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RESOLUTION NO. 2021-47

A RESOLUTION OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, ADOPTING THE ANNUAL SOLID WASTE ASSESSMENT FOR FISCAL YEAR 2021-2022; ESTABLISHING THE ASSESSMENT RATE FOR SOLID WASTE SERVICE AGAINST ASSESSED PROPERTY LOCATED WITHIN THE VILLAGE OF BISCAYNE PARK FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2021 THROUGH SEPTEMBER 30, 2022; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Section 4.09 of the Village of Biscayne Park Charter and Section 17.4 of the Biscayne Park Land Development Code (“Code”) authorize the Village of Biscayne Park (“Village”) to impose a non-ad valorem solid waste management fee assessment (“Solid Waste Assessment”); and

WHEREAS, the Village utilizes the Miami-Dade County Property Appraiser’s Office (“County”) to disclose the Solid Waste Assessment notices to residents, and collect the Solid Waste Assessment utilizing the County’s property tax bills to residents; and

WHEREAS, the Village Administration has completed an analysis of the projected budget and determined the Solid Waste Assessment necessary to provide Village residents with solid waste services and management (“Solid Waste Services”); and

WHEREAS, all assessed properties in the Village receive a special benefit from the provision of Solid Waste Services; and

WHEREAS, the estimated Solid Waste Assessment for fiscal year 2021-2022 is \$659.49 per residential unit, which is \$177.98 more than the fiscal year 2020-2021 Solid Waste Assessment based on the anticipated increase to the Village’s annual Sanitation budget from \$625,000.00 to \$816,625.00; and

WHEREAS, the Village adopted a preliminary assessment resolution containing a description of the Solid Waste Services; describing the method of computing the Solid Waste Assessment for Solid Waste Services against assessed residential property; designating an assessment rate and directing preparation of an updated assessment roll for fiscal year 2021-2022; and providing notice of the required public hearing; and

WHEREAS, the Village may confirm or repeal the preliminary assessment resolution, with such amendments as the Village deems appropriate, after hearing comments and objections of all interested parties; and

1 **WHEREAS**, the updated assessment roll was made available for inspection by the public,
2 as required by the Code and state law.

3
4 **NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COMMISSION OF THE**
5 **VILLAGE OF BISCAYNE PARK, FLORIDA, THAT:**

6
7 **Section 1. Recitals.** The above recitals are true and correct, and incorporated herein
8 by this reference and are hereby adopted as the legislative and administrative findings of the
9 Village Commission.

10
11 **Section 2. Final Rate Resolution.** This Resolution constitutes the final assessment
12 resolution, which completes the annual process for updating the assessment roll and directs the re-
13 imposition of a Solid Waste Assessment for the fiscal year beginning October 1, 2021.

14
15 **Section 3. Funding of Solid Waste Services.** Upon the imposition of Solid Waste
16 Assessment for Solid Waste Services against assessed property located within the Village, the
17 Village shall provide Solid Waste Services to such property. Each assessed property benefits from
18 the Village's provision of Solid Waste Services in an amount not less than the Solid Waste
19 Assessment imposed against such property computed in the manner set forth in this Resolution.

20
21 **Section 4. Annual Solid Waste Assessment.** For Fiscal Year 2021-2022, the
22 estimated total cost of providing Solid Waste Services is approximately \$816,625.00 (net of
23 discounts and collection fees). Accordingly, the Village approves a final rate of assessment equal
24 to \$659.49 for each property assessed for Solid Waste Services for fiscal year 2021-2022 and
25 future fiscal years. The Village Manager will prepare, or cause to be prepared, an updated
26 assessment roll for the fiscal year beginning October 1, 2021. The Village Clerk shall maintain a
27 copy of this Resolution and the updated assessment roll on file in the office of the Village Clerk
28 and is open to public inspection. The foregoing method of determining the Solid Waste
29 Assessment for Solid Waste Services is a fair and reasonable method of apportioning the cost of
30 Solid Waste Services among the assessed properties.

31
32 The assessable property described in the assessment roll, which is hereby approved, are
33 specially benefitted by the provision of Solid Waste Services in the amount of the Solid Waste
34 Assessment set forth in the assessment roll. The Village ascertains, determines, and declares that
35 each assessable property within the Village benefits from the Village providing Solid Waste
36 Services in an amount not less than the Solid Waste Assessment for each assessed property as
37 computed in the preliminary assessment resolution. Adoption of this final assessment resolution
38 constitutes a legislative determination that all assessed property derives a special benefit from the
39 Solid Waste Services, such as the availability and use of collection services to property and safely
40 remove and transport solid waste generated on such property; the provision of disposal services
41 which provide effective and environmentally sound disposal of solid waste generated on such
42 property; and the enhancement of environmentally responsible use and enjoyment of such
43 property.

44
45 The method for computing Solid Waste Assessment described in the preliminary
46 assessment resolution is approved. Adoption of this final assessment resolution constitutes a
47 legislative determination that the Solid Waste Assessment is fairly and reasonably apportioned
48 among the residential properties that receive the special benefit. Interim Solid Waste Assessments
49 are also levied and imposed against all property for which a Certificate of Occupancy is issued

1 after adoption of this final assessment resolution based upon the rates of assessment approved
2 herein.

3
4 **Section 5. Public Hearings.** The Village Commission held a public hearing on
5 September 07, 2021 at 7:00 p.m. at the Log Cabin, 640 NE 114th Street, Biscayne Park, FL to
6 consider comments on the Solid Waste Assessment, and re-impose the Solid Waste Assessment
7 for Solid Waste Services for fiscal year 2021-2022, and collecting such assessments on the same
8 bill as ad valorem taxes.

9
10 **Section 6. Notice by Publication.** The Village Clerk published a notice of the public
11 hearing in substantially the form attached as Appendix A. Publication of the notice was published
12 on August 13, 2021 in the Miami Daily Business Review.

13
14 **Section 7. Notice by Mail.** The Village Clerk provided notice of the public hearing
15 by first class mail to the owner of each assessed property according to non-ad valorem assessment
16 from Miami-Dade County Property Appraiser. Such notice was mailed around August 13, 2021
17 in the form attached as Appendix A.

18
19 **Section 8. Shortfall.** Any shortfall in the expected Solid Waste Assessment proceeds
20 due to any reduction or exemption from payment of the Solid Waste Assessments required by law
21 or authorized by the Village shall be supplemented by any legally available funds, or combination
22 of such funds, and shall not be paid for by proceeds or funds derived from the Solid Waste
23 Assessment. In the event a court of competent jurisdiction determines any exemption or reduction
24 by the Village is improper or otherwise adversely affects the validity of the Solid Waste
25 Assessment imposed for the 2021-2022 fiscal year, the sole and exclusive remedy shall be the
26 imposition of a Solid Waste Assessment upon each affected property in the amount of the Solid
27 Waste Assessment that would have been otherwise imposed save for such reduction or exemption
28 afforded to such property by the Village.

29
30 **Section 9. Imposition of Lien.** Solid Waste Assessments shall constitute a lien upon
31 the property assessed equal in rank and dignity with the liens of all state, county, district or
32 municipal taxes and other non-ad valorem assessments. Except as otherwise provided by law,
33 such lien shall be superior in dignity to all other liens, titles and claims, until paid. The updated
34 assessment roll shall be delivered to the County for collection using the tax bill collection method
35 in the manner prescribed by the Code and state law. The updated assessment roll delivered to the
36 County shall be accompanied by a Certificate to Non-Ad Valorem Assessment Roll.

37
38 **Section 10. Non-residential Property.** The annual Solid Waste Assessment for Solid
39 Waste Services is not imposed against non-residential property due to the widely varied production
40 of solid waste among the types of non-residential property and that the cost of disposal of solid
41 waste generated on non-residential property can be effectively recovered through tipping fees.

42
43 **Section 11. Effect of Adoption of Resolution.** The adoption of this final rate resolution
44 shall be the final adjudication of the issues presented herein, unless proper steps shall be initiated
45 in a court of competent jurisdiction to secure relief within twenty (20) days from the date of this
46 Final Assessment Resolution.

47
48 **Section 12. Severability.** If any section, sentence, clause or phrase herein is held to be
49 invalid by any court of competent jurisdiction, then said holding shall in no way affect the validity
of the remaining portions of this Resolution.

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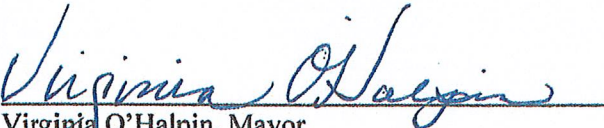
Section 13. Effective Date. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this 7th day of September, 2021.

The foregoing Resolution was offered by Vice-Mayor Hamelburg, who moved its adoption. The motion was seconded by Commissioner Samaria, and upon being put to a vote the vote was as follows:

Virginia O'Halpin, Mayor	Yes
Judi Hamelburg, Vice Mayor	Yes
Art Gonzalez, Commissioner	Yes
MacDonald Kennedy Commissioner	Yes
Dan Samaria, Commissioner	Yes

VILLAGE OF BISCAVNE PARK


Virginia O'Halpin, Mayor

ATTEST:


Roseann Prado, Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE VILLAGE OF BISCAVNE PARK ONLY:


Edward A. Dion, Village Attorney

MIAMI DAILY BUSINESS REVIEW

Published Daily except Saturday, Sunday and
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Miami, Miami-Dade County, Florida

STATE OF FLORIDA
COUNTY OF MIAMI-DADE:

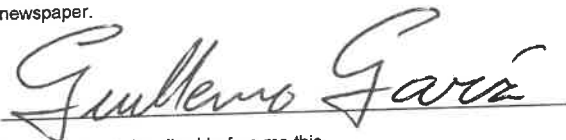
Before the undersigned authority personally appeared GUILLERMO GARCIA, who on oath says that he or she is the DIRECTOR OF OPERATIONS, Legal Notices of the Miami Daily Business Review f/k/a Miami Review, a daily (except Saturday, Sunday and Legal Holidays) newspaper, published at Miami in Miami-Dade County, Florida; that the attached copy of advertisement, being a Legal Advertisement of Notice in the matter of

VILLAGE OF BISCAYNE PARK - PROPOSED INCREASE TO ANNUAL NON-AD VALOREM - ASSESSMENT FOR RESIDENTIAL SOLID WASTE - PUBLIC HEARING - SEPT. 7, 2021

in the XXXX Court,
was published in said newspaper in the issues of

08/13/2021

Affiant further says that the said Miami Daily Business Review is a newspaper published at Miami, in said Miami-Dade County, Florida and that the said newspaper has heretofore been continuously published in said Miami-Dade County, Florida each day (except Saturday, Sunday and Legal Holidays) and has been entered as second class mail matter at the post office in Miami in said Miami-Dade County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

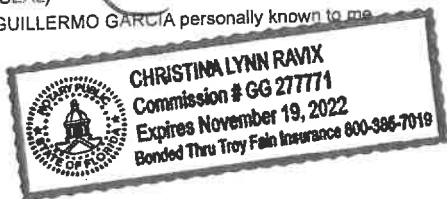


Sworn to and subscribed before me this
13 day of AUGUST, A.D. 2021



(SEAL)

GUILLERMO GARCIA personally known to me



SEE ATTACHED

