

**RESOLUTION NO. 2006-03**

**A RESOLUTION OF THE SOLID WASTE AUTHORITY OF PALM BEACH COUNTY, FLORIDA, PROVIDING FOR MANDATORY SOLID WASTE COLLECTION IN THE UNINCORPORATED AREAS OF PALM BEACH COUNTY; PROVIDING FOR FINANCING OF THE MANDATORY SOLID WASTE COLLECTION PROGRAM; PROVIDING FOR IMPLEMENTATION OF THE "UNIFORM METHOD" FOR COLLECTION OF SOLID WASTE COLLECTION ASSESSMENTS; RATIFYING AND RECONFIRMING SOLID WASTE AUTHORITY RESOLUTION 91-26; PROVIDING FOR FINDING, DECLARATION OF BENEFIT, PURPOSE, SCOPE; PROVIDING DEFINITIONS; PROVIDING RESIDENTIAL COLLECTION SERVICE; PROVIDING FOR EMERGENCY COLLECTION OF DISASTER DEBRIS; PROVIDING DETERMINATION OF ANNUAL COLLECTION ASSESSMENTS; PROVIDING CALCULATION OF ANNUAL COLLECTION ASSESSMENTS; PROVIDING ANNUAL COLLECTION ASSESSMENTS TO GOVERNMENTAL AGENCIES; PROVIDING FOR THE APPLICABILITY OF ANNUAL COLLECTION ASSESSMENTS TO TAX EXEMPT ASSESSED UNITS OF REAL PROPERTY; PROVIDING CORRECTION OF ERRORS, EXEMPTIONS, HEARINGS AND APPEAL PROCEDURES; PROVIDING FOR NON-ASSESSED UNITS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Board of County Commissioners of Palm Beach County, Florida entered into an Interlocal Agreement with the Solid Waste Authority of Palm Beach County (Authority) in 1988 transferring and consolidating solid waste collection governmental functions under the control of the Authority; and

**WHEREAS**, the Authority exercises its authority pursuant to this Interlocal Agreement and Chapter 2001-331, Laws of Florida (hereinafter the Act); and

**WHEREAS**, it is necessary and beneficial for the health, welfare and safety of the residents of the County to provide adequate solid waste collection to all improved properties within the unincorporated area through the regulated services of a franchisee for each particular service area in which the improved properties are located; and

**WHEREAS**, the Authority finds that there has been a need for a mandatory waste collection program for all improved properties in unincorporated Palm Beach County; and

**WHEREAS**, Emergencies may be declared, and natural or man-made disasters may occur in the County which generate disaster debris which must be managed to eliminate or lessen an immediate threat to life, health and safety, to reduce a threat of additional damage to improved property, or to promote the economic recovery of the community at large; and

**WHEREAS**, The Authority finds that to provide the Solid Waste Collection System as defined herein, collectors designated by the Authority for emergency Disaster Debris clean-up as authorized by the County are hereby authorized to enter upon private roads and into gated communities for the purpose of collecting solid waste and disaster debris therefrom as may be required by this Resolution; however, solid waste collectors shall not enter private property, dwelling units or other residential buildings; and

**WHEREAS**, it is necessary to provide for the financing of a mandatory solid waste collection program; and

**WHEREAS**, it is beneficial to the owners of improved property in the collection areas to provide for the levy of a non-ad valorem assessment against such units within the collection areas to finance the collection of solid waste reflecting the benefits of the provision of such service; and

**WHEREAS**, the Act provides for the imposition of annual collection special assessments; and

**WHEREAS**, Section 8 of the Act grants the Authority the power to have the annual collection special assessments collected in the same manner as ad valorem taxes; and

**WHEREAS**, Florida Statute s. 197.3632 provides for a Uniform Method for the levy, collection, and enforcement of non-ad valorem assessments (hereafter Uniform Method); and

**WHEREAS**, the annual collection special assessment is a non-ad valorem assessment; and

**WHEREAS**, the Board of the Solid Waste Authority of Palm Beach County has determined that it is in the best interest of the residents of the County to use the Uniform Method.

**NOW, THEREFORE, BE IT RESOLVED BY THE SOLID WASTE AUTHORITY OF PALM BEACH COUNTY**, that:

**SECTION 1: RATIFYING AND RECONFIRMING.** The Authority ratifies and reconfirms Authority Resolution No. 91-26 and incorporates said Resolution herein reference.

**SECTION 2: FINDING, DECLARATION OF BENEFIT, PURPOSE, SCOPE:** It is the intent of this Resolution to promote the health, welfare and safety of the residents of the County, by providing for solid waste collection in the collection areas through a mandatory waste collection program and through the levy of a non-ad valorem assessment , and thereby ensure a sanitary, safe and adequate program of solid waste removal, enhance the value of the real

property in the County, protect the environment and natural resources of the County, reduce litter and illegal dumping, and provide for emergency Disaster Debris clean-up..

This Board finds that all improved properties in Palm Beach County receive a direct and substantial benefit by the providing of solid waste collection services provided by the Authority. The fact that all improved properties located within the County that are designed for human occupancy, are capable of use or are used for human occupancy or human activity or commercial use, shall be prima facie evidence that solid waste is being produced by or accumulated upon such property.

The Board finds that to provide the Solid Waste Collection System as defined herein, collectors designated by the Authority are hereby authorized to enter upon private roads and into gated communities for the purpose of collecting solid waste and disaster debris therefrom as required by this Resolution; however, solid waste collectors shall not otherwise enter private property, dwelling units or other residential buildings

It is hereby declared and determined by the Board of the Authority, that solid waste and disaster debris collection services provided pursuant to this Resolution, including, but not limited to the purposes stated herein, shall and do constitute a direct and substantial benefit to assessed units within the collection areas equal to or in excess of the cost of providing such solid waste collection services.

The Authority hereby declares that it is mandatory that all persons and governmental agencies owning, occupying or utilizing property within the unincorporated areas of the County use exclusively the solid waste collection system operated and maintained by the Authority or designated by the Authority for the collection of all solid waste generated within the unincorporated areas of the County.

**SECTION 3: DEFINITIONS.** For the purpose of this Resolution, the following terms shall have the following meaning:

(a) Annual collection assessment means the annual collection assessment imposed upon an assessed unit for the collection of solid waste for the applicable fiscal year based upon the classification of the use of such assessed unit as set forth in the rate resolution.

(b) Annual collection assessment schedule means the list prepared by the Authority each fiscal year containing the property identification number used by the property appraiser for each assessed unit, the name and address of the owner of each such assessed unit as indicated on the records maintained by the property appraiser, and the designation of such unit as a curbside unit or a containerized unit.

(c) Assessed unit means a curbside unit or a containerized unit.

(d) Board means the Board of the Solid Waste Authority of Palm Beach County.

(e) Bulk Trash means vegetative waste, white goods and furniture, and other trash which cannot be cut for placement in a container, bag, or bundle. Bulk trash shall be of a type as to be readily handled by the mechanical equipment of the contractor and bulk yard material shall not exceed six (6) feet in length. Bulk trash does not include any form of matter or debris resulting from tree removal, land clearing, land development, building demolition or home improvement. Home improvements as defined herein would include but not be limited to carpeting, cabinets,

dry wall, lumber, paneling, and other such construction related materials. Carpeting will be picked up by the franchisee if cut to lengths of six (6) feet or less and bundled. Bulk trash does not include automobiles and automotive components, boats and internal combustion engines. In the case of a dispute between a franchisee and a customer as to what constitutes bulk trash, the situation will be reviewed and decided by the contract administrator whose decision will be final.

(f) Collection means the process whereby solid waste is removed and transported to a solid waste facility.

(g) Collection area has the meaning as determined in Section 6(d) hereof.

(h) Collection unit means any parcel of improved real property located within the unincorporated areas of the County that generates or is capable of generating solid waste and that contains buildings, structures or other improvements designed or constructed for and capable of use or used for human habitation or human activity or commercial enterprises.

(i) Comprehensive Emergency Management Plan means the Comprehensive Emergency Management Plan of Palm Beach County, Florida or any successor document performing a like function.

(j) Containerized unit means a collection unit used for or capable of being used for residential purpose and for which solid waste collection service is provided by the picking up of such unit's solid waste in a large bulk container shared and used by more than one such residential unit.

(k) Contract administrator means the person designated by the Director to administer the collection franchise contracts and resolve claims or complaints of collection unit owners.

(l) County means Palm Beach County, Florida.

(m) Curbside means a collection unit used for or capable of being used for residential purpose and for which solid waste collection service is provided by picking up each individual unit's solid waste at a roadside point at or near the unit and where such waste is generally set out in cans, bags, boxes, piles or similar methods used exclusively by the occupant of such collection unit.

(n) Director means the Executive Director of the Authority.

(o) Disaster Debris means waste materials generated by natural or man-made disasters, consisting of trees and vegetative material, construction materials from damaged or destroyed structures, damaged or destroyed personal property, and sediment.

(p) Disposal facility means a facility operated by the Authority for the receipt of solid waste for the purpose of transport, processing, incineration, or landfilling.

(q) Franchisee means the person, firm, corporation or entity designated by the Authority to collect solid waste in a collection area.

(r) Franchisor means the Authority.

(s) Fiscal year means the fiscal year beginning on the 1st day of October of each year and ending on the 30th day of September of the next year.

(t) Garbage means all kitchen and table food waste, animal or vegetative waste that is attendant with the results from the storage, preparation or handling of food materials. Vegetative waste shall not be commingled with garbage.

(u) Gated Community means a residential community with vehicular access to the community controlled by use of a gate.

(v) Governmental agencies means all state, federal, or local agencies or units of government located within the County, including, but not limited to, the School Board of Palm Beach County, all County agencies and departments, all municipalities within the County, all special districts and municipal service taxing units with all or part of their boundaries within the County and any municipality or special district other unit of government whose boundaries are not within the County but which is the owner of any collection unit within the County.

(w) Non-ad valorem assessment roll has the meaning set out in Florida Statutes 197.3632.

(x) Non-assessed unit means any collection unit or portion thereof that is not an assessed unit, but does not include roll-off services for units under construction during the period prior to the issuance of a certificate of occupancy for such unit.

(y) Owner means the person or persons owning an interest in a collection unit or assessed unit.

(z) Person means any natural person, or partnership, firm, corporation or other legal entity.

(aa) Private Road means a private vehicular access way shared by two or more residential units under separate ownership, which is not dedicated to the public and is not publicly maintained.

(bb) Property appraiser means the Property Appraiser of Palm Beach County, Florida.

(cc) Rate resolution means the resolution or resolutions of the Authority described in Section 4(c) of this Resolution.

(dd) Reimbursing Agencies mean the Federal Emergency Management Agency, the Federal Highway Administration, the State of Florida or any other agency, unit of government or successor agency performing the like function of providing funds for the reimbursement of disaster debris management expenses.

(ee) Residential or residential unit means each individual living unit with kitchen facilities.

(ff) Residential solid waste shall mean a mixture of garbage and trash resulting from the normal housekeeping activities of a residential unit.

(gg) Solid Waste Collection System means the services and means of collecting solid waste from a collection unit in the unincorporated areas of the County through the use of equipment, trucks, containers, personnel, contracted services, and all real or personal property owned, leased, operated or used by the Authority for the purpose of providing solid waste collection services under this Resolution.

(hh) Tax collector means the tax collector of Palm Beach County, Florida.

(ii) Vegetative waste means vegetative matters resulting from yard and landscaping maintenance and shall include materials such as tree and shrub trimmings, grass clippings, palm fronds or tree branches and other matter usually produced as refuse in the care of lawns, landscaping and yards. All grass clippings, leaves, pine needles, and similar small loose items must be bagged or containerized.

(jj) White goods and furniture means inoperative and discarded refrigerators, ranges, washers, water heaters, bicycles, and other similar domestic appliances, and household goods and furniture.

#### **SECTION 4: RESIDENTIAL COLLECTION SERVICE**

(a) Conditions and Frequency of Service for Curbside collection. All garbage and residential solid waste shall be properly containerized in 32 to 50 gallon sized garbage receptacles, or in sealed plastic bags, or tied in bundles not exceeding six (6) feet in length. No filled receptacle or bundle shall exceed fifty (50) pounds in weight. Residential collection service, except for permitted holidays, shall be provided twice per week with not less than forty-eight (48) hours nor more than seventy-two (72) hours between regularly scheduled pick-up days. All vegetative waste shall be separated from garbage and shall be collected separately from garbage and bulk trash. Bulk trash, white goods and furniture shall be picked-up by the franchisee not less than once every seven (7) days on a scheduled route basis. Bulk trash, white goods and furniture must be placed at the usual accessible pick-up location.

(b) Accessibility. All garbage and residential solid waste to be collected shall be placed within six (6) feet of the curb; paved surface of the roadway adjacent to the property on a Private Road or within a Gated Community, closest accessible public right-of-way, or other such location agreed to by the franchisee that will provide a safe and efficient accessibility to the franchisee's collection crew and vehicle. Where the resident of a dwelling unit is physically unable to deliver solid waste to curbside and this is certified by the contract administrator, or the residential structure is located in such a manner as to provide non-accessibility to the franchisee's crew or vehicle, 'an alternative location may be arranged between the customer and the franchisee at no extra cost to the customer. In the event an appropriate location cannot be agreed upon the contract administrator shall mediate the dispute and designate the location for pick-up. The franchisee may provide additional services such as back door collection for an additional fee to be determined by the franchisee and billed by the franchisee directly to the customer.

The Authority may impose, change, modify or delete the requirements setting forth the responsibilities of the owners of assessed units and the franchisees providing collection service for such assessed units regarding the method, scope and extent of collection service, including, but not limited to, frequency of pick-ups, classes of solid waste pick-up, shape, size and quantity per pick-up, types of containers, and placement or location of solid waste for pick-up, by amending this Resolution or by setting them out in a separate resolution.

To provide the collection of garbage, residential solid waste and bulk trash as defined herein, collectors designated by the Authority are hereby authorized to enter upon private roads and into gated communities for the purpose of collecting disaster debris from Curbside collection units, at locations consistent with this Section. Solid waste collectors shall not enter onto private property, into dwelling units or other residential buildings for the purpose of collecting garbage, residential solid waste and bulk trash in a manner inconsistent with this Section.

## **SECTION 5: EMERGENCY COLLECTION OF DISASTER DEBRIS**

(a) Declaration of Emergency. In the event that a State of Emergency is declared consistent with the Comprehensive Emergency Management Plan, the Authority will confer with the Emergency County Government Organization to determine if disaster debris present on Private Roads and within Gated Communities is so widespread that it is in the public interest to remove the debris to protect the public health, safety and welfare, to reduce the threat of additional damage to improved property, or to promote economic recovery of the community at large. If such a determination is made by the County thereupon direction by the County to the Authority and acting on behalf of the County pursuant to the Interlocal Agreement and the Comprehensive Emergency Management Plan the Authority will collect disaster debris from Private Roads and Gated Communities consistent with the County Emergency Management Plan and this Section.

(b) Collection of Disaster Debris. After an event which generates disaster debris, the Authority will collect that eligible storm debris from only the unincorporated areas of Palm Beach County consistent with the County Emergency Management Plan. Within the unincorporated area, the Authority will collect eligible disaster debris from public rights-of-way, including disaster debris placed at the curb of public rights-of-way by private residential property owners. The Authority will collect disaster debris at the curb in front of those residential units that are Curbside collection units as defined in this Resolution. On Private Roads and within Gated Communities, Disaster Debris will be collected from Curbside collection units the same locations as garbage and solid waste is collected consistent with paragraph (a) of this Section and Section 4 of this Resolution.

When the Authority has been directed by the County to provide the collection of Disaster Debris as defined herein, collectors under contract with the Authority are hereby authorized to enter upon Private Roads and into Gated Communities for the purpose of collecting disaster debris from Curbside collection units, at locations consistent with Section 4 of this Resolution. Solid waste collectors shall not otherwise enter onto private property, into dwelling units or other residential buildings for the purpose of collecting Disaster Debris in a manner inconsistent with this Section or Section 4 of this Resolution.

Containerized collection units as defined in this Resolution shall make arrangements for disaster debris removal or have their disaster debris placed on a public right-of-way within 6 feet of the curb, in a manner consistent with the relevant guidance of the Reimbursing Agencies.

The Authority is not a Reimbursing Agency, and will not reimburse any community or resident that hires a private contractor to remove and dispose of disaster debris, or transport disaster debris to a public right-of-way.

The Authority does not provide disaster debris collection services for commercial property. Commercial properties must make their own arrangements for disaster debris removal. For the purposes of this Section, commercial property means property not occupied or utilized as a Residential Unit as defined in this Resolution.

(c). Indemnification and Hold Harmless. The Authority will indemnify, hold harmless and defend all Reimbursing Agencies from any liability, claims, or loss or damage resulting from the collection of eligible disaster debris consistent with this Section.

**SECTION 6: DETERMINATION OF ANNUAL COLLECTION ASSESSMENTS.** On or before the 15th day of September of each year, and before adopting the non-ad valorem assessment roll, the Board of the Authority shall:

(a) Adopt a budget for the operation and maintenance of the solid waste collection system for the ensuing fiscal year including moneys for the payment of the principal of and interest on bonds and other outstanding or anticipated indebtedness, including all reserves necessary therefor, for the payment of necessary reserves for capital expenditures and the renovation, improvements and replacements of existing facilities or equipment of the solid waste collection system, for the enforcement and administration of the billing and collection of the annual collection assessments provided for hereunder, including necessary reserves for anticipated delinquent or uncollectible annual collection assessments and for the payment of the current operation and maintenance of the solid waste collection system.

(b) To determine the scope and definition of, and to establish classification of collection units as "curbside units" or "containerized units" based upon circumstances effecting the collection of solid waste and the operation of the solid waste collection system, including but not limited to, the cost of operating and administering the solid waste collection system, the effective and efficient operation of the solid waste collection system, and the benefit to all improved properties in the unincorporated areas of the County. The designation of a collection unit as either a curbside unit or a containerized unit shall be appropriately set out on the annual collection assessment schedule to be used in preparing the non-ad valorem assessment roll.

(c) To adopt a rate resolution incorporating a schedule of solid waste collection rates to be imposed upon the owners of all assessed units in each collection area within unincorporated areas of the County and to establish the classification of the use of such assessed unit in order to provide revenues which, together with other moneys of the Authority lawfully available therefor, shall be sufficient to fund the budget referred to in the aforementioned subparagraph (a) to provide a solid waste collection system for all such assessed units. The rates established by the Authority in each year under the provisions of the rate resolution shall be sufficient to provide moneys for the purposes described in subparagraph (a) and the Authority shall not establish rates over and above the rates that are necessary to comply with the provisions of subparagraph (a) and the budgetary requirements of any proceedings of the Authority heretofore or hereafter adopted in connection with the issuance of any of its bonds, notes or other evidences of indebtedness.

(d) To set geographical boundaries defining "collection areas" in such size, number, shape or area within the unincorporated areas of the County as it may from time to time deem best suited to carry out the purpose of this Section based on similar circumstances affecting the collection of solid waste within each of such areas, including but not limited to the conditions of access roads, distance between collection units and availability of franchisees. The defined collection areas shall be appropriately set out in a proper resolution adopted by the Board and may be subsequently amended by the Board by action taken consistent with the provisions herein.

The procedures and requirements set out in Florida Statute 197.3632 for utilizing the Uniform Method shall be followed.

**SECTION 7: SCOPE OF ANNUAL COLLECTION ASSESSMENTS:**

(a) The annual collection assessments incorporated in the non-ad valorem assessment roll shall be imposed for the collection of all solid waste generated or capable of being generated, as determined by the Authority, by each such assessed unit during the ensuing fiscal year.

(b) The annual collection assessments shall be imposed against the owners of all assessed units in the unincorporated areas of the County if such real property is an assessed unit on or before the first day of September prior to the fiscal year in which the annual collection assessments are imposed. The owner and description of each assessed unit at the time of preparing such assessments shall be that designated on the real property records maintained by the property appraiser.

**SECTION 8: CALCULATION OF ANNUAL COLLECTION ASSESSMENTS:** Based upon the rate resolution, the Authority shall cause to be prepared a non-ad valorem assessment roll on compatible electronic medium as set out in Florida Statute 197.3632. The rates to be assessed against all assessed units shall be set out by collection areas and shall specify separate rates for curbside units and for containerized units.

**SECTION 9: ANNUAL COLLECTION ASSESSMENTS TO GOVERNMENTAL AGENCIES:**

(a) All governmental agencies owning any assessed unit within the unincorporated areas of the County shall pay the annual collection assessments imposed under the applicable classification specified in the rate resolution.

(b) The discounts for early payment shall not be applicable to the annual collection assessments imposed against governmental agencies owning an assessed unit of real property. Such governmental agencies shall pay in the manner provided herein the full annual collection assessments imposed.

(c) The annual collection assessments imposed against governmental agencies shall become delinquent if not fully paid within 60-days from the date the notice of such annual collection assessments are mailed. All delinquent annual collection assessments shall bear a penalty at the rate of one percent per month on the delinquent amount and shall accrue on the first day of the first month following the expiration of such 60-day period and on the first day of each month thereafter until said annual collection assessments are paid in full.

(d) The Authority shall have the authority to enforce the collections of any delinquent annual collection assessments by the institution of an appropriate action against the governmental agency in a court of competent jurisdiction for a judgment for the amount due under such annual collection assessments, including all penalties, plus costs and a reasonable attorney's fee.

(e) The provisions of Section 7 of this Resolution shall not be applicable to the annual collection assessments imposed against an assessed unit owned by any governmental agency.

**SECTION 10: APPLICABILITY OF ANNUAL COLLECTION ASSESSMENTS TO TAX EXEMPT ASSESSED UNIT OF REAL PROPERTY.** The exemption of property from taxation under Chapter 196, Florida Statutes, or any other law or constitutional provision shall not relieve the owner of any assessed unit in any incorporated or unincorporated areas of the County from

the provisions hereof or from the imposition by the Authority of the annual collection assessments applicable to such assessed unit as specified in the rate resolution.

**SECTION 11: ERROR CORRECTIONS; EXEMPTION FROM MANDATORY COLLECTION REQUIREMENT.** The Board shall have the authority, at any time, upon its own initiative or in response to a petition from any affected owner of a collection unit to correct any error of omission or commission in the adoption of any annual collection assessment roll or in the implementation of this Resolution, including but not limited to, an error in including any collection unit on such roll when such real property is not an assessed unit within the scope of this Resolution and any error in the calculation of the annual collection assessment imposed against any assessed unit.

Assessed units may be exempted from the annual collection assessment roll for a fiscal year provided that the owner of the assessed unit obtains an exemption under the procedures contained herein. This exemption shall only apply to the annual collection assessment.

(a) Annual Collection Assessment Exemption or Error Correction Procedures.

The Owner of the assessed unit requesting an exemption from the annual collection assessment under this section shall file a written petition with the Director, or his designee, for an exemption.

Any owner of an assessed unit may petition either orally or in writing to correct any asserted error of omission or commission in the adoption of the annual collection assessment roll, or may make an application for exemption by filing a petition consistent with the provisions herein with the Director by filing a petition between October 1 and January 31 of the fiscal year for which the annual collection assessment is levied. Failure to file such petition by January 31 of the fiscal year for which the annual collection assessment is levied shall be a complete waiver of any right of an owner to seek a correction or an exemption for such year.

The petition shall contain, at a minimum, the following information:

(1) the name and address of all owners of the assessed unit; and

(2) the address and parcel number of the property for which the exemption or error correction is sought; and

(3) A. in the case of a petition for error correction, documentation or information supporting the owners asserted error; or

B. in the case of a petition for exemption, documentation or other proof establishing (i), (ii) and (iii) below:

(i)(I) That special conditions and circumstances exist which are peculiar to owner's land or structures on owner's land that would impose an extreme and unreasonable burden upon owner to comply with the residential collection service requirements set forth in this Resolution and that such special conditions and circumstances generally are not applicable to other owners in the collection area; or

(2) Owner's property is a residential unit within a combination of structures on the same parcel of real property containing non-residential units and owner's residential unit shares containerized collection service with the non-residential units.

(ii) That granting the exemption will be in harmony with the general intent and purpose of the mandatory garbage collection provisions of this Resolution, will not be injurious to the neighborhood, or otherwise detrimental to the public welfare, and will not confer on the petitioner any special privilege that is denied to other property owners in the immediate area.

(iii) The proposed method and frequency of removal of solid waste for disposal at the Solid Waste Disposal Facility, including available equipment and facilities. Such collection and removal shall only be provided by the owner through the use of his/her own equipment, or by contract with the franchisee for such area.

In making a determination regarding petitions containing the information requested in (1), (2) and (3) A., the standards set out on the Schedule of Standards for Assessment attached hereto as Exhibit "A" shall be followed.

The Director, or his designee, shall review the petition containing the information requested in (1), (2) and (3) B., and shall exempt the property from payment of the annual collection assessment upon finding that the owner has met all of the requirements and has demonstrated a proper, sanitary and effective method of removing and disposing of the solid waste generated on his property. In no event shall an exemption from the annual collection assessment be granted without a provision for twice a week delivery of all accumulated solid waste to an Authority disposal facility.

No person receiving an exemption under this section shall be permitted to dispose of solid waste generated on property covered in the exemption certificate at any facility except an Authority disposal facility.

Upon approval of an exemption from the annual collection assessment, the Director, or his designee, shall notify the franchisee for the district in which the property is located that an exemption from the annual collection assessment has been granted.

Upon approval of an exemption or correction from the annual collection assessment, the Director, or his designee, shall notify the property appraiser's office of the correction or exemption to be entered into the records.

The owner receiving a correction or exemption under this Section who has paid the annual collection assessment as originally imposed shall be entitled to a refund representing the difference between the assessed amount and the corrected amount of the annual collection assessment. Such refund shall be paid to the person or party making payment. The owner receiving a correction or exemption under this Section that has not paid the annual collection assessment shall receive a corrected assessment from the tax collector.

No person receiving an exemption from the annual collection assessment shall collect and remove solid waste generated on property covered in the exemption certificate in any manner other than as approved in the grant of the exemption without receiving written notice from the Director, or his designee, that an alternate method is acceptable.

No solid waste shall be transported by any person unless it is completely covered in such a manner as to prevent the scattering of solid waste from the vehicle.

The Director, or his designee, shall revoke an exemption and direct the collector to reinstitute collection service to a person's property upon confirmation that solid waste is not being removed and collected from the property in a proper, sanitary and effective manner. The property appraiser's office shall also be advised as to such revocation.

(b) Renewal of exemption.

The exemption shall be for one year only and the owner shall be required to file an application to obtain an exemption for each subsequent fiscal year.

An owner of property who has obtained an exemption for the current fiscal year and who desires to renew the exemption for the ensuing fiscal year may apply after May 1 and prior to June 30 to renew the exemption, provided they have substantially complied with the requirements of the previous year's exemption. The application for renewal shall contain a sworn statement that the conditions and circumstances upon which the exemption was originally granted have not changed and that the required method of solid waste collection will continue during the next fiscal year, and shall contain evidence that the owner's solid waste has been disposed of at an authorized Authority disposal facility. The Director, or his designee, shall review the application and shall renew the exemption upon finding that the applicant has fully complied with the requirements of the previous fiscal year's exemption. If the exemption is renewed, the owner's assessed unit shall not be included on the ensuing fiscal year's non-ad valorem assessment roll.

Any person who has failed to substantially comply with the requirements of an exemption shall not be entitled to reapply for an exemption from annual collection assessments for a period of three (3) consecutive fiscal years.

(c) Director's decision.

The decision of the Director, or his designee, on a petition for exemption or error correction, or the revocation of an exemption, shall be made in writing, addressed and mailed (in the case of a denial, by certified or registered mail, return receipt requested) to the petitioner within ninety (90) days of receipt of the petition by the Authority, or immediately upon a revocation of exemption. A decision granting an exemption shall be limited to the annual collection assessment for one year, which year shall be specified in the petition. A decision granting an exemption shall refer to the parcel number of the property, and shall specify the solid waste facility the petitioner shall use for disposal. A decision granting an exemption shall specify the amount of the exemption. The decision shall be made based on the written petition submitted by the petitioner and any supporting documentation, and the burden shall be on the petitioner to demonstrate on this petition the reasons supporting the petition.

(d) Appeal procedures.

If the petitioner is not satisfied with the decision of the Director or his designee, or if an exemption is revoked as provided above, he may appeal such decision to the Board in a written petition specifying the reasons for such appeal. Such appeal shall be designated as an appeal of the decision of the Director and shall refer to the specific decision rendered by the Director, and must be mailed or delivered, with a \$15.00 filing fee, to the Authority office within thirty (30) days of receipt of the decision of the Director. Failure to file the appeal within said time limit shall

constitute a forfeiture of such right of appeal. Upon receipt by the Authority of the filing fee and petition for appeal the matter shall be scheduled for hearing by the Board, or its designee, at the earliest possible date, not to exceed sixty (60) days from the date of receipt by the Authority of the petition for appeal. The date of such scheduled hearing may be rescheduled beyond the sixty (60) day period by mutual agreement of petitioner, and the Authority. The petitioner shall be given reasonable notice of such hearing by certified or registered mail, return receipt requested, sent to the address on the annual collection assessment roll or another address if specifically designated in the petition for appeal. The Board may designate by Resolution an independent person or persons, not an employee of the Authority to carry out the responsibilities of the Board to hear, review and render decisions on appeals.

At any hearing on such petition for appeal, formal Rules of Evidence shall not apply but fundamental due process and the essential requirements of law shall be observed and shall govern the proceedings. The burden shall be on the petitioner to prove the right to the relief requested by clear and convincing evidence. All witnesses shall be placed under oath or affirmation by any officer permitted under Florida law to administer oaths or by the clerk to the Board. Petitioner and the Authority shall have the right to: Call and examine witnesses; introduce exhibits; cross-examine witnesses on any relevant matter; and, rebut the evidence. At all hearings the Board, or Board designee, shall hear and consider all facts material to the petition and thereafter the Board, or Board designee, also considering the provisions of this Resolution, and amendment thereto, as well as the purposes and intent thereof, may grant or deny, partially or wholly, the relief requested in the petition. The decision of the Board, or Board designee, resulting from a hearing shall be final, and no petition for rehearing or reconsideration shall be considered. The owner receiving an exemption or error correction pursuant to this Section shall be refunded their \$15.00 filing fee. The procedure regarding notice to the property appraiser's office, as stated above, of the exemption or correction shall be followed. Any person, including the Authority and the petitioner, who is aggrieved by any decision of the Board, or Board designee, may apply in the circuit court of the County, within thirty (30) days of rendition of such decision, for a review by writ of certiorari in accordance with the applicable Florida appellate Rules.

**SECTION 12: NON-ASSESSED UNITS.** All solid waste generated or accumulated by a non-assessed unit shall be collected, conveyed and transported by the designated franchisee within which franchise area such non-assessed unit is located, and the owners of all non-assessed units on the established route of the designated franchisee for such franchise area in which the non-assessed unit is located shall subscribe to such franchisee's collection service. However, roll-off services for sites under construction during the period prior to the issuance of a certificate of occupancy shall not be included within the requirements of this Resolution, but shall be regulated by separate resolution.

The franchisee shall contract directly with the non assessed unit owners for the collection of solid waste and shall be entitled to receive compensation from such owners for the service provided in accordance with the provisions, terms, conditions, requirements and limitations contained in the franchise granted to such franchisee by the franchisor.

**SECTION 13: SEVERABILITY.** If any clause, section or provision of this Resolution shall be declared by a court of competent jurisdiction to be unconstitutional or invalid for any cause or reason, only such portion shall be eliminated from this Resolution and the remainder of this Resolution shall continue in full force and effect and shall be construed to fulfill the intent of this Resolution so as to be as valid as if such invalid portion thereof had not been incorporated therein.

**SECTION 14: EFFECTIVE DATE.** This Resolution shall take effect immediately upon its passage.

**READ AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2006, BY THE SOLID WASTE AUTHORITY BOARD.**

**ATTEST:**

**SOLID WASTE AUTHORITY OF  
PALM BEACH COUNTY**

\_\_\_\_\_  
Sandra J. Vassalotti  
Clerk to the Authority

\_\_\_\_\_  
Commissioner Addie Greene, Chairman  
Solid Waste Authority Governing Board

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:**

\_\_\_\_\_  
Maureen Cullen, General Counsel

## **EXHIBIT "A"**

### **SCHEDULE OF STANDARDS FOR RESIDENTIAL UNIT**

In making the determination of whether the Owner has demonstrated an error in the classification assigned to the parcel of improved real property in question, the following standards shall be considered. These factors are not exclusive and are only guides.

**SECTION A:** These factors indicate an assessable use and/or its classification of use:

- 1) The subject parcel is improved with buildings, structures or other improvements designed or constructed for and capable of use or used for human habitation.
- 2) The type of actual use to which the parcel is currently being applied.
- 3) If not in current use, the most apparent use for the parcel based on its construction, layout, location, equipment and/or furnishings.
- 4) The property appraiser's classification.
- 5) The unit has "kitchen facilities", which is defined to include one or more of the following: stove, refrigerator, microwave, hot plate, sink, or dishwasher.
- 6) Separate entrances and capability of separate living quarters.

**SECTION B:** These factors do not of themselves deem a parcel as non-assessable:

- 1) That parcel is currently vacant.
- 2) That parcel is currently not in use.
- 3) That parcel is partially vacant or partially not in use.
- 4) Lack of utility connection.

**SECTION C:** Examples of structures that are considered as not capable of generating waste, and thus are not assessable:

- 1) Canopies or shelters used for parking only and detached from other structures on parcel.
- 2) Detached garage used solely for storage of automobile(s) and normal residential possessions in the same manner as if the garage were attached to a residential structure.
- 3) Barns, sheds or storage buildings used to house equipment, farm supplies, etc. and in which no manufacturing, commercial operation or other like activity is performed.
- 4) Boat docks;
- 5) Structure for which a demolition or condemnation order has been issued.