minimum requirements in his review and consideration of a Permit application and imposition of reasonable Permit conditions:~~

- ~~(1) Sufficiency of space to accommodate present and pending applications for use of the Town's Public Rights-of-way. The sufficiency of space to accommodate all of the present and pending applications to place Facilities and pending or planned applications to Place and Maintain Facilities in that area of the Town's Public Rights-of-way; and~~
 - ~~(2) Sufficiency of space to accommodate the Town's need for projected public improvements. The sufficiency of space to accommodate Town plans for public improvements or projects adopted as part of its community investment capital improvements plan that the Town determines in the best interest of the public; and~~
 - ~~(3) Impact on traffic and traffic safety. The impact on traffic and traffic safety; and~~
 - ~~(4) Impact on Existing Facilities. The impact upon existing Facilities in the Town's Public Rights-of-way; and~~
 - ~~(5) Distance separation from edge of pavement. No new Facility shall be constructed, operated or maintained in the Town's Public Rights-of-way in violation of the State of Florida Department of Transportation Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways, (Commonly known as the "Florida Green Book" and for the Minimum Width of Clear Zones. In accordance with The Florida Green Book, the Town Public Works Director shall have the authority to reduce the minimum offset where that offset cannot be reasonably obtained, and other alternatives are deemed impractical; and~~
 - ~~(6) Distance separation from sidewalk. No newly installed Facility shall be Placed or Maintained in the Town's Public Rights-of-way within one (1) foot of a sidewalk that is five (5) feet or less in width. Co-location on an Existing Structures is exempt from this requirement; and~~
 - ~~(7) Installation at outermost boundary of Town's Public Rights-of-way. Where a superior site design results from placement of a Facility at or near the outermost boundary of the Town's Public Right-of-way, the farthest distance practicable from the centerline thereof and edge of pavement is encouraged. To the extent that the location of the sidewalk within the Town's Public Right-of-way precludes achievement of a superior site design or otherwise precludes compliance with all other requirements of this Article, then the Town Public Works Director or Registrant may propose, and the Registrant may include in the Permit application a proposed re-routing of the sidewalk at its own expense, in order to achieve such superior site design or otherwise meet other requirement of this Article.~~
- ~~(e) *Undergrounding of facility.* All communications facilities and other facilities shall be placed and maintained so as not to interfere unreasonably with the use of the public rights-of-way by the public and so as not to cause unreasonable interference with the rights and convenience of property owners who adjoin any of the public rights-of-way. A Registrant or other user shall~~

endeavor, to the greatest extent possible, to place all ~~communications facilities or other facilities~~ Facilities underground. The Town may require the use of trenchless technology (i.e., directional bore method) for the installation of ~~communications facilities or other facilities~~ in the public rights-of-way as well as joint trenching ~~or the collocation of communications facilities or other facilities~~ Facilities in existing conduit. The registrant or user shall be solely liable for the displacement, damage or destruction of any property, irrigation system or landscaping as a result of the placement or maintenance of its ~~communications facility or other facility~~ Facility within the public rights-of-way. The appropriate Town official may issue such rules and regulations concerning the placement or maintenance of a facility in public rights-of-way as may be consistent with this article and other applicable Federal and State laws or regulations.

- (f) Notification of adjacent property owners. ~~Excluding emergencies, prior~~ Prior to the commencement of any work by the applicant pertaining to the placement and maintenance of ~~communications facilities or other facilities~~ Facilities within the public rights-of-way or other roads or property within the Town, the Town Manager or designee may require the applicant to issue notice of the work to property owners who adjoin such affected area (the "Notification Area"). The notification area may be expanded at the Town's discretion and notice shall be ~~effected~~ affected in a manner deemed appropriate by the Town Manager or designee.
- ~~(g) Safety. All safety practices required by applicable law or accepted industry practices and standards shall be used during the placement or maintenance of facilities.~~
- ~~(gh)~~ Repair of damages. A person placing or maintaining ~~facilities~~ Facilities in the public rights-of-way or other roads or property within the Town shall, at its own expense, restore the public rights-of-way, or any other adjacent property that has been damaged by work on the project, to at least its original condition before such work was initiated, subject to the Town's satisfaction upon inspection. Restoration shall include, among other things, the removal of all markings placed by users on the right-of-way, unless they are required to remain pursuant to State law. A registrant or user shall warrant restoration of the public rights-of-way or other roads or property within the Town for a period of 12 months after completion of such restoration. If the registrant or user fails to make such restoration within 30 calendar days after completion of construction, or such other time as may be required by the Town, the Town may, after written notice to the registrant or user, perform such restoration using Town employees, agents or contractors, and charge all costs of the restoration against the registrant or user in accordance with Florida Law and require reimbursement within 30 days after the submission of the bill by the Town to the registrant or user.
- ~~(hi)~~ Removal or relocation. Removal or relocation at the direction of the Town of a person's ~~facility~~ Facility in the public rights-of-way shall be governed by Florida Law
- ~~(ij)~~ Property right not created. A permit from the Town constitutes authorization to undertake only certain activities in public rights-of-way in accordance with this article, and does not create a property right or grant authority to impinge upon the rights of others who may have an interest in the public rights-of-way.
- ~~(jk) Industry practice. A registrant and user shall maintain its communications facility and other facility in public rights-of-way in a manner consistent with accepted industry practice and applicable law.~~
- ~~(jl)~~ Underground safety act. In connection with excavation in the public rights-of-way, a registrant and user shall, where applicable, comply with the Underground Facility Damage Prevention and Safety Act set forth in Section 556 of Florida Statutes.

- (~~km~~) Maintenance. A registrant and user shall place or maintain a ~~communications facility and other facility~~ Facility in public rights-of-way in compliance with all applicable standards as established by all local, State or Federal law and in conformance with the Town Code. A registrant and user shall use and exercise due caution, care and skill in performing work in the public rights-of-way and shall take all reasonable steps to safeguard work site areas.
- (~~ln~~) Coordination or work. In the interest of the public's health, safety and welfare, upon request of the Town, a registrant or user shall coordinate placement or maintenance activities under a permit with any other work, construction, installation or repairs that may be occurring or scheduled to occur within a reasonable timeframe in the subject public rights-of-way or other roads or property within the Town. The Town may require a registrant or user to alter reasonably its placement or maintenance schedule for permitted work as necessary so as to minimize disruptions and disturbance in the public rights-of-way or other roads or property within the Town. The Town may provide a more definite time frame based on specific Town construction or maintenance schedules.
- (~~m~~) Existing facilities. A registrant or user shall not place or maintain its ~~communications facilities or other facilities~~ Facilities so as to interfere, displace, damage or destroy any facilities, including, but not limited to, sewers, gas or water mains, storm drains, pipes, cables or conduits of the Town or any other person's ~~facilities~~ Facilities lawfully occupying the public rights-of-way or other roads or property within the Town. The Registrant or user shall report to the Town any damage to existing Facilities and notify the Facility owner.
- (~~np~~) Conditions of rights-of-way. The Town makes no warranties or representations regarding the fitness, suitability or availability of public rights-of-way for the facilities, and any performance of work or costs incurred by the registrant or user or provision of services shall be at registrant's or user's sole risk. Nothing in this article shall affect the Town's authority to add, vacate or abandon public rights-of-way and the Town makes no warranties or representations regarding the availability of any added, vacated or abandoned public rights-of-way for facilities.
- (~~oq~~) Inspections. The Town shall have the right to make such inspections of ~~communications facilities and other facilities~~ Facility placed or maintained in public rights-of-way as it finds necessary to ensure compliance with this article. In the event the Town determines that a violation exists with respect to a registrant's or user's placement or maintenance of ~~communications facilities or other facilities~~ Facilities in the public rights-of-way that is not considered to be an emergency or danger to the public health, safety or welfare, the Town will provide the registrant or user no less than three days' written notice setting forth the violation and requesting correction. Nothing herein shall limit the authority of the Town Manager, building official or their designee from taking appropriate action to address an imminent and immediate health or safety hazard.
- (~~pr~~) Emergency. In an emergency, as determined by the Town Manager, building official, Public Works Director, or their designee, where the installation, use or maintenance of any ~~communications facility or other facility~~ Facility poses an imminent and immediate health or safety hazard to pedestrians or vehicles, the Town shall, where feasible, give telephonic notice to the owner of the ~~communications facility or other facility~~ Facility of the nature of the emergency and afford the owner the opportunity to remove or otherwise relocate the ~~facility~~ Facility. Where telephonic notice is not feasible or where the owner fails to address the emergency hazard, the Town Manager, building official or their designee may summarily and temporarily remove or relocate such ~~facility~~ Facility, but only to the extent necessary to avoid

the health or safety hazard at issue. Immediately following removal or relocation of any facility Facility under these emergency procedures, the Town shall provide the owner of the facility Facility with written notice of the action by certified mail, return receipt requested. If the Town removes such facility Facility, the owner of such facility shall have 30 days after receipt of such written notice by the Town to claim the facility Facility, or the Town may dispose of such facility Facility.

- (s) ~~Plans.~~ A permit application to place a new or replace an existing communications facility or other facility in the public rights of way shall include plans showing the location of the proposed installation of communications facilities or other facilities in the public rights of way. If the plans so provided require revision based upon actual installation, the registrant or user shall promptly provide revised plans, or "as-builts," upon completion of any installation or construction. The plans shall be in a digitized format showing the two-dimensional location of the communications facilities or other facilities based on the Town's Geographical Database, or other format acceptable to the Town. Upon the Town's request, a registrant or user shall submit such as-builts in the format acceptable to the Town, showing the location of its facilities in the public rights of way. The registrant or user shall provide such plans at no cost to the Town. The Town shall maintain the confidentiality of such plans and any other information provided in accordance with Section 202.195 of Florida Statutes.
- (t) ~~Town Rights.~~ The Town reserves the right to place and maintain, and permit to be placed or maintained, sewer, gas, water, electric, storm drainage, communications, and other facilities, cables or conduit, and to do, and to permit to be done, any underground and overhead installation or improvement that may be deemed necessary or proper by the Town in public rights of way occupied by the registrant or the user. A registrant or user shall allow Town communication facilities or other facilities to be collocated within Town's public rights of way through the use of a joint trench during the registrant's or user's construction project. Such joint trench projects shall be negotiated in good faith by separate agreement between the registrant or user and the Town and may be subjected to other Town rights of way requirements. The Town further reserves without limitation the right to alter, change, or cause to be changed, the grading, installation, relocation or width of the public rights of way within the limits of the Town and within said limits as same may from time to time be altered.

~~35-30. Suspension of permits.~~

- (a) ~~Subject to this section and to providing reasonable notice and an opportunity to cure, the Town may suspend a permit issued to any registrant or user or may deny an application for a subsequent permit made by a registrant or user for work in the public rights of way or other roads or property within the Town for one or more of the following reasons:~~
- ~~(1) Failure to satisfy permit conditions, or conditions set forth in this article or other applicable Town ordinances, codes or regulations governing placement or maintenance of communications facilities or other facilities in public rights of way or other roads or property within the Town, including without limitation, failure to take reasonable safety precautions to alert the public of work at the work site, or to restore any public rights of way or adjacent property;~~
 - ~~(2) Misrepresentation or fraud by the registrant in a registration or by a registrant or user in a permit application;~~
 - ~~(3) Failure to properly renew, a registration;~~
 - ~~(4) Ineffectiveness of a registration; or~~

~~(5) Failure to relocate or to remove facilities as may be lawfully required by the Town.~~

~~(b) After the suspension or denial of a permit pursuant to this section, the Town shall provide written notice of the reason to the registrant or user.~~

~~35-31. Appeals.~~

~~(a) Final written decisions of the Town Manager or designee suspending or denying a permit, denying an application for a registration or denying an application for renewal of a registration are subject to appeal. An appeal must be filed with the Town Manager within 30 days of the date of the final written decision to be appealed. Any appeal not timely filed as set forth in this section shall be waived. The Town Council shall hear or shall appoint a Hearing Officer to consider the appeal. The hearing shall occur within 30 days of the receipt of the appeal, unless waived by the registrant or user, and a written decision shall be rendered within 30 days of the hearing. Upon correction of any grounds that gave rise to a suspension or denial, the suspension or denial shall be lifted.~~

~~(b) Nothing in this section shall affect or limit the remedies the Town has available under applicable law.~~

~~35-32. Conditional use of public rights of way.~~

~~(a) In the event a registrant desires to use its existing communications facilities or to construct new communications facilities for the purpose of providing other utility or nonutility services to existing or potential consumers or resellers, for providing any other services other than the provision of communications services or for providing any other use to existing or potential consumers, a registrant shall seek such additional and separate authorization from the Town for such activities as may be required by applicable law.~~

~~(b) To the extent that any person or registrant leases or otherwise uses the communications facilities or other facilities of a person that is duly registered or otherwise authorized to place or to maintain facilities in the public rights of way of the Town, such person or registrant shall make no claim, nor assert any right, which will impede the lawful exercise of the Town's rights, including requiring the removal of such communications facilities or other facilities from the public rights of way of the Town, regardless of the effect on a registrant's ability to place or maintain its own communications facilities in public rights of way of the Town.~~

~~35-33. Termination of registration.~~

~~(a) The involuntary termination of a previously effective registration may only be accomplished by an action of the Town Manager and such action may be appealed to the Town Council. The Town may declare the registration terminated and revoke and cancel all privileges granted under that registration if:~~

~~(1) A Federal or Florida authority suspends, denies or revokes a registrant's certification or license to provide communications service;~~

~~(2) The registrant's placement and maintenance of the public rights of way or other roads or property within the Town presents an extraordinary danger to the general public or other users of the public rights of way; or~~

~~(3) The registrant abandons all of its communications facilities in public rights of way.~~

~~(b) Prior to such termination for any of the reasons set forth in this section, the Town Manager or his designee shall notify the registrant in writing, setting forth the matters pertinent to such reasons and describing the proposed action of the Town with respect thereto. The registrant~~

~~shall have 60 days after receipt of such notice within which to cure the violation, or within which to present a plan, satisfactory to the Town Council, to accomplish the same.~~

- ~~(c) In the event of a vote by the Town Council to terminate the registration, the registrant shall, within 30 days following such termination, provide an acceptable plan for transferring ownership of the communications facilities to another person in accordance with this article or shall remove or abandon the communications facilities and take such steps as are necessary to render every portion of the communications facilities remaining in the public rights-of-way safe. If the registrant has either abandoned its communications facilities or chooses to abandon its communications facilities, the Town may:~~
- ~~(1) Require the registrant or the registrant's bonding company to remove some or all of the communications facilities from the public rights-of-way and restore the public rights-of-way to its condition immediately prior to the removal;~~
 - ~~(2) Require that some or all of the communications facilities be removed and the public rights-of-way restored to their original condition at the registrant's expense, using Town employees, agents or contractors, and charge any and all costs to the registrant and require reimbursement; or~~
 - ~~(3) Utilize or allow other persons to utilize the registrant's abandoned communications facilities.~~
- ~~(d) The obligations of the registrant hereunder shall survive the termination of a registration. In the event of a declaration of termination of registration, this provision does not permit the Town to cause the removal of any communications facilities that are used to provide another service for which the registrant holds a valid certification or license with the governing Federal or State agency, where required, and is properly registered with the Town, for such certificated service, where required.~~

~~35-34. Transfer or control, sale or assignment of assets:~~

- ~~(a) If a registrant transfers, sells or assigns its registration or its communications facilities in the public rights-of-way, incident to a transfer, sale or assignment of the registrant's assets, the transferee, buyer or assignee shall be obligated to comply with the terms of this article. Written notice of any such transfer, sale or assignment shall be provided to the Town within 20 days of the effective date of the transfer, sale or assignment. If the transferee, buyer or assignee is a current registrant, then the transferee, buyer or assignee is not required to re-register. If the transferee, buyer or assignee is not a current registrant, then the transferee, buyer or assignee shall register as provided herein within 60 days of the transfer, sale or assignment. If permit applications are pending in the registrant's name, the transferee, buyer or assignee shall notify the Town that the transferee, buyer or assignee is the new applicant.~~
- ~~(b) Any mortgage, pledge, lease or other encumbrance on the communications facilities shall be subject and subordinate to the rights of the Town under this article and applicable law.~~

~~35-35. Insurance:~~

- ~~(a) *Required.* Registrant shall provide, pay for and maintain satisfactory to the Town the types of insurance described herein. All insurance shall be from responsible companies duly authorized to do business in the State of Florida and having a rating in Best's Insurance Guide of A or better, or having a rating acceptable to the Town. All liability policies shall provide that the Town is an additional insured in the endorsement. The required coverages must be evidenced by properly executed Certificates of Insurance forms. The Certificates must be signed by the~~

~~authorized representative of the insurance company and shall be filed and maintained with the Town annually. Thirty days' advance written notice by registered or certified mail must be given to the Town of any cancellation, intent not to renew or reduction in the policy coverages. The insurance requirements may be satisfied by evidence of self insurance or other types of insurance acceptable to the Town. In addition to the Certificate of Insurance, the registrant shall provide a copy of the insurance policy, if requested by the Town.~~

- ~~(b) *Limits.* The limits of coverage of insurance required shall be not less than the following:~~
- ~~(1) Worker's Compensation and Employer's Liability Employer's Liability—\$500,000.00 limit each accident, \$500,000.00 limit per each employee;~~
 - ~~(2) Comprehensive General Liability Bodily Injury and Property Damage—\$3,000,000.00 combined single limit each occurrence. Said coverage shall not exclude Contractual Liability, Products/Completed Operations, Independent or Contractors;~~
 - ~~(3) Automobile Liability, Bodily Injury and Property Damage—\$3,000,000.00 combined single limit each accident.~~
- ~~(c) *Umbrella or Excess Liability.* Registrant may satisfy the minimum limits required above for Commercial General Liability, Business Auto Liability and Employer's Liability coverage under Umbrella or Excess Liability. The Umbrella or Excess Liability shall have an Aggregate limit not less than the highest "Each Occurrence" limit for Commercial General Liability, Business Auto Liability or Employer's Liability. The Town shall be specifically endorsed as an "Additional Insured" on the Umbrella or Excess Liability, unless the Certificate of Insurance states the Umbrella or Excess Liability provides coverage on a "Follow Form" basis.~~
- ~~(d) *Self insurance.* The registrant may satisfy the insurance requirements and conditions of this section under a self insurance plan and/or retention if approved in advance by the Town in its sole discretion.~~
- ~~(e) *Right to review.* The Town reserves the right to review, modify, reject or accept any required policies of insurance or self insurance, including limits, coverages or endorsements, herein from time to time throughout the life of this section. The Town reserves the right, but not the obligation, to review and reject any insurer or self insurer providing coverage because of its poor financial condition or failure to operate legally.~~
- ~~(f) *Town maintains certain rights.* This section shall not be construed to affect in any way the Town's rights, privileges and immunities as set forth in F.S. § 768.28. Insurance under this section shall run continuously with the presence of the registrant's communications facilities in the public rights of way and any termination or lapse of such insurance shall be a violation of this section and subject to the remedies as set forth herein. Notwithstanding the foregoing, the Town may, in its sole discretion, require increased or decreased levels of insurance for any other object placed in the public rights of way by way of individual agreements.~~

~~35-36. Indemnification.~~

~~A registrant shall, at its sole cost and expense, indemnify, hold harmless and defend the Town, its officials, boards, members, agents and employees, against any and all claims, suits, causes of action, proceedings, judgments for damages or equitable relief, and costs and expenses incurred by the Town arising out of the placement or maintenance of its communications facilities in public rights of way, regardless of whether the act or omission complained of is authorized, allowed or prohibited by this article; provided, however, that a registrant's obligation hereunder shall not extend to any damages caused solely by the gross negligence or wanton or willful acts of the Town. This provision includes, but is not limited to, the Town's reasonable attorneys' fees incurred in~~

~~defending against any such claim, suit or proceedings. The Town agrees to notify the registrant, in writing, within a reasonable time of the Town receiving notice, of any issue it determines may require indemnification. Nothing in this section shall prohibit the Town from participating in the defense of any litigation by its own counsel and at its own cost if in the Town's reasonable belief there exists or may exist a conflict, potential conflict or appearance of a conflict. Nothing contained in this section shall be construed or interpreted:~~

- ~~(1) As denying to either party any remedy or defense available to such party under the laws of the State of Florida;~~
- ~~(2) As consent by the Town to be sued; or~~
- ~~(3) As a waiver of sovereign immunity beyond the waiver provided in F.S. § 768.28.~~

35-367. - Construction bond~~Expanded Security Fund.~~

- (a) Bond required. Where applicable and for projects that exceed the amount provided as part of the Security Fund, ~~prior~~ Prior to performing any permitted work in the public rights-of-way, the registrant shall establish in the Town's favor a ~~construction bond~~ or letter of credit, to secure the restoration of the public rights-of-way and to ensure the registrant's faithful performance of the construction or other work in the public rights-of-way. Notwithstanding the foregoing, a construction bond hereunder shall only be required to the extent that the cost of the restoration exceeds the amount recoverable against the security fund as provided herein.
- (b) Failure to compete work. In the event a registrant subject to such a construction bond fails to complete the work in accordance with the provisions of the permit and this ~~article~~ Article, there shall be recoverable, jointly and severally from the principal and surety of the bond, any damages or loss suffered by the Town as a result, including the full amount of any compensation, indemnification or cost of removal or abandonment of any property of the registrant, or the cost of completing the work, plus a reasonable allowance for attorney's fees, up to the full amount of the bond.
- (c) Release. No less than 12 months after completion of the construction and satisfaction of all obligations in accordance with the bond, the registrant may request the Town to remove the requirement to continue the construction bond, and the Town shall release the bond within 30 days of the date of final approval of said request. Notwithstanding, the Town may require a new bond for any subsequent work performed in the public rights-of-way.
- (d) Bond Rating. The construction bond shall be issued by a surety having a minimum rating of A-1 in Best's Key Rating Guide, Property/Casualty Edition; shall be subject to the approval of the Town Attorney; and shall provide that:
"Unless released by the Town, this bond may not be canceled, or allowed to lapse, until 60 days after receipt by the Town, by certified mail, return receipt requested, of a written notice from the issuer of the bond of intent to cancel or not to renew."
- (e) Rights reserved. The rights reserved by the Town with respect to any construction bond established pursuant to this section are in addition to all other rights and remedies the Town may have under this section, or at law or in equity, and no action, proceeding or exercise of a right with respect to the construction bond will affect any other right the Town may have.

~~35-38. - Security Fund.~~

~~At the time of registration and as a condition of receiving its first permit to place or to maintain a communications facility in public rights-of-way after the effective date of the ordinance from which this article is derived, the registrant shall be required to file with the Town a security fund~~

~~in the form of an annual bond or cash deposit in the sum of \$50,000.00. If the registrant files a bond, it shall have as a surety a company that is qualified to do business in the State of Florida, that has a minimum rating of AAA in Best's Key Rating Guide, Property/Casualty Edition and shall be subject to the approval of the Town Attorney. The security fund shall be conditioned on the full and faithful performance by the registrant of all requirements, duties and obligations imposed upon the registrant by the provisions of this article. The bond or other guarantee shall be furnished annually or as frequently as necessary to provide a continuing guarantee of the registrant's full and faithful performance at all times. In the event a registrant fails to perform its duties and obligations imposed upon the registrant by the provisions of this article, there shall be recoverable, jointly and severally from the principal and surety of the bond, any damages or loss suffered by the Town as a result, including the full amount of any compensation, indemnification or cost of removal or abandonment of any property of the registrant, plus a reasonable allowance for attorneys' fees, up to the full amount of the security fund.~~

DIVISION 4 Enforcement and Appeals

35-379. - Enforcement remedies of Permit Obligations; Suspension and Revocation of Permits.

- (a) Unless otherwise exempted from State Law, a ~~A~~ violation of this article or any resolution adopted pursuant to this article may be enforced pursuant to Section 8-10 and by issuance of a uniform civil violation notice, citation, summons, or notice to appear in county court, or by filing an action in civil court for injunctive relief. ~~This article-~~ Article is supplemental and nothing contained herein shall prohibit the Town from enforcing this ~~article-~~ Article by any other lawful means.
- (b) Failure of the Town to enforce any requirements of this article shall not constitute a waiver of the Town's right to enforce the article with respect to that violation or subsequent violations of the same type or to seek appropriate enforcement remedies.
- (c) The Town Manager or his designee is authorized to give any notice required by law.
- (d) The Town Public Works Director may order the suspension of placement and maintenance work under a permit and ultimately may revoke any Permit, without refunding any fees, in the event of a substantial breach of the terms and conditions of any applicable statute, ordinance, rule or regulation or any condition of the permit. The types of substantial breach by Permittee may include, but are not limited to:
- (1) The violation of any material provision of the Permit;
 - (2) An evasion or attempt to evade any material provision of the Permit or the perpetration or attempt to perpetrate any fraud or deceit upon the Town or its citizens;
 - (3) Any material misrepresentation of fact in the process of Permittee's request for a Permit or Registration;
 - (4) The failure to maintain the required performance bond or insurance;
 - (5) The failure to properly restore the Town's Public Rights-of-way;
 - (6) The failure to correct within the specified time an order issued by the Town Engineer;
 - (7) The failure to Register, Re-Register, or provide notice of any transfer in accordance with this Article;
 - (8) The failure to relocate or remove Facilities pursuant to this Article and Sections 337.402, 337.403 and 337.404, Florida Statutes (2016) as same may be amended from time to time.
 - (9) The failure to report to the Town and Facility owner any damages caused to a facility during the execution of the work.

- (e) If the Town Public Works Director determines that the Permittee has committed a substantial breach of a term or condition of the Permit, the Town Public Works Director shall make a written demand upon the Permittee to remedy such violation. The demand shall state that the continued violation(s) may be cause for revocation of the Permit. Further, a substantial breach as stated above will allow the Town Public Works Director, at his or her discretion, to place additional or revised conditions on the Permit.
- (f) Within thirty (30) calendar days of receiving notification of the breach, the Permittee shall contact the Town Public Works Director with a plan, acceptable to the Town Public Works Director, for its correction. The Town shall provide additional time as reasonably necessary for a Permittee to establish a plan acceptable to the Town Public Works Director taking into account the nature and scope of the alleged breach. The Permittee's failure to so contact the Town Public Works Director, or the Permittee's failure to submit an acceptable plan, or the Permittee's failure to reasonably implement the approved plan, shall be cause for revocation of the Permit. Further, the Permittee's failure to contact the Town Public Works Director, or the Permittee's failure to submit an acceptable plan, or Permittee's failure to implement the approved plan, shall be cause for the Permittee to be placed on probation for one full year.
- (g) The Town Public Works Director may establish a list of conditions for any Permit which, if breached, will be cause for the Permittee to be placed on probation for one full year, such as, but not limited to, working out of the allotted time period or working on a Town Public Right-of-way significantly outside the scope of the Permit. These conditions shall be stated on the Permit.
- (h) If a Permittee, while on probation, commits a breach as outlined above, the Permittee's Permit may be revoked, and the Permittee may not be allowed to obtain further Permits for one full year, except for emergency repairs and service requirements as mandated by State or federal regulations.
- (i) If a Permit is revoked, the Permittee shall reimburse the Town for the Town's reasonable costs, including restoration costs and the cost of collection and reasonable attorneys' fees incurred in connection with such revocation.
- (j) The Town Public Works Director may cause an immediate stop work order where the Permittee's construction poses a serious threat to the health, safety or welfare of the public until such time as such serious threat has been abated.

35-38 - Appeals.

- (a) Final written decisions of the Town Manager or designee suspending or denying a permit, denying an application for a registration or denying an application for renewal of a registration are subject to appeal. An appeal must be filed with the Town Manager within 30 days of the date of the final written decision to be appealed. Any appeal not timely filed as set forth in this section shall be waived. The Town Council shall hear consider the appeal. The hearing shall occur within 30 days of the receipt of the appeal, unless waived by the registrant or user, and a written decision shall be rendered within 30 days of the hearing.
- (b) The Town Council shall conduct a de novo hearing on the record and shall determine if:
 - (1) There was a departure from the essential requirements of the law in the proceedings appealed; or
 - (2) Competent, substantial evidence does not exist to support the decision.
- (c) If the Town Council determines that there was not a departure from the essential requirements of the law or that competent substantial evidence exists to support the decision of the Town

Manager, then the decision of the Town Manager shall be upheld, otherwise it shall be overturned.

- (d) Appeal from a final decision by the Town Council shall be to the Circuit Court by filing a petition for writ of certiorari within thirty (30) days of the decision, pursuant to court rules. Any such appeal is voluntary, and in the absence of taking such appeal, the decision of the Town Council shall be deemed to be final. If an appeal is taken, however, the decision of the Town Council is no longer deemed to be final but instead is tolled pending the appeal
- (e) Nothing in this section shall affect or limit the remedies the Town has available under applicable law.

35-3940. - Reports and records.

- (a) A registrant shall provide the following documents to the Town as received or filed:
- (1) Any pleadings, petitions, notices and documents which may directly impact the obligations under this article and which are reasonably necessary for the Town to protect its interests under this article; and
 - (2) Any request for protection under bankruptcy laws, or any judgment related to a declaration of bankruptcy.
- (b) Nothing in this subsection shall affect the remedies a registrant has available under applicable law.
- (c) The Town shall keep any documentation, books and records of the registrant confidential to the extent required by Florida Statutes.

DIVISION 5 Abandonment of a Facility and Reservation of Rights

35-404. - Abandonment of a Facility ~~communications or other facility~~.

- (a) Upon determination by a registrant that one or more of its Facilities in a Town Public Right-of-way is to be abandoned, the Registrant shall notify the Town no later than 90 days from such determination, or no later than 30 days following such abandonment, whichever is sooner. Upon abandonment of a communications facility owned by a registrant in the public rights-of-way, the registrant shall notify the Town of such abandonment within 90 days.
- (b) The Town may direct the registrant by written notice to remove all or any portion of such abandoned ~~communications facility~~ Facility at the registrant's sole expense if the Town determines that the abandoned ~~communications facility's~~ Facility's presence interferes with the public health, safety or welfare, which shall include, but shall not be limited to, a determination that such ~~communications facility~~ Facility:
- (1) Compromises safety at any time for any public rights-of-way user or during construction or maintenance in public rights-of-way;
 - (2) Prevents another person from locating ~~facilities~~ Facilities in the area of public rights-of-way where the abandoned ~~communications facility~~ Facility is located when other alternative locations are not reasonably available; or
 - (3) Creates a maintenance condition that is disruptive to the use of any public rights-of-way.
- In the event of Subsection (b)(2) of this section, the Town may require the third person to coordinate with the registrant that owns the existing ~~communications facility~~ Facility for joint removal and placement, where agreed to by the registrant.
- (c) In the event that the Town does not direct the removal of the abandoned ~~communications facility~~ Facility, the registrant, by its notice of abandonment to the Town, shall be deemed to

consent to the alteration or removal of all or any portion of the ~~communications facility~~ Facility by the Town or another person at such third party's cost.

- (d) If the registrant fails to remove all or any portion of an abandoned ~~communications facility~~ Facility as directed by the Town within a reasonable time period as may be required by the Town under the circumstances, the Town may perform such removal and charge the cost of the removal against the registrant.
- (e) In the event the Abandoned Facility is subject to a pole attachment agreement, then the obligation to remove the Abandoned Facility shall be in compliance with the federal Pole Attachment Act (47 USC Section 224), as same may be amended from time to time.

~~35-42. Force majeure.~~

~~In the event a registrant's performance of or compliance with any of the provisions of this article is prevented by a cause or event not within the registrant's control, such inability to perform or comply shall be deemed excused and no penalties or sanctions shall be imposed as a result; provided, however, that such owner uses all practicable means to expeditiously cure or correct any such inability to comply. For purposes of this article, causes or events not within a registrant's control shall include, without limitation, acts of God, floods, earthquakes, landslides, hurricanes, fires and other natural disasters, acts of public enemies, riots or civil disturbances, sabotage, strikes and restraints imposed by order of a governmental agency or court. Causes or events within a registrant's control, and thus not falling within this section, shall include, without limitation, registrant's financial inability to perform or comply, economic hardship, and misfeasance, malfeasance or nonfeasance by any of a registrant's directors, officers, employees, contractors or agents.~~

~~35-4143. -~~ Reservation of rights.

- (a) The Town reserves the right to amend this article as it shall find necessary in the lawful exercise of its police powers.
- (b) This article shall be applicable to all ~~communications facilities~~ Facility placed in the public rights-of-way on or after the effective date of the ordinance from which this article is derived and shall apply to all existing ~~communications facilities~~ Facilities placed in the public rights-of-way prior to the effective date of the ordinance from which this article is derived, to the full extent permitted by State and Federal law.

Sec. 35-42. No liability or warranty.

Nothing contained in this Article shall be construed to make or hold the Town responsible or liable for any damage to persons or any property whatsoever, from any cause whatsoever, arising from the use, operation or condition of the Registrant's Facilities by reason of any inspection or re-inspection authorized herein or failure to inspect or re-inspect. Nor shall the issuance of any Permit or the approval or disapproval of any Placement or Maintenance of the Registrant's Facilities as authorized herein constitute any representation, guarantee or warranty of any kind by, or create any liability upon the Town or any official, agent or employee thereof. Additionally, the Town shall not be responsible for any relocation costs incurred by any Registrant due to the Town's or any other Person's work in the Town's Public Rights-of-way.

ARTICLE III. COMMUNICATION FACILITIES IN PUBLIC RIGHTS-OF-WAY

DIVISION 1. Generally.

Sec. 35-43 Intent and Purpose.

It is the intent of the Town of Miami Lakes to promote the public health, safety and general welfare by: providing regulations governing the placement or maintenance of Communication Facilities in the Town's Public Rights-of-way; adopting and administering reasonable rules and regulations not inconsistent with State and Federal law, and Orders issued by the FCC, as each may be amended from time to time; establishing reasonable rules and regulations necessary to manage the placement or maintenance of Communication Facilities in the Town's Public Rights-of-way by all Communications Service Providers; minimizing disruption to the Town's Public Rights-of-way; promoting and encouraging Colocation of Telecommunication Facilities on existing, modified or replacement structures within the Town's Public Rights-of-way as a primary option generally preferred over the construction of new Communication Facilities that will either eliminate or reduce the need for the erection of new Communication Facilities; avoiding potential damage to the Town's Public Rights-of-way caused by Communication Facilities by ensuring that such Communication Facilities are soundly and carefully designed, constructed, modified and maintained; establishing reasonable rules and regulations necessary to manage the placement or maintenance of Communications Facilities in the Town's Public Rights-of-way by Communication Service Providers, Communications Facilities Providers, or Pass-Through Providers; and minimizing disruption to the Town's Public Rights-of-way. In regulating its Public Rights-of-way, the Town shall be governed by and shall comply with all applicable Federal and State Laws.

Persons seeking to place or maintain Communication Facilities in the Town's Public Rights-of-way shall comply with the provisions of this Article. Persons seeking to place or maintain Communication Facilities on private real- property or other real- property to which the Town, Miami-Dade County, the School District of Miami-Dade County, the South Florida Water Management District, the State of Florida or the Federal Government own a fee simple or leasehold interest in real property, located within the municipal boundaries of the Town shall comply with the provisions of the Chapter 13, Land Development Code (LDC), to the extent it applies.

35-44. - Definitions.

For purposes of this article the following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words not otherwise defined in this section or in any permit that may be granted pursuant to this article shall be given the meaning set forth in the Communications Act of 1934, 47 USC 151 et seq., as amended, and any Orders issued by the FCC (collectively the "Communications Act"), and if not defined in the Communications Act, as defined by Florida Statutes, specifically definitions as found in section 337 of Florida Statutes; and, if not defined by Florida Statutes, shall be construed to mean the common and ordinary meaning or other applicable local, State , or Federal Law.

Abandonment, or Abandoned means 90 or more consecutive days with the absence of any active Communication Service Provider on a Communications Facility. An Abandoned Communication Facility shall be removed or cured as required by this Article. This term shall not

include cessation of all use of a Communication Facility within a physical structure where the physical structure continues to be used for some purpose or use accessory to the Communications Facility. If the Communication Facility is attached to an Existing Structure that has an independent function, such as a light pole, intersection signal, pedestrian signal, utility pole or the like, said Abandonment of the Communication Facility requires removal of the Communication Facility only and does not require the removal of the Existing Structure. The term shall also exclude the temporary cessation of the provision of Communication Services where the Provider intends to re-establish the provision of Communication Services in the future. For example, cable drops to homes that are deactivated based on competitive alternatives, but are maintained for when the customer re-activates service shall not be Abandonment of a Communication Facility. The temporary cessation with intent to re-activate must be documented to the satisfaction of the Town Public Works Director. Any Communication Facility that is not registered by a Communication Facility Provider, shall be considered Abandoned. This definition does not apply to application(s) for Communication Facilities which have not yet been installed, erected, or operationalized, as defined and controlled by Florida Statutes.

Applicable Codes means uniform building, fire electrical, plumbing, or mechanical codes adopted a recognized national code organization or local amendments to those codes enacted solely to address threats of destruction of property or injury to persons, or local codes ordinances adopted to implement this Article. The term includes objective design standards provided in this Article that may require a new utility pole that replaces an existing utility pole to be of substantially similar design, material, and color or that may require reasonable spacing requirements concerning the location of ground mounted equipment. The term includes objective design standards provided in this Article that may require a small wireless facility to meet reasonable location context, color, stealth, and concealment requirements; however, such design standards may be waived upon a showing that the design standards are not reasonably combative for the particular location of the small wireless facility or that the design standards impose an excessive expense. The waiver shall be granted or denied within 45 days after the date of the request.

Communications Facility Pole means a pole-like structure either designed primarily as a Communications Facility or used as a Communications Facility. A Utility Pole is not a Communications Facility Pole for purposes of the Article. This term does not include infrastructure owned by an Electric Utility that is not use for Communication Services.

Communications Facility or Communications System means any permanent or temporary plant, equipment and property, including, but not limited to, cables, wires, conduits, ducts, fiber optics, poles, Antennas, wireless facilities, converters, splice boxes, cabinets, hand holes, manholes, vaults, drains, surface location markers, appurtenances and other equipment or pathway placed or maintained or to be placed or maintained in the public rights-of-way of the Town and used or capable of being used to transmit, convey, route, receive, distribute, provide or offer Communication Services. Pursuant to F.S. § 337.401, Communication Facility for purposes of this article shall not include communications facilities owned, operated or used by electric utilities or regional transmission organizations exclusively for internal communications purposes.

Communications Services means the transmission, conveyance or routing of voice, data, audio, video or any other information or signals, including Video Services, to a point, or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave, or other medium or method now in existence or hereafter devised, regardless of the protocol used for such transmission or conveyances in accordance with Section 202.11, Florida Statutes as same may be amended from time to time. The term includes such transmission, conveyance, or routing in which

computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether such service is referred to a voice-over-internet-protocol services or is classified by the Federal Communications Commission as enhanced or value-added to a point, or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave or other medium or method now in existence or hereafter devised, regardless of the protocol used for such transmission or conveyance. For the purpose of this article, cable service, as defined in F.S. § 202.11(2), is not included in this definition and cable service providers or providers of service via an open video system may be subject to other ordinances of the Town and shall require separate authorization from the Town.

Communications Services Tax means the local communications services tax authorized to be levied and collected by counties and municipalities upon chargers for Communications Services, pursuant to Section 202.20, Florida Statutes as same may be amended from time to time.

Electric Utility means any municipal electric utility, investor-owned electric utility, or rural electric cooperative which owns, maintains, or operates an electric generation, transmission, or distribution system as defined in F.S. 366.02, as amended.

Emergency means situations of a serious nature, developing suddenly and unexpectedly, and demanding immediate action that will affect public safety, disruption of utility service, or damage to the Rights-of-Way, and conditions that affects the public's health, safety or welfare.

Facility or Facilities means any tangible thing located in any Public Rights-of-way used to deliver Communications Services

FCC means the Federal Communications Commission.

Florida Building Code means the Florida Building Code promulgated under Chapter 553, Florida Statutes and includes the Miami-Dade County Amendments thereto as both may be amended from time to time.

In Public Rights-of-Way or In the Public Rights-of-Way means over, above, in, on or under the Public Rights-of-way within the Town over which the Town has jurisdiction, control and authority to regulate. The term also includes those Rights-of-way over which the County or State has jurisdiction and authority under the Florida Transportation Code, Chapter 334, Florida Statutes, as same may be amended from time to time, but where the County or State or both have delegated to the Town the authority to regulate the registration, permitting, placement, installation and maintenance of Communications Facilities in accordance with Chapter 35 of the Town Code of Ordinances.

LDC means the, Chapter 13 of the Town of Miami Lakes Code of Ordinances, titled "Land Development Code.

Order, as used in the definition of "Wireless Service Provider," shall mean as amended from time to time Order's promulgated by the FCC.

Micro Wireless Facility is a small wireless facility having dimensions no larger than 24 inches in length, 15 inches in width, 12 inches in height, and an exterior antenna, if any, no longer than 11 inches.

Pass-Through Provider means any Person who places or maintains a Communications Facility in the Town's Public Rights-of-way that levies a tax pursuant to chapter 202 of Florida Statutes, as may be amended from time to time, and who does not remit taxes imposed by the Town pursuant to Chapter 202, Florida Statutes as same may be amended from time to time.

Permit means the Public Right-of-way permit that must be obtained before a Person may construct in the Public Right-of-way and shall include, but not be limited to Town Right-of-Way engineering and construction permits issued by the Town Public Works Director.

Person means any individual, firm, association, joint venture, partnership, estate, trust, business trust, syndicate, fiduciary, corporation, organization or legal entity of any kind, successor, assignee, transferee, personal representative and all other groups or combinations, but shall not include the Town to the extent permitted by applicable law.

Pole Attachment means any attachment of a Communications Facility by a provider of Communication Services to an existing structure within a Public Right-of-way.

Public Rights-of-Way means a public right-of-way, public utility easement, highway, street, bridge, tunnel, pier, waterway, dock, wharf, court, lane, path or alley or any other property for which the Town has jurisdiction and control and may lawfully grant access to such property pursuant to applicable law, and includes the surface, the air space over the surface and the area below the surface to the extent the Town holds a property interest therein. Public Rights-of-Way shall not include:

- (1) Private property;
- (2) Any real or personal Town property except as described above; or
- (3) Town buildings, fixtures, poles, conduits, facilities or other structures or improvements, regardless of whether they are situated in the Public Rights-of-Way.

Registrant or Facility Owner means a communications services provider or other person that has registered with the Town in accordance with the provisions of this article.

Registration and Register means the process described in this article whereby a Communication Services Provider, Communication Facility Provider, Pass-Through Provider provides certain information to the Town by which it is determined whether the Person will be authorized to obtain Permits to place or maintain Facilities within the Town's Public Rights-of-Way.

Small Wireless Facility means a Wireless Facility that meets the following qualifications:

- (1) Each Antenna associated with the facility is located inside an enclosure of no more than 6 cubic feet in volume, or in the case of Antennas that have exposed elements, each antenna and all of its exposed elements could fit within an enclosure of no more than 6 cubic feet in volume; and
- (2) All other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cutoff switches, vertical cable runs for the connection of power and other services, and utility poles or support structures.

Stealth Design means a method of camouflaging any tower, antenna or other Communications Facility, including, but not limited to, supporting electrical or mechanical equipment, which is designed to enhance compatibility with adjacent land uses and be as visually unobtrusive as possible. Stealth Design may include a Repurposed Structure or a Wrap.

Town means the Town of Miami Lakes, Florida, an incorporated municipality of the State of Florida, in its present form or in any later reorganized, consolidated or enlarged form.

Utility Pole means a pole or similar structure that is used in whole or in part to provide for Communication Facility, electric distribution, lighting, traffic control, signage, or a similar function. The term includes the vertical support structure for traffic lights but does not include a horizontal structure to which signal lights or other traffic control devices are attached and does not

include a pole or similar structure 15 feet in height or less unless the authority grants a waiver for such pole.

Wireless Facility means equipment at a fixed location which enable wireless communications between user equipment and a communications network, including radio transceivers, antennas, wires, coaxial or fiber-optic cable or other cables, regular and backup power supplies, and comparable equipment, regardless of technological configuration, and equipment associated with the wireless communication. The term includes small wireless facilities. The term does not include:

- (1) The structure or improvements on, under, within, or adjacent to the structure on which the equipment is collocated;
- (2) Wireline backhaul facilities; or
- (3) Coaxial or fiber-optic cable that is between wireless structure or utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

Wireless infrastructure provider means a person who has been certificated to provide telecommunications service in the state and who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures but is not a wireless services provider.

DIVISION 2. Registration.

35-45. - Registration for placing or maintaining Communications Facilities in Public Rights-of-Way.

- (a) *Registration.* A Communications Service Provider, Communication Facility Provider, or Pass-Through Provider that desires to place or maintain a Communications Facility in public rights-of-way in the Town shall first register with the Town in accordance with this Division. Subject to the terms and conditions prescribed in this Division, a registrant may place or maintain a Communications Facility in public Rights-of-Way. A Communications Services Provider, Communication Facility Provider, or Pass-Through Provider with an existing Facility in the public rights-of-way of the Town as of the effective date of the ordinance from which this Division is derived has 120 days from the effective date of the ordinance from which this Division is derived to comply with the terms of this Division, including, but not limited to, registration, or shall be in violation thereof.
- (b) *No property right arises from Registration.* A registration shall not convey any title, equitable or legal, in the public rights-of-way. Registration under this article governs only the placement or maintenance of Communication Facilities in Public Rights-of-Way. Registration does not excuse a Communications Services Provider, Communication Facility Provider, or Pass-Through Provider from obtaining appropriate access or pole attachment agreements before locating its Facilities on the Town's or another person's Facilities. Registration does not excuse a Communications Services Provider, Communication Facility Provider, or Pass-Through Provider from complying with all applicable law, including Town ordinances, codes or regulations, including this article, Federal or State laws, Regulations or Orders.
- (c) *Registration is non-exclusive.* Registration does not in and of itself establish a right to place or maintain, or establish priority for the Placement or Maintenance of a Communications Facility in the Town's Public Rights-of-way, but shall establish for the Registrant a right to apply for a Permit, if permitting is required by the Town. Registrations are expressly subject

to any further amendment to or replacement of this Article and further subject to any additional Town ordinances or regulations, as well as any State or federal laws that may be enacted.

(de) *Content of Registration.* Each Communications Services Provider, Communication Facility Provider, or Pass-Through Provider that desires to place or maintain a Communications Facility in Public Rights-of-Way in the Town shall, annually, file an original registration along with two complete copies with the Town that shall include the following information:

(1) Name of the applicant;

(2) Name, address, telephone number, e-mail address and mobile phone number of the applicant's primary contact person in connection with the registration. Additionally, the applicant shall provide emergency contact information. The primary contact person shall be able to provide information regarding the registrant's Communications Facilities in the public rights-of-way, and shall be able to accept and coordinate any damage claims. The registrant shall also provide a secondary contact person enabling the Town to contact appropriate registrant's personnel in emergency situations, including, but not limited to, when registrant's construction or equipment has caused damage to other property. The registrant shall also provide the Town with a current telephone number for the secondary contact person which shall be available and monitored 24 hours per day, every day, by the registrant, to be utilized by the Town in case of an emergency. Such information shall be updated as necessary by the registrant to provide the Town with current and accurate information;

(3) Evidence of the insurance coverage required under this article and acknowledgment that the registrant has received and reviewed a copy of this article;

(4) A copy of Federal or State certification authorizing the applicant to provide Communications Services, if any;

(5) If the applicant is a corporation and does not submit a State certification pursuant to Subsection (c)(4) of this section, proof of authority to do business in the State of Florida,

(e) *Review and reporting.* The Town Manager or designee shall review the information submitted by the Applicant. If the Applicant submits information in accordance with Subsection (d) of this section, the Registration shall be effective, and the Town shall notify the applicant of the effectiveness of Registration by electronic mail. The Applicant may not apply for a permit to place or maintain Communication Facilities in the Public Rights-of-Way under this Article unless and until it has been notified that its application is complete and effective. If the Town determines that the information has not been submitted in accordance with Subsection (c) of this section, the Town shall notify the applicant by electronic mail of the non-effectiveness of registration and reasons for the non-effectiveness. The Town shall so notify an Applicant within 30 days after receipt of registration information from the Applicant.

(f) *Cancellation.* A registrant may cancel a registration upon written notice to the Town that the registrant will no longer place or maintain any Communications Facilities in public rights-of-way and will no longer need to obtain permits to perform work in the public rights-of-way. A registrant cannot cancel a registration if the registrant continues to place or maintain a Communication Facility in public rights-of-way.

(g) *Annual Renewal.* A Registrant shall update its registration with the Town by April 1 of each year in accordance with the registration requirements in this Article and shall include Annual payment at the time of registration. Within 30 days of any change in the information required to be submitted pursuant to Subsection of this section, a Registrant shall provide updated

information to the Town. If no information in the then-existing registration has changed, the renewal may state that no information has changed. Failure to renew a registration may, at the Town's discretion, result in the Town restricting the issuance of additional permits until the Registrant has complied with the registration requirements of this Article. Failure to renew registration shall mean all facilities identified in prior registrations and all facilities not registered, shall be subject to subject to the procedures set forth in Section 35-49.

- (h) *Failure to Register:* A Registrant shall bear the responsibility to maintain his registration updated with the Town at all times. A Registrant's failure to Register, or renew Registration may result in the suspension of any open Permits and Civil Penalties subject to the procedures set forth in Section 35-49.

Sec. 35-46. Insurance.

- (a) *General.* A Registrant shall provide, pay for and maintain satisfactory to the Town the types of insurance described herein. All insurance shall be from responsible companies duly authorized to do business in the State of Florida and having an A.M. Best A-VII or better rating. All liability policies shall provide that the Town is an additional insured as to the activities under this Article. The required coverages must be evidenced by properly executed certificates of insurance forms. The certificates must be signed by the authorized representative of the insurance company and shall be filed and maintained with the Town annually. Thirty (30) days advance written notice by registered, certified or regular mail or facsimile as determined by the Town must be given to the Town's Risk Manager of any cancellation, intent not to renew or reduction in the policy coverages. The insurance requirements may be satisfied by evidence of self-insurance or other types of insurance acceptable to the Town.
- (b) *Insurance Coverage and Limits of Insurance Coverage.* The insurance coverage and limits of coverage of insurance required shall be not less than the following:
- (1) *Worker's compensation and employer's liability insurance.* Requirements as spelled out in Florida Chapter 440.
 - (2) *Comprehensive general liability.* Commercial general liability occurrence form, including premises/operations, independent contractor's contractual liability, product/completed operations; X, C, U coverage; and personal injury coverage for limits of no less than one million dollars (\$1,000,000) per occurrence, combined single limit and two million dollars (\$2,000,000) in the aggregate.
 - (3) *Commercial Automobile liability.* Commercial automobile liability coverage for all owned, non-owned and hired vehicles involved in operations under this Article XII for limits of no less than one million dollars (\$1,000,000) per occurrence combined single limit each accident.
 - (4) *Commercial excess or umbrella liability.* Commercial excess or umbrella liability coverage may be used in combination with primary coverage to achieve the required limits of liability.
- (c) *Proof of Insurance.* Upon the effective date of the Registration, the Registrant shall submit to the Town proof that it has obtained the insurance required under this Article, including a certificate of insurance signed by the insurance agent.
- (d) *Duration.* The coverage provided herein shall be for a period not less than the period for which the indemnification obligations under this Article hereof are imposed.

- (e) Abandonment. Failure to maintain required insurance coverage shall be deemed an deemed a violation of this Article and be subject to Code Enforcement proceedings including any applicable fines or liens as permitted therein.. Enforcement of all of the Communications Facilities of the Registrant is subject to the procedures set forth in Section 35-49.

35-47. Indemnification.

- (a) Liability. By reason of the acceptance of a Registration under this Article or the grant of a Permit under this Article, the Town does not assume any liability:

(1) For injuries to persons, damage to property, or loss of service claims by parties other than the Registrant or the Town;

(2) For claims or penalties of any sort resulting from the installation, presence, maintenance, or operation of Facilities by Registrants or activities of Registrants.

- (b) Hold harmless. By registering with the Town, a Registrant agrees, or by applying for and accepting a Permit under this Article, a Permittee is required, to defend, indemnify, and hold the Town whole and harmless from all costs, liabilities, and claims for damages of any kind arising out of the construction, presence, installation, maintenance, repair or operation of its Communications Facilities, whether any act or omission complained of is authorized, allowed, or prohibited by a Permit, inspection of plans or work by the Town. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the Registrant or to the Town; and the Registrant, in defending any action on behalf of the Town, shall be entitled to assert in any action every defense or immunity that the Town could assert in its own behalf. The provisions of this Section include, but are not limited to, the Town's reasonable attorneys' fees incurred in defending against any such claim, suit or proceeding(s).

- (c) Notification of issues. The Town agrees to notify the Registrant, in writing, within a reasonable time of the Town receiving notice, of any issue it determines may require indemnification.

- (d) Limitations. This indemnification obligation is not limited in any way by a limitation of the amount or type of damages or compensation payable by or for the registrant under workers' compensation, disability or other employee benefit acts, or the acceptance of insurance certificates required under this article, or the terms, applicability or limitations of any insurance held by the Registrant.

- (e) Investigation by registrant. The Registrant shall investigate, handle, respond to, provide defense for, and defend any such claims at its sole expense and shall bear all other costs and expenses related thereto even if the claim is groundless, false or fraudulent and if called upon by the Town, the Registrant shall assume and defend not only itself but also the Town in connection with any such claims and any such defenses shall be at no cost or expense whatsoever to the Town, provided, however, that a registrant's obligation hereunder shall not extend to any damages caused solely by the negligence, gross negligence or wanton or willful acts of the Town, its employees, agents, contractors, subcontractors or invitees. The Town (exercisable by the Town Attorney), shall retain the right to select counsel of its own choosing.

- (f) Waiver rights. The Town does not and shall not waive any rights against the Registrant which it may have by reason of this indemnification, or because of the acceptance by, or the Registrant's deposit with the Town of any of the insurance policies required by this Article for Registration.

- (g) Damages. This indemnification by the Registrant shall apply to all damages and claims for damages of any kind suffered, excepting any damages caused by the negligence, gross negligence or intentional acts of the Town, its employees, agents or contractors regardless of

whether such insurance policies shall have been determined to be applicable to any such damages or claims for damages.

(h) *Defense and immunity.* Nothing contained in this Section shall be construed or interpreted:

(1) as denying to either party any remedy or defense available to such party under the laws of the State of Florida; or

(2) as a waiver of sovereign immunity beyond the waiver provided in Section 768.28, Florida Statutes as same may be amended from time to time.

(i) *Term.* The indemnification requirements under this Section and this Article shall survive and be in full force and effect for a period of five (5) years after the termination or cancellation of a Registration, or until all of the equipment is removed from the Town's Rights-of-Way.

35-48. - *Force majeure.* In the event a Registrant's performance of or compliance with any of the provisions of this article is prevented by a cause or event not within the Registrant's control, such inability to perform or comply shall be deemed excused and no penalties or sanctions shall be imposed as a result; provided, however, that such owner uses all practicable means to expeditiously cure or correct any such inability to comply. For purposes of this article, causes or events not within a registrant's control shall include, without limitation, acts of God, floods, earthquakes, landslides, hurricanes, fires and other natural disasters, acts of public enemies, riots or civil disturbances, sabotage, strikes and restraints imposed by order of a governmental agency or court. Causes or events within a registrant's control, and thus not falling within this section, shall include, without limitation, registrant's financial inability to perform or comply, economic hardship, and misfeasance, malfeasance or nonfeasance by any of a registrant's directors, officers, employees, contractors or agents.

35-49. - Termination of registration.

(a) *Involuntary Termination.* The involuntary termination of a previously effective registration may only be accomplished by an action of the Town Manager and such action may be appealed to the Town Council. The Town may declare the registration terminated and revoke and cancel all privileges granted under that registration if:

(1) A Federal or Florida authority suspends, denies or revokes a registrant's certification or license to provide Communications Service;

(2) The Registrant's placement and maintenance of the Public Rights-of-Way or other roads or property within the Town presents an extraordinary danger to the general public or other users of the public rights-of-way; or

(3) The registrant voluntarily abandons all of its Communications Facilities in Public Rights-of-Way.

(4) The registrant fails to update their information with the Town as set forth in this Ordinance.

(b) *Notification.* Prior to such termination for any of the reasons set forth in this section, the Town Manager or his designee shall notify the registrant in writing, setting forth the matters pertinent to such reasons and describing the proposed action of the Town with respect thereto. The registrant shall have 60 days after receipt of such notice within which to cure the violation.

(c) In the event of a vote by the Town Council to terminate the registration, the registrant shall, within 30 days following such termination, provide an acceptable plan for transferring ownership of the Communications Facilities to another person in accordance with this Article or shall remove or Abandon the Communications Facilities and take such steps as are necessary to render every portion of the Communications Facilities remaining in the public rights-of-way

safe. If the registrant has either Abandoned its Communications Facilities or chooses to Abandon its Communications Facilities, the Town may:

- (1) Require the registrant or the registrant's bonding company to remove some or all of the Communications Facilities from the public rights-of-way and restore the public rights-of-way to its condition immediately prior to the removal;
 - (2) Require that some or all of the Communications Facilities be removed, and the public rights-of-way restored to their original condition at the registrant's expense, using Town employees, agents or contractors, and charge any and all costs to the registrant and require reimbursement; or
 - (3) Utilize or allow other persons to utilize the registrant's Abandoned Communications Facilities.
- (d) *Survival of obligations.* The obligations of the registrant hereunder shall survive the termination of a registration. In the event of a declaration of termination of registration, this provision does not permit the Town to cause the removal of any Communications Facilities that are used to provide another service for which the registrant holds a valid certification or license with the governing Federal or State agency, where required, and is properly registered with the Town, for such certificated service, where required.

35-50. - Transfer of control, sale, or assignment of assets.

- (a) *Transfer of control, sale, or assignment of assets.* If a Registrant transfers, sells or assigns its Registration or its Communications Facilities in the Public Rights-of-Way, incident to a transfer, sale or assignment of the registrant's assets, the transferee, buyer or assignee shall be obligated to comply with the terms of this article. Written notice of any such transfer, sale or assignment shall be provided to the Town within 20 days of the effective closing date of the transfer, sale or assignment. If the transferee, buyer or assignee is a current registrant, then the transferee, buyer or assignee is not required to re-register. If the transferee, buyer or assignee is not a current registrant, then the transferee, buyer or assignee shall register as provided herein within 60 days of the transfer, sale or assignment. If permit applications are pending in the registrant's name, the transferee, buyer or assignee shall notify the Town that the transferee, buyer or assignee is the new applicant.
- (b) *Subordination.* Any mortgage, pledge, lease or other encumbrance on the Communications Facilities shall be subject and subordinate to the rights of the Town under this article and Applicable Law.

35-51. - Security Fund. At the time of registration and as a condition of receiving its first permit to place or to maintain a Communications Facility in public rights-of-way after the effective date of the ordinance from which this Article is derived, the registrant shall be required to file with the Town a security fund in the form of an annual bond or cash deposit in the sum of \$50,000.00, or a corporate guarantee for substantially the same amount and in a form that is legally acceptable to the Town. If the registrant files a bond, it shall have as a surety a company that is qualified to do business in the State of Florida, that has a minimum rating of AAA in Best's Key Rating Guide, Property/Casualty Edition and shall be subject to the approval of the Town Attorney, or Letter of Credit. The security fund shall be conditioned on the full and faithful performance by the registrant of all requirements, duties and obligations imposed upon the registrant by the provisions of this Article. The bond or other guarantee shall be furnished annually or as frequently as necessary to provide a continuing guarantee of the registrant's full and faithful performance at all times. In the

event a registrant fails to perform its duties and obligations imposed upon the registrant by the provisions of this Article, there shall be recoverable, jointly and severally from the principal and surety of the bond, any damages or loss suffered by the Town as a result, including the full amount of any compensation, indemnification or cost of removal or Abandonment of any property of the registrant, plus a reasonable allowance for attorneys' fees, up to the full amount of the security fund.

DIVISION 3. Permitting and Placement of Communication Facilities in the Public Rights-of-Way.

35-52. - Placement or maintenance of Communications Facilities, in public rights-of-way, in general, excluding Small Wireless Facilities.

(a) *Compliance.* Registrants and users and/or occupants agree at all times to comply with and abide by all applicable provisions of Federal and State law and Town ordinances, codes and regulations in placing or maintaining communications facilities in public rights-of-way.

(b) *Permit Required.* A Registrant shall not commence to place or maintain a Communications Facility in a Town Public Right-of-way until all applicable Permits, if required, have been issued, except in the case of routine maintenance or an emergency as provided for in this Article. In such cases deemed an emergency situation by the Public Works Director, the Registrant shall apply for Permits within 15 days of the incident or repair, whichever comes sooner. Registrants and users and/or occupants shall provide prompt notice to the Town of the placement or maintenance of a facility in public rights-of-way in the event of an emergency. The Registrant acknowledges that as a condition of granting a permit(s), the Town may impose reasonable conditions governing the Placement or Maintenance of a Communications Facility in the Town's Public rights-of-way related to the public, health, safety and welfare as permitted and set forth in Section 337.401 of Florida Statutes as same may be amended from time to time; however, no such imposed conditions shall prohibit or otherwise adversely impact the provision of Communications Services. Permits shall apply only to the areas of the Town's Public Rights-of-way specifically identified in the Permit. The Town may issue a blanket permit to cover certain activities, such as routine maintenance and repair activities, that may otherwise require individual permits or may impose lesser requirements. This subsection does not authorize a person to collocate or attach wireless facilities, including any antenna, micro wireless facility, or small wireless facility, on a privately owned utility pole, a utility pole owned by an electric cooperative or a municipal electric utility, a privately owned wireless support structure, or other private property without the consent of the property owner.

(c) *Required information.* As part of any permit application to place a new or to replace an existing Communications Facility in public rights-of-way or other roads or property within the Town, the applicant shall provide information concerning the Communications Facility that sets forth the following, as required by the Town Manager:

(1) An engineering plan signed and sealed by a Florida Registered Professional Engineer, or prepared by a person who is exempt from such registration requirements as provided in Section 471.003 of Florida Statutes, identifying the location of the proposed facility, and including:

a. A description of any facility to be installed;

b. The facility's dimensions in feet;

c. Site plan indicating where the facility will be located with electronic geodata; and

- d. Ability to demonstrate compliance with the Florida Building Code, for wind load requirements; and
- e. For new Communication Facility Poles, Wireless Support Structures, or any excavation work, a geotechnical report for the existing soil conditions, or a soil statement by a Florida licensed professional engineer, attesting to the soil conditions.
- (2) Plans and information, as required by this Article, on the ability of the public rights-of-way to accommodate the proposed Communications Facility;
- (3) If appropriate, given the Communications Facility, an estimate of the cost of restoration to the public rights-of-way;
- (4) The timetable for construction of the project or each phase thereof, and the areas of the Town which will be affected;
- (5) A full color photo-simulation showing the proposed new Communication Facility Poles and Wireless Support Structures installed in accordance with the application from the point of view of properties Adjacent to the proposed site;
- (6) A description of the type of Communication Facility and the manner in which the Communication Facility will be installed and/or modified (i.e. anticipated construction methods or techniques) to include:
 - (a) A description of Stealth Design to be utilized. Additionally, each application for a Permit to place a Communications Facility Pole in the Town's Public Rights-of-way shall include photographs showing the location and condition of the Surrounding Neighborhood, and a description of the Stealth Design techniques proposed to minimize the visual impact of the Communications Facility Pole or Wireless Support Structure and graphic depictions accurately representing the visual impact of the Communications Facility Pole or Wireless Support Structure when viewed from the street and from Adjacent properties.
 - (b) Alternatively, a signed and sealed statement from a Florida state licensed professional engineer that Stealth Design cannot be utilized on any particular Communication Facility and providing documentation demonstrating to the satisfaction of the Town Public Works Director that the proposed Communications Facility cannot employ Stealth Design and the proposed exterior location and configuration of equipment proposed are the minimum equipment necessary to achieve the needed function.
- (7) A temporary sidewalk closure plan, if appropriate given the Communication Facility proposed, to accommodate Placement or Maintenance of the Communication Facility.
- (8) A temporary traffic lane closure and management of traffic (MOT) plan, if appropriate given the Communication Facility proposed, to accommodate installation and/or modification of the Communication Facility.
- (9) Restoration plan given the Communication Facility proposed, and an estimate of the cost of restoration of the Town's Public Rights-of-way in the event the Communication Facility is Abandoned
- (10) A proposed timetable for Placement or Maintenance of the proposed Communication Facility or each phase of the Placement or Maintenance thereof, and the intended areas of the Town to be served by the Communication Facility.
- (11) Registrants shall not place or maintain signage on Communication Facilities in Town Public Rights-of-way, unless otherwise required by federal or State law; however, that Existing Structures that lawfully supported signage before being Repurposed may continue

- to support signage as otherwise permitted by law or Town Code, as same may be amended from time to time.
- (12) Communications Facilities not requiring FAA painting or marking shall have an exterior hard durable finish which enhances compatibility with adjacent uses, as approved by the Town Public Works Director.
- (13) A Communication Facility shall not have any type of lighted signal, lights, or illuminations unless required by an applicable federal, State, or local rule, regulation, the FAA or law; provided, however, the Town may require the installation of an LED street light on a new Communications Facility Pole or Wireless Support Structure or an Existing Structure functioning as a light pole.
- (14) Such additional information or studies requested by the Town that the Town finds reasonably necessary to review the permit application to ensure continued level of service delivery of its Rights-of-Way.
- (d) Public accessibility, safety, and sufficiency of spacing. The Town shall have the power afforded by Florida Law to regulate Facilities to ensure that they meet Town requirements for public accessibility, safety and sufficiency of spacing, to ensure compliance with State of Florida and local laws and ordinances. In determining whether to permit and reasonably limit, or impose conditions or prohibit a Communications Facility to be placed or located within the Town's Public Rights-of-way, the Town Public Works Director shall consider the following standards and minimum requirements in his review and consideration of a Permit application and imposition of reasonable Permit conditions:
- (1) Sufficiency of space to accommodate present and pending applications for use of the Town's Public Rights-of-way. The sufficiency of space to accommodate all of the present and pending applications to place Communications Facilities and pending or planned applications to Place and Maintain Facilities in that area of the Town's Public Rights-of-way; and
- (2) Sufficiency of space to accommodate the Town's need for projected public improvements. The sufficiency of space to accommodate Town plans for public improvements or projects adopted as part of its community investment capital improvements plan that the Town determines in the best interest of the public; and
- (3) The impact on traffic and traffic safety; and
- (4) Impact on Existing Facilities. The impact upon existing Facilities in the Town's Public Rights-of-way; and
- (5) Distance separation from edge of pavement. No new Communication Facility shall be constructed, operated or maintained in the Town's Public Rights-of-way in violation of the State of Florida Department of Transportation Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways, (commonly known as the "Florida Green Book") and for the Minimum Width of Clear Zones. In accordance with the Florida Green Book, the Public Works Director shall have the authority to reduce the minimum offset where that offset cannot be reasonably obtained and other alternatives are deemed impractical; and
- (6) Distance separation from sidewalk. No newly installed Communication Facility shall be Placed or Maintained in the Town's Public Rights-of-way within one (1) foot of a sidewalk that is five (5) feet or less in width. Co-location on an Existing Structures is exempt from this requirement; and

- (7) Installation at outermost boundary of Town's Public Rights-of-way. Where a superior site design results from Placement of a Communication Facility at or near the outermost boundary of the Town's Public Right-of-way, the farthest distance practicable from the centerline thereof and edge of pavement is encouraged. To the extent that the location of the sidewalk within the Town's Public Right-of-way precludes achievement of a superior site design or otherwise precludes compliance with all other requirements of this Article, then the Town Public Works Director or Registrant may propose and the Registrant may include in the Permit application a proposed re-routing of the sidewalk at its own expense, in order to achieve such superior site design or otherwise meet other requirement of this Article.
- (e) Undergrounding of facility. A Registrant or other user shall endeavor, to the greatest extent possible, to place all Communications Facilities underground. The Town may require the use of trenchless technology (i.e., directional bore method) for the installation of Communications Facilities in the public rights-of-way as well as joint trenching or the collocation of Communications Facilities in existing conduit. The registrant or user shall be solely liable for the displacement, damage or destruction of any property, irrigation system or landscaping as a result of the placement or maintenance of its Communications Facility within the public rights-of-way. The appropriate Town official may issue such rules and regulations concerning the placement or maintenance of a Communication Facility in public rights-of-way as may be consistent with this article and other applicable Federal and State laws or regulations.
- (f) Notification of adjacent property owners. Prior to the commencement of any work by the applicant pertaining to the placement and maintenance of Communications within the public rights-of-way or other roads or property within the Town, the Town Manager or designee may require the applicant to issue notice of the work to property owners who adjoin such affected area (the "Notification Area"). The notification area may be expanded at the Town's discretion and notice shall be effected in a manner deemed appropriate by the Town Manager or designee.
- (g) Repair of damages. A person placing or maintaining Communication Facilities in the public rights-of-way or other roads or property within the Town shall, at its own expense, restore the public rights-of-way, or any other adjacent property that has been damaged by work on the project, to at least its original condition before such work was initiated, subject to the Town's satisfaction upon inspection. Restoration shall include, among other things, the removal of all markings placed by users on the right-of-way, unless they are required to remain pursuant to State law. A registrant or user shall warrant restoration of the public rights-of-way or other roads or property within the Town for a period of 12 months after completion of such restoration. If the registrant or user fails to make such restoration within 30 calendar days after completion of construction, or such other time as may be required by the Town, the Town may, after written notice to the registrant or user, perform such restoration using Town employees, agents or contractors, and charge all costs of the restoration against the registrant or user in accordance with Florida Law and require reimbursement within 30 days after the submission of the bill by the Town to the registrant or user.
- (h) Removal or relocation. Removal or relocation at the direction of the Town of a Person's Communication Facility in the public rights-of-way shall be governed by Florida Law
- (i) Property right not created. A permit from the Town constitutes authorization to undertake only certain activities in public rights-of-way in accordance with this Article, and does not create a property right or grant authority to impinge upon the rights of others who may have an interest in the public rights-of-way.

- (j) Underground safety act. In connection with excavation in the public rights-of-way, a registrant and user shall, where applicable, comply with the Underground Facility Damage Prevention and Safety Act set forth in Section 556 of Florida Statutes.
- (k) Maintenance. A registrant and user shall place or maintain a Communications Facility in public rights-of-way in compliance with all applicable standards as established by all local, State or Federal law and in conformance with Applicable Codes and the Town Code. A registrant and user shall use and exercise due caution, care and skill in performing work in the public rights-of-way and shall take all reasonable steps to safeguard work site areas.
- (l) Coordination or work. In the interest of the public's health, safety and welfare, upon request of the Town, a registrant or user shall coordinate placement or maintenance activities under a permit with any other work, construction, installation or repairs that may be occurring or scheduled to occur within a reasonable timeframe in the subject public rights-of-way or other roads or property within the Town. The Town may require a registrant or user to alter reasonably its placement or maintenance schedule for permitted work as necessary so as to minimize disruptions and disturbance in the public rights-of-way or other roads or property within the Town. The Town may provide a more definite time frame based on specific Town construction or maintenance schedules.
- (m) Existing facilities. A registrant or user shall not place or maintain its Communications Facilities so as to interfere, displace, damage or destroy any Communication Facilities, including, but not limited to, sewers, gas or water mains, storm drains, pipes, cables or conduits of the Town or any other person's facilities lawfully occupying the public rights-of-way or other roads or property within the Town. The Registrant or user shall report to the Town any damage to existing Facilities and notify the Facility owner.
- (n) Conditions of rights-of-way. The Town makes no warranties or representations regarding the fitness, suitability or availability of public rights-of-way for the facilities, and any performance of work or costs incurred by the registrant or user or provision of services shall be at registrant's or user's sole risk. Nothing in this article shall affect the Town's authority to add, vacate or abandon public rights-of-way and the Town makes no warranties or representations regarding the availability of any added, vacated or abandoned public rights-of-way for facilities.
- (o) Inspections. The Town shall have the right to make such visual inspections of Communications Facilities placed or maintained in public rights-of-way as it finds necessary to ensure compliance with this article. In the event the Town determines that a violation exists with respect to a registrant's or user's placement or maintenance of Communications Facilities in the public rights-of-way that is not considered to be an emergency or danger to the public health, safety or welfare, the Town will provide the registrant or user no less than three days' written notice setting forth the violation and requesting correction. During the inspection, Town staff, employees or contractors shall not attempt to open, tamper, manipulate any equipment attached. Nothing herein shall limit the authority of the Town Manager, building official or their designee from taking appropriate action to address an imminent and immediate health or safety hazard.
- (p) Emergency. In an emergency, as determined by the Town Manager, Building Official, Public Works Director, or their designee, where the installation, use or maintenance of any Communications Facility poses an imminent and immediate health or safety hazard to pedestrians or vehicles, the Town shall, where feasible, give telephonic notice to the owner of the Communications Facility of the nature of the emergency and afford the owner the opportunity to remove or otherwise relocate the Communication Facility. Where telephonic

notice is not feasible or where the owner fails to address the emergency hazard, the Town Manager, building official or their designee may summarily and temporarily remove or relocate such Communication Facility, but only to the extent necessary to avoid the health or safety hazard at issue. Immediately following removal or relocation of any Communication Facility under these emergency procedures, the Town shall provide the owner of the facility with written notice of the action by certified mail, return receipt requested. If the Town removes such facility, the owner of such Communication Facility shall have 30 days after receipt of such written notice by the Town to claim the Communication Facility, or the Town may dispose of such Communication Facility.

35-53. Review of Communication Facility Poles, Utility Poles, Small Wireless Facilities in the Rights-of-Way.

(a) Purpose and Scope.

1. The purpose of this section is to provide appropriate local regulations in the review, permitting, and issuance of wireless facilities pursuant to Section 337.401(7), Florida Statutes, entitled the “Advanced Wireless Infrastructure Deployment Act.” Notwithstanding any other provision to the contrary, the provisions identified herein and as referenced elsewhere in this Article, shall provide for the full scope of regulatory authority, as authorized by the Florida Statutes, in the regulation of, Small Wireless Facilities within the jurisdiction of the Town.
2. The approval of the installation, placement, maintenance, or operation of a wireless facility pursuant to this subsection does not authorize the provision of any voice, data, or video communications services or the installation, placement, maintenance, or operation of any communications facilities other than small wireless facilities in the right-of-way.
3. This subsection does not affect provisions relating to Pass-Through Providers in this Article and at Section 337.401(6) Florida Statutes.
4. This subsection does not authorize a person to collocate Small Wireless Facilities or Micro Wireless Facilities on an authority Utility Pole, place Small Wireless Facilities, or erect a wireless support structure in a location subject to covenants, conditions, restrictions, articles of incorporation, and bylaws of a homeowners’ association.
5. This subsection does not apply to the installation, placement, maintenance, or replacement or routine maintenance of Micro Wireless facilities or replacement of existing wireless facilities with wireless facilities that are substantially similar or of the same or smaller size.

(b) Electronic mail. All correspondence with the applicant, including but not limited to, plan review comments, requests for additional information, and permit/registration status, whether for submittal of registration or for building permit, shall be by electronic mail.

(c) Process, review and issuance of permits. The Town shall accept applications for permits and shall process and issue permits subject to the following requirements:

1. The Town may not directly or indirectly require an applicant to perform services unrelated to the collocation for which approval is sought, such as in-kind contributions to the authority, including reserving fiber, conduit, or pole space for the authority.
2. An applicant may not be required to provide more information to obtain a permit than is necessary to demonstrate the applicant’s compliance with applicable codes for the placement of Wireless Facilities in the locations identified the application.
3. The Town may not require the placement of wireless facilities on any specific utility pole or category of poles or require multiple antenna systems on a single utility pole.

4. The Town may not limit the placement of Wireless Facilities by minimum separation distances. However, within 14 days after the date of filing the application, an authority may request that the proposed location of a Wireless Facility be moved to another location in the right-of-way and placed on an alternative authority Utility Pole or support structure or may place a new Utility Pole. The authority and the applicant may negotiate the alternative location, including any objective design standards and reasonable spacing requirements for ground-based equipment, for 30 days after the date of the request. At the conclusion of the negotiation period, if the alternative location is accepted by the applicant, the applicant must notify the authority of such acceptance and the application shall be deemed granted for any new location for which there is agreement and all other locations in the application. If an agreement is not reached, the applicant must notify the authority of such nonagreement and the authority must grant or deny the original application within 90 days after the date the application was filed. A request for an alternative location, an acceptance of an alternative location, or a rejection of an alternative location must be in writing and provided by electronic mail.
5. The Town shall limit the height of a Wireless Facility to 10 feet above the utility pole or structure upon which the wireless facility is to be collocated. Unless waived by the Town, the height for a new utility pole is limited to the tallest existing utility pole as of July 1, 2017, located in the same right-of-way, other than a utility pole for which a waiver has previously been granted, measured from grade in place within 500 feet of the proposed location of the Wireless Facility. If there is no Utility Pole within 500 feet, the authority shall limit the height of the Utility Pole to 50 feet.
6. Except as provided in subparagraphs 4. and 5., the installation of a Utility Pole in the public rights-of-way designed to support a Wireless Facility shall be subject to the Town's rules or regulations governing the placement of utility poles in the public rights-of-way and shall be subject to the application review timeframes in this subsection.
7. Within 14 days after receiving an application, the Town must determine and notify the applicant by electronic mail as to whether the application is complete. If an application is deemed incomplete, the Town must specifically identify the missing information. An application is deemed complete if the authority fails to provide notification to the applicant within 14 days.
8. An application must be processed on a nondiscriminatory basis. A complete application is deemed approved if the Town fails to approve or deny the application within 60 days after receipt of the application. If the Town does not use the 30-day negotiation period provided in subparagraph 4., the parties may mutually agree to extend the 60-day application review period. The Town shall grant or deny the application at the end of the extended period. A permit issued pursuant to an approved application shall remain effective for one (1) year unless extended by the authority.
9. The Town must notify the applicant of approval or denial by electronic mail. The Town shall approve a complete application unless it does not meet the Town's Applicable Codes. If the application is denied, the Town shall specify in writing the basis for denial, including the specific code provisions on which the denial was based, and send the documentation to the applicant by electronic mail on the day the Town denies the application. The applicant may cure the deficiencies identified by the Town and resubmit the application within 30 days after notice of the denial is sent to the applicant. The Town shall approve or deny the

revised application within 30 days after receipt or the application is deemed approved. Any subsequent review shall be limited to the deficiencies cited in the denial.

10. An applicant seeking to collocate wireless facilities within the Town may, at the applicant's discretion, file a consolidated application and receive a single permit for the collocation of up to 30 Wireless Facilities. If the application includes multiple Wireless Facilities, the Town may separately address Wireless Facility collocations for which incomplete information has been received or which are denied.

11. The Town may deny a proposed collocation of a Wireless Facility in the public rights-of-way if the proposed collocation:

- a. Materially interferes with the safe operation of traffic control equipment.
- b. Materially interferes with sight lines or clear zones for transportation, pedestrians, or public safety purposes.
- c. Materially interferes with compliance with the Americans with Disabilities Act or similar federal or state standards regarding pedestrian access or movement.
- d. Materially fails to comply with the latest edition of the Florida Department of Transportation Utility Accommodation Manual.
- f. Fails to comply with applicable codes.

12. The Town may reserve space on Town utility poles for future public safety uses. However, a reservation of space may not preclude collocation of a Wireless Facility. If replacement of the Town utility pole is necessary to accommodate the collocation of the Wireless Facility and the future public safety use, the pole replacement is subject to make-ready provisions and the replaced pole shall accommodate the future public safety use.

13. A structure granted a permit and installed pursuant to this subsection shall comply with Chapter 333, Florida Statutes, and federal regulations pertaining to airport airspace protections.

(d) The Town shall not require approval or require fees or other charges for:

1. Routine maintenance;
2. Replacement of existing wireless facilities with Wireless Facilities that are substantially similar or of the same or smaller size; or
3. Installation, placement, maintenance, or replacement of Micro Wireless Facilities that are suspended on cables strung between existing utility poles in compliance with applicable codes by or for a communications services provider authorized to occupy the rights-of-way and who is remitting taxes under chapter 202.

Notwithstanding this paragraph, an authority may require a right-of-way permit for work that involves excavation, closure of a sidewalk, or closure of a vehicular lane.

(e) Collocation of Wireless Facilities on Utility Poles is subject to the following requirements:

1. The Town shall not enter into an exclusive arrangement with any person for the right to attach equipment to authority utility poles.
2. The rates and fees for collocations on authority utility poles must be nondiscriminatory, regardless of the services provided by the collocating person.
3. The rate to collocate wireless facilities on a Town utility pole shall be \$150 per pole annually.
4. Agreements between the Town and wireless providers that are in effect on July 1, 2017, and that relate to the collocation of wireless facilities in the right-of-way, including the collocation of Wireless Facilities on authority utility poles, remain in effect, subject to applicable termination provisions. The wireless provider may accept the rates, fees, and

- terms established under this subsection for Wireless Facilities and Utility Poles that are the subject of an application submitted after the rates, fees, and terms become effective.
5. A person owning or controlling an Authority Utility Pole shall offer rates, fees, and other terms that comply with this subsection. By the later of January 1, 2018, or 3 months after receiving a request to collocate its first Wireless Facility on a Utility Pole owned or controlled by an Authority, the person owning or controlling the authority Utility Pole shall make available, through ordinance or otherwise, rates, fees, and terms for the collocation of Wireless Facilities on the Authority Utility Pole which comply with this subsection.
- a. The rates, fees, and terms must be nondiscriminatory and competitively neutral and must comply with this subsection.
- b. For a Town Utility Pole that supports an aerial facility used to provide Communications Services or electric service, the parties shall comply with the process for make-ready work under 47 U.S.C. s. 224 and implementing regulations. The good faith estimate of the person owning or controlling the pole for any make-ready work necessary to enable the pole to support the requested Collocation must include pole replacement if necessary.
- c. For a Town Utility Pole that does not support an aerial facility used to provide communications services or electric service, the authority shall provide a good faith estimate for any make-ready work necessary to enable the pole to support the requested Collocation, including necessary pole replacement, within 60 days after receipt of a complete application. Make-ready work, including any pole replacement, must be completed within 60 days after written acceptance of the good faith estimate by the applicant. Alternatively, the Town may require the applicant seeking to Collocate a Wireless Facility to provide a make-ready estimate at the applicant's expense for the work necessary to support the Wireless Facility, including pole replacement, and perform the make-ready work. If pole replacement is required, the scope of the make-ready estimate is limited to the design, fabrication, and installation of a Utility Pole that is substantially similar in color and composition. The Town may not condition or restrict the manner in which the applicant obtains, develops, or provides the estimate or conducts the make-ready work subject to usual construction restoration standards for work in the right-of-way. The replaced or altered utility pole shall remain the property of the Authority.
- d. The Town shall not require more make-ready work than is required to meet applicable codes or industry standards. Fees for make-ready work may not include costs related to preexisting damage or prior noncompliance. Fees for make-ready work, including any pole replacement, may not exceed actual costs or the amount charged to Communications Services providers other than wireless services providers for similar work and may not include any consultant fee or expense.
- (f) A wireless providers shall, in relation to a wireless support structure in the public rights-of-way, comply with nondiscriminatory undergrounding requirements, as may be applicable, of the Town. Any such requirements may be waived by the Town Manager.
- (g) A wireless infrastructure provider may apply to the Town to place utility poles in the public rights-of-way to support the collocation of Wireless Facilities. The application must include an attestation that Wireless Facilities will be collocated on the Utility Pole or structure and will be used by a wireless services provider to provide service within 9 months after the date the application is approved. The Town shall accept and process the application in accordance with

section 35-51(c)6, and any applicable codes and other local codes governing the placement of Utility Poles in the public rights-of-way.

DIVISION 4 Enforcement and Appeals

35-54. - Enforcement remedies of Permit Obligations; Suspension and Revocation of Permits.

- (a) A violation of this article or any resolution adopted pursuant to this article may be enforced pursuant to Section 8-10 and by issuance of a uniform civil violation notice, citation, summons, or notice to appear in County Court, or by filing an action in civil court for injunctive relief. This Article is supplemental, and nothing contained herein shall prohibit the Town from enforcing this Article by any other lawful means.
- (b) Failure of the Town to enforce any requirements of this article shall not constitute a waiver of the Town's right to enforce the Article with respect to that violation or subsequent violations of the same type or to seek appropriate enforcement remedies.
- (c) The Town Manager or his designee is authorized to give any notice required by law.
- (d) The Town Public Works Director may order the suspension of placement and maintenance work under a permit and ultimately may revoke any Permit in the event of a substantial breach of the terms and conditions of any applicable statute, ordinance, rule or regulation or any condition of the permit. The types of substantial breach by Permittee may include, but are not limited to:
- (1) The violation of any material provision of the Permit;
 - (2) An evasion or attempt to evade any material provision of the Permit or the perpetration or attempt to perpetrate any fraud or deceit upon the Town or its citizens;
 - (3) Any material misrepresentation of fact in the process of Permittee's request for a Permit or Registration;
 - (4) The failure to maintain the required performance bond or insurance;
 - (5) The failure to properly restore the Town's Public Rights-of-way;
 - (6) The failure to correct within the specified time an order issued by the Town Engineer;
 - (7) The failure to Register, Re-Register, or provide notice of any transfer in accordance with this Article;
 - (8) The failure to relocate or remove Facilities pursuant to this Article and Sections 337.402, 337.403 and 337.404, *Florida Statutes* (2016) as same may be amended from time to time.
 - (9) The failure to report to the Town and Facility owner any damages caused to their Facilities during the execution of the work.
- (e) If the Town Public Works Director determines that the Permittee has committed a substantial breach of a term or condition of the Permit, the Town Public Works Director shall make a written demand upon the Permittee to remedy such violation. The demand shall state that the continued violation(s) may be cause for revocation of the Permit. Further, a substantial breach as stated above will allow the Town Public Works Director, at his or her discretion, to place additional or revised conditions on the Permit.
- (f) Within thirty (30) calendar days of receiving notification of the breach, the Permittee shall contact the Town Public Works Director with a plan, acceptable to the Town Public Works Director, for its correction. The Town shall provide additional time as reasonably necessary for a Permittee to establish a plan acceptable to the Town Public Works Director taking into account the nature and scope of the alleged breach. The Permittee's failure to so contact the Town Public Works Director, or the Permittee's failure to submit an acceptable plan, or the

Permittee's failure to reasonably implement the approved plan, shall be cause for revocation of the Permit. Further, the Permittee's failure to contact the Town Public Works Director, or the Permittee's failure to submit an acceptable plan, or Permittee's failure to implement the approved plan, shall be cause for the Permittee to be placed on probation for one full year.

- (g) The Town Public Works Director may establish a list of conditions for any Permit which, if breached, will be cause for the Permittee to be placed on probation for one full year, such as, but not limited to, working out of the allotted time period or working on a Town Public Right-of-way significantly outside the scope of the Permit. These conditions shall be stated on the Permit.
- (h) If a Permittee, while on probation, commits a breach as outlined above, the Permittee's Permit may be revoked, and the Permittee may not be allowed to obtain further Permits for one full year, except for emergency repairs and service requirements as mandated by State or federal regulations.
- (i) If a Permit is revoked, the Permittee shall reimburse the Town for the Town's reasonable costs, including restoration costs and the cost of collection and reasonable attorneys' fees incurred in connection with such revocation.
- (j) The Town Public Works Director may cause an immediate stop work order where the Permittee's construction poses a serious threat to the health, safety or welfare of the public until such time as such serious threat has been abated.

35-55 - Appeals.

- (a) Final written decisions of the Town Manager or designee suspending or denying a permit, denying an application for a registration or denying an application for renewal of a registration are subject to appeal. An appeal must be filed with the Town Manager within 30 days of the date of the final written decision to be appealed. Any appeal not timely filed as set forth in this section shall be waived. The Town Council shall hear the appeal. The hearing shall occur within 30 days of the receipt of the appeal, unless waived by the registrant or user, and a written decision shall be rendered within 30 days of the hearing.
- (b) The Town Council shall conduct a de novo hearing on the record and shall determine if:
 - (1) There was a departure from the essential requirements of the law in the proceedings appealed; or
 - (2) Competent, substantial evidence does not exist to support the decision.
- (c) If the Town Council determines that there was not a departure from the essential requirements of the law or that competent substantial evidence exists to support the decision of the Town Manager, then the decision of the Town Manager shall be upheld, otherwise it shall be overturned.
- (d) Appeal from a final decision by the Town Council shall be to the Circuit Court by filing a petition for writ of certiorari within thirty (30) days of the decision, pursuant to court rules. Any such appeal is voluntary, and in the absence of taking such appeal, the decision of the Town Council shall be deemed to be final. If an appeal is taken, however, the decision of the Town Council is no longer deemed to be final but instead is tolled pending the appeal
- (e) Nothing in this section shall affect or limit the remedies the Town or Registrant has available under applicable law.

35-56. - Reports and records.

- (a) A registrant shall provide the following documents to the Town as received or filed:

- (1) Any pleadings, petitions, notices and documents which may directly impact the obligations under this article and which are reasonably necessary for the Town to protect its interests under this article; and
- (2) Any request for protection under bankruptcy laws, or any judgment related to a declaration of bankruptcy.
- (b) Nothing in this subsection shall affect the remedies a registrant has available under applicable law.
- (c) The Town shall keep any documentation, books and records of the registrant confidential to the extent required by Florida Statutes.

DIVISION 5 Abandonment of a Communication Facility and Reservation of Rights

35-57. - Abandonment of a Communications Facility.

- (a) Upon determination by a registrant that one or more of its Communications Facilities in a Town Public Right-of-way is to be Abandoned, the Registrant shall notify the Town no later than 90 days from such determination, or no later than 30 days following such Abandonment, whichever is sooner.
- (b) The Town may direct the registrant by written notice to remove all or any portion of such Abandoned Communications Facility at the registrant's sole expense if the Town determines that the Abandoned Communications Facility's presence interferes with the public health, safety or welfare, which shall include, but shall not be limited to, a determination that such Communications Facility:
 - (1) Compromises safety at any time for any public rights-of-way user or during construction or maintenance in public rights-of-way;
 - (2) Prevents another person from locating facilities in the area of public rights-of-way where the Abandoned Communications Facility is located when other alternative locations are not reasonably available; or
 - (3) Creates a maintenance condition that is disruptive to the use of any public rights-of-way.In the event of Subsection (b)(2) of this section, the Town may require the third person to coordinate with the registrant that owns the existing Communications Facility for joint removal and placement, where agreed to by the registrant.
- (c) In the event that the Town does not direct the removal of the Abandoned Communications Facility, the registrant, by its notice of Abandonment to the Town, shall be deemed to consent to the alteration or removal of all or any portion of the Communications Facility by the Town or another person at such third party's cost.
- (d) If the registrant fails to remove all or any portion of an Abandoned Communications Facility as directed by the Town within a reasonable time period as may be required by the Town under the circumstances, the Town may perform such removal and charge the cost of the removal against the registrant.
- (e) In the event the Abandoned Facility is subject to a pole attachment agreement, then the obligation to remove the Abandoned Communication Facility shall be in compliance with the federal Pole Attachment Act (47 USC Section 224), as same may be amended from time to time.

35-58. - Reservation of rights.

- (a) The Town reserves the right to amend this Article as it shall find necessary in the lawful exercise of its police powers.
- (b) This article shall be applicable to all Communication Facilities placed in the public rights-of-way on or after the effective date of the ordinance from which this article is derived and shall apply to all existing Communication Facilities placed in the public rights-of-way prior to the effective date of the ordinance from which this article is derived, to the full extent permitted by State and Federal law.

Sec. 35-59. No liability or warranty.

Nothing contained in this Article shall be construed to make or hold the Town responsible or liable for any damage to persons or any property whatsoever, from any cause whatsoever, arising from the use, operation or condition of the Registrant's Communications Facilities by reason of any inspection or re-inspection authorized herein or failure to inspect or re-inspect. Nor shall the issuance of any Permit or the approval or disapproval of any Placement or Maintenance of the Registrant's Communications Facilities as authorized herein constitute any representation, guarantee or warranty of any kind by, or create any liability upon the Town or any official, agent or employee thereof. Additionally, the Town shall not be responsible for any relocation costs incurred by any Registrant due to the Town's or any other Person's work in the Town's Public Rights-of-way.

DIVISION 6 – Fees and Taxes

Sec. 35-60. Communications Services Tax In Lieu of Permit Fee.

A Registrant that places or maintains Communications Facilities in the Town's Public Rights-of-way and that pays Communications Services Taxes shall not be required to pay a permit fee since the Town has elected to collect the Communications Services Tax pursuant to Ch. 202, *Florida Statutes* as same may be amended from time to time. Pass-Through Providers shall pay a fee pursuant to Section 337.401 (5), *Florida Statutes* as same may be amended from time to time and Town Code Section 35-61.

Sec. 35-61 Other Fees.

- (a) Pass-Through Providers shall pay to the Town on an annual basis an amount equal to Five Hundred Dollars (\$500.00) per linear mile or portion thereof of Communications Facilities placed and/or maintained in the Town's Public Rights-of-way.
 - (1) The amounts charged shall be based on the linear miles of Town Rights-of-way where Communications Facilities are placed, not based on a summation of the lengths of individual cables, conduits, strands or fibers.
 - (2) Any annual amount charged shall be reduced for a prorated portion of any 12-month period during which the Pass-Through Provider remits taxes imposed by the Town pursuant to Chapter 202, *Florida Statutes* (2016) as same may be amended from time to time.
 - (3) Annual payments shall be due and payable on April 1 of each year. Fees not paid within ten (10) days after the due date shall bear interest at the rate of one (1) percent per month from the date due until paid. The acceptance of any payment required hereunder by the Town shall not be construed as an acknowledgement that the amount paid is the correct amount due, nor shall such acceptance of payment be construed as a release of any claim which the Town may have for additional sums due and payable. All fee payments shall be

subject to audit by the Town, and assessment or refund if any payment is found to be in error. If such audit results in an assessment by and an additional payment to the Town, such additional payment shall be subject to interest at the rate of one (1) percent per month until the date payment is made.

(4) If the payments required by this Section are not made within ninety (90) days after the due date, the Town Engineer may withhold the issuance of any Permits to the Registrant until the amount past due is paid in full

(b) A Registrant that provides communications services as defined in F.S. § 202.012(3), within the Town, shall pay to the Town the fees permitted by Florida Law of \$150 per pole facility and wireless facility owned by the Town.



Town of Miami Lakes Memorandum

To: The Honorable Mayor and Councilmembers
From: Alex Rey, Town Manager
Subject: Utility and Communication Facilities in the ROW
Date: 1/16/2018

Recommendation:

It is recommended the Town Council approve the proposed ordinance relating to communications equipment and other utilities within the Town's rights-of-way.

Background:

On March 7, 2017, in response to potential new rules being contemplated by State of Florida Legislature, the Town Council imposed a six (6) month moratorium on the installation of the communication equipment within the Town's rights-of-way. On June 23, 2017, the Governor of the State of Florida signed into law HB 687, titled the "Advanced Wireless Infrastructure Deployment Act." The bill, adopted by the State Legislature near the end of their 2017 legislative session, amended Section 337.401 of Florida Statute and provided for new rules and review procedures regarding small and micro wireless facilities within public rights-of-way. This action imposed the new rules on every municipal jurisdiction in the State. In light of the newly enacted bill, the Town Council extended the moratorium an additional six (6) months to thoroughly review the amended statutes, evaluate their implication, and prepare an ordinance that ensures our local codes comport with State Statutes. As part of the Town's review of its existing Code, other provisions regarding utilities within the rights-of-way were also examined. The result is the attached ordinance which provides for two (2) Article in Chapter 35 of the Town's Code of Ordinances. Article II provides for non-communication utilities (power, gas, water, etc) located in the rights-of-way, and Article III addresses communication facilities (antennas, cable TV, communication poles, etc.) so located. The attached ordinance seeks only to provide appropriate rules for utilities and communication facilities located within rights-of-ways.

The drafting of the ordinance was conducted in an open manner that began with a Council Workshop held on March 13, 2017. Additional discussion was provided on July 25th, 2017 when the moratorium was extended six (6) months. The meeting was advertised and members of the utility and communication industry both attended and spoke. Staff shared drafts of the proposed ordinance with representatives from the utility and communication industries on multiple occasions (10/18/2017, 10/27/2017, 11/22/2017, and 12/13/2017) and met with them several times (3/28/17, 11/02/2017, 11/22/2017, 12/14/2017 and 12/18/2017) to discuss their concerns. Staff believes the result of this effort is an ordinance that complies with State Statues, addresses

the operational demands of the utility and communication industries, and appropriately responds to the Town's interest in protecting and regulation its rights-of-way. The following is a brief description of Article II and Article III of Chapter 35.

Article II addresses utilities within the rights-of-way. Certain portions of the Towns existing laws regarding the regulations of utilities remains unchanged, some of which are relocated within the ordinance for clarity, while other provisions are added. Among the added provisions is the requirement of registration. The intent is to put in place a mechanism that would ensure indemnification to the Town in case of any damage, and the assurance to maintain the integrity and safety of the Town's rights-of-way. This includes security funds, bonding, and insurance requirements to ensure the Town is properly protected. It also provides for the option of a utility to enter into a Franchise Agreement if it is desired to achieve greater specificity of terms. With the exception of franchising and bonding, the registration standard is similar to the one provided for in Article III. The remaining provisions provide a framework for equipment/facility location and enforcement provisions. Article II does not interfere with the State's ability to regulate the utility industry, nor does it infringe upon the utilities duty to provide service as may be so required. Attachment A provides a fuller summary of Article II.

Article III addresses communication facilities within the rights-of-way. As with Article II, much of the prior Town Code was retained and simply relocated for clarity into this new Article. The separation of the Articles provides clarity between standards for utilities and those for communication facilities. The language being added to the Town's Code relates more specifically to HB 687 which addresses small and micro cell facilities, their siting standards, and the review procedure that must be followed. Attachment B provides a fuller summary of Article III.

Provided at Attachment "C" are the key definitions related to the new statute (HB 687) and the new permitting "shot clocks," (review time tables) outline therein. As reflected in the shot clocks, changes introduced by the new legislation include a negotiation period that provides the Town and the applicant an opportunity to collaboratively consider applications for telecommunication facilities within the public rights-of-way. The provision provides flexibility for the Town to address citing concerns while giving the applicant an assurance that they can meet their demands in a timely fashion. Another change to the Code provides for the applicant to apply for a single building permit to address multiple locations (up to 30). However, each location may be considered individually with review and response times independently tracked accordingly. The new code now requires all correspondence, including those related to approvals and denials, issued by a local jurisdiction to the applicant, to be by electronic mail. Specific statutory review criteria and design standards are provided within the ordinance that govern the Town's basis for approval or denial. Provisions added to the Code address review criteria of stealth and concealment options, the distance between poles, pole height and collocation are as follows:

It is important to note, Florida Statute 337.401(7), attached herein ("Attachment D"), does not permit municipalities to be more restrictive than what is set forth by State Law, but provides for certain processes, clear definitions, and review criteria, to facilitate the placement of communication facilities in the rights-of-way while considering the community's desires for these services and the industries needs in providing the utility.

On December 12, 2017, the Planning and Zoning Board, acting in their capacity as the Local Planning Agency (LPA) heard the item at a publicly advertised hearing, and voted to recommend approval to the Town Council. The LPA submittal package, which includes a fuller staff report, is provided at Attachment "E".

ATTACHMENTS:

Description

Ordinance

Attachment A

Attachment B

Attachment C

Attachment D

Attachment E

ORDINANCE NO. 18-__

AN ORDINANCE OF THE TOWN OF MIAMI LAKES, AMENDING THE TOWN'S CODE OF ORDINANCES AT CHAPTER 35, ARTICLE II, COMMUNICATIONS FACILITIES IN PUBLIC RIGHTS-OF-WAY; RELATING TO THE PLACEMENT OF UTILITIES OTHER THAN COMMUNICATION FACILITIES LOCATED WITHIN THE RIGHTS-OF-WAY, BOTH ABOVE AND BELOW GROUND; CREATING ARTICLE III, PROVIDING FOR REGULATIONS RELATING TO THE PLACEMENT OF COMMUNICATION FACILITIES, WIRELESS FACILITIES, PASS-THROUGH FACILITIES, AND OTHER SIMILAR FACILITIES, WITHIN THE TOWN'S RIGHTS-OF-WAY, BOTH ABOVE AND BELOW GROUND; PROVIDING FOR INCLUSION INTO THE CODE; PROVIDING FOR ORDINANCES IN CONFLICT, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the provision of communications services and other utilities to residents of and visitors to the Town of Miami Lakes (the "Town") is both an important amenity and a necessity of public and private life in the Town; and

WHEREAS, the demand for communications services has grown in recent years, and continues to grow exponentially, requiring the continual upgrading of communications facilities and services to satisfy a growing demand; and

WHEREAS, Section 337.401 of Florida Statutes states that since both Federal and State Law require the nondiscriminatory treatment to providers of all communications services it is the intent of the State Legislature that municipalities treat providers of communication services in a nondiscriminatory and competitively neutral manner when imposing rules or regulations governing the placement or maintenance of communications facilities in the Town's rights-of-way; and

WHEREAS, rules and regulations imposed by a municipality relating to communication service providers that desire to place or maintain communications facilities in the Town's rights-of-way must be generally nondiscriminatory and competitively neutral and, notwithstanding any other law, may not require providers of communications services to apply for or enter into an individual license, franchise, or other agreement with the Town as a condition of placing or maintaining communications facilities in the Town's rights-of-way; and

WHEREAS, Section 337.401(3)(g) of Florida Statutes provides that a municipality may not use its authority over the placement of facilities in its rights-of-way as a basis for asserting or exercising regulatory control over a provider of communications services regarding matters within the exclusive jurisdiction of the Florida Public Service Commission or the Federal Communications Commission, including, but not limited to, the operations, systems, qualifications, services, service quality, service territory, and prices of a provider of communications services; and

WHEREAS, the Florida legislature, during their 2017 legislative session, adopted Florida Statutes 337.401(7), titled the "Advanced Wireless Communications Act," which detail a municipality's regulatory authority to regulate wireless facilities within its rights-of-ways; and

WHEREAS, it is the Town's intent to exercise its authority over communication service providers, communication facility providers and pass-through providers' placement and maintenance of facilities in its rights-of-way; and

WHEREAS, it is also the Town's intent to treat each such provider in a reasonable, nondiscriminatory, and competitively neutral manner in exercising such authority; which authority is limited to only those matters necessary to manage the its rights-of-way; and

WHEREAS, the Town's rights-of-way are essential for the travel of persons and the transport of goods throughout the Town; and are a unique and physically limited resource requiring proper management by the Town in order to maximize efficiency, minimize costs to Town taxpayers for the foregoing uses, reasonably balance the potential inconvenience to and negative effects upon the public from the placement and maintenance of communications facilities in the rights-of-way against the substantial benefits that accrue from such placement and maintenance, and promote the public health, safety and general welfare; and

WHEREAS, it is the further intent of the Town to exercise its authority to adopt reasonable rules and regulations to the fullest extent allowed by Federal and State law; and

WHEREAS, the Town has reviewed its ordinances and has received input from representatives of the communications service industry, and as a result of the foregoing has concluded that Town's Code of Ordinances must be updated and amended in order to conform with Federal and State laws and rules, regarding the placement and maintenance of new, existing, and expanded communications facilities in the Town's rights-of-way; and

WHEREAS, adoption of the following ordinance is necessary to satisfy the above objectives; and

WHEREAS, the Town Council believes it is in the best interest of the Town to adopt this ordinance amending Chapter 35, Article II and Creating Chapter 35, Article III for inclusion the Town's Code of Ordinances.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA AS FOLLOWS:

Section 1. Recitals. Each of the above stated recitals are true and correct and are incorporated herein by this reference.

Section 2. Findings. After considering Staff's report, both submitted in writing and presented orally and the public comment, the Town Council finds that the proposed amendment is consistent with the Town of Miami Lakes Comprehensive Plan Code.

Section 3. Approval. The Town Council hereby adopts the amendment as provided at Exhibit "A," and as incorporated herein.

Section 4. Repeal of Conflicting Provisions. All provisions of the Code of the Town of Miami Lakes that are in conflict with this Ordinance are hereby repealed.

Section 5. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 6. Inclusion in the Town Code. It is the intention of the Town Council, and it is hereby ordained, that the provisions of this Ordinance shall be included in the Town Code.

Section 7. Effective date. This Ordinance shall become effective immediately upon adoption.

FIRST READING

The foregoing ordinance was offered by Councilmember _____ who moved its adoption on first reading. The motion was seconded by Councilmember _____ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Frank Mingo	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Nelson Rodriguez	_____
Councilmember Marilyn Ruano	_____

Passed on first reading this _____ day of _____, 2018.

SECOND READING

The foregoing ordinance was offered by Councilmember _____ who moved its adoption on second reading. The motion was seconded by Councilmember _____ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Frank Mingo	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Nelson Rodriguez	_____
Councilmember Marilyn Ruano	_____

Passed and adopted on second reading this _____ day of _____, 2018.

Manny Cid
Mayor

Attest:

Gina M. Inguanzo
Town Clerk

Approved as to form and legal sufficiency:

Raul Gastesi, Jr.
Gastesi & Associates, P.A.
Town Attorney

EXHIBIT A

PROPOSED ORDINANCE

ARTICLE II. – ~~COMMUNICATIONS~~ UTILITY FACILITIES IN PUBLIC RIGHTS-OF-WAY

DIVISION 1. Generally.

Sec. 35-25 Intent and Purpose.

It is the intent of the Town of Miami Lakes to promote the public health, safety and general welfare by: providing regulations governing the placement or maintenance of utilities, other than Communications Facilities, in the Town's Public Rights-of-way; adopting and administering reasonable rules and regulations not inconsistent with State and Federal law, as each may be amended from time to time, and other Federal and State law; establishing reasonable rules and regulations necessary to manage the placement or maintenance of utilities, in the Town's Public Rights-of-way by all utility providers; minimizing disruption to the Town's Public Rights-of-way; establishing reasonable rules and regulations necessary to manage the placement or maintenance of utilities; and minimizing disruption to the Town's Public Rights-of-way. In regulating its Public Rights-of-way, the Town shall be governed by and shall comply with all applicable Federal and State Laws.

To the extent that the provisions of Article II do not conflict with Federal and State law, and any applicable franchise agreement, Utilities seeking to place or maintain Utilities, in the Town's Public Rights-of-way shall comply with the provisions of this Article. Persons seeking to place or maintain Utilities on private real- property or other real- property to which the Town, Miami-Dade County, the School District of Miami-Dade County, the South Florida Water Management District, the State of Florida or the Federal Government own a fee simple or leasehold interest in real property, located within the municipal boundaries of the Town shall comply with the provisions of the Chapter 13, Land Development Code (LDC), to the extent it applies.

35-265. - Definitions.

For purposes of this ~~Article~~ article the following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words not otherwise defined in this section or in any permit that may be granted pursuant to this article shall be given the meaning set forth in the Communications Act of 1934, 47 USC 151 et seq., as amended (collectively the "Communications Act"), and if not defined in the Communications Act, as defined by Florida Statutes; and, if not defined by Florida Statutes, shall be construed to mean the common and ordinary meaning.

Abandonment, or Abandoned means 90 or more consecutive days with the absence of any active user of a Facility. An Abandoned utility shall be removed or cured as required by this Article. This term shall not include cessation of all use of a Facility within a physical structure where the physical structure continues to be used for some purpose or use accessory to the utility. The term shall also exclude the temporary cessation of the provision of Facility where the Utility intends to re-establish the provision of Facility's services in the future. The temporary cessation with intent to re-activate must be documented to the satisfaction of the Town Public Works Director. ~~means the permanent cessation of all uses of a communications facility, provided that this term shall not include cessation of all use of a communication facility within a physical~~

~~structure where the physical structure continues to be used. By way of example, and not limitation, cessation of all use of a cable within a conduit, where the conduit continues to be used, shall not be an "abandonment" of a communications facility in the public rights-of-way.~~

Applicable Codes means uniform building, fire electrical, plumbing, or mechanical codes adopted a recognized national code organization or local amendments to those codes enacted solely to address threats of destruction of property or injury to persons, or local codes ordinances adopted to implement this Article. The term includes objective design standards provided in this Article that may require a new utility pole that replaces an existing utility pole to be of substantially similar design, or that may require reasonable spacing requirements concerning the location of ground-mounted equipment. The term includes objective design standards provided in this Article that may require a small wireless facility to meet reasonable location context, color, stealth, and concealment requirements; however, such design standards may be waived upon a showing that the design standards are not reasonably combative for the particular location of the small wireless facility or that the design standards impose an excessive expense. The waiver shall be granted or denied within 45 days after the date of the request.

Communications Facility or Communications System means any permanent or temporary plant, equipment and property, including, but not limited to, cables, wires, conduits, ducts, fiber optics, poles, Antennas, converters, splice boxes, cabinets, hand holes, manholes, vaults, drains, surface location markers, appurtenances and other equipment or pathway placed or maintained or to be placed or maintained in the public rights-of-way of the Town and used or capable of being used to transmit, convey, route, receive, distribute, provide or offer Communication Services. Pursuant to F.S. § 337.401(6)(c), Communication Facility for purposes of this article shall not include communications facilities owned, operated or used by electric utilities or regional transmission organizations exclusively for internal communications purposes.

~~*Communications Services* means the transmission, conveyance or routing of voice, data, audio, video or any other information or signals to a point, or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave or other medium or method now in existence or hereafter devised, regardless of the protocol used for such transmission or conveyance. For the purpose of this article, cable service, as defined in F.S. § 202.11(2), is not included in this definition and cable service providers or providers of service via an open video system may be subject to other ordinances of the Town and shall require separate authorization from the Town.~~

~~*Communications Services Provider* means any person making available or providing communications services through the placement or maintenance of a communications facility in public rights-of-way.~~

Emergency means situations of a serious nature, developing suddenly and unexpectedly, and demanding immediate action that will affect public safety, disruption of utility service, or damage to the Rights-of-Way, and conditions that affects the public's health, safety or welfare.

Facility or Facilities means any tangible thing located in any Public Rights-of-way used to deliver the services of a Utility.

~~*FCC* means the Federal Communications Commission.~~

Florida Building Code means the Florida Building Code promulgated under Chapter 553, *Florida Statutes* and includes the Miami-Dade County Amendments thereto as both may be amended from time to time.

In Public Rights-of-Way or In the Public Rights-of-Way means over, above, in, on or under the Public Rights-of-way within the Town over which the Town has jurisdiction, control and authority to regulate. The term also includes those Rights-of-way over which the County or State has

jurisdiction and authority under the Florida Transportation Code, Chapter 334, Florida Statutes, as same may be amended from time to time, but where the County or State or both have delegated to the Town the authority to regulate the registration, permitting, placement, installation and maintenance of Facilities in accordance with Chapter 35 of the Town Code of Ordinances. means in, on, over, under or across the public rights-of-way.

LDC. means the, Chapter 13 of the Town of Miami Lakes Code of Ordinances, titled “Land Development Code.

Occupant means electric, gas (natural, manufactured or similar gaseous substance), water or sewer utility, or other similar type of entity that places or maintains facilities of whatever type in the Town's Public Roads or Public Rights-of-Way.

Permit means the Public Right-of-way permit that must be obtained before a Person may construct in the Public Right-of-way and shall include, but not be limited to Town Right-of-Way engineering and construction permits issued by the Town Public Works Director.

Person means any individual, firm, association, joint venture, partnership, estate, trust, business trust, syndicate, fiduciary, corporation, organization or legal entity of any kind, successor, assignee, transferee, personal representative and all other groups or combinations, but shall not include the Town to the extent permitted by applicable law.

Place or Maintain or Placement or Maintenance or Placing or Maintaining means to erect, construct, install, maintain, place, repair, extend, expand, remove, occupy, locate or relocate. A ~~communications services provider~~ Utility that owns or exercises physical control over ~~communications facilities~~ Facilities in public rights-of-way, such as the physical control to maintain and repair, is "placing or maintaining" the facilities. A party providing service only through resale or only through use of a third party's unbundled network elements is not "placing or maintaining" the ~~communications facilities~~ Facilities through which such service is provided.

Public Rights-of-Way means a public right-of-way, public utility easement, highway, street, bridge, tunnel, pier, waterway, dock, wharf, court, lane, path or alley or any other property for which the Town has jurisdiction and control and may lawfully grant access to such property pursuant to applicable law, and includes the surface, the air space over the surface and the area below the surface to the extent the Town holds a property interest therein. Public Rights-of-Way shall not include:

- (1) Private property;
- (2) Any real or personal Town property except as described above; or
- (3) Town buildings, fixtures, poles, conduits, facilities or other structures or improvements, regardless of whether they are situated in the Public Rights-of-Way.

Registrant or Facility Owner means a ~~communications services provider~~ Utility or other person that has registered with the Town in accordance with the provisions of this article.

Registration and Register means the process described in this article whereby a Utility ~~Communication Services Provider~~, provides certain information to the Town by which it is determined whether the Person will be authorized to obtain Permits to Place or Maintain Facilities within the Town's Public Rights-of-Way.

Town means the Town of Miami Lakes, Florida, an incorporated municipality of the State of Florida, in its present form or in any later reorganized, consolidated or enlarged form.

User means electric, gas (natural, manufactured or similar gaseous substance), water or sewer utility, ~~cable television~~ or other similar type of entity that places or maintains facilities of whatever type in the Town's Public Roads or Public Rights-of-Way.

Utility means any Person or entity that is an electric, gas, water, steam waste, disposal, or similar service consumed by the public, and who owns or operates appurtenant facilities or equipment that are situated with the Public Rights-of-way for transmission of such Utility's goods, commodities or services.

Utility Pole means a pole or similar structure that is used in whole or in part to provide for electric distribution, lighting, traffic control, signage, or a similar function. The term includes the vertical support structure for traffic lights but does not include a horizontal structure to which signal lights or other traffic control devices are attached and does not include a pole or similar structure.

Utility Service or Services shall mean those services that are provided by a Utility other than those classified as a communication facility or service.

~~35-26. Intent and purpose:~~

~~(a) It is the intent of the Town and the purpose of this article to promote the public health, safety and general welfare by:~~

- ~~(1) Providing for the placement and maintenance of communications facilities in the public rights-of-way within the Town;~~
- ~~(2) Adopting and administering reasonable rules and regulations consistent with State and Federal law, including F.S. § 337.401 and the Town's home-rule authority, and in accordance with the provisions of the Federal Telecommunications Act of 1996 and other Federal and State law;~~
- ~~(3) Establishing reasonable rules and regulations necessary to manage the placement and maintenance of communications facilities in the public rights-of-way by all communications services providers after the effective date of the ordinance from which this article is derived; and~~
- ~~(4) Minimizing disruption to the public rights-of-way.~~

~~In regulating its public rights-of-way, the Town shall be governed by and shall comply with all applicable Federal and State laws.~~

~~(b) It is the intent of the Town that this article will not preempt the Town's authority to require a franchise from users and/or occupants, other than communications service providers, of the Town's public roads and/or public rights-of-way. It is the intent of the Town to require users and/or occupants, other than communications service providers, of the Town's public rights-of-way to obtain a separate franchise before placing or maintaining facilities in the Town's public rights-of-way.~~

DIVISION 2. Registration.

35-27. - Registration for placing or maintaining, utilities ~~communications~~ facilities in public rights-of-way.

(a) Registration. A Utility, ~~Communications~~ Service provider that desires to place or maintain a ~~communications facility~~ Facility in public rights-of-way in the Town shall first register with the Town in accordance with this Division ~~article~~. Subject to the terms and conditions prescribed in this Division ~~article~~, a registrant may place or maintain a Facility.

~~Communications Facility~~ in public rights-of-way. A ~~Utility Communications Services Provider~~ with an existing ~~facility~~ Facility in the public rights-of-way of the Town as of the effective date of the ordinance from which this ~~Division article~~ is derived has 120 days from the effective date of the ordinance from which this ~~Division article~~ is derived to comply with the terms of this ~~Division article~~, including, but not limited to, registration, or shall be in violation thereof.

- (b) *No property right arises from Registration.* A registration shall not convey any title, equitable or legal, in the public rights-of-way. Registration under this article governs only the placement or maintenance of Facility in Public Rights-of-Way. Registration does not excuse a Utility, Communications or advanced wireless infrastructure services provider from obtaining appropriate access or pole attachment agreements before locating its ~~facilities~~ Facilities on the Town's or another person's ~~facilities~~ Facilities. Registration does not excuse a ~~communications services provider~~ Utility from complying with all applicable law, including Town ordinances, codes or regulations, including this article.
- (c) *Registration is non-exclusive.* Registration does not in and of itself establish a right to Place or Maintain, or establish priority for the Placement or Maintenance of a Facility, in the Town's Public Rights-of-way, but shall establish for the Registrant a right to apply for a Permit, if permitting is required by the Town. Registrations are expressly subject to any further amendment to or replacement of this Article and further subject to any additional Town ordinances or regulations, as well as any State or federal laws that may be enacted.
- (de) *Content of Registration.* Each ~~Utility, Communications services provider~~ that desires to place or maintain a ~~Communications Facility~~ Facility in Public Rights-of-Way in the Town shall file an original registration along with two complete copies with the Town that shall include the following information:
- (1) Name of the applicant;
 - (2) Name, address, telephone number, e-mail address and mobile phone number of the applicant's primary contact person in connection with the registration. Additionally, the applicant shall provide emergency contact information. The primary contact person shall be able to provide information regarding the registrant's Utility, Communications facilities in the public rights-of-way, and shall be able to accept and coordinate any damage claims. The registrant shall also provide a secondary contact person enabling the Town to contact appropriate registrant's personnel in emergency situations, including, but not limited to, when registrant's construction or equipment has caused damage to other property. The registrant shall also provide the Town with a current telephone number for the secondary contact person which shall be available and monitored 24 hours per day, every day, by the registrant, to be utilized by the Town in case of an emergency. Such information shall be updated as necessary by the registrant to provide the Town with current and accurate information;
 - (3) Evidence of the insurance coverage required under this article and acknowledgment that the registrant has received and reviewed a copy of this article;
 - (4) A copy of Federal or State certification authorizing the applicant to provide Utility, Communications services, if any;
 - (5) If the applicant is a corporation and does not submit a State certification pursuant to Subsection (c)(4) of this section, proof of authority to do business in the State of Florida, which may be satisfied by the number of the corporate certification or other means; and
 - (6) A security fund in accordance with this article.

- (e) Review and reporting. The Town Manager or designee shall review the information submitted by the Applicant. If the Applicant submits information in accordance with Subsection (de) of this section, the Registration shall be effective and the Town shall notify the applicant of the effectiveness of Registration in writing. The Applicant may not apply for a permit to place or maintain Utility, Communications facilities ~~Facilities~~ in the Public Rights-of-Way under this article unless and until it has been notified that its application is complete and effective. If the Town determines that the information has not been submitted in accordance with Subsection (c) of this section, the Town shall notify the applicant in writing of the noneffectiveness of registration and reasons for the noneffectiveness. ~~The Town shall so notify an Applicant within 30 days after receipt of registration information from the Applicant.~~
- (fe) Cancellation. A registrant may cancel a registration upon written notice to the Town that the registrant will no longer place or maintain any Facility ~~communications facilities~~ in public rights-of-way and will no longer need to obtain permits to perform work in the public rights-of-way. A registrant cannot cancel a registration if the registrant continues to place or maintain a Facility ~~Communication Facility~~ in public rights-of-way.
- (f) ~~Registration shall be nonexclusive. Registration shall not establish any right or priority to place or maintain a communications facility in any particular area in public rights-of-way within the Town. Registrations are expressly subject to any future amendment to or replacement of this article and further subject to any additional Town ordinances, as well as any State or Federal laws that may be enacted.~~
- (fg) Annual Renewal. A registrant shall ~~renew~~ update its registration with the Town by April 1 of ~~each even-numbered~~ years in accordance with the registration requirements in this article; except that a registrant that initially registers during the even-numbered year when renewal would be due, or the odd-numbered year immediately preceding such even-numbered year, shall not be required to renew until the next even-numbered year. Within 30 days of any change in the information required to be submitted pursuant to Subsection of this section, a registrant shall provide updated information to the Town. If no information in the then-existing registration has changed, the renewal may state that no information has changed. Failure to renew a registration may, at the Town's discretion, result in the Town restricting the issuance of additional permits until the ~~communications services provider~~ Utility has complied with the registration requirements of this article.
- (h) Permit Required. ~~In accordance with applicable Town ordinances, codes or regulations and this article, a permit shall be required of a Communications services provider that desires to place or maintain a Communications Facility in Public Rights of Way. An effective registration shall be a condition precedent of obtaining a Permit.~~
- (hi) Compensation. ~~Except as may be provided for in a separate franchise agreement, a~~ A Registrant that places or maintains a Communications Facilities ~~Facility~~ in the public rights-of-way shall be required to pay compensation to the Town as required by applicable law and ordinances of the Town. A Registrant that places or maintains a Facility ~~Communications Facilities~~ in the public rights-of-way, ~~other than a Registrant that provides communications services as defined in F.S. § 202.012(3), within the Town,~~ shall pay to the Town the fees required by Florida Law and the Town's ordinances and resolutions. Such registrants shall pay such amounts initially before obtaining permits and then annually thereafter in accordance with the Town's requirements.

- (i) Failure to Register. A Registrant shall bear the responsibility to maintain his registration updated with the Town at all times. A Registrant's failure to Register, or renew Registration may result in Civil Penalties.

Sec. 35-28. Insurance.

- (a) General. A Registrant shall provide, pay for and maintain satisfactory to the Town the types of insurance described herein. All insurance shall be from responsible companies duly authorized to do business in the State of Florida and having an A.M. Best A-VII or better rating. All liability policies shall provide that the Town is an additional insured as to the activities under this Article. The required coverages must be evidenced by properly executed certificates of insurance forms. The certificates must be signed by the authorized representative of the insurance company and shall be filed and maintained with the Town annually. Thirty (30) days advance written notice by registered, certified or regular mail or facsimile as determined by the Town must be given to the Town's Risk Manager of any cancellation, intent not to renew or reduction in the policy coverages. The insurance requirements may be satisfied by evidence of self-insurance or other types of insurance acceptable to the Town.
- (b) Insurance Coverage and Limits of Insurance Coverage. The insurance coverage and limits of coverage of insurance required shall be not less than the following:
- (1) Worker's compensation and employer's liability insurance. Requirements as spelled out in Florida Chapter 440.
 - (2) Comprehensive general liability. Commercial general liability occurrence form, including premises/operations, independent contractor's contractual liability, product/completed operations; X, C, U coverage; and personal injury coverage for limits of no less than one million dollars (\$1,000,000) per occurrence, combined single limit and two million dollars (\$2,000,000) in the aggregate.
 - (3) Commercial Automobile liability. Commercial automobile liability coverage for all owned, non-owned and hired vehicles involved in operations under this Article XII for limits of no less than one million dollars (\$1,000,000) per occurrence combined single limit each accident.
 - (4) Commercial excess or umbrella liability. Commercial excess or umbrella liability coverage may be used in combination with primary coverage to achieve the required limits of liability.
- (c) Proof of Insurance. Upon the effective date of the Registration, the Registrant shall submit to the Town proof that it has obtained the insurance required under this Section 35-35, including a certificate of insurance signed by the insurance agent.
- (d) Authority to decrease limits. The Town shall have the authority to increase or decrease the policy limits set forth above and shall provide each Registrant with at least thirty (30) days advance written notice of such change. Within thirty (30) days from receipt of a notice to increase its policy limits, the Registrant shall submit to the Town proof of such increased coverage.
- (e) Duration. The coverage provided herein shall be for a period not less than the period for which the indemnification obligations under Town Code Section 35-29 hereof are imposed.
- (f) Abandonment. Failure to maintain required coverage shall be deemed an Abandonment. Failure to maintain all the required insurance coverage shall be deemed an Abandonment of all of the Facilities of the Registrant.

35-29. Indemnification.

- (a) Liability. By reason of the acceptance of a Registration under this Article or the grant of a Permit under this Article, the Town does not assume any liability:
- (1) For injuries to persons, damage to property, or loss of service claims by parties other than the Registrant or the Town;
 - (2) For claims or penalties of any sort resulting from the installation, presence, maintenance, or operation of Facilities by Registrants or activities of Registrants.
- (b) Hold harmless. By registering with the Town, a Registrant agrees, or by applying for and accepting a Permit under this Article, a Permittee is required, to defend, indemnify, and hold the Town whole and harmless from all costs, liabilities, and claims for damages of any kind arising out of the construction, presence, installation, maintenance, repair or operation of its Facilities, whether any act or omission complained of is authorized, allowed, or prohibited by a Permit, inspection of plans or work by the Town. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the Registrant or to the Town; and the Registrant, in defending any action on behalf of the Town, shall be entitled to assert in any action every defense or immunity that the Town could assert in its own behalf. Nothing herein shall be construed as a waiver of the protections, limitations and immunities provided in Section 768.28, Florida Statutes, as same may be amended from time to time. The provisions of this Section 35-36 include, but are not limited to, the Town's reasonable attorneys' fees incurred in defending against any such claim, suit or proceeding(s).
- (c) Notification of issues. The Town agrees to notify the Registrant, in writing, within a reasonable time of the Town receiving notice, of any issue it determines may require indemnification.
- (d) Limitations. This indemnification obligation is not limited in any way by a limitation of the amount or type of damages or compensation payable by or for the registrant under workers' compensation, disability or other employee benefit acts, or the acceptance of insurance certificates required under this article, or the terms, applicability or limitations of any insurance held by the Registrant.
- (e) Investigation by registrant. The Registrant shall investigate, handle, respond to, provide defense for, and defend any such claims at its sole expense and shall bear all other costs and expenses related thereto even if the claim is groundless, false or fraudulent and if called upon by the Town, the Registrant shall assume and defend not only itself but also the Town in connection with any such claims and any such defenses shall be at no cost or expense whatsoever to the Town provided that the Town (exercisable by the Town Attorney), shall retain the right to select counsel of its own choosing.
- (f) Waiver rights. The Town does not and shall not waive any rights against the Registrant which it may have by reason of this indemnification, or because of the acceptance by, or the Registrant's deposit with the Town of any of the insurance policies required by this Article for Registration.
- (g) Damages. This indemnification by the Registrant shall apply to all damages and claims for damages of any kind suffered regardless of whether such insurance policies shall have been determined to be applicable to any such damages or claims for damages.
- (h) Defense and immunity. Nothing contained in this Section shall be construed or interpreted:
- (1) as denying to either party any remedy or defense available to such party under the laws of the State of Florida; or
 - (2) as a waiver of sovereign immunity beyond the waiver provided in Section 768.28, Florida Statutes as same may be amended from time to time.

- (i) Term. The indemnification requirements under this Section and this Article shall survive and be in full force and effect for a period of five (5) years after the termination or cancellation of a Registration.

35-30. - Force majeure. In the event a registrant's performance of or compliance with any of the provisions of this article is prevented by a cause or event not within the registrant's control, such inability to perform or comply shall be deemed excused and no penalties or sanctions shall be imposed as a result; provided, however, that such owner uses all practicable means to expeditiously cure or correct any such inability to comply. For purposes of this article, causes or events not within a registrant's control shall include, without limitation, acts of God, floods, earthquakes, landslides, hurricanes, fires and other natural disasters, acts of public enemies, riots or civil disturbances, sabotage, strikes and restraints imposed by order of a governmental agency or court. Causes or events within a registrant's control, and thus not falling within this section, shall include, without limitation, registrant's financial inability to perform or comply, economic hardship, and misfeasance, malfeasance or nonfeasance by any of a registrant's directors, officers, employees, contractors or agents.

35-31. - Termination of registration.

(a) Involuntary Termination. The involuntary termination of a previously effective registration may only be accomplished by an action of the Town Manager and such action may be appealed to the Town Council. The Town may declare the registration terminated and revoke and cancel all privileges granted under that registration if:

- (1) A Federal or Florida authority suspends, denies or revokes a registrant's certification or license to provide communications service;
- (2) The Registrant's placement and maintenance of the Public Rights-of-Way or other roads or property within the Town presents an extraordinary danger to the general public or other users of the public rights-of-way; or
- (3) The registrant voluntarily abandons all of its communications facilities in Public Rights-of-Way.

(b) Notification. Prior to such termination for any of the reasons set forth in this section, the Town Manager or his designee shall notify the registrant in writing, setting forth the matters pertinent to such reasons and describing the proposed action of the Town with respect thereto. The registrant shall have 60 days after receipt of such notice within which to cure the violation.

(c) In the event of a vote by the Town Council to terminate the registration, the registrant shall, within 30 days following such termination, provide an acceptable plan for transferring ownership of the Facilities to another Person in accordance with this Article or shall remove or abandon the Facilities and take such steps as are necessary to render every portion of the Facilities remaining in the public rights-of-way safe. If the registrant has either abandoned its Facilities or chooses to abandon its Facilities, the Town may:

- (1) Require the registrant or the registrant's bonding company to remove some or all of the Facilities from the public rights-of-way and restore the public rights-of-way to its condition immediately prior to the removal;
- (2) Require that some or all of the Facilities be removed, and the public rights-of-way restored to their original condition at the registrant's expense, using Town employees, agents or contractors, and charge any and all costs to the registrant and require reimbursement; or
- (3) Utilize or allow other persons to utilize the registrant's abandoned Facilities.

(d) *Survival of obligations.* The obligations of the registrant hereunder shall survive the termination of a registration. In the event of a declaration of termination of registration, this provision does not permit the Town to cause the removal of any Facilities that are used to provide another service for which the registrant holds a valid certification or license with the governing Federal or State agency, where required, and is properly registered with the Town, for such certificated service, where required.

35-32. - Transfer of control, sale, or assignment of assets.

(a) *Transfer of control, sale, or assignment of assets.* If a Registrant transfers, sells or assigns its Registration or its Facilities in the Public Rights-of-Way, incident to a transfer, sale or assignment of the registrant's assets, the transferee, buyer or assignee shall be obligated to comply with the terms of this article. Written notice of any such transfer, sale or assignment shall be provided to the Town within 20 days of the effective date of the transfer, sale or assignment. If the transferee, buyer or assignee is a current registrant, then the transferee, buyer or assignee is not required to re-register. If the transferee, buyer or assignee is not a current registrant, then the transferee, buyer or assignee shall register as provided herein within 60 days of the transfer, sale or assignment. If permit applications are pending in the registrant's name, the transferee, buyer or assignee shall notify the Town that the transferee, buyer or assignee is the new applicant.

(b) *Subordination.* Any mortgage, pledge, lease or other encumbrance on the Facilities shall be subject and subordinate to the rights of the Town under this Article and Applicable Law.

35-33. - Conditional use of public rights-of-way.

(a) *Authorization required.* In the event a registrant desires to use its existing Facilities or to construct new Facilities for the purpose of providing other utility or nonutility services to existing or potential consumers or resellers, for providing any other services other than the provision of Utility Services or for providing any other use to existing or potential consumers, a registrant shall seek such additional and separate authorization from the Town for such activities as may be required by applicable law.

(b) *Towns rights.* To the extent that any person or registrant leases or otherwise uses the Facilities of a Person that is duly registered or otherwise authorized to place or to maintain Facilities in the public rights-of-way of the Town, such person or registrant shall make no claim, nor assert any right, which will impede the lawful exercise of the Town's rights, including requiring the removal of such Facilities from the public rights-of-way of the Town, regardless of the effect on a registrant's ability to place or maintain its own Facilities in public rights-of-way of the Town.

35-34 *Security fund.* A Security Fund shall be required to be kept on file with the Town in the form of an annual bond, letter of credit or cash deposit in the minimum amount of \$50,000.00, which shall be established in the Town's favor to secure the restoration of the public rights-of-way and to ensure the faithful performance of the construction or other work in the public rights-of-way or required repairs caused by damages to the rights-of-way or the removal of any abandoned Facility. The form of the bond or other guarantee and the terms thereto shall be approved by the Town Attorney.

~~35-28. - Requirement for franchise for other users or occupants of the public rights-of-way.~~

- (a) ~~Franchise or other agreement required.~~ Other users and/or occupants of the Town's public roads and/or public rights of way other than communications service providers shall be required to obtain a franchise or other agreement from the Town prior to performing construction or placing facilities in the Town's public rights of way, or obtaining a permit from the Town to perform construction or to place facilities in the Town's public rights of way or other roads or property within the Town. The terms set out in this article, to be included in such franchises or agreements, are minimum standards and shall not be construed as prohibiting the Town from including any and all other terms, conditions and/or other requirements the Town so desires in any franchise or agreement. Such users and/or occupants shall enter into a franchise agreement or other agreement approved by the Town Council.
- (b) ~~Franchise application.~~ Any user and/or occupant other than a communications service provider, including governmental units, desiring to place or maintain facilities in the Town's public rights of way shall file an application with the Town requesting that the Town enter into a franchise agreement with said user and/or occupant. The application shall include, at a minimum, the following information:
- (1) Identity of the user and/or occupant, address and telephone number and primary contact person; and
 - (2) A statement of whether the applicant presently serves any customers at retail within the jurisdictional limits of the Town at the time of the application or whether the applicant simply intends to lease its facilities to other users and/or occupants who will be providing direct service to retail customers within the jurisdictional limits of the Town.
- (c) ~~Application fee.~~ Each application requesting the Town to enter into a franchise agreement shall be accompanied by an initial nonrefundable application fee in the amount established by resolution. The fee amount shall approximate the Town's costs and expenses incurred in connection with processing the application. All reasonable expenses incurred by the Town in processing the application, including, but not limited to, consulting and legal costs, shall be offset from the filing fee.
- (d) ~~Cost recovery.~~ If the Town's expenses, as referenced in Subsection (c) of this section, exceed the amount of the application fee, the applicant shall pay the difference within 30 days of the date it receives notice of such additional expenses. If the additional fees are not received by the Town within 30 days of the date of notice, the Town shall notify such applicant, and the applicant shall pay an additional late fee at the rate of 18 percent per annum of the amount unpaid or underpaid; provided, however, that such rate does not exceed the maximum amount allowed under the applicable law. In such case, the rate will be the maximum allowed by law. If the Town does not receive said fee in total within 60 days of the date of notice, the Town shall notify the applicant in writing and may, in the Town's sole discretion, refuse in good faith to execute the franchise agreement, or may terminate in good faith the franchise agreement without any penalty and/or liability.
- (e) ~~Construction bond.~~ All franchise agreements between the Town and any user and/or occupant shall contain a provision for a construction bond in an amount to be determined by the Town Manager, which shall be established in the Town's favor to secure the restoration of the public rights of way and to ensure the faithful performance of the construction or other work in the public rights of way. The form of the bond and the terms thereto shall be approved by the Town Attorney.
- (f) ~~Security fund.~~ All franchise agreements between the Town and any user and/or occupant shall contain a provision for a security fund, which shall be required to be kept on file with the Town

~~in the form of an annual bond, letter of credit or cash deposit in the minimum amount of \$50,000.00. The form of the bond or other guarantee and the terms thereto shall be approved by the Town Attorney.~~

DIVISION 3. Permitting and Placement of Facilities in the Public Rights-of-Way.

~~35-3529.~~ - Placement or maintenance of Utilities facilities in public rights-of-way, in general.

(a) Compliance. Registrants and users and/or occupants agree at all times to comply with and abide by all applicable provisions of Federal and State law and Town ordinances, codes and regulations in placing or maintaining Facilities in public rights-of-way.

(b) Permit Required. A Registrant shall not commence to place or, maintain a Facility in a Town Public Right-of-way until all applicable Permits, if required, have been issued, except in the case of routine maintenance or an emergency as provided for in this Article. In such cases deemed an emergency situation by the Utility owner, the Registrant shall apply for Permits within 15 days of the incident or repair, whichever comes sooner. ~~No person shall commence to place or to maintain communications facilities or other facilities or to perform construction in the public rights-of-way or other roads or property within the Town until the Town or other appropriate authority has issued all applicable permits, except in the case of an emergency. The term "emergency" means a condition that affects the public's health, safety or welfare, which includes an unplanned out-of-service condition of a preexisting service.~~ Registrants and users and/or occupants shall provide prompt notice to the Town of the placement or maintenance of a ~~facility~~ Facility in public rights-of-way in the event of an emergency. The Registrant acknowledges that as a condition of granting a permit(s), the Town may impose reasonable conditions governing the Placement or Maintenance of a Facility in the Town's Public rights-of-way related to the public, health, safety and welfare as permitted and set forth in Section 337.401 of Florida Statutes as same may be amended from time to time; however, no such imposed conditions shall prohibit or otherwise adversely impact the provision of Utility Services. Permits shall apply only to the areas of the Town's Public Rights-of-way specifically identified in the Permit. As a condition of granting such permits, the Town may impose reasonable rules or regulations governing the placement or maintenance of facilities in public rights-of-way or other roads or property within the Town. Permits shall apply only to the areas of public rights-of-way or other roads or property within the Town specifically identified in the permit. The Town may issue a blanket permit to cover certain activities, such as routine maintenance and repair activities, that may otherwise require individual permits or may impose lesser requirements. All applicants for Facility work within the Rights-of-Way shall pay applicable building and/or public works permit fees as provided by Town Ordinance or as may be required by State Law.

(c) Required information. As part of any permit application to place a new or to replace an existing ~~communications facility or other facility~~ Facility in public rights-of-way or other roads or property within the Town, the applicant shall provide information concerning the ~~communications facility or other facility~~ Facility that sets forth the following, as required by the Town Manager:

(1) An engineering plan signed and sealed by a Florida Registered Professional Engineer, or prepared by a person who is exempt from such registration requirements as provided in Section 471.003 of Florida Statutes, identifying the location of the proposed facility, and including:

- a. A description of any facility to be installed;
 - b. The facility's ~~length~~ dimensions in feet;
 - c. Site plan indicating where ~~Where~~ the facility is to be located; and
 - d. Ability to demonstrate compliance with the Florida Building Code, for wind load requirements unless otherwise exempted by Florida Statutes; and
 - e. For new Utilities, or any excavation work, a geotechnical report for the existing soil conditions, or a soil statement by a Florida licensed professional engineer, attesting to the soil conditions.
- (2) ~~A description of the manner in which the communications facility or other facility will be installed, i.e., anticipated construction methods and/or techniques;~~
- (3) ~~A traffic maintenance plan for any disruption of the public rights-of-way or other roads or property within the Town;~~
- (42) Plans and information, Information as required by this Article, on the ability of the public rights-of-way to accommodate the proposed Facility ~~communications facility or other facility, if available; such information shall be provided without certification as to correctness, to the extent obtained from other persons with communications facilities or other facilities in the public rights-of-way;~~
- (53) ~~If appropriate, given the Facility~~ communications facility or other facility proposed, an estimate of the cost of restoration to the public rights-of-way;
- (64) ~~The timetable for construction of the project or each phase thereof, and the areas of the Town which will be affected;~~
- (7) ~~The use of door hangers to notify residents living within a 300-foot radius of the project; and~~
- 8
- (5) A description of the type of Facility and the manner in which the Facility will be installed and/or modified (i.e. anticipated construction methods or techniques).
- (6) A temporary sidewalk closure plan, if appropriate given the Facility proposed, to accommodate Placement or Maintenance of the Facility.
- (7) A temporary traffic lane closure and management of traffic (MOT) plan, if appropriate given the Facility proposed, to accommodate installation and/or modification of the Facility.
- (8) A proposed timetable for Placement or Maintenance of the proposed Facility or each phase of the Placement or Maintenance thereof, and the intended areas of the Town to be served by the Facility.
- (9) Registrants shall not place or maintain signage on Facilities in Town Public Rights-of-way, unless otherwise required by federal or State law; however, that Existing Structures that lawfully supported signage before being Repurposed may continue to support signage as otherwise permitted by law or Town Code, as same may be amended from time to time.
- (10) Such additional information requested by the Town that the Town finds reasonably necessary to review the permit application to ensure continued level of service delivery of its Rights-of-Way.
- (d) Public accessibility, safety, and sufficiency of spacing. ~~To the extent that such regulations do not interfere with the ability of a Utility to deliver and provide service to its customers, the Town shall have the power to prohibit or to limit the placement of new or existing telecommunication facilities or other facilities in that area of the public rights-of-way, or to~~

~~safely accommodate additional installations at any location, or for the protection of existing communication facilities or other facilities public rights-of-way or to accommodate Town plans for public improvements or projects that the Town determines are in the public's interest or to the extent permitted by applicable law.~~ afforded by Florida Law to regulate Facilities to ensure that they meet Town requirements for public accessibility, safety and sufficiency of spacing, to ensure compliance with State of Florida and local laws and ordinances. In determining whether to permit and reasonably limit, or impose conditions or prohibit a Facility to be placed or located within the Town's Public Rights-of-way, the Town Public Works Director shall consider the following standards and minimum requirements in his review and consideration of a Permit application and imposition of reasonable Permit conditions:

- (1) Sufficiency of space to accommodate present and pending applications for use of the Town's Public Rights-of-way. The sufficiency of space to accommodate all of the present and pending applications to place Facilities and pending or planned applications to Place and Maintain Facilities in that area of the Town's Public Rights-of-way; and
 - (2) Sufficiency of space to accommodate the Town's need for projected public improvements. The sufficiency of space to accommodate Town plans for public improvements or projects adopted as part of its community investment capital improvements plan that the Town determines in the best interest of the public; and
 - (3) Impact on traffic and traffic safety. The impact on traffic and traffic safety; and
 - (4) Impact on Existing Facilities. The impact upon existing Facilities in the Town's Public Rights-of-way; and
 - (5) Distance separation from edge of pavement. No new Facility shall be constructed, operated or maintained in the Town's Public Rights-of-way in violation of the State of Florida Department of Transportation Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways, (Commonly known as the "Florida Green Book" and for the Minimum Width of Clear Zones. In accordance with The Florida Green Book, the Town Public Works Director shall have the authority to reduce the minimum offset where that offset cannot be reasonably obtained, and other alternatives are deemed impractical; and
 - (6) Distance separation from sidewalk. No newly installed Facility shall be Placed or Maintained in the Town's Public Rights-of-way within one (1) foot of a sidewalk that is five (5) feet or less in width. Co-location on an Existing Structures is exempt from this requirement; and
 - (7) Installation at outermost boundary of Town's Public Rights-of-way. Where a superior site design results from placement of a Facility at or near the outermost boundary of the Town's Public Right-of-way, the farthest distance practicable from the centerline thereof and edge of pavement is encouraged. To the extent that the location of the sidewalk within the Town's Public Right-of-way precludes achievement of a superior site design or otherwise precludes compliance with all other requirements of this Article, then the Town Public Works Director or Registrant may propose, and the Registrant may include in the Permit application a proposed re-routing of the sidewalk at its own expense, in order to achieve such superior site design or otherwise meet other requirement of this Article.
- (e) *Undergrounding of facility.* All communications facilities and other facilities shall be placed and maintained so as not to interfere unreasonably with the use of the public rights-of-way by the public and so as not to cause unreasonable interference with the rights and convenience of property owners who adjoin any of the public rights-of-way. A Registrant or other user shall

endeavor, to the greatest extent possible, to place all ~~communications facilities or other facilities~~ Facilities underground. The Town may require the use of trenchless technology (i.e., directional bore method) for the installation of ~~communications facilities or other facilities~~ in the public rights-of-way as well as joint trenching ~~or the collocation of communications facilities or other facilities~~ Facilities in existing conduit. The registrant or user shall be solely liable for the displacement, damage or destruction of any property, irrigation system or landscaping as a result of the placement or maintenance of its ~~communications facility or other facility~~ Facility within the public rights-of-way. The appropriate Town official may issue such rules and regulations concerning the placement or maintenance of a facility in public rights-of-way as may be consistent with this article and other applicable Federal and State laws or regulations.

- (f) Notification of adjacent property owners. ~~Excluding emergencies, prior~~ Prior to the commencement of any work by the applicant pertaining to the placement and maintenance of ~~communications facilities or other facilities~~ Facilities within the public rights-of-way or other roads or property within the Town, the Town Manager or designee may require the applicant to issue notice of the work to property owners who adjoin such affected area (the "Notification Area"). The notification area may be expanded at the Town's discretion and notice shall be ~~effected~~ affected in a manner deemed appropriate by the Town Manager or designee.
- (g) ~~Safety.~~ All safety practices required by applicable law or accepted industry practices and standards shall be used during the placement or maintenance of facilities.
- (gh) Repair of damages. A person placing or maintaining ~~facilities~~ Facilities in the public rights-of-way or other roads or property within the Town shall, at its own expense, restore the public rights-of-way, or any other adjacent property that has been damaged by work on the project, to at least its original condition before such work was initiated, subject to the Town's satisfaction upon inspection. Restoration shall include, among other things, the removal of all markings placed by users on the right-of-way, unless they are required to remain pursuant to State law. A registrant or user shall warrant restoration of the public rights-of-way or other roads or property within the Town for a period of 12 months after completion of such restoration. If the registrant or user fails to make such restoration within 30 calendar days after completion of construction, or such other time as may be required by the Town, the Town may, after written notice to the registrant or user, perform such restoration using Town employees, agents or contractors, and charge all costs of the restoration against the registrant or user in accordance with Florida Law and require reimbursement within 30 days after the submission of the bill by the Town to the registrant or user.
- (hi) Removal or relocation. Removal or relocation at the direction of the Town of a person's ~~facility~~ Facility in the public rights-of-way shall be governed by Florida Law
- (ij) Property right not created. A permit from the Town constitutes authorization to undertake only certain activities in public rights-of-way in accordance with this article, and does not create a property right or grant authority to impinge upon the rights of others who may have an interest in the public rights-of-way.
- (jk) ~~Industry practice.~~ A registrant and user shall maintain its communications facility and other facility in public rights-of-way in a manner consistent with accepted industry practice and applicable law.
- (jl) Underground safety act. In connection with excavation in the public rights-of-way, a registrant and user shall, where applicable, comply with the Underground Facility Damage Prevention and Safety Act set forth in Section 556 of Florida Statutes.

- (~~km~~) Maintenance. A registrant and user shall place or maintain a ~~communications facility and other facility~~ Facility in public rights-of-way in compliance with all applicable standards as established by all local, State or Federal law and in conformance with the Town Code. A registrant and user shall use and exercise due caution, care and skill in performing work in the public rights-of-way and shall take all reasonable steps to safeguard work site areas.
- (~~ln~~) Coordination or work. In the interest of the public's health, safety and welfare, upon request of the Town, a registrant or user shall coordinate placement or maintenance activities under a permit with any other work, construction, installation or repairs that may be occurring or scheduled to occur within a reasonable timeframe in the subject public rights-of-way or other roads or property within the Town. The Town may require a registrant or user to alter reasonably its placement or maintenance schedule for permitted work as necessary so as to minimize disruptions and disturbance in the public rights-of-way or other roads or property within the Town. The Town may provide a more definite time frame based on specific Town construction or maintenance schedules.
- (~~m~~) Existing facilities. A registrant or user shall not place or maintain its ~~communications facilities or other facilities~~ Facilities so as to interfere, displace, damage or destroy any facilities, including, but not limited to, sewers, gas or water mains, storm drains, pipes, cables or conduits of the Town or any other person's ~~facilities~~ Facilities lawfully occupying the public rights-of-way or other roads or property within the Town. The Registrant or user shall report to the Town any damage to existing Facilities and notify the Facility owner.
- (~~np~~) Conditions of rights-of-way. The Town makes no warranties or representations regarding the fitness, suitability or availability of public rights-of-way for the facilities, and any performance of work or costs incurred by the registrant or user or provision of services shall be at registrant's or user's sole risk. Nothing in this article shall affect the Town's authority to add, vacate or abandon public rights-of-way and the Town makes no warranties or representations regarding the availability of any added, vacated or abandoned public rights-of-way for facilities.
- (~~oq~~) Inspections. The Town shall have the right to make such inspections of ~~communications facilities and other facilities~~ Facility placed or maintained in public rights-of-way as it finds necessary to ensure compliance with this article. In the event the Town determines that a violation exists with respect to a registrant's or user's placement or maintenance of ~~communications facilities or other facilities~~ Facilities in the public rights-of-way that is not considered to be an emergency or danger to the public health, safety or welfare, the Town will provide the registrant or user no less than three days' written notice setting forth the violation and requesting correction. Nothing herein shall limit the authority of the Town Manager, building official or their designee from taking appropriate action to address an imminent and immediate health or safety hazard.
- (~~pf~~) Emergency. In an emergency, as determined by the Town Manager, building official, Public Works Director, or their designee, where the installation, use or maintenance of any ~~communications facility or other facility~~ Facility poses an imminent and immediate health or safety hazard to pedestrians or vehicles, the Town shall, where feasible, give telephonic notice to the owner of the ~~communications facility or other facility~~ Facility of the nature of the emergency and afford the owner the opportunity to remove or otherwise relocate the ~~facility~~ Facility. Where telephonic notice is not feasible or where the owner fails to address the emergency hazard, the Town Manager, building official or their designee may summarily and temporarily remove or relocate such ~~facility~~ Facility, but only to the extent necessary to avoid

the health or safety hazard at issue. Immediately following removal or relocation of any facility Facility under these emergency procedures, the Town shall provide the owner of the facility Facility with written notice of the action by certified mail, return receipt requested. If the Town removes such facility Facility, the owner of such facility shall have 30 days after receipt of such written notice by the Town to claim the facility Facility, or the Town may dispose of such facility Facility.

- (s) ~~Plans.~~ A permit application to place a new or replace an existing communications facility or other facility in the public rights of way shall include plans showing the location of the proposed installation of communications facilities or other facilities in the public rights of way. If the plans so provided require revision based upon actual installation, the registrant or user shall promptly provide revised plans, or "as-builts," upon completion of any installation or construction. The plans shall be in a digitized format showing the two-dimensional location of the communications facilities or other facilities based on the Town's Geographical Database, or other format acceptable to the Town. Upon the Town's request, a registrant or user shall submit such as-builts in the format acceptable to the Town, showing the location of its facilities in the public rights of way. The registrant or user shall provide such plans at no cost to the Town. The Town shall maintain the confidentiality of such plans and any other information provided in accordance with Section 202.195 of Florida Statutes.
- (t) ~~Town Rights.~~ The Town reserves the right to place and maintain, and permit to be placed or maintained, sewer, gas, water, electric, storm drainage, communications, and other facilities, cables or conduit, and to do, and to permit to be done, any underground and overhead installation or improvement that may be deemed necessary or proper by the Town in public rights of way occupied by the registrant or the user. A registrant or user shall allow Town communication facilities or other facilities to be collocated within Town's public rights of way through the use of a joint trench during the registrant's or user's construction project. Such joint trench projects shall be negotiated in good faith by separate agreement between the registrant or user and the Town and may be subjected to other Town rights of way requirements. The Town further reserves without limitation the right to alter, change, or cause to be changed, the grading, installation, relocation or width of the public rights of way within the limits of the Town and within said limits as same may from time to time be altered.

~~35-30. Suspension of permits.~~

- (a) Subject to this section and to providing reasonable notice and an opportunity to cure, the Town may suspend a permit issued to any registrant or user or may deny an application for a subsequent permit made by a registrant or user for work in the public rights of way or other roads or property within the Town for one or more of the following reasons:
- (1) Failure to satisfy permit conditions, or conditions set forth in this article or other applicable Town ordinances, codes or regulations governing placement or maintenance of communications facilities or other facilities in public rights of way or other roads or property within the Town, including without limitation, failure to take reasonable safety precautions to alert the public of work at the work site, or to restore any public rights of way or adjacent property;
 - (2) Misrepresentation or fraud by the registrant in a registration or by a registrant or user in a permit application;
 - (3) Failure to properly renew, a registration;
 - (4) Ineffectiveness of a registration; or

~~(5) Failure to relocate or to remove facilities as may be lawfully required by the Town.~~

~~(b) After the suspension or denial of a permit pursuant to this section, the Town shall provide written notice of the reason to the registrant or user.~~

~~35-31. Appeals.~~

~~(a) Final written decisions of the Town Manager or designee suspending or denying a permit, denying an application for a registration or denying an application for renewal of a registration are subject to appeal. An appeal must be filed with the Town Manager within 30 days of the date of the final written decision to be appealed. Any appeal not timely filed as set forth in this section shall be waived. The Town Council shall hear or shall appoint a Hearing Officer to consider the appeal. The hearing shall occur within 30 days of the receipt of the appeal, unless waived by the registrant or user, and a written decision shall be rendered within 30 days of the hearing. Upon correction of any grounds that gave rise to a suspension or denial, the suspension or denial shall be lifted.~~

~~(b) Nothing in this section shall affect or limit the remedies the Town has available under applicable law.~~

~~35-32. Conditional use of public rights of way.~~

~~(a) In the event a registrant desires to use its existing communications facilities or to construct new communications facilities for the purpose of providing other utility or nonutility services to existing or potential consumers or resellers, for providing any other services other than the provision of communications services or for providing any other use to existing or potential consumers, a registrant shall seek such additional and separate authorization from the Town for such activities as may be required by applicable law.~~

~~(b) To the extent that any person or registrant leases or otherwise uses the communications facilities or other facilities of a person that is duly registered or otherwise authorized to place or to maintain facilities in the public rights of way of the Town, such person or registrant shall make no claim, nor assert any right, which will impede the lawful exercise of the Town's rights, including requiring the removal of such communications facilities or other facilities from the public rights of way of the Town, regardless of the effect on a registrant's ability to place or maintain its own communications facilities in public rights of way of the Town.~~

~~35-33. Termination of registration.~~

~~(a) The involuntary termination of a previously effective registration may only be accomplished by an action of the Town Manager and such action may be appealed to the Town Council. The Town may declare the registration terminated and revoke and cancel all privileges granted under that registration if:~~

~~(1) A Federal or Florida authority suspends, denies or revokes a registrant's certification or license to provide communications service;~~

~~(2) The registrant's placement and maintenance of the public rights of way or other roads or property within the Town presents an extraordinary danger to the general public or other users of the public rights of way; or~~

~~(3) The registrant abandons all of its communications facilities in public rights of way.~~

~~(b) Prior to such termination for any of the reasons set forth in this section, the Town Manager or his designee shall notify the registrant in writing, setting forth the matters pertinent to such reasons and describing the proposed action of the Town with respect thereto. The registrant~~

~~shall have 60 days after receipt of such notice within which to cure the violation, or within which to present a plan, satisfactory to the Town Council, to accomplish the same.~~

- ~~(c) In the event of a vote by the Town Council to terminate the registration, the registrant shall, within 30 days following such termination, provide an acceptable plan for transferring ownership of the communications facilities to another person in accordance with this article or shall remove or abandon the communications facilities and take such steps as are necessary to render every portion of the communications facilities remaining in the public rights-of-way safe. If the registrant has either abandoned its communications facilities or chooses to abandon its communications facilities, the Town may:~~
- ~~(1) Require the registrant or the registrant's bonding company to remove some or all of the communications facilities from the public rights-of-way and restore the public rights-of-way to its condition immediately prior to the removal;~~
 - ~~(2) Require that some or all of the communications facilities be removed and the public rights-of-way restored to their original condition at the registrant's expense, using Town employees, agents or contractors, and charge any and all costs to the registrant and require reimbursement; or~~
 - ~~(3) Utilize or allow other persons to utilize the registrant's abandoned communications facilities.~~
- ~~(d) The obligations of the registrant hereunder shall survive the termination of a registration. In the event of a declaration of termination of registration, this provision does not permit the Town to cause the removal of any communications facilities that are used to provide another service for which the registrant holds a valid certification or license with the governing Federal or State agency, where required, and is properly registered with the Town, for such certificated service, where required.~~

~~35-34. Transfer or control, sale or assignment of assets:~~

- ~~(a) If a registrant transfers, sells or assigns its registration or its communications facilities in the public rights-of-way, incident to a transfer, sale or assignment of the registrant's assets, the transferee, buyer or assignee shall be obligated to comply with the terms of this article. Written notice of any such transfer, sale or assignment shall be provided to the Town within 20 days of the effective date of the transfer, sale or assignment. If the transferee, buyer or assignee is a current registrant, then the transferee, buyer or assignee is not required to re-register. If the transferee, buyer or assignee is not a current registrant, then the transferee, buyer or assignee shall register as provided herein within 60 days of the transfer, sale or assignment. If permit applications are pending in the registrant's name, the transferee, buyer or assignee shall notify the Town that the transferee, buyer or assignee is the new applicant.~~
- ~~(b) Any mortgage, pledge, lease or other encumbrance on the communications facilities shall be subject and subordinate to the rights of the Town under this article and applicable law.~~

~~35-35. Insurance:~~

- ~~(a) *Required.* Registrant shall provide, pay for and maintain satisfactory to the Town the types of insurance described herein. All insurance shall be from responsible companies duly authorized to do business in the State of Florida and having a rating in Best's Insurance Guide of A or better, or having a rating acceptable to the Town. All liability policies shall provide that the Town is an additional insured in the endorsement. The required coverages must be evidenced by properly executed Certificates of Insurance forms. The Certificates must be signed by the~~

~~authorized representative of the insurance company and shall be filed and maintained with the Town annually. Thirty days' advance written notice by registered or certified mail must be given to the Town of any cancellation, intent not to renew or reduction in the policy coverages. The insurance requirements may be satisfied by evidence of self insurance or other types of insurance acceptable to the Town. In addition to the Certificate of Insurance, the registrant shall provide a copy of the insurance policy, if requested by the Town.~~

~~(b) *Limits.* The limits of coverage of insurance required shall be not less than the following:~~

~~(1) Worker's Compensation and Employer's Liability Employer's Liability—\$500,000.00 limit each accident, \$500,000.00 limit per each employee;~~

~~(2) Comprehensive General Liability Bodily Injury and Property Damage—\$3,000,000.00 combined single limit each occurrence. Said coverage shall not exclude Contractual Liability, Products/Completed Operations, Independent or Contractors;~~

~~(3) Automobile Liability, Bodily Injury and Property Damage—\$3,000,000.00 combined single limit each accident.~~

~~(c) *Umbrella or Excess Liability.* Registrant may satisfy the minimum limits required above for Commercial General Liability, Business Auto Liability and Employer's Liability coverage under Umbrella or Excess Liability. The Umbrella or Excess Liability shall have an Aggregate limit not less than the highest "Each Occurrence" limit for Commercial General Liability, Business Auto Liability or Employer's Liability. The Town shall be specifically endorsed as an "Additional Insured" on the Umbrella or Excess Liability, unless the Certificate of Insurance states the Umbrella or Excess Liability provides coverage on a "Follow Form" basis.~~

~~(d) *Self insurance.* The registrant may satisfy the insurance requirements and conditions of this section under a self insurance plan and/or retention if approved in advance by the Town in its sole discretion.~~

~~(e) *Right to review.* The Town reserves the right to review, modify, reject or accept any required policies of insurance or self insurance, including limits, coverages or endorsements, herein from time to time throughout the life of this section. The Town reserves the right, but not the obligation, to review and reject any insurer or self insurer providing coverage because of its poor financial condition or failure to operate legally.~~

~~(f) *Town maintains certain rights.* This section shall not be construed to affect in any way the Town's rights, privileges and immunities as set forth in F.S. § 768.28. Insurance under this section shall run continuously with the presence of the registrant's communications facilities in the public rights of way and any termination or lapse of such insurance shall be a violation of this section and subject to the remedies as set forth herein. Notwithstanding the foregoing, the Town may, in its sole discretion, require increased or decreased levels of insurance for any other object placed in the public rights of way by way of individual agreements.~~

~~35-36. Indemnification.~~

~~A registrant shall, at its sole cost and expense, indemnify, hold harmless and defend the Town, its officials, boards, members, agents and employees, against any and all claims, suits, causes of action, proceedings, judgments for damages or equitable relief, and costs and expenses incurred by the Town arising out of the placement or maintenance of its communications facilities in public rights of way, regardless of whether the act or omission complained of is authorized, allowed or prohibited by this article; provided, however, that a registrant's obligation hereunder shall not extend to any damages caused solely by the gross negligence or wanton or willful acts of the Town. This provision includes, but is not limited to, the Town's reasonable attorneys' fees incurred in~~

~~defending against any such claim, suit or proceedings. The Town agrees to notify the registrant, in writing, within a reasonable time of the Town receiving notice, of any issue it determines may require indemnification. Nothing in this section shall prohibit the Town from participating in the defense of any litigation by its own counsel and at its own cost if in the Town's reasonable belief there exists or may exist a conflict, potential conflict or appearance of a conflict. Nothing contained in this section shall be construed or interpreted:~~

- ~~(1) As denying to either party any remedy or defense available to such party under the laws of the State of Florida;~~
- ~~(2) As consent by the Town to be sued; or~~
- ~~(3) As a waiver of sovereign immunity beyond the waiver provided in F.S. § 768.28.~~

35-367. - Construction bond~~Expanded Security Fund.~~

- (a) Bond required. Where applicable and for projects that exceed the amount provided as part of the Security Fund, ~~prior~~ Prior to performing any permitted work in the public rights-of-way, the registrant shall establish in the Town's favor a ~~construction bond or letter of credit~~, to secure the restoration of the public rights-of-way and to ensure the registrant's faithful performance of the construction or other work in the public rights-of-way. Notwithstanding the foregoing, a construction bond hereunder shall only be required to the extent that the cost of the restoration exceeds the amount recoverable against the security fund as provided herein.
- (b) Failure to compete work. In the event a registrant subject to such a construction bond fails to complete the work in accordance with the provisions of the permit and this ~~article~~ Article, there shall be recoverable, jointly and severally from the principal and surety of the bond, any damages or loss suffered by the Town as a result, including the full amount of any compensation, indemnification or cost of removal or abandonment of any property of the registrant, or the cost of completing the work, plus a reasonable allowance for attorney's fees, up to the full amount of the bond.
- (c) Release. No less than 12 months after completion of the construction and satisfaction of all obligations in accordance with the bond, the registrant may request the Town to remove the requirement to continue the construction bond, and the Town shall release the bond within 30 days of the date of final approval of said request. Notwithstanding, the Town may require a new bond for any subsequent work performed in the public rights-of-way.
- (d) Bond Rating. The construction bond shall be issued by a surety having a minimum rating of A-1 in Best's Key Rating Guide, Property/Casualty Edition; shall be subject to the approval of the Town Attorney; and shall provide that:
"Unless released by the Town, this bond may not be canceled, or allowed to lapse, until 60 days after receipt by the Town, by certified mail, return receipt requested, of a written notice from the issuer of the bond of intent to cancel or not to renew."
- (e) Rights reserved. The rights reserved by the Town with respect to any construction bond established pursuant to this section are in addition to all other rights and remedies the Town may have under this section, or at law or in equity, and no action, proceeding or exercise of a right with respect to the construction bond will affect any other right the Town may have.

~~35-38. - Security Fund.~~

~~At the time of registration and as a condition of receiving its first permit to place or to maintain a communications facility in public rights-of-way after the effective date of the ordinance from which this article is derived, the registrant shall be required to file with the Town a security fund~~

~~in the form of an annual bond or cash deposit in the sum of \$50,000.00. If the registrant files a bond, it shall have as a surety a company that is qualified to do business in the State of Florida, that has a minimum rating of AAA in Best's Key Rating Guide, Property/Casualty Edition and shall be subject to the approval of the Town Attorney. The security fund shall be conditioned on the full and faithful performance by the registrant of all requirements, duties and obligations imposed upon the registrant by the provisions of this article. The bond or other guarantee shall be furnished annually or as frequently as necessary to provide a continuing guarantee of the registrant's full and faithful performance at all times. In the event a registrant fails to perform its duties and obligations imposed upon the registrant by the provisions of this article, there shall be recoverable, jointly and severally from the principal and surety of the bond, any damages or loss suffered by the Town as a result, including the full amount of any compensation, indemnification or cost of removal or abandonment of any property of the registrant, plus a reasonable allowance for attorneys' fees, up to the full amount of the security fund.~~

DIVISION 4 Enforcement and Appeals

35-379. - Enforcement remedies of Permit Obligations; Suspension and Revocation of Permits.

- (a) Unless otherwise exempted from State Law, a violation of this article or any resolution adopted pursuant to this article may be enforced pursuant to Section 8-10 and by issuance of a uniform civil violation notice, citation, summons, or notice to appear in county court, or by filing an action in civil court for injunctive relief. ~~This article-~~ Article is supplemental and nothing contained herein shall prohibit the Town from enforcing this ~~article-~~ Article by any other lawful means.
- (b) Failure of the Town to enforce any requirements of this article shall not constitute a waiver of the Town's right to enforce the article with respect to that violation or subsequent violations of the same type or to seek appropriate enforcement remedies.
- (c) The Town Manager or his designee is authorized to give any notice required by law.
- (d) The Town Public Works Director may order the suspension of placement and maintenance work under a permit and ultimately may revoke any Permit, without refunding any fees, in the event of a substantial breach of the terms and conditions of any applicable statute, ordinance, rule or regulation or any condition of the permit. The types of substantial breach by Permittee may include, but are not limited to:
- (1) The violation of any material provision of the Permit;
 - (2) An evasion or attempt to evade any material provision of the Permit or the perpetration or attempt to perpetrate any fraud or deceit upon the Town or its citizens;
 - (3) Any material misrepresentation of fact in the process of Permittee's request for a Permit or Registration;
 - (4) The failure to maintain the required performance bond or insurance;
 - (5) The failure to properly restore the Town's Public Rights-of-way;
 - (6) The failure to correct within the specified time an order issued by the Town Engineer;
 - (7) The failure to Register, Re-Register, or provide notice of any transfer in accordance with this Article;
 - (8) The failure to relocate or remove Facilities pursuant to this Article and Sections 337.402, 337.403 and 337.404, Florida Statutes (2016) as same may be amended from time to time.
 - (9) The failure to report to the Town and Facility owner any damages caused to a facility during the execution of the work.

- (e) If the Town Public Works Director determines that the Permittee has committed a substantial breach of a term or condition of the Permit, the Town Public Works Director shall make a written demand upon the Permittee to remedy such violation. The demand shall state that the continued violation(s) may be cause for revocation of the Permit. Further, a substantial breach as stated above will allow the Town Public Works Director, at his or her discretion, to place additional or revised conditions on the Permit.
- (f) Within thirty (30) calendar days of receiving notification of the breach, the Permittee shall contact the Town Public Works Director with a plan, acceptable to the Town Public Works Director, for its correction. The Town shall provide additional time as reasonably necessary for a Permittee to establish a plan acceptable to the Town Public Works Director taking into account the nature and scope of the alleged breach. The Permittee's failure to so contact the Town Public Works Director, or the Permittee's failure to submit an acceptable plan, or the Permittee's failure to reasonably implement the approved plan, shall be cause for revocation of the Permit. Further, the Permittee's failure to contact the Town Public Works Director, or the Permittee's failure to submit an acceptable plan, or Permittee's failure to implement the approved plan, shall be cause for the Permittee to be placed on probation for one full year.
- (g) The Town Public Works Director may establish a list of conditions for any Permit which, if breached, will be cause for the Permittee to be placed on probation for one full year, such as, but not limited to, working out of the allotted time period or working on a Town Public Right-of-way significantly outside the scope of the Permit. These conditions shall be stated on the Permit.
- (h) If a Permittee, while on probation, commits a breach as outlined above, the Permittee's Permit may be revoked, and the Permittee may not be allowed to obtain further Permits for one full year, except for emergency repairs and service requirements as mandated by State or federal regulations.
- (i) If a Permit is revoked, the Permittee shall reimburse the Town for the Town's reasonable costs, including restoration costs and the cost of collection and reasonable attorneys' fees incurred in connection with such revocation.
- (j) The Town Public Works Director may cause an immediate stop work order where the Permittee's construction poses a serious threat to the health, safety or welfare of the public until such time as such serious threat has been abated.

35-38 - Appeals.

- (a) Final written decisions of the Town Manager or designee suspending or denying a permit, denying an application for a registration or denying an application for renewal of a registration are subject to appeal. An appeal must be filed with the Town Manager within 30 days of the date of the final written decision to be appealed. Any appeal not timely filed as set forth in this section shall be waived. The Town Council shall hear consider the appeal. The hearing shall occur within 30 days of the receipt of the appeal, unless waived by the registrant or user, and a written decision shall be rendered within 30 days of the hearing.
- (b) The Town Council shall conduct a de novo hearing on the record and shall determine if:
 - (1) There was a departure from the essential requirements of the law in the proceedings appealed; or
 - (2) Competent, substantial evidence does not exist to support the decision.
- (c) If the Town Council determines that there was not a departure from the essential requirements of the law or that competent substantial evidence exists to support the decision of the Town

Manager, then the decision of the Town Manager shall be upheld, otherwise it shall be overturned.

- (d) Appeal from a final decision by the Town Council shall be to the Circuit Court by filing a petition for writ of certiorari within thirty (30) days of the decision, pursuant to court rules. Any such appeal is voluntary, and in the absence of taking such appeal, the decision of the Town Council shall be deemed to be final. If an appeal is taken, however, the decision of the Town Council is no longer deemed to be final but instead is tolled pending the appeal
- (e) Nothing in this section shall affect or limit the remedies the Town has available under applicable law.

35-3940. - Reports and records.

- (a) A registrant shall provide the following documents to the Town as received or filed:
- (1) Any pleadings, petitions, notices and documents which may directly impact the obligations under this article and which are reasonably necessary for the Town to protect its interests under this article; and
 - (2) Any request for protection under bankruptcy laws, or any judgment related to a declaration of bankruptcy.
- (b) Nothing in this subsection shall affect the remedies a registrant has available under applicable law.
- (c) The Town shall keep any documentation, books and records of the registrant confidential to the extent required by Florida Statutes.

DIVISION 5 Abandonment of a Facility and Reservation of Rights

35-404. - Abandonment of a Facility ~~communications or other facility~~.

- (a) Upon determination by a registrant that one or more of its Facilities in a Town Public Right-of-way is to be abandoned, the Registrant shall notify the Town no later than 90 days from such determination, or no later than 30 days following such abandonment, whichever is sooner. ~~Upon abandonment of a communications facility owned by a registrant in the public rights-of-way, the registrant shall notify the Town of such abandonment within 90 days.~~
- (b) The Town may direct the registrant by written notice to remove all or any portion of such abandoned ~~communications facility~~ Facility at the registrant's sole expense if the Town determines that the abandoned ~~communications facility's~~ Facility's presence interferes with the public health, safety or welfare, which shall include, but shall not be limited to, a determination that such ~~communications facility~~ Facility:
- (1) Compromises safety at any time for any public rights-of-way user or during construction or maintenance in public rights-of-way;
 - (2) Prevents another person from locating ~~facilities~~ Facilities in the area of public rights-of-way where the abandoned ~~communications facility~~ Facility is located when other alternative locations are not reasonably available; or
 - (3) Creates a maintenance condition that is disruptive to the use of any public rights-of-way.
- In the event of Subsection (b)(2) of this section, the Town may require the third person to coordinate with the registrant that owns the existing ~~communications facility~~ Facility for joint removal and placement, where agreed to by the registrant.
- (c) In the event that the Town does not direct the removal of the abandoned ~~communications facility~~ Facility, the registrant, by its notice of abandonment to the Town, shall be deemed to

consent to the alteration or removal of all or any portion of the ~~communications facility~~ Facility by the Town or another person at such third party's cost.

- (d) If the registrant fails to remove all or any portion of an abandoned ~~communications facility~~ Facility as directed by the Town within a reasonable time period as may be required by the Town under the circumstances, the Town may perform such removal and charge the cost of the removal against the registrant.
- (e) In the event the Abandoned Facility is subject to a pole attachment agreement, then the obligation to remove the Abandoned Facility shall be in compliance with the federal Pole Attachment Act (47 USC Section 224), as same may be amended from time to time.

~~35-42. Force majeure.~~

~~In the event a registrant's performance of or compliance with any of the provisions of this article is prevented by a cause or event not within the registrant's control, such inability to perform or comply shall be deemed excused and no penalties or sanctions shall be imposed as a result; provided, however, that such owner uses all practicable means to expeditiously cure or correct any such inability to comply. For purposes of this article, causes or events not within a registrant's control shall include, without limitation, acts of God, floods, earthquakes, landslides, hurricanes, fires and other natural disasters, acts of public enemies, riots or civil disturbances, sabotage, strikes and restraints imposed by order of a governmental agency or court. Causes or events within a registrant's control, and thus not falling within this section, shall include, without limitation, registrant's financial inability to perform or comply, economic hardship, and misfeasance, malfeasance or nonfeasance by any of a registrant's directors, officers, employees, contractors or agents.~~

~~35-4143. -~~ Reservation of rights.

- (a) The Town reserves the right to amend this article as it shall find necessary in the lawful exercise of its police powers.
- (b) This article shall be applicable to all ~~communications facilities~~ Facility placed in the public rights-of-way on or after the effective date of the ordinance from which this article is derived and shall apply to all existing ~~communications facilities~~ Facilities placed in the public rights-of-way prior to the effective date of the ordinance from which this article is derived, to the full extent permitted by State and Federal law.

Sec. 35-42. No liability or warranty.

Nothing contained in this Article shall be construed to make or hold the Town responsible or liable for any damage to persons or any property whatsoever, from any cause whatsoever, arising from the use, operation or condition of the Registrant's Facilities by reason of any inspection or re-inspection authorized herein or failure to inspect or re-inspect. Nor shall the issuance of any Permit or the approval or disapproval of any Placement or Maintenance of the Registrant's Facilities as authorized herein constitute any representation, guarantee or warranty of any kind by, or create any liability upon the Town or any official, agent or employee thereof. Additionally, the Town shall not be responsible for any relocation costs incurred by any Registrant due to the Town's or any other Person's work in the Town's Public Rights-of-way.

ARTICLE III. COMMUNICATION FACILITIES IN PUBLIC RIGHTS-OF-WAY

DIVISION 1. Generally.

Sec. 35-43 Intent and Purpose.

It is the intent of the Town of Miami Lakes to promote the public health, safety and general welfare by: providing regulations governing the placement or maintenance of Communication Facilities in the Town's Public Rights-of-way; adopting and administering reasonable rules and regulations not inconsistent with State and Federal law, and Orders issued by the FCC, as each may be amended from time to time; establishing reasonable rules and regulations necessary to manage the placement or maintenance of Communication Facilities in the Town's Public Rights-of-way by all Communications Service Providers; minimizing disruption to the Town's Public Rights-of-way; promoting and encouraging Colocation of Telecommunication Facilities on existing, modified or replacement structures within the Town's Public Rights-of-way as a primary option generally preferred over the construction of new Communication Facilities that will either eliminate or reduce the need for the erection of new Communication Facilities; avoiding potential damage to the Town's Public Rights-of-way caused by Communication Facilities by ensuring that such Communication Facilities are soundly and carefully designed, constructed, modified and maintained; establishing reasonable rules and regulations necessary to manage the placement or maintenance of Communications Facilities in the Town's Public Rights-of-way by Communication Service Providers, Communications Facilities Providers, or Pass-Through Providers; and minimizing disruption to the Town's Public Rights-of-way. In regulating its Public Rights-of-way, the Town shall be governed by and shall comply with all applicable Federal and State Laws.

Persons seeking to place or maintain Communication Facilities in the Town's Public Rights-of-way shall comply with the provisions of this Article. Persons seeking to place or maintain Communication Facilities on private real- property or other real- property to which the Town, Miami-Dade County, the School District of Miami-Dade County, the South Florida Water Management District, the State of Florida or the Federal Government own a fee simple or leasehold interest in real property, located within the municipal boundaries of the Town shall comply with the provisions of the Chapter 13, Land Development Code (LDC), to the extent it applies.

35-44. - Definitions.

For purposes of this article the following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words not otherwise defined in this section or in any permit that may be granted pursuant to this article shall be given the meaning set forth in the Communications Act of 1934, 47 USC 151 et seq., as amended, and any Orders issued by the FCC (collectively the "Communications Act"), and if not defined in the Communications Act, as defined by Florida Statutes, specifically definitions as found in section 337 of Florida Statutes; and, if not defined by Florida Statutes, shall be construed to mean the common and ordinary meaning or other applicable local, State , or Federal Law.

Abandonment, or Abandoned means 90 or more consecutive days with the absence of any active Communication Service Provider on a Communications Facility. An Abandoned Communication Facility shall be removed or cured as required by this Article. This term shall not

include cessation of all use of a Communication Facility within a physical structure where the physical structure continues to be used for some purpose or use accessory to the Communications Facility. If the Communication Facility is attached to an Existing Structure that has an independent function, such as a light pole, intersection signal, pedestrian signal, utility pole or the like, said Abandonment of the Communication Facility requires removal of the Communication Facility only and does not require the removal of the Existing Structure. The term shall also exclude the temporary cessation of the provision of Communication Services where the Provider intends to re-establish the provision of Communication Services in the future. For example, cable drops to homes that are deactivated based on competitive alternatives, but are maintained for when the customer re-activates service shall not be Abandonment of a Communication Facility. The temporary cessation with intent to re-activate must be documented to the satisfaction of the Town Public Works Director. Any Communication Facility that is not registered by a Communication Facility Provider, shall be considered Abandoned. This definition does not apply to application(s) for Communication Facilities which have not yet been installed, erected, or operationalized, as defined and controlled by Florida Statutes.

Applicable Codes means uniform building, filer electrical, plumbing, or mechanical codes adopted a recognized national code organization or local amendments to those codes enacted solely to address threats of destruction of property or injury to persons, or local codes ordinances adopted to implement this Article. The term includes objective design standards provided in this Article that may require a new utility pole that replaces an existing utility pole to be of substantially similar design, material, and color or that may require reasonable spacing requirements concerning the location of ground mounted equipment. The term includes objective design standards provided in this Article that may require a s small wireless facility to meet reasonable location context, color, stealth, and concealment requirements; however, such design standards may be waived upon a showing that the design standards are not reasonably combative for the particular location of the small wireless facility or that the design standards impose and excessive expense. The waiver shall be granted or denied within 45 days after the date of the request.

Communications Facility Pole means a pole-like structure either designed primarily as a Communications Facility or used as a Communications Facility. A Utility Pole is not a Communications Facility Pole for purposes of the Article. This term does not include infrastructure owned by an Electric Utility that is not use for Communication Services.

Communications Facility or Communications System means any permanent or temporary plant, equipment and property, including, but not limited to, cables, wires, conduits, ducts, fiber optics, poles, Antennas, wireless facilities, converters, splice boxes, cabinets, hand holes, manholes, vaults, drains, surface location markers, appurtenances and other equipment or pathway placed or maintained or to be placed or maintained in the public rights-of-way of the Town and used or capable of being used to transmit, convey, route, receive, distribute, provide or offer Communication Services. Pursuant to F.S. § 337.401, Communication Facility for purposes of this article shall not include communications facilities owned, operated or used by electric utilities or regional transmission organizations exclusively for internal communications purposes.

Communications Services means the transmission, conveyance or routing of voice, data, audio, video or any other information or signals, including Video Services, to a point, or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave, or other medium or method now in existence of hereafter devised, regardless of the protocol used for such transmission or conveyances in accordance with Section 202.11, Florida Statutes as same may be amended from time to time. The term includes such transmission, conveyance, or routing in which

computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether such service is referred to a voice-over-internet-protocol services or is classified by the Federal Communications Commission as enhanced or value-added to a point, or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave or other medium or method now in existence or hereafter devised, regardless of the protocol used for such transmission or conveyance. For the purpose of this article, cable service, as defined in F.S. § 202.11(2), is not included in this definition and cable service providers or providers of service via an open video system may be subject to other ordinances of the Town and shall require separate authorization from the Town.

Communications Services Tax means the local communications services tax authorized to be levied and collected by counties and municipalities upon chargers for Communications Services, pursuant to Section 202.20, Florida Statutes as same may be amended from time to time.

Electric Utility means any municipal electric utility, investor-owned electric utility, or rural electric cooperative which owns, maintains, or operates an electric generation, transmission, or distribution system as defined in F.S. 366.02, as amended.

Emergency means situations of a serious nature, developing suddenly and unexpectedly, and demanding immediate action that will affect public safety, disruption of utility service, or damage to the Rights-of-Way, and conditions that affects the public's health, safety or welfare.

Facility or Facilities means any tangible thing located in any Public Rights-of-way used to deliver Communications Services

FCC means the Federal Communications Commission.

Florida Building Code means the Florida Building Code promulgated under Chapter 553, Florida Statutes and includes the Miami-Dade County Amendments thereto as both may be amended from time to time.

In Public Rights-of-Way or In the Public Rights-of-Way means over, above, in, on or under the Public Rights-of-way within the Town over which the Town has jurisdiction, control and authority to regulate. The term also includes those Rights-of-way over which the County or State has jurisdiction and authority under the Florida Transportation Code, Chapter 334, Florida Statutes, as same may be amended from time to time, but where the County or State or both have delegated to the Town the authority to regulate the registration, permitting, placement, installation and maintenance of Communications Facilities in accordance with Chapter 35 of the Town Code of Ordinances.

LDC means the, Chapter 13 of the Town of Miami Lakes Code of Ordinances, titled "Land Development Code.

Order, as used in the definition of "Wireless Service Provider," shall mean as amended from time to time Order's promulgated by the FCC.

Micro Wireless Facility is a small wireless facility having dimensions no larger than 24 inches in length, 15 inches in width, 12 inches in height, and an exterior antenna, if any, no longer than 11 inches.

Pass-Through Provider means any Person who places or maintains a Communications Facility in the Town's Public Rights-of-way that levies a tax pursuant to chapter 202 of Florida Statutes, as may be amended from time to time, and who does not remit taxes imposed by the Town pursuant to Chapter 202, Florida Statutes as same may be amended from time to time.

Permit means the Public Right-of-way permit that must be obtained before a Person may construct in the Public Right-of-way and shall include, but not be limited to Town Right-of-Way engineering and construction permits issued by the Town Public Works Director.

Person means any individual, firm, association, joint venture, partnership, estate, trust, business trust, syndicate, fiduciary, corporation, organization or legal entity of any kind, successor, assignee, transferee, personal representative and all other groups or combinations, but shall not include the Town to the extent permitted by applicable law.

Pole Attachment means any attachment of a Communications Facility by a provider of Communication Services to an existing structure within a Public Right-of-way.

Public Rights-of-Way means a public right-of-way, public utility easement, highway, street, bridge, tunnel, pier, waterway, dock, wharf, court, lane, path or alley or any other property for which the Town has jurisdiction and control and may lawfully grant access to such property pursuant to applicable law, and includes the surface, the air space over the surface and the area below the surface to the extent the Town holds a property interest therein. Public Rights-of-Way shall not include:

- (1) Private property;
- (2) Any real or personal Town property except as described above; or
- (3) Town buildings, fixtures, poles, conduits, facilities or other structures or improvements, regardless of whether they are situated in the Public Rights-of-Way.

Registrant or Facility Owner means a communications services provider or other person that has registered with the Town in accordance with the provisions of this article.

Registration and Register means the process described in this article whereby a Communication Services Provider, Communication Facility Provider, Pass-Through Provider provides certain information to the Town by which it is determined whether the Person will be authorized to obtain Permits to place or maintain Facilities within the Town's Public Rights-of-Way.

Small Wireless Facility means a Wireless Facility that meets the following qualifications:

- (1) Each Antenna associated with the facility is located inside an enclosure of no more than 6 cubic feet in volume, or in the case of Antennas that have exposed elements, each antenna and all of its exposed elements could fit within an enclosure of no more than 6 cubic feet in volume; and
- (2) All other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cutoff switches, vertical cable runs for the connection of power and other services, and utility poles or support structures.

Stealth Design means a method of camouflaging any tower, antenna or other Communications Facility, including, but not limited to, supporting electrical or mechanical equipment, which is designed to enhance compatibility with adjacent land uses and be as visually unobtrusive as possible. Stealth Design may include a Repurposed Structure or a Wrap.

Town means the Town of Miami Lakes, Florida, an incorporated municipality of the State of Florida, in its present form or in any later reorganized, consolidated or enlarged form.

Utility Pole means a pole or similar structure that is used in whole or in part to provide for Communication Facility, electric distribution, lighting, traffic control, signage, or a similar function. The term includes the vertical support structure for traffic lights but does not include a horizontal structure to which signal lights or other traffic control devices are attached and does not

include a pole or similar structure 15 feet in height or less unless the authority grants a waiver for such pole.

Wireless Facility means equipment at a fixed location which enable wireless communications between user equipment and a communications network, including radio transceivers, antennas, wires, coaxial or fiber-optic cable or other cables, regular and backup power supplies, and comparable equipment, regardless of technological configuration, and equipment associated with the wireless communication. The term includes small wireless facilities. The term does not include:

- (1) The structure or improvements on, under, within, or adjacent to the structure on which the equipment is collocated;
- (2) Wireline backhaul facilities; or
- (3) Coaxial or fiber-optic cable that is between wireless structure or utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

Wireless infrastructure provider means a person who has been certificated to provide telecommunications service in the state and who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures but is not a wireless services provider.

DIVISION 2. Registration.

35-45. - Registration for placing or maintaining Communications Facilities in Public Rights-of-Way.

- (a) *Registration.* A Communications Service Provider, Communication Facility Provider, or Pass-Through Provider that desires to place or maintain a Communications Facility in public rights-of-way in the Town shall first register with the Town in accordance with this Division. Subject to the terms and conditions prescribed in this Division, a registrant may place or maintain a Communications Facility in public Rights-of-Way. A Communications Services Provider, Communication Facility Provider, or Pass-Through Provider with an existing Facility in the public rights-of-way of the Town as of the effective date of the ordinance from which this Division is derived has 120 days from the effective date of the ordinance from which this Division is derived to comply with the terms of this Division, including, but not limited to, registration, or shall be in violation thereof.
- (b) *No property right arises from Registration.* A registration shall not convey any title, equitable or legal, in the public rights-of-way. Registration under this article governs only the placement or maintenance of Communication Facilities in Public Rights-of-Way. Registration does not excuse a Communications Services Provider, Communication Facility Provider, or Pass-Through Provider from obtaining appropriate access or pole attachment agreements before locating its Facilities on the Town's or another person's Facilities. Registration does not excuse a Communications Services Provider, Communication Facility Provider, or Pass-Through Provider from complying with all applicable law, including Town ordinances, codes or regulations, including this article, Federal or State laws, Regulations or Orders.
- (c) *Registration is non-exclusive.* Registration does not in and of itself establish a right to place or maintain, or establish priority for the Placement or Maintenance of a Communications Facility in the Town's Public Rights-of-way, but shall establish for the Registrant a right to apply for a Permit, if permitting is required by the Town. Registrations are expressly subject

to any further amendment to or replacement of this Article and further subject to any additional Town ordinances or regulations, as well as any State or federal laws that may be enacted.

(de) *Content of Registration.* Each Communications Services Provider, Communication Facility Provider, or Pass-Through Provider that desires to place or maintain a Communications Facility in Public Rights-of-Way in the Town shall, annually, file an original registration along with two complete copies with the Town that shall include the following information:

(1) Name of the applicant;

(2) Name, address, telephone number, e-mail address and mobile phone number of the applicant's primary contact person in connection with the registration. Additionally, the applicant shall provide emergency contact information. The primary contact person shall be able to provide information regarding the registrant's Communications Facilities in the public rights-of-way, and shall be able to accept and coordinate any damage claims. The registrant shall also provide a secondary contact person enabling the Town to contact appropriate registrant's personnel in emergency situations, including, but not limited to, when registrant's construction or equipment has caused damage to other property. The registrant shall also provide the Town with a current telephone number for the secondary contact person which shall be available and monitored 24 hours per day, every day, by the registrant, to be utilized by the Town in case of an emergency. Such information shall be updated as necessary by the registrant to provide the Town with current and accurate information;

(3) Evidence of the insurance coverage required under this article and acknowledgment that the registrant has received and reviewed a copy of this article;

(4) A copy of Federal or State certification authorizing the applicant to provide Communications Services, if any;

(5) If the applicant is a corporation and does not submit a State certification pursuant to Subsection (c)(4) of this section, proof of authority to do business in the State of Florida.

(e) *Review and reporting.* The Town Manager or designee shall review the information submitted by the Applicant. If the Applicant submits information in accordance with Subsection (d) of this section, the Registration shall be effective, and the Town shall notify the applicant of the effectiveness of Registration by electronic mail. The Applicant may not apply for a permit to place or maintain Communication Facilities in the Public Rights-of-Way under this Article unless and until it has been notified that its application is complete and effective. If the Town determines that the information has not been submitted in accordance with Subsection (c) of this section, the Town shall notify the applicant by electronic mail of the non-effectiveness of registration and reasons for the non-effectiveness. The Town shall so notify an Applicant within 30 days after receipt of registration information from the Applicant.

(f) *Cancellation.* A registrant may cancel a registration upon written notice to the Town that the registrant will no longer place or maintain any Communications Facilities in public rights-of-way and will no longer need to obtain permits to perform work in the public rights-of-way. A registrant cannot cancel a registration if the registrant continues to place or maintain a Communication Facility in public rights-of-way.

(g) *Annual Renewal.* A Registrant shall update its registration with the Town by April 1 of each year in accordance with the registration requirements in this Article and shall include Annual payment at the time of registration. Within 30 days of any change in the information required to be submitted pursuant to Subsection of this section, a Registrant shall provide updated

information to the Town. If no information in the then-existing registration has changed, the renewal may state that no information has changed. Failure to renew a registration may, at the Town's discretion, result in the Town restricting the issuance of additional permits until the Registrant has complied with the registration requirements of this Article. Failure to renew registration shall mean all facilities identified in prior registrations and all facilities not registered, shall be subject to subject to the procedures set forth in Section 35-49.

- (h) *Failure to Register:* A Registrant shall bear the responsibility to maintain his registration updated with the Town at all times. A Registrant's failure to Register, or renew Registration may result in the suspension of any open Permits and Civil Penalties subject to the procedures set forth in Section 35-49.

Sec. 35-46. Insurance.

- (a) *General.* A Registrant shall provide, pay for and maintain satisfactory to the Town the types of insurance described herein. All insurance shall be from responsible companies duly authorized to do business in the State of Florida and having an A.M. Best A-VII or better rating. All liability policies shall provide that the Town is an additional insured as to the activities under this Article. The required coverages must be evidenced by properly executed certificates of insurance forms. The certificates must be signed by the authorized representative of the insurance company and shall be filed and maintained with the Town annually. Thirty (30) days advance written notice by registered, certified or regular mail or facsimile as determined by the Town must be given to the Town's Risk Manager of any cancellation, intent not to renew or reduction in the policy coverages. The insurance requirements may be satisfied by evidence of self-insurance or other types of insurance acceptable to the Town.
- (b) *Insurance Coverage and Limits of Insurance Coverage.* The insurance coverage and limits of coverage of insurance required shall be not less than the following:
- (1) *Worker's compensation and employer's liability insurance.* Requirements as spelled out in Florida Chapter 440.
 - (2) *Comprehensive general liability.* Commercial general liability occurrence form, including premises/operations, independent contractor's contractual liability, product/completed operations; X, C, U coverage; and personal injury coverage for limits of no less than one million dollars (\$1,000,000) per occurrence, combined single limit and two million dollars (\$2,000,000) in the aggregate.
 - (3) *Commercial Automobile liability.* Commercial automobile liability coverage for all owned, non-owned and hired vehicles involved in operations under this Article XII for limits of no less than one million dollars (\$1,000,000) per occurrence combined single limit each accident.
 - (4) *Commercial excess or umbrella liability.* Commercial excess or umbrella liability coverage may be used in combination with primary coverage to achieve the required limits of liability.
- (c) *Proof of Insurance.* Upon the effective date of the Registration, the Registrant shall submit to the Town proof that it has obtained the insurance required under this Article, including a certificate of insurance signed by the insurance agent.
- (d) *Duration.* The coverage provided herein shall be for a period not less than the period for which the indemnification obligations under this Article hereof are imposed.

- (e) Abandonment. Failure to maintain required insurance coverage shall be deemed an deemed a violation of this Article and be subject to Code Enforcement proceedings including any applicable fines or liens as permitted therein.. Enforcement of all of the Communications Facilities of the Registrant is subject to the procedures set forth in Section 35-49.

35-47. Indemnification.

- (a) Liability. By reason of the acceptance of a Registration under this Article or the grant of a Permit under this Article, the Town does not assume any liability:

(1) For injuries to persons, damage to property, or loss of service claims by parties other than the Registrant or the Town;

(2) For claims or penalties of any sort resulting from the installation, presence, maintenance, or operation of Facilities by Registrants or activities of Registrants.

- (b) Hold harmless. By registering with the Town, a Registrant agrees, or by applying for and accepting a Permit under this Article, a Permittee is required, to defend, indemnify, and hold the Town whole and harmless from all costs, liabilities, and claims for damages of any kind arising out of the construction, presence, installation, maintenance, repair or operation of its Communications Facilities, whether any act or omission complained of is authorized, allowed, or prohibited by a Permit, inspection of plans or work by the Town. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the Registrant or to the Town; and the Registrant, in defending any action on behalf of the Town, shall be entitled to assert in any action every defense or immunity that the Town could assert in its own behalf. The provisions of this Section include, but are not limited to, the Town's reasonable attorneys' fees incurred in defending against any such claim, suit or proceeding(s).

- (c) Notification of issues. The Town agrees to notify the Registrant, in writing, within a reasonable time of the Town receiving notice, of any issue it determines may require indemnification.

- (d) Limitations. This indemnification obligation is not limited in any way by a limitation of the amount or type of damages or compensation payable by or for the registrant under workers' compensation, disability or other employee benefit acts, or the acceptance of insurance certificates required under this article, or the terms, applicability or limitations of any insurance held by the Registrant.

- (e) Investigation by registrant. The Registrant shall investigate, handle, respond to, provide defense for, and defend any such claims at its sole expense and shall bear all other costs and expenses related thereto even if the claim is groundless, false or fraudulent and if called upon by the Town, the Registrant shall assume and defend not only itself but also the Town in connection with any such claims and any such defenses shall be at no cost or expense whatsoever to the Town, provided, however, that a registrant's obligation hereunder shall not extend to any damages caused solely by the negligence, gross negligence or wanton or willful acts of the Town, its employees, agents, contractors, subcontractors or invitees. The Town (exercisable by the Town Attorney), shall retain the right to select counsel of its own choosing.

- (f) Waiver rights. The Town does not and shall not waive any rights against the Registrant which it may have by reason of this indemnification, or because of the acceptance by, or the Registrant's deposit with the Town of any of the insurance policies required by this Article for Registration.

- (g) Damages. This indemnification by the Registrant shall apply to all damages and claims for damages of any kind suffered, excepting any damages caused by the negligence, gross negligence or intentional acts of the Town, its employees, agents or contractors regardless of

whether such insurance policies shall have been determined to be applicable to any such damages or claims for damages.

(h) *Defense and immunity.* Nothing contained in this Section shall be construed or interpreted:

(1) as denying to either party any remedy or defense available to such party under the laws of the State of Florida; or

(2) as a waiver of sovereign immunity beyond the waiver provided in Section 768.28, Florida Statutes as same may be amended from time to time.

(i) *Term.* The indemnification requirements under this Section and this Article shall survive and be in full force and effect for a period of five (5) years after the termination or cancellation of a Registration, or until all of the equipment is removed from the Town's Rights-of-Way.

35-48. - *Force majeure.* In the event a Registrant's performance of or compliance with any of the provisions of this article is prevented by a cause or event not within the Registrant's control, such inability to perform or comply shall be deemed excused and no penalties or sanctions shall be imposed as a result; provided, however, that such owner uses all practicable means to expeditiously cure or correct any such inability to comply. For purposes of this article, causes or events not within a registrant's control shall include, without limitation, acts of God, floods, earthquakes, landslides, hurricanes, fires and other natural disasters, acts of public enemies, riots or civil disturbances, sabotage, strikes and restraints imposed by order of a governmental agency or court. Causes or events within a registrant's control, and thus not falling within this section, shall include, without limitation, registrant's financial inability to perform or comply, economic hardship, and misfeasance, malfeasance or nonfeasance by any of a registrant's directors, officers, employees, contractors or agents.

35-49. - Termination of registration.

(a) *Involuntary Termination.* The involuntary termination of a previously effective registration may only be accomplished by an action of the Town Manager and such action may be appealed to the Town Council. The Town may declare the registration terminated and revoke and cancel all privileges granted under that registration if:

(1) A Federal or Florida authority suspends, denies or revokes a registrant's certification or license to provide Communications Service;

(2) The Registrant's placement and maintenance of the Public Rights-of-Way or other roads or property within the Town presents an extraordinary danger to the general public or other users of the public rights-of-way; or

(3) The registrant voluntarily abandons all of its Communications Facilities in Public Rights-of-Way.

(4) The registrant fails to update their information with the Town as set forth in this Ordinance.

(b) *Notification.* Prior to such termination for any of the reasons set forth in this section, the Town Manager or his designee shall notify the registrant in writing, setting forth the matters pertinent to such reasons and describing the proposed action of the Town with respect thereto. The registrant shall have 60 days after receipt of such notice within which to cure the violation.

(c) In the event of a vote by the Town Council to terminate the registration, the registrant shall, within 30 days following such termination, provide an acceptable plan for transferring ownership of the Communications Facilities to another person in accordance with this Article or shall remove or Abandon the Communications Facilities and take such steps as are necessary to render every portion of the Communications Facilities remaining in the public rights-of-way

safe. If the registrant has either Abandoned its Communications Facilities or chooses to Abandon its Communications Facilities, the Town may:

- (1) Require the registrant or the registrant's bonding company to remove some or all of the Communications Facilities from the public rights-of-way and restore the public rights-of-way to its condition immediately prior to the removal;
 - (2) Require that some or all of the Communications Facilities be removed, and the public rights-of-way restored to their original condition at the registrant's expense, using Town employees, agents or contractors, and charge any and all costs to the registrant and require reimbursement; or
 - (3) Utilize or allow other persons to utilize the registrant's Abandoned Communications Facilities.
- (d) *Survival of obligations.* The obligations of the registrant hereunder shall survive the termination of a registration. In the event of a declaration of termination of registration, this provision does not permit the Town to cause the removal of any Communications Facilities that are used to provide another service for which the registrant holds a valid certification or license with the governing Federal or State agency, where required, and is properly registered with the Town, for such certificated service, where required.

35-50. - Transfer of control, sale, or assignment of assets.

- (a) *Transfer of control, sale, or assignment of assets.* If a Registrant transfers, sells or assigns its Registration or its Communications Facilities in the Public Rights-of-Way, incident to a transfer, sale or assignment of the registrant's assets, the transferee, buyer or assignee shall be obligated to comply with the terms of this article. Written notice of any such transfer, sale or assignment shall be provided to the Town within 20 days of the effective closing date of the transfer, sale or assignment. If the transferee, buyer or assignee is a current registrant, then the transferee, buyer or assignee is not required to re-register. If the transferee, buyer or assignee is not a current registrant, then the transferee, buyer or assignee shall register as provided herein within 60 days of the transfer, sale or assignment. If permit applications are pending in the registrant's name, the transferee, buyer or assignee shall notify the Town that the transferee, buyer or assignee is the new applicant.
- (b) *Subordination.* Any mortgage, pledge, lease or other encumbrance on the Communications Facilities shall be subject and subordinate to the rights of the Town under this article and Applicable Law.

35-51. - Security Fund. At the time of registration and as a condition of receiving its first permit to place or to maintain a Communications Facility in public rights-of-way after the effective date of the ordinance from which this Article is derived, the registrant shall be required to file with the Town a security fund in the form of an annual bond or cash deposit in the sum of \$50,000.00, or a corporate guarantee for substantially the same amount and in a form that is legally acceptable to the Town. If the registrant files a bond, it shall have as a surety a company that is qualified to do business in the State of Florida, that has a minimum rating of AAA in Best's Key Rating Guide, Property/Casualty Edition and shall be subject to the approval of the Town Attorney, or Letter of Credit. The security fund shall be conditioned on the full and faithful performance by the registrant of all requirements, duties and obligations imposed upon the registrant by the provisions of this Article. The bond or other guarantee shall be furnished annually or as frequently as necessary to provide a continuing guarantee of the registrant's full and faithful performance at all times. In the

event a registrant fails to perform its duties and obligations imposed upon the registrant by the provisions of this Article, there shall be recoverable, jointly and severally from the principal and surety of the bond, any damages or loss suffered by the Town as a result, including the full amount of any compensation, indemnification or cost of removal or Abandonment of any property of the registrant, plus a reasonable allowance for attorneys' fees, up to the full amount of the security fund.

DIVISION 3. Permitting and Placement of Communication Facilities in the Public Rights-of-Way.

35-52. - Placement or maintenance of Communications Facilities, in public rights-of-way, in general, excluding Small Wireless Facilities.

(a) *Compliance.* Registrants and users and/or occupants agree at all times to comply with and abide by all applicable provisions of Federal and State law and Town ordinances, codes and regulations in placing or maintaining communications facilities in public rights-of-way.

(b) *Permit Required.* A Registrant shall not commence to place or maintain a Communications Facility in a Town Public Right-of-way until all applicable Permits, if required, have been issued, except in the case of routine maintenance or an emergency as provided for in this Article. In such cases deemed an emergency situation by the Public Works Director, the Registrant shall apply for Permits within 15 days of the incident or repair, whichever comes sooner. Registrants and users and/or occupants shall provide prompt notice to the Town of the placement or maintenance of a facility in public rights-of-way in the event of an emergency. The Registrant acknowledges that as a condition of granting a permit(s), the Town may impose reasonable conditions governing the Placement or Maintenance of a Communications Facility in the Town's Public rights-of-way related to the public, health, safety and welfare as permitted and set forth in Section 337.401 of Florida Statutes as same may be amended from time to time; however, no such imposed conditions shall prohibit or otherwise adversely impact the provision of Communications Services. Permits shall apply only to the areas of the Town's Public Rights-of-way specifically identified in the Permit. The Town may issue a blanket permit to cover certain activities, such as routine maintenance and repair activities, that may otherwise require individual permits or may impose lesser requirements. This subsection does not authorize a person to collocate or attach wireless facilities, including any antenna, micro wireless facility, or small wireless facility, on a privately owned utility pole, a utility pole owned by an electric cooperative or a municipal electric utility, a privately owned wireless support structure, or other private property without the consent of the property owner.

(c) *Required information.* As part of any permit application to place a new or to replace an existing Communications Facility in public rights-of-way or other roads or property within the Town, the applicant shall provide information concerning the Communications Facility that sets forth the following, as required by the Town Manager:

(1) An engineering plan signed and sealed by a Florida Registered Professional Engineer, or prepared by a person who is exempt from such registration requirements as provided in Section 471.003 of Florida Statutes, identifying the location of the proposed facility, and including:

a. A description of any facility to be installed;

b. The facility's dimensions in feet;

c. Site plan indicating where the facility will be located with electronic geodata; and

- d. Ability to demonstrate compliance with the Florida Building Code, for wind load requirements; and
- e. For new Communication Facility Poles, Wireless Support Structures, or any excavation work, a geotechnical report for the existing soil conditions, or a soil statement by a Florida licensed professional engineer, attesting to the soil conditions.
- (2) Plans and information, as required by this Article, on the ability of the public rights-of-way to accommodate the proposed Communications Facility;
- (3) If appropriate, given the Communications Facility, an estimate of the cost of restoration to the public rights-of-way;
- (4) The timetable for construction of the project or each phase thereof, and the areas of the Town which will be affected;
- (5) A full color photo-simulation showing the proposed new Communication Facility Poles and Wireless Support Structures installed in accordance with the application from the point of view of properties Adjacent to the proposed site;
- (6) A description of the type of Communication Facility and the manner in which the Communication Facility will be installed and/or modified (i.e. anticipated construction methods or techniques) to include:
 - (a) A description of Stealth Design to be utilized. Additionally, each application for a Permit to place a Communications Facility Pole in the Town's Public Rights-of-way shall include photographs showing the location and condition of the Surrounding Neighborhood, and a description of the Stealth Design techniques proposed to minimize the visual impact of the Communications Facility Pole or Wireless Support Structure and graphic depictions accurately representing the visual impact of the Communications Facility Pole or Wireless Support Structure when viewed from the street and from Adjacent properties.
 - (b) Alternatively, a signed and sealed statement from a Florida state licensed professional engineer that Stealth Design cannot be utilized on any particular Communication Facility and providing documentation demonstrating to the satisfaction of the Town Public Works Director that the proposed Communications Facility cannot employ Stealth Design and the proposed exterior location and configuration of equipment proposed are the minimum equipment necessary to achieve the needed function.
- (7) A temporary sidewalk closure plan, if appropriate given the Communication Facility proposed, to accommodate Placement or Maintenance of the Communication Facility.
- (8) A temporary traffic lane closure and management of traffic (MOT) plan, if appropriate given the Communication Facility proposed, to accommodate installation and/or modification of the Communication Facility.
- (9) Restoration plan given the Communication Facility proposed, and an estimate of the cost of restoration of the Town's Public Rights-of-way in the event the Communication Facility is Abandoned
- (10) A proposed timetable for Placement or Maintenance of the proposed Communication Facility or each phase of the Placement or Maintenance thereof, and the intended areas of the Town to be served by the Communication Facility.
- (11) Registrants shall not place or maintain signage on Communication Facilities in Town Public Rights-of-way, unless otherwise required by federal or State law; however, that Existing Structures that lawfully supported signage before being Repurposed may continue

- to support signage as otherwise permitted by law or Town Code, as same may be amended from time to time.
- (12) Communications Facilities not requiring FAA painting or marking shall have an exterior hard durable finish which enhances compatibility with adjacent uses, as approved by the Town Public Works Director.
- (13) A Communication Facility shall not have any type of lighted signal, lights, or illuminations unless required by an applicable federal, State, or local rule, regulation, the FAA or law; provided, however, the Town may require the installation of an LED street light on a new Communications Facility Pole or Wireless Support Structure or an Existing Structure functioning as a light pole.
- (14) Such additional information or studies requested by the Town that the Town finds reasonably necessary to review the permit application to ensure continued level of service delivery of its Rights-of-Way.
- (d) Public accessibility, safety, and sufficiency of spacing. The Town shall have the power afforded by Florida Law to regulate Facilities to ensure that they meet Town requirements for public accessibility, safety and sufficiency of spacing, to ensure compliance with State of Florida and local laws and ordinances. In determining whether to permit and reasonably limit, or impose conditions or prohibit a Communications Facility to be placed or located within the Town's Public Rights-of-way, the Town Public Works Director shall consider the following standards and minimum requirements in his review and consideration of a Permit application and imposition of reasonable Permit conditions:
- (1) Sufficiency of space to accommodate present and pending applications for use of the Town's Public Rights-of-way. The sufficiency of space to accommodate all of the present and pending applications to place Communications Facilities and pending or planned applications to Place and Maintain Facilities in that area of the Town's Public Rights-of-way; and
- (2) Sufficiency of space to accommodate the Town's need for projected public improvements. The sufficiency of space to accommodate Town plans for public improvements or projects adopted as part of its community investment capital improvements plan that the Town determines in the best interest of the public; and
- (3) The impact on traffic and traffic safety; and
- (4) Impact on Existing Facilities. The impact upon existing Facilities in the Town's Public Rights-of-way; and
- (5) Distance separation from edge of pavement. No new Communication Facility shall be constructed, operated or maintained in the Town's Public Rights-of-way in violation of the State of Florida Department of Transportation Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways, (commonly known as the "Florida Green Book") and for the Minimum Width of Clear Zones. In accordance with the Florida Green Book, the Public Works Director shall have the authority to reduce the minimum offset where that offset cannot be reasonably obtained and other alternatives are deemed impractical; and
- (6) Distance separation from sidewalk. No newly installed Communication Facility shall be Placed or Maintained in the Town's Public Rights-of-way within one (1) foot of a sidewalk that is five (5) feet or less in width. Co-location on an Existing Structures is exempt from this requirement; and

- (7) Installation at outermost boundary of Town's Public Rights-of-way. Where a superior site design results from Placement of a Communication Facility at or near the outermost boundary of the Town's Public Right-of-way, the farthest distance practicable from the centerline thereof and edge of pavement is encouraged. To the extent that the location of the sidewalk within the Town's Public Right-of-way precludes achievement of a superior site design or otherwise precludes compliance with all other requirements of this Article, then the Town Public Works Director or Registrant may propose and the Registrant may include in the Permit application a proposed re-routing of the sidewalk at its own expense, in order to achieve such superior site design or otherwise meet other requirement of this Article.
- (e) Undergrounding of facility. A Registrant or other user shall endeavor, to the greatest extent possible, to place all Communications Facilities underground. The Town may require the use of trenchless technology (i.e., directional bore method) for the installation of Communications Facilities in the public rights-of-way as well as joint trenching or the collocation of Communications Facilities in existing conduit. The registrant or user shall be solely liable for the displacement, damage or destruction of any property, irrigation system or landscaping as a result of the placement or maintenance of its Communications Facility within the public rights-of-way. The appropriate Town official may issue such rules and regulations concerning the placement or maintenance of a Communication Facility in public rights-of-way as may be consistent with this article and other applicable Federal and State laws or regulations.
- (f) Notification of adjacent property owners. Prior to the commencement of any work by the applicant pertaining to the placement and maintenance of Communications within the public rights-of-way or other roads or property within the Town, the Town Manager or designee may require the applicant to issue notice of the work to property owners who adjoin such affected area (the "Notification Area"). The notification area may be expanded at the Town's discretion and notice shall be effected in a manner deemed appropriate by the Town Manager or designee.
- (g) Repair of damages. A person placing or maintaining Communication Facilities in the public rights-of-way or other roads or property within the Town shall, at its own expense, restore the public rights-of-way, or any other adjacent property that has been damaged by work on the project, to at least its original condition before such work was initiated, subject to the Town's satisfaction upon inspection. Restoration shall include, among other things, the removal of all markings placed by users on the right-of-way, unless they are required to remain pursuant to State law. A registrant or user shall warrant restoration of the public rights-of-way or other roads or property within the Town for a period of 12 months after completion of such restoration. If the registrant or user fails to make such restoration within 30 calendar days after completion of construction, or such other time as may be required by the Town, the Town may, after written notice to the registrant or user, perform such restoration using Town employees, agents or contractors, and charge all costs of the restoration against the registrant or user in accordance with Florida Law and require reimbursement within 30 days after the submission of the bill by the Town to the registrant or user.
- (h) Removal or relocation. Removal or relocation at the direction of the Town of a Person's Communication Facility in the public rights-of-way shall be governed by Florida Law
- (i) Property right not created. A permit from the Town constitutes authorization to undertake only certain activities in public rights-of-way in accordance with this Article, and does not create a property right or grant authority to impinge upon the rights of others who may have an interest in the public rights-of-way.

- (j) Underground safety act. In connection with excavation in the public rights-of-way, a registrant and user shall, where applicable, comply with the Underground Facility Damage Prevention and Safety Act set forth in Section 556 of Florida Statutes.
- (k) Maintenance. A registrant and user shall place or maintain a Communications Facility in public rights-of-way in compliance with all applicable standards as established by all local, State or Federal law and in conformance with Applicable Codes and the Town Code. A registrant and user shall use and exercise due caution, care and skill in performing work in the public rights-of-way and shall take all reasonable steps to safeguard work site areas.
- (l) Coordination or work. In the interest of the public's health, safety and welfare, upon request of the Town, a registrant or user shall coordinate placement or maintenance activities under a permit with any other work, construction, installation or repairs that may be occurring or scheduled to occur within a reasonable timeframe in the subject public rights-of-way or other roads or property within the Town. The Town may require a registrant or user to alter reasonably its placement or maintenance schedule for permitted work as necessary so as to minimize disruptions and disturbance in the public rights-of-way or other roads or property within the Town. The Town may provide a more definite time frame based on specific Town construction or maintenance schedules.
- (m) Existing facilities. A registrant or user shall not place or maintain its Communications Facilities so as to interfere, displace, damage or destroy any Communication Facilities, including, but not limited to, sewers, gas or water mains, storm drains, pipes, cables or conduits of the Town or any other person's facilities lawfully occupying the public rights-of-way or other roads or property within the Town. The Registrant or user shall report to the Town any damage to existing Facilities and notify the Facility owner.
- (n) Conditions of rights-of-way. The Town makes no warranties or representations regarding the fitness, suitability or availability of public rights-of-way for the facilities, and any performance of work or costs incurred by the registrant or user or provision of services shall be at registrant's or user's sole risk. Nothing in this article shall affect the Town's authority to add, vacate or abandon public rights-of-way and the Town makes no warranties or representations regarding the availability of any added, vacated or abandoned public rights-of-way for facilities.
- (o) Inspections. The Town shall have the right to make such visual inspections of Communications Facilities placed or maintained in public rights-of-way as it finds necessary to ensure compliance with this article. In the event the Town determines that a violation exists with respect to a registrant's or user's placement or maintenance of Communications Facilities in the public rights-of-way that is not considered to be an emergency or danger to the public health, safety or welfare, the Town will provide the registrant or user no less than three days' written notice setting forth the violation and requesting correction. During the inspection, Town staff, employees or contractors shall not attempt to open, tamper, manipulate any equipment attached. Nothing herein shall limit the authority of the Town Manager, building official or their designee from taking appropriate action to address an imminent and immediate health or safety hazard.
- (p) Emergency. In an emergency, as determined by the Town Manager, Building Official, Public Works Director, or their designee, where the installation, use or maintenance of any Communications Facility poses an imminent and immediate health or safety hazard to pedestrians or vehicles, the Town shall, where feasible, give telephonic notice to the owner of the Communications Facility of the nature of the emergency and afford the owner the opportunity to remove or otherwise relocate the Communication Facility. Where telephonic

notice is not feasible or where the owner fails to address the emergency hazard, the Town Manager, building official or their designee may summarily and temporarily remove or relocate such Communication Facility, but only to the extent necessary to avoid the health or safety hazard at issue. Immediately following removal or relocation of any Communication Facility under these emergency procedures, the Town shall provide the owner of the facility with written notice of the action by certified mail, return receipt requested. If the Town removes such facility, the owner of such Communication Facility shall have 30 days after receipt of such written notice by the Town to claim the Communication Facility, or the Town may dispose of such Communication Facility.

35-53. Review of Communication Facility Poles, Utility Poles, Small Wireless Facilities in the Rights-of-Way.

(a) Purpose and Scope.

1. The purpose of this section is to provide appropriate local regulations in the review, permitting, and issuance of wireless facilities pursuant to Section 337.401(7), Florida Statutes, entitled the “Advanced Wireless Infrastructure Deployment Act.” Notwithstanding any other provision to the contrary, the provisions identified herein and as referenced elsewhere in this Article, shall provide for the full scope of regulatory authority, as authorized by the Florida Statutes, in the regulation of, Small Wireless Facilities within the jurisdiction of the Town.
2. The approval of the installation, placement, maintenance, or operation of a wireless facility pursuant to this subsection does not authorize the provision of any voice, data, or video communications services or the installation, placement, maintenance, or operation of any communications facilities other than small wireless facilities in the right-of-way.
3. This subsection does not affect provisions relating to Pass-Through Providers in this Article and at Section 337.401(6) Florida Statutes.
4. This subsection does not authorize a person to collocate Small Wireless Facilities or Micro Wireless Facilities on an authority Utility Pole, place Small Wireless Facilities, or erect a wireless support structure in a location subject to covenants, conditions, restrictions, articles of incorporation, and bylaws of a homeowners’ association.
5. This subsection does not apply to the installation, placement, maintenance, or replacement or routine maintenance of Micro Wireless facilities or replacement of existing wireless facilities with wireless facilities that are substantially similar or of the same or smaller size.

(b) Electronic mail. All correspondence with the applicant, including but not limited to, plan review comments, requests for additional information, and permit/registration status, whether for submittal of registration or for building permit, shall be by electronic mail.

(c) Process, review and issuance of permits. The Town shall accept applications for permits and shall process and issue permits subject to the following requirements:

1. The Town may not directly or indirectly require an applicant to perform services unrelated to the collocation for which approval is sought, such as in-kind contributions to the authority, including reserving fiber, conduit, or pole space for the authority.
2. An applicant may not be required to provide more information to obtain a permit than is necessary to demonstrate the applicant’s compliance with applicable codes for the placement of Wireless Facilities in the locations identified the application.
3. The Town may not require the placement of wireless facilities on any specific utility pole or category of poles or require multiple antenna systems on a single utility pole.

4. The Town may not limit the placement of Wireless Facilities by minimum separation distances. However, within 14 days after the date of filing the application, an authority may request that the proposed location of a Wireless Facility be moved to another location in the right-of-way and placed on an alternative authority Utility Pole or support structure or may place a new Utility Pole. The authority and the applicant may negotiate the alternative location, including any objective design standards and reasonable spacing requirements for ground-based equipment, for 30 days after the date of the request. At the conclusion of the negotiation period, if the alternative location is accepted by the applicant, the applicant must notify the authority of such acceptance and the application shall be deemed granted for any new location for which there is agreement and all other locations in the application. If an agreement is not reached, the applicant must notify the authority of such nonagreement and the authority must grant or deny the original application within 90 days after the date the application was filed. A request for an alternative location, an acceptance of an alternative location, or a rejection of an alternative location must be in writing and provided by electronic mail.
5. The Town shall limit the height of a Wireless Facility to 10 feet above the utility pole or structure upon which the wireless facility is to be collocated. Unless waived by the Town, the height for a new utility pole is limited to the tallest existing utility pole as of July 1, 2017, located in the same right-of-way, other than a utility pole for which a waiver has previously been granted, measured from grade in place within 500 feet of the proposed location of the Wireless Facility. If there is no Utility Pole within 500 feet, the authority shall limit the height of the Utility Pole to 50 feet.
6. Except as provided in subparagraphs 4. and 5., the installation of a Utility Pole in the public rights-of-way designed to support a Wireless Facility shall be subject to the Town's rules or regulations governing the placement of utility poles in the public rights-of-way and shall be subject to the application review timeframes in this subsection.
7. Within 14 days after receiving an application, the Town must determine and notify the applicant by electronic mail as to whether the application is complete. If an application is deemed incomplete, the Town must specifically identify the missing information. An application is deemed complete if the authority fails to provide notification to the applicant within 14 days.
8. An application must be processed on a nondiscriminatory basis. A complete application is deemed approved if the Town fails to approve or deny the application within 60 days after receipt of the application. If the Town does not use the 30-day negotiation period provided in subparagraph 4., the parties may mutually agree to extend the 60-day application review period. The Town shall grant or deny the application at the end of the extended period. A permit issued pursuant to an approved application shall remain effective for one (1) year unless extended by the authority.
9. The Town must notify the applicant of approval or denial by electronic mail. The Town shall approve a complete application unless it does not meet the Town's Applicable Codes. If the application is denied, the Town shall specify in writing the basis for denial, including the specific code provisions on which the denial was based, and send the documentation to the applicant by electronic mail on the day the Town denies the application. The applicant may cure the deficiencies identified by the Town and resubmit the application within 30 days after notice of the denial is sent to the applicant. The Town shall approve or deny the

revised application within 30 days after receipt or the application is deemed approved. Any subsequent review shall be limited to the deficiencies cited in the denial.

10. An applicant seeking to collocate wireless facilities within the Town may, at the applicant's discretion, file a consolidated application and receive a single permit for the collocation of up to 30 Wireless Facilities. If the application includes multiple Wireless Facilities, the Town may separately address Wireless Facility collocations for which incomplete information has been received or which are denied.

11. The Town may deny a proposed collocation of a Wireless Facility in the public rights-of-way if the proposed collocation:

- a. Materially interferes with the safe operation of traffic control equipment.
- b. Materially interferes with sight lines or clear zones for transportation, pedestrians, or public safety purposes.
- c. Materially interferes with compliance with the Americans with Disabilities Act or similar federal or state standards regarding pedestrian access or movement.
- d. Materially fails to comply with the latest edition of the Florida Department of Transportation Utility Accommodation Manual.
- f. Fails to comply with applicable codes.

12. The Town may reserve space on Town utility poles for future public safety uses. However, a reservation of space may not preclude collocation of a Wireless Facility. If replacement of the Town utility pole is necessary to accommodate the collocation of the Wireless Facility and the future public safety use, the pole replacement is subject to make-ready provisions and the replaced pole shall accommodate the future public safety use.

13. A structure granted a permit and installed pursuant to this subsection shall comply with Chapter 333, Florida Statutes, and federal regulations pertaining to airport airspace protections.

(d) The Town shall not require approval or require fees or other charges for:

1. Routine maintenance;
2. Replacement of existing wireless facilities with Wireless Facilities that are substantially similar or of the same or smaller size; or
3. Installation, placement, maintenance, or replacement of Micro Wireless Facilities that are suspended on cables strung between existing utility poles in compliance with applicable codes by or for a communications services provider authorized to occupy the rights-of-way and who is remitting taxes under chapter 202.

Notwithstanding this paragraph, an authority may require a right-of-way permit for work that involves excavation, closure of a sidewalk, or closure of a vehicular lane.

(e) Collocation of Wireless Facilities on Utility Poles is subject to the following requirements:

1. The Town shall not enter into an exclusive arrangement with any person for the right to attach equipment to authority utility poles.
2. The rates and fees for collocations on authority utility poles must be nondiscriminatory, regardless of the services provided by the collocating person.
3. The rate to collocate wireless facilities on a Town utility pole shall be \$150 per pole annually.
4. Agreements between the Town and wireless providers that are in effect on July 1, 2017, and that relate to the collocation of wireless facilities in the right-of-way, including the collocation of Wireless Facilities on authority utility poles, remain in effect, subject to applicable termination provisions. The wireless provider may accept the rates, fees, and

- terms established under this subsection for Wireless Facilities and Utility Poles that are the subject of an application submitted after the rates, fees, and terms become effective.
5. A person owning or controlling an Authority Utility Pole shall offer rates, fees, and other terms that comply with this subsection. By the later of January 1, 2018, or 3 months after receiving a request to collocate its first Wireless Facility on a Utility Pole owned or controlled by an Authority, the person owning or controlling the authority Utility Pole shall make available, through ordinance or otherwise, rates, fees, and terms for the collocation of Wireless Facilities on the Authority Utility Pole which comply with this subsection.
- a. The rates, fees, and terms must be nondiscriminatory and competitively neutral and must comply with this subsection.
- b. For a Town Utility Pole that supports an aerial facility used to provide Communications Services or electric service, the parties shall comply with the process for make-ready work under 47 U.S.C. s. 224 and implementing regulations. The good faith estimate of the person owning or controlling the pole for any make-ready work necessary to enable the pole to support the requested Collocation must include pole replacement if necessary.
- c. For a Town Utility Pole that does not support an aerial facility used to provide communications services or electric service, the authority shall provide a good faith estimate for any make-ready work necessary to enable the pole to support the requested Collocation, including necessary pole replacement, within 60 days after receipt of a complete application. Make-ready work, including any pole replacement, must be completed within 60 days after written acceptance of the good faith estimate by the applicant. Alternatively, the Town may require the applicant seeking to Collocate a Wireless Facility to provide a make-ready estimate at the applicant's expense for the work necessary to support the Wireless Facility, including pole replacement, and perform the make-ready work. If pole replacement is required, the scope of the make-ready estimate is limited to the design, fabrication, and installation of a Utility Pole that is substantially similar in color and composition. The Town may not condition or restrict the manner in which the applicant obtains, develops, or provides the estimate or conducts the make-ready work subject to usual construction restoration standards for work in the right-of-way. The replaced or altered utility pole shall remain the property of the Authority.
- d. The Town shall not require more make-ready work than is required to meet applicable codes or industry standards. Fees for make-ready work may not include costs related to preexisting damage or prior noncompliance. Fees for make-ready work, including any pole replacement, may not exceed actual costs or the amount charged to Communications Services providers other than wireless services providers for similar work and may not include any consultant fee or expense.
- (f) A wireless providers shall, in relation to a wireless support structure in the public rights-of-way, comply with nondiscriminatory undergrounding requirements, as may be applicable, of the Town. Any such requirements may be waived by the Town Manager.
- (g) A wireless infrastructure provider may apply to the Town to place utility poles in the public rights-of-way to support the collocation of Wireless Facilities. The application must include an attestation that Wireless Facilities will be collocated on the Utility Pole or structure and will be used by a wireless services provider to provide service within 9 months after the date the application is approved. The Town shall accept and process the application in accordance with

section 35-51(c)6, and any applicable codes and other local codes governing the placement of Utility Poles in the public rights-of-way.

DIVISION 4 Enforcement and Appeals

35-54. - Enforcement remedies of Permit Obligations; Suspension and Revocation of Permits.

- (a) A violation of this article or any resolution adopted pursuant to this article may be enforced pursuant to Section 8-10 and by issuance of a uniform civil violation notice, citation, summons, or notice to appear in County Court, or by filing an action in civil court for injunctive relief. This Article is supplemental, and nothing contained herein shall prohibit the Town from enforcing this Article by any other lawful means.
- (b) Failure of the Town to enforce any requirements of this article shall not constitute a waiver of the Town's right to enforce the Article with respect to that violation or subsequent violations of the same type or to seek appropriate enforcement remedies.
- (c) The Town Manager or his designee is authorized to give any notice required by law.
- (d) The Town Public Works Director may order the suspension of placement and maintenance work under a permit and ultimately may revoke any Permit in the event of a substantial breach of the terms and conditions of any applicable statute, ordinance, rule or regulation or any condition of the permit. The types of substantial breach by Permittee may include, but are not limited to:
 - (1) The violation of any material provision of the Permit;
 - (2) An evasion or attempt to evade any material provision of the Permit or the perpetration or attempt to perpetrate any fraud or deceit upon the Town or its citizens;
 - (3) Any material misrepresentation of fact in the process of Permittee's request for a Permit or Registration;
 - (4) The failure to maintain the required performance bond or insurance;
 - (5) The failure to properly restore the Town's Public Rights-of-way;
 - (6) The failure to correct within the specified time an order issued by the Town Engineer;
 - (7) The failure to Register, Re-Register, or provide notice of any transfer in accordance with this Article;
 - (8) The failure to relocate or remove Facilities pursuant to this Article and Sections 337.402, 337.403 and 337.404, *Florida Statutes* (2016) as same may be amended from time to time.
 - (9) The failure to report to the Town and Facility owner any damages caused to their Facilities during the execution of the work.
- (e) If the Town Public Works Director determines that the Permittee has committed a substantial breach of a term or condition of the Permit, the Town Public Works Director shall make a written demand upon the Permittee to remedy such violation. The demand shall state that the continued violation(s) may be cause for revocation of the Permit. Further, a substantial breach as stated above will allow the Town Public Works Director, at his or her discretion, to place additional or revised conditions on the Permit.
- (f) Within thirty (30) calendar days of receiving notification of the breach, the Permittee shall contact the Town Public Works Director with a plan, acceptable to the Town Public Works Director, for its correction. The Town shall provide additional time as reasonably necessary for a Permittee to establish a plan acceptable to the Town Public Works Director taking into account the nature and scope of the alleged breach. The Permittee's failure to so contact the Town Public Works Director, or the Permittee's failure to submit an acceptable plan, or the

Permittee's failure to reasonably implement the approved plan, shall be cause for revocation of the Permit. Further, the Permittee's failure to contact the Town Public Works Director, or the Permittee's failure to submit an acceptable plan, or Permittee's failure to implement the approved plan, shall be cause for the Permittee to be placed on probation for one full year.

- (g) The Town Public Works Director may establish a list of conditions for any Permit which, if breached, will be cause for the Permittee to be placed on probation for one full year, such as, but not limited to, working out of the allotted time period or working on a Town Public Right-of-way significantly outside the scope of the Permit. These conditions shall be stated on the Permit.
- (h) If a Permittee, while on probation, commits a breach as outlined above, the Permittee's Permit may be revoked, and the Permittee may not be allowed to obtain further Permits for one full year, except for emergency repairs and service requirements as mandated by State or federal regulations.
- (i) If a Permit is revoked, the Permittee shall reimburse the Town for the Town's reasonable costs, including restoration costs and the cost of collection and reasonable attorneys' fees incurred in connection with such revocation.
- (j) The Town Public Works Director may cause an immediate stop work order where the Permittee's construction poses a serious threat to the health, safety or welfare of the public until such time as such serious threat has been abated.

35-55 - Appeals.

- (a) Final written decisions of the Town Manager or designee suspending or denying a permit, denying an application for a registration or denying an application for renewal of a registration are subject to appeal. An appeal must be filed with the Town Manager within 30 days of the date of the final written decision to be appealed. Any appeal not timely filed as set forth in this section shall be waived. The Town Council shall hear the appeal. The hearing shall occur within 30 days of the receipt of the appeal, unless waived by the registrant or user, and a written decision shall be rendered within 30 days of the hearing.
- (b) The Town Council shall conduct a de novo hearing on the record and shall determine if:
 - (1) There was a departure from the essential requirements of the law in the proceedings appealed; or
 - (2) Competent, substantial evidence does not exist to support the decision.
- (c) If the Town Council determines that there was not a departure from the essential requirements of the law or that competent substantial evidence exists to support the decision of the Town Manager, then the decision of the Town Manager shall be upheld, otherwise it shall be overturned.
- (d) Appeal from a final decision by the Town Council shall be to the Circuit Court by filing a petition for writ of certiorari within thirty (30) days of the decision, pursuant to court rules. Any such appeal is voluntary, and in the absence of taking such appeal, the decision of the Town Council shall be deemed to be final. If an appeal is taken, however, the decision of the Town Council is no longer deemed to be final but instead is tolled pending the appeal
- (e) Nothing in this section shall affect or limit the remedies the Town or Registrant has available under applicable law.

35-56. - Reports and records.

- (a) A registrant shall provide the following documents to the Town as received or filed:

- (1) Any pleadings, petitions, notices and documents which may directly impact the obligations under this article and which are reasonably necessary for the Town to protect its interests under this article; and
- (2) Any request for protection under bankruptcy laws, or any judgment related to a declaration of bankruptcy.
- (b) Nothing in this subsection shall affect the remedies a registrant has available under applicable law.
- (c) The Town shall keep any documentation, books and records of the registrant confidential to the extent required by Florida Statutes.

DIVISION 5 Abandonment of a Communication Facility and Reservation of Rights

35-57. - Abandonment of a Communications Facility.

- (a) Upon determination by a registrant that one or more of its Communications Facilities in a Town Public Right-of-way is to be Abandoned, the Registrant shall notify the Town no later than 90 days from such determination, or no later than 30 days following such Abandonment, whichever is sooner.
- (b) The Town may direct the registrant by written notice to remove all or any portion of such Abandoned Communications Facility at the registrant's sole expense if the Town determines that the Abandoned Communications Facility's presence interferes with the public health, safety or welfare, which shall include, but shall not be limited to, a determination that such Communications Facility:
 - (1) Compromises safety at any time for any public rights-of-way user or during construction or maintenance in public rights-of-way;
 - (2) Prevents another person from locating facilities in the area of public rights-of-way where the Abandoned Communications Facility is located when other alternative locations are not reasonably available; or
 - (3) Creates a maintenance condition that is disruptive to the use of any public rights-of-way.

In the event of Subsection (b)(2) of this section, the Town may require the third person to coordinate with the registrant that owns the existing Communications Facility for joint removal and placement, where agreed to by the registrant.
- (c) In the event that the Town does not direct the removal of the Abandoned Communications Facility, the registrant, by its notice of Abandonment to the Town, shall be deemed to consent to the alteration or removal of all or any portion of the Communications Facility by the Town or another person at such third party's cost.
- (d) If the registrant fails to remove all or any portion of an Abandoned Communications Facility as directed by the Town within a reasonable time period as may be required by the Town under the circumstances, the Town may perform such removal and charge the cost of the removal against the registrant.
- (e) In the event the Abandoned Facility is subject to a pole attachment agreement, then the obligation to remove the Abandoned Communication Facility shall be in compliance with the federal Pole Attachment Act (47 USC Section 224), as same may be amended from time to time.

35-58. - Reservation of rights.

- (a) The Town reserves the right to amend this Article as it shall find necessary in the lawful exercise of its police powers.
- (b) This article shall be applicable to all Communication Facilities placed in the public rights-of-way on or after the effective date of the ordinance from which this article is derived and shall apply to all existing Communication Facilities placed in the public rights-of-way prior to the effective date of the ordinance from which this article is derived, to the full extent permitted by State and Federal law.

Sec. 35-59. No liability or warranty.

Nothing contained in this Article shall be construed to make or hold the Town responsible or liable for any damage to persons or any property whatsoever, from any cause whatsoever, arising from the use, operation or condition of the Registrant's Communications Facilities by reason of any inspection or re-inspection authorized herein or failure to inspect or re-inspect. Nor shall the issuance of any Permit or the approval or disapproval of any Placement or Maintenance of the Registrant's Communications Facilities as authorized herein constitute any representation, guarantee or warranty of any kind by, or create any liability upon the Town or any official, agent or employee thereof. Additionally, the Town shall not be responsible for any relocation costs incurred by any Registrant due to the Town's or any other Person's work in the Town's Public Rights-of-way.

DIVISION 6 – Fees and Taxes

Sec. 35-60. Communications Services Tax In Lieu of Permit Fee.

A Registrant that places or maintains Communications Facilities in the Town's Public Rights-of-way and that pays Communications Services Taxes shall not be required to pay a permit fee since the Town has elected to collect the Communications Services Tax pursuant to Ch. 202, *Florida Statutes* as same may be amended from time to time. Pass-Through Providers shall pay a fee pursuant to Section 337.401 (5), *Florida Statutes* as same may be amended from time to time and Town Code Section 35-61.

Sec. 35-61 Other Fees.

- (a) Pass-Through Providers shall pay to the Town on an annual basis an amount equal to Five Hundred Dollars (\$500.00) per linear mile or portion thereof of Communications Facilities placed and/or maintained in the Town's Public Rights-of-way.
 - (1) The amounts charged shall be based on the linear miles of Town Rights-of-way where Communications Facilities are placed, not based on a summation of the lengths of individual cables, conduits, strands or fibers.
 - (2) Any annual amount charged shall be reduced for a prorated portion of any 12-month period during which the Pass-Through Provider remits taxes imposed by the Town pursuant to Chapter 202, *Florida Statutes* (2016) as same may be amended from time to time.
 - (3) Annual payments shall be due and payable on April 1 of each year. Fees not paid within ten (10) days after the due date shall bear interest at the rate of one (1) percent per month from the date due until paid. The acceptance of any payment required hereunder by the Town shall not be construed as an acknowledgement that the amount paid is the correct amount due, nor shall such acceptance of payment be construed as a release of any claim which the Town may have for additional sums due and payable. All fee payments shall be

subject to audit by the Town, and assessment or refund if any payment is found to be in error. If such audit results in an assessment by and an additional payment to the Town, such additional payment shall be subject to interest at the rate of one (1) percent per month until the date payment is made.

(4) If the payments required by this Section are not made within ninety (90) days after the due date, the Town Engineer may withhold the issuance of any Permits to the Registrant until the amount past due is paid in full

(b) A Registrant that provides communications services as defined in F.S. § 202.012(3), within the Town, shall pay to the Town the fees permitted by Florida Law of \$150 per pole facility and wireless facility owned by the Town.

ATTACHMENT A ARTICLE II SUMMARY

The purpose of Article II is to provide a basic framework for the Town in the regulation of its public rights-of-way (ROW) as it pertains to noncommunication utilities such as electricity, gas, potable water, and sewer. It is not meant to obstruct any one utility's obligation under state law to provide services. The provisions do not exclude a utility's option to enter into a franchise agreement, and any such agreement may layout in greater specificity the terms that permit the utility's use of the Town's ROW.

The following summary is a brief review of Article II and its contents:

- Division 1 identifies the intent and purpose of the Article and provides for the pertinent definitions specific to those provisions.
- Division 2 provides for the registration of a utility. The intent here is to ensure that any utility that seeks to utilize the Town's ROW is properly insured, and indemnifies and holds harmless the Town. It also ensures the utility participate in the defense of the town for claims arising from their facilities. A Security Fund of \$50,000 is required in the event the Town needs to draws down the money to restore its ROW as a result of damages, incomplete work, or abonnement by the utility.
- Division 3 requires permitting for all facilities within the ROW as well as the standards for their physical location. Service and repairs resulting from emergency situations may be issued after the fact permits. Compliance with the Florida Building Code is required (unless otherwise exempt by Florida Statute) and each permit application must include a maintenance of traffic (MOT) plan. Repair and maintenance of the ROW is required of the utility as a result any work or incident occurring at the facility. Facility placement standards are provided to ensure adequate spacing is provided for proper functioning of the ROW (sidewalks, roadways, site triangles etc.). Construction Bonding for larger projects that disturb the ROW in excess of the deposit amount of the Security Fund, is required at time of permitting. All permitting fees apply unless otherwise provided for in a franchise agreement.
- Division 4 provides for enforcement provisions as the tool to ensure the integrity of the rights-of-way are maintained. Appeal provisions are provided for and in no way do the procedures interfere with a utilities legal obligation to provide service are required by State Law. Fines resulting from enforcement are currently under review and may return under a separate ordinance.
- Division 5 provides for abonnement of a facility located in the ROW. In such an unlikely event, the procedures provide for a notice and appeal process in advance of any action that may result in the removal of the facility. The intent of this provision is to ensure the ROW is clear of any unused and unnecessary equipment.

ATTACHMENT B ARTICLE III SUMMARY

The purpose of Article III is to provide a basic framework for the Town in the regulation of its public rights-of-way (ROW) as it pertains to communication facilities such as cellular utility poles, antennas, cable TV, and/or any other facility that serves to transmit communications. The provisions are tailored to comply with State and Federal law in their interest to ensure adequacy of communication facilities. This is particularly case with the government's interest in maintaining a fully functional 911 emergency response system. The State of Florida's recent legislation related specifically to small and micro cell facilities, including the antennas, support equipment, cabling, and the poles to which they are attached. The ordinance is not meant to obstruct any one communication company from their obligation under state law to provide services. Franchise agreements for communication providers are not permitted as all such providers must be treated equitable in a neutrally competitive environment as required under the State law.

The following summary is a brief review of Article III and its contents:

- Division 1 identifies the intent and purpose of the Article and provides for the pertinent definitions specific to those provisions.
- Division 2 provides for the registration of a communication company. The intent here is to ensure that any communication company that seeks to utilize the Town's ROW is properly insured, and indemnifies and holds harmless the Town. It also ensures the they participate in the defense of the town for claims arising from their facilities. A Security Fund of \$50,000 is required in the event the Town needs to draws down the money to restore its ROW as a result of damages, incomplete work, or abonnement by the communications company.
- Division 3 requires permitting for all facilities within the ROW as well as the standards for their physical location. Service and repairs resulting from emergency situations may be issued after the fact permits. Division 3 comes principally in two (2) parts. The first part (sec. 35-52) addresses communication facilities in general. Compliance with the Florida Building Code is required (unless otherwise exempt by Florida Statute) and each permit application must include a maintenance of traffic (MOT) plan. Repair and maintenance of the ROW is required of the communication company as a result any work or incident occurring at their facility. Facility placement standards are provided to ensure adequate spacing is provided for proper functioning of the ROW (sidewalks, roadways, site triangles etc.).

The second (sec. 35-53) part of the Division 3 is particular to small and micro cell facilities including the antennas, support structures, support equipment, and underground cabling. Review periods ("Shot Clocks") are defined and options are provided regarding location and design. Stealth and concealment options are provided and include a waiver procedure where it may be demonstrated that such design is not (1) reasonably compatible or (2) imposes an excessive expense. While distance separations between poles cannot be

required, the Town may request a nearby relocation, an alternative pole, or other objective design standards. Maximum pole height is limited to the height of any pole in existence as of 07/01/2017, that is within 500' of the requested location. However, if no existing pole is within 500' of the proposed, the default height is 50'. Nevertheless, any antenna may be 10' feet higher than the pole to which it is attached. See Attachment "C" for the permitted review procedure and time lines as well as pertinent definitions.

The ordinance incorporates new Statutory requirements regarding grounds for denial of a small/micro cell facility application. Denial may be rendered if any of the conditions described below are met:

- Safe operation of Traffic Control Equipment is compromised.
 - Site lines and clear zones for traffic and pedestrians are obstructed by the pole or equipment.
 - ADA standards are violated
 - Noncompliance with the 2010 editions of the FDOT Utility Accommodation Manual.
 - Noncompliance with other applicable safety code.
-
- Division 4 provides for enforcement provisions as the tool to ensure the integrity of the rights-of-way are maintained. Appeal provisions are provided for and in no way do the procedures interfere with a facilities legal obligation to provide service as required by State Law. Fines resulting from enforcement are currently under review and may return under a separate ordinance.
 - Division 5 provides for abatement of a facility located in the ROW. In such an unlikely event, the procedures provide for a notice and appeal process in advance of any action that may result in the removal of the facility. The intent of this provision is to ensure the ROW is clear of any unused and unnecessary equipment.
 - Division 6 relates to fees and taxes. The town participates in the Communication Services Tax option provided by Florida Statutes. As such, the town can not charge a building permit or registration fee to communication service companies. The town is permitted to charge an annual of \$150 fee for each Town own utility pole upon which a communication facility is attached and may charge up to \$500 per linear mile of cabling, conduits, strands, and fibers that pass through the Town's ROW. The fee is to be collected annually at the time of registration of the communication registrant.

ATTACHMENT C

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ADVANCED WIRELESS DEPLOYMENT ACT

Pertinent Definitions and Shot Clocks

PERTINENT DEFINITIONS

Micro wireless facility is a small wireless facility having dimensions no larger than 24 inches in length, 15 inches in width, 12 inches in height, and an exterior antenna, if any, no longer than 11 inches

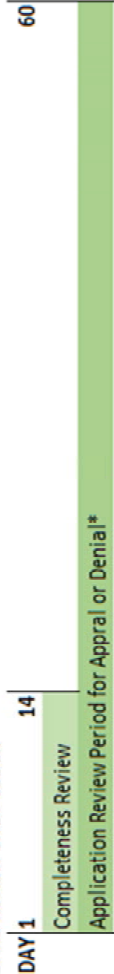
Small wireless facility is a small wireless facility having dimensions no larger than 24 inches in length, 15 inches in width, and 12 inches in height and an exterior antenna, if any, no longer than 11 inches.

Wireless facility includes equipment at a fixed location what enable wireless communications between user equipment and a communications network, such as transceivers, antennas, wires, coaxial or fiber-optic cable, power supply, and equipment associated with wireless communications.

Wireless support structure is a freestanding structure, such as a monopole, a guyed or self-supporting tower or another existing or proposed structure designed to support or capable of supporting wireless facilities. Term does not include utility poles

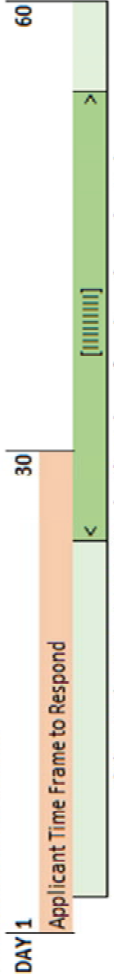
SHOT CLOCK TIME TABLES

STANDARD REVIEW SHOT CLOCK



* Town and applicant may mutually agree to extend Application Review Period

DENIED APPLICATION PROCEDURE



Sliding Scale: Town must respond with 30 days of applicant's resubmittal

TOWN REQUEST FOR ALTERNATE LOCATION SHOT CLOCK



APPLICANT APPEAL OF STEALTH DESIGN



Sliding Scale: Town must respond with 45 days of Applicant's Appeal

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1
2 An act relating to utilities; amending s. 337.401,
3 F.S.; authorizing the Department of Transportation and
4 certain local governmental entities to prescribe and
5 enforce rules or regulations regarding the placing and
6 maintaining of certain voice or data communications
7 services lines or wireless facilities on certain
8 rights-of-way; providing a short title; providing
9 definitions; prohibiting an authority from
10 prohibiting, regulating, or charging for the
11 collocation of small wireless facilities in public
12 rights-of-way under certain circumstances; authorizing
13 an authority to require a registration process and
14 permit fees under certain circumstances; requiring an
15 authority to accept, process, and issue applications
16 for permits subject to specified requirements;
17 prohibiting an authority from requiring approval or
18 requiring fees or other charges for routine
19 maintenance, the replacement of certain wireless
20 facilities, or the installation, placement,
21 maintenance, or replacement of certain micro wireless
22 facilities; providing an exception; providing
23 requirements for the collocation of small wireless
24 facilities on authority utility poles; providing
25 requirements for rates, fees, and other terms related

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26 to authority utility poles; authorizing an authority
27 to apply current ordinances regulating placement of
28 communications facilities in the right-of-way for
29 certain applications; requiring an authority to waive
30 certain permit application requirements and small
31 wireless facility placement requirements; prohibiting
32 an authority from adopting or enforcing any regulation
33 on the placement or operation of certain
34 communications facilities and from regulating any
35 communications services or imposing or collecting any
36 tax, fee, or charge not specifically authorized under
37 state law; providing construction; requiring a
38 wireless provider to comply with certain
39 nondiscriminatory undergrounding requirements of an
40 authority; authorizing the authority to waive any such
41 requirements; authorizing a wireless infrastructure
42 provider to apply to an authority to place utility
43 poles in the public rights-of-way to support the
44 collocation of small wireless facilities; providing
45 application requirements; requiring the authority to
46 accept and process the application subject to certain
47 requirements; providing construction; authorizing an
48 authority to enforce certain local codes,
49 administrative rules, or regulations; authorizing an
50 authority to enforce certain pending local ordinances,

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administrative rules, or regulations under certain
circumstances, subject to waiver by the authority;
providing construction; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (a) of subsection (1) of section
337.401, Florida Statutes, is amended, and subsection (7) is
added to that section, to read:

337.401 Use of right-of-way for utilities subject to
regulation; permit; fees.—

(1)(a) The department and local governmental entities,
referred to in this section and in ss. 337.402, 337.403, and
337.404 as the "authority," that have jurisdiction and control
of public roads or publicly owned rail corridors are authorized
to prescribe and enforce reasonable rules or regulations with
reference to the placing and maintaining across, on, or within
the right-of-way limits of any road or publicly owned rail
corridors under their respective jurisdictions any electric
transmission, voice ~~telephone~~, telegraph, data, or other
communications services lines or wireless facilities; pole
lines; poles; railways; ditches; sewers; water, heat, or gas
mains; pipelines; fences; gasoline tanks and pumps; or other
structures referred to in this section and in ss. 337.402,
337.403, and 337.404 as the "utility." The department may enter

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76 into a permit-delegation agreement with a governmental entity if
77 issuance of a permit is based on requirements that the
78 department finds will ensure the safety and integrity of
79 facilities of the Department of Transportation; however, the
80 permit-delegation agreement does not apply to facilities of
81 electric utilities as defined in s. 366.02(2).

82 (7) (a) This subsection may be cited as the "Advanced
83 Wireless Infrastructure Deployment Act."

84 (b) As used in this subsection, the term:

85 1. "Antenna" means communications equipment that transmits
86 or receives electromagnetic radio frequency signals used in
87 providing wireless services.

88 2. "Applicable codes" means uniform building, fire,
89 electrical, plumbing, or mechanical codes adopted by a
90 recognized national code organization or local amendments to
91 those codes enacted solely to address threats of destruction of
92 property or injury to persons, or local codes or ordinances
93 adopted to implement this subsection. The term includes
94 objective design standards adopted by ordinance that may require
95 a new utility pole that replaces an existing utility pole to be
96 of substantially similar design, material, and color or that may
97 require reasonable spacing requirements concerning the location
98 of ground-mounted equipment. The term includes objective design
99 standards adopted by ordinance that may require a small wireless
100 facility to meet reasonable location context, color, stealth,

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101 and concealment requirements; however, such design standards may
102 be waived by the authority upon a showing that the design
103 standards are not reasonably compatible for the particular
104 location of a small wireless facility or that the design
105 standards impose an excessive expense. The waiver shall be
106 granted or denied within 45 days after the date of the request.

107 3. "Applicant" means a person who submits an application
108 and is a wireless provider.

109 4. "Application" means a request submitted by an applicant
110 to an authority for a permit to collocate small wireless
111 facilities.

112 5. "Authority" means a county or municipality having
113 jurisdiction and control of the rights-of-way of any public
114 road. The term does not include the Department of
115 Transportation. Rights-of-way under the jurisdiction and control
116 of the department are excluded from this subsection.

117 6. "Authority utility pole" means a utility pole owned by
118 an authority in the right-of-way. The term does not include a
119 utility pole owned by a municipal electric utility, a utility
120 pole used to support municipally owned or operated electric
121 distribution facilities, or a utility pole located in the right-
122 of-way within:

123 a. A retirement community that:

124 (I) Is deed restricted as housing for older persons as
125 defined in s. 760.29(4)(b);

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126 (II) Has more than 5,000 residents; and
127 (III) Has underground utilities for electric transmission
128 or distribution.

129 b. A municipality that:

130 (I) Is located on a coastal barrier island as defined in
131 s. 161.053(1)(b)3.;

132 (II) Has a land area of less than 5 square miles;

133 (III) Has less than 10,000 residents; and

134 (IV) Has, before July 1, 2017, received referendum
135 approval to issue debt to finance municipal-wide undergrounding
136 of its utilities for electric transmission or distribution.

137 7. "Collocate" or "collocation" means to install, mount,
138 maintain, modify, operate, or replace one or more wireless
139 facilities on, under, within, or adjacent to a wireless support
140 structure or utility pole. The term does not include the
141 installation of a new utility pole or wireless support structure
142 in the public rights-of-way.

143 8. "FCC" means the Federal Communications Commission.

144 9. "Micro wireless facility" means a small wireless
145 facility having dimensions no larger than 24 inches in length,
146 15 inches in width, and 12 inches in height and an exterior
147 antenna, if any, no longer than 11 inches.

148 10. "Small wireless facility" means a wireless facility
149 that meets the following qualifications:

150 a. Each antenna associated with the facility is located

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151 inside an enclosure of no more than 6 cubic feet in volume or,
152 in the case of antennas that have exposed elements, each antenna
153 and all of its exposed elements could fit within an enclosure of
154 no more than 6 cubic feet in volume; and

155 b. All other wireless equipment associated with the
156 facility is cumulatively no more than 28 cubic feet in volume.
157 The following types of associated ancillary equipment are not
158 included in the calculation of equipment volume: electric
159 meters, concealment elements, telecommunications demarcation
160 boxes, ground-based enclosures, grounding equipment, power
161 transfer switches, cutoff switches, vertical cable runs for the
162 connection of power and other services, and utility poles or
163 other support structures.

164 11. "Utility pole" means a pole or similar structure that
165 is used in whole or in part to provide communications services
166 or for electric distribution, lighting, traffic control,
167 signage, or a similar function. The term includes the vertical
168 support structure for traffic lights but does not include a
169 horizontal structure to which signal lights or other traffic
170 control devices are attached and does not include a pole or
171 similar structure 15 feet in height or less unless an authority
172 grants a waiver for such pole.

173 12. "Wireless facility" means equipment at a fixed
174 location which enables wireless communications between user
175 equipment and a communications network, including radio

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transceivers, antennas, wires, coaxial or fiber-optic cable or other cables, regular and backup power supplies, and comparable equipment, regardless of technological configuration, and

equipment associated with wireless communications. The term includes small wireless facilities. The term does not include:

a. The structure or improvements on, under, within, or adjacent to the structure on which the equipment is collocated;

b. Wireline backhaul facilities; or

c. Coaxial or fiber-optic cable that is between wireless structures or utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

13. "Wireless infrastructure provider" means a person who has been certificated to provide telecommunications service in the state and who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures but is not a wireless services provider.

14. "Wireless provider" means a wireless infrastructure provider or a wireless services provider.

15. "Wireless services" means any services provided using licensed or unlicensed spectrum, whether at a fixed location or mobile, using wireless facilities.

16. "Wireless services provider" means a person who provides wireless services.

17. "Wireless support structure" means a freestanding structure, such as a monopole, a guyed or self-supporting tower,

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201 or another existing or proposed structure designed to support or
202 capable of supporting wireless facilities. The term does not
203 include a utility pole.

204 (c) Except as provided in this subsection, an authority
205 may not prohibit, regulate, or charge for the collocation of
206 small wireless facilities in the public rights-of-way.

207 (d) An authority may require a registration process and
208 permit fees in accordance with subsection (3). An authority
209 shall accept applications for permits and shall process and
210 issue permits subject to the following requirements:

211 1. An authority may not directly or indirectly require an
212 applicant to perform services unrelated to the collocation for
213 which approval is sought, such as in-kind contributions to the
214 authority, including reserving fiber, conduit, or pole space for
215 the authority.

216 2. An applicant may not be required to provide more
217 information to obtain a permit than is necessary to demonstrate
218 the applicant's compliance with applicable codes for the
219 placement of small wireless facilities in the locations
220 identified the application.

221 3. An authority may not require the placement of small
222 wireless facilities on any specific utility pole or category of
223 poles or require multiple antenna systems on a single utility
224 pole.

225 4. An authority may not limit the placement of small

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226 wireless facilities by minimum separation distances. However,
227 within 14 days after the date of filing the application, an
228 authority may request that the proposed location of a small
229 wireless facility be moved to another location in the right-of-
230 way and placed on an alternative authority utility pole or
231 support structure or may place a new utility pole. The authority
232 and the applicant may negotiate the alternative location,
233 including any objective design standards and reasonable spacing
234 requirements for ground-based equipment, for 30 days after the
235 date of the request. At the conclusion of the negotiation
236 period, if the alternative location is accepted by the
237 applicant, the applicant must notify the authority of such
238 acceptance and the application shall be deemed granted for any
239 new location for which there is agreement and all other
240 locations in the application. If an agreement is not reached,
241 the applicant must notify the authority of such nonagreement and
242 the authority must grant or deny the original application within
243 90 days after the date the application was filed. A request for
244 an alternative location, an acceptance of an alternative
245 location, or a rejection of an alternative location must be in
246 writing and provided by electronic mail.

247 5. An authority shall limit the height of a small wireless
248 facility to 10 feet above the utility pole or structure upon
249 which the small wireless facility is to be collocated. Unless
250 waived by an authority, the height for a new utility pole is

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251 limited to the tallest existing utility pole as of July 1, 2017,
252 located in the same right-of-way, other than a utility pole for
253 which a waiver has previously been granted, measured from grade
254 in place within 500 feet of the proposed location of the small
255 wireless facility. If there is no utility pole within 500 feet,
256 the authority shall limit the height of the utility pole to 50
257 feet.

258 6. Except as provided in subparagraphs 4. and 5., the
259 installation of a utility pole in the public rights-of-way
260 designed to support a small wireless facility shall be subject
261 to authority rules or regulations governing the placement of
262 utility poles in the public rights-of-way and shall be subject
263 to the application review timeframes in this subsection.

264 7. Within 14 days after receiving an application, an
265 authority must determine and notify the applicant by electronic
266 mail as to whether the application is complete. If an
267 application is deemed incomplete, the authority must
268 specifically identify the missing information. An application is
269 deemed complete if the authority fails to provide notification
270 to the applicant within 14 days.

271 8. An application must be processed on a nondiscriminatory
272 basis. A complete application is deemed approved if an authority
273 fails to approve or deny the application within 60 days after
274 receipt of the application. If an authority does not use the 30-
275 day negotiation period provided in subparagraph 4., the parties

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276 may mutually agree to extend the 60-day application review
277 period. The authority shall grant or deny the application at the
278 end of the extended period. A permit issued pursuant to an
279 approved application shall remain effective for 1 year unless
280 extended by the authority.

281 9. An authority must notify the applicant of approval or
282 denial by electronic mail. An authority shall approve a complete
283 application unless it does not meet the authority's applicable
284 codes. If the application is denied, the authority must specify
285 in writing the basis for denial, including the specific code
286 provisions on which the denial was based, and send the
287 documentation to the applicant by electronic mail on the day the
288 authority denies the application. The applicant may cure the
289 deficiencies identified by the authority and resubmit the
290 application within 30 days after notice of the denial is sent to
291 the applicant. The authority shall approve or deny the revised
292 application within 30 days after receipt or the application is
293 deemed approved. Any subsequent review shall be limited to the
294 deficiencies cited in the denial.

295 10. An applicant seeking to collocate small wireless
296 facilities within the jurisdiction of a single authority may, at
297 the applicant's discretion, file a consolidated application and
298 receive a single permit for the collocation of up to 30 small
299 wireless facilities. If the application includes multiple small
300 wireless facilities, an authority may separately address small

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301 wireless facility collocations for which incomplete information
302 has been received or which are denied.

303 11. An authority may deny a proposed collocation of a
304 small wireless facility in the public rights-of-way if the
305 proposed collocation:

306 a. Materially interferes with the safe operation of
307 traffic control equipment.

308 b. Materially interferes with sight lines or clear zones
309 for transportation, pedestrians, or public safety purposes.

310 c. Materially interferes with compliance with the
311 Americans with Disabilities Act or similar federal or state
312 standards regarding pedestrian access or movement.

313 d. Materially fails to comply with the 2010 edition of the
314 Florida Department of Transportation Utility Accommodation
315 Manual.

316 e. Fails to comply with applicable codes.

317 12. An authority may adopt by ordinance provisions for
318 insurance coverage, indemnification, performance bonds, security
319 funds, force majeure, abandonment, authority liability, or
320 authority warranties. Such provisions must be reasonable and
321 nondiscriminatory.

322 13. Collocation of a small wireless facility on an
323 authority utility pole does not provide the basis for the
324 imposition of an ad valorem tax on the authority utility pole.

325 14. An authority may reserve space on authority utility

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poles for future public safety uses. However, a reservation of space may not preclude collocation of a small wireless facility. If replacement of the authority utility pole is necessary to accommodate the collocation of the small wireless facility and the future public safety use, the pole replacement is subject to make-ready provisions and the replaced pole shall accommodate the future public safety use.

15. A structure granted a permit and installed pursuant to this subsection shall comply with chapter 333 and federal regulations pertaining to airport airspace protections.

(e) An authority may not require approval or require fees or other charges for:

1. Routine maintenance;

2. Replacement of existing wireless facilities with wireless facilities that are substantially similar or of the same or smaller size; or

3. Installation, placement, maintenance, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles in compliance with applicable codes by or for a communications services provider authorized to occupy the rights-of-way and who is remitting taxes under chapter 202.

Notwithstanding this paragraph, an authority may require a right-of-way permit for work that involves excavation, closure

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351 of a sidewalk, or closure of a vehicular lane.

352 (f) Collocation of small wireless facilities on authority
353 utility poles is subject to the following requirements:

354 1. An authority may not enter into an exclusive
355 arrangement with any person for the right to attach equipment to
356 authority utility poles.

357 2. The rates and fees for collocations on authority
358 utility poles must be nondiscriminatory, regardless of the
359 services provided by the collocating person.

360 3. The rate to collocate small wireless facilities on an
361 authority utility pole may not exceed \$150 per pole annually.

362 4. Agreements between authorities and wireless providers
363 that are in effect on July 1, 2017, and that relate to the
364 collocation of small wireless facilities in the right-of-way,
365 including the collocation of small wireless facilities on
366 authority utility poles, remain in effect, subject to applicable
367 termination provisions. The wireless provider may accept the
368 rates, fees, and terms established under this subsection for
369 small wireless facilities and utility poles that are the subject
370 of an application submitted after the rates, fees, and terms
371 become effective.

372 5. A person owning or controlling an authority utility
373 pole shall offer rates, fees, and other terms that comply with
374 this subsection. By the later of January 1, 2018, or 3 months
375 after receiving a request to collocate its first small wireless

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376 facility on a utility pole owned or controlled by an authority,
377 the person owning or controlling the authority utility pole
378 shall make available, through ordinance or otherwise, rates,
379 fees, and terms for the collocation of small wireless facilities
380 on the authority utility pole which comply with this subsection.

381 a. The rates, fees, and terms must be nondiscriminatory
382 and competitively neutral and must comply with this subsection.

383 b. For an authority utility pole that supports an aerial
384 facility used to provide communications services or electric
385 service, the parties shall comply with the process for make-
386 ready work under 47 U.S.C. s. 224 and implementing regulations.
387 The good faith estimate of the person owning or controlling the
388 pole for any make-ready work necessary to enable the pole to
389 support the requested collocation must include pole replacement
390 if necessary.

391 c. For an authority utility pole that does not support an
392 aerial facility used to provide communications services or
393 electric service, the authority shall provide a good faith
394 estimate for any make-ready work necessary to enable the pole to
395 support the requested collocation, including necessary pole
396 replacement, within 60 days after receipt of a complete
397 application. Make-ready work, including any pole replacement,
398 must be completed within 60 days after written acceptance of the
399 good faith estimate by the applicant. Alternatively, an
400 authority may require the applicant seeking to collocate a small

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401 wireless facility to provide a make-ready estimate at the
402 applicant's expense for the work necessary to support the small
403 wireless facility, including pole replacement, and perform the
404 make-ready work. If pole replacement is required, the scope of
405 the make-ready estimate is limited to the design, fabrication,
406 and installation of a utility pole that is substantially similar
407 in color and composition. The authority may not condition or
408 restrict the manner in which the applicant obtains, develops, or
409 provides the estimate or conducts the make-ready work subject to
410 usual construction restoration standards for work in the right-
411 of-way. The replaced or altered utility pole shall remain the
412 property of the authority.

413 d. An authority may not require more make-ready work than
414 is required to meet applicable codes or industry standards. Fees
415 for make-ready work may not include costs related to preexisting
416 damage or prior noncompliance. Fees for make-ready work,
417 including any pole replacement, may not exceed actual costs or
418 the amount charged to communications services providers other
419 than wireless services providers for similar work and may not
420 include any consultant fee or expense.

421 (g) For any applications filed before the effective date
422 of ordinances implementing this subsection, an authority may
423 apply current ordinances relating to placement of communications
424 facilities in the right-of-way related to registration,
425 permitting, insurance coverage, indemnification, performance

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bonds, security funds, force majeure, abandonment, authority liability, or authority warranties. Permit application requirements and small wireless facility placement requirements, including utility pole height limits, that conflict with this subsection shall be waived by the authority.

(h) Except as provided in this section or specifically required by state law, an authority may not adopt or enforce any regulation on the placement or operation of communications facilities in the rights-of-way by a provider authorized by state law to operate in the rights-of-way and may not regulate any communications services or impose or collect any tax, fee, or charge not specifically authorized under state law. This paragraph does not alter any law regarding an authority's ability to regulate the relocation of facilities.

(i) A wireless provider shall, in relation to a small wireless facility, utility pole, or wireless support structure in the public rights-of-way, comply with nondiscriminatory undergrounding requirements of an authority that prohibit above-ground structures in public rights-of-way. Any such requirements may be waived by the authority.

(j) A wireless infrastructure provider may apply to an authority to place utility poles in the public rights-of-way to support the collocation of small wireless facilities. The application must include an attestation that small wireless facilities will be collocated on the utility pole or structure

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451 and will be used by a wireless services provider to provide
452 service within 9 months after the date the application is
453 approved. The authority shall accept and process the application
454 in accordance with subparagraph (d)6. and any applicable codes
455 and other local codes governing the placement of utility poles
456 in the public rights-of-way.

457 (k) This subsection does not limit a local government's
458 authority to enforce historic preservation zoning regulations
459 consistent with the preservation of local zoning authority under
460 47 U.S.C. s. 332(c)(7), the requirements for facility
461 modifications under 47 U.S.C. s. 1455(a), or the National
462 Historic Preservation Act of 1966, as amended, and the
463 regulations adopted to implement such laws. An authority may
464 enforce local codes, administrative rules, or regulations
465 adopted by ordinance in effect on April 1, 2017, which are
466 applicable to a historic area designated by the state or
467 authority. An authority may enforce pending local ordinances,
468 administrative rules, or regulations applicable to a historic
469 area designated by the state if the intent to adopt such changes
470 has been publicly declared on or before April 1, 2017. An
471 authority may waive any ordinances or other requirements that
472 are subject to this paragraph.

473 (l) This subsection does not authorize a person to
474 collocate or attach wireless facilities, including any antenna,
475 micro wireless facility, or small wireless facility, on a

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476 privately owned utility pole, a utility pole owned by an
477 electric cooperative or a municipal electric utility, a
478 privately owned wireless support structure, or other private
479 property without the consent of the property owner.

480 (m) The approval of the installation, placement,
481 maintenance, or operation of a small wireless facility pursuant
482 to this subsection does not authorize the provision of any
483 voice, data, or video communications services or the
484 installation, placement, maintenance, or operation of any
485 communications facilities other than small wireless facilities
486 in the right-of-way.

487 (n) This subsection does not affect provisions relating to
488 pass-through providers in subsection (6).

489 (o) This subsection does not authorize a person to
490 collocate or attach small wireless facilities or micro wireless
491 facilities on a utility pole, unless otherwise permitted by
492 federal law, or erect a wireless support structure in the right-
493 of-way located within a retirement community that:

494 1. Is deed restricted as housing for older persons as
495 defined in s. 760.29(4)(b);

496 2. Has more than 5,000 residents; and

497 3. Has underground utilities for electric transmission or
498 distribution.

499
500 This paragraph does not apply to the installation, placement,

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501 maintenance, or replacement of micro wireless facilities on any
502 existing and duly authorized aerial communications facilities,
503 provided that once aerial facilities are converted to
504 underground facilities, any such collocation or construction
505 shall be only as provided by the municipality's underground
506 utilities ordinance.

507 (p) This subsection does not authorize a person to
508 collocate or attach small wireless facilities or micro wireless
509 facilities on a utility pole, unless otherwise permitted by
510 federal law, or erect a wireless support structure in the right-
511 of-way located within a municipality that:

512 1. Is located on a coastal barrier island as defined in s.
513 161.053(1)(b)3.;

514 2. Has a land area of less than 5 square miles;

515 3. Has fewer than 10,000 residents; and

516 4. Has, before July 1, 2017, received referendum approval
517 to issue debt to finance municipal-wide undergrounding of its
518 utilities for electric transmission or distribution.

519
520 This paragraph does not apply to the installation, placement,
521 maintenance, or replacement of micro wireless facilities on any
522 existing and duly authorized aerial communications facilities,
523 provided that once aerial facilities are converted to
524 underground facilities, any such collocation or construction
525 shall be only as provided by the municipality's underground

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526 | utilities ordinance.

527 | (q) This subsection does not authorize a person to
528 | collocate small wireless facilities or micro wireless facilities
529 | on an authority utility pole or erect a wireless support
530 | structure in a location subject to covenants, conditions,
531 | restrictions, articles of incorporation, and bylaws of a
532 | homeowners' association. This paragraph does not apply to the
533 | installation, placement, maintenance, or replacement of micro
534 | wireless facilities on any existing and duly authorized aerial
535 | communications facilities.

536 | Section 2. This act shall take effect July 1, 2017.



Town of Miami Lakes Memorandum

To: Honorable Chairman Rodriguez and Members of the Planning Board
From: Darby P. Delsalle, AICP, Planning Director
Subject: Utility and Communication Facilities in the ROW
Date: 12/12/2017

Recommendation:

It is recommended the Town Council approve the resolution to extend the temporary moratorium on the approval of development orders relating to locating telecommunication equipment within the Town's rights-of-way for a period of six (6) months to allow staff time to prepare an amendment to the Town's Code of Ordinances reflective of the recently amended Florida Statutes which shall be presented to the Town Council for adoption prior to the expiration of the temporary moratorium.

Background:

On March 7, 2017, the Town Council imposed a six (6) month moratorium on the installation of the telecommunication equipment within the Town's rights-of-way. The action was taken in light of potential legislative changes being contemplated by the Florida House and Senate regarding such regulations. On June 23, 2017, the Governor of the State of Florida signed into law HB 865, titled the "Advanced Wireless Infrastructure Deployment Act." The bill, adopted by the State Legislature near the end of their 2017 legislative session, amended Section 337.401 of Florida Statute imposing upon local jurisdictions rules regarding the placement of small and micro wireless facilities within public rights-of-way. It is now incumbent upon the Town to update its regulations reflective of the changes that have occurred at the state level. This request for a six (6) month extension of the moratorium will afford staff the opportunity to thoroughly review the amended statutes, evaluate their implication, and prepare an ordinance to ensure our local codes comport with State Law. The remainder of this memorandum is a brief summary of the relevant new laws adopted by the State of Florida. Also attached are the key definitions related to the new statute and the permitting "shot clocks," (review time tables) outline therein ("Attachment A").

The drafting of the ordinance was conducted in an open manner that began with a Council Workshop held on March 13, 2017. Additional discussion was provided on July 25th, 2017 when the moratorium was extended six (6) months. The meeting was advertised and members of the utility and communication industry both attended and spoke. Staff shared drafts of the proposed ordinance on multiple occasions (10/18/2017, 10/27/2017, and 11/22/2017) and continued to meet with the utility and communication industry (3/28/17,

11/02/2017, and 11/22/2017) to discuss their concerns. The proposed ordinance is reflective of that effort. Florida Statute 337.401(7)-, attached herein ("Attachment B") does not permit municipalities to be more restrictive than that set forth by State Law, but provides for certain processes, clear definitions, and review criteria, to facilitate the placement of telecommunication facilities in the rights-of-way while considering the community's desires for these services and the industries needs in providing the utility.

The State Legislature introduced a negotiation period that provides the Town and the applicant an opportunity to collaboratively consider applications for telecommunication facilities within the public rights-of-way. An applicant may apply for a single building permit to address multiple locations (up to 30). Each location may be considered individually, and review and response times tracked accordingly. The statute now requires all correspondence, including those related to approvals and denials, issued by a local jurisdiction to the applicant, to be by electronic mail.

Specific statutory review criteria and design standards will govern the Town's basis for approval or denial in the Code once drafted and approved by the Town Council after a public hearing. Review criteria regarding stealth and concealment options, the distance between poles, pole height and collocation are provided below.

- Stealth and concealment options may be incorporated into the Town's code provided a waiver procedure is afforded the applicant where it can be demonstrated that such design is not (1) reasonably compatible or (2) imposes an excessive expense.
- Distance Separations between poles cannot be required, however within 14 days of an application, the Town may request relocation or an alternative pole, or other objective design standards. If such a request is made, the law allows for 30 days of negotiation with the applicant. If no agreement is reached, the Town must approve or deny within 90 days of the original application.
- Maximum pole height may be limited by the Town to the height of any pole in existence as of 07/01/2017, that is within 500' of the requested location. However, if no existing pole is within 500' of the proposed, the default height is 50'. Nevertheless, any antenna may be 10' feet higher than the pole to which it is attached.
- Collocation of additional antenna on a pole cannot be required by Town, nor can the town require multiple systems on a single antenna. Private pole antenna location requires consent of pole owner.

Finally, the amended Statute clarifies what is grounds for denial of application. Denial may be rendered if any of the conditions described in this memorandum are met and/or:

- Safe operation of Traffic Control Equipment is compromised.
- Site lines and clear zones for traffic and pedestrians are obstructed by the pole or equipment.
- ADA standards are violated
- Noncompliance with the 2010 editions of the FDOT Utility Accommodation Manual.
- Noncompliance with other applicable safety code.

ATTACHMENTS:

Description

Attachment A

Attachment B

Ordinance

ATTACHMENT A

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ADVANCED WIRELESS DEPLOYMENT ACT

Pertinent Definitions and Shot Clocks

PERTINENT DEFINITIONS

Micro wireless facility is a small wireless facility having dimensions no larger than 24 inches in length, 15 inches in width, 12 inches in height, and an exterior antenna, if any, no longer than 11 inches

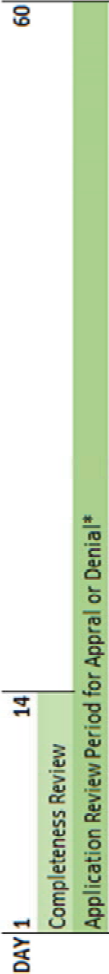
Small wireless facility is a small wireless facility having dimensions no larger than 24 inches in length, 15 inches in width, and 12 inches in height and an exterior antenna, if any, no longer than 11 inches.

Wireless facility includes equipment at a fixed location what enable wireless communications between user equipment and a communications network, such as transceivers, antennas, wires, coaxial or fiber-optic cable, power supply, and equipment associated with wireless communications.

Wireless support structure is a freestanding structure, such as a monopole, a guyed or self-supporting tower or another existing or proposed structure designed to support or capable of supporting wireless facilities. Term does not include utility poles

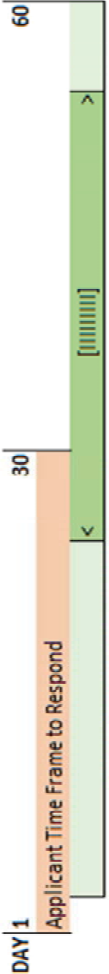
SHOT CLOCK TIME TABLES

STANDARD REVIEW SHOT CLOCK



* Town and applicant may mutually agree to extend Application Review Period

DENIED APPLICATION PROCEDURE

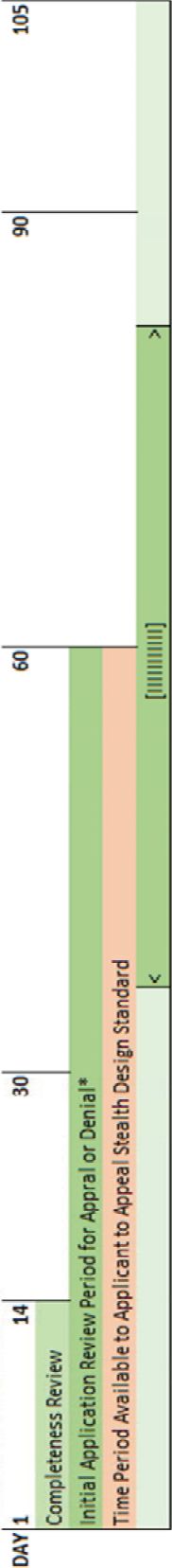


Sliding Scale: Town must respond with 30 days of applicant's resubmittal

TOWN REQUEST FOR ALTERNATE LOCATION SHOT CLOCK



APPLICANT APPEAL OF STEALTH DESIGN



Sliding Scale: Town must respond with 45 days of Applicant's Appeal

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1
2 An act relating to utilities; amending s. 337.401,
3 F.S.; authorizing the Department of Transportation and
4 certain local governmental entities to prescribe and
5 enforce rules or regulations regarding the placing and
6 maintaining of certain voice or data communications
7 services lines or wireless facilities on certain
8 rights-of-way; providing a short title; providing
9 definitions; prohibiting an authority from
10 prohibiting, regulating, or charging for the
11 collocation of small wireless facilities in public
12 rights-of-way under certain circumstances; authorizing
13 an authority to require a registration process and
14 permit fees under certain circumstances; requiring an
15 authority to accept, process, and issue applications
16 for permits subject to specified requirements;
17 prohibiting an authority from requiring approval or
18 requiring fees or other charges for routine
19 maintenance, the replacement of certain wireless
20 facilities, or the installation, placement,
21 maintenance, or replacement of certain micro wireless
22 facilities; providing an exception; providing
23 requirements for the collocation of small wireless
24 facilities on authority utility poles; providing
25 requirements for rates, fees, and other terms related

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26 to authority utility poles; authorizing an authority
27 to apply current ordinances regulating placement of
28 communications facilities in the right-of-way for
29 certain applications; requiring an authority to waive
30 certain permit application requirements and small
31 wireless facility placement requirements; prohibiting
32 an authority from adopting or enforcing any regulation
33 on the placement or operation of certain
34 communications facilities and from regulating any
35 communications services or imposing or collecting any
36 tax, fee, or charge not specifically authorized under
37 state law; providing construction; requiring a
38 wireless provider to comply with certain
39 nondiscriminatory undergrounding requirements of an
40 authority; authorizing the authority to waive any such
41 requirements; authorizing a wireless infrastructure
42 provider to apply to an authority to place utility
43 poles in the public rights-of-way to support the
44 collocation of small wireless facilities; providing
45 application requirements; requiring the authority to
46 accept and process the application subject to certain
47 requirements; providing construction; authorizing an
48 authority to enforce certain local codes,
49 administrative rules, or regulations; authorizing an
50 authority to enforce certain pending local ordinances,

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51 administrative rules, or regulations under certain
52 circumstances, subject to waiver by the authority;
53 providing construction; providing an effective date.
54

55 Be It Enacted by the Legislature of the State of Florida:
56

57 Section 1. Paragraph (a) of subsection (1) of section
58 337.401, Florida Statutes, is amended, and subsection (7) is
59 added to that section, to read:

60 337.401 Use of right-of-way for utilities subject to
61 regulation; permit; fees.—

62 (1)(a) The department and local governmental entities,
63 referred to in this section and in ss. 337.402, 337.403, and
64 337.404 as the "authority," that have jurisdiction and control
65 of public roads or publicly owned rail corridors are authorized
66 to prescribe and enforce reasonable rules or regulations with
67 reference to the placing and maintaining across, on, or within
68 the right-of-way limits of any road or publicly owned rail
69 corridors under their respective jurisdictions any electric
70 transmission, voice ~~telephone~~, telegraph, data, or other
71 communications services lines or wireless facilities; pole
72 lines; poles; railways; ditches; sewers; water, heat, or gas
73 mains; pipelines; fences; gasoline tanks and pumps; or other
74 structures referred to in this section and in ss. 337.402,
75 337.403, and 337.404 as the "utility." The department may enter

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76 into a permit-delegation agreement with a governmental entity if
77 issuance of a permit is based on requirements that the
78 department finds will ensure the safety and integrity of
79 facilities of the Department of Transportation; however, the
80 permit-delegation agreement does not apply to facilities of
81 electric utilities as defined in s. 366.02(2).

82 (7) (a) This subsection may be cited as the "Advanced
83 Wireless Infrastructure Deployment Act."

84 (b) As used in this subsection, the term:

85 1. "Antenna" means communications equipment that transmits
86 or receives electromagnetic radio frequency signals used in
87 providing wireless services.

88 2. "Applicable codes" means uniform building, fire,
89 electrical, plumbing, or mechanical codes adopted by a
90 recognized national code organization or local amendments to
91 those codes enacted solely to address threats of destruction of
92 property or injury to persons, or local codes or ordinances
93 adopted to implement this subsection. The term includes
94 objective design standards adopted by ordinance that may require
95 a new utility pole that replaces an existing utility pole to be
96 of substantially similar design, material, and color or that may
97 require reasonable spacing requirements concerning the location
98 of ground-mounted equipment. The term includes objective design
99 standards adopted by ordinance that may require a small wireless
100 facility to meet reasonable location context, color, stealth,

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101 and concealment requirements; however, such design standards may
102 be waived by the authority upon a showing that the design
103 standards are not reasonably compatible for the particular
104 location of a small wireless facility or that the design
105 standards impose an excessive expense. The waiver shall be
106 granted or denied within 45 days after the date of the request.

107 3. "Applicant" means a person who submits an application
108 and is a wireless provider.

109 4. "Application" means a request submitted by an applicant
110 to an authority for a permit to collocate small wireless
111 facilities.

112 5. "Authority" means a county or municipality having
113 jurisdiction and control of the rights-of-way of any public
114 road. The term does not include the Department of
115 Transportation. Rights-of-way under the jurisdiction and control
116 of the department are excluded from this subsection.

117 6. "Authority utility pole" means a utility pole owned by
118 an authority in the right-of-way. The term does not include a
119 utility pole owned by a municipal electric utility, a utility
120 pole used to support municipally owned or operated electric
121 distribution facilities, or a utility pole located in the right-
122 of-way within:

123 a. A retirement community that:

124 (I) Is deed restricted as housing for older persons as
125 defined in s. 760.29(4)(b);

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126 (II) Has more than 5,000 residents; and
127 (III) Has underground utilities for electric transmission
128 or distribution.

129 b. A municipality that:

130 (I) Is located on a coastal barrier island as defined in
131 s. 161.053(1)(b)3.;

132 (II) Has a land area of less than 5 square miles;

133 (III) Has less than 10,000 residents; and

134 (IV) Has, before July 1, 2017, received referendum
135 approval to issue debt to finance municipal-wide undergrounding
136 of its utilities for electric transmission or distribution.

137 7. "Collocate" or "collocation" means to install, mount,
138 maintain, modify, operate, or replace one or more wireless
139 facilities on, under, within, or adjacent to a wireless support
140 structure or utility pole. The term does not include the
141 installation of a new utility pole or wireless support structure
142 in the public rights-of-way.

143 8. "FCC" means the Federal Communications Commission.

144 9. "Micro wireless facility" means a small wireless
145 facility having dimensions no larger than 24 inches in length,
146 15 inches in width, and 12 inches in height and an exterior
147 antenna, if any, no longer than 11 inches.

148 10. "Small wireless facility" means a wireless facility
149 that meets the following qualifications:

150 a. Each antenna associated with the facility is located

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151 inside an enclosure of no more than 6 cubic feet in volume or,
152 in the case of antennas that have exposed elements, each antenna
153 and all of its exposed elements could fit within an enclosure of
154 no more than 6 cubic feet in volume; and

155 b. All other wireless equipment associated with the
156 facility is cumulatively no more than 28 cubic feet in volume.
157 The following types of associated ancillary equipment are not
158 included in the calculation of equipment volume: electric
159 meters, concealment elements, telecommunications demarcation
160 boxes, ground-based enclosures, grounding equipment, power
161 transfer switches, cutoff switches, vertical cable runs for the
162 connection of power and other services, and utility poles or
163 other support structures.

164 11. "Utility pole" means a pole or similar structure that
165 is used in whole or in part to provide communications services
166 or for electric distribution, lighting, traffic control,
167 signage, or a similar function. The term includes the vertical
168 support structure for traffic lights but does not include a
169 horizontal structure to which signal lights or other traffic
170 control devices are attached and does not include a pole or
171 similar structure 15 feet in height or less unless an authority
172 grants a waiver for such pole.

173 12. "Wireless facility" means equipment at a fixed
174 location which enables wireless communications between user
175 equipment and a communications network, including radio

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transceivers, antennas, wires, coaxial or fiber-optic cable or other cables, regular and backup power supplies, and comparable equipment, regardless of technological configuration, and

equipment associated with wireless communications. The term includes small wireless facilities. The term does not include:

a. The structure or improvements on, under, within, or adjacent to the structure on which the equipment is collocated;

b. Wireline backhaul facilities; or

c. Coaxial or fiber-optic cable that is between wireless structures or utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

13. "Wireless infrastructure provider" means a person who has been certificated to provide telecommunications service in the state and who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures but is not a wireless services provider.

14. "Wireless provider" means a wireless infrastructure provider or a wireless services provider.

15. "Wireless services" means any services provided using licensed or unlicensed spectrum, whether at a fixed location or mobile, using wireless facilities.

16. "Wireless services provider" means a person who provides wireless services.

17. "Wireless support structure" means a freestanding structure, such as a monopole, a guyed or self-supporting tower,

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201 or another existing or proposed structure designed to support or
202 capable of supporting wireless facilities. The term does not
203 include a utility pole.

204 (c) Except as provided in this subsection, an authority
205 may not prohibit, regulate, or charge for the collocation of
206 small wireless facilities in the public rights-of-way.

207 (d) An authority may require a registration process and
208 permit fees in accordance with subsection (3). An authority
209 shall accept applications for permits and shall process and
210 issue permits subject to the following requirements:

211 1. An authority may not directly or indirectly require an
212 applicant to perform services unrelated to the collocation for
213 which approval is sought, such as in-kind contributions to the
214 authority, including reserving fiber, conduit, or pole space for
215 the authority.

216 2. An applicant may not be required to provide more
217 information to obtain a permit than is necessary to demonstrate
218 the applicant's compliance with applicable codes for the
219 placement of small wireless facilities in the locations
220 identified the application.

221 3. An authority may not require the placement of small
222 wireless facilities on any specific utility pole or category of
223 poles or require multiple antenna systems on a single utility
224 pole.

225 4. An authority may not limit the placement of small

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226 wireless facilities by minimum separation distances. However,
227 within 14 days after the date of filing the application, an
228 authority may request that the proposed location of a small
229 wireless facility be moved to another location in the right-of-
230 way and placed on an alternative authority utility pole or
231 support structure or may place a new utility pole. The authority
232 and the applicant may negotiate the alternative location,
233 including any objective design standards and reasonable spacing
234 requirements for ground-based equipment, for 30 days after the
235 date of the request. At the conclusion of the negotiation
236 period, if the alternative location is accepted by the
237 applicant, the applicant must notify the authority of such
238 acceptance and the application shall be deemed granted for any
239 new location for which there is agreement and all other
240 locations in the application. If an agreement is not reached,
241 the applicant must notify the authority of such nonagreement and
242 the authority must grant or deny the original application within
243 90 days after the date the application was filed. A request for
244 an alternative location, an acceptance of an alternative
245 location, or a rejection of an alternative location must be in
246 writing and provided by electronic mail.

247 5. An authority shall limit the height of a small wireless
248 facility to 10 feet above the utility pole or structure upon
249 which the small wireless facility is to be collocated. Unless
250 waived by an authority, the height for a new utility pole is

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251 limited to the tallest existing utility pole as of July 1, 2017,
252 located in the same right-of-way, other than a utility pole for
253 which a waiver has previously been granted, measured from grade
254 in place within 500 feet of the proposed location of the small
255 wireless facility. If there is no utility pole within 500 feet,
256 the authority shall limit the height of the utility pole to 50
257 feet.

258 6. Except as provided in subparagraphs 4. and 5., the
259 installation of a utility pole in the public rights-of-way
260 designed to support a small wireless facility shall be subject
261 to authority rules or regulations governing the placement of
262 utility poles in the public rights-of-way and shall be subject
263 to the application review timeframes in this subsection.

264 7. Within 14 days after receiving an application, an
265 authority must determine and notify the applicant by electronic
266 mail as to whether the application is complete. If an
267 application is deemed incomplete, the authority must
268 specifically identify the missing information. An application is
269 deemed complete if the authority fails to provide notification
270 to the applicant within 14 days.

271 8. An application must be processed on a nondiscriminatory
272 basis. A complete application is deemed approved if an authority
273 fails to approve or deny the application within 60 days after
274 receipt of the application. If an authority does not use the 30-
275 day negotiation period provided in subparagraph 4., the parties

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276 may mutually agree to extend the 60-day application review
277 period. The authority shall grant or deny the application at the
278 end of the extended period. A permit issued pursuant to an
279 approved application shall remain effective for 1 year unless
280 extended by the authority.

281 9. An authority must notify the applicant of approval or
282 denial by electronic mail. An authority shall approve a complete
283 application unless it does not meet the authority's applicable
284 codes. If the application is denied, the authority must specify
285 in writing the basis for denial, including the specific code
286 provisions on which the denial was based, and send the
287 documentation to the applicant by electronic mail on the day the
288 authority denies the application. The applicant may cure the
289 deficiencies identified by the authority and resubmit the
290 application within 30 days after notice of the denial is sent to
291 the applicant. The authority shall approve or deny the revised
292 application within 30 days after receipt or the application is
293 deemed approved. Any subsequent review shall be limited to the
294 deficiencies cited in the denial.

295 10. An applicant seeking to collocate small wireless
296 facilities within the jurisdiction of a single authority may, at
297 the applicant's discretion, file a consolidated application and
298 receive a single permit for the collocation of up to 30 small
299 wireless facilities. If the application includes multiple small
300 wireless facilities, an authority may separately address small

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301 wireless facility collocations for which incomplete information
302 has been received or which are denied.

303 11. An authority may deny a proposed collocation of a
304 small wireless facility in the public rights-of-way if the
305 proposed collocation:

306 a. Materially interferes with the safe operation of
307 traffic control equipment.

308 b. Materially interferes with sight lines or clear zones
309 for transportation, pedestrians, or public safety purposes.

310 c. Materially interferes with compliance with the
311 Americans with Disabilities Act or similar federal or state
312 standards regarding pedestrian access or movement.

313 d. Materially fails to comply with the 2010 edition of the
314 Florida Department of Transportation Utility Accommodation
315 Manual.

316 e. Fails to comply with applicable codes.

317 12. An authority may adopt by ordinance provisions for
318 insurance coverage, indemnification, performance bonds, security
319 funds, force majeure, abandonment, authority liability, or
320 authority warranties. Such provisions must be reasonable and
321 nondiscriminatory.

322 13. Collocation of a small wireless facility on an
323 authority utility pole does not provide the basis for the
324 imposition of an ad valorem tax on the authority utility pole.

325 14. An authority may reserve space on authority utility

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poles for future public safety uses. However, a reservation of space may not preclude collocation of a small wireless facility. If replacement of the authority utility pole is necessary to accommodate the collocation of the small wireless facility and the future public safety use, the pole replacement is subject to make-ready provisions and the replaced pole shall accommodate the future public safety use.

15. A structure granted a permit and installed pursuant to this subsection shall comply with chapter 333 and federal regulations pertaining to airport airspace protections.

(e) An authority may not require approval or require fees or other charges for:

1. Routine maintenance;

2. Replacement of existing wireless facilities with wireless facilities that are substantially similar or of the same or smaller size; or

3. Installation, placement, maintenance, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles in compliance with applicable codes by or for a communications services provider authorized to occupy the rights-of-way and who is remitting taxes under chapter 202.

Notwithstanding this paragraph, an authority may require a right-of-way permit for work that involves excavation, closure

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351 of a sidewalk, or closure of a vehicular lane.

352 (f) Collocation of small wireless facilities on authority
353 utility poles is subject to the following requirements:

354 1. An authority may not enter into an exclusive
355 arrangement with any person for the right to attach equipment to
356 authority utility poles.

357 2. The rates and fees for collocations on authority
358 utility poles must be nondiscriminatory, regardless of the
359 services provided by the collocating person.

360 3. The rate to collocate small wireless facilities on an
361 authority utility pole may not exceed \$150 per pole annually.

362 4. Agreements between authorities and wireless providers
363 that are in effect on July 1, 2017, and that relate to the
364 collocation of small wireless facilities in the right-of-way,
365 including the collocation of small wireless facilities on
366 authority utility poles, remain in effect, subject to applicable
367 termination provisions. The wireless provider may accept the
368 rates, fees, and terms established under this subsection for
369 small wireless facilities and utility poles that are the subject
370 of an application submitted after the rates, fees, and terms
371 become effective.

372 5. A person owning or controlling an authority utility
373 pole shall offer rates, fees, and other terms that comply with
374 this subsection. By the later of January 1, 2018, or 3 months
375 after receiving a request to collocate its first small wireless

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376 facility on a utility pole owned or controlled by an authority,
377 the person owning or controlling the authority utility pole
378 shall make available, through ordinance or otherwise, rates,
379 fees, and terms for the collocation of small wireless facilities
380 on the authority utility pole which comply with this subsection.

381 a. The rates, fees, and terms must be nondiscriminatory
382 and competitively neutral and must comply with this subsection.

383 b. For an authority utility pole that supports an aerial
384 facility used to provide communications services or electric
385 service, the parties shall comply with the process for make-
386 ready work under 47 U.S.C. s. 224 and implementing regulations.
387 The good faith estimate of the person owning or controlling the
388 pole for any make-ready work necessary to enable the pole to
389 support the requested collocation must include pole replacement
390 if necessary.

391 c. For an authority utility pole that does not support an
392 aerial facility used to provide communications services or
393 electric service, the authority shall provide a good faith
394 estimate for any make-ready work necessary to enable the pole to
395 support the requested collocation, including necessary pole
396 replacement, within 60 days after receipt of a complete
397 application. Make-ready work, including any pole replacement,
398 must be completed within 60 days after written acceptance of the
399 good faith estimate by the applicant. Alternatively, an
400 authority may require the applicant seeking to collocate a small

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401 wireless facility to provide a make-ready estimate at the
402 applicant's expense for the work necessary to support the small
403 wireless facility, including pole replacement, and perform the
404 make-ready work. If pole replacement is required, the scope of
405 the make-ready estimate is limited to the design, fabrication,
406 and installation of a utility pole that is substantially similar
407 in color and composition. The authority may not condition or
408 restrict the manner in which the applicant obtains, develops, or
409 provides the estimate or conducts the make-ready work subject to
410 usual construction restoration standards for work in the right-
411 of-way. The replaced or altered utility pole shall remain the
412 property of the authority.

413 d. An authority may not require more make-ready work than
414 is required to meet applicable codes or industry standards. Fees
415 for make-ready work may not include costs related to preexisting
416 damage or prior noncompliance. Fees for make-ready work,
417 including any pole replacement, may not exceed actual costs or
418 the amount charged to communications services providers other
419 than wireless services providers for similar work and may not
420 include any consultant fee or expense.

421 (g) For any applications filed before the effective date
422 of ordinances implementing this subsection, an authority may
423 apply current ordinances relating to placement of communications
424 facilities in the right-of-way related to registration,
425 permitting, insurance coverage, indemnification, performance

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bonds, security funds, force majeure, abandonment, authority liability, or authority warranties. Permit application requirements and small wireless facility placement requirements, including utility pole height limits, that conflict with this subsection shall be waived by the authority.

(h) Except as provided in this section or specifically required by state law, an authority may not adopt or enforce any regulation on the placement or operation of communications facilities in the rights-of-way by a provider authorized by state law to operate in the rights-of-way and may not regulate any communications services or impose or collect any tax, fee, or charge not specifically authorized under state law. This paragraph does not alter any law regarding an authority's ability to regulate the relocation of facilities.

(i) A wireless provider shall, in relation to a small wireless facility, utility pole, or wireless support structure in the public rights-of-way, comply with nondiscriminatory undergrounding requirements of an authority that prohibit above-ground structures in public rights-of-way. Any such requirements may be waived by the authority.

(j) A wireless infrastructure provider may apply to an authority to place utility poles in the public rights-of-way to support the collocation of small wireless facilities. The application must include an attestation that small wireless facilities will be collocated on the utility pole or structure

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451 and will be used by a wireless services provider to provide
452 service within 9 months after the date the application is
453 approved. The authority shall accept and process the application
454 in accordance with subparagraph (d)6. and any applicable codes
455 and other local codes governing the placement of utility poles
456 in the public rights-of-way.

457 (k) This subsection does not limit a local government's
458 authority to enforce historic preservation zoning regulations
459 consistent with the preservation of local zoning authority under
460 47 U.S.C. s. 332(c)(7), the requirements for facility
461 modifications under 47 U.S.C. s. 1455(a), or the National
462 Historic Preservation Act of 1966, as amended, and the
463 regulations adopted to implement such laws. An authority may
464 enforce local codes, administrative rules, or regulations
465 adopted by ordinance in effect on April 1, 2017, which are
466 applicable to a historic area designated by the state or
467 authority. An authority may enforce pending local ordinances,
468 administrative rules, or regulations applicable to a historic
469 area designated by the state if the intent to adopt such changes
470 has been publicly declared on or before April 1, 2017. An
471 authority may waive any ordinances or other requirements that
472 are subject to this paragraph.

473 (l) This subsection does not authorize a person to
474 collocate or attach wireless facilities, including any antenna,
475 micro wireless facility, or small wireless facility, on a

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476 privately owned utility pole, a utility pole owned by an
477 electric cooperative or a municipal electric utility, a
478 privately owned wireless support structure, or other private
479 property without the consent of the property owner.

480 (m) The approval of the installation, placement,
481 maintenance, or operation of a small wireless facility pursuant
482 to this subsection does not authorize the provision of any
483 voice, data, or video communications services or the
484 installation, placement, maintenance, or operation of any
485 communications facilities other than small wireless facilities
486 in the right-of-way.

487 (n) This subsection does not affect provisions relating to
488 pass-through providers in subsection (6).

489 (o) This subsection does not authorize a person to
490 collocate or attach small wireless facilities or micro wireless
491 facilities on a utility pole, unless otherwise permitted by
492 federal law, or erect a wireless support structure in the right-
493 of-way located within a retirement community that:

494 1. Is deed restricted as housing for older persons as
495 defined in s. 760.29(4)(b);

496 2. Has more than 5,000 residents; and

497 3. Has underground utilities for electric transmission or
498 distribution.

499
500 This paragraph does not apply to the installation, placement,

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501 maintenance, or replacement of micro wireless facilities on any
502 existing and duly authorized aerial communications facilities,
503 provided that once aerial facilities are converted to
504 underground facilities, any such collocation or construction
505 shall be only as provided by the municipality's underground
506 utilities ordinance.

507 (p) This subsection does not authorize a person to
508 collocate or attach small wireless facilities or micro wireless
509 facilities on a utility pole, unless otherwise permitted by
510 federal law, or erect a wireless support structure in the right-
511 of-way located within a municipality that:

512 1. Is located on a coastal barrier island as defined in s.
513 161.053(1)(b)3.;

514 2. Has a land area of less than 5 square miles;

515 3. Has fewer than 10,000 residents; and

516 4. Has, before July 1, 2017, received referendum approval
517 to issue debt to finance municipal-wide undergrounding of its
518 utilities for electric transmission or distribution.

519
520 This paragraph does not apply to the installation, placement,
521 maintenance, or replacement of micro wireless facilities on any
522 existing and duly authorized aerial communications facilities,
523 provided that once aerial facilities are converted to
524 underground facilities, any such collocation or construction
525 shall be only as provided by the municipality's underground

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526 | utilities ordinance.

527 | (q) This subsection does not authorize a person to
528 | collocate small wireless facilities or micro wireless facilities
529 | on an authority utility pole or erect a wireless support
530 | structure in a location subject to covenants, conditions,
531 | restrictions, articles of incorporation, and bylaws of a
532 | homeowners' association. This paragraph does not apply to the
533 | installation, placement, maintenance, or replacement of micro
534 | wireless facilities on any existing and duly authorized aerial
535 | communications facilities.

536 | Section 2. This act shall take effect July 1, 2017.

ORDINANCE NO. 17-__

AN ORDINANCE OF THE TOWN OF MIAMI LAKES, AMENDING THE TOWN'S CODE OF ORDINANCES AT CHAPTER 35, ARTICLE II, COMMUNICATIONS FACILITIES IN PUBLIC RIGHTS-OF-WAY; RELATING TO THE PLACEMENT OF UTILITIES OTHER THAN COMMUNICATION FACILITIES LOCATED WITHIN THE RIGHTS-OF-WAY, BOTH ABOVE AND BELOW GROUND; CREATING ARTICLE III, PROVIDING FOR REGULATIONS RELATING TO THE PLACEMENT OF COMMUNICATION FACILITIES, WIRELESS FACILITIES, PASS-THROUGH FACILITIES, AND OTHER SIMILAR FACILITIES, WITHIN THE TOWN'S RIGHTS-OF-WAY, BOTH ABOVE AND BELOW GROUND; PROVIDING FOR INCLUSION INTO THE CODE; PROVIDING FOR ORDINANCES IN CONFLICT, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the provision of communications services and other utilities to residents of and visitors to the Town of Miami Lakes (the "Town") is both an important amenity and a necessity of public and private life in the Town; and

WHEREAS, the demand for communications services has grown in recent years, and continues to grow exponentially, requiring the continual upgrading of communications facilities and services to satisfy a growing demand; and

WHEREAS, Section 337.401 of Florida Statutes states that since both Federal and State Law require the nondiscriminatory treatment to providers of all communications services it is the intent of the State Legislature that municipalities treat providers of communication services in a nondiscriminatory and competitively neutral manner when imposing rules or regulations governing the placement or maintenance of communications facilities in the Town's rights-of-way; and

WHEREAS, rules and regulations imposed by a municipality relating to communication service providers that desire to place or maintain communications facilities in the Town's rights-of-way must be generally nondiscriminatory and competitively neutral and, notwithstanding any other law, may not require providers of communications services to apply for or enter into an individual license, franchise, or other agreement with the Town as a condition of placing or maintaining communications facilities in the Town's rights-of-way; and

WHEREAS, Section 337.401(3)(g) of Florida Statutes provides that a municipality may not use its authority over the placement of facilities in its rights-of-way as a basis for asserting or exercising regulatory control over a provider of communications services regarding matters within the exclusive jurisdiction of the Florida Public Service Commission or the Federal Communications Commission, including, but not limited to, the operations, systems, qualifications, services, service quality, service territory, and prices of a provider of communications services; and

WHEREAS, the Florida legislature, during their 2017 legislative session, adopted Florida Statutes 337.401(7), titled the "Advanced Wireless Communications Act," which detail a municipality's regulatory authority to regulate wireless facilities within its rights-of-ways; and

WHEREAS, it is the Town's intent to exercise its authority over communication service providers, communication facility providers and pass-through providers' placement and maintenance of facilities in its rights-of-way; and

WHEREAS, it is also the Town's intent to treat each such provider in a reasonable, nondiscriminatory, and competitively neutral manner in exercising such authority; which authority is limited to only those matters necessary to manage the its rights-of-way; and

WHEREAS, the Town's rights-of-way are essential for the travel of persons and the transport of goods throughout the Town; and are a unique and physically limited resource requiring proper management by the Town in order to maximize efficiency, minimize costs to Town taxpayers for the foregoing uses, reasonably balance the potential inconvenience to and negative effects upon the public from the placement and maintenance of communications facilities in the rights-of-way against the substantial benefits that accrue from such placement and maintenance, and promote the public health, safety and general welfare; and

WHEREAS, it is the further intent of the Town to exercise its authority to adopt reasonable rules and regulations to the fullest extent allowed by Federal and State law; and

WHEREAS, the Town has reviewed its ordinances and has received input from representatives of the communications service industry, and as a result of the foregoing has concluded that Town's Code of Ordinances must be updated and amended in order to conform with Federal and State laws and rules, regarding the placement and maintenance of new, existing, and expanded communications facilities in the Town's rights-of-way; and

WHEREAS, adoption of the following ordinance is necessary to satisfy the above objectives; and

WHEREAS, the Town Council believes it is in the best interest of the Town to adopt this ordinance amending Chapter 35, Article II and Creating Chapter 35, Article III for inclusion the Town's Code of Ordinances.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA AS FOLLOWS:

Section 1. Recitals. Each of the above stated recitals are true and correct and are incorporated herein by this reference.

Section 2. Findings. After considering Staff's report, both submitted in writing and presented orally and the public comment, the Town Council finds that the proposed amendment is consistent with the Town of Miami Lakes Comprehensive Plan Code.

Section 3. Approval. The Town Council hereby adopts the amendment as provided at Exhibit "A," and as incorporated herein.

Section 4. Repeal of Conflicting Provisions. All provisions of the Code of the Town of Miami Lakes that are in conflict with this Ordinance are hereby repealed.

Section 5. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 6. Inclusion in the Town Code. It is the intention of the Town Council, and it is hereby ordained, that the provisions of this Ordinance shall be included in the Town Code.

Section 7. Effective date. This Ordinance shall become effective immediately upon adoption.

FIRST READING

The foregoing ordinance was offered by Councilmember _____ who moved its adoption on first reading. The motion was seconded by Councilmember _____ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Frank Mingo	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Nelson Rodriguez	_____
Councilmember Marilyn Ruano	_____

Passed on first reading this _____ day of _____, 2017.

SECOND READING

The foregoing ordinance was offered by Councilmember _____ who moved its adoption on second reading. The motion was seconded by Councilmember _____ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Frank Mingo	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Nelson Rodriguez	_____
Councilmember Marilyn Ruano	_____

Passed and adopted on second reading this _____ day of _____, 2017.

Manny Cid
Mayor

Attest:

Gina M. Inguanzo
Town Clerk

Approved as to form and legal sufficiency:

Raul Gastesi, Jr.
Gastesi & Associates, P.A.
Town Attorney

EXHIBIT A
PROPOSED ORDINANCE

ARTICLE II. – ~~COMMUNICATIONS~~ UTILITY FACILITIES IN PUBLIC RIGHTS-OF-WAY

DIVISION 1. Generally.

Sec. 35-25 Intent and Purpose.

It is the intent of the Town of Miami Lakes to promote the public health, safety and general welfare by: providing regulations governing the placement or maintenance of utilities, other than Communications Facilities, in the Town's Public Rights-of-way; adopting and administering reasonable rules and regulations not inconsistent with State and Federal law, as each may be amended from time to time, and other Federal and State law; establishing reasonable rules and regulations necessary to manage the placement or maintenance of utilities, in the Town's Public Rights-of-way by all utility providers; minimizing disruption to the Town's Public Rights-of-way; establishing reasonable rules and regulations necessary to manage the placement or maintenance of utilities; and minimizing disruption to the Town's Public Rights-of-way. In regulating its Public Rights-of-way, the Town shall be governed by and shall comply with all applicable Federal and State Laws.

Persons seeking to place or maintain Utilities, in the Town's Public Rights-of-way shall comply with the provisions of this Article or as may otherwise be addressed in a Franchise Agreement pursuant to this Article. Persons seeking to place or maintain Utilities on private real- property or other real- property to which the Town, Miami-Dade County, the School District of Miami-Dade County, the South Florida Water Management District, the State of Florida or the Federal Government own a fee simple or leasehold interest in real property, located within the municipal boundaries of the Town shall comply with the provisions of the Chapter 13, Land Development Code (LDC), to the extent it applies.

35-265. - Definitions.

For purposes of this ~~Article~~ article the following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words not otherwise defined in this section or in any permit that may be granted pursuant to this article shall be given the meaning set forth in the Communications Act of 1934, 47 USC 151 et seq., as amended (collectively the "Communications Act"), and if not defined in the Communications Act, as defined by Florida Statutes; and, if not defined by Florida Statutes, shall be construed to mean the common and ordinary meaning.

Abandonment, or Abandoned means 90 or more consecutive days with the absence of any active user of a Facility. An Abandoned utility shall be removed or cured as required by this Article. This term shall not include cessation of all use of a Facility within a physical structure where the physical structure continues to be used for some purpose or use accessory to the utility. The term shall also exclude the temporary cessation of the provision of Facility where the Utility intends to re-establish the provision of Facility's services in the future. The temporary cessation with intent to re-activate must be documented to the satisfaction of the Town Public Works Director. ~~means the permanent cessation of all uses of a communications facility, provided that this term shall not include cessation of all use of a communication facility within a physical~~

~~structure where the physical structure continues to be used. By way of example, and not limitation, cessation of all use of a cable within a conduit, where the conduit continues to be used, shall not be an "abandonment" of a communications facility in the public rights-of-way.~~

Applicable Codes means uniform building, fire electrical, plumbing, or mechanical codes adopted a recognized national code organization or local amendments to those codes enacted solely to address threats of destruction of property or injury to persons, or local codes ordinances adopted to implement this Article. The term includes objective design standards provided in this Article that may require a new utility pole that replaces an existing utility pole to be of substantially similar design, material, and color or that may require reasonable spacing requirements concerning the location of ground-mounted equipment. The term includes objective design standards provided in this Article that may require a small wireless facility to meet reasonable location context, color, stealth, and concealment requirements; however, such design standards may be waived upon a showing that the design standards are not reasonably combative for the particular location of the small wireless facility or that the design standards impose an excessive expense. The waiver shall be granted or denied within 45 days after the date of the request.

Communications Facility or Communications System means any permanent or temporary plant, equipment and property, including, but not limited to, cables, wires, conduits, ducts, fiber optics, poles, Antennas, converters, splice boxes, cabinets, hand holes, manholes, vaults, drains, surface location markers, appurtenances and other equipment or pathway placed or maintained or to be placed or maintained in the public rights-of-way of the Town and used or capable of being used to transmit, convey, route, receive, distribute, provide or offer Communication Services. Pursuant to F.S. § 337.401(6)(c), Communication Facility for purposes of this article shall not include communications facilities owned, operated or used by electric utilities or regional transmission organizations exclusively for internal communications purposes.

~~*Communications Services* means the transmission, conveyance or routing of voice, data, audio, video or any other information or signals to a point, or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave or other medium or method now in existence or hereafter devised, regardless of the protocol used for such transmission or conveyance. For the purpose of this article, cable service, as defined in F.S. § 202.11(2), is not included in this definition and cable service providers or providers of service via an open video system may be subject to other ordinances of the Town and shall require separate authorization from the Town.~~

~~*Communications Services Provider* means any person making available or providing communications services through the placement or maintenance of a communications facility in public rights-of-way.~~

Emergency means situations of a serious nature, developing suddenly and unexpectedly, and demanding immediate action that will affect public safety, disruption of utility service, or damage to the Rights-of-Way, and conditions that affects the public's health, safety or welfare.

Facility or Facilities means any tangible thing located in any Public Rights-of-way used to deliver the services of a Utility.

~~*FCC* means the Federal Communications Commission.~~

Florida Building Code means the Florida Building Code promulgated under Chapter 553, *Florida Statutes* and includes the Miami-Dade County Amendments thereto as both may be amended from time to time.

In Public Rights-of-Way or In the Public Rights-of-Way means over, above, in, on or under the Public Rights-of-way within the Town over which the Town has jurisdiction, control and authority to regulate. The term also includes those Rights-of-way over which the County or State has

jurisdiction and authority under the Florida Transportation Code, Chapter 334, Florida Statutes, as same may be amended from time to time, but where the County or State or both have delegated to the Town the authority to regulate the registration, permitting, placement, installation and maintenance of Facilities in accordance with Chapter 35 of the Town Code of Ordinances. means in, on, over, under or across the public rights-of-way.

LDC. means the, Chapter 13 of the Town of Miami Lakes Code of Ordinances, titled “Land Development Code.

Occupant means electric, gas (natural, manufactured or similar gaseous substance), water or sewer utility, or other similar type of entity that places or maintains facilities of whatever type in the Town's Public Roads or Public Rights-of-Way.

Permit means the Public Right-of-way permit that must be obtained before a Person may construct in the Public Right-of-way and shall include, but not be limited to Town Right-of-Way engineering and construction permits issued by the Town Public Works Director.

Person means any individual, firm, association, joint venture, partnership, estate, trust, business trust, syndicate, fiduciary, corporation, organization or legal entity of any kind, successor, assignee, transferee, personal representative and all other groups or combinations, but shall not include the Town to the extent permitted by applicable law.

Place or Maintain or Placement or Maintenance or Placing or Maintaining means to erect, construct, install, maintain, place, repair, extend, expand, remove, occupy, locate or relocate. A ~~communications-services-provider~~ Utility that owns or exercises physical control over ~~communications-facilities~~ Facilities in public rights-of-way, such as the physical control to maintain and repair, is "placing or maintaining" the facilities. A party providing service only through resale or only through use of a third party's unbundled network elements is not "placing or maintaining" the ~~communications-facilities~~ Facilities through which such service is provided.

Public Rights-of-Way means a public right-of-way, public utility easement, highway, street, bridge, tunnel, pier, waterway, dock, wharf, court, lane, path or alley or any other property for which the Town has jurisdiction and control and may lawfully grant access to such property pursuant to applicable law, and includes the surface, the air space over the surface and the area below the surface to the extent the Town holds a property interest therein. Public Rights-of-Way shall not include:

- (1) Private property;
- (2) Any real or personal Town property except as described above; or
- (3) Town buildings, fixtures, poles, conduits, facilities or other structures or improvements, regardless of whether they are situated in the Public Rights-of-Way.

Registrant or Facility Owner means a ~~communications-services-provider~~ Utility or other person that has registered with the Town in accordance with the provisions of this article.

Registration and Register means the process described in this article whereby a Utility ~~Communication Services Provider~~, provides certain information to the Town by which it is determined whether the Person will be authorized to obtain Permits to Place or Maintain Facilities within the Town's Public Rights-of-Way.

Town means the Town of Miami Lakes, Florida, an incorporated municipality of the State of Florida, in its present form or in any later reorganized, consolidated or enlarged form.

User means electric, gas (natural, manufactured or similar gaseous substance), water or sewer utility, ~~cable television~~ or other similar type of entity that places or maintains facilities of whatever type in the Town's Public Roads or Public Rights-of-Way.

Utility means any Person or entity that is an electric, gas, water, steam waste, disposal, or similar service consumed by the public, and who owns or operates appurtenant facilities or equipment that are situated with the Public Rights-of-way for transmission of such Utility's goods, commodities or services.

Utility Pole means a pole or similar structure that is used in whole or in part to provide for electric distribution, lighting, traffic control, signage, or a similar function. The term includes the vertical support structure for traffic lights but does not include a horizontal structure to which signal lights or other traffic control devices are attached and does not include a pole or similar structure.

Utility Service or Services shall mean those services that are provided by a Utility other than those classified as a communication facility or service.

~~35-26. Intent and purpose:~~

~~(a) It is the intent of the Town and the purpose of this article to promote the public health, safety and general welfare by:~~

- ~~(1) Providing for the placement and maintenance of communications facilities in the public rights-of-way within the Town;~~
- ~~(2) Adopting and administering reasonable rules and regulations consistent with State and Federal law, including F.S. § 337.401 and the Town's home-rule authority, and in accordance with the provisions of the Federal Telecommunications Act of 1996 and other Federal and State law;~~
- ~~(3) Establishing reasonable rules and regulations necessary to manage the placement and maintenance of communications facilities in the public rights-of-way by all communications services providers after the effective date of the ordinance from which this article is derived; and~~
- ~~(4) Minimizing disruption to the public rights-of-way.~~

~~In regulating its public rights-of-way, the Town shall be governed by and shall comply with all applicable Federal and State laws.~~

~~(b) It is the intent of the Town that this article will not preempt the Town's authority to require a franchise from users and/or occupants, other than communications service providers, of the Town's public roads and/or public rights-of-way. It is the intent of the Town to require users and/or occupants, other than communications service providers, of the Town's public rights-of-way to obtain a separate franchise before placing or maintaining facilities in the Town's public rights-of-way.~~

DIVISION 2. Registration.

35-27. - Registration for placing or maintaining, utilities ~~communications facilities~~ in public rights-of-way.

(a) Registration. A Utility, Communications Service provider that desires to place or maintain a communications facility Facility in public rights-of-way in the Town shall first register with the Town in accordance with this Division ~~article~~. Subject to the terms and conditions prescribed in this Division ~~article~~, a registrant may place or maintain a Facility.

~~Communications Facility~~ in public rights-of-way. A ~~Utility Communications Services Provider~~ with an existing ~~facility~~ Facility in the public rights-of-way of the Town as of the effective date of the ordinance from which this ~~Division article~~ is derived has 120 days from the effective date of the ordinance from which this ~~Division article~~ is derived to comply with the terms of this ~~Division article~~, including, but not limited to, registration, or shall be in violation thereof.

- (b) No property right arises from Registration. A registration shall not convey any title, equitable or legal, in the public rights-of-way. Registration under this article governs only the placement or maintenance of Facility in Public Rights-of-Way. Registration does not excuse a Utility, Communications or advanced wireless infrastructure services provider from obtaining appropriate access or pole attachment agreements before locating its ~~facilities~~ Facilities on the Town's or another person's ~~facilities~~ Facilities. Registration does not excuse a ~~communications services provider~~ Utility from complying with all applicable law, including Town ordinances, codes or regulations, including this article.
- (c) Registration is non-exclusive. Registration does not in and of itself establish a right to Place or Maintain, or establish priority for the Placement or Maintenance of a Facility, in the Town's Public Rights-of-way, but shall establish for the Registrant a right to apply for a Permit, if permitting is required by the Town. Registrations are expressly subject to any further amendment to or replacement of this Article and further subject to any additional Town ordinances or regulations, as well as any State or federal laws that may be enacted.
- (de) Content of Registration. Each ~~Utility, Communications services provider~~ that desires to place or maintain a ~~Communications Facility~~ Facility in Public Rights-of-Way in the Town shall file an original registration along with two complete copies with the Town that shall include the following information:
- (1) Name of the applicant;
 - (2) Name, address, telephone number, e-mail address and mobile phone number of the applicant's primary contact person in connection with the registration. Additionally, the applicant shall provide emergency contact information. The primary contact person shall be able to provide information regarding the registrant's Utility, Communications facilities in the public rights-of-way, and shall be able to accept and coordinate any damage claims. The registrant shall also provide a secondary contact person enabling the Town to contact appropriate registrant's personnel in emergency situations, including, but not limited to, when registrant's construction or equipment has caused damage to other property. The registrant shall also provide the Town with a current telephone number for the secondary contact person which shall be available and monitored 24 hours per day, every day, by the registrant, to be utilized by the Town in case of an emergency. Such information shall be updated as necessary by the registrant to provide the Town with current and accurate information;
 - (3) Evidence of the insurance coverage required under this article and acknowledgment that the registrant has received and reviewed a copy of this article;
 - (4) A copy of Federal or State certification authorizing the applicant to provide Utility, Communications services, if any;
 - (5) If the applicant is a corporation and does not submit a State certification pursuant to Subsection (c)(4) of this section, proof of authority to do business in the State of Florida, which may be satisfied by the number of the corporate certification or other means; and
 - (6) A security fund in accordance with this article.

- (e) Review and reporting. The Town Manager or designee shall review the information submitted by the Applicant. If the Applicant submits information in accordance with Subsection (de) of this section, the Registration shall be effective and the Town shall notify the applicant of the effectiveness of Registration in writing. The Applicant may not apply for a permit to place or maintain Utility, Communications facilities ~~Facilities~~ in the Public Rights-of-Way under this article unless and until it has been notified that its application is complete and effective. If the Town determines that the information has not been submitted in accordance with Subsection (c) of this section, the Town shall notify the applicant in writing of the noneffectiveness of registration and reasons for the noneffectiveness. ~~The Town shall so notify an Applicant within 30 days after receipt of registration information from the Applicant.~~
- (fe) Cancellation. A registrant may cancel a registration upon written notice to the Town that the registrant will no longer place or maintain any Facility ~~communications facilities~~ in public rights-of-way and will no longer need to obtain permits to perform work in the public rights-of-way. A registrant cannot cancel a registration if the registrant continues to place or maintain a Facility Communication Facility in public rights-of-way.
- (f) ~~Registration shall be nonexclusive. Registration shall not establish any right or priority to place or maintain a communications facility in any particular area in public rights-of-way within the Town. Registrations are expressly subject to any future amendment to or replacement of this article and further subject to any additional Town ordinances, as well as any State or Federal laws that may be enacted.~~
- (fg) Annual Renewal. A registrant shall ~~renew~~ update its registration with the Town by April 1 of ~~each even-numbered~~ years in accordance with the registration requirements in this article; except that a registrant that initially registers during the even-numbered year when renewal would be due, or the odd-numbered year immediately preceding such even-numbered year, shall not be required to renew until the next even-numbered year. Within 30 days of any change in the information required to be submitted pursuant to Subsection of this section, a registrant shall provide updated information to the Town. If no information in the then-existing registration has changed, the renewal may state that no information has changed. Failure to renew a registration may, at the Town's discretion, result in the Town restricting the issuance of additional permits until the ~~communications services provider~~ Utility has complied with the registration requirements of this article.
- (h) Permit Required. ~~In accordance with applicable Town ordinances, codes or regulations and this article, a permit shall be required of a Communications services provider that desires to place or maintain a Communications Facility in Public Rights of Way. An effective registration shall be a condition precedent of obtaining a Permit.~~
- (hi) Compensation. ~~Except as may be provided for in a separate franchise agreement, a~~ A Registrant that places or maintains a Communications Facilities Facility in the public rights-of-way shall be required to pay compensation to the Town as required by applicable law and ordinances of the Town. A Registrant that places or maintains a Facility Communications Facilities in the public rights-of-way, ~~other than a Registrant that provides communications services as defined in F.S. § 202.012(3), within the Town,~~ shall pay to the Town the fees required by Florida Law and the Town's ordinances and resolutions. Such registrants shall pay such amounts initially before obtaining permits and then annually thereafter in accordance with the Town's requirements.

- (i) Failure to Register. A Registrant shall bear the responsibility to maintain his registration updated with the Town at all times. A Registrant's failure to Register, or renew Registration may result in the suspension of any open Permits and Civil Penalties.

Sec. 35-28. Insurance.

- (a) General. A Registrant shall provide, pay for and maintain satisfactory to the Town the types of insurance described herein. All insurance shall be from responsible companies duly authorized to do business in the State of Florida and having an A.M. Best A-VII or better rating. All liability policies shall provide that the Town is an additional insured as to the activities under this Article. The required coverages must be evidenced by properly executed certificates of insurance forms. The certificates must be signed by the authorized representative of the insurance company and shall be filed and maintained with the Town annually. Thirty (30) days advance written notice by registered, certified or regular mail or facsimile as determined by the Town must be given to the Town's Risk Manager of any cancellation, intent not to renew or reduction in the policy coverages. The insurance requirements may be satisfied by evidence of self-insurance or other types of insurance acceptable to the Town.
- (b) Insurance Coverage and Limits of Insurance Coverage. The insurance coverage and limits of coverage of insurance required shall be not less than the following:
- (1) Worker's compensation and employer's liability insurance. Requirements as spelled out in Florida Chapter 440.
 - (2) Comprehensive general liability. Commercial general liability occurrence form, including premises/operations, independent contractor's contractual liability, product/completed operations; X, C, U coverage; and personal injury coverage for limits of no less than one million dollars (\$1,000,000) per occurrence, combined single limit and two million dollars (\$2,000,000) in the aggregate.
 - (3) Commercial Automobile liability. Commercial automobile liability coverage for all owned, non-owned and hired vehicles involved in operations under this Article XII for limits of no less than one million dollars (\$1,000,000) per occurrence combined single limit each accident.
 - (4) Commercial excess or umbrella liability. Commercial excess or umbrella liability coverage may be used in combination with primary coverage to achieve the required limits of liability.
- (c) Proof of Insurance. Upon the effective date of the Registration, the Registrant shall submit to the Town proof that it has obtained the insurance required under this Section 35-35, including a certificate of insurance signed by the insurance agent.
- (d) Authority to decrease limits. The Town shall have the authority to increase or decrease the policy limits set forth above and shall provide each Registrant with at least thirty (30) days advance written notice of such change. Within thirty (30) days from receipt of a notice to increase its policy limits, the Registrant shall submit to the Town proof of such increased coverage.
- (e) Duration. The coverage provided herein shall be for a period not less than the period for which the indemnification obligations under Town Code Section 35-29 hereof are imposed.
- (f) Abandonment. Failure to maintain required coverage shall be deemed an Abandonment. Failure to maintain all the required insurance coverage shall be deemed an Abandonment of all of the Facilities of the Registrant.

35-29. Indemnification.

- (a) *Liability.* By reason of the acceptance of a Registration under this Article or the grant of a Permit under this Article, the Town does not assume any liability:
- (1) For injuries to persons, damage to property, or loss of service claims by parties other than the Registrant or the Town;
 - (2) For claims or penalties of any sort resulting from the installation, presence, maintenance, or operation of Facilities by Registrants or activities of Registrants.
- (b) *Hold harmless.* By registering with the Town, a Registrant agrees, or by applying for and accepting a Permit under this Article, a Permittee is required, to defend, indemnify, and hold the Town whole and harmless from all costs, liabilities, and claims for damages of any kind arising out of the construction, presence, installation, maintenance, repair or operation of its Facilities, whether any act or omission complained of is authorized, allowed, or prohibited by a Permit, inspection of plans or work by the Town. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the Registrant or to the Town; and the Registrant, in defending any action on behalf of the Town, shall be entitled to assert in any action every defense or immunity that the Town could assert in its own behalf. Nothing herein shall be construed as a waiver of the protections, limitations and immunities provided in Section 768.28, Florida Statutes, as same may be amended from time to time. The provisions of this Section 35-36 include, but are not limited to, the Town's reasonable attorneys' fees incurred in defending against any such claim, suit or proceeding(s).
- (c) *Notification of issues.* The Town agrees to notify the Registrant, in writing, within a reasonable time of the Town receiving notice, of any issue it determines may require indemnification.
- (d) *Limitations.* This indemnification obligation is not limited in any way by a limitation of the amount or type of damages or compensation payable by or for the registrant under workers' compensation, disability or other employee benefit acts, or the acceptance of insurance certificates required under this article, or the terms, applicability or limitations of any insurance held by the Registrant.
- (e) *Investigation by registrant.* The Registrant shall investigate, handle, respond to, provide defense for, and defend any such claims at its sole expense and shall bear all other costs and expenses related thereto even if the claim is groundless, false or fraudulent and if called upon by the Town, the Registrant shall assume and defend not only itself but also the Town in connection with any such claims and any such defenses shall be at no cost or expense whatsoever to the Town provided that the Town (exercisable by the Town Attorney), shall retain the right to select counsel of its own choosing.
- (f) *Waiver rights.* The Town does not and shall not waive any rights against the Registrant which it may have by reason of this indemnification, or because of the acceptance by, or the Registrant's deposit with the Town of any of the insurance policies required by this Article for Registration.
- (g) *Damages.* This indemnification by the Registrant shall apply to all damages and claims for damages of any kind suffered regardless of whether such insurance policies shall have been determined to be applicable to any such damages or claims for damages.
- (h) *Defense and immunity.* Nothing contained in this Section shall be construed or interpreted:
- (1) as denying to either party any remedy or defense available to such party under the laws of the State of Florida; or
 - (2) as a waiver of sovereign immunity beyond the waiver provided in Section 768.28, Florida Statutes as same may be amended from time to time.

- (i) Term. The indemnification requirements under this Section and this Article shall survive and be in full force and effect for a period of five (5) years after the termination or cancellation of a Registration.

35-30. - Force majeure. In the event a registrant's performance of or compliance with any of the provisions of this article is prevented by a cause or event not within the registrant's control, such inability to perform or comply shall be deemed excused and no penalties or sanctions shall be imposed as a result; provided, however, that such owner uses all practicable means to expeditiously cure or correct any such inability to comply. For purposes of this article, causes or events not within a registrant's control shall include, without limitation, acts of God, floods, earthquakes, landslides, hurricanes, fires and other natural disasters, acts of public enemies, riots or civil disturbances, sabotage, strikes and restraints imposed by order of a governmental agency or court. Causes or events within a registrant's control, and thus not falling within this section, shall include, without limitation, registrant's financial inability to perform or comply, economic hardship, and misfeasance, malfeasance or nonfeasance by any of a registrant's directors, officers, employees, contractors or agents.

35-31. - Termination of registration.

(a) Involuntary Termination. The involuntary termination of a previously effective registration may only be accomplished by an action of the Town Manager and such action may be appealed to the Town Council. The Town may declare the registration terminated and revoke and cancel all privileges granted under that registration if:

- (1) A Federal or Florida authority suspends, denies or revokes a registrant's certification or license to provide communications service;
- (2) The Registrant's placement and maintenance of the Public Rights-of-Way or other roads or property within the Town presents an extraordinary danger to the general public or other users of the public rights-of-way; or
- (3) The registrant voluntarily abandons all of its communications facilities in Public Rights-of-Way.

(b) Notification. Prior to such termination for any of the reasons set forth in this section, the Town Manager or his designee shall notify the registrant in writing, setting forth the matters pertinent to such reasons and describing the proposed action of the Town with respect thereto. The registrant shall have 60 days after receipt of such notice within which to cure the violation.

(c) In the event of a vote by the Town Council to terminate the registration, the registrant shall, within 30 days following such termination, provide an acceptable plan for transferring ownership of the Facilities to another Person in accordance with this Article or shall remove or abandon the Facilities and take such steps as are necessary to render every portion of the Facilities remaining in the public rights-of-way safe. If the registrant has either abandoned its Facilities or chooses to abandon its Facilities, the Town may:

- (1) Require the registrant or the registrant's bonding company to remove some or all of the Facilities from the public rights-of-way and restore the public rights-of-way to its condition immediately prior to the removal;
- (2) Require that some or all of the Facilities be removed, and the public rights-of-way restored to their original condition at the registrant's expense, using Town employees, agents or contractors, and charge any and all costs to the registrant and require reimbursement; or
- (3) Utilize or allow other persons to utilize the registrant's abandoned Facilities.

(d) *Survival of obligations.* The obligations of the registrant hereunder shall survive the termination of a registration. In the event of a declaration of termination of registration, this provision does not permit the Town to cause the removal of any Facilities that are used to provide another service for which the registrant holds a valid certification or license with the governing Federal or State agency, where required, and is properly registered with the Town, for such certificated service, where required.

35-32. - Transfer of control, sale, or assignment of assets.

(a) *Transfer of control, sale, or assignment of assets.* If a Registrant transfers, sells or assigns its Registration or its Facilities in the Public Rights-of-Way, incident to a transfer, sale or assignment of the registrant's assets, the transferee, buyer or assignee shall be obligated to comply with the terms of this article. Written notice of any such transfer, sale or assignment shall be provided to the Town within 20 days of the effective date of the transfer, sale or assignment. If the transferee, buyer or assignee is a current registrant, then the transferee, buyer or assignee is not required to re-register. If the transferee, buyer or assignee is not a current registrant, then the transferee, buyer or assignee shall register as provided herein within 60 days of the transfer, sale or assignment. If permit applications are pending in the registrant's name, the transferee, buyer or assignee shall notify the Town that the transferee, buyer or assignee is the new applicant.

(b) *Subordination.* Any mortgage, pledge, lease or other encumbrance on the Facilities shall be subject and subordinate to the rights of the Town under this Article and Applicable Law.

35-33. - Conditional use of public rights-of-way.

(a) *Authorization required.* In the event a registrant desires to use its existing Facilities or to construct new Facilities for the purpose of providing other utility or nonutility services to existing or potential consumers or resellers, for providing any other services other than the provision of Utility Services or for providing any other use to existing or potential consumers, a registrant shall seek such additional and separate authorization from the Town for such activities as may be required by applicable law.

(b) *Towns rights.* To the extent that any person or registrant leases or otherwise uses the Facilities of a Person that is duly registered or otherwise authorized to place or to maintain Facilities in the public rights-of-way of the Town, such person or registrant shall make no claim, nor assert any right, which will impede the lawful exercise of the Town's rights, including requiring the removal of such Facilities from the public rights-of-way of the Town, regardless of the effect on a registrant's ability to place or maintain its own Facilities in public rights-of-way of the Town.

DIVISION 3. Franchise Agreement for Utilities.

35-34~~28~~. - Requirement for franchise for other users or occupants of the public rights-of-way.

(a) *Franchise or other agreement required.* Other users and/or occupants of the Town's public roads and/or public rights-of-way other than communications service providers shall be required to obtain a franchise or other agreement from the Town prior to performing construction or placing facilities in the Town's public rights-of-way, or obtaining a permit from the Town to perform construction or to place facilities in the Town's public rights-of-way or other roads or property within the Town. The terms set out in this article, to be included in such

franchises or agreements, are minimum standards and shall not be construed as prohibiting the Town from including any and all other terms, conditions and/or other requirements the Town so desires in any franchise or agreement. Such users and/or occupants shall enter into a franchise agreement or other agreement approved by the Town Council.

- (b) *Franchise application.* Any user and/or occupant other than a communications service provider, including governmental units, desiring to place or maintain facilities in the Town's public rights-of-way shall file an application with the Town requesting that the Town enter into a franchise agreement with said user and/or occupant. The application shall include, at a minimum, the following information:
- (1) Identity of the user and/or occupant, address and telephone number and primary contact person; and
 - (2) A statement of whether the applicant presently serves any customers at retail within the jurisdictional limits of the Town at the time of the application or whether the applicant simply intends to lease its facilities to other users and/or occupants who will be providing direct service to retail customers within the jurisdictional limits of the Town.
- (c) *Application fee.* Each application requesting the Town to enter into a franchise agreement shall be accompanied by an initial nonrefundable application fee in the amount established by resolution. The fee amount shall approximate the Town's costs and expenses incurred in connection with processing the application. All reasonable expenses incurred by the Town in processing the application, including, but not limited to, consulting and legal costs, shall be offset from the filing fee.
- (d) *Cost recovery.* If the Town's expenses, as referenced in Subsection (c) of this section, exceed the amount of the application fee, the applicant shall pay the difference within 30 days of the date it receives notice of such additional expenses. If the additional fees are not received by the Town within 30 days of the date of notice, the Town shall notify such applicant, and the applicant shall pay an additional late fee at the rate of 18 percent per annum of the amount unpaid or underpaid; provided, however, that such rate does not exceed the maximum amount allowed under the applicable law. In such case, the rate will be the maximum allowed by law. If the Town does not receive said fee in total within 60 days of the date of notice, the Town shall notify the applicant in writing and may, in the Town's sole discretion, refuse in good faith to execute the franchise agreement, or may terminate in good faith the franchise agreement without any penalty and/or liability.
- (e) *Construction bond.* All franchise agreements between the Town and any user and/or occupant shall contain a provision for a construction bond in an amount to be determined by the Town Manager, which shall be established in the Town's favor to secure the restoration of the public rights-of-way and to ensure the faithful performance of the construction or other work in the public rights-of-way. The form of the bond and the terms thereto shall be approved by the Town Attorney.
- (f) *Security fund.* All franchise agreements between the Town and any user and/or occupant shall contain a provision for a security fund, which shall be required to be kept on file with the Town in the form of an annual bond, letter of credit or cash deposit in the minimum amount of \$50,000.00. The form of the bond or other guarantee and the terms thereto shall be approved by the Town Attorney.

DIVISION 4. Permitting and Placement of Facilities in the Public Rights-of-Way.

35-3529. - Placement or maintenance of Utilities facilities in public rights-of-way, in general.

- (a) Compliance. Registrants and users and/or occupants agree at all times to comply with and abide by all applicable provisions of Federal and State law and Town ordinances, codes and regulations in placing or maintaining Facilities in public rights-of-way.
- (b) Permit Required. A Registrant shall not commence to place or, maintain a Facility in a Town Public Right-of-way until all applicable Permits, if required, have been issued, except in the case of routine maintenance or an emergency as provided for in this Article. In such cases deemed an emergency situation by the Public Works Director, the Registrant shall apply for Permits within 15 days of the incident or repair, whichever comes sooner. ~~No person shall commence to place or to maintain communications facilities or other facilities or to perform construction in the public rights-of-way or other roads or property within the Town until the Town or other appropriate authority has issued all applicable permits, except in the case of an emergency. The term "emergency" means a condition that affects the public's health, safety or welfare, which includes an unplanned out of service condition of a preexisting service.~~ Registrants and users and/or occupants shall provide prompt notice to the Town of the placement or maintenance of a ~~facility~~ Facility in public rights-of-way in the event of an emergency. The Registrant acknowledges that as a condition of granting a permit(s), the Town may impose reasonable conditions governing the Placement or Maintenance of a Facility in the Town's Public rights-of-way related to the public, health, safety and welfare as permitted and set forth in Section 337.401 of Florida Statutes as same may be amended from time to time; however, no such imposed conditions shall prohibit or otherwise adversely impact the provision of Utility Services. Permits shall apply only to the areas of the Town's Public Rights-of-way specifically identified in the Permit. As a condition of granting such permits, the Town may impose reasonable rules or regulations governing the placement or maintenance of facilities in public rights-of-way or other roads or property within the Town. Permits shall apply only to the areas of public rights-of-way or other roads or property within the Town specifically identified in the permit. The Town may issue a blanket permit to cover certain activities, such as routine maintenance and repair activities, that may otherwise require individual permits or may impose lesser requirements. All applicants for Facility work within the Rights-of-Way shall pay applicable building and/or public works permit fees as provided by Town Ordinance or as may be required by State Law.
- (c) Required information. As part of any permit application to place a new or to replace an existing ~~communications facility or other facility~~ Facility in public rights-of-way or other roads or property within the Town, the applicant shall provide information concerning the ~~communications facility or other facility~~ Facility that sets forth the following, as required by the Town Manager:
- (1) An engineering plan signed and sealed by a Florida Registered Professional Engineer, or prepared by a person who is exempt from such registration requirements as provided in Section 471.003 of Florida Statutes, identifying the location of the proposed facility, and including:
 - a. A description of any facility to be installed;
 - b. The facility's ~~length~~ dimensions in feet;
 - c. Site plan indicating where ~~Where~~ the facility is to be located with electronic geocoded data; and
 - d. Ability to demonstrate compliance with the Florida Building Code, for wind load requirements; and

- e For new Utilities, or any excavation work, a geotechnical report for the existing soil conditions, or a soil statement by a Florida licensed professional engineer, attesting to the soil conditions.
- (2) ~~A description of the manner in which the communications facility or other facility will be installed, i.e., anticipated construction methods and/or techniques;~~
- (3) ~~A traffic maintenance plan for any disruption of the public rights-of-way or other roads or property within the Town;~~
- (42) Plans and information, Information as required by this Article, on the ability of the public rights-of-way to accommodate the proposed Facility ~~communications facility or other facility, if available; such information shall be provided without certification as to correctness, to the extent obtained from other persons with communications facilities or other facilities in the public rights-of-way;~~
- (53) If appropriate, given the Facility ~~communications facility or other facility~~ proposed, an estimate of the cost of restoration to the public rights-of-way;
- (64) The timetable for construction of the project or each phase thereof, and the areas of the Town which will be affected;
- (7) ~~The use of door hangers to notify residents living within a 300-foot radius of the project; and~~
- (58) A full color photo-simulation showing the proposed new Facility installed in accordance with the application from the point of view of properties Adjacent to the proposed site;
- (6) A description of the type of Facility and the manner in which the Facility will be installed and/or modified (i.e. anticipated construction methods or techniques).
- (7) A temporary sidewalk closure plan, if appropriate given the Facility proposed, to accommodate Placement or Maintenance of the Facility.
- (8) A temporary traffic lane closure and management of traffic (MOT) plan, if appropriate given the Facility proposed, to accommodate installation and/or modification of the Facility.
- (9) Restoration plan given the Facility proposed, and an estimate of the cost of restoration of the Town's Public Rights-of-way in the event the Facility is Abandoned.
- (10) A proposed timetable for Placement or Maintenance of the proposed Facility or each phase of the Placement or Maintenance thereof, and the intended areas of the Town to be served by the Facility.
- (11) Registrants shall not place or maintain signage on Facilities in Town Public Rights-of-way, unless otherwise required by federal or State law; however, that Existing Structures that lawfully supported signage before being Repurposed may continue to support signage as otherwise permitted by law or Town Code, as same may be amended from time to time.
- (12) Such additional information requested by the Town that the Town finds reasonably necessary to review the permit application to ensure continued level of service delivery of its Rights-of-Way.
- (d) Public accessibility, safety, and sufficiency of spacing. ~~The Town shall have the power to prohibit or to limit the placement of new or existing telecommunication facilities or other facilities in that area of the public rights of way, or to safely accommodate additional installations at any location, or for the protection of existing communication facilities or other facilities public rights-of-way or to accommodate Town plans for public improvements or~~

~~projects that the Town determines are in the public's interest or to the extent permitted by applicable law, afforded by Florida Law to regulate Facilities to ensure that they meet Town requirements for public accessibility, safety and sufficiency of spacing, to ensure compliance with State of Florida and local laws and ordinances. In determining whether to permit and reasonably limit, or impose conditions or prohibit a Facility to be placed or located within the Town's Public Rights-of-way, the Town Public Works Director shall consider the following standards and minimum requirements in his review and consideration of a Permit application and imposition of reasonable Permit conditions:~~

- ~~(1) Sufficiency of space to accommodate present and pending applications for use of the Town's Public Rights-of-way. The sufficiency of space to accommodate all of the present and pending applications to place Facilities and pending or planned applications to Place and Maintain Facilities in that area of the Town's Public Rights-of-way; and~~
 - ~~(2) Sufficiency of space to accommodate the Town's need for projected public improvements. The sufficiency of space to accommodate Town plans for public improvements or projects adopted as part of its community investment capital improvements plan that the Town determines in the best interest of the public; and~~
 - ~~(3) Impact on traffic and traffic safety. The impact on traffic and traffic safety; and~~
 - ~~(4) Impact on Existing Facilities. The impact upon existing Facilities in the Town's Public Rights-of-way; and~~
 - ~~(5) Distance separation from edge of pavement. No new Facility shall be constructed, operated or maintained in the Town's Public Rights-of-way in violation of the State of Florida Department of Transportation Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways, (Commonly known as the "Florida Green Book" and for the Minimum Width of Clear Zones. In accordance with The Florida Green Book, the Town Public Works Director shall have the authority to reduce the minimum offset where that offset cannot be reasonably obtained, and other alternatives are deemed impractical; and~~
 - ~~(6) Distance separation from sidewalk. No newly installed Facility shall be Placed or Maintained in the Town's Public Rights-of-way within one (1) foot of a sidewalk that is five (5) feet or less in width. Co-location on an Existing Structures is exempt from this requirement; and~~
 - ~~(7) Installation at outermost boundary of Town's Public Rights-of-way. Where a superior site design results from placement of a Facility at or near the outermost boundary of the Town's Public Right-of-way, the farthest distance practicable from the centerline thereof and edge of pavement is encouraged. To the extent that the location of the sidewalk within the Town's Public Right-of-way precludes achievement of a superior site design or otherwise precludes compliance with all other requirements of this Article, then the Town Public Works Director or Registrant may propose, and the Registrant may include in the Permit application a proposed re-routing of the sidewalk at its own expense, in order to achieve such superior site design or otherwise meet other requirement of this Article.~~
- ~~(e) *Undergrounding of facility.* All communications facilities and other facilities shall be placed and maintained so as not to interfere unreasonably with the use of the public rights-of-way by the public and so as not to cause unreasonable interference with the rights and convenience of property owners who adjoin any of the public rights-of-way. A Registrant or other user shall endeavor, to the greatest extent possible, to place all communications facilities or other facilities—Facilities underground. The Town may require the use of trenchless technology (i.e.,~~

directional bore method) for the installation of ~~communications facilities or other facilities~~ in the public rights-of-way as well as joint trenching ~~or the collocation of communications facilities or other facilities~~. Facilities in existing conduit. The registrant or user shall be solely liable for the displacement, damage or destruction of any property, irrigation system or landscaping as a result of the placement or maintenance of its ~~communications facility or other facility~~ Facility within the public rights-of-way. The appropriate Town official may issue such rules and regulations concerning the placement or maintenance of a facility in public rights-of-way as may be consistent with this article and other applicable Federal and State laws or regulations.

- (f) Notification of adjacent property owners. Prior to the commencement of any work by the applicant pertaining to the placement and maintenance of ~~communications facilities or other facilities~~ Facilities within the public rights-of-way or other roads or property within the Town, the Town Manager or designee may require the applicant to issue notice of the work to property owners who adjoin such affected area (the "Notification Area"). The notification area may be expanded at the Town's discretion and notice shall be ~~effected~~ affected in a manner deemed appropriate by the Town Manager or designee.
- ~~(g) Safety. All safety practices required by applicable law or accepted industry practices and standards shall be used during the placement or maintenance of facilities.~~
- ~~(gh)~~ Repair of damages. A person placing or maintaining ~~facilities~~ Facilities in the public rights-of-way or other roads or property within the Town shall, at its own expense, restore the public rights-of-way, or any other adjacent property that has been damaged by work on the project, to at least its original condition before such work was initiated, subject to the Town's satisfaction upon inspection. Restoration shall include, among other things, the removal of all markings placed by users on the right-of-way, unless they are required to remain pursuant to State law. A registrant or user shall warrant restoration of the public rights-of-way or other roads or property within the Town for a period of 12 months after completion of such restoration. If the registrant or user fails to make such restoration within 30 calendar days after completion of construction, or such other time as may be required by the Town, the Town may, after written notice to the registrant or user, perform such restoration using Town employees, agents or contractors, and charge all costs of the restoration against the registrant or user in accordance with Florida Law and require reimbursement within 30 days after the submission of the bill by the Town to the registrant or user.
- ~~(hi)~~ Removal or relocation. Removal or relocation at the direction of the Town of a person's ~~facility~~ Facility in the public rights-of-way shall be governed by Florida Law
- (ij) Property right not created. A permit from the Town constitutes authorization to undertake only certain activities in public rights-of-way in accordance with this article, and does not create a property right or grant authority to impinge upon the rights of others who may have an interest in the public rights-of-way.
- ~~(jk) Industry practice. A registrant and user shall maintain its communications facility and other facility in public rights-of-way in a manner consistent with accepted industry practice and applicable law.~~
- ~~(jl)~~ Underground safety act. In connection with excavation in the public rights-of-way, a registrant and user shall, where applicable, comply with the Underground Facility Damage Prevention and Safety Act set forth in Section 556 of Florida Statutes.
- ~~(km)~~ Maintenance. A registrant and user shall place or maintain a ~~communications facility and other facility~~ Facility in public rights-of-way in compliance with all applicable standards as

established by all local, State or Federal law and in conformance with the Town Code. A registrant and user shall use and exercise due caution, care and skill in performing work in the public rights-of-way and shall take all reasonable steps to safeguard work site areas.

- (~~ln~~) Coordination or work. In the interest of the public's health, safety and welfare, upon request of the Town, a registrant or user shall coordinate placement or maintenance activities under a permit with any other work, construction, installation or repairs that may be occurring or scheduled to occur within a reasonable timeframe in the subject public rights-of-way or other roads or property within the Town. The Town may require a registrant or user to alter reasonably its placement or maintenance schedule for permitted work as necessary so as to minimize disruptions and disturbance in the public rights-of-way or other roads or property within the Town. The Town may provide a more definite time frame based on specific Town construction or maintenance schedules.
- (~~me~~) Existing facilities. A registrant or user shall not place or maintain its ~~communications facilities or other facilities~~ Facilities so as to interfere, displace, damage or destroy any facilities, including, but not limited to, sewers, gas or water mains, storm drains, pipes, cables or conduits of the Town or any other person's ~~facilities~~ Facilities lawfully occupying the public rights-of-way or other roads or property within the Town. The Registrant or user shall report to the Town any damage to existing Facilities and notify the Facility owner.
- (~~np~~) Conditions of rights-of-way. The Town makes no warranties or representations regarding the fitness, suitability or availability of public rights-of-way for the facilities, and any performance of work or costs incurred by the registrant or user or provision of services shall be at registrant's or user's sole risk. Nothing in this article shall affect the Town's authority to add, vacate or abandon public rights-of-way and the Town makes no warranties or representations regarding the availability of any added, vacated or abandoned public rights-of-way for facilities.
- (~~oq~~) Inspections. The Town shall have the right to make such inspections of ~~communications facilities and other facilities~~ Facility placed or maintained in public rights-of-way as it finds necessary to ensure compliance with this article. In the event the Town determines that a violation exists with respect to a registrant's or user's placement or maintenance of ~~communications facilities or other facilities~~ Facilities in the public rights-of-way that is not considered to be an emergency or danger to the public health, safety or welfare, the Town will provide the registrant or user no less than three days' written notice setting forth the violation and requesting correction. Nothing herein shall limit the authority of the Town Manager, building official or their designee from taking appropriate action to address an imminent and immediate health or safety hazard.
- (~~pf~~) Emergency. In an emergency, as determined by the Town Manager, building official, Public Works Director, or their designee, where the installation, use or maintenance of any ~~communications facility or other facility~~ Facility poses an imminent and immediate health or safety hazard to pedestrians or vehicles, the Town shall, where feasible, give telephonic notice to the owner of the ~~communications facility or other facility~~ Facility of the nature of the emergency and afford the owner the opportunity to remove or otherwise relocate the ~~facility~~ Facility. Where telephonic notice is not feasible or where the owner fails to address the emergency hazard, the Town Manager, building official or their designee may summarily and temporarily remove or relocate such ~~facility~~ Facility, but only to the extent necessary to avoid the health or safety hazard at issue. Immediately following removal or relocation of any ~~facility~~ Facility under these emergency procedures, the Town shall provide the owner of the ~~facility~~ Facility

Facility with written notice of the action by certified mail, return receipt requested. If the Town removes such ~~facility~~ Facility, the owner of such facility shall have 30 days after receipt of such written notice by the Town to claim the ~~facility~~ Facility, or the Town may dispose of such ~~facility~~ Facility.

- (s) ~~*Plans.*~~ A permit application to place a new or replace an existing communications facility or other facility in the public rights-of-way shall include plans showing the location of the proposed installation of communications facilities or other facilities in the public rights-of-way. If the plans so provided require revision based upon actual installation, the registrant or user shall promptly provide revised plans, or "as-builts," upon completion of any installation or construction. The plans shall be in a digitized format showing the two-dimensional location of the communications facilities or other facilities based on the Town's Geographical Database, or other format acceptable to the Town. Upon the Town's request, a registrant or user shall submit such as-builts in the format acceptable to the Town, showing the location of its facilities in the public rights-of-way. The registrant or user shall provide such plans at no cost to the Town. The Town shall maintain the confidentiality of such plans and any other information provided in accordance with Section 202.195 of Florida Statutes.
- (t) ~~*Town Rights.*~~ The Town reserves the right to place and maintain, and permit to be placed or maintained, sewer, gas, water, electric, storm drainage, communications, and other facilities, cables or conduit, and to do, and to permit to be done, any underground and overhead installation or improvement that may be deemed necessary or proper by the Town in public rights-of-way occupied by the registrant or the user. A registrant or user shall allow Town communication facilities or other facilities to be collocated within Town's public rights-of-way through the use of a joint trench during the registrant's or user's construction project. Such joint trench projects shall be negotiated in good faith by separate agreement between the registrant or user and the Town and may be subjected to other Town rights-of-way requirements. The Town further reserves without limitation the right to alter, change, or cause to be changed, the grading, installation, relocation or width of the public rights-of-way within the limits of the Town and within said limits as same may from time to time be altered.

~~35-30.—Suspension of permits.~~

- (a) ~~Subject to this section and to providing reasonable notice and an opportunity to cure, the Town may suspend a permit issued to any registrant or user or may deny an application for a subsequent permit made by a registrant or user for work in the public rights-of-way or other roads or property within the Town for one or more of the following reasons:~~
- ~~(1) Failure to satisfy permit conditions, or conditions set forth in this article or other applicable Town ordinances, codes or regulations governing placement or maintenance of communications facilities or other facilities in public rights-of-way or other roads or property within the Town, including without limitation, failure to take reasonable safety precautions to alert the public of work at the work site, or to restore any public rights-of-way or adjacent property;~~
 - ~~(2) Misrepresentation or fraud by the registrant in a registration or by a registrant or user in a permit application;~~
 - ~~(3) Failure to properly renew, a registration;~~
 - ~~(4) Ineffectiveness of a registration; or~~
 - ~~(5) Failure to relocate or to remove facilities as may be lawfully required by the Town.~~

- ~~(b) After the suspension or denial of a permit pursuant to this section, the Town shall provide written notice of the reason to the registrant or user.~~

~~35-31.— Appeals.~~

- ~~(a) Final written decisions of the Town Manager or designee suspending or denying a permit, denying an application for a registration or denying an application for renewal of a registration are subject to appeal. An appeal must be filed with the Town Manager within 30 days of the date of the final written decision to be appealed. Any appeal not timely filed as set forth in this section shall be waived. The Town Council shall hear or shall appoint a Hearing Officer to consider the appeal. The hearing shall occur within 30 days of the receipt of the appeal, unless waived by the registrant or user, and a written decision shall be rendered within 30 days of the hearing. Upon correction of any grounds that gave rise to a suspension or denial, the suspension or denial shall be lifted.~~
- ~~(b) Nothing in this section shall affect or limit the remedies the Town has available under applicable law.~~

~~35-32.— Conditional use of public rights-of-way.~~

- ~~(a) In the event a registrant desires to use its existing communications facilities or to construct new communications facilities for the purpose of providing other utility or nonutility services to existing or potential consumers or resellers, for providing any other services other than the provision of communications services or for providing any other use to existing or potential consumers, a registrant shall seek such additional and separate authorization from the Town for such activities as may be required by applicable law.~~
- ~~(b) To the extent that any person or registrant leases or otherwise uses the communications facilities or other facilities of a person that is duly registered or otherwise authorized to place or to maintain facilities in the public rights-of-way of the Town, such person or registrant shall make no claim, nor assert any right, which will impede the lawful exercise of the Town's rights, including requiring the removal of such communications facilities or other facilities from the public rights-of-way of the Town, regardless of the effect on a registrant's ability to place or maintain its own communications facilities in public rights-of-way of the Town.~~

~~35-33.— Termination of registration.~~

- ~~(a) The involuntary termination of a previously effective registration may only be accomplished by an action of the Town Manager and such action may be appealed to the Town Council. The Town may declare the registration terminated and revoke and cancel all privileges granted under that registration if:~~
- ~~(1) A Federal or Florida authority suspends, denies or revokes a registrant's certification or license to provide communications service;~~
 - ~~(2) The registrant's placement and maintenance of the public rights-of-way or other roads or property within the Town presents an extraordinary danger to the general public or other users of the public rights-of-way; or~~
 - ~~(3) The registrant abandons all of its communications facilities in public rights-of-way.~~
- ~~(b) Prior to such termination for any of the reasons set forth in this section, the Town Manager or his designee shall notify the registrant in writing, setting forth the matters pertinent to such reasons and describing the proposed action of the Town with respect thereto. The registrant~~

~~shall have 60 days after receipt of such notice within which to cure the violation, or within which to present a plan, satisfactory to the Town Council, to accomplish the same.~~

- ~~(c) In the event of a vote by the Town Council to terminate the registration, the registrant shall, within 30 days following such termination, provide an acceptable plan for transferring ownership of the communications facilities to another person in accordance with this article or shall remove or abandon the communications facilities and take such steps as are necessary to render every portion of the communications facilities remaining in the public rights-of-way safe. If the registrant has either abandoned its communications facilities or chooses to abandon its communications facilities, the Town may:~~
- ~~(1) Require the registrant or the registrant's bonding company to remove some or all of the communications facilities from the public rights-of-way and restore the public rights-of-way to its condition immediately prior to the removal;~~
 - ~~(2) Require that some or all of the communications facilities be removed and the public rights-of-way restored to their original condition at the registrant's expense, using Town employees, agents or contractors, and charge any and all costs to the registrant and require reimbursement; or~~
 - ~~(3) Utilize or allow other persons to utilize the registrant's abandoned communications facilities.~~
- ~~(d) The obligations of the registrant hereunder shall survive the termination of a registration. In the event of a declaration of termination of registration, this provision does not permit the Town to cause the removal of any communications facilities that are used to provide another service for which the registrant holds a valid certification or license with the governing Federal or State agency, where required, and is properly registered with the Town, for such certificated service, where required.~~

~~35-34. Transfer or control, sale or assignment of assets:~~

- ~~(a) If a registrant transfers, sells or assigns its registration or its communications facilities in the public rights-of-way, incident to a transfer, sale or assignment of the registrant's assets, the transferee, buyer or assignee shall be obligated to comply with the terms of this article. Written notice of any such transfer, sale or assignment shall be provided to the Town within 20 days of the effective date of the transfer, sale or assignment. If the transferee, buyer or assignee is a current registrant, then the transferee, buyer or assignee is not required to re-register. If the transferee, buyer or assignee is not a current registrant, then the transferee, buyer or assignee shall register as provided herein within 60 days of the transfer, sale or assignment. If permit applications are pending in the registrant's name, the transferee, buyer or assignee shall notify the Town that the transferee, buyer or assignee is the new applicant.~~
- ~~(b) Any mortgage, pledge, lease or other encumbrance on the communications facilities shall be subject and subordinate to the rights of the Town under this article and applicable law.~~

~~35-35. Insurance:~~

- ~~(a) *Required.* Registrant shall provide, pay for and maintain satisfactory to the Town the types of insurance described herein. All insurance shall be from responsible companies duly authorized to do business in the State of Florida and having a rating in Best's Insurance Guide of A or better, or having a rating acceptable to the Town. All liability policies shall provide that the Town is an additional insured in the endorsement. The required coverages must be evidenced by properly executed Certificates of Insurance forms. The Certificates must be signed by the~~

~~authorized representative of the insurance company and shall be filed and maintained with the Town annually. Thirty days' advance written notice by registered or certified mail must be given to the Town of any cancellation, intent not to renew or reduction in the policy coverages. The insurance requirements may be satisfied by evidence of self insurance or other types of insurance acceptable to the Town. In addition to the Certificate of Insurance, the registrant shall provide a copy of the insurance policy, if requested by the Town.~~

~~(b) *Limits.* The limits of coverage of insurance required shall be not less than the following:~~

~~(1) Worker's Compensation and Employer's Liability Employer's Liability—\$500,000.00 limit each accident, \$500,000.00 limit per each employee;~~

~~(2) Comprehensive General Liability Bodily Injury and Property Damage—\$3,000,000.00 combined single limit each occurrence. Said coverage shall not exclude Contractual Liability, Products/Completed Operations, Independent or Contractors;~~

~~(3) Automobile Liability, Bodily Injury and Property Damage—\$3,000,000.00 combined single limit each accident.~~

~~(c) *Umbrella or Excess Liability.* Registrant may satisfy the minimum limits required above for Commercial General Liability, Business Auto Liability and Employer's Liability coverage under Umbrella or Excess Liability. The Umbrella or Excess Liability shall have an Aggregate limit not less than the highest "Each Occurrence" limit for Commercial General Liability, Business Auto Liability or Employer's Liability. The Town shall be specifically endorsed as an "Additional Insured" on the Umbrella or Excess Liability, unless the Certificate of Insurance states the Umbrella or Excess Liability provides coverage on a "Follow Form" basis.~~

~~(d) *Self insurance.* The registrant may satisfy the insurance requirements and conditions of this section under a self insurance plan and/or retention if approved in advance by the Town in its sole discretion.~~

~~(e) *Right to review.* The Town reserves the right to review, modify, reject or accept any required policies of insurance or self insurance, including limits, coverages or endorsements, herein from time to time throughout the life of this section. The Town reserves the right, but not the obligation, to review and reject any insurer or self insurer providing coverage because of its poor financial condition or failure to operate legally.~~

~~(f) *Town maintains certain rights.* This section shall not be construed to affect in any way the Town's rights, privileges and immunities as set forth in F.S. § 768.28. Insurance under this section shall run continuously with the presence of the registrant's communications facilities in the public rights of way and any termination or lapse of such insurance shall be a violation of this section and subject to the remedies as set forth herein. Notwithstanding the foregoing, the Town may, in its sole discretion, require increased or decreased levels of insurance for any other object placed in the public rights of way by way of individual agreements.~~

~~35-36. Indemnification.~~

~~A registrant shall, at its sole cost and expense, indemnify, hold harmless and defend the Town, its officials, boards, members, agents and employees, against any and all claims, suits, causes of action, proceedings, judgments for damages or equitable relief, and costs and expenses incurred by the Town arising out of the placement or maintenance of its communications facilities in public rights of way, regardless of whether the act or omission complained of is authorized, allowed or prohibited by this article; provided, however, that a registrant's obligation hereunder shall not extend to any damages caused solely by the gross negligence or wanton or willful acts of the Town. This provision includes, but is not limited to, the Town's reasonable attorneys' fees incurred in~~

~~defending against any such claim, suit or proceedings. The Town agrees to notify the registrant, in writing, within a reasonable time of the Town receiving notice, of any issue it determines may require indemnification. Nothing in this section shall prohibit the Town from participating in the defense of any litigation by its own counsel and at its own cost if in the Town's reasonable belief there exists or may exist a conflict, potential conflict or appearance of a conflict. Nothing contained in this section shall be construed or interpreted:~~

- ~~(1) As denying to either party any remedy or defense available to such party under the laws of the State of Florida;~~
- ~~(2) As consent by the Town to be sued; or~~
- ~~(3) As a waiver of sovereign immunity beyond the waiver provided in F.S. § 768.28.~~

35-367. - Construction bond.

- (a) Bond required. Where applicable, ~~prior~~ Prior to performing any permitted work in the public rights-of-way, the registrant shall establish in the Town's favor a construction bond to secure the restoration of the public rights-of-way and to ensure the registrant's faithful performance of the construction or other work in the public rights-of-way. Notwithstanding the foregoing, a construction bond hereunder shall only be required to the extent that the cost of the restoration exceeds the amount recoverable against the security fund as provided herein.
- (b) Failure to compete work. In the event a registrant subject to such a construction bond fails to complete the work in accordance with the provisions of the permit and this ~~article~~ Article, there shall be recoverable, jointly and severally from the principal and surety of the bond, any damages or loss suffered by the Town as a result, including the full amount of any compensation, indemnification or cost of removal or abandonment of any property of the registrant, or the cost of completing the work, plus a reasonable allowance for attorney's fees, up to the full amount of the bond.
- (c) Release. No less than 12 months after completion of the construction and satisfaction of all obligations in accordance with the bond, the registrant may request the Town to remove the requirement to continue the construction bond, and the Town shall release the bond within 30 days of the date of final approval of said request. Notwithstanding, the Town may require a new bond for any subsequent work performed in the public rights-of-way.
- (d) Bond Rating. The construction bond shall be issued by a surety having a minimum rating of A-1 in Best's Key Rating Guide, Property/Casualty Edition; shall be subject to the approval of the Town Attorney; and shall provide that:
"Unless released by the Town, this bond may not be canceled, or allowed to lapse, until 60 days after receipt by the Town, by certified mail, return receipt requested, of a written notice from the issuer of the bond of intent to cancel or not to renew."
- (e) Rights reserved. The rights reserved by the Town with respect to any construction bond established pursuant to this section are in addition to all other rights and remedies the Town may have under this section, or at law or in equity, and no action, proceeding or exercise of a right with respect to the construction bond will affect any other right the Town may have.

~~35-38. - Security Fund.~~

~~At the time of registration and as a condition of receiving its first permit to place or to maintain a communications facility in public rights-of-way after the effective date of the ordinance from which this article is derived, the registrant shall be required to file with the Town a security fund in the form of an annual bond or cash deposit in the sum of \$50,000.00. If the registrant files a~~

~~bond, it shall have as a surety a company that is qualified to do business in the State of Florida, that has a minimum rating of AAA in Best's Key Rating Guide, Property/Casualty Edition and shall be subject to the approval of the Town Attorney. The security fund shall be conditioned on the full and faithful performance by the registrant of all requirements, duties and obligations imposed upon the registrant by the provisions of this article. The bond or other guarantee shall be furnished annually or as frequently as necessary to provide a continuing guarantee of the registrant's full and faithful performance at all times. In the event a registrant fails to perform its duties and obligations imposed upon the registrant by the provisions of this article, there shall be recoverable, jointly and severally from the principal and surety of the bond, any damages or loss suffered by the Town as a result, including the full amount of any compensation, indemnification or cost of removal or abandonment of any property of the registrant, plus a reasonable allowance for attorneys' fees, up to the full amount of the security fund.~~

DIVISION 5 Enforcement and Appeals

35-379. - Enforcement remedies of Permit Obligations; Suspension and Revocation of Permits.

- (a) A violation of this article or any resolution adopted pursuant to this article may be enforced pursuant to Section 8-10 and by issuance of a uniform civil violation notice, citation, summons, or notice to appear in county court, or by filing an action in civil court for injunctive relief. ~~This article.~~ Article is supplemental and nothing contained herein shall prohibit the Town from enforcing this ~~article~~ Article by any other lawful means.
- (b) Failure of the Town to enforce any requirements of this article shall not constitute a waiver of the Town's right to enforce the article with respect to that violation or subsequent violations of the same type or to seek appropriate enforcement remedies.
- (c) The Town Manager or his designee is authorized to give any notice required by law.
- (d) The Town Public Works Director may order the suspension of placement and maintenance work under a permit and ultimately may revoke any Permit, without refunding any fees, in the event of a substantial breach of the terms and conditions of any applicable statute, ordinance, rule or regulation or any condition of the permit. The types of substantial breach by Permittee may include, but are not limited to:
 - (1) The violation of any material provision of the Permit;
 - (2) An evasion or attempt to evade any material provision of the Permit or the perpetration or attempt to perpetrate any fraud or deceit upon the Town or its citizens;
 - (3) Any material misrepresentation of fact in the process of Permittee's request for a Permit or Registration;
 - (4) The failure to maintain the required performance bond or insurance;
 - (5) The failure to properly restore the Town's Public Rights-of-way;
 - (6) The failure to correct within the specified time an order issued by the Town Engineer;
 - (7) The failure to Register, Re-Register, or provide notice of any transfer in accordance with this Article;
 - (8) The failure to relocate or remove Facilities pursuant to this Article and Sections 337.402, 337.403 and 337.404, Florida Statutes (2016) as same may be amended from time to time.
 - (9) The failure to report to the Town and Facility owner any damages caused to a facility during the execution of the work.
- (e) If the Town Public Works Director determines that the Permittee has committed a substantial breach of a term or condition of the Permit, the Town Public Works Director shall make a

written demand upon the Permittee to remedy such violation. The demand shall state that the continued violation(s) may be cause for revocation of the Permit. Further, a substantial breach as stated above will allow the Town Public Works Director, at his or her discretion, to place additional or revised conditions on the Permit.

- (f) Within thirty (30) calendar days of receiving notification of the breach, the Permittee shall contact the Town Public Works Director with a plan, acceptable to the Town Public Works Director, for its correction. The Town shall provide additional time as reasonably necessary for a Permittee to establish a plan acceptable to the Town Public Works Director taking into account the nature and scope of the alleged breach. The Permittee's failure to so contact the Town Public Works Director, or the Permittee's failure to submit an acceptable plan, or the Permittee's failure to reasonably implement the approved plan, shall be cause for revocation of the Permit. Further, the Permittee's failure to contact the Town Public Works Director, or the Permittee's failure to submit an acceptable plan, or Permittee's failure to implement the approved plan, shall be cause for the Permittee to be placed on probation for one full year.
- (g) The Town Public Works Director may establish a list of conditions for any Permit which, if breached, will be cause for the Permittee to be placed on probation for one full year, such as, but not limited to, working out of the allotted time period or working on a Town Public Right-of-way significantly outside the scope of the Permit. These conditions shall be stated on the Permit.
- (h) If a Permittee, while on probation, commits a breach as outlined above, the Permittee's Permit may be revoked, and the Permittee may not be allowed to obtain further Permits for one full year, except for emergency repairs and service requirements as mandated by State or federal regulations.
- (i) If a Permit is revoked, the Permittee shall reimburse the Town for the Town's reasonable costs, including restoration costs and the cost of collection and reasonable attorneys' fees incurred in connection with such revocation.
- (j) The Town Public Works Director may cause an immediate stop work order where the Permittee's construction poses a serious threat to the health, safety or welfare of the public until such time as such serious threat has been abated.

35-38 - Appeals.

- (a) Final written decisions of the Town Manager or designee suspending or denying a permit, denying an application for a registration or denying an application for renewal of a registration are subject to appeal. An appeal must be filed with the Town Manager within 30 days of the date of the final written decision to be appealed. Any appeal not timely filed as set forth in this section shall be waived. The Town Council shall hear consider the appeal. The hearing shall occur within 30 days of the receipt of the appeal, unless waived by the registrant or user, and a written decision shall be rendered within 30 days of the hearing.
- (b) The Town Council shall conduct a de novo hearing on the record and shall determine if:
 - (1) There was a departure from the essential requirements of the law in the proceedings appealed; or
 - (2) Competent, substantial evidence does not exist to support the decision.
- (c) If the Town Council determines that there was not a departure from the essential requirements of the law or that competent substantial evidence exists to support the decision of the Town Manager, then the decision of the Town Manager shall be upheld, otherwise it shall be overturned.

- (d) Appeal from a final decision by the Town Council shall be to the Circuit Court by filing a petition for writ of certiorari within thirty (30) days of the decision, pursuant to court rules. Any such appeal is voluntary, and in the absence of taking such appeal, the decision of the Town Council shall be deemed to be final. If an appeal is taken, however, the decision of the Town Council is no longer deemed to be final but instead is tolled pending the appeal
- (e) Nothing in this section shall affect or limit the remedies the Town has available under applicable law.

35-3940. - Reports and records.

- (a) A registrant shall provide the following documents to the Town as received or filed:
- (1) Any pleadings, petitions, notices and documents which may directly impact the obligations under this article and which are reasonably necessary for the Town to protect its interests under this article; and
 - (2) Any request for protection under bankruptcy laws, or any judgment related to a declaration of bankruptcy.
- (b) Nothing in this subsection shall affect the remedies a registrant has available under applicable law.
- (c) The Town shall keep any documentation, books and records of the registrant confidential to the extent required by Florida Statutes.

DIVISION 6 Abandonment of a Facility and Reservation of Rights

35-401. - Abandonment of a Facility ~~communications or other facility~~.

- (a) Upon determination by a registrant that one or more of its Facilities in a Town Public Right-of-way is to be abandoned, the Registrant shall notify the Town no later than 90 days from such determination, or no later than 30 days following such abandonment, whichever is sooner. Upon abandonment of a communications facility owned by a registrant in the public rights-of-way, the registrant shall notify the Town of such abandonment within 90 days.
- (b) The Town may direct the registrant by written notice to remove all or any portion of such abandoned ~~communications facility~~ Facility at the registrant's sole expense if the Town determines that the abandoned ~~communications facility's~~ Facility's presence interferes with the public health, safety or welfare, which shall include, but shall not be limited to, a determination that such ~~communications facility~~ Facility:
- (1) Compromises safety at any time for any public rights-of-way user or during construction or maintenance in public rights-of-way;
 - (2) Prevents another person from locating ~~facilities~~ Facilities in the area of public rights-of-way where the abandoned ~~communications facility~~ Facility is located when other alternative locations are not reasonably available; or
 - (3) Creates a maintenance condition that is disruptive to the use of any public rights-of-way.
- In the event of Subsection (b)(2) of this section, the Town may require the third person to coordinate with the registrant that owns the existing ~~communications facility~~ Facility for joint removal and placement, where agreed to by the registrant.
- (c) In the event that the Town does not direct the removal of the abandoned ~~communications facility~~ Facility, the registrant, by its notice of abandonment to the Town, shall be deemed to consent to the alteration or removal of all or any portion of the ~~communications facility~~ Facility by the Town or another person at such third party's cost.

- (d) If the registrant fails to remove all or any portion of an abandoned ~~communications facility~~ Facility as directed by the Town within a reasonable time period as may be required by the Town under the circumstances, the Town may perform such removal and charge the cost of the removal against the registrant.
- (e) In the event the Abandoned Facility is subject to a pole attachment agreement, then the obligation to remove the Abandoned Facility shall be in compliance with the federal Pole Attachment Act (47 USC Section 224), as same may be amended from time to time.

~~35-42. Force majeure.~~

~~In the event a registrant's performance of or compliance with any of the provisions of this article is prevented by a cause or event not within the registrant's control, such inability to perform or comply shall be deemed excused and no penalties or sanctions shall be imposed as a result; provided, however, that such owner uses all practicable means to expeditiously cure or correct any such inability to comply. For purposes of this article, causes or events not within a registrant's control shall include, without limitation, acts of God, floods, earthquakes, landslides, hurricanes, fires and other natural disasters, acts of public enemies, riots or civil disturbances, sabotage, strikes and restraints imposed by order of a governmental agency or court. Causes or events within a registrant's control, and thus not falling within this section, shall include, without limitation, registrant's financial inability to perform or comply, economic hardship, and misfeasance, malfeasance or nonfeasance by any of a registrant's directors, officers, employees, contractors or agents.~~

~~35-41~~43. - Reservation of rights.

- (a) The Town reserves the right to amend this article as it shall find necessary in the lawful exercise of its police powers.
- (b) This article shall be applicable to all ~~communications facilities~~ Facility placed in the public rights-of-way on or after the effective date of the ordinance from which this article is derived and shall apply to all existing ~~communications facilities~~ Facilities placed in the public rights-of-way prior to the effective date of the ordinance from which this article is derived, to the full extent permitted by State and Federal law.

Sec. 35-42. No liability or warranty.

Nothing contained in this Article shall be construed to make or hold the Town responsible or liable for any damage to persons or any property whatsoever, from any cause whatsoever, arising from the use, operation or condition of the Registrant's Facilities by reason of any inspection or re-inspection authorized herein or failure to inspect or re-inspect. Nor shall the issuance of any Permit or the approval or disapproval of any Placement or Maintenance of the Registrant's Facilities as authorized herein constitute any representation, guarantee or warranty of any kind by, or create any liability upon the Town or any official, agent or employee thereof. Additionally, the Town shall not be responsible for any relocation costs incurred by any Registrant due to the Town's or any other Person's work in the Town's Public Rights-of-way.

ARTICLE III. COMMUNICATION FACILITIES IN PUBLIC RIGHTS-OF-WAY

DIVISION 1. Generally.

Sec. 35-43 Intent and Purpose.

It is the intent of the Town of Miami Lakes to promote the public health, safety and general welfare by: providing regulations governing the placement or maintenance of Communication Facilities in the Town's Public Rights-of-way; adopting and administering reasonable rules and regulations not inconsistent with State and Federal law, and Orders issued by the FCC, as each may be amended from time to time; establishing reasonable rules and regulations necessary to manage the placement or maintenance of Communication Facilities in the Town's Public Rights-of-way by all Communications Service Providers; minimizing disruption to the Town's Public Rights-of-way; promoting and encouraging Colocation of Telecommunication Facilities on existing, modified or replacement structures within the Town's Public Rights-of-way as a primary option generally preferred over the construction of new Communication Facilities that will either eliminate or reduce the need for the erection of new Communication Facilities; avoiding potential damage to the Town's Public Rights-of-way caused by Communication Facilities by ensuring that such Communication Facilities are soundly and carefully designed, constructed, modified and maintained; establishing reasonable rules and regulations necessary to manage the placement or maintenance of Communications Facilities in the Town's Public Rights-of-way by Communication Service Providers, Communications Facilities Providers, or Pass-Through Providers; and minimizing disruption to the Town's Public Rights-of-way. In regulating its Public Rights-of-way, the Town shall be governed by and shall comply with all applicable Federal and State Laws.

Persons seeking to place or maintain Communication Facilities in the Town's Public Rights-of-way shall comply with the provisions of this Article. Persons seeking to place or maintain Communication Facilities on private real- property or other real- property to which the Town, Miami-Dade County, the School District of Miami-Dade County, the South Florida Water Management District, the State of Florida or the Federal Government own a fee simple or leasehold interest in real property, located within the municipal boundaries of the Town shall comply with the provisions of the Chapter 13, Land Development Code (LDC), to the extent it applies.

35-44. - Definitions.

For purposes of this article the following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words not otherwise defined in this section or in any permit that may be granted pursuant to this article shall be given the meaning set forth in the Communications Act of 1934, 47 USC 151 et seq., as amended, and any Orders issued by the FCC (collectively the "Communications Act"), and if not defined in the Communications Act, as defined by Florida Statutes, specifically definitions as found in section 337 of Florida Statutes; and, if not defined by Florida Statutes, shall be construed to mean the common and ordinary meaning or other applicable local, State, or Federal Law.

Abandonment, or Abandoned means 90 or more consecutive days with the absence of any active Communication Service Provider on a Communications Facility. An Abandoned Communication Facility shall be removed or cured as required by this Article. This term shall not include cessation of all use of a Communication Facility within a physical structure where the physical structure continues to be used for some purpose or use accessory to the Communications

Facility. If the Communication Facility is attached to an Existing Structure that has an independent function, such as a light pole, intersection signal, pedestrian signal, utility pole or the like, said Abandonment of the Communication Facility requires removal of the Communication Facility only and does not require the removal of the Existing Structure. The term shall also exclude the temporary cessation of the provision of Communication Services where the Provider intends to re-establish the provision of Communication Services in the future. For example, cable drops to homes that are deactivated based on competitive alternatives, but are maintained for when the customer re-activates service shall not be Abandonment of a Communication Facility. The temporary cessation with intent to re-activate must be documented to the satisfaction of the Town Public Works Director. Any Communication Facility that is not registered by a Communication Facility Provider, shall be considered Abandoned.

Applicable Codes means uniform building, fire electrical, plumbing, or mechanical codes adopted a recognized national code organization or local amendments to those codes enacted solely to address threats of destruction of property or injury to persons, or local codes ordinances adopted to implement this Article. The term includes objective design standards provided in this Article that may require a new utility pole that replaces an existing utility pole to be of substantially similar design, material, and color or that may require reasonable spacing requirements concerning the location of ground mounted equipment. The term includes objective design standards provided in this Article that may require a small wireless facility to meet reasonable location context, color, stealth, and concealment requirements; however, such design standards may be waived upon a showing that the design standards are not reasonably combative for the particular location of the small wireless facility or that the design standards impose an excessive expense. The waiver shall be granted or denied within 45 days after the date of the request.

Communications Facility Pole means a pole-like structure either designed primarily as a Communications Facility or used as a Communications Facility. A Utility Pole is not a Communications Facility Pole for purposes of the Article. This term does not include infrastructure owned by an Electric Utility that is not used for Communication Services.

Communications Facility or Communications System means any permanent or temporary plant, equipment and property, including, but not limited to, cables, wires, conduits, ducts, fiber optics, poles, Antennas, wireless facilities, converters, splice boxes, cabinets, hand holes, manholes, vaults, drains, surface location markers, appurtenances and other equipment or pathway placed or maintained or to be placed or maintained in the public rights-of-way of the Town and used or capable of being used to transmit, convey, route, receive, distribute, provide or offer Communication Services. Pursuant to F.S. § 337.401, Communication Facility for purposes of this article shall not include communications facilities owned, operated or used by electric utilities or regional transmission organizations exclusively for internal communications purposes.

Communications Services means the transmission, conveyance or routing of voice, data, audio, video or any other information or signals, including Video Services, to a point, or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave, or other medium or method now in existence or hereafter devised, regardless of the protocol used for such transmission or conveyances in accordance with Section 202.11, Florida Statutes as same may be amended from time to time. The term includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether such service is referred to a voice-over-internet-protocol services or is classified by the Federal Communications Commission as enhanced or value-added to a point, or between or among points, by or through

any electronic, radio, satellite, cable, optical, microwave or other medium or method now in existence or hereafter devised, regardless of the protocol used for such transmission or conveyance. For the purpose of this article, cable service, as defined in F.S. § 202.11(2), is not included in this definition and cable service providers or providers of service via an open video system may be subject to other ordinances of the Town and shall require separate authorization from the Town.

Communications Services Tax means the local communications services tax authorized to be levied and collected by counties and municipalities upon chargers for Communications Services, pursuant to Section 202.20, Florida Statutes as same may be amended from time to time.

Electric Utility means any municipal electric utility, investor-owned electric utility, or rural electric cooperative which owns, maintains, or operates an electric generation, transmission, or distribution system as defined in F.S. 366.02, as amended.

Emergency means situations of a serious nature, developing suddenly and unexpectedly, and demanding immediate action that will affect public safety, disruption of utility service, or damage to the Rights-of-Way, and conditions that affects the public's health, safety or welfare.

Facility or Facilities means any tangible thing located in any Public Rights-of-way used to deliver Communications Services

FCC means the Federal Communications Commission.

Florida Building Code means the Florida Building Code promulgated under Chapter 553, Florida Statutes and includes the Miami-Dade County Amendments thereto as both may be amended from time to time.

In Public Rights-of-Way or In the Public Rights-of-Way means over, above, in, on or under the Public Rights-of-way within the Town over which the Town has jurisdiction, control and authority to regulate. The term also includes those Rights-of-way over which the County or State has jurisdiction and authority under the Florida Transportation Code, Chapter 334, Florida Statutes, as same may be amended from time to time, but where the County or State or both have delegated to the Town the authority to regulate the registration, permitting, placement, installation and maintenance of Communications Facilities in accordance with Chapter 35 of the Town Code of Ordinances.

LDC means the, Chapter 13 of the Town of Miami Lakes Code of Ordinances, titled “Land Development Code.

Order, as used in the definition of “Wireless Service Provider,” shall mean as amended from time to time Order’s promulgated by the FCC.

Micro Wireless Facility is a small wireless facility having dimensions no larger than 24 inches in length, 15 inches in width, 12 inches in height, and an exterior antenna, if any, no longer than 11 inches.

Pass-Through Provider means any Person who places or maintains a Communications Facility in the Town’s Public Rights-of-way that levies a tax pursuant to chapter 202 of Florida Statutes, as may be amended from time to time, and who does not remit taxes imposed by the Town pursuant to Chapter 202, Florida Statutes as same may be amended from time to time.

Permit means the Public Right-of-way permit that must be obtained before a Person may construct in the Public Right-of-way and shall include, but not be limited to Town Right-of-Way engineering and construction permits issued by the Town Public Works Director.

Person means any individual, firm, association, joint venture, partnership, estate, trust, business trust, syndicate, fiduciary, corporation, organization or legal entity of any kind, successor, assignee, transferee, personal representative and all other groups or combinations, but shall not include the Town to the extent permitted by applicable law.

Pole Attachment means any attachment of a Communications Facility by a provider of Communication Services to an existing structure within a Public Right-of-way.

Public Rights-of-Way means a public right-of-way, public utility easement, highway, street, bridge, tunnel, pier, waterway, dock, wharf, court, lane, path or alley or any other property for which the Town has jurisdiction and control and may lawfully grant access to such property pursuant to applicable law, and includes the surface, the air space over the surface and the area below the surface to the extent the Town holds a property interest therein. Public Rights-of-Way shall not include:

- (1) Private property;
- (2) Any real or personal Town property except as described above; or
- (3) Town buildings, fixtures, poles, conduits, facilities or other structures or improvements, regardless of whether they are situated in the Public Rights-of-Way.

Registrant or Facility Owner means a communications services provider or other person that has registered with the Town in accordance with the provisions of this article.

Registration and Register means the process described in this article whereby a Communication Services Provider, Communication Facility Provider, Pass-Through Provider provides certain information to the Town by which it is determined whether the Person will be authorized to obtain Permits to place or maintain Facilities within the Town's Public Rights-of-Way.

Small Wireless Facility means a Wireless Facility that meets the following qualifications:

- (1) Each Antenna associated with the facility is located inside an enclosure of no more than 6 cubic feet in volume, or in the case of Antennas that have exposed elements, each antenna and all of its exposed elements could fit within an enclosure of no more than 6 cubic feet in volume; and
- (2) All other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cutoff switches, vertical cable runs for the connection of power and other services, and utility poles or support structures.

Stealth Design means a method of camouflaging any tower, antenna or other Communications Facility, including, but not limited to, supporting electrical or mechanical equipment, which is designed to enhance compatibility with adjacent land uses and be as visually unobtrusive as possible. Stealth Design may include a Repurposed Structure or a Wrap.

Town means the Town of Miami Lakes, Florida, an incorporated municipality of the State of Florida, in its present form or in any later reorganized, consolidated or enlarged form.

Utility Pole means a pole or similar structure that is used in whole or in part to provide for Communication Facility, electric distribution, lighting, traffic control, signage, or a similar function. The term includes the vertical support structure for traffic lights but does not include a horizontal structure to which signal lights or other traffic control devices are attached and does not include a pole or similar structure 15 feet in height or less unless the authority grants a waiver for such pole.

Wireless Facility means equipment at a fixed location which enable wireless communications between user equipment and a communications network, including radio transceivers, antennas, wires, coaxial or fiber-optic cable or other cables, regular and backup power supplies, and

comparable equipment, regardless of technological configuration, and equipment associated with the wireless communication. The term includes small wireless facilities. The term does not include:

- (1) The structure or improvements on, under, within, or adjacent to the structure on which the equipment is collocated;
- (2) Wireline backhaul facilities; or
- (3) Coaxial or fiber-optic cable that is between wireless structure or utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

Wireless infrastructure provider means a person who has been certificated to provide telecommunications service in the state and who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures but is not a wireless services provider.

DIVISION 2. Registration.

35-45. - Registration for placing or maintaining Communications Facilities in Public Rights-of-Way.

- (a) Registration. A Communications Service Provider, Communication Facility Provider, or Pass-Through Provider that desires to place or maintain a Communications Facility in public rights-of-way in the Town shall first register with the Town in accordance with this Division. Subject to the terms and conditions prescribed in this Division, a registrant may place or maintain a Communications Facility in public Rights-of-Way. A Communications Services Provider, Communication Facility Provider, or Pass-Through Provider with an existing Facility in the public rights-of-way of the Town as of the effective date of the ordinance from which this Division is derived has 120 days from the effective date of the ordinance from which this Division is derived to comply with the terms of this Division, including, but not limited to, registration, or shall be in violation thereof.
- (b) No property right arises from Registration. A registration shall not convey any title, equitable or legal, in the public rights-of-way. Registration under this article governs only the placement or maintenance of Communication Facilities in Public Rights-of-Way. Registration does not excuse a Communications Services Provider, Communication Facility Provider, or Pass-Through Provider from obtaining appropriate access or pole attachment agreements before locating its Facilities on the Town's or another person's Facilities. Registration does not excuse a Communications Services Provider, Communication Facility Provider, or Pass-Through Provider from complying with all applicable law, including Town ordinances, codes or regulations, including this article, Federal or State laws, Regulations or Orders.
- (c) Registration is non-exclusive. Registration does not in and of itself establish a right to place or maintain, or establish priority for the Placement or Maintenance of a Communications Facility in the Town's Public Rights-of-way, but shall establish for the Registrant a right to apply for a Permit, if permitting is required by the Town. Registrations are expressly subject to any further amendment to or replacement of this Article and further subject to any additional Town ordinances or regulations, as well as any State or federal laws that may be enacted.
- (de) Content of Registration. Each Communications Services Provider, Communication Facility Provider, or Pass-Through Provider that desires to place or maintain a Communications Facility in Public Rights-of-Way in the Town shall, annually, file an original

registration along with two complete copies with the Town that shall include the following information:

- (1) Name of the applicant;
- (2) Name, address, telephone number, e-mail address and mobile phone number of the applicant's primary contact person in connection with the registration. Additionally, the applicant shall provide emergency contact information. The primary contact person shall be able to provide information regarding the registrant's Communications Facilities in the public rights-of-way, and shall be able to accept and coordinate any damage claims. The registrant shall also provide a secondary contact person enabling the Town to contact appropriate registrant's personnel in emergency situations, including, but not limited to, when registrant's construction or equipment has caused damage to other property. The registrant shall also provide the Town with a current telephone number for the secondary contact person which shall be available and monitored 24 hours per day, every day, by the registrant, to be utilized by the Town in case of an emergency. Such information shall be updated as necessary by the registrant to provide the Town with current and accurate information;
- (3) Evidence of the insurance coverage required under this article and acknowledgment that the registrant has received and reviewed a copy of this article;
- (4) A copy of Federal or State certification authorizing the applicant to provide Communications Services, if any;
- (5) If the applicant is a corporation and does not submit a State certification pursuant to Subsection (c)(4) of this section, proof of authority to do business in the State of Florida;
- (e) *Review and reporting.* The Town Manager or designee shall review the information submitted by the Applicant. If the Applicant submits information in accordance with Subsection (d) of this section, the Registration shall be effective, and the Town shall notify the applicant of the effectiveness of Registration by electronic mail. The Applicant may not apply for a permit to place or maintain Communication Facilities in the Public Rights-of-Way under this Article unless and until it has been notified that its application is complete and effective. If the Town determines that the information has not been submitted in accordance with Subsection (c) of this section, the Town shall notify the applicant by electronic mail of the non-effectiveness of registration and reasons for the non-effectiveness. The Town shall so notify an Applicant within 30 days after receipt of registration information from the Applicant.
- (f) *Cancellation.* A registrant may cancel a registration upon written notice to the Town that the registrant will no longer place or maintain any Communications Facilities in public rights-of-way and will no longer need to obtain permits to perform work in the public rights-of-way. A registrant cannot cancel a registration if the registrant continues to place or maintain a Communication Facility in public rights-of-way.
- (g) *Annual Renewal.* A Registrant shall update its registration with the Town by April 1 of each year in accordance with the registration requirements in this Article and shall include Annual payment at the time of registration. Within 30 days of any change in the information required to be submitted pursuant to Subsection of this section, a Registrant shall provide updated information to the Town. If no information in the then-existing registration has changed, the renewal may state that no information has changed. Failure to renew a registration may, at the Town's discretion, result in the Town restricting the issuance of additional permits until the Registrant has complied with the registration requirements of this Article. Failure to renew

registration shall mean all facilities identified in prior registrations and all facilities not registered, shall be subject to subject to the procedures set forth in Section 35-49.

- (h) *Annual Payment.* A Registrant that places or maintains Communication Facilities in the public rights-of-way shall be required to pay to the Town the fees permitted by Florida Law of \$150 per Town pole facility upon which a small wireless facility is collocated and \$500 per linear mile of passthrough facility as be amended by the State. Such registrants shall pay such amounts before obtaining any permits and then annually thereafter in accordance with the Town's requirements. Failure to adhere to this section may result in the involuntary termination of Registrant's Registration and forfeiture of their equipment.
- (i) *Failure to Register:* A Registrant shall bear the responsibility to maintain his registration updated with the Town at all times. A Registrant's failure to Register, or renew Registration may result in the suspension of any open Permits and Civil Penalties subject to the procedures set forth in Section 35-49.

Sec. 35-46. Insurance.

- (a) *General.* A Registrant shall provide, pay for and maintain satisfactory to the Town the types of insurance described herein. All insurance shall be from responsible companies duly authorized to do business in the State of Florida and having an A.M. Best A-VII or better rating. All liability policies shall provide that the Town is an additional insured as to the activities under this Article. The required coverages must be evidenced by properly executed certificates of insurance forms. The certificates must be signed by the authorized representative of the insurance company and shall be filed and maintained with the Town annually. Thirty (30) days advance written notice by registered, certified or regular mail or facsimile as determined by the Town must be given to the Town's Risk Manager of any cancellation, intent not to renew or reduction in the policy coverages. The insurance requirements may be satisfied by evidence of self-insurance or other types of insurance acceptable to the Town.
- (b) *Insurance Coverage and Limits of Insurance Coverage.* The insurance coverage and limits of coverage of insurance required shall be not less than the following:
- (1) *Worker's compensation and employer's liability insurance.* Requirements as spelled out in Florida Chapter 440.
- (2) *Comprehensive general liability.* Commercial general liability occurrence form, including premises/operations, independent contractor's contractual liability, product/completed operations; X, C, U coverage; and personal injury coverage for limits of no less than one million dollars (\$1,000,000) per occurrence, combined single limit and two million dollars (\$2,000,000) in the aggregate.
- (3) *Commercial Automobile liability.* Commercial automobile liability coverage for all owned, non-owned and hired vehicles involved in operations under this Article XII for limits of no less than one million dollars (\$1,000,000) per occurrence combined single limit each accident.
- (4) *Commercial excess or umbrella liability.* Commercial excess or umbrella liability coverage may be used in combination with primary coverage to achieve the required limits of liability.
- (c) *Proof of Insurance.* Upon the effective date of the Registration, the Registrant shall submit to the Town proof that it has obtained the insurance required under this Article, including a certificate of insurance signed by the insurance agent.

- (d) Duration. The coverage provided herein shall be for a period not less than the period for which the indemnification obligations under this Article hereof are imposed.
- (e) Abandonment. Failure to maintain required coverage shall be deemed an Abandonment. Failure to maintain all the required insurance coverage shall be deemed an Abandonment of all of the Communications Facilities of the Registrant subject to the procedures set forth in Section 35-49.

35-47. Indemnification.

- (a) Liability. By reason of the acceptance of a Registration under this Article or the grant of a Permit under this Article, the Town does not assume any liability:
 - (1) For injuries to persons, damage to property, or loss of service claims by parties other than the Registrant or the Town;
 - (2) For claims or penalties of any sort resulting from the installation, presence, maintenance, or operation of Facilities by Registrants or activities of Registrants.
- (b) Hold harmless. By registering with the Town, a Registrant agrees, or by applying for and accepting a Permit under this Article, a Permittee is required, to defend, indemnify, and hold the Town whole and harmless from all costs, liabilities, and claims for damages of any kind arising out of the construction, presence, installation, maintenance, repair or operation of its Communications Facilities, whether any act or omission complained of is authorized, allowed, or prohibited by a Permit, inspection of plans or work by the Town. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the Registrant or to the Town; and the Registrant, in defending any action on behalf of the Town, shall be entitled to assert in any action every defense or immunity that the Town could assert in its own behalf. The provisions of this Section include, but are not limited to, the Town's reasonable attorneys' fees incurred in defending against any such claim, suit or proceeding(s).
- (c) Notification of issues. The Town agrees to notify the Registrant, in writing, within a reasonable time of the Town receiving notice, of any issue it determines may require indemnification.
- (d) Limitations. This indemnification obligation is not limited in any way by a limitation of the amount or type of damages or compensation payable by or for the registrant under workers' compensation, disability or other employee benefit acts, or the acceptance of insurance certificates required under this article, or the terms, applicability or limitations of any insurance held by the Registrant.
- (e) Investigation by registrant. The Registrant shall investigate, handle, respond to, provide defense for, and defend any such claims at its sole expense and shall bear all other costs and expenses related thereto even if the claim is groundless, false or fraudulent and if called upon by the Town, the Registrant shall assume and defend not only itself but also the Town in connection with any such claims and any such defenses shall be at no cost or expense whatsoever to the Town, provided, however, that a registrant's obligation hereunder shall not extend to any damages caused solely by the negligence, gross negligence or wanton or willful acts of the Town, its employees, agents, contractors, subcontractors or invitees. The Town (exercisable by the Town Attorney), shall retain the right to select counsel of its own choosing.
- (f) Waiver rights. The Town does not and shall not waive any rights against the Registrant which it may have by reason of this indemnification, or because of the acceptance by, or the Registrant's deposit with the Town of any of the insurance policies required by this Article for Registration.

- (g) Damages. This indemnification by the Registrant shall apply to all damages and claims for damages of any kind suffered, excepting any damages caused by the negligence, gross negligence or intentional acts of the Town, its employees, agents or contractors regardless of whether such insurance policies shall have been determined to be applicable to any such damages or claims for damages.
- (h) Defense and immunity. Nothing contained in this Section shall be construed or interpreted:
- (1) as denying to either party any remedy or defense available to such party under the laws of the State of Florida; or
 - (2) as a waiver of sovereign immunity beyond the waiver provided in Section 768.28, Florida Statutes as same may be amended from time to time.
- (i) Term. The indemnification requirements under this Section and this Article shall survive and be in full force and effect for a period of five (5) years after the termination or cancellation of a Registration.

35-48. - Force majeure. In the event a Registrant's performance of or compliance with any of the provisions of this article is prevented by a cause or event not within the Registrant's control, such inability to perform or comply shall be deemed excused and no penalties or sanctions shall be imposed as a result; provided, however, that such owner uses all practicable means to expeditiously cure or correct any such inability to comply. For purposes of this article, causes or events not within a registrant's control shall include, without limitation, acts of God, floods, earthquakes, landslides, hurricanes, fires and other natural disasters, acts of public enemies, riots or civil disturbances, sabotage, strikes and restraints imposed by order of a governmental agency or court. Causes or events within a registrant's control, and thus not falling within this section, shall include, without limitation, registrant's financial inability to perform or comply, economic hardship, and misfeasance, malfeasance or nonfeasance by any of a registrant's directors, officers, employees, contractors or agents.

35-49. - Termination of registration.

- (a) Involuntary Termination. The involuntary termination of a previously effective registration may only be accomplished by an action of the Town Manager and such action may be appealed to the Town Council. The Town may declare the registration terminated and revoke and cancel all privileges granted under that registration if:
- (1) A Federal or Florida authority suspends, denies or revokes a registrant's certification or license to provide Communications Service;
 - (2) The Registrant's placement and maintenance of the Public Rights-of-Way or other roads or property within the Town presents an extraordinary danger to the general public or other users of the public rights-of-way; or
 - (3) The registrant voluntarily abandons all of its Communications Facilities in Public Rights-of-Way.
 - (4) The registrant fails to update their information with the Town as set forth in this Ordinance.
- (b) Notification. Prior to such termination for any of the reasons set forth in this section, the Town Manager or his designee shall notify the registrant in writing, setting forth the matters pertinent to such reasons and describing the proposed action of the Town with respect thereto. The registrant shall have 60 days after receipt of such notice within which to cure the violation.
- (c) In the event of a vote by the Town Council to terminate the registration, the registrant shall, within 30 days following such termination, provide an acceptable plan for transferring

ownership of the Communications Facilities to another person in accordance with this Article or shall remove or Abandon the Communications Facilities and take such steps as are necessary to render every portion of the Communications Facilities remaining in the public rights-of-way safe. If the registrant has either Abandoned its Communications Facilities or chooses to Abandon its Communications Facilities, the Town may:

- (1) Require the registrant or the registrant's bonding company to remove some or all of the Communications Facilities from the public rights-of-way and restore the public rights-of-way to its condition immediately prior to the removal;
 - (2) Require that some or all of the Communications Facilities be removed, and the public rights-of-way restored to their original condition at the registrant's expense, using Town employees, agents or contractors, and charge any and all costs to the registrant and require reimbursement; or
 - (3) Utilize or allow other persons to utilize the registrant's Abandoned Communications Facilities.
- (d) *Survival of obligations.* The obligations of the registrant hereunder shall survive the termination of a registration. In the event of a declaration of termination of registration, this provision does not permit the Town to cause the removal of any Communications Facilities that are used to provide another service for which the registrant holds a valid certification or license with the governing Federal or State agency, where required, and is properly registered with the Town, for such certificated service, where required.

35-50. - Transfer of control, sale, or assignment of assets.

- (a) *Transfer of control, sale, or assignment of assets.* If a Registrant transfers, sells or assigns its Registration or its Communications Facilities in the Public Rights-of-Way, incident to a transfer, sale or assignment of the registrant's assets, the transferee, buyer or assignee shall be obligated to comply with the terms of this article. Written notice of any such transfer, sale or assignment shall be provided to the Town within 20 days of the effective closing date of the transfer, sale or assignment. If the transferee, buyer or assignee is a current registrant, then the transferee, buyer or assignee is not required to re-register. If the transferee, buyer or assignee is not a current registrant, then the transferee, buyer or assignee shall register as provided herein within 60 days of the transfer, sale or assignment. If permit applications are pending in the registrant's name, the transferee, buyer or assignee shall notify the Town that the transferee, buyer or assignee is the new applicant.
- (b) *Subordination.* Any mortgage, pledge, lease or other encumbrance on the Communications Facilities shall be subject and subordinate to the rights of the Town under this article and Applicable Law.

35-51. - Security Fund. At the time of registration and as a condition of receiving its first permit to place or to maintain a Communications Facility in public rights-of-way after the effective date of the ordinance from which this Article is derived, the registrant shall be required to file with the Town a security fund in the form of an annual bond or cash deposit in the sum of \$50,000.00, or a corporate guarantee for substantially the same amount and in a form that is legally acceptable to the Town. If the registrant files a bond, it shall have as a surety a company that is qualified to do business in the State of Florida, that has a minimum rating of AAA in Best's Key Rating Guide, Property/Casualty Edition and shall be subject to the approval of the Town Attorney. The security fund shall be conditioned on the full and faithful performance by the registrant of all requirements,

duties and obligations imposed upon the registrant by the provisions of this Article. The bond or other guarantee shall be furnished annually or as frequently as necessary to provide a continuing guarantee of the registrant's full and faithful performance at all times. In the event a registrant fails to perform its duties and obligations imposed upon the registrant by the provisions of this Article, there shall be recoverable, jointly and severally from the principal and surety of the bond, any damages or loss suffered by the Town as a result, including the full amount of any compensation, indemnification or cost of removal or Abandonment of any property of the registrant, plus a reasonable allowance for attorneys' fees, up to the full amount of the security fund.

DIVISION 3. Permitting and Placement of Communication Facilities in the Public Rights-of-Way.

35-52. - Placement or maintenance of Communications Facilities, in public rights-of-way, in general, excluding Small Wireless Facilities.

(a) *Compliance.* Registrants and users and/or occupants agree at all times to comply with and abide by all applicable provisions of Federal and State law and Town ordinances, codes and regulations in placing or maintaining communications facilities in public rights-of-way.

(b) *Permit Required.* A Registrant shall not commence to place or maintain a Communications Facility in a Town Public Right-of-way until all applicable Permits, if required, have been issued, except in the case of routine maintenance or an emergency as provided for in this Article. In such cases deemed an emergency situation by the Public Works Director, the Registrant shall apply for Permits within 15 days of the incident or repair, whichever comes sooner. Registrants and users and/or occupants shall provide prompt notice to the Town of the placement or maintenance of a facility in public rights-of-way in the event of an emergency. The Registrant acknowledges that as a condition of granting a permit(s), the Town may impose reasonable conditions governing the Placement or Maintenance of a Communications Facility in the Town's Public rights-of-way related to the public, health, safety and welfare as permitted and set forth in Section 337.401 of Florida Statutes as same may be amended from time to time; however, no such imposed conditions shall prohibit or otherwise adversely impact the provision of Communications Services. Permits shall apply only to the areas of the Town's Public Rights-of-way specifically identified in the Permit. The Town may issue a blanket permit to cover certain activities, such as routine maintenance and repair activities, that may otherwise require individual permits or may impose lesser requirements. This subsection does not authorize a person to collocate or attach wireless facilities, including any antenna, micro wireless facility, or small wireless facility, on a privately owned utility pole, a utility pole owned by an electric cooperative or a municipal electric utility, a privately owned wireless support structure, or other private property without the consent of the property owner.

(c) *Required information.* As part of any permit application to place a new or to replace an existing Communications Facility in public rights-of-way or other roads or property within the Town, the applicant shall provide information concerning the Communications Facility that sets forth the following, as required by the Town Manager:

(1) An engineering plan signed and sealed by a Florida Registered Professional Engineer, or prepared by a person who is exempt from such registration requirements as provided in Section 471.003 of Florida Statutes, identifying the location of the proposed facility, and including:

a. A description of any facility to be installed;

b. The facility's dimensions in feet;

- c. Site plan indicating where the facility will be located with electronic geodata; and
- d. Ability to demonstrate compliance with the Florida Building Code, for wind load requirements; and
- e. For new Communication Facility Poles, Wireless Support Structures, or any excavation work, a geotechnical report for the existing soil conditions, or a soil statement by a Florida licensed professional engineer, attesting to the soil conditions.
- (2) Plans and information, as required by this Article, on the ability of the public rights-of-way to accommodate the proposed Communications Facility;
- (3) If appropriate, given the Communications Facility, an estimate of the cost of restoration to the public rights-of-way;
- (4) The timetable for construction of the project or each phase thereof, and the areas of the Town which will be affected;
- (5) A full color photo-simulation showing the proposed new Communication Facility Poles and Wireless Support Structures installed in accordance with the application from the point of view of properties Adjacent to the proposed site;
- (6) A description of the type of Communication Facility and the manner in which the Communication Facility will be installed and/or modified (i.e. anticipated construction methods or techniques) to include:
 - (a) A description of Stealth Design to be utilized. Additionally, each application for a Permit to place a Communications Facility Pole in the Town's Public Rights-of-way shall include photographs showing the location and condition of the Surrounding Neighborhood, and a description of the Stealth Design techniques proposed to minimize the visual impact of the Communications Facility Pole or Wireless Support Structure and graphic depictions accurately representing the visual impact of the Communications Facility Pole or Wireless Support Structure when viewed from the street and from Adjacent properties.
 - (b) Alternatively, a signed and sealed statement from a Florida state licensed professional engineer that Stealth Design cannot be utilized on any particular Communication Facility and providing documentation demonstrating to the satisfaction of the Town Public Works Director that the proposed Communications Facility cannot employ Stealth Design and the proposed exterior location and configuration of equipment proposed are the minimum equipment necessary to achieve the needed function.
- (7) A temporary sidewalk closure plan, if appropriate given the Communication Facility proposed, to accommodate Placement or Maintenance of the Communication Facility.
- (8) A temporary traffic lane closure and management of traffic (MOT) plan, if appropriate given the Communication Facility proposed, to accommodate installation and/or modification of the Communication Facility.
- (9) Restoration plan given the Communication Facility proposed, and an estimate of the cost of restoration of the Town's Public Rights-of-way in the event the Communication Facility is Abandoned
- (10) A proposed timetable for Placement or Maintenance of the proposed Communication Facility or each phase of the Placement or Maintenance thereof, and the intended areas of the Town to be served by the Communication Facility.
- (11) Registrants shall not place or maintain signage on Communication Facilities in Town Public Rights-of-way, unless otherwise required by federal or State law; however, that Existing Structures that lawfully supported signage before being Repurposed may continue

- to support signage as otherwise permitted by law or Town Code, as same may be amended from time to time.
- (12) Communications Facilities not requiring FAA painting or marking shall have an exterior hard durable finish which enhances compatibility with adjacent uses, as approved by the Town Public Works Director.
- (13) A Communication Facility shall not have any type of lighted signal, lights, or illuminations unless required by an applicable federal, State, or local rule, regulation, the FAA or law; provided, however, the Town may require the installation of an LED street light on a new Communications Facility Pole or Wireless Support Structure or an Existing Structure functioning as a light pole.
- (14) Such additional information or studies requested by the Town that the Town finds reasonably necessary to review the permit application to ensure continued level of service delivery of its Rights-of-Way.
- (d) Public accessibility, safety, and sufficiency of spacing. The Town shall have the power afforded by Florida Law to regulate Facilities to ensure that they meet Town requirements for public accessibility, safety and sufficiency of spacing, to ensure compliance with State of Florida and local laws and ordinances. In determining whether to permit and reasonably limit, or impose conditions or prohibit a Communications Facility to be placed or located within the Town's Public Rights-of-way, the Town Public Works Director shall consider the following standards and minimum requirements in his review and consideration of a Permit application and imposition of reasonable Permit conditions:
- (1) Sufficiency of space to accommodate present and pending applications for use of the Town's Public Rights-of-way. The sufficiency of space to accommodate all of the present and pending applications to place Communications Facilities and pending or planned applications to Place and Maintain Facilities in that area of the Town's Public Rights-of-way; and
- (2) Sufficiency of space to accommodate the Town's need for projected public improvements. The sufficiency of space to accommodate Town plans for public improvements or projects adopted as part of its community investment capital improvements plan that the Town determines in the best interest of the public; and
- (3) The impact on traffic and traffic safety; and
- (4) Impact on Existing Facilities. The impact upon existing Facilities in the Town's Public Rights-of-way; and
- (5) Distance separation from edge of pavement. No new Communication Facility shall be constructed, operated or maintained in the Town's Public Rights-of-way in violation of the State of Florida Department of Transportation Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways, (commonly known as the "Florida Green Book") and for the Minimum Width of Clear Zones. In accordance with the Florida Green Book, the Public Works Director shall have the authority to reduce the minimum offset where that offset cannot be reasonably obtained and other alternatives are deemed impractical; and
- (6) Distance separation from sidewalk. No newly installed Communication Facility shall be Placed or Maintained in the Town's Public Rights-of-way within one (1) foot of a sidewalk that is five (5) feet or less in width. Co-location on an Existing Structures is exempt from this requirement; and

- (7) Installation at outermost boundary of Town's Public Rights-of-way. Where a superior site design results from Placement of a Communication Facility at or near the outermost boundary of the Town's Public Right-of-way, the farthest distance practicable from the centerline thereof and edge of pavement is encouraged. To the extent that the location of the sidewalk within the Town's Public Right-of-way precludes achievement of a superior site design or otherwise precludes compliance with all other requirements of this Article, then the Town Public Works Director or Registrant may propose and the Registrant may include in the Permit application a proposed re-routing of the sidewalk at its own expense, in order to achieve such superior site design or otherwise meet other requirement of this Article.
- (e) *Undergrounding of facility.* A Registrant or other user shall endeavor, to the greatest extent possible, to place all Communications Facilities underground. The Town may require the use of trenchless technology (i.e., directional bore method) for the installation of Communications Facilities in the public rights-of-way as well as joint trenching or the collocation of Communications Facilities in existing conduit. The registrant or user shall be solely liable for the displacement, damage or destruction of any property, irrigation system or landscaping as a result of the placement or maintenance of its Communications Facility within the public rights-of-way. The appropriate Town official may issue such rules and regulations concerning the placement or maintenance of a Communication Facility in public rights-of-way as may be consistent with this article and other applicable Federal and State laws or regulations.
- (f) *Notification of adjacent property owners.* Prior to the commencement of any work by the applicant pertaining to the placement and maintenance of Communications within the public rights-of-way or other roads or property within the Town, the Town Manager or designee may require the applicant to issue notice of the work to property owners who adjoin such affected area (the "Notification Area"). The notification area may be expanded at the Town's discretion and notice shall be effected in a manner deemed appropriate by the Town Manager or designee.
- (g) *Repair of damages.* A person placing or maintaining Communication Facilities in the public rights-of-way or other roads or property within the Town shall, at its own expense, restore the public rights-of-way, or any other adjacent property that has been damaged by work on the project, to at least its original condition before such work was initiated, subject to the Town's satisfaction upon inspection. Restoration shall include, among other things, the removal of all markings placed by users on the right-of-way, unless they are required to remain pursuant to State law. A registrant or user shall warrant restoration of the public rights-of-way or other roads or property within the Town for a period of 12 months after completion of such restoration. If the registrant or user fails to make such restoration within 30 calendar days after completion of construction, or such other time as may be required by the Town, the Town may, after written notice to the registrant or user, perform such restoration using Town employees, agents or contractors, and charge all costs of the restoration against the registrant or user in accordance with Florida Law and require reimbursement within 30 days after the submission of the bill by the Town to the registrant or user.
- (h) *Removal or relocation.* Removal or relocation at the direction of the Town of a Person's Communication Facility in the public rights-of-way shall be governed by Florida Law
- (i) *Property right not created.* A permit from the Town constitutes authorization to undertake only certain activities in public rights-of-way in accordance with this Article, and does not create a property right or grant authority to impinge upon the rights of others who may have an interest in the public rights-of-way.

- (j) Underground safety act. In connection with excavation in the public rights-of-way, a registrant and user shall, where applicable, comply with the Underground Facility Damage Prevention and Safety Act set forth in Section 556 of Florida Statutes.
- (k) Maintenance. A registrant and user shall place or maintain a Communications Facility in public rights-of-way in compliance with all applicable standards as established by all local, State or Federal law and in conformance with Applicable Codes and the Town Code. A registrant and user shall use and exercise due caution, care and skill in performing work in the public rights-of-way and shall take all reasonable steps to safeguard work site areas.
- (l) Coordination or work. In the interest of the public's health, safety and welfare, upon request of the Town, a registrant or user shall coordinate placement or maintenance activities under a permit with any other work, construction, installation or repairs that may be occurring or scheduled to occur within a reasonable timeframe in the subject public rights-of-way or other roads or property within the Town. The Town may require a registrant or user to alter reasonably its placement or maintenance schedule for permitted work as necessary so as to minimize disruptions and disturbance in the public rights-of-way or other roads or property within the Town. The Town may provide a more definite time frame based on specific Town construction or maintenance schedules.
- (m) Existing facilities. A registrant or user shall not place or maintain its Communications Facilities so as to interfere, displace, damage or destroy any Communication Facilities, including, but not limited to, sewers, gas or water mains, storm drains, pipes, cables or conduits of the Town or any other person's facilities lawfully occupying the public rights-of-way or other roads or property within the Town. The Registrant or user shall report to the Town any damage to existing Facilities and notify the Facility owner.
- (n) Conditions of rights-of-way. The Town makes no warranties or representations regarding the fitness, suitability or availability of public rights-of-way for the facilities, and any performance of work or costs incurred by the registrant or user or provision of services shall be at registrant's or user's sole risk. Nothing in this article shall affect the Town's authority to add, vacate or abandon public rights-of-way and the Town makes no warranties or representations regarding the availability of any added, vacated or abandoned public rights-of-way for facilities.
- (o) Inspections. The Town shall have the right to make such visual inspections of Communications Facilities placed or maintained in public rights-of-way as it finds necessary to ensure compliance with this article. In the event the Town determines that a violation exists with respect to a registrant's or user's placement or maintenance of Communications Facilities in the public rights-of-way that is not considered to be an emergency or danger to the public health, safety or welfare, the Town will provide the registrant or user no less than three days' written notice setting forth the violation and requesting correction. During the inspection, Town staff, employees or contractors shall not attempt to open, tamper, manipulate any equipment attached. Nothing herein shall limit the authority of the Town Manager, building official or their designee from taking appropriate action to address an imminent and immediate health or safety hazard.
- (p) Emergency. In an emergency, as determined by the Town Manager, Building Official, Public Works Director, or their designee, where the installation, use or maintenance of any Communications Facility poses an imminent and immediate health or safety hazard to pedestrians or vehicles, the Town shall, where feasible, give telephonic notice to the owner of the Communications Facility of the nature of the emergency and afford the owner the opportunity to remove or otherwise relocate the Communication Facility. Where telephonic

notice is not feasible or where the owner fails to address the emergency hazard, the Town Manager, building official or their designee may summarily and temporarily remove or relocate such Communication Facility, but only to the extent necessary to avoid the health or safety hazard at issue. Immediately following removal or relocation of any Communication Facility under these emergency procedures, the Town shall provide the owner of the facility with written notice of the action by certified mail, return receipt requested. If the Town removes such facility, the owner of such Communication Facility shall have 30 days after receipt of such written notice by the Town to claim the Communication Facility, or the Town may dispose of such Communication Facility.

35-53. Review of Communication Facility Poles, Utility Poles, Small Wireless Facilities in the Rights-of-Way.

(a) Purpose and Scope.

1. The purpose of this section is to provide appropriate local regulations in the review, permitting, and issuance of wireless facilities pursuant to Section 337.401(7), Florida Statutes, entitled the “Advanced Wireless Infrastructure Deployment Act.” Notwithstanding any other provision to the contrary, the provisions identified herein and as referenced elsewhere in this Article, shall provide for the full scope of regulatory authority, as authorized by the Florida Statutes, in the regulation of, Small Wireless Facilities within the jurisdiction of the Town.
2. The approval of the installation, placement, maintenance, or operation of a wireless facility pursuant to this subsection does not authorize the provision of any voice, data, or video communications services or the installation, placement, maintenance, or operation of any communications facilities other than small wireless facilities in the right-of-way.
3. This subsection does not affect provisions relating to Pass-Through Providers in this Article and at Section 337.401(6) Florida Statutes.
4. This subsection does not authorize a person to collocate Small Wireless Facilities or Micro Wireless Facilities on an authority Utility Pole, place Small Wireless Facilities, or erect a wireless support structure in a location subject to covenants, conditions, restrictions, articles of incorporation, and bylaws of a homeowners’ association.
5. This subsection does not apply to the installation, placement, maintenance, or replacement or routine maintenance of Micro Wireless facilities or replacement of existing wireless facilities with wireless facilities that are substantially similar or of the same or smaller size.

(b) Electronic mail. All correspondence with the applicant, including but not limited to, plan review comments, requests for additional information, and permit/registration status, whether for submittal of registration or for building permit, shall be by electronic mail.

(c) Process, review and issuance of permits. The Town shall accept applications for permits and shall process and issue permits subject to the following requirements:

1. The Town may not directly or indirectly require an applicant to perform services unrelated to the collocation for which approval is sought, such as in-kind contributions to the authority, including reserving fiber, conduit, or pole space for the authority.
2. An applicant may not be required to provide more information to obtain a permit than is necessary to demonstrate the applicant’s compliance with applicable codes for the placement of Wireless Facilities in the locations identified the application.
3. The Town may not require the placement of wireless facilities on any specific utility pole or category of poles or require multiple antenna systems on a single utility pole.

4. The Town may not limit the placement of Wireless Facilities by minimum separation distances. However, within 14 days after the date of filing the application, an authority may request that the proposed location of a Wireless Facility be moved to another location in the right-of-way and placed on an alternative authority Utility Pole or support structure or may place a new Utility Pole. The authority and the applicant may negotiate the alternative location, including any objective design standards and reasonable spacing requirements for ground-based equipment, for 30 days after the date of the request. At the conclusion of the negotiation period, if the alternative location is accepted by the applicant, the applicant must notify the authority of such acceptance and the application shall be deemed granted for any new location for which there is agreement and all other locations in the application. If an agreement is not reached, the applicant must notify the authority of such nonagreement and the authority must grant or deny the original application within 90 days after the date the application was filed. A request for an alternative location, an acceptance of an alternative location, or a rejection of an alternative location must be in writing and provided by electronic mail.
5. The Town shall limit the height of a Wireless Facility to 10 feet above the utility pole or structure upon which the wireless facility is to be collocated. Unless waived by the Town, the height for a new utility pole is limited to the tallest existing utility pole as of July 1, 2017, located in the same right-of-way, other than a utility pole for which a waiver has previously been granted, measured from grade in place within 500 feet of the proposed location of the Wireless Facility. If there is no Utility Pole within 500 feet, the authority shall limit the height of the Utility Pole to 50 feet.
6. Except as provided in subparagraphs 4. and 5., the installation of a Utility Pole in the public rights-of-way designed to support a Wireless Facility shall be subject to the Town's rules or regulations governing the placement of utility poles in the public rights-of-way and shall be subject to the application review timeframes in this subsection.
7. Within 14 days after receiving an application, the Town must determine and notify the applicant by electronic mail as to whether the application is complete. If an application is deemed incomplete, the Town must specifically identify the missing information. An application is deemed complete if the authority fails to provide notification to the applicant within 14 days.
8. An application must be processed on a nondiscriminatory basis. A complete application is deemed approved if the Town fails to approve or deny the application within 60 days after receipt of the application. If the Town does not use the 30-day negotiation period provided in subparagraph 4., the parties may mutually agree to extend the 60-day application review period. The Town shall grant or deny the application at the end of the extended period. A permit issued pursuant to an approved application shall remain effective for one (1) year unless extended by the authority.
9. The Town must notify the applicant of approval or denial by electronic mail. The Town shall approve a complete application unless it does not meet the Town's Applicable Codes. If the application is denied, the Town shall specify in writing the basis for denial, including the specific code provisions on which the denial was based, and send the documentation to the applicant by electronic mail on the day the Town denies the application. The applicant may cure the deficiencies identified by the Town and resubmit the application within 30 days after notice of the denial is sent to the applicant. The Town shall approve or deny the

revised application within 30 days after receipt or the application is deemed approved. Any subsequent review shall be limited to the deficiencies cited in the denial.

10. An applicant seeking to collocate wireless facilities within the Town may, at the applicant's discretion, file a consolidated application and receive a single permit for the collocation of up to 30 Wireless Facilities. If the application includes multiple Wireless Facilities, the Town may separately address Wireless Facility collocations for which incomplete information has been received or which are denied.

11. The Town may deny a proposed collocation of a Wireless Facility in the public rights-of-way if the proposed collocation:

- a. Materially interferes with the safe operation of traffic control equipment.
- b. Materially interferes with sight lines or clear zones for transportation, pedestrians, or public safety purposes.
- c. Materially interferes with compliance with the Americans with Disabilities Act or similar federal or state standards regarding pedestrian access or movement.
- d. Materially fails to comply with the latest edition of the Florida Department of Transportation Utility Accommodation Manual.
- f. Fails to comply with applicable codes.

12. The Town may reserve space on Town utility poles for future public safety uses. However, a reservation of space may not preclude collocation of a Wireless Facility. If replacement of the Town utility pole is necessary to accommodate the collocation of the Wireless Facility and the future public safety use, the pole replacement is subject to make-ready provisions and the replaced pole shall accommodate the future public safety use.

13. A structure granted a permit and installed pursuant to this subsection shall comply with Chapter 333, Florida Statutes, and federal regulations pertaining to airport airspace protections.

(d) The Town shall not require approval or require fees or other charges for:

1. Routine maintenance;
2. Replacement of existing wireless facilities with Wireless Facilities that are substantially similar or of the same or smaller size; or
3. Installation, placement, maintenance, or replacement of Micro Wireless Facilities that are suspended on cables strung between existing utility poles in compliance with applicable codes by or for a communications services provider authorized to occupy the rights-of-way and who is remitting taxes under chapter 202.

Notwithstanding this paragraph, an authority may require a right-of-way permit for work that involves excavation, closure of a sidewalk, or closure of a vehicular lane.

(e) Collocation of Wireless Facilities on Utility Poles is subject to the following requirements:

1. The Town shall not enter into an exclusive arrangement with any person for the right to attach equipment to authority utility poles.
2. The rates and fees for collocations on authority utility poles must be nondiscriminatory, regardless of the services provided by the collocating person.
3. The rate to collocate wireless facilities on a Town utility pole shall be \$150 per pole annually.
4. Agreements between the Town and wireless providers that are in effect on July 1, 2017, and that relate to the collocation of wireless facilities in the right-of-way, including the collocation of Wireless Facilities on authority utility poles, remain in effect, subject to applicable termination provisions. The wireless provider may accept the rates, fees, and

- terms established under this subsection for Wireless Facilities and Utility Poles that are the subject of an application submitted after the rates, fees, and terms become effective.
5. A person owning or controlling an Authority Utility Pole shall offer rates, fees, and other terms that comply with this subsection. By the later of January 1, 2018, or 3 months after receiving a request to collocate its first Wireless Facility on a Utility Pole owned or controlled by an Authority, the person owning or controlling the authority Utility Pole shall make available, through ordinance or otherwise, rates, fees, and terms for the collocation of Wireless Facilities on the Authority Utility Pole which comply with this subsection.
- a. The rates, fees, and terms must be nondiscriminatory and competitively neutral and must comply with this subsection.
- b. For a Town Utility Pole that supports an aerial facility used to provide Communications Services or electric service, the parties shall comply with the process for make-ready work under 47 U.S.C. s. 224 and implementing regulations. The good faith estimate of the person owning or controlling the pole for any make-ready work necessary to enable the pole to support the requested Collocation must include pole replacement if necessary.
- c. For a Town Utility Pole that does not support an aerial facility used to provide communications services or electric service, the authority shall provide a good faith estimate for any make-ready work necessary to enable the pole to support the requested Collocation, including necessary pole replacement, within 60 days after receipt of a complete application. Make-ready work, including any pole replacement, must be completed within 60 days after written acceptance of the good faith estimate by the applicant. Alternatively, the Town may require the applicant seeking to Collocate a Wireless Facility to provide a make-ready estimate at the applicant's expense for the work necessary to support the Wireless Facility, including pole replacement, and perform the make-ready work. If pole replacement is required, the scope of the make-ready estimate is limited to the design, fabrication, and installation of a Utility Pole that is substantially similar in color and composition. The Town may not condition or restrict the manner in which the applicant obtains, develops, or provides the estimate or conducts the make-ready work subject to usual construction restoration standards for work in the right-of-way. The replaced or altered utility pole shall remain the property of the Authority.
- d. The Town shall not require more make-ready work than is required to meet applicable codes or industry standards. Fees for make-ready work may not include costs related to preexisting damage or prior noncompliance. Fees for make-ready work, including any pole replacement, may not exceed actual costs or the amount charged to Communications Services providers other than wireless services providers for similar work and may not include any consultant fee or expense.
- (f) A wireless provider shall, in relation to a wireless support structure in the public rights-of-way, comply with nondiscriminatory undergrounding requirements of the Town. Any such requirements may be waived by the Town Manager.
- (g) A wireless infrastructure provider may apply to the Town to place utility poles in the public rights-of-way to support the collocation of Wireless Facilities. The application must include an attestation that Wireless Facilities will be collocated on the Utility Pole or structure and will be used by a wireless services provider to provide service within 9 months after the date the application is approved. The Town shall accept and process the application in accordance with

section 35-51(c)6, and any applicable codes and other local codes governing the placement of Utility Poles in the public rights-of-way.

DIVISION 4 Enforcement and Appeals

35-54. - Enforcement remedies of Permit Obligations; Suspension and Revocation of Permits.

- (a) A violation of this article or any resolution adopted pursuant to this article may be enforced pursuant to Section 8-10 and by issuance of a uniform civil violation notice, citation, summons, or notice to appear in County Court, or by filing an action in civil court for injunctive relief. This Article is supplemental, and nothing contained herein shall prohibit the Town from enforcing this Article by any other lawful means.
- (b) Failure of the Town to enforce any requirements of this article shall not constitute a waiver of the Town's right to enforce the Article with respect to that violation or subsequent violations of the same type or to seek appropriate enforcement remedies.
- (c) The Town Manager or his designee is authorized to give any notice required by law.
- (d) The Town Public Works Director may order the suspension of placement and maintenance work under a permit and ultimately may revoke any Permit, without refunding any fees, in the event of a substantial breach of the terms and conditions of any applicable statute, ordinance, rule or regulation or any condition of the permit. The types of substantial breach by Permittee may include, but are not limited to:
- (1) The violation of any material provision of the Permit;
 - (2) An evasion or attempt to evade any material provision of the Permit or the perpetration or attempt to perpetrate any fraud or deceit upon the Town or its citizens;
 - (3) Any material misrepresentation of fact in the process of Permittee's request for a Permit or Registration;
 - (4) The failure to maintain the required performance bond or insurance;
 - (5) The failure to properly restore the Town's Public Rights-of-way;
 - (6) The failure to correct within the specified time an order issued by the Town Engineer;
 - (7) The failure to Register, Re-Register, or provide notice of any transfer in accordance with this Article;
 - (8) The failure to relocate or remove Facilities pursuant to this Article and Sections 337.402, 337.403 and 337.404, *Florida Statutes* (2016) as same may be amended from time to time.
 - (9) The failure to report to the Town and Facility owner any damages caused to their Facilities during the execution of the work.
- (e) If the Town Public Works Director determines that the Permittee has committed a substantial breach of a term or condition of the Permit, the Town Public Works Director shall make a written demand upon the Permittee to remedy such violation. The demand shall state that the continued violation(s) may be cause for revocation of the Permit. Further, a substantial breach as stated above will allow the Town Public Works Director, at his or her discretion, to place additional or revised conditions on the Permit.
- (f) Within thirty (30) calendar days of receiving notification of the breach, the Permittee shall contact the Town Public Works Director with a plan, acceptable to the Town Public Works Director, for its correction. The Town shall provide additional time as reasonably necessary for a Permittee to establish a plan acceptable to the Town Public Works Director taking into account the nature and scope of the alleged breach. The Permittee's failure to so contact the Town Public Works Director, or the Permittee's failure to submit an acceptable plan, or the

Permittee's failure to reasonably implement the approved plan, shall be cause for revocation of the Permit. Further, the Permittee's failure to contact the Town Public Works Director, or the Permittee's failure to submit an acceptable plan, or Permittee's failure to implement the approved plan, shall be cause for the Permittee to be placed on probation for one full year.

- (g) The Town Public Works Director may establish a list of conditions for any Permit which, if breached, will be cause for the Permittee to be placed on probation for one full year, such as, but not limited to, working out of the allotted time period or working on a Town Public Right-of-way significantly outside the scope of the Permit. These conditions shall be stated on the Permit.
- (h) If a Permittee, while on probation, commits a breach as outlined above, the Permittee's Permit may be revoked, and the Permittee may not be allowed to obtain further Permits for one full year, except for emergency repairs and service requirements as mandated by State or federal regulations.
- (i) If a Permit is revoked, the Permittee shall reimburse the Town for the Town's reasonable costs, including restoration costs and the cost of collection and reasonable attorneys' fees incurred in connection with such revocation.
- (j) The Town Public Works Director may cause an immediate stop work order where the Permittee's construction poses a serious threat to the health, safety or welfare of the public until such time as such serious threat has been abated.

35-55 - Appeals.

- (a) Final written decisions of the Town Manager or designee suspending or denying a permit, denying an application for a registration or denying an application for renewal of a registration are subject to appeal. An appeal must be filed with the Town Manager within 30 days of the date of the final written decision to be appealed. Any appeal not timely filed as set forth in this section shall be waived. The Town Council shall hear the appeal. The hearing shall occur within 30 days of the receipt of the appeal, unless waived by the registrant or user, and a written decision shall be rendered within 30 days of the hearing.
- (b) The Town Council shall conduct a de novo hearing on the record and shall determine if:
 - (1) There was a departure from the essential requirements of the law in the proceedings appealed; or
 - (2) Competent, substantial evidence does not exist to support the decision.
- (c) If the Town Council determines that there was not a departure from the essential requirements of the law or that competent substantial evidence exists to support the decision of the Town Manager, then the decision of the Town Manager shall be upheld, otherwise it shall be overturned.
- (d) Appeal from a final decision by the Town Council shall be to the Circuit Court by filing a petition for writ of certiorari within thirty (30) days of the decision, pursuant to court rules. Any such appeal is voluntary, and in the absence of taking such appeal, the decision of the Town Council shall be deemed to be final. If an appeal is taken, however, the decision of the Town Council is no longer deemed to be final but instead is tolled pending the appeal
- (e) Nothing in this section shall affect or limit the remedies the Town or Registrant has available under applicable law.

35-56. - Reports and records.

- (a) A registrant shall provide the following documents to the Town as received or filed:

- (1) Any pleadings, petitions, notices and documents which may directly impact the obligations under this article and which are reasonably necessary for the Town to protect its interests under this article; and
- (2) Any request for protection under bankruptcy laws, or any judgment related to a declaration of bankruptcy.
- (b) Nothing in this subsection shall affect the remedies a registrant has available under applicable law.
- (c) The Town shall keep any documentation, books and records of the registrant confidential to the extent required by Florida Statutes.

DIVISION 5 Abandonment of a Communication Facility and Reservation of Rights

35-57. - Abandonment of a Communications Facility.

- (a) Upon determination by a registrant that one or more of its Communications Facilities in a Town Public Right-of-way is to be Abandoned, the Registrant shall notify the Town no later than 90 days from such determination, or no later than 30 days following such Abandonment, whichever is sooner.
- (b) The Town may direct the registrant by written notice to remove all or any portion of such Abandoned Communications Facility at the registrant's sole expense if the Town determines that the Abandoned Communications Facility's presence interferes with the public health, safety or welfare, which shall include, but shall not be limited to, a determination that such Communications Facility:
 - (1) Compromises safety at any time for any public rights-of-way user or during construction or maintenance in public rights-of-way;
 - (2) Prevents another person from locating facilities in the area of public rights-of-way where the Abandoned Communications Facility is located when other alternative locations are not reasonably available; or
 - (3) Creates a maintenance condition that is disruptive to the use of any public rights-of-way.In the event of Subsection (b)(2) of this section, the Town may require the third person to coordinate with the registrant that owns the existing Communications Facility for joint removal and placement, where agreed to by the registrant.
- (c) In the event that the Town does not direct the removal of the Abandoned Communications Facility, the registrant, by its notice of Abandonment to the Town, shall be deemed to consent to the alteration or removal of all or any portion of the Communications Facility by the Town or another person at such third party's cost.
- (d) If the registrant fails to remove all or any portion of an Abandoned Communications Facility as directed by the Town within a reasonable time period as may be required by the Town under the circumstances, the Town may perform such removal and charge the cost of the removal against the registrant.
- (e) In the event the Abandoned Facility is subject to a pole attachment agreement, then the obligation to remove the Abandoned Communication Facility shall be in compliance with the federal Pole Attachment Act (47 USC Section 224), as same may be amended from time to time.

35-58. - Reservation of rights.

- (a) The Town reserves the right to amend this Article as it shall find necessary in the lawful exercise of its police powers.
- (b) This article shall be applicable to all Communication Facilities placed in the public rights-of-way on or after the effective date of the ordinance from which this article is derived and shall apply to all existing Communication Facilities placed in the public rights-of-way prior to the effective date of the ordinance from which this article is derived, to the full extent permitted by State and Federal law.

Sec. 35-59. No liability or warranty.

Nothing contained in this Article shall be construed to make or hold the Town responsible or liable for any damage to persons or any property whatsoever, from any cause whatsoever, arising from the use, operation or condition of the Registrant's Communications Facilities by reason of any inspection or re-inspection authorized herein or failure to inspect or re-inspect. Nor shall the issuance of any Permit or the approval or disapproval of any Placement or Maintenance of the Registrant's Communications Facilities as authorized herein constitute any representation, guarantee or warranty of any kind by, or create any liability upon the Town or any official, agent or employee thereof. Additionally, the Town shall not be responsible for any relocation costs incurred by any Registrant due to the Town's or any other Person's work in the Town's Public Rights-of-way.

DIVISION 6 – Fees and Taxes

Sec. 35-60. Communications Services Tax In Lieu of Permit Fee.

A Registrant that places or maintains Communications Facilities in the Town's Public Rights-of-way and that pays Communications Services Taxes shall not be required to pay a permit fee since the Town has elected to collect the Communications Services Tax pursuant to Ch. 202, *Florida Statutes* as same may be amended from time to time. Pass-Through Providers shall pay a fee pursuant to Section 337.401 (5), *Florida Statutes* as same may be amended from time to time and Town Code Section 35-63.

Sec. 35-61 Other Fees.

- (a) Pass-Through Providers shall pay to the Town on an annual basis an amount equal to Five Hundred Dollars (\$500.00) per linear mile or portion thereof of Communications Facilities placed and/or maintained in the Town's Public Rights-of-way.
 - (1) The amounts charged shall be based on the linear miles of Town Rights-of-way where Communications Facilities are placed, not based on a summation of the lengths of individual cables, conduits, strands or fibers.
 - (2) Any annual amount charged shall be reduced for a prorated portion of any 12-month period during which the Pass-Through Provider remits taxes imposed by the Town pursuant to Chapter 202, *Florida Statutes* (2016) as same may be amended from time to time.
 - (3) Annual payments shall be due and payable on April 1 of each year. Fees not paid within ten (10) days after the due date shall bear interest at the rate of one (1) percent per month from the date due until paid. The acceptance of any payment required hereunder by the Town shall not be construed as an acknowledgement that the amount paid is the correct amount due, nor shall such acceptance of payment be construed as a release of any claim which the Town may have for additional sums due and payable. All fee payments shall be

subject to audit by the Town, and assessment or refund if any payment is found to be in error. If such audit results in an assessment by and an additional payment to the Town, such additional payment shall be subject to interest at the rate of one (1) percent per month until the date payment is made.

(4) If the payments required by this Section are not made within ninety (90) days after the due date, the Town Engineer may withhold the issuance of any Permits to the Registrant until the amount past due is paid in full

(b) A Registrant that provides communications services as defined in F.S. § 202.012(3), within the Town, shall pay to the Town the fees permitted by Florida Law of \$150 per pole facility and wireless facility owned by the Town.



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January 16, 2018

VIA ELECTRONIC MAIL ONLY

Mayor Manny Cid, cidm@miamilakes-fl.gov
Vice Mayor Frank Mingo, mingof@miamilakes-fl.gov
Councilmmber Louis Collazo, collazol@miamilakes-fl.gov
Councilmember Tim Daubert, daubertt@miamilakes-fl.gov
Councilmember Ceasar Mestre, mestrec@miamilakes-fl.gov
Councilmember Marilyn Ruano, ruanom@miamilakes-fl.gov
Councilmember Nelson Rodriguez, rodriguezn@miamilakes-fl.gov
Town Manager, Alex Rey, reya@miamilakes-fl.gov
Town Planning Director, Darby DelSalle, AICP, DelsalleD@miamilakes-fl.gov
Town Attorney, Lorenzo Cobiella, Esq., lorenzocobiellaesq@yahoo.com
6601 Main Street
Miami Lakes, FL

**RE: Town of Miami Lakes Amended Communications Ordinance –Ch. 35, Article II
Item 11.B Second Reading 01/16/2018**

Dear Mayor, Vice Mayor, Council Members, Town Manager Rey, Town Attorney Cobiella and
Town Planning Director DelSalle:

On behalf of my client T-Mobile Souh, LLC (“T-Mobile”) we are generally in support of the
captioned Ordinance on First Reading, subject to the following continuing objections for the record:

1. Section 35-45(g) requirement for annual registration. While not unlawful, in light of the 425 plus cities and 67 counties in Florida, annual registration is unduly burdensome and not representative of the current norm of biennial registration or registration every 5 years. Such registration requirements would not effect a right-of-way user’s obligation to notify the Town in writing of any changes to its status or contact information, or effect its obligation to make annual pass through provider or utility pole leasing payments, as may be applicable. We would greatly appreciate Council’s consideration of amending this annual requirement to a biennial or every 5-years requirement.
2. Section 35-51 Security Fund requirement of \$50,000.00. In addition to the legal justifications provided to staff to delete this Security Fund requirement, the Town received \$1,137,015.00

in CST tax payments in 2017 alone, which should more than offset any financial concerns the Town has that precipitates and underlies its justification for a Security Fund. We would respectfully request that the Security Fund requirement be eliminatd.

On behalf of T-Mobile, we have appreciated working with your staff since Spring of 2017 to fashion an Ordinance that is consistent with the letter and spirit of governing Federal and State laws. Collectively, as representatives of a broad coalition of utilities, infrastructure, traditional communication, fibers and wireless communications companies, we shared a common goal amongst ourselves and with the Town, to draft an ordinance that provides for competitively neutral and non-discriminatory regulation of communication service providers in the Town's public rights-of-way in accordance with Ch. 337.401 et. seq., and Ch. 202.11, Florida Statutes, as amended recently by HB 687 and codified in Section 337.401(7), Florida Statutes. We thank the Town, its Attorney and Planning Director for not only inviting us to comment, but also for their professionalism and desire to "get it right" to enable the Town to adopt an amended Communications Ordinance that T-Mobile can largely support upon First Reading this evening and request the requested changes prior to Second Reading scheduled for February 6, 2018.

I am unable to attend this hearing and thank everyone in person for working with us but please accept my appreciation from Jose Delgado, who will be attending on behalf of T-Mobile.

Best regards,

A handwritten signature in blue ink, appearing to read "Deborah L. Martohue".

Deborah L. Martohue, Esq. AICP

Cc: Client [digitally signed and emailed]



Town of Miami Lakes Memorandum

To: Honorable Mayor and Councilmembers
From: Alex Rey, Town Manager
Subject: FY 2017-18 Budget Amendment
Date: 2/6/2018

Recommendation:

Approve amendment to the FY 2017-18 Budget on second reading of Ordinance to allocate funds for the completion of capital improvement projects, and modify line items to the Budget as described below and summarized in Exhibit A.

Background:

CHANGES FROM FIRST READING

- **Generator and Enclosure (\$147,085)** – On January 16, 2018, Town Council authorized the Town Manager to execute a contract with La Perla Contractors (La Perla) in an amount not to exceed \$210,000 for the construction of an enclosure to house the Government Center's emergency generator. This amount includes La Perla's quoted price of \$190,200 and approximately 10% contingency amount of \$19,800.
The FY 2017-18 Revised Budget includes an appropriation of \$138,750 to complete the design and purchase of a generator. With the awarding of the contract to La Perla to construct an enclosure for the generator, an additional \$147,085 is required. This budget amendment transfers said amount from Public Safety Impact Fees Fund reserves to the Capital Projects Fund for this project. The total cost of the project including design, permitting, equipment, enclosure, and site restoration is approximately \$342,500 and is expected to be completed by the start of the 2018 hurricane season.
- **Lake Sarah Roadway and Drainage Improvement (\$67,000)** – Some of the existing driveway approaches within the area of the Lake Sarah project have deep valleys that accumulate water and prevent proper drainage. To correct this problem, a change order is required to remove and restore the existing asphalt driveways throughout the neighborhood at specific locations on Cypress Court, Bamboo Street/Court, Alamanda Avenue, Sabal Drive and Poinciana Court. This would result in the leveling of the driveway approach with a slight pitch towards the swale to prevent water from settling. Funds will be transferred from Stormwater Utility Fund Reserve line item to Lake Sarah Project line item in the Capital Projects Fund.
- **NW 82nd Avenue and Oak Lane Reconfiguration (\$22,108)** – Pursuant to the recommendations

provided in the Traffic Operations and Mobility Study dated January 2017, \$70,000 was budgeted in FY 2017 for survey, design, and construction services to reconfigure NW 82nd Avenue and Oak Lane. This includes reconfiguring the dedicated southbound right-turn lane into a right-turn/left-turn lane on the southbound approach, as well as restripe and reconfigure existing crosswalks to ensure ADA compliance.

The design portion was contracted at \$20,108, and on Dec 5, 2017 the Town Council authorized the Town Manager to execute a contract with Metro Express, Inc. for construction in an amount not to exceed \$72,000, for a total project cost of \$92,107. This budget amendment transfers the additional \$22,108 from the Mobility Fee Fund reserves to the Capital Projects Fund to complete the project by end of March 2018.

- **Planning and Zoning Cost Recovery (\$127,835)** – The FY 2017-18 Adopted Budget includes \$127,835 in cost recovery credits for the Planning Department for services provided on zoning applications from developers and property owners, such as site plans, variances, plats, and the like. This amount offsets the total expense of the Planning Department Budget to \$73,635.

For accounting purposes, however, the cost recovery credit is required to be recorded as revenues as opposed to a reimbursement to expenses. As such, this amendment reclassifies the cost recovery credits by increasing both the General Fund Revenue Budget and the Planning Department Expense Budget by \$127,835. This transaction has no financial impact to the FY 2017-18 Budget.

- **Office Supplies (\$36,500)** – For a more efficient use of resources, transparency, and to centralize service, this amendment transfers the FY 2018 budget allocation for office supplies from the General Fund (Administration \$30,000, and Police \$3,500) and the Building Department Fund (\$3,000) to the Facilities Maintenance Fund. The Facilities Maintenance Fund is an Internal Service Fund that is used to account for operations that provide service to other departments on a cost-reimbursement basis. At the end of the fiscal year, the total office supplies expenses for the Town will be allocated between the General Fund (Administration 60%, Police 27%) and the Building Department Fund (13%).

ATTACHMENTS:

Description

FY 2017-18 Carryforward Budget Amendment - First Reading

FY 2017-18 Amended Budget Detail Line Items

Ordinance



Town of Miami Lakes Memorandum

To: Honorable Mayor and Councilmembers
From: Alex Rey, Town Manager
Subject: FY 2017-18 Carryforward Budget Amendment
Date: 1/16/2018

Recommendation:

Approve amendment to the FY 2017-18 Budget to carry over the prior year's estimated surplus to fund the following: (1) the completion of projects that were budgeted and commenced but not completed in the prior fiscal year; (2) allocate funds for one-time operating and/or capital improvement expenditures; and (3) recognize donations received for specific Town events. The proposed line item modifications are described below and summarized in Exhibit A.

Background:

GENERAL FUND

The unrestricted General Fund Balance at the beginning of FY 2016-17 was \$4,553,946. During the year, Council approved the transfer of \$1,399,523 from Fund Balance for: additional funding of legal fees and litigation reserve (\$624,000), beautification projects (\$200,000), parks improvements (\$162,300), employee retention (\$100,000), educational travel and media training (\$58,300), other miscellaneous projects (\$133,480), and an unassigned surplus (\$121,443).

Additionally, Council approved a temporary transfer of \$1,500,000 from Fund Balance to the Disaster Fund to cover Hurricane Irma related expenses until such amount is recovered from the Federal Emergency Management Agency (FEMA).

It is estimated that Hurricane Irma related expenses will total approximately \$3.8M. We expect FEMA to reimburse approximately 78% of that amount, which leaves an expense to the General Fund of \$836,000 due to expenses not reimbursable by FEMA. As such, staff is proposing to transfer \$836,000 from the General Fund Balance to the Disaster Fund where expenses are recorded. It is noteworthy that staff obtained an authorization of \$1.5M, however, only \$836,000 is required to satisfy our expenditures for Hurricane Irma. For accounting purposes, a receivable from FEMA was recorded and corresponding transactions are reflected in this Amendment accordingly.

At the end of FY 2016-17, operations are estimated to result in a net surplus of approximately \$1,175,296 of which staff is recommending to reserve \$629,854 in General Fund fund balance. From the available amount of \$545,442, Council approved \$500,000 for carryforward at the adoption of the FY 2017-18 Budget for litigation/settlement reserve. Staff is now proposing to bring over \$45,442 into FY 2017-18 Budget for projects/programs that commenced but not completed in the prior year. These include:

- \$15,000 for annual leave cash-out as part of the employee retention program
- \$20,442 for upgrade to the PBX Cisco System (phones), and
- \$10,000 in donations for the Youth Activity Task Force programs.

This will leave a General Fund Balance of \$2,948,277, as summarized in the analysis below. It should be noted that of the total amount, 15% of the Adopted General Fund Budget or \$2,528,730 is required as a minimum reserve.

GENERAL FUND BALANCE ANALYSIS

FY 2016-17 Beginning Fund Balance	\$4,553,946
Transfers for carryover projects and legal fees	(\$1,399,523)
Excess (Deficiency) of Revenues over Expenditures	1,175,296
FY 2016-17 Ending Fund Balance	\$4,329,719
 FY 2017-18 Beginning Fund Balance	 \$4,329,719
Reserved for legal fees	(\$500,000)
Transfer for carryover projects	(\$45,442)
Transfer to Disaster Fund	(\$836,000)
Estimated Ending Fund Balance	\$2,948,277

DISASTER FUND

As previously mentioned, Hurricane Irma related expenses is estimated at \$3.8M. Federal disaster assistance has been made available from FEMA, and it is expected that the Town will be reimbursed approximately 78% or \$2,964,000. The remaining \$836,000 is not expected to be reimbursed, and these expenses will therefore be covered by the General Fund.

In FY 2017 expenses totaled \$1,750,987, and \$2,049,013 in expenditures is estimated for FY 2018. The Disaster Fund was created to capture all response and recovery costs associated with a major disaster, and the revenues or grants to reimburse these costs. Accordingly, this amendment budgets for the revenues from the General Fund (\$836,000) and FEMA (\$1,213,013), and the associated expenses including debris removal and monitoring (\$1,834,653), emergency protective measures (\$54,744), roads and bridges (\$13,295), building/facilities repairs (\$46,510) and parks repairs (\$99,811). The total FY 2017-18 Budget for the Disaster Fund is \$2,049,013.

SPECIAL REVENUE FUND

People's Transportation Plan (PTP 80%) – LED Light Conversion Program - \$116,720 – At the end of FY 2017, the conversion of approximately 915 Town-owned street lights from HPS to LED was approximately 70% complete. This amendment carries forward the remaining funds from the prior year to complete the installation of the LED street lights, and increases the PTP 80% total budget from \$1,408,781 to \$1,525,501. The project is expected to be completed by the end of March 2018.

CAPITAL PROJECTS FUND

At the beginning of FY 2016-17, the Capital Projects Fund had \$2,617,135 allocated to fund capital improvements throughout the Town. During the year, the Fund received \$3,298,617 in inter-governmental revenues, grants, and inter-fund transfers to fund additional capital improvements. Approximately \$2,811,300 was spent on completing budgeted projects. These completed projects include Miami Lakes Optimist Clubhouse, Canine Cove, Canal Bank Stabilization Phase 1, Hutchinson Roadway and Drainage Improvement, NW 64th Avenue milling and resurfacing, Beautification Project (FDOT) at NW 154th Street and the Palmetto, IT infrastructure upgrades throughout the Parks, and other parks improvements. *The remaining \$3,104,430 is earmarked for the projects that were budgeted but not completed in FY 2017, and therefore available for carryforward to be re-budgeted in FY 2018.*

The FY 2017-18 Adopted Budget, however, assumed a carry-forward amount of \$2,633,574 for those projects that were not completed in FY 2017, including the generator and enclosure at Town Hall (\$144,135); park facilities improvements (\$255,000); Par 3 Park (\$150,000); Lake Sarah roadway and drainage improvement (\$1,563,739); the underpass bridges project (\$330,000); and Safe Routes to School (\$190,700). This budget amendment now adjusts the carry-forward amount for the difference of \$470,855 and re-appropriates the remaining balances for these projects. In addition, due to timing, \$1,084,590 in revenues that were not received in the prior year are also re-budgeted to offset the project expense. These projects are listed in the chart below and detailed in Exhibit A attachment. The amendment increases the FY 2017-18 Capital Projects Fund Budget from \$7,931,640 to \$9,487,085.

Detail - Capital Projects Fund Carryover	
FDOT Beautification Grant 1703 - Revenue	\$ (100,000)
Transfer in from Impact Fees - POS - Revenue	\$ (38,000)
FDOT Beautification Grant 1409 - Revenue	\$ (100,000)
Safe Routes to School - Revenue	\$ (170,000)
Complete Streets MPO Grant - Revenue	\$ (17,725)
Developer Contribution in lieu of Road Impact Fees	\$ (233,865)
Lake Sarah Grants (SFWMD & FDEP)	\$ (425,000)
NW 154th Street Highway Beautification	\$ 196,477
Dog Park Opening Event	\$ 5,355
ROW Enhancement on Miami Lakes Drive	\$ 100,000
West Lake Neighborhood Reforestation	\$ 94,763
Robert Alonso Comm Center - water fountain installation	\$ 5,200
MCCC roof replacement balance	\$ 5,606
Parks WiFi Upgrade - electrical installation	\$ 14,400
Pocket Parks upgrade	\$ 40,600
Generator & Enclosure	\$ (36,250)
Safe Routes to School	\$ 69,550
Complete Streets	\$ 10,651
82nd Avenue & Oak Lane Reconfiguration	\$ 53,225
Adaptive Signalization	\$ 174,867
NW 67th Avenue & Palmetto Widening	\$ 33,678
Bicycle/Pedestrian Improvement	\$ 23,250
Windmill Gate Improvement	\$ 384,059
Canal Bank Stabilization Phase 2	\$ 103,450
Lake Sarah Roadway & Drainage	\$ 179,535
Contingency/Reserves	\$ 97,028
TOTAL	\$ 470,855

IMPACT FEES FUND

Parks Impact Fees – In FY 2017, the Town anticipated receiving approximately \$1.7M in Parks Impact Fees revenues from the Lennar Project development. Actual revenues received in FY 2017 was \$1,020,716, approximately \$664,621 less than projected due to the timing of permit processing. The carryover fund balance to FY 2018 was therefore overstated by \$664,621. This amendment adjusts the FY 2017-18 Budget carryover fund balance from \$957,735 to \$293,114, and budgets for the balance of the revenues from the Lennar Project (\$664,621).

STORMWATER UTILITY FUND

Stormwater Master Plan Update - \$30,345 - The FY 2017-18 Budget contains an appropriation of \$30,000 to update the Stormwater Master Plan to include reflect several completed stormwater projects that have enhanced and improved the Town's stormwater system, as well as assess areas of the Town for stormwater programming and priorities. A work order was recently awarded in an amount not to exceed \$60,345 for the Master Plan update, and therefore additional funds are required for this expense.

At the end of FY17, the Stormwater Utility Fund operations resulted in a net surplus of approximately \$465,685, available for carryforward to the current year. The FY18 Budget, however, assumes a carryforward amount of \$288,148. This amendment proposes to adjust the carryforward amount for the additional \$177,537 so that funds are made available for the Master Plan Update (\$30,345), and the difference to the reserve line item (\$147,192) for future stormwater project needs. This amendment increases the Stormwater Utility Fund from \$1,420,148 to \$1,597,685.

DONATIONS - \$10,850

During the year, unanticipated donations are received from individuals and the business community to fund specific events and enhance certain activities and programs. This budget amendment increases the General Fund by recognizing the donations received to date, and appropriates said funds for expenditure. Donations totaling \$10,850 were received from sponsors for the following: Elderly Affairs Committee events including Senior Social (\$1,500), Senior Games (\$1,000), Senior Field Trip (\$500), Meet and Eat (\$500) and Community Forum (\$500); Youth Activity Task Force event Halloween Haunted House (\$3,850), Cultural Affairs Committee event Hispanic Heritage (\$500), and Veteran's Day Parade (\$2,500).

ATTACHMENTS:

Description

[Ordinance](#)

[FY 2017-18 Amended Budget Detail Line Items](#)

TOWN OF MIAMI LAKES
FY 2017-18 AMENDED BUDGET
GENERAL FUND REVENUE
as of February 6, 2018

ACCOUNT NAME/DESCRIPTION	FY2017-18 ADOPTED BUDGET	CARRYOVER AMENDMENT	FY2017-18 REVISED BUDGET	AMENDMENT/REVISION COMMENTS
<u>Ad Valorem Taxes</u>				
Current Ad Valorem Taxes	\$ 6,694,100	\$ -	\$ 6,694,100	
Delinquent Ad Valorem Taxes	-		-	
Sub-total: Taxes	\$ 6,694,100	\$ -	\$ 6,694,100	
<u>Franchise Fees</u>				
Franchise Fees - Electricity	\$ 925,000		\$ 925,000	
Sub-total: Franchise Fees	\$ 925,000	\$ -	\$ 925,000	
<u>Utility Service Tax</u>				
Utility Service Tax - Electricity	\$ 2,809,213		\$ 2,809,213	
Utility Service Tax - Water	425,000		425,000	
Utility Service Tax - Gas	75,000		75,000	
Sub-total: Utility Services Tax	\$ 3,309,213	\$ -	\$ 3,309,213	
<u>Intergovernmental Revenues</u>				
Communications Service Tax	\$ 1,294,000		\$ 1,294,000	
State Revenue Sharing	810,000		810,000	
Alcoholic Beverage License	18,000		18,000	
Grants - Byrne Grant	3,600		3,600	
Grants - VARIOUS	5,500		5,500	
Half-cent Sales Tax	2,380,000		2,380,000	
Sub-total: Intergovernmental	\$ 4,511,100	\$ -	\$ 4,511,100	
<u>Permits & Fees</u>				
Local Business Licenses: TOML	120,000		120,000	
Local Business Licenses: County	40,000		40,000	
False Alarm Fees	65,000		65,000	
Zoning Hearings	14,000		14,000	
Administrative Site Plan Review	1,000		1,000	
Zoning Letters	5,000		5,000	
Zoning Fees	125,000		125,000	
Staff Costs	5,000	127,835	132,835	Cost Recovery Credits
Fine Violation Interest	30,000		30,000	
<u>Planning Department Revenues:</u>	405,000	127,835	532,835	

TOWN OF MIAMI LAKES
FY 2017-18 AMENDED BUDGET
GENERAL FUND REVENUE
as of February 6, 2018

ACCOUNT NAME/DESCRIPTION	FY2017-18 ADOPTED BUDGET	CARRYOVER AMENDMENT	FY2017-18 REVISED BUDGET	AMENDMENT/REVISION COMMENTS
Public Works Permits	65,000		65,000	
Sub-total: Permits & Fees	\$ 470,000	\$ 127,835	\$ 597,835	
<u>Fines & Forfeitures</u>				
Police Traffic Fines	25,000		25,000	
Police - L.E.T.F.	-		-	
Public School Crossing Guards	35,000		35,000	
Code Violation Fines	125,000		125,000	
Police Parking Fines	15,000		15,000	
Sub-total: Fines & Forfeitures	\$ 200,000	\$ -	\$ 200,000	
<u>Miscellaneous Revenues</u>				
Interest Income	\$ 32,000		\$ 32,000	
Other Charges & Fees - Clerk's	3,000		3,000	
Lobbyist Registration	2,000		2,000	
Park - Services & Rental Fees	118,000		118,000	
Revenue Sharing Programs	35,000		35,000	
Lien Inquiry Letters	36,000		36,000	
FDOT - Landscape Maintenance	5,784		5,784	
Contributions and Donations	16,000	10,850	26,850	Donations for Elderly Affairs Committee activities (\$4,000), Halloween Haunted House (\$3,850), Hispanic Heritage (\$500) and Veterans' Parade (\$2,500)
Miscellaneous Revenues - Other	1,000		1,000	
Sub-total: Miscellaneous Revenues	\$ 248,784	\$ 10,850	\$ 259,634	
<u>Interfund & Equity Transfers</u>				
Prior Year Carry Over Funds	500,000	45,442	545,442	Carryover funds for annual leave cash-out (\$15,000), phone system upgrade (\$20,442) and donations to Youth Activity Task Force activities (\$10,000)
Interfund transfers from Capital Projects	-		-	
Sub-total: Contributions	\$ 500,000	\$ 45,442	\$ 545,442	
Total Income: General Fund	\$ 16,858,197	\$ 184,127	\$ 17,042,324	

TOWN OF MIAMI LAKES
FY 2017-18 AMENDED BUDGET
Revenue and Expenditure Detail by Line Item
as of February 6, 2018

ACCOUNT NAME/DESCRIPTION	FY2017-18 ADOPTED BUDGET	CARRYOVER AMENDMENT	FY2017-18 REVISED BUDGET	BUDGET COMMENTS (AMENDMENT/REVISION)
GENERAL FUND EXPENDITURES				
TOWN COUNCIL AND MAYOR				
EXECUTIVE SALARIES- MAYOR	\$18,000		\$18,000	
REGULAR SALARIES	\$80,000		\$80,000	
OVERTIME	\$3,000		\$3,000	
PAYROLL TAXES	\$14,668		\$14,668	
FRS CONTRIBUTIONS	\$7,762		\$7,762	
HEALTH & LIFE INSURANCE	\$82,894		\$82,894	
HEALTH INSURANCE MAYOR	\$19,273		\$19,273	
WIRELESS STIPEND	\$960		\$960	
TRAVEL & PER DIEM	\$13,000		\$13,000	
CAR ALLOWANCE -MAYOR	\$7,200		\$7,200	
CAR ALLOWANCE -COUNCIL	\$36,000		\$36,000	
EXP ALLOWANCE MAYOR & COUNCIL	\$50,544		\$50,544	
REMOTE ACCESS DEVICE DATA PLAN	\$2,100		\$2,100	
CELL PHONES	\$3,360		\$3,360	
PRINTING & BINDING	\$1,000		\$1,000	
STATE OF TOWN ADDRESS	\$5,000		\$5,000	
TOY DRIVE	\$1,000		\$1,000	
COUNCIL DISCRETIONARY FUND	\$700		\$700	
COUNCIL UNIFORMS	\$360		\$360	
MEETING SET UP	\$300		\$300	
COUNCIL AWARDS	\$1,250		\$1,250	
MEMBERSHIPS SUBSCRIPTIONS	\$14,808		\$14,808	
EDUCATION & TRAINING	\$6,800		\$6,800	
TOTAL TOWN COUNCIL EXPENDITURES:	\$369,979	\$0	\$369,979	
TOWN CLERK				
REGULAR SALARIES	\$71,400		\$71,400	
PAYROLL TAXES	\$5,462		\$5,462	
FRS CONTRIBUTIONS	\$5,655		\$5,655	
HEALTH & LIFE INSURANCE	\$8,588		\$8,588	
WIRELESS STIPEND	\$480		\$480	
TOWN CLERK AGENDA MANAGER	\$25,165		\$25,165	
TOWN CLERK DATA SERVICE	\$480		\$480	
RENTALS AND LEASES	\$2,220		\$2,220	
TOWN CLERK CODIFICATION	\$11,000		\$11,000	
TOWN CLERK LEGAL ADVERTISING	\$18,040		\$18,040	
ADMINISTRATIVE SUPPORT	\$1,000		\$1,000	
TOWN CLERK ELECTION COSTS	\$15,000		\$15,000	
UNIFORMS	\$0		\$0	
CLERK EDUCATION AND TRAINING	\$800		\$800	
SOFTWARE LICENSES	\$2,330		\$2,330	
TOTAL TOWN CLERK EXPENDITURES:	\$167,620	\$0	\$167,620	
TOWN ATTORNEY				
GENERAL LEGAL	\$150,000		\$150,000	
ROUTINE LITIGATION RESERVE	\$80,000		\$80,000	
M. PIZZI LITIGATION/INSURANCE RECOVERY	\$0		\$50,000	
CHARTER REVIEW COMMISSION	\$0		\$0	
TOTAL TOWN ATTORNEY EXPENDITURES:	\$230,000	\$0	\$280,000	

TOWN OF MIAMI LAKES
FY 2017-18 AMENDED BUDGET
Revenue and Expenditure Detail by Line Item
as of February 6, 2018

ACCOUNT NAME/DESCRIPTION	FY2017-18 ADOPTED BUDGET	CARRYOVER AMENDMENT	FY2017-18 REVISED BUDGET	BUDGET COMMENTS (AMENDMENT/REVISION)
TOWN ADMINISTRATION				
REGULAR SALARIES	\$716,945	\$15,000	\$731,945	Annual leave cash-out
EMPLOYEE BONUSES/COLA	\$52,328		\$52,328	
ADM OVERTIME	\$3,000		\$3,000	
PAYROLL TAXES	\$77,874		\$77,874	
FRS CONTRIBUTIONS	\$99,036		\$99,036	
ICMA 457 PL	\$21,512		\$21,512	
HEALTH & LIFE INSURANCE	\$145,760		\$145,760	
WIRELESS STIPEND	\$1,440		\$1,440	
ADM UNEMPLOYMENT CLAIMS	\$0		\$0	
PROFESSIONAL SERVICES	\$37,000		\$37,000	
INTERGOVERNMENTAL (LOBBYIST)	\$48,000		\$48,000	
ACCOUNTING & PAYROLL	\$23,664		\$23,664	
INDEPENDENT AUDIT	\$51,000		\$51,000	
ADM HEALTH SPENDING ACCT/WELLN	\$10,000		\$10,000	
ADM BACKGROUND CHECKS	\$1,500		\$1,500	
ADM - TRAVEL & PER DIEM	\$10,000		\$10,000	
CAR ALLOWANCE	\$6,000		\$6,000	
TELEPHONE SERVICES	\$0		\$0	
REMOTE ACCESS DEVICE DATA PLAN	\$580		\$580	
ADM - POSTAGE & DELIVERY	\$19,000		\$19,000	
ADM - COPIER LEASE	\$16,270		\$16,270	
RENT- TOWN HALL	\$0		\$0	
ADM - INSURANCE	\$218,235		\$218,235	
REPAIR AND MAINT CONTRACTS	\$0		\$0	
ADM - PRINTING & BINDING	\$1,500		\$1,500	
ADM TOWN BRANDING & STRATEGIC PLAN	\$9,500		\$9,500	
ADM ADVERTISEMENT RECRUITMENT	\$1,500		\$1,500	
CLERICAL/ADMINISTRATIVE SUPPORT	\$5,000		\$5,000	
INVESTMENT ADVISORY SERVICE	\$7,000		\$7,000	
FINANCIAL INSTITUTION FEES	\$10,000		\$10,000	
CREDIT CARD FEES	\$0		\$0	
HURRICANE EXPENSES	\$2,500		\$2,500	
ADM - OFFICE SUPPLIES	\$30,000	-\$30,000	\$0	Transfer Town office supplies to Facilities Maintenance Fund
UNIFORMS	\$2,600		\$2,600	
ADM-BOOKS/PUBLIC/SUBSCRIP/MEM	\$6,100		\$6,100	
EDUCATION & TRAINING	\$10,000		\$10,000	
ADM-FURNITURE/EQUIP NON-CAP	\$1,000		\$1,000	
3-TOTAL ADMINISTRATION EXPENDITURES	\$1,645,844	-\$15,000	\$1,630,844	
INFORMATION SYSTEMS				
IT CORE SERVICE SUPPORT	\$114,660		\$114,660	
WEB SUPPORT	\$14,800		\$14,800	
VOICE SUPPORT	\$25,000		\$25,000	
INTERNET SERVICES	\$14,460		\$14,460	
INFRASTRUCTURE - IT	\$45,000	\$20,442	\$65,442	Phone system upgrade
MACHINERY & EQUIPMENT	\$0		\$0	
TECHNOLOGY ENHANCEMENTS/SOFTWARE	\$7,500		\$7,500	
COMPUTER SOFTWARE LICENSES	\$115,688		\$115,688	
SUB-TOTAL INFORMATION SYSTEMS:	\$337,108	\$20,442	\$357,550	

TOWN OF MIAMI LAKES
FY 2017-18 AMENDED BUDGET
Revenue and Expenditure Detail by Line Item
as of February 6, 2018

ACCOUNT NAME/DESCRIPTION	FY2017-18 ADOPTED BUDGET	CARRYOVER AMENDMENT	FY2017-18 REVISED BUDGET	BUDGET COMMENTS (AMENDMENT/REVISION)
ADMINISTRATION - TRANSFERS				
RESERVE FOR FUTURE DONATIONS	\$10,000		\$10,000	
TRANSFER TO FACILITIES MAINTENANCE FUND	\$188,550	\$30,000	\$218,550	Inter-Fund Transfer for office supplies
SUB-TOTAL ADMINISTRATION TRANSFERS:	\$198,550	\$30,000	\$228,550	
TOTAL ADMINISTRATION EXPENDITURES:	\$2,181,502	\$35,442	\$2,216,944	
POLICE				
POL - PATROL SERVICES	\$7,826,000		\$7,826,000	
POLICE OVERTIME	\$320,000		\$320,000	
RETRO ACTIVE SALARY & BENEFITS	\$0		\$0	
PROSECUTION-CRIMINAL VIOLATION	\$200		\$200	
POLICE TELEPHONE SVC	\$0		\$0	
TELEPHONE- DEDICATED LINES	\$2,400		\$2,400	
POLICE UTILITIES	\$0		\$0	
POLICE COPIER COSTS	\$2,500		\$2,500	
POLICE REPAIR & MAINTENANCE	\$0		\$0	
VEHICLE REPAIR AND MAINTENANCE	\$3,000		\$3,000	
POLICE - MISC. EXPENSE	\$500		\$500	
POLICE OFFICE SUPPLIES	\$3,500	-\$3,500	\$0	Transfer Police office supplies to Facilities
OPERATING SUPPLIES	\$3,000		\$3,000	
POLICE UNIFORMS	\$4,000		\$4,000	
POLICE - FUEL COSTS	\$1,000		\$1,000	
MEMBERSHIPS AND SUBSCRIPTIONS	\$225		\$225	
POLICE CRIME PREVENT TRAIN	\$3,000		\$3,000	
TRANSFER TO FACILITIES MAINTENANCE FUND	\$84,847	\$3,500	\$88,347	Inter-Fund Transfer for office supplies
SUB-TOTAL POLICE EXPENDITURES:	\$8,254,172	\$0	\$8,254,172	
SCHOOL CROSSING GUARDS				
REGULAR SALARIES	\$65,785		\$65,785	
PAYROLL TAXES	\$5,033		\$5,033	
FRS CONTRIBUTIONS	\$5,210		\$5,210	
WORKMAN'S COMPENSATION	\$0		\$0	
OPERATING SUPPLIES	\$750		\$750	
UNIFORMS	\$3,000		\$3,000	
EDUCATION & TRAINING	\$624		\$624	
SUB-TOTAL SCHOOL CROSSING GUARDS:	\$80,402	\$0	\$80,402	
TOTAL POLICE EXPENDITURES:	\$8,334,574	\$0	\$8,334,574	
PLANNING				
REGULAR SALARIES	\$116,000		\$116,000	
PAYROLL TAXES	\$8,874		\$8,874	
FRS CONTRIBUTIONS	\$9,187		\$9,187	
HEALTH & LIFE INSURANCE	\$10,729		\$10,729	
WIRELESS STIPEND	\$480		\$480	
PLANNING CONSULTING	\$55,200		\$55,200	
PLANNING & DEVELOPMENT CDMF	-\$127,835	\$127,835	\$0	Reclassify cost recovery to revenues
PLANNING-SITE PLAN REVIEW	\$500		\$500	
PLANNING PRINTING COSTS	\$500		\$500	
SUB-TOTAL PLANNING:	\$73,635	\$127,835	\$201,470	

TOWN OF MIAMI LAKES
FY 2017-18 AMENDED BUDGET
Revenue and Expenditure Detail by Line Item
as of February 6, 2018

ACCOUNT NAME/DESCRIPTION	FY2017-18 ADOPTED BUDGET	CARRYOVER AMENDMENT	FY2017-18 REVISED BUDGET	BUDGET COMMENTS (AMENDMENT/REVISION)
CODE COMPLIANCE				
REGULAR SALARIES	\$95,486		\$95,486	
PAYROLL TAXES	\$7,305		\$7,305	
FRS CONTRIBUTIONS	\$7,563		\$7,563	
HEALTH & LIFE INSURANCE	\$20,459		\$20,459	
SPECIAL MASTER	\$3,600		\$3,600	
CONTRACT CODE ENF SER	\$129,280		\$129,280	
REMOTE ACCESS DEVICE DATA PLAN	\$1,000		\$1,000	
PLANNING MOBILE PHONES	\$360		\$360	
ABANDONED PROPERTY MAINT	\$1,500		\$1,500	
CODE ENF LIEN RECORDING	\$8,000		\$8,000	
ALARM MONITORING PROGRAM	\$25,000		\$25,000	
CODE ENFORCEMENT UNIFORMS	\$0		\$0	
EDUCATION & TRAINING	\$1,500		\$1,500	
SUB-TOTAL CODE COMPLIANCE:	\$301,053	\$0	\$301,053	
TRANSIT				
DEMAND SERVICES - CONTRACT	\$0		\$0	
SUB-TOTAL TRANSIT:	\$0	\$0	\$0	
TOTAL PLANNING, CODE COMPLIANCE & TRANSIT EXPENDITURES:	\$374,688	\$127,835	\$502,523	
QNIP				
QNIP DEBT SERVICE	\$0		\$0	
QNIP DEBT SERVICE - PRINCIPAL	\$110,345		\$110,345	
QNIP DEBT SERVICE - INTEREST	\$43,078		\$43,078	
TOTAL QNIP EXPENDITURES:	\$153,423	\$0	\$153,423	
BUILDING				
TRANSFER OUT TO BUILDING FUND	\$0		\$0	
SUB-TOTAL BUILDING EXPENDITURES:	\$0	\$0	\$0	
ZONING				
REGULAR SALARIES	\$104,294		\$104,294	
PAYROLL TAXES	\$7,978		\$7,978	
FRS CONTRIBUTIONS	\$8,260		\$8,260	
HEALTH & LIFE INSURANCE	\$0		\$0	
SUB-TOTAL ZONING EXPENDITURES	\$120,532	\$0	\$120,532	
TOTAL BUILDING & ZONING EXPENDITURES:	\$120,532	\$0	\$120,532	
PARKS - COMMUNITY SERVICES				
REGULAR SALARIES	\$302,675		\$302,675	
OVERTIME	\$500		\$500	
PAYROLL TAXES	\$23,155		\$23,155	
FRS CONTRIBUTIONS	\$23,972		\$23,972	
HEALTH & LIFE INSURANCE	\$42,916		\$42,916	
WIRELESS STIPEND	\$2,400		\$2,400	
PROFESSIONAL SERVICES	\$79,560		\$79,560	

TOWN OF MIAMI LAKES
FY 2017-18 AMENDED BUDGET
Revenue and Expenditure Detail by Line Item
as of February 6, 2018

ACCOUNT NAME/DESCRIPTION	FY2017-18 ADOPTED BUDGET	CARRYOVER AMENDMENT	FY2017-18 REVISED BUDGET	BUDGET COMMENTS (AMENDMENT/REVISION)
VEHICLE REPAIR & MAINTENANCE	\$3,500		\$3,500	
PRINTING EXPENSE	\$1,000		\$1,000	
ADMINISTRATIVE SUPPORT	\$0		\$0	
CREDIT CARD FEES	\$3,500		\$3,500	
MISCELLANEOUS	\$700		\$700	
COACHES BACKGROUND CK	\$5,600		\$5,600	
CHECK CERTIFICATION CLINIC	\$2,500		\$2,500	
VEHICLE FUEL	\$5,000		\$5,000	
SUB-TOTAL COMMUNITY SERVICES:	\$496,977	\$0	\$496,977	
ROYAL OAKS PARK				
JANITORIAL	\$66,550		\$66,550	
ROYAL OAKS PARK TELECOMMUNICATIONS	\$9,600		\$9,600	
ROYAL OAKS PARK UTILITIES	\$98,100		\$98,100	
ROP MAINTENANCE CONTRACT	\$291,500		\$291,500	
ROP REPAIRS & MAINTENANCE (GROUNDS)	\$60,000		\$60,000	
ROP OPERATING COSTS (FACILITY)	\$31,250		\$31,250	
ROP-FUR & EQUIP / NON CAP	\$5,000		\$5,000	
INFRASTRUCTURE	\$0		\$0	
MACHINERY AND EQUIPMENT	\$0		\$0	
SUB-TOTAL ROYAL OAKS PARK:	\$562,000	\$0	\$562,000	
PARK EAST YOUTH CENTER				
SALARIES	\$44,872		\$44,872	
PAYROLL TAXES	\$3,433		\$3,433	
FRS RETIREMENT CONTRIBUTION	\$5,493		\$5,493	
HEALTH & LIFE INSURANCE	\$19,461		\$19,461	
WIRELESS STIPEND	\$480		\$480	
JANITORIAL	\$30,600		\$30,600	
TELECOMMUNICATIONS	\$4,500		\$4,500	
UTILITIES	\$14,070		\$14,070	
MAINTENANCE CONTRACT	\$12,500		\$12,500	
REPAIRS & MAINTENANCE (GROUNDS)	\$5,000		\$5,000	
OPERATING COSTS (FACILITY)	\$15,360		\$15,360	
MISCELLANEOUS EXPENSE	\$0		\$0	
PARKS IMPROVEMENT / NON CAP	\$5,000		\$5,000	
INFRASTRUCTURE	\$0		\$0	
MACHINERY AND EQUIPMENT	\$0		\$0	
SUB-TOTAL PARK EAST YOUTH CENTER:	\$160,769	\$0	\$160,769	
PARK WEST - MARY COLLINS COMMUNITY CENTER				
JANITORIAL	\$40,880		\$40,880	
TELECOMMUNICATIONS	\$2,400		\$2,400	
UTILITIES	\$22,700		\$22,700	
REPAIR & MAINTENANCE CONTRACT	\$30,850		\$30,850	
REPAIR AND MAINTENANCE (GROUNDS)	\$7,500		\$7,500	
REPAIR AND MAINTENANCE (FACILITY)	\$27,000		\$27,000	
PARKS IMP - OPERATING	\$20,000		\$20,000	
INFRASTRUCTURE	\$0		\$0	
PARKS - CAP OUTLAY	\$0		\$0	
SUB-TOTAL MINI PARK - WEST:	\$151,330	\$0	\$151,330	

TOWN OF MIAMI LAKES
FY 2017-18 AMENDED BUDGET
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ACCOUNT NAME/DESCRIPTION	FY2017-18 ADOPTED BUDGET	CARRYOVER AMENDMENT	FY2017-18 REVISED BUDGET	BUDGET COMMENTS (AMENDMENT/REVISION)
MIAMI LAKES OPTIMIST PARK				
MIAMI LAKES OPTIMIST TELECOMMUNICATION	\$11,025		\$11,025	
MIAMI LAKES OPTIMIST UTILITIES	\$121,080		\$121,080	
MIAMI LAKES OPTIMIST PARK MAINTENANCE	\$549,890		\$549,890	
REPAIRS AND MAINTENANCE (GROUNDS)	\$36,000		\$36,000	
REPAIRS AND MAINTENANCE (FACILITY)	\$18,285		\$18,285	
HURRICANE WILMA	\$0		\$0	
MIAMI LAKES PARK MARINA OPERATIONS	\$1,500		\$1,500	
MIAMI LAKES PARK/IMPROVEMENTS	\$20,000		\$20,000	
3 -TOTAL MIAMI LAKES OPTIMIST PARK:	\$757,780	\$0	\$757,780	
MINI PARKS				
UTILITIES	\$24,000		\$24,000	
MAINTENANCE CONTRACT	\$244,000		\$244,000	
REPAIRS & MAINTENANCE (GROUNDS)	\$63,610		\$63,610	
MINI PARKS-TREE TRIMMING	\$27,500		\$27,500	
OPERATING COSTS (FACILITY)	\$0		\$0	
FURNITURE & NON CAPITAL OUTLAY	\$5,000		\$5,000	
SUB-TOTAL MINI PARKS:	\$364,110	\$0	\$364,110	
BARBARA GOLEMAN				
BARBARA GOLEMAN MAINT	\$4,000		\$4,000	
SUB-TOTAL BARBARA GOLEMAN :	\$4,000	\$0	\$4,000	
TOTAL PARKS - COMMUNITY SERVICES	\$2,496,966	\$0	\$2,496,966	
COMMUNITY ENGAGEMENT AND OUTREACH				
LEISURE SERVICES				
SALARIES	\$287,282		\$287,282	
PAYROLL TAXES	\$21,977		\$21,977	
FRS RETIREMENT CONTRIBUTION	\$22,753		\$22,753	
HEALTH & LIFE INSURANCE	\$42,916		\$42,916	
WIRELESS STIPEND	\$1,440		\$1,440	
YOUTH CENTER COMMUNITY PROGRAMS	\$10,100		\$10,100	
TOWN COMMUNITY PROGRAMS	\$14,795		\$14,795	
UNIFORMS	\$0		\$0	
SUB-TOTAL LEISURE SERVICES:	\$401,262	\$0	\$401,262	
ECONOMIC DEVELOPMENT				
SALARIES	\$22,700		\$22,700	
PAYROLL TAXES	\$1,737		\$1,737	
FRS RETIREMENT CONTRIBUTION	\$1,798		\$1,798	
HEALTH & LIFE INSURANCE	\$0		\$0	
WIRELESS STIPEND	\$240		\$240	
SUB-TOTAL ECONOMIC DEVELOPMENT:	\$26,474	\$0	\$26,474	

TOWN OF MIAMI LAKES
FY 2017-18 AMENDED BUDGET
Revenue and Expenditure Detail by Line Item
as of February 6, 2018

ACCOUNT NAME/DESCRIPTION	FY2017-18 ADOPTED BUDGET	CARRYOVER AMENDMENT	FY2017-18 REVISED BUDGET	BUDGET COMMENTS (AMENDMENT/REVISION)
COMMUNICATIONS				
SALARIES	\$22,700		\$22,700	
PAYROLL TAXES	\$1,737		\$1,737	
FRS RETIREMENT CONTRIBUTION	\$1,798		\$1,798	
HEALTH & LIFE INSURANCE	\$0		\$0	
WIRELESS STIPEND	\$240		\$240	
SUB-TOTAL COMMUNICATIONS:	\$26,474	\$0	\$26,474	
SPECIAL EVENTS				
SALARIES	\$69,360		\$69,360	
PAYROLL TAXES	\$5,306		\$5,306	
FRS RETIREMENT CONTRIBUTION	\$5,493		\$5,493	
HEALTH & LIFE INSURANCE	\$19,461		\$19,461	
WIRELESS STIPEND	\$480		\$480	
SPEC EVENTS VETERANS DAY	\$6,000	\$2,500	\$8,500	Donation
SPEC EVENTS 4TH JULY	\$25,000		\$25,000	
TOWN ANNIVERSARY	\$0		\$0	
OTHER EVENTS	\$13,067		\$13,067	
SUB-TOTAL SPECIAL EVENTS:	\$144,167	\$2,500	\$146,667	
COMMITTEES				
NEIGHBORHOOD IMPROVEMENT COMMITTEE				
BEAUTIFICATION COMMITTEE AWARDS	\$2,000		\$2,000	
LAKE LAKE AWARENESS MONTH	\$0		\$0	
PEDES PEDESTRIAN & BIKE INITIATIVES	\$6,000		\$6,000	
LAKE TESTING	\$0		\$0	
HOA QUARTERLY HOA PROJECTS	\$500		\$500	
LITT ANTI LITTER CAMPAIGN	\$0		\$0	
PROJ COMM PROJECTS/HOME IMPROVEMENT	\$500		\$500	
TOTAL NEIGHBORHOOD IMP COMMITTEE:	\$9,000	\$0	\$9,000	
CULTURAL AFFAIRS COMMITTEE				
BASEL ART BASEL MIAMI LAKES	\$1,500		\$1,500	
BLACK BLACK HISTORY MONTH CONCERT	\$3,750		\$3,750	
WOMEN WOMEN HISTORY MONTH	\$2,250		\$2,250	
SCOT SCOTTISH AMERICAN HERITAGE MONTH	\$1,000		\$1,000	
BOOK BOOK READING	\$750		\$750	
COF CONCERT ON THE FAIRWAY	\$10,500		\$10,500	
CON CONCERTS	\$4,500		\$4,500	
FT FISHING	\$500		\$500	
FOUR FOURTH OF JULY	\$11,500		\$11,500	
HISP HISPANIC HERITAGE	\$10,500	\$500	\$11,000	Donation
S FLI SPRING FLING(PAINT A PICTURE)	\$600		\$600	
TOTAL CULTURAL AFFAIRS COMMITTEE:	\$47,350	\$500	\$47,850	
ECONOMIC DEVELOPMENT COMMITTEE				
MARKET MARKETING MATERIALS	\$11,000		\$11,000	
ML CH MISC EXPENSES	\$7,000		\$7,000	
REALT REALTOR EVENTS	\$5,200		\$5,200	
TRADE SHOW - BIO FLORIDA	\$0		\$0	
SHOWS MISC EXPENSES	\$3,000		\$3,000	
TOTAL ECONOMIC DEVELOPMENT COMMITTEE:	\$26,200	\$0	\$26,200	

TOWN OF MIAMI LAKES
FY 2017-18 AMENDED BUDGET
Revenue and Expenditure Detail by Line Item
as of February 6, 2018

ACCOUNT NAME/DESCRIPTION	FY2017-18 ADOPTED BUDGET	CARRYOVER AMENDMENT	FY2017-18 REVISED BUDGET	BUDGET COMMENTS (AMENDMENT/REVISION)
EDUCATIONAL ADVISORY BOARD				
AP LANGUAGE ARTS PROGRAM	\$26,000		\$26,000	
FRIEN FRIENDS OF THE LIBRARY	\$4,000		\$4,000	
IMAG IMAGINATION LIBRARY	\$4,000		\$4,000	
MISC. MISC. EXPENSES	\$300		\$300	
SAT/ SAT/ACT PREP COURSES	\$12,000		\$12,000	
STEM ELECTIVE COURSES	\$10,000		\$10,000	
EVENT TOWN EVENTS	\$2,000		\$2,000	
TOTAL EDUCATIONAL ADVISORY BOARD:	\$58,300	\$0	\$58,300	
ELDERLY AFFAIRS COMMITTEE				
FORU COMMUNITY FORUMS	\$2,500	\$500	\$3,000	Donation
HF EAC - HEALTH FAIR	\$500		\$500	
METET MEET & EAT	\$7,800	\$500	\$8,300	Donation
MISC MISC EXPENSE/SUPPLIES	\$2,500		\$2,500	
SENIO SENIOR FIELD TRIP	\$6,000	\$500	\$6,500	Donation
SG SR. GAMES	\$2,500	\$1,000	\$3,500	Donation
SRSO SENIOR SOCIAL	\$15,200	\$1,500	\$16,700	Donation
TOTAL ELDERLY AFFAIRS COMMITTEE:	\$37,000	\$4,000	\$41,000	
YOUTH ACTIVITIES TASK FORCE				
BR BICYCLE RODEO	\$6,000		\$6,000	
HHH HALLOWEEN HAUNTED HOUSE	\$10,000	\$4,850	\$14,850	Donation
JUST JUST RUN	\$2,000		\$2,000	
MP MOVIES IN THE PARK	\$11,000	\$8,000	\$19,000	Donation
RELAY RELAY FOR LIFE	\$250		\$250	
SPRIN SPRING FLING	\$7,000	\$1,000	\$8,000	Donation
SPORT SPORTS PALOOZA/PRO SPORTS DAY	\$2,000		\$2,000	
SUMMER YOUTH EMPL INITIATIVE	\$300		\$300	
WINTERFEST	\$6,450		\$6,450	
TOTAL YOUTH ACTIVITIES TASK FORCE:	\$45,000	\$13,850	\$58,850	
PUBLIC SAFETY COMMITTEE				
PUBLIC SAFETY IDENTITY THEFT PREVENTION	\$600		\$600	
BRKF POLICE APPRECIATION EVENT/BREAKFAST	\$1,000		\$1,000	
CERT C.E.R.T TRAINING	\$250		\$250	
EDUCATIONAL MATERIALS	\$750		\$750	
TOTAL PUBLIC SAFETY COMMITTEE:	\$2,600	\$0	\$2,600	
VETERANS AFFAIRS COMMITTEE				
CARE PACKAGE DRIVE	\$1,000		\$1,000	
MEMORIAL HONOR FUND	\$500		\$500	
MM MARLINS FIELD TRIP-MILITARY MONDAY	\$0		\$0	
PLAQU PURCH TREES W/PLAQUES	\$900		\$900	
TOTAL VERTERANS AFFAIRS COMMITTEE:	\$2,400	\$0	\$2,400	
TOTAL COMMITTEES EXPENDITURES:	\$227,850	\$18,350	\$246,200	
TOTAL COMMUNITY ENGAGEMENT AND OUTREACH EXPENDITURES	\$826,228	\$20,850	\$847,078	

TOWN OF MIAMI LAKES
FY 2017-18 AMENDED BUDGET
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ACCOUNT NAME/DESCRIPTION	FY2017-18 ADOPTED BUDGET	CARRYOVER AMENDMENT	FY2017-18 REVISED BUDGET	BUDGET COMMENTS (AMENDMENT/REVISION)
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PUBLIC WORKS

PUBLIC WORKS ADMINISTRATION

REGULAR SALARIES	\$114,975		\$114,975	
COMPENSATED ABSENCES	\$0		\$0	
PAYROLL TAXES	\$8,796		\$8,796	
FRS CONTRIBUTIONS	\$9,106		\$9,106	
HEALTH & LIFE INSURANCE	\$11,751		\$11,751	
WIRELESS STIPEND	\$720		\$720	
TOWN ENGINEER	\$25,000		\$25,000	
PERMITS PLAN REVIEW	\$45,840		\$45,840	
VEHICLE REPAIR & MAINTENANCE	\$4,000		\$4,000	
UNDERGROUND UTILITY LOCATION	\$31,054		\$31,054	
PW MISCELLANEOUS	\$5,000		\$5,000	
OPERATING SUPPLIES	\$3,000		\$3,000	
VEH OPERATING & MAINT	\$3,000		\$3,000	
FURN & EQUIP NON CAPITAL	\$2,000		\$2,000	
TOTAL PUBLIC WORKS ADMINISTRATION:	\$264,242	\$0	\$264,242	

PW - GREEN SPACE

RIGHT OF WAY ELECTRICITY	\$11,000		\$11,000	
WATER	\$60,000		\$60,000	
REPAIR & MAINTENANCE	\$453,743		\$453,743	
PUBLIC WORK ENTRY MAINT	\$4,700		\$4,700	
EXTERMINATION SERVICES	\$3,000		\$3,000	
PW TREE REMOVAL	\$22,000		\$22,000	
TREE TRIMMING	\$229,000		\$229,000	
NEW TREE PLANTING	\$55,000		\$55,000	
BEAUTIFICATION PLAN	\$0		\$0	
SUB-TOTAL PW-GREEN SPACE:	\$838,443	\$0	\$838,443	

TOTAL PUBLIC WORKS EXPENDITURES:	\$1,102,685	\$0	\$1,102,685
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NON-DEPARTMENTAL

OPERATING SURPLUS	\$0		\$0	
RESERVE FOR LITIGATION/SETTLEMENT	\$500,000		\$450,000	
TOTAL NON-DEPARTMENTAL EXPENDITURES	\$500,000	\$0	\$450,000	

TOTAL GENERAL FUND EXPENDITURES	\$16,858,197	\$184,127	\$17,042,324
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SPECIAL REVENUE FUND

TRANSPORTATION GAS TAX

REVENUE

1ST LOCAL OPT GAS TAXES - 6¢	\$373,572		\$373,572	
SR TRANSP BUDGET CARRYFORWARD	\$16,764		\$16,764	
TOTAL REVENUES	\$390,336	\$0	\$390,336	

TOWN OF MIAMI LAKES
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ACCOUNT NAME/DESCRIPTION	FY2017-18 ADOPTED BUDGET	CARRYOVER AMENDMENT	FY2017-18 REVISED BUDGET	BUDGET COMMENTS (AMENDMENT/REVISION)
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EXPENDITURE

TRANSP- ADA COMPLIANCE	\$25,000		\$25,000	
ROADS - POT HOLE REPAIRS	\$20,000		\$20,000	
SIDEWALK PRESSURE CLEANING	\$80,000		\$80,000	
ROADS - SIDEWALK REPLACEMENT	\$170,000		\$170,000	
ROADS - STRIPING & SIGNS	\$15,336		\$15,336	
TRANSP - ROAD SYSTEM MAINT	\$80,000		\$80,000	
TOTAL EXPENDITURES	\$390,336	\$0	\$390,336	

TRANSIT

REVENUE

TRANSPORTATION 20% SALES TAX	\$240,000		\$240,000	
SR TRANSIT BUDGET CARRYFORWARD	\$258,877		\$258,877	
TOTAL REVENUES	\$498,877	\$0	\$498,877	

EXPENDITURE

REGULAR SALARIES	\$38,500		\$38,500	
BONUS/COST OF LIVING ADJUSTMENT	\$770		\$770	
PAYROLL TAXES	\$2,946		\$2,946	
FRS CONTRIBUTIONS	\$3,049		\$3,049	
HEALTH AND LIFE INSURANCE	\$5,969		\$5,969	
PROFESSIONAL SERVICES	\$0		\$0	
TRAFFIC STUDIES	\$125,000		\$125,000	
TRANSIT BUS CIRCULATOR CO	\$124,950		\$124,950	
TRANSIT BUS/BUS SHELTER INS	\$25,665		\$25,665	
TRAVEL & PER DIEM	\$1,500		\$1,500	
TRANSIT BUS SHELTERS REPAIRS & MAINT	\$16,000		\$16,000	
GPS REPAIR AND MAINTENANCE	\$8,600		\$8,600	
TRANSIT BUS REPAIR AND MAINTENANCE	\$61,000		\$61,000	
CONTINGENCY	\$26,928		\$26,928	
MARKETING PROMOTIONAL SUPPORT	\$20,000		\$20,000	
TRANSIT ADMIN PROG EXP5%	\$12,000		\$12,000	
FUEL, GAS, OIL	\$25,000		\$25,000	
EDUCATION & TRAINING	\$1,000		\$1,000	
TOTAL EXPENDITURES	\$498,877	\$0	\$498,877	

PEOPLE'S TRANSPORTATION PLAN (PTP 80%)

REVENUE

TRANSPORTATION 80% PTP	\$975,000		\$975,000	
INSURANCE SETTLEMENT	\$0		\$0	
INTEREST EARNINGS	\$4,500		\$4,500	
TRANSPORTATION BUDGET CARRYFORWARD	\$429,281	\$116,720	\$546,001	Adjustment to prior year carryover fund balance
TOTAL REVENUES	\$1,408,781	\$116,720	\$1,525,501	

EXPENDITURE

REGULAR SALARIES	\$38,500		\$38,500	
BONUS/COST OF LIVING ADJUSTMENT	\$770		\$770	
PAYROLL TAXES	\$2,945		\$2,945	
FRS CONTRIBUTIONS	\$3,049		\$3,049	
HEALTH AND LIFE INSURANCE	\$5,969		\$5,969	
PROFESSIONAL SERVICES	\$0	\$4,695	\$4,695	Carryover CIP management services for LED Light Retrofit project

TOWN OF MIAMI LAKES
FY 2017-18 AMENDED BUDGET
Revenue and Expenditure Detail by Line Item
as of February 6, 2018

ACCOUNT NAME/DESCRIPTION	FY2017-18 ADOPTED BUDGET	CARRYOVER AMENDMENT	FY2017-18 REVISED BUDGET	BUDGET COMMENTS (AMENDMENT/REVISION)
TRANSPORTATION STUDIES	\$50,000		\$50,000	
DEMAND SERVICES - CONTRACT	\$79,500		\$79,500	
STREET LIGHTING UTILITIES	\$262,000		\$262,000	
STREET LIGHTING REPAIRS AND MAINT	\$70,000		\$70,000	
BIKEPATH/GREENWAY REPAIR & MAINT	\$12,268		\$12,268	
CONTINGENCY	\$10,029		\$10,029	
ADMIN PTP EXP 5%	\$48,750		\$48,750	
LED LIGHT RETROFIT	\$0	\$112,025	\$112,025	Carryover project balance
MACHINERY AND EQUIPMENT	\$0		\$0	
TRANSFER OUT- CIP PARKS	\$0		\$0	
TRANSFER CAPITAL-TRANSPORTATION	\$825,000		\$825,000	
TRANSFER CAPITAL-STORMWATER	\$0		\$0	
TRANSFER TO SERIES 2013	\$0		\$0	
TOTAL EXPENDITURES	\$1,408,781	\$116,720	\$1,525,501	

MOBILITY FEE TRUST ACCOUNT FUND

REVENUE

MOBILITY FEE	\$382,252		\$382,252
BUDGET CARRYFORWARD	\$195,656		\$195,656
TOTAL REVENUES	\$577,908	\$0	\$577,908

EXPENDITURE

CONTINGENCY RESERVES	\$277,908	-\$22,108	\$174,860	Reduce reserves
TRAFFIC STUDIES	\$0		\$80,940	
TRANSFER TO CAPITAL-TRANSPORTATION	\$300,000	\$22,108	\$322,108	Funds to complete NW 82nd Avenue and Oak Lane reconfiguration
TOTAL EXPENDITURES	\$577,908	\$0	\$577,908	

SPECIAL REVENUES - OTHER

REVENUE

CONTRIBUTION FROM DEVELOPER	\$0		\$0
BUDGET CARRYFORWARD	\$300,000		\$300,000
TOTAL REVENUES	\$300,000	\$0	\$300,000

EXPENDITURE

CONTINGENCY FOR EDUCATION	\$300,000		\$300,000
TOTAL EXPENDITURES	\$300,000	\$0	\$300,000

TOTAL SPECIAL REVENUE FUND REVENUES:	\$3,175,902	\$116,720	\$3,292,622
TOTAL SPECIAL REVENUE FUND EXPENDITURES:	\$3,175,902	\$116,720	\$3,292,622

BUILDING DEPARTMENT FUND

REVENUE

BUILDING PERMITS - TECHNOLOGY FEE	\$260,000		\$260,000
BUILDING PERMITS - LOST PLANS	\$7,700		\$7,700
BUILDING PERMITS	\$2,564,000		\$2,564,000
BUILDING PERMITS - VIOLATION FEE	\$65,000		\$65,000

TOWN OF MIAMI LAKES
FY 2017-18 AMENDED BUDGET
Revenue and Expenditure Detail by Line Item
as of February 6, 2018

ACCOUNT NAME/DESCRIPTION	FY2017-18 ADOPTED BUDGET	CARRYOVER AMENDMENT	FY2017-18 REVISED BUDGET	BUDGET COMMENTS (AMENDMENT/REVISION)
INTEREST INCOME	\$15,000		\$15,000	
FUND BALANCE CARRYFORWARD	\$1,565,743		\$1,565,743	
TOTAL REVENUES	\$4,477,443	\$0	\$4,477,443	
<u>EXPENDITURE</u>				
REGULAR SALARIES	\$1,044,789		\$1,044,789	
EMPLOYEE BONUS/COLA	\$20,896		\$20,896	
PAYROLL TAXES	\$53,707		\$53,707	
FRS CONTRIBUTIONS	\$55,236		\$55,236	
HEALTH & LIFE INSURANCE	\$123,611		\$123,611	
WIRELESS STIPEND	\$2,400		\$2,400	
PROFESSIONAL SERVICES	\$225,000		\$225,000	
BLDG ELECT RECORDS STORAGE	\$3,000		\$3,000	
BUILDING CONTRACTUAL SERVICE	\$7,500		\$7,500	
BUILDING TRAVEL & PER DIEM	\$2,500		\$2,500	
CAR ALLOWANCE	\$18,000		\$18,000	
BUILDING COPIER LEASE	\$2,220		\$2,220	
INSURANCE	\$0		\$0	
CONTINGENCY	\$2,544,335		\$2,544,335	
PRINTING & BINDING	\$600		\$600	
BUILDING ADMIN SUPPORT	\$175,047		\$175,047	
BUILDING - CREDIT CARD FEES	\$46,975		\$46,975	
BUILDING OFFICE SUPPLIES	\$3,000	-\$3,000	\$0	Transfer Building office supplies to Facilities
BUILDING UNIFORMS & BADGES	\$4,000		\$4,000	
BOOKS/PUBLIC/SUBSCRIP/MEM	\$1,000		\$1,000	
TRANSFER TO FACILITIES MAINTENANCE FUND	\$40,852	\$3,000	\$43,852	Inter-Fund Transfer for office supplies
	\$4,374,667	\$0	\$4,374,667	
SOFTWARE MAINTENANCE	\$34,036		\$34,036	
REMOTE ACCESS DEVICE DATA PLAN	\$8,740		\$8,740	
SOFTWARE	\$60,000		\$60,000	
	\$102,776	\$0	\$102,776	
TOTAL BUILDING DEPARTMENT REVENUES	\$4,477,443	\$0	\$4,477,443	
TOTAL BUILDING DEPARTMENT EXPENSES:	\$4,477,443	\$0	\$4,477,443	

ELECTRIC UTILITY TAX REVENUE

<u>REVENUES</u>				
ELECTRIC UTILITY SERVICE TAX	\$3,200,000		\$3,200,000	
ELECTRIC UTILITY SERVICE TAX TO GF	-\$2,826,679		-\$2,826,679	
ELEC UTIL BUDGET CARRYFORWARD	\$0		\$0	
TOTAL REVENUES	\$373,321	\$0	\$373,321	
<u>EXPENDITURES</u>				
FINANCIAL INSTITUTION FEES	\$0		\$0	
ANNUAL DISSEMINATION AGENT FEE	\$2,000		\$2,000	
TRANSFER TO DEBT SERV FUND	\$371,321		\$371,321	
TOTAL EXPENDITURES	\$373,321	\$0	\$373,321	

TOWN OF MIAMI LAKES
FY 2017-18 AMENDED BUDGET
Revenue and Expenditure Detail by Line Item
as of February 6, 2018

ACCOUNT NAME/DESCRIPTION	FY2017-18 ADOPTED BUDGET	CARRYOVER AMENDMENT	FY2017-18 REVISED BUDGET	BUDGET COMMENTS (AMENDMENT/REVISION)
IMPACT FEES FUND				
PARKS IMPACT FEES				
REVENUES				
PARKS IMPACT FEES - IMPROVEMENTS	\$854,170	\$339,014	\$1,193,184	Balance of revenues from Lennar project
PARKS IMPACT FEES - OPEN SPACE	\$820,031	\$325,607	\$1,145,638	Balance of revenues from Lennar project
INTEREST INCOME	\$5,000		\$5,000	
PARKS BUDGET CARRYFORWARD	\$957,735	-\$664,621	\$293,114	Adjustment to prior year carryover fund balance
TOTAL REVENUES	\$2,636,936	\$0	\$2,636,936	
EXPENDITURES				
TRANSFER TO CPF - PARKS (PIMP)	\$995,000		\$995,000	
TRANSFER TO CPF - PARKS (POS)	\$30,000	\$38,000	\$68,000	
CONTINGENCY - OPEN SPACE	\$1,592,509	-\$38,000	\$1,554,509	
CONTINGENCY - IMPROVEMENTS	\$19,427		\$19,427	
TOTAL EXPENDITURES	\$2,636,936	\$0	\$2,636,936	
PUBLIC SAFETY IMPACT FEES				
REVENUES				
PUBLIC SAFETY IMPACT FEES	\$470,054		\$470,054	
PUBLIC SAFETY BUDGET CARRYFORWARD	\$15,284		\$15,284	
TOTAL REVENUES	\$485,338	\$0	\$485,338	
EXPENDITURES				
POLICE IMPACT FEE EXP	\$200,000		\$200,000	
CONTINGENCY	\$254,473	-\$147,085	\$107,388	Reduce contingency
TRANSFER TO CPF - FACILITIES	\$0		\$0	
TRANSFER TO SRF	\$0		\$0	
TRANSFER TO CPF - FACILITIES	\$30,865	\$147,085	\$177,950	Funds to complete enclosure for Town Hall emergency generator
TOTAL EXPENDITURES	\$485,338	\$0	\$485,338	
ROAD IMPACT FEES (IN LIEU OF)				
REVENUES				
CONTRIBUTION IN LIEU OF ROAD IMPACT FEES	\$408,069		\$408,069	
BUDGET CARRYFORWARD	\$0		\$0	
TOTAL REVENUES	\$408,069	\$0	\$408,069	
EXPENDITURES				
CONTINGENCY	\$0		\$0	
TRANSFER TO CPF - TRANSPORTATION IMPRV	\$408,069		\$408,069	
TOTAL EXPENDITURES	\$408,069	\$0	\$408,069	
TOTAL IMPACT FEE FUND REVENUES:	\$3,530,343	\$0	\$3,530,343	
TOTAL IMPACT FEE FUND EXPENDITURES:	\$3,530,343	\$0	\$3,530,343	

TOWN OF MIAMI LAKES
FY 2017-18 AMENDED BUDGET
Revenue and Expenditure Detail by Line Item
as of February 6, 2018

ACCOUNT NAME/DESCRIPTION	FY2017-18 ADOPTED BUDGET	CARRYOVER AMENDMENT	FY2017-18 REVISED BUDGET	BUDGET COMMENTS (AMENDMENT/REVISION)
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DISASTER FUND

REVENUES

FEDERAL GRANT	\$0	\$1,213,013	\$1,213,013	
INSURANCE CLAIMS	\$0		\$0	
TRANSFER FROM GENERAL FUND	\$0	\$836,000	\$836,000	
TOTAL REVENUES	\$0	\$2,049,013	\$2,049,013	

EXPENDITURE

EMERGENCY PROTECTIVE MEASURES		\$54,744	\$54,744	
DEBRIS REMOVAL & MONITORING		\$1,834,653	\$1,834,653	
ROADS AND BRIDGES		\$13,295	\$13,295	
BUILDING REPAIRS (FACILITIES)		\$46,510	\$46,510	
PARK REPAIRS		\$99,811	\$99,811	
CONTINGENCY		\$0	\$0	
TOTAL EXPENDITURES	\$0	\$2,049,013	\$2,049,013	

DEBT SERVICE FUND

REVENUES

TRANSFER IN FROM ELEC UTIL FD	\$371,321		\$371,321	
TRANSFER IN FROM GENERAL FUND	\$0		\$0	
FEDERAL DIRECT PAYMENT	\$178,728		\$178,728	
TOTAL REVENUES	\$550,049	\$0	\$550,049	

EXPENDITURES

FINANCIAL INSTITUTION FEES	\$1,350		\$1,350	
8038 CP PREPARATION FEES	\$200		\$200	
SERIES 2010 INTEREST	\$548,499		\$548,499	
TRANSFER OUT - ELECTRIC UTILITY REVENUE FU	\$0		\$0	
TOTAL EXPENDITURES	\$550,049	\$0	\$550,049	

CAPITAL PROJECTS FUND

FACILITIES AND EQUIPMENT IMPROVEMENT

REVENUES

TRANSFER FROM IMPACT FEE FUND - POLICE	\$30,865	\$147,085	\$177,950	Funds to complete enclosure for Town Hall emergency generator
CAP PROJ BUDGET CARRYFORWARD	\$144,135	-\$36,250	\$107,885	Adjustment to prior year carryover fund balance
TOTAL REVENUES	\$175,000	\$110,835	\$285,835	

EXPENDITURES

MACHINERY & EQUIPMENT	\$175,000	\$110,835	\$285,835	Revised budget for emergency generator
TRANSFER TO GENERAL FUND	\$0		\$0	
TOTAL EXPENDITURES	\$175,000	\$110,835	\$285,835	

TOWN OF MIAMI LAKES
FY 2017-18 AMENDED BUDGET
Revenue and Expenditure Detail by Line Item
as of February 6, 2018

ACCOUNT NAME/DESCRIPTION	FY2017-18 ADOPTED BUDGET	CARRYOVER AMENDMENT	FY2017-18 REVISED BUDGET	BUDGET COMMENTS (AMENDMENT/REVISION)
PARKS IMPROVEMENTS				
REVENUES				
FDOT - 2017 HIGHWAY BEAUTIFICATION GRANT	\$0	\$100,000	\$100,000	Rebudget FDOT 2017 Grant award
CAP PARKS BUDGET CARRYFORWARD	\$405,000	\$417,769	\$822,769	Adjustment to prior year carryover fund balance
TRANS FR PARKS IMPACT FEE FD - OPEN	\$30,000	\$38,000	\$68,000	Reimbursement from Open Space Impact Fees for the completion of the dog park in prior year
TRANS FR PARKS IMPACT FEE FD - IMPROV	\$995,000		\$995,000	
TRANSF IN-SPEC REVENUE	\$0		\$0	
TOTAL REVENUES:	\$1,430,000	\$555,769	\$1,985,769	
EXPENDITURES				
DOG PARK	\$0	\$5,355	\$5,355	Carryover project balance for opening event
CIP RESERVE FOR PARKS	\$0	\$93,368	\$93,368	Reserve for future parks projects
IT INFRASTRUCTURE	\$0	\$14,400	\$14,400	Carryover project balance for Parks WiFi installation and upgrades
WEST LAKE NEIGHBORHOOD REFORESTATION F	\$0	\$94,763	\$94,763	Carryover project balance
TOTAL ADMINISTRATIVE PROJECTS:	\$0	\$207,886	\$207,886	
FDOT HIGHWAY BEAUTIFICATION	\$0	\$196,477	\$196,477	Carryover project balance
BMP - 154TH STREET AND PALMETTO	\$0	\$100,000	\$100,000	Carryover project balance
TOTAL GREENWAY AND TRAILS:	\$0	\$296,477	\$296,477	
ROP BALLFIELDS IMPROVEMENTS	\$0	\$5,200	\$5,200	Carryover project balance - installation of water fountain
TOTAL ROYAL OAKS PARK PROJECTS:	\$0	\$5,200	\$5,200	
MINI PARKS COMM CENT WEST	\$75,000	\$5,606	\$80,606	Carryover project balance from roof and AC replacement at MCCC. Revised Budget for impact windows and doors
TOTAL PARK - WEST (MARY COLLINS):	\$75,000	\$5,606	\$80,606	
MLOP CLUBHOUSE/FURNITURE & FIXTURES	\$0		\$0	
MLOP STORAGE FACILITY	\$80,000		\$80,000	
MLOP WORKS OF ART/COLLECTIONS	\$30,000		\$30,000	
MLOP MASTER PLAN	\$1,000,000		\$1,000,000	
TOTAL MIAMI LAKES OPTIMIST PARK	\$1,110,000	\$0	\$1,110,000	
MINI PARKS IMPROVEMENTS	\$65,000	\$40,600	\$105,600	Carryover project balance - P84 playground and swingset (\$25,000), safety surface (\$2,100) and P87 repairs (\$13,500)
TOTAL MINI PARKS	\$65,000	\$40,600	\$105,600	
PAR 3 PARK	\$150,000		\$150,000	
PASSIVE PARK DEVELOPMENT	\$30,000		\$30,000	
TOTAL PASSIVE PARK DEVELOPMENT	\$180,000	\$0	\$180,000	
TOTAL PARKS IMPROVEMENTS EXPENDITURES	\$1,430,000	\$555,769	\$1,985,769	

TOWN OF MIAMI LAKES
FY 2017-18 AMENDED BUDGET
Revenue and Expenditure Detail by Line Item
as of February 6, 2018

ACCOUNT NAME/DESCRIPTION	FY2017-18 ADOPTED BUDGET	CARRYOVER AMENDMENT	FY2017-18 REVISED BUDGET	BUDGET COMMENTS (AMENDMENT/REVISION)
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TRANSPORTATION IMPROVEMENTS

REVENUES

SECOND LOC OPT GAS TAXE 3 cent	\$144,833		\$144,833	
MPO GRANT	\$0	\$17,725	\$17,725	Rebudget balance on MPO grant for Complete Streets
TAP GRANT	\$1,000,000		\$1,000,000	
SAFE ROUTES TO SCHOOL	\$389,300	\$170,000	\$559,300	Rebudget balance FDOT grant
STATE GRANT	\$0	\$100,000	\$100,000	Rebudget FDOT 2014 Highway Beautification Grant - 154th Street and Palmetto
INTEREST INCOME	\$25,000		\$25,000	
TRANSF F/SRF PTP	\$825,000		\$825,000	
TRANSFER FROM ROAD IMPACT FEE FUND	\$408,069	\$233,865	\$641,934	Rebudget transfer from developer in lieu of Road Impact Fees
TRANSF FROM MOBILITY FEE FUND	\$300,000	\$22,108	\$322,108	Funds to complete NW 82nd Avenue and Oak Lane reconfiguration
CAPTRANSP BUDGET CARRYFORWARD	\$1,160,079	\$230,211	\$1,390,290	Adjustment to prior year carryover fund balance
TOTAL REVENUES	\$4,252,281	\$773,909	\$5,026,190	

EXPENDITURES

TRAFFIC CALMING	\$25,000		\$25,000	
CIP RESERVE FOR TRANSPORT	\$0		\$0	
59TH AVENUE EXTENSION, PUBLIC WORKS	\$775,000		\$775,000	
TRANSP LAKE SARAH IMPROV	\$590,960	\$2,521	\$593,481	Carryover project balance
SAFE ROUTES TO SCHOOL ALONG MLS	\$580,000	\$69,550	\$649,550	Carryover project balance
WINDMILL GATE ROAD IMPROVEMENTS	\$0	\$384,059	\$384,059	Carryover project balance
PALMETTO & NW 67TH AVENUE WIDENING	\$408,069	\$33,678	\$441,747	Carryover project balance
GREENWAY AND TRAILS STRIPING	\$50,000		\$50,000	
COMPLETE STREETS IMPLEMENTATION PLAN	\$0	\$10,651	\$10,651	Carryover project balance
COMPLETE STREET IMPLEMENTATION : BUSINESS PARK EAST (NW 60TH AVE)	\$650,000	\$23,250	\$673,250	Carryover project balance
COMPLETE STREET IMPLEMENTATION: MAIN STREET EAST (NW 151 AND 153 STREETS)	\$650,000		\$650,000	
MIAMI LAKEWAY SOUTH RESURFACE	\$193,252		\$193,252	
146TH STREET UNDERPASS BRIDGE	\$165,000		\$165,000	
160TH STREET UNDERPASS BRIDGE	\$165,000		\$165,000	
ADAPTIVE SIGNALIZATION PROGRAM	\$0	\$174,867	\$174,867	Carryover project balance
82ND AVENUE & OAK LANE RECONFIGURATION	\$0	\$75,333	\$75,333	Carryover project balance (\$53,225) and additional funding to complete project (\$22,108)
TOTAL EXPENDITURES:	\$4,252,281	\$773,909	\$5,026,190	

STORMWATER IMPROVEMENTS

REVENUES

STORMWATER GRANTS	\$0	\$425,000	\$425,000	Rebudget FDEP grant (\$300,000) and SFWMD grant (\$125,000)
STORMWATER GRANTS	\$1,000,000		\$1,000,000	
CAPITAL SW BUDGET CARRYFORWD	\$924,360	-\$140,875	\$783,485	Adjustment to prior year carryover fund balance
TRANSF IN-PEOPLES TRANSPORTATION PRGM	\$0		\$0	
TRANSF IN-STORMWATER	\$150,000	\$67,000	\$217,000	Funding for Lake Sarah project
TOTAL REVENUES:	\$2,074,360	\$351,125	\$2,425,485	

TOWN OF MIAMI LAKES
FY 2017-18 AMENDED BUDGET
Revenue and Expenditure Detail by Line Item
as of February 6, 2018

ACCOUNT NAME/DESCRIPTION	FY2017-18 ADOPTED BUDGET	CARRYOVER AMENDMENT	FY2017-18 REVISED BUDGET	BUDGET COMMENTS (AMENDMENT/REVISION)
EXPENDITURES				
CANAL BANK STABILIZATION - PHASE 2	\$868,000	\$103,450	\$971,450	Carryover project balance
LAKE MARTHA DRAINAGE IMPROVEMENT	\$0		\$0	
LAKE SARAH IMPROVEMENT	\$1,107,440	\$244,014	\$1,351,454	Carryover project balance (\$177,014) and additional funding for Change Order #10
HUTCHINSON ROADWAY & DRAINAGE IMPR	\$0		\$0	
OPERATING CONTINGENCY- STORM	\$98,920	\$3,662	\$102,581	Reserve for future drainage capital projects
TOTAL EXPENDITURES:	\$2,074,360	\$351,125	\$2,425,485	

TOTAL CAPITAL FUND PROJECTS REVENUES	\$7,931,640	\$1,791,638	\$9,723,278	
TOTAL CAPITAL FUND PROJECTS EXPENDITURES	\$7,931,640	\$1,791,638	\$9,723,278	

STORMWATER UTILITY FUND

REVENUES

STORMWATER UTILITY FEES	\$1,100,000		\$1,100,000	
INTEREST EARNINGS	\$32,000		\$32,000	
STORMWATER BUDGET CARRYFORWD	\$288,148	\$177,537	\$465,685	Adjustment to prior year carryover fund balance
INTER-FUND TRANSFERS	\$0		\$0	
TOTAL REVENUES:	\$1,420,148	\$177,537	\$1,597,685	

EXPENDITURES

WASAD FEE COLLECTION	\$32,500		\$32,500	
STORMWATER ADMINISTRATION	\$123,142		\$123,142	
PUBLIC OUTREACH/WORKSHOPS	\$5,000		\$5,000	
BOOKS PUBLICATIONS	\$1,000		\$1,000	
TRAINING AND EDUCATION	\$5,000		\$5,000	
S/W UTIL REVENUE BOND DEBT	\$68,452		\$68,452	
FEMA FUNDED CANAL DREDGING PAYMENT	\$15,390		\$15,390	
TRANSFER TO CAP PROJECTS FD	\$150,000	\$67,000	\$217,000	Funds for Lake Sarah drainage project, Change Order #10
TOTAL STORMWATER UTILITY EXPENSES	\$400,484	\$67,000	\$467,484	

NPDES COMPUT. DISCHARGE MOD	\$1,000		\$1,000	
NPDES PERMIT FEES	\$16,545		\$16,545	
TOTAL NPDES COSTS	\$17,545	\$0	\$17,545	

REGULAR SALARIES	\$231,552		\$231,552	
EMPLOYEE BONUS/COLA	\$4,631		\$4,631	
STORMWATER OVERTIME	\$1,000		\$1,000	
PAYROLL TAXES	\$17,714		\$17,714	
FRS CONTRIBUTIONS	\$18,339		\$18,339	
HEALTH & LIFE INSURANCE	\$45,531		\$45,531	
WIRELESS STIPEND	\$1,200		\$1,200	
LAKE QUALITY ASSESSMENT	\$50,000		\$50,000	
PROF SERV -ENGINEERING/LEGAL	\$0		\$0	
MASTER PLAN UPDATE	\$30,000	\$30,345	\$60,345	Additional funding required for project
STORMWATER INSPECTOR	\$65,000		\$65,000	
MISC EXPENSES/REMOTE ACCESS DEVICE	\$960		\$960	

TOWN OF MIAMI LAKES
FY 2017-18 AMENDED BUDGET
Revenue and Expenditure Detail by Line Item
as of February 6, 2018

ACCOUNT NAME/DESCRIPTION	FY2017-18 ADOPTED BUDGET	CARRYOVER AMENDMENT	FY2017-18 REVISED BUDGET	BUDGET COMMENTS (AMENDMENT/REVISION)
INSURANCE	\$0		\$0	
CLEAN BASINS PIPES TRENCHES	\$42,000		\$42,000	
MINOR REPAIRS & IMPROVEMENTS	\$93,949		\$93,949	
COMMUNITY RATING SYSTEM	\$2,000		\$2,000	
STREET SWEEPING	\$31,875		\$31,875	
REPAIR AND MAINTENANCE	\$15,000		\$15,000	
CANAL MAINTENANCE	\$255,456		\$255,456	
STORMWATER CONTINGENCY	\$20,902	\$80,192	\$101,094	Carryover adjustment to reserves as well as to fund Lake Sarah drainage project
UNIFORMS	\$1,410		\$1,410	
GAS, OIL, LUBRICANTS	\$13,000		\$13,000	
EDUCATION & TRAINING	\$0		\$0	
MACHINERY AND EQUIPMENT	\$0		\$0	
NW 79 AVE NO OF 154 STREET	\$0		\$0	
COMPUTER SOFTWARE LICENSES	\$60,600		\$60,600	
TOTAL STORMWATER OPERATING	\$1,002,119	\$110,537	\$1,112,656	
TOTAL STORMWATER UTILITY REVENUES	\$1,420,148	\$177,537	\$1,597,685	
TOTAL STORMWATER UTILITY EXPENDITURES	\$1,420,148	\$177,537	\$1,597,685	

FACILITY MAINTENANCE FUND

REVENUES

TRANS FROM GENERAL FUND - ADMINISTRATIC	\$188,550	\$30,000	\$218,550	Transfer in for office supplies
TRANS FROM GENERAL FUND - POLICE	\$84,847	\$3,500	\$88,347	Transfer in for office supplies
TRANS FROM BUILDING FUND	\$40,852	\$3,000	\$43,852	Transfer in for office supplies
TOTAL FACILITY MAINTENANCE REVENUES:	\$314,249	\$36,500	\$350,749	

EXPENDITURES

SALARIES	\$58,000		\$58,000	
BONUS/COST OF LIVING ADJUSTMENT	\$1,160		\$1,160	
PAYROLL TAXES	\$4,437		\$4,437	
FRS CONTRIBUTIONS	\$4,594		\$4,594	
HEALTH & LIFE INSURANCE	\$10,729		\$10,729	
WIRELESS STIPEND	\$480		\$480	
JANITORIAL	\$65,000		\$65,000	
TELEPHONE SERVICES	\$16,140		\$16,140	
UTILITIES	\$62,400		\$62,400	
REPAIR AND MAINT CONTRACTS	\$81,000		\$81,000	
REMOTE ACCESS DEVICE	\$960		\$960	
HURRICANE EXPENSES	\$4,800		\$4,800	
OFFICE SUPPLIES	\$0	\$36,500	\$36,500	Office supplies for all departments
OPERATING SUPPLIES	\$0		\$0	
GAS, OIL LUBRICANTS	\$1,200		\$1,200	
EDUCATION AND TRAINING	\$2,000		\$2,000	
INFRASTRUCTURE	\$0		\$0	
COMPUTER SOFTWARE LICENSES	\$1,350		\$1,350	
TOTAL FACILITY MAINTENANCE EXPENDITURE:	\$314,249	\$36,500	\$350,749	

TOTAL ALL FUNDS - REVENUES	\$38,631,293	\$4,355,535	\$42,986,828	
TOTAL ALL FUNDS - EXPENDITURES	\$38,631,293	\$4,355,535	\$42,986,828	

ORDINANCE NO. 2018-_____

**AN ORDINANCE OF THE TOWN OF MIAMI LAKES,
FLORIDA, AMENDING ORDINANCE NO. 17-213;
AMENDING THE TOWN'S FISCAL YEAR 2017-2018
BUDGET; PROVIDING FOR EXPENDITURE OF FUNDS;
PROVIDING FOR AMENDMENTS; PROVIDING FOR
CONFLICTS; AUTHORIZING THE TOWN MANAGER TO
TAKE ALL ACTIONS NECESSARY TO IMPLEMENT THE
TERMS AND CONDITIONS OF THIS ORDINANCE;
PROVIDING FOR SEVERABILITY; AND PROVIDING
FOR AN EFFECTIVE DATE.**

WHEREAS, in accordance with Section 200.065, Florida Statutes and Section 8.7 of the Town of Miami Lakes (the "Town") Charter, the Town Council adopted Fiscal Year 2017-2018 Budget (the "Budget") by Ordinance 17-213; and

WHEREAS, based upon the review, analysis, and the recommendation of the Town Manager, the Town Council has determined that it is necessary to amend the Budget to provide for carryover of funds as set forth in Exhibit "A," attached hereto.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The foregoing recitals are true and correct and are incorporated herein by this reference.

Section 2. Budget Amendment. The Fiscal Year 2017-2018 Budget adopted in Ordinance No. 17-213 is amended as set forth in the documents entitled "Town of Miami Lakes FY 2017-2018 Adopted Budget" attached hereto as Exhibit "A." The Town Council hereby modifies the Budget to provide for the inclusion of additional carryover funds, line item adjustments, and 2017-2018 project related expense carryover. All other terms and conditions of Ordinance No. 17-213 not otherwise amended by this Ordinance remain in full force and effect.

Section 3. Authorization of Town Manager. The Town Manager is hereby authorized to take all actions necessary to implement the terms and conditions of this Ordinance.

Section 4. Authorization of Fund Expenditures. The Town Manager or his/her designee is authorized to expend or contract for expenditures such funds as are necessary for the operation of the Town government in accordance with the Budget and the terms and conditions of this Ordinance.

Section 5. Conflicts. All sections or parts of sections of the Town Code that conflict with this Ordinance are repealed to the extent of such conflict.

Section 6. Severability. The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause, provision or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance, but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 7. Effective date. This Ordinance shall be effective upon adoption on second reading.

FIRST READING

The foregoing ordinance was moved by Councilmember _____ who moved its adoption on first reading. The motion was seconded by Councilmember _____ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Frank Mingo	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Nelson Rodriguez	_____
Councilmember Marilyn Ruano	_____

Passed and adopted on first reading this 16th day of January, 2018.

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SECOND READING

The foregoing ordinance was moved by Councilmember _____ who moved its adoption on second reading. The motion was seconded by Councilmember _____ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Frank Mingo	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Nelson Rodriguez	_____
Councilmember Marilyn Ruano	_____

Passed and adopted on second reading this _____ day of _____, 2018.

Manny Cid
MAYOR

Attest:

Gina Inguanzo
TOWN CLERK

Approved as to form and legal sufficiency:

Raul Gastesi, Jr.
Gastesi & Associates, P.A.
TOWN ATTORNEY



Town of Miami Lakes Memorandum

To: Honorable Mayor and Councilmembers
From: Alex Rey, Town Manager
Subject: Bid Waiver and Authority to Amend Contract 2012-29 for Litter Control Services
Date: 2/6/2018

Recommendation:

It is recommended that the Town Council authorize a waiver of the competitive solicitation process under Section 5(d) of Ordinance 17-203 and authorize the Town Manager to extend Contract 2012-29 on a month-to-month basis, not to exceed six (6) months, in an amount not to exceed budgeted funds, while the Town explores additional options available to the Town for these services. Fiscal Year 2017-18 General Fund budget for these services is \$94,000.

Background:

On September 5, 2017 the Town Council authorized an extension to the contract for litter/debris pick-up and disposal services so that staff could competitively bid the services. The contract, as amended, expires on February 3, 2018. In preparing the competitive solicitation, staff revised the contract to be more in line with other performance-based contracts such as the Grounds Maintenance Contract and the Tree Trimming Contract, which require weekly reports, adherence to performance standards, and regularly conducted inspections. The expectation was that with more robust accountability provisions, our service standards would be met by the contractor.

The Town issued Invitation to Bid ("ITB") 2018-11 for Litter Control Services for Rights-of-Way and Town Parks on December 15, 2017. The ITB was posted to DemandStar, Public Purchase, and posted in the Government Center Lobby. To qualify for award, prospective Bidders were required to:

1. Possess a minimum of three (3) years of experience performing litter control services; and
2. Provide one (1) verifiable client reference demonstrating completion of at least one (1) contract for services of similar scope and value performed within the last three (3) years.

On the date of the bid opening, January 5, 2018, we received four (4) bids from the following Bidders:

1. BrightView Landscaping, Inc. ("BrightView") - \$804,600.00
2. South Florida Maintenance, Inc. ("SFM") - \$889,910.00
3. Jai-Alexia Consulting, Inc. ("Jai-Alexia") - \$1,323,000.00
4. Kita Corporation ("Kita") - \$1,419,501.50

Procurement performed a due diligence review of the bids for responsiveness and found that

BrightView, the lowest bidder, submitted a responsive bid. The review of BrightView's bid did not reveal any material defects in the submittal or their qualifications. BrightView has worked with the Town in the past, performing grounds maintenance services in Town parks and rights-of-way. Thus far, there have not been significant issues with their performance on those contracts. Procurement did not find any issues that would indicate BrightView is incapable of performing the Services responsibly.

BrightView's total bid amount of \$804,600 breaks down to an annual cost of \$160,920 for litter control services which significantly exceeds our current annual budget of \$94,000. Further broken down, the bid amount is based on the rate of \$27/hour for each crew member and assuming an eight-hour work day compared to our current agreement which is at a rate of approximately \$16/hour for each crew member for an eight-hour work day.. Procurement has determined that this rate is unreasonable for the service. Not awarding on this solicitation provides an opportunity to revisit our approach to service delivery considering the pricing the industry has provided.

The change order extending the term for the current contract for Litter/Debris Pick-Up & Disposal Services will avoid a disruption in service delivery. The change order provides for a month-to-month renewal up to a maximum of six months, in an amount not to exceed budgeted funds, until the Town is able to prepare an alternative solution for these services. Our current contractor, SFM Services, Inc., has agreed to an extension while the Town explores additional options available to procure these services.

ATTACHMENTS:

Description

Resolution

RESOLUTION NO. 18-_____

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, WAIVING COMPETITIVE PROCUREMENT PROCEDURE UNDER SECTION 5(D) OF ORDINANCE 17-203; APPROVING THE SIX-MONTH EXTENSION AMENDMENT TO CONTRACT 2012-29 FOR LITTER/DEBRIS PICK-UP & DISPOSAL; AUTHORIZING THE TOWN MANAGER TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE CONTRACT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE AMENDMENT TO CONTRACT 2012-29; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 5(d) of the Town of Miami Lakes Ordinance 17-203 (the “Procurement Ordinance”) authorizes the Town Manager to request a waiver of formal competitive bidding requirements when the Town Manager makes a written recommendation that it is not practical to comply with the provisions of Section 5 of Ordinance 17-203; and

WHEREAS, the Town requires litter control services to maintain a clean and neat appearance throughout the Town; and

WHEREAS, on December 15, 2017 the Town of Miami Lakes (the “Town”) issued Invitation to Bid (“ITB”) No. 2018-12 for Litter Control Services for Rights-of-Way and Town Parks (“Litter Control Services”); and

WHEREAS, on the date of the bid opening, the Town received four (4) bids; and

WHEREAS, the Town’s Procurement department reviewed the bids for responsiveness and found that Brightview Landscaping Services, Inc. (“BrightView”), is the lowest responsive and responsible bidder; and

WHEREAS, BrightView's total bid amount of \$804,600 will cost the Town \$160,920 annually; and

WHEREAS, Procurement has determined that the rate used to calculate BrightView's total bid amount is unreasonable for Litter Control Services, as the current contract costs approximately \$94,000 annually, and recommends exploring alternative options available to the Town; and

WHEREAS, the Town still requires Litter Control Services to be performed until an alternative solution is implemented; and

WHEREAS, the current contractor, SFM Services, Inc. has agreed to the amendment and will provide Litter Control Services until an alternative solution can be implemented; and

WHEREAS, the Town Council approves of the Town Manager's recommendations and authorizes the Town Manager to execute an amendment to Contract 2012-29 to continue Litter Control Services on a month-to-month basis, up to a maximum of six (6) months, in an amount not to exceed budgeted funds.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:

Section 1. **Recitals.** The foregoing Recitals are true and correct and incorporated herein by this reference.

Section 2. **Approval of the Amendment.** The Town Council hereby approves the amendment of Contract 2012-29 with SFM Services, Inc. in substantially the form attached hereto as Exhibit "A" for the continued performance of Litter Control Services on a month-to-month basis, up to a maximum of six (6) months, in an amount not to exceed budgeted funds.

Section 3. **Authorization of Town Officials.** The Town Manager and/or his designee are authorized to take all steps necessary to implement the terms and conditions of the amendment to Contract 2012-29 with SFM Services, Inc. for Litter Control Services.

Section 4. **Authorization of Fund Expenditure.** Notwithstanding the limitations imposed upon the Town Manager by the Town's Procurement Ordinance, the Town Manager is authorized to expend budgeted funds to implement the terms and conditions of this Resolution and the amendment to Contract 2012-29 with SFM Services, Inc. for Litter Control Services.

Section 5. **Execution of the Amendment.** The Town Manager is authorized to execute the amendment in substantially the form attached hereto as Exhibit "A" to Contract 2012-29 with SFM Services, Inc. and to execute any required agreements and/or documents to implement the terms and conditions of the amendment, subject to approval as to form and legality by the Town Attorney.

Section 6. **Effective Date.** This Resolution shall take effect immediately upon adoption.

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Passed and adopted this _____ day of _____, 2018.

The foregoing resolution was offered by _____ who moved its adoption. The motion was seconded by _____ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Frank Mingo	_____
Councilmember Luis Collazo	_____
Councilmember Timothy Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Marilyn Ruano	_____
Councilmember Nelson Rodriguez	_____

Manny Cid
MAYOR

Attest:

Gina Inguanzo
TOWN CLERK

Approved as to form and legal sufficiency:

Raul Gastesi, Jr.
Gastesi & Associates, P.A.
TOWN ATTORNEY

EXHIBIT A

Amendment to Contract 2012-29
between the
Town of Miami Lakes
and
SFM Services, Inc.
for
Litter/Debris Pick-up Disposal



Change Order Form for Additional Services

Contract Title: Litter/Debris Pick-up & Disposal	Contract No.: 2012-29
Vendor: SFM Services, Inc.	Change Order No.: 3
Agreement Award Date: 8/4/2012	Completion Date: 8/3/2017
Revised Completion Date (prior to this change): 2/3/2018	Extension(s) of Time Previously Approved: 182 days
Revised Completion Date (including this change): 8/3/2018	

Vendor and the Town hereby agree to modify the Contract as follows: (Attach additional pages as necessary)

Additional Services to be Provided:

Contract term is hereby extended on a month-to-month basis, up to a maximum of six (6) months from its current expiration date. At the end of each month, the contract term will auto-renew unless terminated in writing at least seven days prior to the end of the current term or upon the expiration of the sixth month.

Basis for Additional Services:

The Town will use the additional time to explore additional options for litter/debris pick-up and removal services.

Summary of Agreement Amount	
<i>Original Agreement Amount</i>	\$371,800
Additional Services Previously Approved	\$50,379.28
Adjusted Agreement Value Prior to this Additional Service	\$422,179.28
Cost of Changes for these Additional Services	\$40,000 for Additional Six (6) Months
<i>Adjusted Agreement Amount Including this Change</i>	\$462,179.28
Percentage Increase for these Additional Services	10.8%
Total Percent Increase to Date	24.3%
Extension of Time Allowed by this Change -	181 days

This change order is hereby incorporated into and becomes a part of the Agreement.

Accepted By Contractor: _____ Date: _____

Name (print name of (signatory): _____ Title: _____

Accepted By Town Manager _____ Date: _____

Alex Rey, Town Manager

Town Council Approval Required: ☐ yes ☐ no If yes, Resolution Number: _____



Town of Miami Lakes Memorandum

To: To Honorable Vice Mayor and Councilmembers
From: Honorable Mayor Manny Cid
Subject: Good Governance
Date: 2/6/2018

Recommendation:

At the January 16, 2018 Regular Council Meeting, the Town Council directed staff to present the attached resolution.

Background:

In 2018-2019, our community will experience a major change in leadership and management. In 2018, our Council will be losing several members who have hard-earned experience in the realities of municipal governance.

Unfortunately, unlike the majority of professions in our Country, public leadership lacks a licensing exam or required training. The reality is that winning an election and obtaining a spot on the Council does not automatically make an individual an effective public leader. Key phrase is 'leader' as there is a real difference between leadership and management in the public sector.

Our Town is a \$40 million dollar organization and to ensure maintenance of governance, I want to inject good governance into our Town charter by amending it to ensure that future members of the Town Council are required to attend at least one of the following trainings: ICMA, FLC University or the Institute for Elected Municipal Officials.

I would like for this charter amendment to be placed on the August 2018 ballot.

Fiscal Impact: Medium- prepared language, resolution and election cost (TBD)

ATTACHMENTS:

Description

Resolution

RESOLUTION NO. 18-_____

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, PROVIDING FOR SUBMISSION TO THE ELECTORS FOR APPROVAL OR DISAPPROVAL OF A PROPOSED CHARTER AMENDMENT; PROVIDING THE REQUISITE BALLOT LANGUAGE FOR SUBMISSION TO THE ELECTORATE; CALLING A SPECIAL ELECTION ON THE PROPOSED AMENDMENTS TO THE TOWN CHARTER TO BE HELD ON AUGUST 28, 2018; PROVIDING FOR NOTICE; PROVIDING FOR SEVERABILITY; PROVIDING FOR RELATED MATTERS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council recognizes the need to provide the Town with Councilmembers that are educated and knowledgeable in the areas of good governance; and

WHEREAS, in order to achieve this goal, and pursuant to Section 6.1 of the Town Charter, the Town Council submits the following Charter Amendment to the electors of the Town.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:

Section 1. **Recitals.** The foregoing Recitals are true and correct and incorporated herein by this reference.

Section 2. **Charter Amendments.** That pursuant to Section 7.4 of the Town Charter and Section 5.03 of the Miami-Dade County Charter, the Town Charter of the Town of Miami Lakes, Florida is hereby amended by amending the title to Section 2.5 “Election and Term of

Office, amending Section 2.5 (b) iii “Procedures”, and creating a new subsection titled “Educational Requirements” as follows¹:

Section 2.5 Vacancies; Forfeiture of Office; Mandatory Training; Filling of Vacancies

(b) Forfeiture of Office.

iii) Educational Requirement. All Councilmembers shall be required to attend one (1) educational training on good governance specific for local elected officials during their first year in elected office. (Educational Requirement shall be further defined by Ordinance)

~~iii)~~ iv) Procedures. The Council shall be the sole judge of the qualifications of its members and shall hear all questions relating to forfeiture of a Councilmember’s office, including whether or not good cause for absence, or failure to meet the Educational Requirement has been or may be established. The burden of establishing good cause shall be on the Councilmember in question; provided however, that any Councilmember may at any time during any duly held meeting move to establish good cause for the absence of him/herself or the absence of any other Councilmember from any past, present, or future meeting(s), which motion, if carried, shall be conclusive. A Councilmember whose qualifications are in question, or, who is otherwise subject to forfeiture of his/her office, shall not vote on any such matters. The Councilmember in question shall be entitled to a public hearing(s) on request regarding an alleged forfeiture of office. If a public hearing is requested, notice thereof shall be published in one or more newspapers of general circulation in the Town at least one week in advance of the hearing. Any final determination by the Council that a Councilmember has forfeited his/her office shall be made by a majority of the Council by resolution. All votes and other acts of the Councilmember in question prior to the effective date of such resolution shall be valid regardless of the grounds of forfeiture.

¹ Proposed additions to existing Town Charter text are indicated by underline; proposed deletions from existing Town Charter text are indicated by ~~strike through~~.

Section 3. Election Called. That a special election is hereby called, to be held on Tuesday, the 28th day of August 2018, to present to the qualified electors of the Town of Miami Lakes the ballot question provided in Section 4 of this Resolution.

Section 4. Form of Ballot. The form of ballot for the Charter Amendment provided for in Section 2, of this Resolution shall be as follows:

1. INCLUDING AN EDUCATIONAL REQUIREMENT FOR FIRST YEAR COUNCILMEMBERS

The Town Charter currently does not include an educational requirement for Councilmembers. It is proposed that the Charter be amended to include an educational requirement for Councilmembers to be completed during their first year of office.

Shall the above described amendment be adopted?

Yes []

No []

Section 5. Ballot; Notice; Copies

- a. Balloting shall be conducted on Tuesday, August 28, 2018, between the hours of 7:00AM and 7:00 PM, at the regular polling places provided for Town elections. Absentee balloting shall be available as authorized by law. Early voting pursuant to Section 101.657 of Florida Statutes shall be provided. All qualified Town electors who are timely registered in accordance with law shall be entitled to vote. The Town Clerk is authorized to obtain any necessary election administration services from the Miami-Dade County Supervisor of Elections. The County registration books shall remain open at the Office of the County Supervisor of Elections until the date at which the registration books shall close in accordance with the provisions of the general election laws. The Town Clerk, with necessary assistance from Miami-Dade County Supervisor of Elections, is hereby authorized to take all appropriate actions necessary to carry into

effect and accomplish the electoral provisions of this Resolution. This Special Election shall be canvassed by the Town Clerk in accordance with any applicable provisions of the general election laws of the State or County. The Town Clerk is hereby authorized to take any action which is necessary or expedient to implement this section or to comply with any applicable law.

- b. That notice of said election shall be published in accordance with Section 100.342, Florida Statute, in a newspaper of general circulation within the Town at least 30 days prior to said election, the first publication to be in the fifth week prior to the election (to-wit: during the week commencing Sunday, July 22, 2018), and the second publication to be in the third week prior to the election (to-wit: during the week commencing Sunday, August 5, 2018), and shall be in substantially the following form:

“NOTICE OF ELECTION”

PUBLIC NOTICE IS HEREBY GIVEN THAT PURSUANT TO RESOLUTION NO. _____ DULY ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, (THE “TOWN”), A SPECIAL ELECTION HAS CALLED AND ORDERED TO BE HELD WITHIN THE TOWN ON TUESDAY AUGUST, 28, 2018, BETWEEN THE HOURS OF 7:00 A.M. AND 7:00 P.M., AT WHICH TIME THE FOLLOWING CHARTER AMENDMENT PROPOSALS SHALL BE SUBMITTED TO THE QUALIFIED ELECTORS OF THE TOWN.

INCLUDING AN EDUCATIONAL REQUIREMENT FOR FIRST YEAR COUNCILMEMBERS

The Town Charter currently does not include an educational requirement for Councilmembers. It is proposed that the Charter be amended to include an educational requirement for Councilmembers to be completed during their first year of office.

Shall the above described amendment be adopted?

Yes []

No []

- c. Copies of this Resolution proposing the Charter Amendments are on file at the office of the Town Clerk located at Town of Miami Lakes 6601 Main Street, Miami Lakes, Florida 33014, and are available for public inspection during regular business hours.

Section 6. Effectiveness of Charter Amendment.

A. That each of the Charter Amendments which are provided for in Sections 2 and 4 above shall become effective only if the majority of the qualified electors voting on the specific Charter Amendment vote for its adoption and each shall be considered adopted and effective upon certification of election results.

B. That the Town Attorney is authorized to revise the Charter to the extent necessary to assure that the amendment adopted conforms to and is properly included in the publication of the revised Town Charter. Further, the Town Attorney is authorized to reflect and implement such revisions of the Charter, including the revision of transitional provisions, to the extent necessary to assure that the amendment adopted conforms to all remaining Charter provisions.

C. That following the adoption of the Charter Amendment, the Town Clerk shall file the adopted Charter Amendment with the Clerk of the Circuit Court of Miami-Dade County, Florida.

Section 7. Inclusion in the Charter. Subject to the requirements of Section 6 above it is the intention of the Town Council and it is hereby provided that the Charter Amendment shall

become and be made a part of the Charter of the Town of Miami Lakes that the Sections of this Resolution may be renumbered or re-lettered to accomplish such intention.

Section 8. **Severability.** That the provisions of this Resolution are declared to be severable, and if any section, sentence, clause or phrase of this Resolution shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Resolution but they shall remain in effect, it being the legislative intent that this Resolution shall stand, notwithstanding the invalidity of any part.

Section 9. **Effective Date.** This Resolution shall take effect immediately upon adoption.

THIS SPACE INTENTIONALLY LEFT BLANK

Passed and adopted this _____ day of _____, 2018.

The foregoing resolution was offered by _____ who moved its adoption. The motion was seconded by _____ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid	_____
Vice Mayor Frank Mingo	_____
Councilmember Luis Collazo	_____
Councilmember Timothy Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Nelson Rodriguez	_____
Councilmember Marilyn Ruano	_____

Manny Cid
MAYOR

Attest:

Gina Inguanzo
TOWN CLERK

Approved as to form and legal sufficiency:

Raul Gastesi, Jr.
Gastesi & Associates, P.A.
TOWN ATTORNEY



Town of Miami Lakes Memorandum

To: Honorable Mayor and Councilmembers
From: Honorable Councilmember Tim Daubert
Subject: Town Election Date- Charter Change
Date: 2/6/2018

Recommendation:

As per Section 5.1 of the Town of Miami Lakes Charter, the Town elections are scheduled to take place the first Tuesday after the first Monday during the month of November, provided that the Town elections always be scheduled to coincide with a Countywide election.

I respectfully request from the Town Council to consider adding a question, on the August 28th, 2018 ballot, to change the Town elections to the month of October.

Fiscal Impact: Incremental cost is approximating \$40,000 per elections.



Town of Miami Lakes Memorandum

To: Honorable Mayor and Councilmembers
From: Honorable Councilmember Marilyn Ruano
Subject: Ordinance on color pallet restriction
Date: 2/6/2018

Recommendation:

I respectfully ask the Town Council to agree on having staff look into the possibility of passing an ordinance to restrict color pallet on the commercial/industrial properties in the Town.

Fiscal Impact: Medium



Town of Miami Lakes Memorandum

To: Honorable Vice Mayor & Councilmembers
From: Honorable Mayor Manny Cid
Subject: Bob Graham Education Center Civic Engagement Academy
Date: 2/6/2018

Recommendation:

Attached to this item you will find the BGEC CEA proposal to the Town of Miami Lakes. The students will be at the February Council meeting presenting the project to the Town Council.

Their initiative consist of placing donation meters "parking meters" artistically designed by Romero Brito at our 4 parks (1 at each park). These meters will be installed and maintained by the Miami-Dade Homeless Trust in an effort to educate the public about ending homelessness. I support the initiative and will be moving the item forward on their behalf to fully implement in the Town.

Fiscal Impact: None

ATTACHMENTS:

Description

BGEC CEA Proposal

Bob Graham Education Center
Civic Engagement Academy
24 January 2018

Meters in Miami Lakes

Feed the Meter is a program run by the Homeless Trust of Miami-Dade County. The program gathers parking meters from the Miami Parking Authority, rekeys them, and sends them to Romero Britto to be wrapped in a specially designed wrap of vibrant colors. The main goal of the Feed the Meter campaign is to inform citizens that there are ways to help the homeless and discourage panhandling. The Town of Miami Lakes has the opportunity to join communities like Miami, Miami Beach, Coral Gables, Bal Harbor and Aventura in raising funds and awareness for homeless issues. At this point, the meter program raises approximately \$10,000 per year - which is not enough, and as future leaders of America we feel that we have an opportunity to bring these issues to light, create awareness and help with solutions.

This program helps fund several organizations the Homeless Trust partners with. These organizations use this funding to pay for operational costs like utilities and staffing, and even for things like beds and mental health professionals trained to assist the homeless. There is a long list of organizations that benefit from the Homeless Trust, including Camillus House, Chapman Partnership, Salvation Army and Volunteers of America.

The Meter program is all around Miami-Dade County, but it not here in Miami Lakes. The benefit is obvious, but you may question what are the costs associated with this program? From a local perspective, there is absolutely no cost to the Town. The Homeless Trust has agreed to donate 4 meters at no cost, have them wrapped by a Britto design and would put us in contact with the Miami Parking Authority to install them.

There are two types of meters available through the program, mobile and permanent meters. Mobile meters would be moved around to different events like the 4th of July picnic, Movies at the Park, and the Farmers Market. The permanent meters would be placed in permanent locations throughout the Town. The Homeless Trust would collect the money and maintain the meters.

We visited a lot of popular places in Miami Lakes, and decided on four locations to place the meters. Royal Oaks Park, which is often filled with passionate soccer and football fans, and is a great location because of the high traffic every afternoon in the park. Miami Lakes Optimist Park, centrally located in the town of Miami Lakes, and home to many baseball games could be a great location as well. Picnic Park West, which is home to a popular children' playground and the Farmers market, is another great location because of the heavy foot traffic there every afternoon. At the spot, teenagers gather with their friends and interact with counselors.

Once the program begins, we would create a community awareness campaign to educate the community about the meters, and how to help the homeless. We want to create a social media campaign to spread the word and believe showcasing our program on portals like Face Book live and Instagram would really help spread the word.

Through the course of this school year our group has immersed itself in studying homeless issues and possible solutions. We know we can make a difference, and hope that our Town will stand with us in this effort.

The Homeless Trust provides funding support to more than 90 projects and programs throughout Miami-Dade. Here are some of those organizations who follow the Standards of Care.

Better Way of Miami
Camillus House
Carrfour Supportive Housing
Catholic Charities
Chapman Partnership
Citrus Health Network
City of Miami
City of Miami Beach
Douglas Gardens Community Mental Health Center
Fellowship House
Legal Services of Greater Miami
Lotus House
Miami-Dade Community Action and Human Services Department
Miami Rescue Mission
New Hope CORPS
New Horizons Community Mental Health Center
Salvation Army
The Advocate Program, Inc.
Volunteers of America

Find more info at: www.homelesstrust.org/providers.asp

Desired Locations in Miami Lakes:

Picnic Park West
Optimist Park
Miami Lakes Youth Center (The Spot)
Royal Oaks Park



MIAMI-DADE
COUNTY
HOMELESS TRUST

Homeless or about to be

Picnic Park West



The Optimist Park Clubhouse

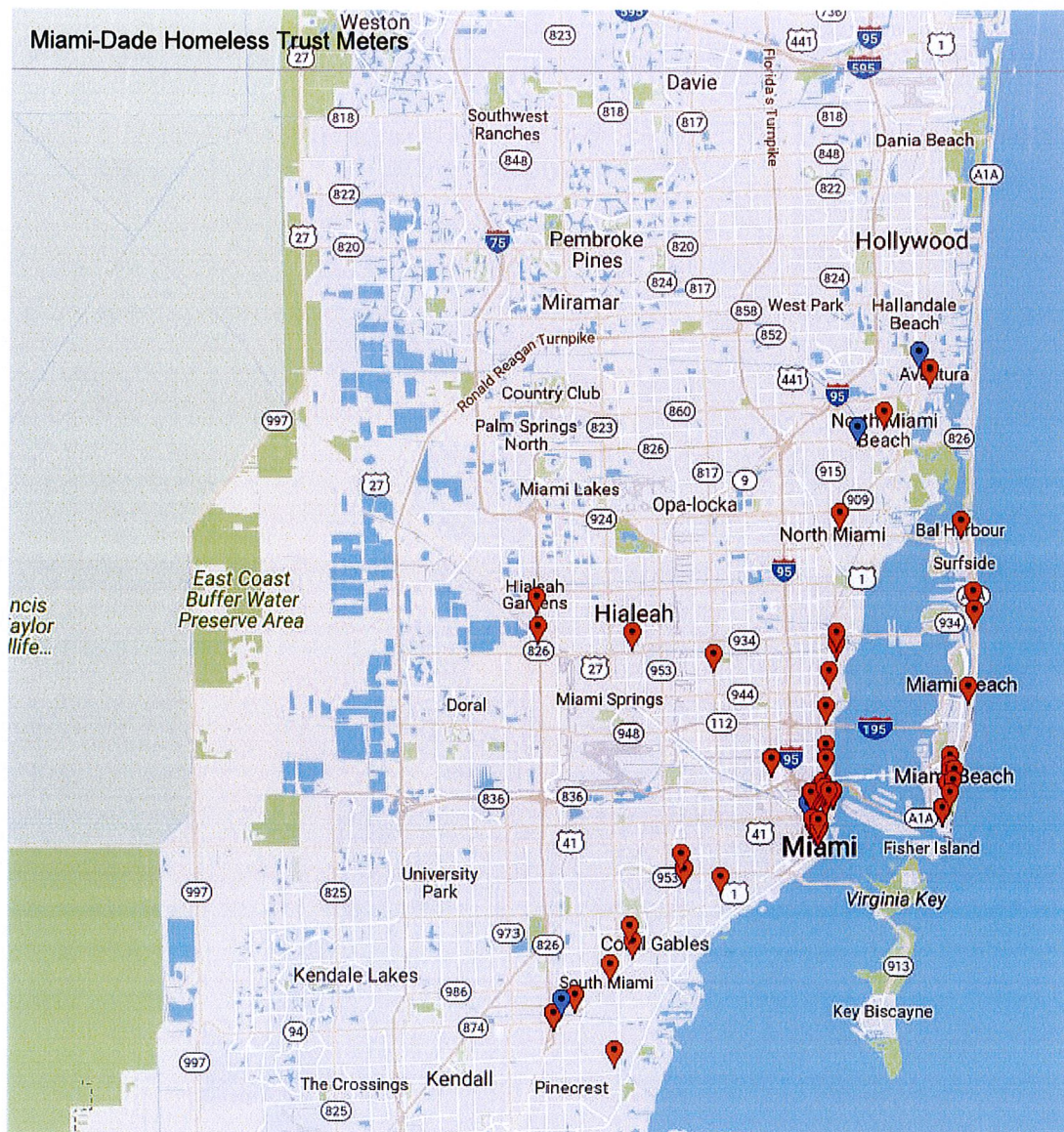


Miami Lakes Youth Center (The Spot)



Royal Oaks Park





Google

Type

Meter

Super Meter

Meter

18851 N.E. 29th Avenue Aventura, FL
Ronald L. Book P. A. - 18851 N.E. 29th Avenue, Suite 1010 -
Aventura

Super Meter

19535 Biscayne Boulevard Aventura, FL
Macy's Aventura - 19535 Biscayne Boulevard, Aventura, FL
33180

Meter

655 96 Street Bal Harbour, FL
Village of Bal Harbour 655-96 Street - Park Adjacent to City Hall

Meter

1350 Miller Drive Coral Gables, FL
University of Miami, Starbucks

Meter

80 Aragon Avenue Coral Gables, FL
Ben and Jerry's Ice Cream

Meter

2005 W Okeechobee Road Hialeah, FL
Okeechobee Metrorail Station

Meter

125 E 21 Street Hialeah, FL
Hialeah Metrorail Station

Meter

12690 SW 280 Street Homestead, FL
Homestead Harvest Market & Café

Meter

7701 NW 79 Avenue Medley, FL
Palmetto Metrorail Station

Meter

150 Biscayne Boulevard Miami, FL
Bayfront Park Metromover Station - 150 Biscayne Boulevard

Meter

223 NE 3 Street Miami, FL
College Bayside Metromover Station - 223 NE 3 Street

Meter

1455 Biscayne Boulevard Miami, FL
Omni/Adrienne Archst Center Metromover Station - 1455
Biscayne Boulevard

Meter

1455 Biscayne Boulevard Miami, FL
Omni/Adrienne Archst Center Metro Bus Terminal - 1455
Biscayne Boulevard

Meter

1011 SE 1 Avenue Miami, FL
10th Street Promenade Metromover Station - 1011 SE 1 Avenue

Meter

50 SE 14 Street Miami, FL
Financial District Metromover Station - 50 SE 14 Street

Meter

1001 SW 1 Avenue Miami, FL
Brickell North Metrorail Station - 1001 SW 1 Avenue

Meter

1200 SW 1 Avenue Miami, FL
Brickell South Metromover Station - 1200 SW 1 Avenue

Meter

111 NW First Street Miami, FL
Stephen P. Clark Government Center Transit Kiosk - 111 NW First
Street

Meter

West 1 Avenue & Flagler Street Miami, FL
Downtown Bus Terminal Cacique's Corner - West 1 Avenue &
Flagler Street

Meter

111 NW First Street Miami, FL
Stephen P. Clark Government Center East - 111 NW First Street

Meter

600 NE Second Avenue Miami, FL
Freedom Tower Metromover Station - 600 NE Second Avenue

Meter

401 Biscayne Boulevard Miami, FL
Bayside Market Place - 401 Biscayne Boulevard

Meter

401 Biscayne Boulevard Miami, FL
Bayside MarketPlace - 401 Biscayne Boulevard

Meter

401 Biscayne Boulevard Miami, FL
Bayside Market Place - 401 Biscayne Boulevard

Meter

401 Biscayne Boulevard Miami, FL
Bayside Market Place - 401 Biscayne Boulevard

Meter

22 East Flagler Street Miami, FL
Macy's - 22 East Flagler Street (Entrance)

Meter

22 North Miami Avenue Miami, FL
Macy's - 22 North Miami Avenue (Rear Entrance)

Super Meter

444 SW 2nd Avenue Miami, FL
Office of NET Administration - 444 SW 2nd Avenue - 10th Floor,
Suite 1046, Miami, FL 33130

Super Meter

111 NW 1st Street Miami, FL
Stephen P Clark Center - 111 NW 1st Street, Miami, FL 33128

Super Meter

7303 S.W. 88 Street Miami, FL
Macy's Dadeland - 7303 S.W. 88 Street, Miami, FL 33156

Meter

9150 Dadeland Boulevard Miami, FL
Dadeland South Metrorail Station (North Entrance)

Meter

9150 Dadeland Boulevard Miami, FL
Dadeland South Metrorail Station (Bus pickup area)

Meter

9150 Dadeland Boulevard Miami, FL
Dadeland South Metrorail Station (Bus dropoff area)

Meter

8300 South Dixie Highway Miami, FL
Dadeland North Metrorail Station (Between Garage elevator and
Entrance)

Meter

8300 South Dixie Highway Miami, FL
Dadeland North Metrorail Station (North Entrance)

Meter

5949 South Dixie Highway Miami, FL
South Miami Metrorail Station

Meter

5400 Ponce de Leon Miami, FL
University Metrorail Station

Meter

3100 Douglas Road Miami, FL
Douglas Road Metrorail Station (bus side)

Meter

3100 Douglas Road Miami, FL
Douglas Road Metrorail Station (WASD side)

Meter

2780 SW 27 Avenue Miami, FL
Coconut Grove Metrorail Station

Meter

1501 NW 12 Avenue Miami, FL
Civic Center Metrorail Station (east side - by escalators and
elevators)

Meter

1501 NW 12 Avenue Miami, FL
Civic Center Metrorail Station (east side - by escalators and
elevators)

Meter

1501 NW 12 Avenue Miami, FL
Civic Center Metrorail Station (west side - by escalators and
elevators)

Meter

1501 NW 12 Avenue Miami, FL
Civic Center Metrorail Station (west side - by escalators and
elevators)

Meter

6205 NW 27 Avenue Miami, FL
Dr. Martin Luther King, Jr. Plaza Metrorail Station

Meter

775 NE 125 Street Miami, FL
Luna Star Café

Meter

7201 Biscayne Blvd Miami, FL
Jimmie's Diner (E/S)

Meter

7030 Biscayne Blvd Miami, FL
Dogma Grill

Meter

Biscayne Blvd & NE 66th St Miami, FL

Meter

NE 54th St & NE 4th Ct Miami, FL

Soyka, Sushi Siam, Andiamo

Meter

Biscayne Blvd & NE 36th St Miami, FL
Outside of Denny's

Meter

Biscayne Blvd & NE 19th St Miami, FL
Near Balans

Meter

165 SE 3rd Ave Miami, FL
Subway

Meter

E Flagler St & SE 3rd Ave Miami, FL
Walgreens

Meter

E Flagler St & E 2nd Ave Miami, FL
La Epoca Department Store

Meter

SE 1st St & SE 3rd Ave Miami, FL
Starbucks

Meter

248 NE 2nd Ave Miami, FL
Miami Dade College

Meter

NE 1st Ave & NE 4th St Miami, FL
Miami Dade College

Meter

W Flagler St & NW Miami Ct Miami, FL
Starbucks

Meter

Brickell Ave & SE 13th St Miami, FL
Gordon Biersch

Meter

Ocean Drive & 6 Street Miami Beach, FL
Ocean Drive - 6 Street

Meter

Ocean Drive & 10 Street Miami Beach, FL
Ocean Drive - 10 Street

Meter

Ocean Drive & 14 Street Miami Beach, FL

Ocean Drive - 14 Street

Meter

Washington Avenue & 9 Street Miami Beach, FL
Washington Avenue - 9 Street

Meter

Washington Avenue & 13 Street Miami Beach, FL
Washington Avenue - 13 Street

Meter

Washington Avenue & Espanola Way Miami Beach, FL
Washington Avenue - Espanola Way

Meter

Lincoln Road & Washington Avenue Miami Beach, FL
Lincoln Road - Washington Avenue

Meter

4600 Collins Avenue Miami Beach, FL
Collins Avenue - 46 Street

Meter

Collins Avenue & 67 Street Miami Beach, FL
Collins Avenue - 67 Street

Meter

Collins Avenue & 73 Street Miami Beach, FL
Collins Avenue - 73 Street

Meter

11 Washington Ave Miami Beach, FL
Joe's Stone Crab - 11 Washington Ave

Meter

11 Washington Ave Miami Beach, FL
Joe's Stone Crab - 11 Washington Ave

Meter

11 Washington Ave Miami Beach, FL
Joe's Stone Crab - 11 Washington Ave

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11 Washington Ave Miami Beach, FL
Joe's Stone Crab - 11 Washington Ave

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Joe's Stone Crab - 11 Washington Ave

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11 Washington Ave Miami Beach, FL
Joe's Stone Crab - 11 Washington Ave

Meter

11 Washington Ave Miami Beach, FL
Joe's Stone Crab - 11 Washington Ave

Super Meter

1205 NE 163rd Street N. Miami Beach, FL
The Mall at 163rd Street - 1205 NE 163rd Street, Suite 205, North
Miami Beach, FL 33162

Meter

17011 NE 19 Avenue North Miami Beach, FL
North Miami Beach City Hall - 17011 NE 19 Avenue, NMB, FL
33162

Meter

5855 SW 111 Street Pinecrest, FL
Village of Pinecrest - 5855 SW 111 Street, Pinecrest

[Download Miami-Dade Homeless Trust Meters Google Earth \(KMZ\)](#)



Town of Miami Lakes Memorandum

To: Honorable Vice Mayor & Councilmembers
From: Honorable Mayor Manny Cid
Subject: Town Manager Monthly Police Activity Report
Date: 2/6/2018

Recommendation:

The largest expenditure in our budget is public safety. In an effort to educate and bring more awareness to the great job our first respondents do on a monthly basis, I would like to amend the Town Council Meeting Rules & Procedures to include a report by our Town Manager on Public Safety. Adding the report to our Order of Business will communicate a clear message that public safety will always be our top priority.

Fiscal Impact: None



Town of Miami Lakes Memorandum

To: Honorable Mayor and Councilmembers
From: Raul Gastesi, Town Attorney
Subject: Attorney's Reports
Date: 2/6/2018

Recommendation:

There are currently several matters being litigated by the Town of Miami Lakes. Some of these matters are being referred to our insurance carrier to mitigate the Town's legal expense. This report will highlight the active files, and a report of expenses incurred to date.

Background:

MICHAEL PIZZI JR. v. TOWN OF MIAMI LAKES

(Criminal Matter)

New bills have been received and approved in the amount of \$2,705 which includes work performed through the month of January 2018. Partial reimbursement will be requested from the insurance carrier. Since litigation continues in this matter, it is recommended that \$50,000 be transferred from budgeted funds to address future invoices.

PUBLIC RECORDS CASE - PPR71

Although this matter has concluded, the Town issued payment in the amount of \$16,900 as part of its deductible to the Town's insurance carrier.

GENERAL LITIGATION

The following are current miscellaneous matters. There are several routine foreclosures currently being handled, however there are no significant expenditure to report. There are three general matters that are current, and remain from the previous month which include: that some of which include:

JUAN VALIENTE v. TOWN OF MIAMI LAKES:

Currently in litigation. Matter is being handled by the Town's insurance carrier. Additional costs in the coming months are likely.

SANCHEZ RADIOLOGY v. TOWN OF MIAMI LAKES:

Matter remains pending, there has been no activity. The issue in the lawsuit is expected to be moot, as they now have a certificate of occupancy.

LEMKE v. TOWN OF MIAMI LAKES:

Matter is undergoing settlement negotiations. There may be some expenditure as matter is wound up.