

RESOLUTION \_\_\_\_\_

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONER OF ALACHUA COUNTY, FLORIDA, DECLARING DISASTER DEBRIS LOCATED ON PRIVATE PROPERTY/PRIVATE ROADWAYS RESULTING FROM HURRICANE HELENE AN IMMEDIATE THREAT TO THE PUBLIC HEALTH AND SAFETY AND THAT SAID DISASTER DEBRIS BE MADE ELIGIBLE FOR COLLECTION, REMOVAL, AND DISPOSAL BY DISASTER DEBRIS COLLECTION CONTRACTORS; PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, on September 23, 2024, the Governor of the State of Florida issued Executive Order 24-208, as amended by Executive Order 24-209 issued on September 24, 2024, declaring multiple Florida counties, including Alachua, to be under a state of emergency due to the impacts of Tropical Storm Helene, which subsequently developed into a major hurricane before it made landfall in Florida; and

**WHEREAS**, on September 24, 2024, the Alachua County Board of County Commissioners (the "Board") issued Emergency Order 2024-06 declaring a general state of emergency throughout Alachua County due to the impending impacts of Tropical Storm Helene, which subsequently developed into a major hurricane before making landfall in Florida; and

**WHEREAS**, beginning September 26, 2024, Hurricane Helene impacted Alachua County by producing high winds, heavy rains, and localized areas of flooding, which generating significant volumes of disaster-related debris including but not limited to vegetative debris (*e.g.*, fallen trees, fallen tree limbs, fallen tree branches, as well as hazardous tree limbs, branches, stumps and trees that are in-place); and

**WHEREAS**, the Federal Emergency Management Agency ("FEMA") generally denies reimbursement for disaster debris collection and removal efforts from private property such as gated neighborhoods, mobile home parks, and private roadways.

**WHEREAS**, FEMA has established a procedure by which a local government may invoke its authority to declare that disaster-generated debris located on private property and private roadways poses a health or safety threat to the public-at-large and request that the disaster debris from private property and private roads be made eligible for reimbursement from FEMA; and

**WHEREAS**, the Board hereby invokes its authority to declare that disaster debris generated by Hurricane Helene located on private property and private roadways within Alachua County poses an immediate threat to the public health and safety of the public-at-large and requests that the disaster debris removed from private property and private roads be made eligible for reimbursement from FEMA and, in support thereof, the Board makes the finding and certifications set forth herein; and

**WHEREAS**, County staff and debris contractors have toured Alachua County, including the following listed municipalities located within Alachua County, to determine the extent and volume of debris generated by Hurricane Helene and its impacts on the public health and safety: Archer, Hawthorne, High Springs, La Crosse, Micanopy, Newberry and Waldo; and

**WHEREAS**, based in part on the information provided by County staff, information provided by representatives from the municipalities located within Alachua County, and information provided directly from residents of Alachua County, the Board finds that there is a significant volume of hurricane debris located on private property and private roadways located within gated communities in Alachua County, and that number of houses and blocks with large volumes of debris, and the width and height of the debris piles, creates an immediate threat to the public health and safety of the community at large such that removal of the debris is in the public interest; and

**WHEREAS**, the Board finds that accumulated debris can become a breeding ground for pests, such as mosquitoes, rodents, and other vectors that pose health risks to the community-at-large. This can lead to an increase in vector-borne diseases, especially in warm climates like Alachua County where flea and tick infestations of rodent populations can spread diseases and mosquito populations can surge after flooding and other storm events, making quick removal and disposal of disaster-generated debris essential to protecting the health, safety and welfare of the public; and

**WHEREAS**, the Board finds that the disaster-generated debris located on private roadways located within gated communities also poses an immediate threat to the public-at-large because of the large number of homes, the large number of blocks and the large number of Alachua County residents that reside within gated communities; and

**WHEREAS**, the location, volume, width and height of the debris piles located on private roadways poses an immediate threat to public health and safety; and

**WHEREAS**, as per section 336.045, Florida Statutes, counties and municipalities must conform with the Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways. All roadways must have sufficient amount of recoverable slope or clear zone adjacent to the roadway, free of obstacles and hazards providing an opportunity for an errant vehicle to safely recover. The clear zone includes shoulders and bicycle lanes. The clear zone minimum widths are defined in Table 4 – 1 Minimum Width of Clear Zone (feet); and

**WHEREAS**, the Board finds that the accumulation of debris on roadways and their adjacent areas are obstructing clear zones, thereby failing to comply with the requirements for maintaining obstacle-free areas along roadways as specified in Table 4-1, Minimum Width of Clear Zone, under the Manual of Uniform Minimum Standards for Design, Construction, and Maintenance for

Streets and Highways. The timely removal of debris from public rights-of-way is necessary to ensure safe passage for all vehicles, prevent hazards, and support the overall maintenance and accessibility of the transportation infrastructure for the community; and

**WHEREAS**, the Board finds that maintaining unobstructed roadways is critical for the safe and efficient access of emergency vehicles, and debris accumulation along and within rights of way are impeding their ability to reach residents in a timely manner during emergencies, posing risks to public safety; and

**WHEREAS**, the Board finds that accumulated hurricane debris poses safety hazards to pedestrians, cyclists, and drivers. Debris is currently blocking sightlines, creating tripping and collision hazards, and may cause accidents, making timely removal essential for public safety; and

**WHEREAS**, the Board finds that hurricane debris left near drainage ditches, culverts, or near stormwater infrastructure can obstruct water flow and increase the risk of localized flooding during subsequent rains. This can exacerbate the impact of the storm by causing additional property damage and hindering the recovery process, making timely removal essential to protect the safety of the public; and

**WHEREAS**, the Board finds that the swift removal of hurricane debris is critical for economic recovery, as it allows residents to return to normal activities and workers to access their jobs; and

**WHEREAS**, the Board finds that the clearance, removal and disposal of debris is in the public interest because it poses an immediate threat to lives, public health, and safety and impairs, limits and prevents full recovery from the storm; and

**WHEREAS**, in accordance with Section 163.01, Florida Statutes, Florida Interlocal Cooperation Act of 1969, local governments may enter into interlocal agreements to make the most use of their powers by enabling the local governments to cooperate with other localities on a basis of mutual advantage and thereby, to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities; and

**WHEREAS**, at its public meeting held on October 8, 2024, the Board authorized and directed its County Manager to enter into interlocal agreements with each of the following municipalities located within the geographic boundary of Alachua County, Florida for Alachua County to accept and perform the responsibility for debris clearing, removal, disposal and monitoring within said municipalities, including privately owned gated communities and

associated private roads located within said municipalities: Archer, Hawthorne, High Springs, La Crosse, Micanopy, Waldo, and Newberry.; and

**WHEREAS**, the Board finds that, upon entering into such an interlocal agreement with a municipality, Alachua County will have the authority and responsibility to collect, remove and dispose of storm debris from within the geographic boundary of that municipality; and

**WHEREAS**, Alachua County recognizes that such disaster debris poses a public health threat if left in place and desires to have it collected, removed, and disposed of by their disaster debris collection contractors.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY, FLORIDA:**

**SECTION 1. RECITALS.** The above recitals are true, correct and incorporated into this resolution.

**SECTION 2. JURISDICTION.** Alachua County is a charter county and a political subdivision of the State of Florida and, as such, Alachua County has all county and municipal powers of self-government granted by the Florida Constitution and the laws of the State of Florida. The legislative responsibilities and powers of Alachua County are assigned to and vested in its Board of County Commissioners (“Board”). The Board has the legal authority, on behalf of Alachua County, to make the findings and certifications set forth herein and to adopt this resolution.

**SECTION 3. DECLARATION OF PUBLIC INTEREST.** The Board finds and declares that the vegetative debris generated by Hurricane Helene and located on private property and private roads within gated communities throughout Alachua County, including within the municipalities listed recitals above, poses an immediate threat to the public health and safety, and that it also poses an immediate threat to the economic recovery of the community at large, and the Board hereby requests FEMA to determine that the costs of removing and disposing of the vegetative debris from certain private properties and private roads located within Alachua County is eligible for reimbursement from FEMA.

**SECTION 4. CERTIFICATION OF LEGAL AUTHORITY.** In order for private property to become eligible for the collection and disposal of disaster-generated debris, the private property owner, or their legal representative, must first enter into a right-of-entry and indemnification agreement with Alachua County. The purpose of such agreements is to grant Alachua County the legal authority for its disaster debris collection contractor and monitor to enter the private property/private roadways to collect and remove the disaster debris, and to require the private property owner to indemnify and hold harmless the United States, the State of Florida, and Alachua County from and against any and all claims arising from the debris removal and disposal. The Board certifies that Alachua County has or will obtain a duly executed right-of-entry and indemnification agreement from the owner or authorized representative of each owner of each area of privately-owned property and privately-owned roadway before

Alachua County performs disaster-generated debris removal and disposal on or for that privately owned property or privately owned roadway. A copy of the form right-of-entry and indemnification agreement is attached hereto as **Exhibit A**. The Board authorizes the County Manager or her designee to approve and execute right-of-entry and indemnification agreements on behalf of Alachua County.

**SECTION 5. INDEMNIFICATION.** As required by section 407(b) of the Stafford Act (42 U.S.C. § 5173(b)), Alachua County hereby agrees to indemnify and hold harmless the Federal Government and its employees, agents, contractors, and subcontractors from any claims arising from debris removal from private property and private roadways in Alachua County, Florida. Alachua County hereby acknowledges that in accordance with section 305 of the Stafford Act (42 U.S.C. § 5148), the Federal Government shall not be liable for any claim based upon the exercise or performance of or the failure to exercise or perform a discretionary function or duty on the part of a Federal agency or an employee of the Federal Government in carrying out the provisions of the Stafford Act.

**SECTION 6. DOCUMENTATION.** The Board authorizes and directs the County Manager to prepare and submit a notice of intent to FEMA for each specific property or areas of property where Alachua County intends to remove and dispose of disaster-generated debris from private property/private roadways. The Board further authorizes and directs the County Manager to prepare and submit to FEMA a written statement that: (a) certifies that Alachua County has the legal authority and responsibility to remove debris from the private property/private roadways; (b) cites all applicable sources of authority; (c) indemnifies the United States for any claim arising from the debris removal; (d) demonstrates that the private property/private roadway debris removal was in the public interest; and (e) provide any other information or documentation that is necessary to support Alachua County's request for reimbursement.

**SECTION 7. DISPOSITION.** Once collected and removed, the disaster debris collected by the County's contractor shall be disposed of at an authorized Debris Management Site and kept separate by the contractor from any disaster debris collected from other eligible areas.

**SECTION 8. ACCEPTANCE OF COSTS.** Should the circumstance arise where a private property entered into a right-of-entry agreement with the County prior to the removal of any disaster debris, and FEMA still declares the disaster debris ineligible for reimbursement, the County accepts the responsibility for any costs incurred in the collection, removal, and disposal of that disaster debris.

**SECTION 9. EFFECTIVE DATE.** This Resolution shall take effect immediately upon its adoption.

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**DULY ADOPTED** in regular session, this \_\_\_\_ day of November 2024.

BOARD OF COUNTY COMMISSIONERS OF  
ALACHUA COUNTY, FLORIDA

By: \_\_\_\_\_

Mary C. Alford, Chair  
Board of County Commissioners

Date: \_\_\_\_\_

ATTEST:

APPROVED AS TO FORM

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J.K. "Jess" Irby, Esq., Clerk  
(SEAL)

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Alachua County Attorney's Office