

STATE OF ALABAMA)

COUNTY OF BALDWIN)

**SOLID WASTE COLLECTIONS SERVICE AGREEMENT BETWEEN
THE BALDWIN COUNTY COMMISSION AND PROPERTY OWNERS
ASSOCIATION OF SPANISH COVE, INC.**

SECTION 1. Agreement

The Property Owners Association of Spanish Cove, Inc. (hereinafter "Association"), hereby enters into this agreement (hereinafter "Agreement") with the Baldwin County Commission (hereinafter "County"), for the collection and disposal of residential solid waste under the terms and conditions hereinafter set out utilizing public streets as conveyances. The Baldwin County Solid Waste division (hereinafter "Collector") is and shall be deemed the duly authorized agent acting for and on behalf of the County as and for the purposes set out herein.

SECTION 2. Definitions

A. Solid Waste: Shall mean all combustible and noncombustible and all putrescible and non-putrescible discarded materials including garbage, rubbish, trash, bulk refuse and dead animals.

B. Garbage: Shall mean all putrescible, animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food, including wastes from markets, stores facilities, handling and sale of produce and other food products.

C. Rubbish: Shall mean all non-putrescible solid wastes consisting of both combustible and non-combustible wastes, including, without limitation, paper, cardboard, glass, rags, cartons, wood, rubber, plastics, leaves, yard clippings, crockery, excelsior, cloth, metal cans and similar materials, but excluding "trash" and "bulk refuse" as defined in this Agreement.

D. Trash: Shall mean the following:

- Trees and tree limbs; and
- Bagged leaves, bagged grass clippings, bagged pine cones, bagged pine straw and shrub trimmings.

E. Bulk Refuse: Shall mean the following:

- Trash generated by lot or land clearing or major land cleanup operations;
- Refuse and debris resulting from construction, renovation, and repair work to buildings or other structures; and
- An appliance or item of furniture discarded on non-renovation, or repair work to building or other structures.

F. Non-residential Garbage and Rubbish: Shall mean garbage and rubbish generated by or on a non-residential property located within the boundaries of the Association.

G. Residential Garbage and Rubbish: Shall mean garbage and rubbish generated by or on a residential property located within the boundaries of the Association.

H. Non-residential Trash: Shall mean trash generated by or on a nonresidential property located within the boundaries of the Association.

I. Residential Trash: Shall mean trash generated by or on a residential property located within the boundaries of the Association.

J. Hazardous Materials: Shall mean wastes that are hazardous by reason of their pathological, explosive, radiological or other characteristics.

K. Residence: Shall mean a detached single-family dwelling unit (including house, trailer and rental cottage) and its associated ground or a separate unit in any multi-family dwelling that has a total of four (4) or fewer separate units and that is not a hotel, motel or trailer park.

L. Baldwin County Commission: Shall mean the duly formed and existing governing body of Baldwin County, Alabama.

M. Property Owners Association of Spanish Cove, Inc.: Shall mean that certain duly formed and existing Alabama non-profit corporation, as registered with the Alabama Secretary of State (entity ID no. 069-435), and as reflected in those certain Articles of Incorporation recorded in the Office of the Probate Court of Baldwin County at book 69 page 0157, et seq., on July 18, 1991, and as amended.

SECTION 3. General Provisions and Service Undertaking of the Collector

- A. The County shall offer collection and disposal services as described in the Agreement for all residences located within the boundaries of and subject to the authority of the Association (the "Service Area") which is depicted in Exhibit A attached hereto.
- B. The parties do not intend by this Agreement, and this Agreement shall not be deemed, to release, waive, alter, excuse, supersede, or limit the obligations of individual Association residents or members, or County's authorities or remedies, relating to County resolutions and ordinances adopted pursuant to Code of Alabama Section 22-27-1 et. seq., (1975), as the same may be amended, including without limitation those relating to mandatory participation in, subscription to, or payment for County provided collection and disposal services; provided, however, that the parties do not intend by this Agreement or otherwise the provision or imposition of redundant services or fees.
- C. The Association hereby represents and warrants that it has the present and complete capacity and authority to enter into this Agreement and to undertake all obligations, terms and conditions applicable to it herein.

D. The parties acknowledge and agree that the provision of services as provided for in this Agreement are mutually economical and feasible, and shall be confined to solid wastes generated within the Service Area. The parties further acknowledge and agree that this Agreement shall be subject to review by the Director of the Collector and shall be subject to cancellation upon thirty (30) days' notice from said Director.

SECTION 4. Equipment of Collector

The County shall utilize packer trucks or other collection vehicles for the collection and disposal of solid waste. Vehicles utilized by the Collector shall be so covered, secured or sealed that there will be no loss during haulage to cause material littering of streets and highways, or a nuisance or hazard to the public health. The Collector shall utilize an adequate number of collection vehicles based on volume of customers and solid waste. All vehicles utilized by the Collector shall be maintained in a safe and clean operating condition, and the Association, at the mutual convenience of Association and Collector, may inspect such vehicles from time to time, but not more often than once every six (6) months. The collection containers provided by the Collector shall be maintained by the Collector in good repair.

SECTION 5. Frequency of Collection

- A. Residential Garbage, Rubbish, and Trash shall be collected once weekly on Tuesday.
- B. The Collector will observe, and shall therefore not provide service on, Thanksgiving Day, Christmas Day and New Year's Day as holidays. Should one of these holidays fall on a Tuesday, the following Friday will be the pick-up day in lieu thereof.
- C. The Collector shall begin and complete scheduled collection of garbage and rubbish as early as practical, but in no event shall any collection of solid waste in residential areas begin earlier than 6:00 a.m. Collection container must be placed at a pickup point not later than 6:00 a.m. on the scheduled day of pickup. The Collector may refuse to collect containers which violate these conditions. The parties acknowledge and agree that the "Debris Guidelines" (attached hereto as Exhibit B) are incorporated herein for purposes of this Section.
- D. Solid waste for removal by the Collector shall be placed on the street side in front of the respective residential properties.

SECTION 6. Compliance with Collection and Disposal Laws and Regulations

The Collector shall dispose of all garbage, rubbish, and other solid waste collected in accordance with all applicable Federal, State, County and Municipal laws, ordinances, rules and regulations. Specifically, but without limitation, such waste shall be disposed of at a Baldwin County owned and/or operated landfill. The Collector shall indemnify and hold the Association, its officers, agents, servants and employees harmless from any and all claims or demands of whatever kind or character resulting from the negligent acts or omissions of the Collector arising from the collection or disposal of garbage, rubbish or other solid waste by the Collector.

SECTION 7. Collection Bulk Refuse Not Required

The Collector shall not be required to collect Bulk Refuse as defined herein. The Association reserves the right to impose maximum rates for the collection and disposal of trash or bulk refuse or both or to otherwise impose additional regulations regarding trash or bulk refuse or both, if it determines that such additional regulation is in the public interest, and if such does not impair or conflict with Collector's provision of services herein as determined by Collector.

SECTION 8. Additional Trash

In the case of an event, be it an act of God or otherwise, that creates additional storm debris or trash, beyond what is normal and customary, the Collector shall not be required to collect such additional storm debris and trash pursuant to this Agreement, but upon prior approval from FEMA, the County's storm debris contract provider shall be called upon to collect storm debris within the area defined in Exhibit A.

SECTION 9. Recycling

At such time the Collector establishes its Recycling Program, the Collector and the Association may enter into an Agreement for recycling.

SECTION 10. Insurance

The Collector, as a condition to the grant of rights under this Agreement, shall furnish and maintain comprehensive general liability insurance coverage in coverage amount not less than \$1,000,000.00 under a policy issued by an insurer acceptable to the Association. The Association agrees that the Collector's present insurance coverage and limits are acceptable and meet the requirements of this Agreement.

SECTION 11. No Agency

The Collector shall be an independent contractor and not the agent of the Association for any purpose.

SECTION 12. Payment to Collector

- A. The Collector shall bill the Association quarterly for the agreed amount of pickups, as follows: An estimated house count of 1,335 has been provided by the Association and agreed by Collector. An estimated seasonal house count of 134 has been provided by the Association and agreed by Collector. The term "seasonal" shall mean a residence that is occupied for 180 days or less within a calendar year, and seasonal customers shall receive a total of six (6) months of service in each calendar year during the term of this Agreement. To qualify for treatment as a seasonal customer, a resident must apply and present a power usage report to the Association which demonstrates 90

contiguous days of minimal power usage. The usage will demonstrate a basic charge for power consumption indicating the property was not occupied during the time period for which the power usage report is presented. In order to be eligible for seasonal status, such application and evidence must be submitted to the Association and approved by the Collector prior to the first billing of the year in which the status is desired. House counts will be reviewed and adjusted, as necessary, not less than monthly by Association and verified by Collector.

- B. The rates established in this Agreement shall remain in effect for a thirty-six (36) month period, from the commencement date of the work under this Agreement.
- C. The rates for collection services are hereby established as \$16.00 per residential unit per month for once a week pickup, which includes County owned cart provided. Resident will be required to use County provided carts. An additional cart may be rented for \$5.00 per month charge.
- D. The rate of each seasonal residential unit for once a week pickup, which includes County owned cart provided, is \$8.00 per month or \$96.00 annually, for each year of “seasonal” service.
- E. Request for special services shall be as outlined in Baldwin County Resolution 2017-020 for Solid Waste.
- F. The Collector shall bill the Association on or before the 6th day of each quarterly billing month, i.e. January, April, July and October of each year, for the next quarter's service. The Association shall pay the Collector on or before the 18th day of the month in which each bill is received. Payment in arrears of sixty (60) days shall constitute a breach of this Agreement and all collection services shall stop until all arrears are current.

SECTION 13. Term of Agreement

This Agreement shall become effective on April 1, 2020. This Agreement shall be renewed automatically for succeeding terms of thirty-six (36) months from its effective date. Either party may terminate this Agreement, with or without cause or reason, by giving the other party ninety (90) days written notice, with such notice being effective upon and the ninety (90) day period running from the date of mailing of such notice.

SECTION 14. Complete Agreement

This Agreement sets out the complete agreement, understanding, and conditions with respect to the subject matter hereof and may not be amended except in duly executed by the parties.

SECTION 15. Severability Clause

The provisions of this Agreement are hereby declared to be severable. In the event any provision hereof shall be held invalid by a court of competent jurisdiction, such invalidity shall not affect any other portion of this Agreement.

SECTION 16. Notice

Any and all notices required or made shall be in writing, unless otherwise allowed, and said notice shall be deemed effective when mailed by certified mail, return receipt requested, to the following addresses:

County or Collector:

Baldwin County Commission
Attn: Director of Solid Waste
312 Courthouse Square, Suite 12
Bay Minette, Alabama 36507

Association:

Property Owners Association of Spanish Cove, Inc.
Attn: Pete Garafola
P. O. Box 388
Lillian, Alabama 36549

IN WITNESS WHEREOF, the parties hereto have caused the Agreement to be executed by those officers, officials and persons thereunto duly authorized, on the dates and as follows:

Baldwin County Commission

**Property Owners Association of
Spanish Cove, Inc.**

Billie Jo Underwood, Chairman
Baldwin County Commission

Pete Garafola
Operations Manager
Property Owners Association of
Spanish Cove, Inc.

Attest:

Wayne Dyess, County Administrator

Notary Page to follow:

STATE OF ALABAMA)

COUNTY OF BALDWIN)

I, _____, a Notary Public, in and for said County in said state, hereby certify that BILLIE JO UNDERWOOD, whose name as Chairman of the Baldwin County Commission and WAYNE DYESS, whose name as County Administrator, are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they, as such officers and with full authority, executed the same voluntarily for and as the act of said County Commission.

Given under my hand and seal this ____ day of _____, 2019.

Notary Public, Baldwin County, Alabama
My Commission Expires: _____

STATE OF ALABAMA)

COUNTY OF BALDWIN)

I, _____, a Notary Public, in and for said County in said State, hereby certify that PETE GARAFOLA, whose name as Operations Manager of the Property Owners Association of Spanish Cove, Inc., an Alabama corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said Association.

Given under my hand and seal this ____ day of _____, 2019.

Notary Public, Baldwin County, Alabama
My Commission Expires: _____

Exhibit A Spanish Cove Property Owners Association Boundaries



ASSOCIATION DEBRIS GUIDELINES

BRUSH: We define brush as brush and tree trimmings that are too large to be bagged. These trimmings should be no longer than six feet and piled with main stems laid in the same direction.

Bundling and tying is helpful but not mandatory.

Bagged yard debris that will be picked up is limited to: Grass clippings, leaves, pine straw, pine cones and twigs. Basically what falls from trees or grows in your yard.

Bagged debris should be of a reasonable weight (30 lbs or less). Remember they have to be thrown up and over the side of a truck. The bags should be sufficient in strength so that the bottom does not tear when lifted. Brush is always collected first and bags next. All debris should be out by Sunday evening. Debris out after the truck goes by may not be collected until the following week.

Debris placed curbside for collection will be limited to approximately **2 Cubic Yards** per weekly pickup.

We Will Not Pick Up: Manmade material: i.e. Plastics, flowerpots, lumber, paper etc.; or un-bagged debris, trees 4 inches in diameter or larger, or over 6 feet in length.