

**REVOCABLE LICENSE AGREEMENT BETWEEN BROWARD COUNTY AND CITY
OF FORT LAUDERDALE FOR NON-EXCLUSIVE ACCESS AND USE OF
BROWARD COUNTY RIGHT-OF-WAY**

This Revocable License Agreement ("Agreement") between Broward County ("County"), a political subdivision of the State of Florida, and City of Fort Lauderdale ("City"), a municipal corporation organized and existing under the laws of the State of Florida (collectively the "Parties"), is entered into and effective as of the date this Agreement is fully executed by the Parties (the "Effective Date").

RECITALS

A. The right-of-way on Andrews Avenue at its intersection with NE 1st Street and on NE 3rd Avenue at its intersection with NE 1st Street (the "Revocable License Area"), and described in the attached Exhibit A, is functionally classified as a County road and under County's control.

B. City seeks and County is amenable to City's nonexclusive access and use of the Revocable License Area.

C. City desires to install improvements, described in Exhibit B, in the Revocable License Area.

D. City, through formal action of its governing body taken on the 20th day of August, 2019, has accepted responsibility for the ongoing maintenance and repair of the Revocable License Area under the terms of this Agreement.

E. City has authorized the appropriate municipal officers to execute this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. TERM. The term of this Agreement shall commence upon the Effective Date and shall continue until this Agreement is terminated as provided for in Section 10 below.

2. USE OF REVOCABLE LICENSE AREA. County hereby grants to City a revocable license for nonexclusive access and use of the Revocable License Area only for the purpose designated below (the "Improvements"), and described in the attached Exhibit B (the "Licensed Use") including ongoing maintenance and repair of the Improvements. The Improvements must meet County's Minimum Standards Applicable to Public Right-of-Way Under Broward County Jurisdiction. Other than the purposes identified in this Agreement, City must not use the Revocable License Area for any other purpose whatsoever without written amendment of this Agreement executed with the same formalities as this Agreement. City must also not permit the Revocable License Area to be used in any manner that will violate the terms of this Agreement or

Approved BCC 11/5/19 H6
Submitted By HCED
RETURN TO DOCUMENT CONTROL

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any laws, administrative rules, or regulations of any applicable governmental entity or agency.

PLEASE CHECK THE APPROPRIATE BOX BELOW

- ☐ Overflow parking in excess of the minimum of off-street parking required by Chapter 39, Broward County Code of Ordinances, or the applicable municipal minimum of off-street parking requirements.
- ☐ A sign that is permitted under applicable municipal/unincorporated sign ordinances and laws.
- ☒ Additional landscaping and irrigation in excess of that required by Chapter 39, Broward County Code of Ordinances, or applicable municipal minimum landscaping requirements or as a condition of any special exception or variance.
- ☒ Other (explain): Installation of new pedestrian crosswalks with refuge areas in the medians, pavement markings, signage, detectable warning signs, and internally illuminated pavement markers.

2.1 City shall submit plans for the installation together with specifications for the ongoing maintenance of the Improvements to the Broward County Highway Construction and Engineering Division (the "HCED") at least thirty (30) days before installation, and must not install the Improvements until a permit is issued by HCED. City shall ensure that the landscaping plans: a) incorporate a minimum of fifty percent (50%) native species by plant types (e.g. canopy tree, palm tree, and shrub), and b) provide for the ongoing maintenance of the Improvements in accordance with the requirements delineated in Exhibit B, and in compliance with the Broward County Naturescape program and Florida-Friendly Landscaping principles.

2.2 Within five (5) days after installation of all the Improvements, City shall notify the Director of the HCED (the "Director") that the Improvements are installed. The Director may, in his/her sole discretion, require City to reinstall or remove any or all of the Improvements if the Improvements fail to comply with this Agreement or the approved plans.

2.3 County, its agents, or authorized employees, will continue to have unimpeded and unrestricted access to the Revocable License Area at all times for all purposes including to examine and determine if City is properly using and maintaining the Revocable License Area under the terms and conditions of this Agreement.

2.4 Any alteration of the Improvements by City shall require the prior submittal of plans and issuance of a permit by HCED, consistent with the requirements under Sections 2.1 and 2.2, above.

2.5 City shall keep the Revocable License Area clean, sanitary, and free from trash and debris. City specifically agrees to install, maintain, and repair the Improvements in strict accordance with the approved plans and specifications and in a manner that will not pose a hazard to persons or vehicles on any adjacent property.

2.6 If City fails to perform or comply with any terms or conditions of this Agreement, and upon City's receipt of written notice from the Director of the same, City, at its sole cost, will thereafter have thirty (30) days to return the Revocable License Area to a condition acceptable to the County as determined in the sole discretion of the Director. County shall not be obligated to exhaust any other remedies it may have against City prior to enforcing City's obligations under this Section 2.6.

2.7 The obligations of City as set forth in this Agreement may be performed by City through its employees, or City may enter into a contract with a third party to perform the services. If City contracts with a third party, each shall remain fully responsible hereunder and shall ensure that the third party complies at all times with each and every term, condition, duty, and obligation set forth in this Agreement.

3. COMPENSATION. No payment to County shall be made by City for the privileges granted in this Agreement.

4. ASSIGNMENT. Neither this Agreement nor any right or interest shall be assigned, transferred, or encumbered, without the written consent of County, except to successors or assignees taking title to the Burdened Parcel.

5. DAMAGE TO REVOCABLE LICENSE AREA. City shall not by its access or use cause damage to the Revocable License Area. The Parties agree that all Improvements and personal property placed by City upon the Revocable License Area shall remain the property of City, and shall be placed upon the Revocable License Area at the sole risk of City. City shall give County, or its agent, prompt written notice of any occurrence, incident, or accident occurring in the Revocable License Area.

6. INDEMNIFICATION.

6.1 County and City are entities subject to Section 768.28, Florida Statutes, as may be amended from time to time, and agree to be fully responsible for the acts and omissions of their respective agents or employees to the extent permitted by law. Nothing herein is intended to serve as a waiver of sovereign immunity by

any party to which sovereign immunity may be applicable. Nothing in this Agreement shall be construed as consent by County or City to be sued by third parties in any matter arising out of this Agreement or any other contract.

6.2 If City contracts with a third party to perform any of the obligations under this Agreement, any contract with such third party shall include the following provisions:

6.2.1 Indemnification of County. Third party shall indemnify and hold harmless County, and all of County's current and former officers, agents, servants, and employees (collectively, "Indemnified Party") from and against any and all causes of action, demands, claims, losses, liabilities, and expenditures of any kind, including attorneys' fees, court costs, and expenses (collectively, a "Claim"), raised or asserted by any person or entity not a party to this Agreement, which Claim is caused or alleged to be caused in whole or in part, by any intentional, reckless, or negligent act or omission of City's third party, its current or former officers, employees, agents, servants or assigns, arising from relating to, or in connection with this Agreement. If any claim is brought against Indemnified Party, the third party shall upon written notice from County, at its own expense, defend each Indemnified Party against each such Claim by counsel satisfactory to County, or, at County Attorney's option, pay for an attorney selected by County Attorney to defend Indemnified Party.

6.3 The provisions of this Section 6 shall survive the expiration or earlier termination of this Agreement.

7. INSURANCE. City shall provide County with written verification of liability protection in accordance with state law prior to final execution of this Agreement. Additionally, if City elects to purchase excess liability coverage, City agrees that County will be furnished with a Certificate of Insurance listing "Broward County" as a certificate holder and an additional insured under the policy.

7.1 If City contracts with a third party to perform any of the obligations under this Agreement, any contract with such third party shall include the following provisions:

7.1.1 Insurance: City's contractor shall keep and maintain, at the contractor's sole cost and expense, insurance of the types and minimum amounts as set forth on Exhibit C, and specifically name "Broward County" as an additional insured under the Commercial General Liability Insurance policy as well as any Excess Liability Insurance policy.

7.1.2 City's contractor shall furnish to the contract Administrator, Certificates of Insurance and Endorsements evidencing the insurance

coverage specified above at least fifteen (15) days prior to beginning the performance of work under this Agreement.

7.1.3 Coverage is not to cease and is to remain in full force and effect until all performance required of City's contractor is completed. If any of the insurance coverage will expire prior to the completion and final acceptance of the Improvements, proof of insurance renewal shall be provided to County prior to policy's expiration.

8. MAINTENANCE, REPAIRS, AND OTHER OBLIGATIONS. City shall be solely responsible for all costs associated with the Licensed Use, including maintenance and repair, utility relocations, and costs for repairing any damage to the Revocable License Area or its adjacent right-of-way until termination.

9. SECURITY. There is no obligation for security as part of this Revocable License Agreement.

10. TERMINATION. This Agreement is merely a right to access and use, and grants no estate in the Revocable License Area. This Agreement may be terminated by County, through the Broward County Board of County Commissioners (the "Board"), with or without cause and at any time during the term hereof, upon thirty (30) days written notice to City.

11. SURRENDER UPON TERMINATION. City shall peaceably surrender its use of and deliver the Revocable License Area to County, or its agents, immediately upon termination of this Agreement.

Upon surrender, City shall remove from the Revocable License Area, at City's own expense, the Improvements placed upon it unless County, in writing, authorizes City to leave the Improvements on the Revocable License Area. County shall have no obligation to move, reinstall, replace, or in any way compensate City for any loss resulting from or arising out of the termination of this Agreement, the requirement to remove the Improvements, or the removal of the same by County upon failure of City to restore the Revocable License Area. Following removal of the Improvements, City agrees to restore the Revocable License Area to its original condition, or a condition acceptable to the County as determined in the sole discretion of the Director. City shall repair or pay for any damage to County property resulting from the removal of the Improvements.

12. WAIVER. Failure of County or City to insist upon strict performance of any covenant or condition of this Agreement, or to exercise any right contained in this Agreement, shall not be construed as a waiver or relinquishment for the future of any such covenant, condition, or right; but the same shall remain in full force and effect. None of the conditions, covenants, or provisions of this Agreement shall be waived or modified by the Parties unless done so in writing as provided for in Section 18 below.

13. NOTICES. In order for notice to a party to be effective under this Agreement, notice must be in writing, sent via U.S. first-class mail, hand delivery, or commercial overnight delivery, each with a contemporaneous copy via email, to the addresses listed below and shall be effective upon mailing or hand delivery (provided the contemporaneous email is also sent). The manner in which and persons to whom notice may be provided will remain the same unless and until changed in writing in accordance with this article. The Parties respectively designate the following persons for receipt and issuance of notice:

For County:

Richard Tornese, Director
Broward County Highway Construction and Engineering Division
1 North University Drive, Suite 300B
Plantation, FL 33324-2038
Email: rtornese@broward.org

For City:

Christopher J. Lagerbloom, City Manager
100 North Andrews Avenue
Fort Lauderdale, Florida 33301
Email: clagerbloom@fortlauderdale.gov

With a copy to:

Ben Rogers, Interim Director
City of Fort Lauderdale Transportation & Mobility Department
290 NE 3rd Avenue
Fort Lauderdale, Florida 33301
Email: brogers@fortlauderdale.gov

14. ENTIRE AGREEMENT. This Agreement embodies the entire agreement between the Parties. It may not be modified or terminated except as provided in this Agreement. If any provision is invalid, it shall be considered deleted from this Agreement, and such deletion shall not invalidate the remaining provisions.

15. COMPLIANCE WITH LAWS. City shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations related to the use of the Revocable License Area.

16. LAW, JURISDICTION, VENUE, WAIVER OF JURY TRIAL. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. If any claim arising from, related to, or in connection with this Agreement must be litigated in federal court, the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida: **BY ENTERING INTO THIS**

AGREEMENT, THE PARTIES HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.

17. FURTHER ASSURANCES. The Parties hereby agree to execute, acknowledge, and deliver and cause to be done, executed, acknowledged, and delivered all further assurances and to perform such acts as shall reasonably be requested of them in order to carry out this Agreement.

18. AMENDMENTS. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the Board and the Parties or others delegated authority or otherwise authorized to execute same on their behalf.

19. INCORPORATION BY REFERENCE. Any and all recital clauses stated above are true and correct and are incorporated by reference. The attached Exhibits A, B, and C are incorporated into and made a part of this Agreement.

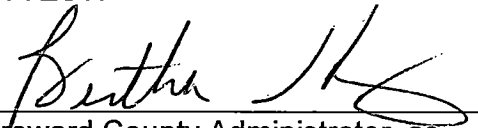
20. COUNTERPARTS AND MULTIPLE ORIGINALS. This Agreement may be executed in multiple originals, and may be executed in counterparts, each of which will be deemed to be an original, but all of which, taken together, will constitute one and the same agreement.

[THIS SECTION INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Parties have made and executed this Revocable License Agreement: Broward County, through its Board of County Commissioners, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on the 5 day of November, 2019, and City of Fort Lauderdale, signing by and through its Mayor, duly authorized to execute same.

COUNTY

ATTEST:


Broward County Administrator, as
ex officio Clerk of the Broward County
Board of County Commissioners

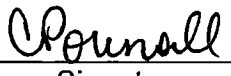
BROWARD COUNTY, by and through
its Board of County Commissioners

By 
Mayor


9th day of November, 2019

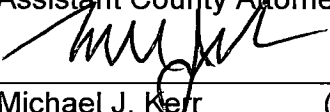
Insurance requirements
approved by Broward County
Risk Management Division

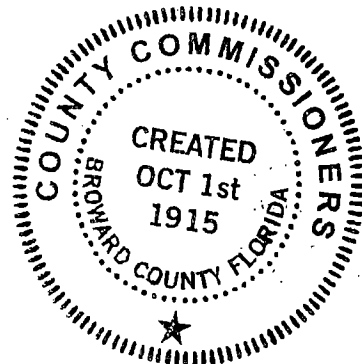
Approved as to form by
Andrew J. Meyers
Broward County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-7641

By  09/26/19
Signature (Date)

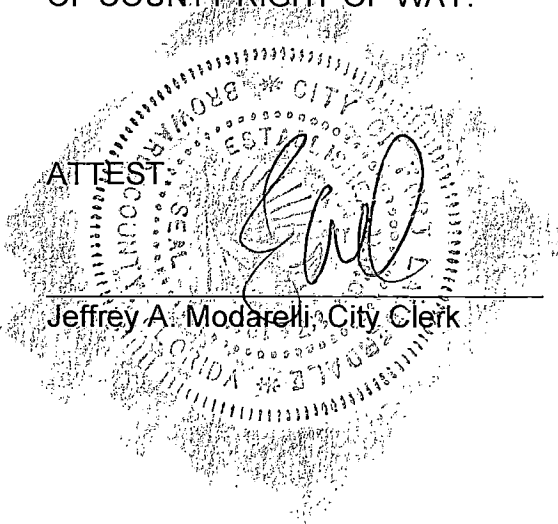
Colleen Pounall Risk Analyst
Print Name and Title above

By  9/27/19
Maya A. Moore (Date)
Assistant County Attorney

 9/27/19
Michael J. Kerr (Date)
Deputy County Attorney



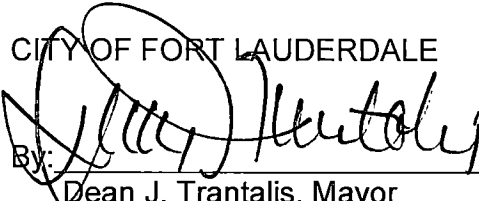
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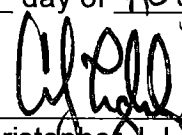
Jeffrey A. Modarelli, City Clerk

CITY

CITY OF FORT LAUDERDALE

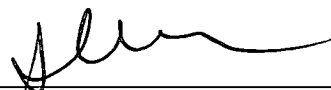
By: 
Dean J. Trantalis, Mayor

30th day of August, 2019

By: 
Christopher J. Lagerbloom, ICMA-CM
City Manager

30th day of August, 2019

Approved as to form:
Alain E. Boileau, City Attorney

By: 
Shari C. Wallen, Esq.
Assistant City Attorney

LOCATION MAP

BEST IMAGE AVAILABLE

**REVOCABLE LICENSE AGREEMENT BETWEEN BROWARD COUNTY AND CITY
OF FORT LAUDERDALE FOR IMPROVEMENTS ON ANDREWS AVENUE AT NE
1ST STREET AND NE 3RD AVENUE AT NE 1ST STREET**

**EXHIBIT "A"**

SHEET 1 OF 2

Scale: Not To Scale	Drawn by: JAT	Date: 3-29-19	Checked by: GWD	Date: 3-29-19	File Location: E:\RW\Location Maps\AGREEMENTS\RLA-2019-03-1.dwg
BROWARD COUNTY HIGHWAY CONSTRUCTION & ENGINEERING DIVISION					

LOCATION MAP

BEST IMAGE AVAILABLE

**REVOCABLE LICENSE AGREEMENT BETWEEN BROWARD COUNTY AND CITY
OF FORT LAUDERDALE FOR IMPROVEMENTS ON ANDREWS AVENUE AT NE
1ST STREET AND NE 3RD AVENUE AT NE 1ST STREET**

**EXHIBIT "A"**

SHEET 2 OF 2

Scale:	Drawn by:	Date:	Checked by:	Date:	File Location:
Not To Scale	JAT	3-29-19	GWD	3-29-19	E:\RW\Location Maps\AGREEMENTS\RLA-2019-03-2.dwg

BROWARD COUNTY HIGHWAY CONSTRUCTION & ENGINEERING DIVISION

EXHIBIT "B"

REVOCABLE LICENSE AGREEMENT BETWEEN BROWARD COUNTY AND CITY OF FORT LAUDERDALE FOR IMPROVEMENTS ON ANDREWS AVENUE AT NE 1ST STREET AND NE 3RD AVENUE AT NE 1ST STREET

SCOPE OF IMPROVEMENTS:

The Revocable License Agreement authorizes the installation of new pedestrian crosswalks with pedestrian refuge areas in the medians, installation of landscaping and irrigation, pavement markings, signing (including flashing beacons), detectable warnings, and internally illuminated raised pavement markers. All work will be according to the approved plans that are on file in Broward County Highway Construction and Engineering Division's Paving and Drainage Section.

All landscaping must be properly installed, maintained and fertilized in accordance with the Broward County Naturescape Program and Florida-Friendly landscaping principles. Drip irrigation is proposed for the landscaped areas to reduce water consumption.

Broward County Naturescape program information can be found at:
<http://www.broward.org/NaturalResources/NatureScape/Pages/Default.aspx>

Florida-Friendly Landscaping principles and information can be found at:
<http://www.floridayards.org>

A full-size set of plans, together with a schedule for the maintenance thereof, are on file with the Broward County Highway Construction and Engineering Division under Project Reference No. 140918002.

**Broward County Highway Construction and Engineering Division
Revocable License Agreement Minimum Maintenance Performance Requirements**

General Requirements

Licensee hereby agrees to provide landscape maintenance in the licensed right-of-way as described herein and in accordance with all articles of this Agreement. The specifications herein are the minimum standards and do not prevent the Licensee from performing any additional measures necessary to ensure proper landscape maintenance. The Licensee shall care and maintain all installed landscape, irrigation, and any decorative specialty hardscape treatments placed in the right-of-way. Licensee shall:

- Properly fertilize all vegetation.
- Keep all vegetation as free from disease and harmful insects as possible.
- Properly mulch the vegetation beds and keep them free from weeds.
- Cut the grass in order to maintain a neat and proper appearance.
- Prune all plants to remove all dead or diseased parts of plants and all parts of plants which present a visual hazard or physical obstacle to the designated use of the areas.
- Remove and replace all vegetation that is dead or diseased or that otherwise falls below the initial level of beautification of the Revocable Licensed Area and ensure that such vegetation is of the same grade as specified in the original approved plans and specifications and the same size as those existing at the time of replacement.
- Remove litter and illegal dumping from the Revocable Licensed Area.
- Maintain irrigation in working order, including the maintenance and replacement of pumps, pipes, and sprinkler heads.

Irrigation

Routine and preventive maintenance and repair of the irrigation system includes but is not limited to the following:

- Adjusting all heads for proper operation and direction such that they do not spray into or across roadways, walkways, or other vehicular or pedestrian areas.
- Clearing away grass, debris, or vegetation that may hinder the operation of the sprinkler heads. All valve boxes must remain free of vegetation and be visible at all times.
- Inspecting irrigation system for clogged or improperly set nozzles and spray heads, adjusting heads, and replacing them as needed.
- Replacing any broken pipes, solenoids, electric valves, rain sensor heads, and all other related parts that may negatively impact the irrigation system.
- Regular inspection of the system and re-filling of the tank holding the rust inhibitor chemicals, if applicable.

Pavers

- Any damages to pavers that present a visual or physical deficiency must be repaired within thirty (30) days of notification to the Licensee. Damages to pavers that present a liability to the County must be repaired within twenty-four (24) hours of notification to the Licensee.
- Make sure paver surfaces maintain Americans with Disabilities Act (ADA) compliance including no tripping hazards.

Tree Grates/Tree Root Ball/Tree Pit "Surround" Zone

- Ensure the opening of the tree grate doesn't hamper the growth of the tree trunk. Repair any uplifting of the tree grates to maintain ADA compliance.
- Pressure wash a minimum of once per year or sooner when necessary.

Pedestrian Lighting

- Periodic maintenance of the lighting system to ensure functionality. Correct any deficiencies (outages, excess light spillage, low lumens, fixture or pole corrosion, damage to pole and fixture, exposed wiring, and all other issues related to components that impact functionality.)

Vegetation

- All ground cover, including shrubs, plants, bushes, bases of palms and hedges, will be trimmed and pruned to maintain a neat and proper appearance.
- Maintain a maximum height of twenty-four (24) inches to ensure sight visibility per Florida Department of Transportation / Broward County guidelines.
- Ground cover, shrub beds, mulch, and other areas must remain weed-free and all undesirable vegetation, including vines, must be removed. Trash/litter must be cleaned regularly.
- All ground cover will be trimmed, pruned, and thinned to retain its natural form in proportionate size to one another. Aesthetic pruning of ground cover shall include the removal of dead and/or broken branches.
- At the completion of each ground cover trimming operation, all material trimmed will be removed from the site, along with any trash/litter in the Revocable License Area.
- Monitor and control insects and ant mounds.

Mulch

- All mulched areas will be replenished at a minimum of once a year. Mulch should be maintained to a depth of three (3) inches.
- The preferred species of mulch is shredded melaleuca or pine bark.

Tree and Palm

- The tree and palm tree pruning will be done in accordance with Article 11 of the Broward County Natural Resource Protection Code, Code of Ordinances. Tree-trimming will be performed by a contractor that is in possession of a Broward County tree-trimming license (minimum Class "B" license).
- Maintain a clearance of 14'- 6" from grade to lowest limbs of tree over vehicular travel lanes and 7'- 0" clearance over pedestrian walkways.
- Maintain travel lanes clear of any palm fronds, branches or debris.
- Dead fronds from palm trees must be removed from the ground immediately. Sabal and Washington Palms must be thinned of dead or dying fronds twice annually.
- Canopy Trees must be pruned to remove sucker growth and to maintain clear visibility between grade and a height of at least 7'- 0". All damaged, dead, or diseased limbs resulting from weather or pests must be removed upon discovery of defective condition.
- Ornamental Trees such as Cattley Guava, Ligustrum and Oleander Standards must be pruned by thinning to maintain shape of tree on a semi-annual basis.

Tree Fertilization

- Canopy Trees (up to three 3" caliper) must be fertilized to maintain good health.
- All palms must be fertilized three (3) times per year.

