



TOWN OF CUTLER BAY

Mayor Paul S. Vrooman
Vice Mayor Edward P. MacDougall
Councilmember Timothy J. Meerbott
Councilmember Ernest N. Sochin
Councilmember Peggy R. Bell

Town Manager Steven Alexander
Town Attorney Mitchell Bierman
Town Attorney Chad Friedman
Town Clerk Erika Santamaria

This meeting is open to the public. In accordance with the Americans with Disabilities Act of 1990, persons needing special accommodation, a sign language interpreter or hearing impaired to participate in this proceeding should contact the Town Clerk at (305) 234-4262 for assistance no later than four days prior to the meeting.

TOWN COUNCIL MEETING AGENDA

Wednesday, November 14, 2007, 7:00 PM
South Dade Regional Library
10750 SW 211th Street, 2nd Floor
Cutler Bay, Florida 33189

1. **CALL TO ORDER, ROLL CALL, PLEDGE OF ALLEGIANCE, MOMENT OF SILENCE**
2. **PROCLAMATIONS, AWARDS, PRESENTATIONS**
 - A. Proclamation presentation to Representatives Julio Robaina, JC Planas, Ed Bullard; Senators JD Alexander and Larcenia Bullard; Speaker Pro Tempore Marsha Bowen.
3. **APPROVAL OF MINUTES**
 - A. Regular Council Meeting – October 17, 2007
4. **REPORTS**
 - A. TOWN MANAGER'S REPORT
 - a. Report on Status of Building and Permitting Services - Request for Proposals
 - B. TOWN ATTORNEY'S REPORT
 - C. BOARD AND COMMITTEE REPORTS

TAB 1

5. CONSENT AGENDA

ANY ITEMS SHALL BE REMOVED FROM THE CONSENT AGENDA FOR DISCUSSION OR SEPARATE VOTE IF REQUESTED OR PULLED BY A COUNCILMEMBER OR THE TOWN MANAGER.

A. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING THE SELECTION OF ALBERNI, CABALLERO & CASTELLANOS, LLP AS AUDITOR FOR THE TOWN AND AUTHORIZING THE TOWN MANAGER TO EXECUTE THE AUDIT SERVICES CONTRACT AND ENGAGEMENT LETTER WITH SUCH FIRM; AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 2

B. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, RELATING TO PROFESSIONAL SERVICES; APPROVING THE QUALIFICATION OF FIRMS TO PROVIDE GENERAL CIVIL ENGINEERING, TRANSPORTATION PLANNING AND ENGINEERING, AND LANDSCAPE ARCHITECTURE SERVICES TO THE TOWN; AUTHORIZING THE TOWN MANAGER TO A NON-EXCLUSIVE PROFESSIONAL SERVICES AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, THE CORRADINO GROUP, MARLIN ENGINEERING, INC., CRAIG A. SMITH AND ASSOCIATES, INC., AND CORZO, CASTELLA, CARBALLO, THOMPSON, SALMON (C3TS); PROVIDING FOR AN EFFECTIVE DATE.

TAB 3

C. A RESOLUTION OF THE MAYOR AND THE TOWN COUNCIL OF THE TOWN OF CUTLER, BAY, FLORIDA APPROVING THE AGREEMENT BETWEEN THE OFFICE OF THE STATE ATTORNEY OF THE ELEVENTH JUDICIAL CIRCUIT OF FLORIDA AND THE TOWN OF CUTLER BAY; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 4

D. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING A PROJECT AGREEMENT BETWEEN THE STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR STORMWATER IMPROVEMENT PROJECTS BY THE TOWN; AUTHORIZING TOWN OFFICIALS TO FINALIZE THE TERMS AND CONDITIONS OF THE AGREEMENT AND TO EXECUTE ANY DOCUMENTS NECESSARY TO EFFECTUATE THE GRANT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE AGREEMENT, TO EXECUTE ANY REQUIRED DOCUMENTS, TO IMPLEMENT THE TERMS AND CONDITIONS OF THE AGREEMENT AND TO EXECUTE ANY

TAB 5

EXTENSIONS TO THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

- E. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, RELATING TO OFFICE SPACE; AUTHORIZING THE TOWN MANAGER TO ENTER INTO TWO LEASE AGREEMENTS WITH PINNACLE INVESTMENT PROPERTIES, INC. FOR APPROXIMATELY 1,291 SQUARE FEET OF OFFICE SPACE; AND PROVIDING AN EFFECTIVE DATE.

TAB 6

- F. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, RELATING TO CONTRACTS; AUTHORIZING THE TOWN MANAGER TO ENTER INTO AN AGREEMENT FOR THE PURCHASE OF SOFTWARE LICENSES AND SERVICE RELATED TO THE INSTALLATION OF A NEW BUILDING DIVISION PERMITTING SOFTWARE WITH ENERGGOV SOLUTIONS, LLC; WAIVING THE REQUIREMENT FOR BIDDING OF THE CONTRACT IN ACCORDANCE WITH SECTION 3.10 OF THE TOWN CHARTER; AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 7

- G. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, RELATING TO APPOINTMENT OF COMMITTEE MEMBERS; REQUIRING CERTAIN MATERIALS BE PRESENTED PRIOR TO APPOINTMENT OF A COMMITTEE MEMBER; REQUIRING APPEARANCE BY COMMITTEE MEMBERS; AND PROVIDING FOR AN EFFECTIVE DATE. **(MACDOUGALL)**

TAB 8

- H. A RESOLUTION OF THE MAYOR AND THE TOWN COUNCIL OF THE TOWN OF CUTLER, BAY, FLORIDA APPROVING AN ADDENDUM TO THE AGREEMENT BETWEEN THE MIAMI-DADE COUNTY, THE MIAMI-DADE POLICE DEPARTMENT AND THE TOWN OF CUTLER BAY; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 9

6. QUASI-JUDICIAL HEARINGS (PUBLIC HEARING REQUIRED)

ALL PERSONS ADDRESSING THE TOWN COUNCIL SHALL BE SWORN-IN PRIOR TO GIVING TESTIMONY AND MAY BE SUBJECT TO CROSS EXAMINATION. ALL PERSONS ADDRESSING THE TOWN COUNCIL SHALL STATE THEIR NAME AND ADDRESS FOR THE RECORD.

- A. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, GRANTING SITE PLAN APPROVAL FOR A 3,960 SQUARE FOOT BANK ON APPROXIMATELY .51 ACRES, LOCATED AT 19199 SOUTH DIXIE HIGHWAY; AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 10

7. **ORDINANCES FOR FIRST READING (PUBLIC HEARING NOT REQUIRED)**

A. AN ORDINANCE OF TOWN OF CUTLER BAY, FLORIDA, CREATING A STORMWATER UTILITY SYSTEM FOR THE TOWN; PROVIDING AUTHORITY; PROVIDING FOR DEFINITIONS; MAKING CERTAIN FINDINGS AND DETERMINATIONS; ESTABLISHING A STORMWATER UTILITY FEE SYSTEM; ESTABLISHING THE RATE OF STORMWATER UTILITY FEE; ESTABLISHING A METHOD AND PROCEDURE FOR THE COLLECTION OF STORMWATER UTILITY FEES; PROVIDING FOR REQUESTS FOR ADJUSTMENT; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 11

B. AN ORDINANCE OF THE TOWN OF CUTLER BAY, FLORIDA; AMENDING THE TOWN CODE BY CREATING THE "DANGEROUS INTERSECTION SAFETY" REGULATIONS, PROVIDING FOR RECORDED IMAGE MONITORING AND ENFORCEMENT OF RED LIGHT INFRACTIONS, AND FOR RELATED PROCEDURES AND PROVISIONS; AMENDING ORDINANCE 07-09, SECTION 10 "SCHEDULE OF CIVIL PENALTIES", TO FACILITATE USE OF CODE ENFORCEMENT MECHANISM FOR DANGEROUS INTERSECTION SAFETY; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE. **(MEERBOTT)**

TAB 12

C. AN ORDINANCE OF THE TOWN OF CUTLER BAY, FLORIDA; AMENDING THE TOWN CODE BY ADOPTING REGULATIONS RELATED TO SMOKING IN PARKS; AMENDING ORDINANCE 07-09, SECTION 10 "SCHEDULE OF CIVIL PENALTIES", TO FACILITATE USE OF CODE ENFORCEMENT SYSTEM FOR ELIMINATING SMOKING IN NON-SMOKING AREAS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE. **(MACDOUGALL)**

TAB 13

D. AN ORDINANCE OF THE TOWN OF CUTLER BAY, FLORIDA; AMENDING THE TOWN CODE BY ADOPTING REGULATIONS RELATED TO HOMEOWNERS' ASSOCIATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

TAB 14

E. AN ORDINANCE OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING ORDINANCE 07-24 WHICH ADOPTED AN OPERATING AND CAPITAL OUTLAY BUDGET FOR THE FISCAL YEAR

TAB 15

COMMENCING OCTOBER 1, 2007 THROUGH SEPTEMBER 30, 2008 BY REVISING SAID BUDGET AS OUTLINED IN EXHIBIT "A" HERETO AND AUTHORIZING THE TOWN MANAGER TO MAKE EXPENDITURES CONSISTENT THEREWITH AND DO ALL THINGS NECESSARY TO CARRY OUT THE INTENT OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE. (BELL)

8. ORDINANCES FOR FIRST READING (PUBLIC HEARING REQUIRED)

A. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ADOPTING THE INITIAL COMPREHENSIVE PLAN (GROWTH MANAGEMENT PLAN) FOR THE TOWN IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 163, FLORIDA STATUTES; PROVIDING FOR THE ADOPTION OF THE FUTURE LAND USE MAP; AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 16

9. ORDINANCES FOR SECOND READING (PUBLIC HEARING REQUIRED)

A. AN ORDINANCE OF THE TOWN OF CUTLER BAY, FLORIDA, RE-ADOPTING THE ORDINANCE ADOPTING AN OPERATING AND CAPITAL OUTLAY BUDGET WITH TOTAL EXPENDITURES IN THE AMOUNT OF \$27,891,607 FOR THE FISCAL YEAR COMMENCING OCTOBER 1, 2007 THROUGH SEPTEMBER 30, 2008 PURSUANT TO FLORIDA STATUTE 200.065 (TRIM BILL); AND AUTHORIZING THE TOWN MANAGER TO MAKE EXPENDITURES CONSISTENT THEREWITH AND AUTHORIZING THE TOWN MANAGER TO MAKE CERTAIN BUDGET AMENDMENTS WITHIN A DEPARTMENT PROVIDED THAT THE TOTAL OF THE APPROPRIATIONS IS NOT CHANGED; AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 17

B. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING CHAPTER 19 "RESPONSIBLE PROPERTY OWNER AND MERCHANT ACT" RELATING TO THE AMOUNT OF TIME PERMITTED TO CORRECT A VIOLATION AND THE TOWN'S AUTHORITY TO ABATE A PUBLIC NUISANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 18

C. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA AMENDING THE PROCEDURES AND NOTICE FOR ZONING WORKSHOPS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 19

- D. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA AMENDING ORDINANCE 06-28 RELATING TO BURGLAR ALARM FEES AND REGISTRATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. **(BELL)**

10. PUBLIC COMMENTS

THE PRESIDING OFFICER SHALL HAVE THE DISCRETION TO LIMIT THE LENGTH OF PUBLIC COMMENTS IN THE INTEREST OF TIME IN ORDER TO ALLOW ALL PERSONS WHO WISH TO SPEAK AN OPPORTUNITY TO DO SO.

11. MAYOR AND COUNCIL COMMENTS

12. OTHER BUSINESS

13. ADJOURNMENT

- A. Regular Council Meeting
 Wednesday, December 19, 2007, 7:00 P.M.
 South Dade Regional Library, 2nd Floor
 10750 SW 211th ST

PURSUANT TO FLORIDA STATUTES 286.0105, THE TOWN HEREBY ADVISES THE PUBLIC THAT IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THIS COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT ITS MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT FOR SUCH PURPOSE, THE AFFECTED PERSON MAY NEED TO ENSURE THAT VERBATIM RECORD OF THE PROCEEDING IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE TOWN FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE OR IRRELEVANT EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW.

TAB 1

**TOWN OF CUTLER BAY
TOWN COUNCIL MEETING
MINUTES**

Wednesday, October 17, 2007, 7:00 PM
South Dade Government Center
10720 SW 211th Street, Room 203
Cutler Bay, Florida 33189

1. CALL TO ORDER/ROLL CALL OF MEMBERS: The meeting was called to order by the mayor at 7:05 PM. Present were the following:

Councilmember Peggy R. Bell
Councilmember Timothy J. Meerbott
Councilmember Ernest N. Sochin
Vice Mayor Edward P. MacDougall
Mayor Paul S. Vrooman

Town Manager Steven J. Alexander
Town Attorney Mitchell Bierman
Town Attorney Chad Friedman
Town Clerk Erika Santamaria

2. PROCLAMATIONS, AWARDS, PRESENTATIONS:

A. Proclamation was presented to Old Cutler Academy for being the first Eco-Friendly Pre-School in Florida.

3. APPROVAL OF MINUTES:

A. Councilmember Bell made a motion approving the minutes of the meeting of September 19, 2007. The motion was seconded by Councilmember Sochin and adopted by a unanimous 5-0 voice vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

B. Vice Mayor MacDougall made a motion approving the minutes of the second budget hearing on September 24, 2007. The motion was seconded by Councilmember Meerbott and adopted by a unanimous 5-0 voice vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

4. REPORTS

A. TOWN MANAGER'S REPORT

The Town Manager discussed a request made by Miami-Dade County on the possible annexation of the area known as Goulds located south from the town limits. He also reported that the monument signs are in the permitting is still underway. He was proud to recognize Captain Pichardo who was recently promoted to the rank of Major and along with that promotion the Town will acquire a new Captain. The manager also discussed a memo handed out to Council that reported on the status of

the Building and Permitting Services request for proposals. The manager is recommending that the Council authorize the him to negotiate a contract with CAP Government.

Councilmember Meerbott made a motion to defer the manager's recommendation until date certain of November 14, 2007. The motion was seconded by Vice Mayor MacDougall and all members of Council were in favor of the motion.

B. TOWN ATTORNEY'S REPORT

C. BOARD AND COMMITTEE REPORTS

- a. The clerk read the list of appointments made by each Councilmember for the Town Events Committee. Councilmember Bell made a motion approving the appointments to the events committee. The motion was seconded by Councilmember Meerbott and all members of Council were unanimously in favor of the motion.

5. CONSENT AGENDA:

- A.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING THE CONTRACT BETWEEN THE CHILDREN'S TRUST AND THE TOWN OF CUTLER BAY FOR THE PROVISION OF AN AFTER SCHOOL PROGRAM AT CUTLER RIDGE PARK; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE SAME AND PROVIDING FOR AN EFFECTIVE DATE.

Councilmember Bell made a motion to approve the Consent Agenda. The motion was seconded by Vice Mayor MacDougall and Resolutions 07-49 was adopted by unanimous 5-0 voice vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

6. QUASI-JUDICIAL HEARINGS (PUBLIC HEARING REQUIRED)

ALL PERSONS ADDRESSING THE TOWN COUNCIL SHALL BE SWORN-IN PRIOR TO GIVING TESTIMONY AND MAY BE SUBJECT TO CROSS EXAMINATION. ALL PERSONS ADDRESSING THE TOWN COUNCIL SHALL STATE THEIR NAME AND ADDRESS FOR THE RECORD.

All witnesses giving testimony were sworn-in by the clerk.

- A.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, GRANTING SITE PLAN APPROVAL FOR A 159,573 SQUARE FOOT RETAIL AND OFFICE CENTER ON APPROXIMATELY 18.52 ACRES OF LAND, GENERALLY LOCATED SOUTH S.W. 216TH STREET, WEST S.W. 87TH AVENUE, EAST S.W. 97TH AVENUE, AND NORTH OF S.W. 224TH STREET; AND PROVIDING FOR AN EFFECTIVE DATE.

Paul Frahm, 1803 Briar Peak Boulevard, representing the applicant, addressed the Council.

Planning Director Don O'Donniley gave an oral report recommending approval of the applicant's request subject to the following conditions

- Prior to this issuance of a Temporary Certificate of Occupancy, the Applicant shall provide written documentation from Miami Dade County demonstrating that: (1) a special taxing district has been created for the street lighting abutting the proposed development; or (2) Miami Dade County has agreed to another legal mechanism, which requires the property owner to be responsible for the operation, maintenance, and payment of electricity for the street lighting abutting the proposed development.
- The development shall be consistent with the following plans as revised and all other building plans and elevations on file in the Town Planning Department:
 - Site Plans for "Vista Del Lago" (Sheets SP-1 and 2), prepared by Ludovici & Orange; dated 6/15/07, and signed, dated and sealed 10/02/07.
 - Landscape Plans for "Vista Del Lago" (Sheets L-1, 2 and 3), prepared by Ludovici & Orange; dated 2/16/07, and signed, dated and sealed 10/02/07.
- Dumpster Enclosures & Pavilions for "Vista Del Lago Town Center" (Sheet 1A-0.08), prepared by Rick Gonzalez; dated 07/26/07
- Conditions as stated in the traffic analysis of July 2007 and revised August 31, 2007 by Transport Analysis Professionals and reviewed by The Corradino Group, September, 2007 shall be complied with.
- All tractor trailer ingress shall be required to utilize the eastern drive and egress to the western drive. Signage shall be provided in the center drive requiring such.
- All drives shall be modified to reflect conditions of traffic impact analysis review.
- A recessed exclusive bus stop shall be provided as reflected in the conditions of the traffic impact analysis review.
- The applicant shall contribute to convert the intersection of SW 97th Avenue and SW 216 Street to a two-way stop control to reflect conditions of traffic impact analysis review.
- The traffic circle design shall be modified to reflect the redesign by The Corradino Group.
- The proposed grocery store may unload up to one truck per day prior to 11:00 a.m. for baked goods only at the front of the store.
- The developer shall direct the management company to make the community center available upon reasonable request and provide usage records to the Town on a quarterly basis.
- The developer shall provide a cross walk at SW 87th Path.

The mayor opened the public hearing. Steve Zarzecki, 9640 Martinique Drive, Jaime Reyes, 9750 Southwest 215 Lane, addressed the Council.

Vice Mayor MacDougall made a motion to approve staff's recommendation. The motion was seconded by Councilmember Meerbott and adopted by unanimous roll call vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

7. ORDINANCES FOR FIRST READING (PUBLIC HEARING NOT REQUIRED)

The clerk read the following ordinance, on first reading, by title:

- A.** AN ORDINANCE OF THE TOWN OF CUTLER BAY, FLORIDA, RE-ADOPTING THE ORDINANCE ADOPTING AN OPERATING AND CAPITAL OUTLAY BUDGET WITH TOTAL EXPENDITURES IN THE AMOUNT OF \$27,891,607 FOR THE FISCAL YEAR COMMENCING OCTOBER 1, 2007 THROUGH SEPTEMBER 30, 2008 PURSUANT TO FLORIDA STATUTE 200.065 (TRIM BILL); AND AUTHORIZING THE TOWN MANAGER TO MAKE EXPENDITURES CONSISTENT THEREWITH AND AUTHORIZING THE TOWN MANAGER TO MAKE CERTAIN BUDGET AMENDMENTS WITHIN A DEPARTMENT

PROVIDED THAT THE TOTAL OF THE APPROPRIATIONS IS NOT CHANGED; AND PROVIDING FOR AN EFFECTIVE DATE.

Councilmember Meerbott made a motion to approve the ordinance on first reading. The motion was seconded by Councilmember Bell and adopted by unanimous roll call vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

This item will be heard on second reading on November 14, 2007.

The clerk read the following ordinance, on first reading, by title:

- B.** AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING CHAPTER 19 "RESPONSIBLE PROPERTY OWNER AND MERCHANT ACT" RELATING TO THE AMOUNT OF TIME PERMITTED TO CORRECT A VIOLATION AND THE TOWN'S AUTHORITY TO ABATE A PUBLIC NUISANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

Councilmember Meerbott made a motion to approve the ordinance on first reading. The motion was seconded by Councilmember Sochin and adopted by unanimous roll call vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

This item will be heard on second reading on November 14, 2007.

The clerk read the following ordinance, on first reading, by title:

- C.** AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA AMENDING THE PROCEDURES AND NOTICE FOR ZONING WORKSHOPS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Vice Mayor MacDougall made a motion to approve the ordinance on first reading. The motion was seconded by Councilmember Bell and adopted by unanimous roll call vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

This item will be heard on second reading on November 14, 2007.

The clerk read the following ordinance, on first reading, by title:

- D.** AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA AMENDING ORDINANCE 06-28 RELATING TO BURGLAR ALARM FEES AND REGISTRATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. **(BELL)**

Councilmember Sochin made a motion to approve the ordinance on first reading. The motion was seconded by Councilmember Meerbott and adopted by unanimous roll call vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

This item will be heard on second reading on November 14, 2007.

8. ORDINANCES FOR FIRST READING (PUBLIC HEARING REQUIRED)

The clerk read the following ordinance, on first reading, by title:

- A.** AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ADOPTING THE INITIAL COMPREHENSIVE PLAN (GROWTH MANAGEMENT PLAN) FOR THE TOWN IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 163, FLORIDA STATUTES; PROVIDING FOR THE ADOPTION OF THE FUTURE LAND USE MAP; AND PROVIDING FOR AN EFFECTIVE DATE.

Planning Director Don O'Donniley, gave a report on the ordinance.

The Mayor opened the public hearing. Jaime Reyes, 9750 Southwest 215 Lane, Louise Lockwood, 9071 Ridgeland Drive, Barbara Condon, 19641 Holiday Road, Pdraig Brousseau, 19791 Southwest 101 Court, Steve Zarzecki, 9640 Martinique Drive, Joy Cooper, 9365 Nassau Drive, Tom Condon, 19641 Holiday Road, Simon Ferro, 1221 Brickell Drive, Graham Penn, 200 South Biscayne Boulevard, John Herin, 150 West Flagler Street.

Councilmember Meerbott made a motion to defer the ordinance until date certain of November 14, 2007. The motion was seconded by Councilmember Bell and approved by unanimous roll call vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

- 9. ORDINANCES FOR SECOND READING (PUBLIC HEARING REQUIRED):** None at this time

10. PUBLIC COMMENTS

THE PRESIDING OFFICER SHALL HAVE THE DISCRETION TO LIMIT THE LENGTH OF PUBLIC COMMENTS IN THE INTEREST OF TIME IN ORDER TO ALLOW ALL PERSONS WHO WISH TO SPEAK AN OPPORTUNITY TO DO SO.

The following individuals spoke: Jaime Reyes, 9750 Southwest 215 Lane, Joy Cooper, 9365 Nassau Drive, Eduardo Verona, 9271 Marine Drive, Barbara Condon, 19641 Holiday Road.

11. MAYOR AND COUNCIL COMMENTS

Councilmember Sochin discussed his trip to Tallahassee and met with Florida State's Chief Financial Officer, Alex Sink, whom he has invited to tour our Town and attend a council meeting tentatively in January. Member Sochin also reported that he will be traveling to Tallahassee again in the near future about FP & L and power outage issues within the Town.

Vice Mayor MacDougall mentioned that he had dinner at Thunder Island, a new restaurant in Town, and encourages the public to try this new venue. He also discussed a potential workshop on the Committee of the Whole in the near future.

Councilmember Meerbott discussed that a potential new Fire Station may be moving close to the Town in our neighboring village. Member Meerbott would like to set-up a committee to assess the needs of a new fire station. He also attended Stand Against Crime walk and the Blue Mass at Holy Rosary honoring all police officers on duty.

Councilmember Bell discussed that she also has dined at the new restaurant in Town, Thunder Island and pushed for supporting new local spots.

Mayor Vrooman discussed that the Town has been participating in various meetings in reference to CITT funds, a citizens review board for the PTP funds. The funds are potentially amounted to \$20 million. The two meetings of four with CITT have been unanimously successful and now will proceed to a County Committee for approval. The mayor recognized Ralph Casals for his hard work on the packet to support Cutler Bay's cause during the CITT meetings.

12. OTHER BUSINESS: None at this time.

13. ADJOURNMENT

The next council meeting will be held on November 14, 2007, at South Dade Government Regional Library.

The meeting was officially adjourned at 10:50 P.M.

Respectfully submitted:

*Erika Gonzalez-Santamaria, CMC
Town Clerk*

*Adopted by the Town Council on
this 14th day of November, 2007.*

Paul S. Vrooman, Mayor

PURSUANT TO FLORIDA STATUTES 286.0105, THE TOWN HEREBY ADVISES THE PUBLIC THAT IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THIS COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT ITS MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT FOR SUCH PURPOSE, THE AFFECTED PERSON MAY NEED TO ENSURE THAT VERBATIM RECORD OF THE PROCEEDING IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE TOWN FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE OR IRRELEVANT EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW.

TAB 2



Steven J. Alexander
Town Manager

MEMORANDUM

To: Honorable Mayor, Vice Mayor and Town Council
From: Steven J. Alexander, Town Manager
Date: October 30 2007
Re: RECOMMENDATION OF PROPOSAL FOR RFP #07-06, PROFESSIONAL AUDITING SERVICES

REQUEST

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING THE TOWN MANAGER TO ACCEPT ALL PROPOSALS FOR RFP #07-06, PROFESSIONAL AUDITING SERVICES AND AUTHORIZING THE MANAGER TO ENTER INTO A CONTRACT WITH THE TOP RANKED FIRM; AND PROVIDING FOR AN EFFECTIVE DATE.

BACKGROUND AND ANALYSIS

In response to RFP #07-06, Professional Auditing Services, the Town of Cutler Bay received proposals from three qualified CPA firms. On Friday, October 5, 2007, the Audit Committee of the Town of Cutler Bay met to discuss the responses received and the evaluations issued by the committee members. Based on this meeting, the Audit Committee recommended to the Town Manager that the CPA firms proposing to provide services to the Town be ranked as follows:

1. Albani, Caballero & Castellanos ("ACC"), average score = 85.0
2. Rachlin, Cohen & Holtz ("RCH"), average score = 83.7
3. Rodriguez, Trueba & Co. ("RT"), average score = 66.7

The Town Manager concurs with the recommended order of the finalists.

The Town Manager subsequently entered into negotiations with the top ranked firm and came to a satisfactory fee arrangement and contract form consistent with the requirements of the RFP.

RECOMMENDATION

We recommend that the Council approve the selection of the top ranked firm to provide audit services to the Town and that the Council approve the audit services contract and engagement letter in the form attached hereto.

RESOLUTION NO. 07-____

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING THE SELECTION OF ALBERNI, CABALLERO & CASTELLANOS, LLP AS AUDITOR FOR THE TOWN AND AUTHORIZING THE TOWN MANAGER TO EXECUTE THE AUDIT SERVICES CONTRACT AND ENGAGEMENT LETTER WITH SUCH FIRM; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Cutler Bay authorized the issuance of a Request For Proposals (RFP) for Professional Auditing Services; and

WHEREAS, the RFP resulted in three proposals being received prior to the deadline; and

WHEREAS, the evaluation of the proposals has revealed that all of the submittals were responsive; and

WHEREAS, in accordance with the RFP the Town Manager has made a recommendation to the Council for its approval; and

WHEREAS, the Council is in agreement with the recommendation.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, THAT:

Section 1. Recitals. The above recitals are true and correct and are incorporated herein by this reference.

Section 2. Town Manager Authorized. The Town Manager is authorized, on behalf of the Town, to execute the auditing services contract and engagement letter with Alberni, Caballero & Castellanos, LLP.

Section 3. Effective Date. This Resolution shall be effective immediately upon adoption.

PASSED and ADOPTED this ____ day of _____, 2007.

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ-SANTAMARIA, CMC
Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:

WEISS SEROTA HELFMAN PASTORIZA
COLE & BONISKE, P.L.
Town Attorney

Moved By:
Seconded By:

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman _____

Vice Mayor Edward P. MacDougall _____

Councilmember Peggy R. Bell _____

Councilmember Timothy J. Meerbott _____

Councilmember Ernest N. Sochin _____

AGREEMENT BETWEEN
THE TOWN OF CUTLER BAY
AND ALBERNI CABALLERO & CASTELLANOS, LLP
FOR AUDITING SERVICES

THIS AGREEMENT is made and entered into this 19TH day of OCTOBER, 2007, by and between the Town of Cutler Bay, a Florida municipal corporation (the "TOWN"), and ALBERNI CABALLERO & CASTELLANOS, LLP. ("AUDITOR").

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

PURPOSE/AUTHORIZATION/DOCUMENTS COMPRISING CONTRACT

- 1.1 The purpose of this Agreement is to provide for the TOWN'S retention of AUDITOR to perform all Auditing Services for the TOWN as described in Section 2 below.
- 1.2 The documents comprising this contract are as follows: The Town's Request for Proposals (RFP) for auditing services, the auditor's response to the RFP and the Auditor's engagement letter, attached hereto, which are hereby incorporated herein. In the event a conflict exists between the RFP, Response to the RFP, Engagement Letter and this contract the contract shall prevail over all the other documents, the RFP shall prevail over all the documents except the contract, and the Engagement Letter shall prevail over the Response to the RFP.

SCOPE OF SERVICES

AUDITOR shall provide the following Auditing Services to the TOWN:

2.1 **Scope of Work to be Performed**

The TOWN desires the AUDITOR to express an opinion on the fair presentation of its general purpose financial statements in conformity with general accepted principles. This is a Financial Audit which shall meet the requirements of Section 218.39, Florida Statutes.

The AUDITOR shall also prepare required management reports and any other reports as may be required. The AUDITOR shall also perform certain limited procedures involving required supplementary information as may be required by the State Statutes, the Florida AUDITOR General, the Governmental Accounting Standards Board and the AICPA, as mandated by generally accepted auditing standards.

2.2 **Additional Services**

AUDITOR shall provide additional services to the TOWN as determined by the Town Manager or his designee. AUDITOR shall perform services as provided for in the RFP, Response to the RFP and Engagement Letter.

2.3 **Auditing Standards to be Followed**

The audit shall be performed in accordance with generally accepted auditing standards as set forth by the American Institute of Certified Public Accountants and generally accepted government auditing standards as promulgated by the General Accounting Office and the Rules of the Auditor General of the State of Florida, the standards for financial audits as provided below:

1. Generally Accepted Auditing Standards as set forth by the American Institute of Certified Public Accountants;
2. The standards for financial audits set forth in the U.S. General Accounting Office's *Government Auditing Standards* (2003 Revisions);
3. The provisions of the Federal Single Audit Act of 1984 (as amended in 1996 and subsequently);
4. The Florida Single Audit Act;
5. The provisions of U.S. Office of Management and Budget (OMB) Circular A-133;
6. Audits of States, Local Government, and Non-Profit Organizations, Audits of State and Local Governments (Revised) – AICPA.;
7. Section 11.45, Florida Statutes;
8. State of Florida Department of Banking and Finance Regulations;
9. Rules adopted by the State of Florida AUDITOR General for form and content of governmental unit audits;
10. Any other applicable Federal, State and local laws or regulations;

Any updates of, or amendments to, these described auditing standards are to be incorporated in future audits performed by the selected AUDITOR performing auditing engagements for the Town of Cutler Bay in future fiscal years.

Note: The AUDITOR shall prepare the financial statements and footnotes. The AUDITOR shall be responsible for printing 30 copies of the annual financial statements, as well as providing an electronic, PDF version.

3. COMPENSATION

- 3.1 For all Auditing Services provided by AUDITOR as described in Sections 2.1 through 2.3 of this Agreement, AUDITOR shall be compensated **\$24,000, \$25,500 and \$26,500 for 2007, 2008 and 2009 (an additional \$2,000, \$2,500 and \$3,000, if Federal Single Audit is required for 2007, 2008 or 2009); respectively.**
- 3.2 The AUDITOR shall provide any such backup documentation, including staff time records, requested by the TOWN to support the amounts invoiced to the TOWN for the audit services contemplated herein. The TOWN shall pay the AUDITOR for all approved invoices, no later than 30 calendar days from the date of approval by the Town Manager of the invoice.

4. RECORDS/RIGHT TO INSPECT AND AUDIT

- 4.1. All records, books, documents, papers and financial information (the "Records") that result from AUDITOR providing services to the TOWN under this Agreement shall be the property of the TOWN.
- 4.2. Upon termination or expiration of this Agreement, or at any time during the term of this Agreement, and upon the written request of the Town Manager, any and all such Records shall be delivered to the TOWN by AUDITOR within 15 calendar days of the date of such request. Any compensation due to AUDITOR shall be withheld until such Records are received by the TOWN.
- 4.3. The AUDITOR shall maintain all Records for the time periods specified in the State of Florida Record Retention laws, and such other books,

documents, papers and financial information pertaining to work performed under this Agreement during the term of this Agreement and for a period of three (3) years following termination or expiration of this Agreement.

- 4.4. The Town Manager or his designee shall, during the term of this Agreement and for a period of five (5) years from the date of termination or expiration of this Agreement, have access to and the right to examine and audit any Records of AUDITOR involving transactions related to this Agreement.
- 4.5. The TOWN may cancel this Agreement for refusal by AUDITOR to allow access by the Town Manager to any Records pertaining to work performed under this Agreement that are subject to the provisions of Chapter 119, Florida Statutes.

5. INDEMNIFICATION

- 5.1. AUDITOR shall defend, indemnify, and hold harmless the TOWN, its officers, attorneys, agents and employees, from and against any and all demands, claims, losses, suits, liabilities, causes of action, judgment or damages, arising out of, related to, or in any way connected with AUDITOR, it's officers, agents or employees acts or omissions, negligence, recklessness, misconduct, performance or non-performance of any provision of this Agreement including, but not limited to, liabilities arising from contracts between AUDITOR and third parties made pursuant to this Agreement. AUDITOR shall reimburse the TOWN for all its expenses including reasonable attorneys' fees and costs incurred in and about the defense of any such claim or investigation and for any judgment or damages arising out of, related to, or in any way connected with AUDITOR'S performance or non-performance of this Agreement.
- 5.2. AUDITOR shall defend, indemnify, and hold harmless the TOWN, its officers, attorneys, agents and employees, from all losses, injuries, damages, wages or overtime compensation due AUDITOR'S agents or employees in rendering services pursuant to this Agreement, including payment of TOWN's reasonable attorneys' fees and costs in the defense of any claim made under the Fair Labor Standards Act, Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Americans with Disabilities Act or any employment related litigation or claims under federal or state law.
- 5.3. The provisions of this section shall survive termination of this Agreement.

6. INSURANCE

- 6.1. AUDITOR shall maintain at its sole cost and expense at all times, in addition to any other insurance the TOWN may reasonably require,

professional liability insurance, employee dishonesty insurance, employer's liability insurance, comprehensive general liability insurance and automotive liability insurance with minimum policy limits for each coverage in the amount of One Million Dollars (\$1,000,000.00) per occurrence, single limit for property damage and bodily injury, including death. The TOWN shall be named as an additional insured on each of the above policies, unless prohibited by law, and AUDITOR shall provide TOWN with a certificate evidencing same. Each policy shall also state that it is not subject to cancellation, modification, or reduction in coverage without 30 calendar days written notice to the TOWN prior to the effective date of cancellation, modification, or reduction in coverage.

- 6.2. AUDITOR shall maintain worker's compensation insurance at the statutory minimums required by Chapter 440, Florida Statutes.
- 6.3. AUDITOR shall maintain each of above insurance policies/coverages throughout the term of this Agreement and any extensions of this Agreement.
- 6.4. AUDITOR shall provide the TOWN with a current copy of each of the above insurance policies, and any renewals.

7. **TERM AND RENEWAL**

- 7.1 This Agreement shall become effective upon execution by both parties and shall continue through **SEPTEMBER 30, 2009** unless earlier terminated as provided in Section 8 (the "Term").
- 7.2. The TOWN shall have the option to renew this Agreement upon the same terms and conditions for up to two (2) additional one (1) year extensions (the "Option"). The Option may be exercised at the sole discretion of the Town Manager. Such extension shall be effective upon written notice from the Town Manager to the AUDITOR no later than 30 days prior to the date of termination of the Term or any renewal term.

8. **TERMINATION**

- 8.1 The TOWN may elect to terminate all or a portion of the Services provided by AUDITOR in this Agreement by giving AUDITOR written notice at least 90 calendar days prior to the effective date of termination. Upon receipt of written notice of termination, AUDITOR shall not enter into any third party agreements and shall incur only those expenses specifically approved or directed in writing by the Town Manager. Upon written notice of termination, the Town Manager may elect not to use the services of AUDITOR.

- 8.2 AUDITOR may terminate the Agreement at any time by giving the TOWN written notice at least 180 calendar days prior to the effective date of termination.
- 8.3 In the event of termination or expiration of this Agreement, AUDITOR and the TOWN shall cooperate in good faith in order to effectuate a smooth and harmonious transition from AUDITOR to the TOWN, or to any other person or entity the TOWN may designate, and to maintain during such period of transition the same services provided to the TOWN pursuant to the terms of this Agreement.
- 8.4 AUDITOR will take all reasonable and necessary actions to transfer all books, records and data of the TOWN in its possession in an orderly fashion to either the TOWN or its designee in a hard copy and computer format.
- 8.5 Subsequent to the termination of this Agreement, the TOWN may contract with AUDITOR at a mutually agreed upon amount to perform specified services on an as needed basis.
- 8.6 In the event that this Agreement is terminated for convenience, the AUDITOR shall be paid for any Auditing Services performed up to the date of termination. Upon receipt of a notice of termination, the AUDITOR shall perform only those services specified by the TOWN Manager and shall not incur additional expenses without the Town Manager's prior written approval.
- 8.7 Upon termination or expiration, any compensation payable by TOWN to AUDITOR shall be withheld until all Records and documents are provided to TOWN pursuant to Section 4.2 of this Agreement.
- 8.8 Upon termination or expiration, the TOWN shall not be liable to AUDITOR for any additional compensation, consequential or incidental damages, lost profits, or any other compensation, beyond the compensation structure specifically provided for in this Agreement.

9. **ENTIRE AGREEMENT/MODIFICATION/AMENDMENT**

- 9.1. This writing contains the entire Agreement of the parties and supercedes any prior oral or written representations. No representations were made or relied upon by either party, other than those that are expressly set forth herein.
- 9.2. No agent, employee, or other representative of either party is empowered to modify and amend the terms of this Agreement, unless executed with the same formality as this document.

10. **SEVERABILITY**

10.1. If any term or provision of this Agreement shall to any extent be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by law.

11. **GOVERNING LAW**

11.1. This Agreement shall be construed in accordance with and governed by the laws of the State of Florida. Exclusive venue for any litigation shall be in Miami-Dade County, Florida.

12. **WAIVER**

12.1. The failure of either party to this Agreement to object to or to take affirmative action with respect to any conduct of the other which is in violation of the terms of this Agreement shall not be construed as a waiver of the violation or breach, or of any future violation, breach or wrongful conduct.

13. **NOTICES/AUTHORIZED REPRESENTATIVES**

13.1. Any notices required or permitted by this Agreement shall be in writing and shall be deemed to have been properly given if transmitted by hand-delivery, by registered or certified mail with postage prepaid return receipt requested, or by private postal service, addressed to the parties at the following addresses:

For the Town:

Town of Cutler Bay
Attention: Steven Alexander, Town Manager
10720 Caribbean Blvd, Suite 105
Cutler Bay, Florida 33189
Telephone: (305) 234-4262
Facsimile: (305) 234-4251

With a copy to:

Weiss Serota Helfman Pastoriza Cole &
Boniske, P.L., Town Attorneys
Attention: Mitchell Bierman, Esq.

2525 Ponce de Leon Blvd
Suite 700
Coral Gables, FL 33134
Phone: (305) 854-0800
Facsimile: (305) 854-2323

For AUDITOR:

Alberni Caballero & Castellanos, LLP
Attn: Nestor Caballero, CPA
4649 Ponce De Leon Blvd. Suite 404
Coral Gables, FL 33146
Phone: (305) 662-7272
Facsimile: (305) 675-8376

Either party shall have the right to change its address for notice purposes by sending written notice of such change of address to the other party in accordance with the provisions hereof.

14. **INDEPENDENT AUDITOR**

14.1. AUDITOR is and shall remain an independent contractor and is not an employee or agent of the TOWN. Services provided by AUDITOR shall be by employees of AUDITOR working under the supervision and direction of AUDITOR and nothing in this Agreement shall in any way be interpreted or construed to deem said employees to be agents, employees, or representatives of the TOWN. AUDITOR agrees that it is a separate and independent enterprise from the TOWN.

14.2. AUDITOR shall be responsible for all compensation, tax responsibilities, insurance benefits, other employee benefits, and any other status or rights of its employees during the course of their employment with AUDITOR. This Agreement shall not be construed as creating any joint employment relationship between AUDITOR and the TOWN, and the TOWN will not be liable for any obligation incurred by AUDITOR, including but not limited to unpaid minimum wages and/or overtime payments.

15. **STAFFING/REMOVAL**

15.1 If at any time during the term of this Agreement the Town Manager becomes dissatisfied with the performance of any of AUDITOR'S staff assigned to provide services under this Agreement, the Town Manager may request that the particular employee be removed from servicing this account. Representatives of AUDITOR and the Town Manager shall meet to discuss appropriate remedial action to alleviate the performance

deficiencies experienced by the TOWN. If the proposed resolution is unsatisfactory to the Town Manager, AUDITOR shall reassign said personnel out of the TOWN within 3 calendar days of notification by the Town Manager.

15.2 AUDITOR agrees to act in good faith and to use its best efforts to resolve any problems experienced by the TOWN.

15.3 AUDITOR shall be responsible for maintaining current background checks on all employees and agents assigned to work in the TOWN. Background checks for each individual must be performed prior to providing any services to the TOWN. Written verification of any background checks must be provided to the TOWN if requested by the Town Manager.

16. **WAIVER OF JURY TRIAL**

16.1. In the event of any litigation arising out of this Agreement, each party hereby knowingly, irrevocably, voluntarily and intentionally waives its right to a trial by jury.

17. **ASSIGNMENT/SUBCONTRACTS**

17.1. This Agreement shall not be assignable by AUDITOR without the prior approval of the Town Council, at the TOWN'S sole discretion.

17.2 AUDITOR shall not subcontract any portion of the work required by this Agreement, except with the prior approval of the Town Manager, which shall be on his or her sole and absolute discretion.

18. **PROHIBITION AGAINST CONTINGENT FEES/CONFLICTS**

18.1. AUDITOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for AUDITOR, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person(s), company, corporation, individual or firm, other than a bona fide employee working solely for AUDITOR, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.

18.2 Neither AUDITOR nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with AUDITOR'S loyal and conscientious exercise of judgment related to its performance under this Agreement.

- 18.3 AUDITOR agrees that none of its officers or employees shall, during the Term or any renewal term of this Agreement, serve as an expert witness against TOWN in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process.

19. **WARRANTIES OF AUDITOR**

- 19.1 AUDITOR warrants and represents that at all times during the Term or any renewal term of this Agreement that it shall maintain in good standing with the State of Florida, that all required licenses and certificates of AUDITOR and its employees and agents required to perform services hereunder under federal, state and local laws necessary to perform the Scope of Services specified in this Agreement shall remain current and active.
- 19.2 AUDITOR warrants and represents that its employees have received sexual harassment training and that AUDITOR maintains appropriate sexual harassment and anti-discrimination policies.
- 19.3 AUDITOR warrants and represents that its employees will abide by the Code of Ethics for Public Officers and Employees, Chapter 112, Florida Statutes and the applicable provisions of the Conflict of Interest and Code of Ethics ordinances sets forth in Section 2-11.1 of the Town Code and Section 2-11.1 of the Miami-Dade County Code, as these codes may be amended from time to time.
- 19.4 AUDITOR shall not discriminate against any person in its operations, activities or delivery of services under this Agreement. AUDITOR shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery.
- 19.5 AUDITOR represents that all persons delivering the Auditing Services as required by this Agreement have the requisite knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in this Agreement and agrees to provide and perform such Auditing Services to TOWN'S satisfaction for the agreed compensation.
- 19.6 AUDITOR shall maintain a Drug-Free workplace as that term is defined in Florida Statutes.
- 19.7 AUDITOR shall comply with all applicable federal, state, county and Town laws, rules and regulations in the performance of Auditing Services.

19.8 The audit firm's professional personnel have received adequate continuing professional education with the proceeding two (2) years in accordance with the requirements of the Florida State Board of Accountancy and Government Auditing Standards.

20. **ATTORNEYS' FEES**

20.1 In the event of any litigation arising out of this Agreement, the prevailing party shall be entitled to recover its attorneys' fees and costs, including the fees and expenses of any paralegals, law clerks and legal assistants, and including fees and expenses charged for representation at both the trial and appellate levels.

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IN WITNESS WHEREOF the undersigned parties have executed this Agreement on the date indicated above.

WITNESSES:

Print Name: _____

Print Name: _____

Town Clerk

Approved as to form and legality
for use of and reliance by the Town
of Cutler Bay only:

Town Attorney

AUDITOR

By: _____

Date: _____

TOWN OF CUTLER BAY

By: _____

Date: _____



4649 PONCE DE LEON BLVD.
 SUITE 404
 CORAL GABLES, FL 33146
 TEL (305) 662-7272
 FAX (305) 675-8376

October 15, 2007

Steven Alexander, Town Manager
 Town of Cutler Bay, Florida
 10720 Caribbean Blvd., Suite 105
 Cutler Bay, Florida 33189

Dear Mr. Alexander:

We are pleased to confirm our understanding of the services we are to provide the Town of Cutler Bay, Florida (the Town) for the years ended September 30, 2007, 2008 and 2009. We will audit the financial statements of the governmental activities, each major fund, and the aggregate remaining fund information, which collectively comprise the basic financial statements of the Town as of and for the years ended September 30, 2007, 2008 and 2009. Accounting standards generally accepted in the United States provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A), to accompany the Town's basic financial statements. As part of our engagement, we will apply certain limited procedures to the Town's RSI. These limited procedures will consist principally of inquiries of management regarding the methods of measurement and presentation, which management is responsible for affirming to us in its representation letter. Unless we encounter problems with the presentation of the RSI or with procedures relating to it, we will disclaim an opinion on it. The following RSI is required by generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:

- 1) Management's Discussion and Analysis.
- 2) Budgetary Comparison Schedules

Supplementary information other than RSI, such as combining and individual fund financial statements, also accompanies the Town's basic financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the basic financial statements and will provide an opinion on it in relation to the basic financial statements:

- 1) Combining and individual nonmajor fund financial statements

The following additional information accompanying the basic financial statements will not be subjected to the auditing procedures applied in our audit of the financial statements, and for which our auditor's report will disclaim an opinion.

- 1) Introductory Section
- 2) Statistical Tables

Audit Objectives

The objective of our audit is the expression of opinions as to whether your basic financial statements are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles and to report on the fairness of the additional information referred to in the first paragraph when considered in relation to the basic financial statements taken as a whole. The objective also includes reporting on—

- Internal control related to the financial statements and compliance with the provisions of applicable laws, regulations, contracts, agreements, and grants, noncompliance with which could have a material effect on the financial statements in accordance with *Government Auditing Standards*.
- Internal control related to major programs and an opinion (or disclaimer of opinion) on compliance with laws, regulations, and the provisions of contracts or grant agreements that could have a direct and material effect on each major program in accordance with the Single Audit Act Amendments of 1996 and OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*.

The reports on internal control and compliance will each include a statement that the report is intended for the information and use of the audit committee, management, specific legislative or regulatory bodies, federal awarding agencies, and if applicable, pass-through entities and is not intended to be and should not be used by anyone other than these specified parties.

Our audit will be conducted in accordance with U.S. generally accepted auditing standards; the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; the Single Audit Act Amendments of 1996; and the provisions of OMB Circular A-133, and will include tests of accounting records, a determination of major program(s) in accordance with Circular A-133, and other procedures we consider necessary to enable us to express such opinions and to render the required reports. If our opinions on the financial statements or the Single Audit compliance opinions are other than unqualified, we will fully discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or to issue a report as a result of this engagement.

Management Responsibilities

Management is responsible for establishing and maintaining internal controls, including monitoring ongoing activities; for the selection and application of accounting principles; for the fair presentation in the financial statements of the respective financial position of the governmental activities, each major fund, and the aggregate remaining fund information of the Town and the respective changes in financial position in conformity with U.S. generally accepted accounting principles; and for federal award program compliance with applicable laws and regulations and the provisions of contracts and grant agreements. Management is responsible for the basic financial statements and all accompanying information as well as all representations contained therein.

You are responsible for management decisions and functions. As part of the audit, we will prepare a draft of your financial statements, schedule of expenditures of federal awards, and related notes. In accordance with *Government Auditing Standards*, you will be required to review and approve those financial statements prior to their issuance and have a responsibility to be in a position in fact and appearance to make an informed judgment on those financial statements. Further, you are required to designate a qualified management-level individual to be responsible and accountable for overseeing our services.

Management is responsible for making all financial records and related information available to us, including identifying significant vendor relationships in which the vendor has the responsibility for program compliance and for the accuracy and completeness of that information. Management's responsibilities include adjusting the financial statements to correct material misstatements and for confirming to us in the representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

(Continued)

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud or illegal acts affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud or illegal acts could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the entity complies with applicable laws, regulations, contracts, agreements, and grants. Additionally, as required by OMB Circular A-133, it is management's responsibility to follow up and take corrective action on reported audit findings and to prepare a summary schedule of prior audit findings and a corrective action plan.

Management is responsible for establishment and maintenance of a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying for us previous audits or other engagements or studies related to the objectives discussed in the Audit Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits or other engagements or studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions, and the timing and format related thereto.

Audit Procedures—General

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. We will plan and perform the audit to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the entity or to acts by management or employees acting on behalf of the entity. Because the determination of abuse is subjective, *Government Auditing Standards* do not expect auditors to provide reasonable assurance of detecting abuse.

Because an audit is designed to provide reasonable, but not absolute assurance and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements or noncompliance may exist and not be detected by us. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements or major programs. However, we will inform you of any material errors and any fraudulent financial reporting or misappropriation of assets that come to our attention. We will also inform you of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential. We will include such matters in the reports required for a Single Audit. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include tests of the physical existence of inventories, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will also require certain written representations from you about the financial statements and related matters.

Audit Procedures—Internal Controls

Our audit will include obtaining an understanding of the entity and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

(Continued)

As required by OMB Circular A-133, we will perform tests of controls over compliance to evaluate the effectiveness of the design and operation of controls that we consider relevant to preventing or detecting material noncompliance with compliance requirements applicable to each major federal award program. However, our tests will be less in scope than would be necessary to render an opinion on those controls and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to OMB Circular A-133.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under professional standards, *Government Auditing Standards*, and OMB Circular A-133.

Audit Procedures—Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the Town's compliance with applicable laws and regulations and the provisions of contracts and agreements, including grant agreements. However, the objective of those procedures will not be to provide an opinion on overall compliance and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

OMB Circular A-133 requires that we also plan and perform the audit to obtain reasonable assurance about whether the auditee has complied with applicable laws and regulations and the provisions of contracts and grant agreements applicable to major programs. Our procedures will consist of test of transactions and other applicable procedures described in the *OMB Circular A-133 Compliance Supplement* for the types of compliance requirements that could have a direct and material effect on each of the Town's major programs. The purpose of those procedures will be to express an opinion on the Town's compliance with requirements applicable to each of its major programs in our report on compliance issued pursuant to OMB Circular A-133.

Audit Administration, Fees, and Other

We may from time to time, and depending on the circumstances, use third-party service providers in serving your account. We may share confidential information about you with these service providers, but remain committed to maintaining the confidentiality and security of your information. Accordingly, we maintain internal policies, procedures, and safeguards to protect the confidentiality of your personal information. In addition, we will secure confidentiality agreements with all service providers to maintain the confidentiality of your information and we will take reasonable precautions to determine that they have appropriate procedures in place to prevent the unauthorized release of your confidential information to others. In the event that we are unable to secure an appropriate confidentiality agreement, you will be asked to provide your consent prior to the sharing of your confidential information with the third-party service provider. Furthermore, we will remain responsible for the work provided by any such third-party service providers.

We understand that your employees will prepare all cash, accounts receivable, or other confirmations we request and will locate any documents selected by us for testing.

We understand that a contract for audit services has been executed between our firm and the Town, and that if there are any conflicts between this engagement letter and the contract the terms of the contract prevail.

At the conclusion of the engagement, we will complete the appropriate sections of and sign the Data Collection Form that summarizes our audit findings. We will provide a copy of our report to the Town; however, it is management's responsibility to submit the reporting package (including financial statements, schedule of expenditures of federal awards, summary schedule of prior audit findings, auditors' reports, and a corrective action plan) along with the Data Collection Form to the designated federal clearinghouse and, if appropriate, to pass-through entities. The Data Collection Form and the reporting package must be submitted within the earlier of 30 days after receipt of the auditors' reports or nine months after the end of the audit period, unless a longer period is agreed to in advance by the cognizant or oversight agency for audits. At the conclusion of the engagement, we will provide information to management as to where the reporting packages should be submitted and the number to submit.

(Continued)

The audit documentation for this engagement is the property of Alberni Caballero & Castellanos, LLP and constitutes confidential information. However, pursuant to authority given by law or regulation, we may be requested to make certain audit documentation available to your cognizant or oversight agency or its designee, a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of Alberni Caballero & Castellanos, LLP personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

The audit documentation for this engagement will be retained for a minimum of five years after the report release or for any additional period requested by the Auditor General of the State of Florida. If we are aware that a federal awarding agency, pass-through entity, or auditee is contesting an audit finding, we will contact the party(ies) contesting the audit finding for guidance prior to destroying the audit documentation.

Our fee for these services will be at our standard hourly rates plus out-of-pocket costs (such as report reproduction, word processing, postage, travel, copies, telephone, etc.) except that we agree that our gross fee, including expenses, will not exceed \$24,000, \$25,500 and \$26,500 for 2007, 2008 and 2009 (an additional \$2,000, \$2,500 and \$3,000, if Federal Single Audit is required for 2007, 2008 or 2009); respectively. Our standard hourly rates vary according to the degree of responsibility involved and the experience level of the personnel assigned to your audit. Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. The above fee is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs.

Government Auditing Standards require that we provide you with a copy of our most recent external peer review report and any letter of comment, and any subsequent peer review reports and letters of comment received during the period of the contract. Our 2006 peer review report accompanies this letter.

We appreciate the opportunity to be of continued service to the Town of Cutler Bay and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us.

Very truly yours,

Nestor Caballero, Partner

Alberni Caballero & Castellanos, LLP

RESPONSE:

This letter correctly sets forth the understanding of Town of Cutler Bay, Florida.

By:

Title:

Date:

(Continued)

REQUEST FOR PROPOSALS
PROFESSIONAL AUDITING SERVICES



The Town of Cutler Bay Council:

Mayor Paul Vrooman
Vice Mayor Edward MacDougall
Councilmember Peggy Bell
Councilmember Timothy Meerbott
Councilmember Ernest Sochin

Steven Alexander, Town Manager
The Town of Cutler Bay
10720 Caribbean Blvd, Suite 105
Cutler Bay, Florida 33189

DATE ISSUED: AUGUST 22, 2007
CLOSING DATE: SEPTEMBER 28, 2007

Town of Cutler Bay, Florida

Request for Proposals No. 07-06

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SECTION 1 – REQUEST FOR PROPOSALS NOTICE

The Town of Cutler Bay (TOWN) issued the following Request for Proposals (RFP) Notice pertaining to Auditing Services within the TOWN. The RFP Notice was advertised in the Miami Daily Business Review on August 22, 2007 and on the TOWN'S web site.

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SECTION 2 – BACKGROUND INFORMATION

2.0 Scope of Services

2.1 General

A. Scope of Work to be Performed

The TOWN desires the AUDITOR to express an opinion on the fair presentation of its general purpose financial statements in conformity with general accepted accounting principles. This is a Financial Audit which shall meet the requirements of Section 218.39, Florida Statutes.

The TOWN also expects to receive grants during the periods covered by this Proposal and the AUDITOR should consider any Federal and/or State Single Audit procedures and reporting that may be necessary when developing its Proposal. Form A, Pricing Information, is provided to the AUDITOR in this Proposal package to enable it to meet the pricing information requirement as discussed in Section 4.1.2.

The AUDITOR shall also prepare required management reports and any other reports as may be required. The AUDITOR shall also perform certain limited procedures involving required supplementary information as may be required by the State Statutes, the Florida Auditor General, the Governmental Accounting Standards Board and the AICPA, as mandated by generally accepted auditing standards.

The selected AUDITOR will be expected to provide technical assistance to help the TOWN conform to the principles and standards of public financial reporting necessary for submission of the TOWN'S Comprehensive Annual Financial Report (CAFR) to the Government Finance Officers Association Certificate of Achievement program.

The TOWN desires the AUDITOR to propose on the audit services for the TOWN for the fiscal years ended September 30, 2007, 2008 and 2009.

There is no expressed or implied obligation for the TOWN to reimburse responding firms for an expenses incurred in preparing proposals in response to this request.

B. Auditing Standards to be Followed

To meet the requirements of this Request for Proposal, the audit shall be performed in accordance with generally accepted auditing standards as set forth by the American Institute of Certified Public Accountants and generally accepted

government auditing standards as promulgated by the General Accounting Office and the Rules of the Auditor General of the State of Florida, the standards for financial audits as provided below:

1. Generally Accepted Auditing Standards as set forth by the American Institute of Certified Public Accountants;
2. The standards for financial audits set forth in the U.S. General Accounting Office's *Government Auditing Standards* (2003 Revisions);
3. The provisions of the Federal Single Audit Act of 1984 (as amended in 1996 and subsequently);
4. The Florida Single Audit Act;
5. The provisions of U.S. Office of Management and Budget (OMB) Circular A-133;
6. Audits of States, Local Government, and Non-Profit Organizations, Audits of State and Local Governments (Revised) – AICPA.
7. Section 11.45, Florida Statutes;
8. State of Florida Department of Banking and Finance Regulations;
9. Rules adopted by the State of Florida Auditor General for form and content of governmental unit audits;
10. Any other applicable Federal, State and local laws or regulations;

Any updates of, or amendments to, these described auditing standards are to be incorporated in future audits performed by the selected AUDITOR performing auditing engagements for the Town of Cutler Bay in future fiscal years.

Note: The AUDITOR shall be responsible for printing 30 copies of the annual financial statements, as well as providing an electronic PDF version copy.

Irregularities and illegal acts: AUDITOR shall be required to make an immediate, written report of all irregularities and illegal acts of which they become aware to the Town Manager, the Finance Director and the Town Council.

Identification of Anticipated Potential Audit Problems:

The Request for Proposal should identify and describe any anticipated potential audit problems, the AUDITOR'S approach to resolving these problems and any special assistance that shall be requested from the Town Manager, the Finance Director and the Town Council.

- C. **Independence:** The AUDITOR should provide an affirmative statement that it is independent of the TOWN as defined by generally accepted auditing standards/the U.S. General Accounting Office's *Government Auditing Standards*.

2.2 Working Paper Retention and Access to Working Papers

All working papers and reports must be retained at the AUDITOR'S office and at the AUDITOR'S expense, for a minimum of five (5) years, unless the firm is notified in writing by the Town Manager of the need to extend the retention period. The AUDITOR will be required to make working papers available upon request by the Town Manager or Finance Director.

2.3 Time Requirements

A. Schedule for the Fiscal Year Audits

1. The TOWN agrees, subject to circumstances beyond its control, to close its books and prepare trial balance reports no later than December 15th of each year.
2. The AUDITOR shall conduct the audit examination so that their fieldwork will be completed sixty (60) days after the TOWN closes its books and prepares the trial balance reports.
3. The AUDITOR agrees to submit copies of adjusting journal entries to the TOWN at the completion of the fieldwork.
4. The AUDITOR agrees to submit a draft of the financial statements to the Finance Director no later than February 15th of each year for review and comment.
5. The AUDITOR agrees, subject to circumstances beyond its control, to deliver completed copies of the financial statements to the TOWN no later than the end of February each year.

2.4 Insurance Requirements

Liability Insurance: AUDITOR shall maintain at its sole cost and expense all times, in addition to any other insurance the TOWN may reasonably require, professional liability insurance, employee dishonesty insurance, employer's liability insurance, comprehensive general liability insurance and automotive liability insurance with minimum policy limits for each coverage in the amount of One Million Dollars (\$1,000,000.00) per occurrence, single limit for property damage and bodily injury, including death. Each policy shall also state that it is not subject to cancellation, modification, or reduction in coverage without thirty (30) days written notice to the TOWN prior to the effective date of cancellation, modification, or reduction in coverage. AUDITOR shall obtain all insurance coverage as specified herein.

- A. The liability insurance shall protect the AUDITOR and TOWN, from claims set forth below that may arise out of or result from the AUDITOR'S operations under the Agreement and for which the AUDITOR may be legally liable, whether such operations be by the AUDITOR or by anybody performing work for the AUDITOR under the Agreement or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:
1. claims under workers' compensation, disability benefit and other similar employee benefit acts that are applicable to the Services to be performed;
 2. claims for damages because of bodily injury, occupational sickness or disease, or death of the AUDITOR'S employees;
 3. claims for damages because of bodily injury, sickness or disease, or death of any person other than the AUDITOR'S employees;
 4. claims for damages insured by usual personal injury liability coverage that are sustained (1) by a person as a result of an offense directly or indirectly related to employment of such person by the AUDITOR, or (2) by another person;
 5. claims for damages, other than to the work itself, because of injury to or destruction of tangible property, including loss of use resulting there from;
 6. claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle; and
 7. claims involving contractual liability insurance applicable to the AUDITOR'S obligation.

- B. The insurance required for the Professional Auditing Services shall be written for not less than limits of liability specified in this RFP or required by law, whichever coverage is greater. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from date of commencement of the Services until date of final payment and termination of any coverage required to be maintained after final payment.
- C. Certificates of Insurance acceptable to the TOWN shall be filed with the TOWN prior to commencement of the Services. TOWN shall be named as an additional insured on all required insurance coverage. These Certificates and the insurance policies required shall contain a provision that coverages afforded under the policies will not be cancelled or allowed to expire until at least thirty (30) days prior written notice has been given to the TOWN, except that the cancellation notice period for non-payment of premiums for Worker's Compensation policies shall be ten (10) days. If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, an additional certificate evidencing continuation of such coverage shall be submitted with the final Application for Payment. The AUDITOR shall furnish information concerning reduction of coverage with reasonable promptness in accordance with the AUDITOR'S information and belief.

D. Coverages Required Minimum Limits

1.	Worker's Compensation	Statutory Limits – State of Florida
2.	Employers' Liability	\$500,000 accident/disease \$500,000 policy limit, disease
3.	General Liability, Contractual Liability, Special Form Property Damage Personal Injury Liability, Explosion, Collapse, Underground ● Premises/Operations ● Independent contractor ● Products ● Completed Operations	\$1,000,000 general aggregate, \$500,000 each occurrence
4.	Automobile liability	\$1,000,000 BI & PD, each accident
5.	Owned, hired, nonowned	\$1,000,000 BI & PD, each accident
6.	Professional Liability	\$1,000,000

SECTION 3 – GENERAL CONDITIONS

3.1 RFP Documents

These RFP documents constitute the complete set of Proposal specifications and forms. All forms and documents must be executed, sealed and submitted as provided in Section 4 of this RFP. Proposals not submitted on the prescribed Proposal forms shall be rejected. By submitting a Proposal, the AUDITOR agrees to be subject to all terms and conditions specified herein. Submittal of a response to this RFP constitutes a binding offer by the AUDITOR.

3.2 Taxes

The AUDITOR shall not be entitled to the TOWN'S tax exempt benefits.

3.3 Additional Terms and Conditions/Exceptions

No additional terms and conditions submitted by the AUDITOR with the RFP Proposal shall be evaluated or considered. Any and all such additional terms and conditions shall have no force and effect and are inapplicable to this RFP. No exception to the terms and conditions shall be allowed.

3.4 Interpretations and Inquiries

All AUDITORS shall carefully examine the RFP documents. Any ambiguities or inconsistencies shall be brought to the attention of the TOWN or its agent in writing prior to the Proposal deadline.

Any questions concerning the intent, meaning and interpretation of the RFP documents shall be requested in writing, and received by the TOWN no later than **5:00 PM**, local time, on **Monday, September 10, 2007**. Written inquiries shall be addressed to:

Erika Santamaria, Town Clerk
Town of Cutler Bay
10720 Caribbean Blvd, Suite 105
Cutler Bay, Florida 33189
Fax: (305) 234-4251

Submission of a Proposal shall serve as prima facie evidence that the AUDITOR has examined the RFP and is fully aware of all conditions affecting the provision of services.

No person is authorized to give oral interpretations of, or make oral changes to, the RFP documents. Therefore, oral statements shall not be binding and should not be relied upon. Any interpretation of, or changes to, the RFP documents shall be made in the form of a written addendum to the RFP document and shall be published by the TOWN on its web site. Only

those interpretations of, or changes to, the RFP document that are made in writing may be relied upon.

3.5 Verbal Agreements

No verbal agreement or conversation with any officer, agent, or employee of the TOWN, either before or after submittal of the proposal, shall affect or modify any of the terms or obligations contained in the Request for Proposal. Any such verbal agreement or conversation shall be considered as unofficial information and in no way binding upon the TOWN or the AUDITOR.

3.6 No Contingent Fees

AUDITOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the AUDITOR, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the AUDITOR, any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award or making of this Agreement.

3.7 Independence

On the form provided in Section 5 of this RFP, the AUDITOR shall list, and describe any relationships – professional, financial or otherwise – that it may have with the TOWN, its elected or appointed officials, its employees or agents or any of its agencies or component units for the past five (5) years, together with a statement explaining why such relationships do not constitute a conflict of interest relative to performing the services sought in this RFP. Additionally, the AUDITOR shall give the TOWN written notice of any other relationships – professional, financial or otherwise – that it enters into with the TOWN, its elected or appointed officials, its employees or agents or any of its agencies or component units during the period of the Agreement.

3.8 Disqualification of AUDITOR

More than one Proposal from an individual, firm, partnership, corporation or association under the same or different names will not be considered. Reasonable grounds for believing that AUDITOR is involved in more than one Proposal for the same work will be cause for rejection of all Proposals in which such AUDITOR are believed to be involved.

3.9 Assignment; Non-transferability of Proposal

Proposals shall not be assigned or transferred. A AUDITOR who is, or may be, purchased by or merged with any other corporate entity during any stage of the Proposal process, through to and including awarding of and execution of an Agreement, is subject to having its Proposal disqualified as a result of such transaction. The Town Manager shall determine whether a Proposal is to be disqualified in such instances.

If, at any time during the Proposal process, filings, notices or like documents are submitted to any regulatory agency concerning the potential acquisition of AUDITOR, or the sale of a controlling interest in the AUDITOR, or any similar transaction, AUDITOR shall immediately disclose such information to TOWN. Failure to do so may result in the Proposal being disqualified, at the Town Manager's sole discretion.

3.10 Legal Requirements

AUDITORS are required to comply with all provisions of federal, state, county and local laws, ordinances, rules and regulations that are applicable to the services being offered in this RFP. Lack of knowledge of the AUDITOR shall in no way be a cause for relief from responsibility, or constitute a cognizable defense against the legal effects thereof.

3.11 Familiarity with Laws and Ordinances

The submission of a Proposal on the services requested herein shall be considered as a representation that the AUDITOR is familiar with all federal, state and local laws, ordinances, rules and regulations which affect those engaged or employed in the provision of such services, or equipment used in the provision of such services, or which in any way affects the conduct of the provision of such services; and no plea of misunderstanding will be considered on account of ignorance thereof. If the AUDITOR discovers any provisions in the RFP documents that are contrary to or inconsistent with any law, ordinance, or regulation, he shall report it to the Town Manager's in writing without delay.

3.12 Advertising

In submitting a Proposal, AUDITOR agrees not to use the results therefrom as a part of any advertising or AUDITOR sponsored publicity without the express written approval of the Town Manager or designee.

3.13 Execute Agreement

The terms, conditions and provisions in this RFP shall be included and incorporated in the final Agreement between the TOWN and the successful AUDITOR(s). The order of precedence will be the Agreement, the RFP Documents, the AUDITOR'S response and general law. Any and all legal action necessary to interpret or enforce the Agreement will be governed by the laws of Florida. Venue shall lie in Miami-Dade County, Florida.

3.14 Facilities

The Town Manager or designee reserves the right to inspect each AUDITOR'S facilities at any reasonable time, during normal working hours, without prior notice to determine that the AUDITOR has a bona fide place of business, and is a responsible AUDITOR.

3.15 Withdrawal or Revision of Proposal Prior to and After Opening

AUDITOR shall not withdraw, modify or correct a Proposal after the deadline for receipt of Proposals with the TOWN. The withdrawal, modification or correction of a Proposal after the deadline shall constitute a breach by the AUDITOR and the Proposal shall be subject to rejection. No AUDITOR may withdraw its Proposal within one hundred twenty (120) calendar days after the Proposal opening date.

3.16 Town's Exclusive Rights

The TOWN reserves the exclusive rights to:

1. Waive any deficiency or irregularity in the selection process;
2. Accept or reject any or all Proposals in part or in whole;
3. Request additional information as appropriate; and
4. Reject any or all submittals if found by the Town Council not to be in the best interest of the TOWN.

By submitting a Proposal for the services, all AUDITORS acknowledge and agree that no enforceable Agreement arises until the TOWN negotiates and approves an Agreement with the selected AUDITOR.

3.17 Addenda

The TOWN reserves the right to issue addenda. Each AUDITOR shall acknowledge receipt of such addenda on the form provided herein. In the event any AUDITOR fails to acknowledge receipt of such addenda, his/her Proposal shall nevertheless be construed as though the addenda had been received and acknowledged and the submission of his/her Proposal shall constitute acknowledgment of receipt of all addenda, whether or not received by him/her. It is the responsibility of each prospective AUDITOR to verify that he/she has received all addenda issued before depositing the Proposal with the TOWN.

3.18 Review of the RFP Documents

By the submission of a Proposal to do the work, the AUDITOR certifies that a careful review of the RFP documents has taken place and that the AUDITOR is fully informed and understands the requirements of the RFP documents and the quality and quantity of service to be performed.

3.19 Adjustment/Changes/Deviations

No adjustments, changes or deviations to the RFP will be accepted unless the conditions or specifications of the RFP expressly so provide.

3.20 Public Records

Any material submitted in response to this RFP shall be deemed to be a “public record” and shall be subject to public disclosure consistent with Chapter 119, Florida Statutes (Public Record Law).

3.21 Subcontracting

No subcontracting shall be permitted, except with the prior approval of the Town Manager, which shall be in his or her sole and absolute discretion. A list of all proposed subcontractors shall be included in the Proposal. If additional subcontractors are to be used during the term of the Agreement, other than those submitted in the Proposal, a list of such subcontractors shall be provided to the Town Manager, subject to his or her approval.

3.22 Public Entities Crime

A person or affiliate as defined in Section 287.133, Florida Statutes, who or which has been placed on the convicted vendor list maintained by the Florida Department of Management Services following a conviction for a public entity crime, may not submit a proposal on an Agreement to provide any goods or services to the TOWN and may not transact business with the TOWN in an amount set forth in Section 287.017, Florida Statutes, for Category Two for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

By submitting a response to this RFP, AUDITOR certifies that it is qualified under Section 287.133, Florida Statutes, to provide the services set forth in this Request for Proposal.

3.23 Non-Collusion Affidavit

The AUDITOR shall include the Non-Collusion Affidavit as set forth in the form provided in Section 5 of this RFP and as described in Section 4 of the RFP. AUDITOR’S failure to include the affidavit shall result in disqualification.

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SECTION 4 – PROPOSAL PROCESS

4.1 Preparation of Proposals

No AUDITOR shall take exception to the specifications herein. Proposals taking exception to the specifications may be rejected as non-responsive.

4.1.1 Number of Proposals

Ten (10) complete copies of the Proposal, and one (1) original Proposal, are required to be submitted to the TOWN by the date and time indicated above. Each copy should contain all mandatory and optional information submitted by the AUDITOR. Additional copies may be requested by the TOWN at its discretion.

4.1.2 Proposal Packaging

Each Proposal shall be submitted in a separate plain sealed parcel, box or other secure packaging, marked as the “Proposal”, in accordance with Section 4.4. The outside of the sealed package shall clearly indicate the submitting RFP No. 07-06, “Professional Auditing Services,” AUDITOR’S name, address and the name and telephone number of the AUDITOR’S specific contact person. **The Proposal shall contain ten (10) complete copies and one (1) original, and is required to be submitted to the TOWN by the date and time indicated in Section 4.2.**

All pricing information shall be submitted in a sealed envelope within the package containing the proposal and shall be clearly marked “Pricing Information” on the outside of the envelope which shall also include the name and address of the proposers. The provided “Form A” shall be used for such purpose.

4.1.3 Signatures

All required signatures shall be manual, in **blue ink**, and be by an authorized representative who has the legal authority to bind the AUDITOR in contractual obligations. The Proposal shall be typed or legibly printed in ink. Use of erasable ink is not permitted. All blank spaces shall be filled in and noted, in ink or typed, with amounts extended and totaled as appropriate. All corrections made by AUDITOR to any part of the Proposal document shall be initialed in ink. Failure to manually sign the appropriate Proposal forms will disqualify the AUDITOR and the Proposal will not be considered.

Proposals by corporations shall be executed in the corporate name by the President or Vice-President (or other corporate officer if accompanied by evidence of authority to sign) and the corporate seal shall be affixed and attested by the Corporate Secretary or an Assistant Secretary. The corporate address and state of incorporation shall be shown below the signature.

Proposals by partnerships shall be executed in the partnership name and signed by a partner. His/her title shall appear under his/her signature and the official address of the partnership shall be shown below the signature.

4.1.4 Proposal Format

The Proposal shall be typewritten on 8 ½ x 11 inch white paper. Pages shall be secured by staple, cerlox binding or similar closures. Proposals shall be organized in chapters according to Table 4.1.4. Chapters shall be separated by a tab indicating the chapter number.

All pages are to be consecutively numbered. If a form is provided and there is insufficient space for a response on a form, the response may be continued on a blank page immediately following the form. The additional pages are to be numbered the same as the form with the addition of the letter “a” “b” “c” etc. If a form is provided and additional forms are needed, the form may be copied. The copied pages are to be numbered the same as the form with the addition of the letter “a” “b” “c” etc.

Responses shall be complete and unequivocal. In instances where a response is not required, or is not applicable or material to the Proposal, a response such as “no response is required” or “not applicable” is acceptable.

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Table 4.1.4 – Proposal Format

Proposal

Chapter 1	Letter of Intent
Chapter 2	AUDITOR’S Statement of Organization
Chapter 3	Personnel
Chapter 4	Experience
Chapter 5	Financial Stability
Chapter 6	Financial Statement
Chapter 7	Transition Plan
Chapter 8	Litigation History
Chapter 9	Insurance Requirement
Chapter 10	Criminal Convictions
Chapter 11	AUDITOR’S Non-Collusion Certification
Chapter 12	Independence Affidavit
Chapter 13	Drug-free Workplace
Chapter 14	Addendums
Chapter 15	Certification to Accuracy of Proposal
Form A	Pricing Information Sheet

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4.2 Submittal, Receipt and Opening of Proposals

All Proposals shall be submitted on or before **10:00 AM**, local time, on **Friday, September 28, 2007** to:

Office of the Town Clerk
Town of Cutler Bay
10720 Caribbean Blvd, Suite 105
Cutler Bay, Florida 33189

All AUDITORS are reminded that it is the sole responsibility of the AUDITOR to ensure that their Proposal is time stamped in the OFFICE OF THE TOWN CLERK prior to **10:00 AM**, local time, on **Friday, September 28, 2007**. Failure of an AUDITOR to submit their Proposal and ensure that their Proposal is time stamped prior to the time stated above shall render an AUDITOR to be deemed non-responsive and the Proposal shall not be considered for award.

Proposals submitted and time stamped on or before **10:00 AM, local time, on Friday, September 28, 2007** shall be opened publicly in accordance with Section 4.4.

4.3 Selection Committee

Proposals submitted will be evaluated by an Audit Committee, who will review submissions and provide a recommendation to the Town Manager who shall provide a recommendation to the Town Council.

4.4 Sealed Proposal

The Sealed Proposals will be publicly opened at 10720 Caribbean Blvd, Suite 105, Cutler Bay, Florida 33189, at **10:15 AM, local time, Friday, September 28, 2007**. The Selection Committee shall meet to initially examine the documentation submitted in the Proposal to determine the responsiveness and responsibility of each AUDITOR.

AUDITORS shall provide the following information in the Proposal:

4.4.1 Letter of Intent

The Letter of Intent is to be signed by an officer of the company authorized to bind the submitter to its provisions. The Letter of Intent is to contain a statement indicating the period during which the Proposal will remain valid. A period of not less than one hundred twenty (120) calendar days is required.

4.4.2 AUDITOR'S Statement of Organization

AUDITORS shall complete Form 1. AUDITORS are permitted to supply additional information that will assist the TOWN in understanding the AUDITOR'S organization.

4.4.3 Personnel

AUDITORS shall demonstrate significant personnel experience. All personnel performing services under this Agreement shall have at least three (3) years experience in their respective disciplines. AUDITORS shall carefully provide, in the format requested, all of the information requested in Form 2.

4.4.4 Experience

AUDITOR shall have a minimum of three (3) years of successful experience in providing Professional Auditing Services to other governmental entities. A summary of all of the most recently awarded and serviced comparable jobs, for the past three (3) years shall be provided. This record shall show the name of the governmental entity, address, description of services, dates of service, rates and fees and a contact/reference person with phone number. AUDITORS shall provide references for all jobs summarized using Form 3 provided in Section 5.

4.4.5 Financial Stability

AUDITORS shall demonstrate financial stability. AUDITORS shall provide a statement of the AUDITORS' financial stability, including information as to current or prior bankruptcy proceedings. Proposals shall include a copy of the most recent annual financial report/annual audit/10K and the most recent 10Q, if appropriate. Financial reports provided shall include, at a minimum, a Balance Sheet, an Income Statement and a Statement of Cash Flows.

4.4.6 Financial Statement

AUDITORS shall include a copy of their latest audited financial statements. If the AUDITOR is a corporation, it shall submit a copy of the latest audited financial statements of the corporation. In the event the AUDITOR does not have audited financial statements, they may substitute non-audited financial statements and complete federal tax returns for the last two years.

4.4.7 Transition Plan

Ensuring a smooth, seamless transition is of critical importance to the TOWN. AUDITORS shall provide a detailed description of how services will be transitioned under the Agreement from the TOWN'S prior auditor to the potentially new AUDITOR.

4.4.8 Litigation History

AUDITORS shall provide a summary of any litigation or arbitration that the AUDITOR, its parent company or its subsidiaries have been engaged in during the past three (3) years against or involving (1) any public entity for any amount, or (2) any private entity for an amount greater than One Hundred Thousand Dollars (\$100,000.00). The summary shall state the nature of the litigation or arbitration, a brief description of the case, the outcome or projected outcome, and the monetary amounts involved. The TOWN may disqualify any AUDITOR it determines to be excessively litigious.

4.4.9 Insurance Requirement

AUDITOR shall provide proof in the form of a certificate of insurance complying with the requirements specified in this RFP or evidence of insurability in the form of a letter from its insurance carrier indicating that AUDITOR is able to obtain the required insurance.

4.4.10 Criminal Convictions

AUDITORS shall provide a summary of any criminal convictions of the company, owners, officers and anybody performing work under this Agreement, related to the services being proposed bid. The TOWN may disqualify an AUDITOR on the basis of past criminal convictions when those convictions relate to dishonesty, antitrust violations, or unfair competition.

4.4.11 AUDITOR'S Non-Collusion Certification

Any AUDITOR submitting a Proposal to this RFP shall complete and execute the Non-Collusion Affidavit of AUDITOR (Form 4) included in Section 5 of these RFP documents.

4.4.12 Drug-Free Workplace

AUDITOR shall certify that it has implemented a drug-free workplace program in accordance with Section 287.087, Florida Statutes. In order to receive consideration, a signed certification of compliance (Form 5), shall be submitted with the RFP response.

4.4.13 Addenda

The AUDITOR shall complete and sign the Acknowledgment of Addenda Form 6 in Section 5 and include it in the Proposal in order to have the Proposal considered. In the event any AUDITOR fails to acknowledge receipt of such addenda, his/her Proposal shall nevertheless be construed as though the addenda had been received and acknowledged and the submission of his/her Proposal shall constitute acknowledgment of receipt of all addenda, whether or not received by him/her.

4.4.14 Independence Affidavit

AUDITORS shall list and describe their relationships with the TOWN in accordance with Section 3.7 of the RFP (Form 7).

4.4.15 Certification to Accuracy of Proposal

AUDITOR shall certify and attest, by executing Form 8 of Section 5 of these RFP documents, that all Forms, Affidavits and documents related thereto that it has enclosed in the Proposal in support of its Proposal are true and accurate. Failure by the AUDITOR to attest to the truth and accuracy of such Forms, Affidavits and documents shall result in the Proposal being deemed non-responsive and such Proposal will not be considered.

4.5 Qualification Evaluation

The Selection Committee shall examine the documentation submitted in the Proposal to determine the responsiveness of each AUDITOR. Failure to provide the required information shall disqualify any such Proposal as non-responsive, and such Proposal will not be considered. The Selection Committee shall disqualify any AUDITORS that make exaggerated or false statements.

The evaluation of Proposals and the determination of conformity and acceptability shall be the sole responsibility of the Selection Committee. Such determination shall be based on information furnished by the AUDITOR, as well as other information reasonably available to the TOWN.

The Selection Committee may make such investigations as it deems necessary to determine the ability of the AUDITOR to perform the services and the AUDITOR shall furnish the TOWN all such information as the selection committee or Town Manager may request before and during the Proposal period. The Selection Committee reserves the right to make additional inquiries, interview some or all AUDITORS, make site visits, obtain credit reports, or take any other action it deems necessary to fairly evaluate all AUDITORS. The Selection Committee may at its sole discretion reject an AUDITOR or qualify an AUDITOR.

The AUDITOR'S expertise and experience in local governmental auditing and performance on comparable government engagements including recognized CAFR awards of their clients.

The quality and experience of the AUDITOR'S professional personnel assigned to the Town's audit engagement and the quality of the AUDITOR'S management support personnel to be available for technical consultation.

The AUDITOR'S comparable fee structure for the Town's annual financial audit and related reports for the fiscal years ended September 30, 2007, 2008 and 2009 and the comparable hourly rates for other services that may be requested by the Town.

4.6 Evaluation

4.6.1 Each member of the Audit Committee shall evaluate and rank each Proposal. The full Committee will then convene to interview, review and discuss these evaluations and rank the firms as a group.

4.6.2 Proposals shall be evaluated and ranked based on, among additional factors, the following:

Technical Quality (Maximum Points – 100)

- | | | |
|----|---|---------------------|
| a. | Expertise and Experience | (Maximum Points 50) |
| | (i) The firm's expertise and experience in local government auditing and performance on comparable government engagements. | 25 Points |
| | (ii) The quality and experience of the firm's professional personnel assigned to the TOWN'S audit engagement and the quality of the firm's management support personnel to be available for technical consultation. | 25 Points |
| b. | Audit Approach | (Maximum Points 40) |
| | (i) Adequacy of proposed audit plan for various segments of the engagement. | 20 Points |
| | (ii) Adequacy of sampling techniques | 5 Points |
| | (iii) Adequacy of analytical procedures | 5 Points |
| | (iv) Assessment of firm's ability to meet prescribed report publication dates | 10 Points |
| c. | Pricing | (Maximum Points 10) |
| | (i) The firm's comparable fee structure for the TOWN'S annual financial audits and related reports and the comparable hourly rates for other services that may be requested by the TOWN | |

The AUDITOR Selection committee shall evaluate all responsive Request for Proposals in accordance with the considerations listed above. Additional information may be requested.

The Proposal ranked one (1), will be recommended by the Selection Committee to the Town Manager. The Town Manager shall review and make a recommendation to the Town Council for award of the Agreement.

The Town Council will consider the selection of a firm based upon the recommendation of the Town Manager. Should the Town Manager not be able to negotiate a suitable Agreement with the audit firm ranked one (1), the Town Manager shall then commence negotiations with the firm and two (2), and so on until a successful Agreement has been negotiated.

4.7 Specific Audit Approach

The Proposal should set forth a work plan, including an explanation of the audit methodology to be followed, to perform the services required in Section III of this Request for Proposal. In developing the work plan, reference should be made to such sources of information as the TOWN'S budget and related materials, organization charts, manuals and programs and financial and other management information systems.

AUDITORS will be required to provide the following information on their audit approach:

- A. Proposed segmentation of the engagement.
- B. Extent of use of EDP software in the engagement.
- C. Type and extent of analytical procedures to be used in the engagement.
- D. Approach to be taken to gain and document an understanding of the TOWN'S internal control structure.
- E. Approach to be taken in determining laws and regulations that will be subject to audit test work.
- F. Approach to be taken in drawing audit samples for purposes of tests of compliance.

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4.8 Estimated Schedule

The TOWN anticipates that RFP activities will take place at the dates and times (as applicable) listed below. However, these times and dates are subject to change at the discretion of the TOWN.

Request for Proposals Legal Advertisement	August 22, 2007
RFP Release	August 22, 2007
Last Date for Submittal of Written Questions	September 10, 2007 5:00 PM
Proposals Due	September 28, 2007 10:00 AM
Selection Committee Ranking and Recommendation to Town Manager	October 9, 2007 5:00 PM
Town Council Award of Agreement	October 17, 2007 Scheduled Council Meeting
Commence Audit Services	Subject to Agreement Negotiation

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CONE OF SILENCE

I. Notwithstanding any other provision in the specifications, the provisions of Section 2-11.1 Conflict of Interest and Code of Ethics Ordinance, as set forth in subsection (t) "Cone of Silence," of the Miami-Dade County Code are applicable to this transaction. The "Cone of Silence" prohibits the following activities:

A. Any communication regarding this RFP, RFQ or Bid between a potential vendor, service provider, bidder, lobbyist or AUDITOR and the TOWN'S professional staff, including, but not limited to, the Town Manager and his or her staff;

B. Any communication regarding this RFP, RFQ or Bid between the Mayor, Town Council members and any member of the TOWN'S professional staff, including but not limited to, the Town Manager and his or her staff;

C. Any communication regarding this RFP, RFQ or Bid between potential vendor, service provider, bidder, lobbyist or AUDITOR and any member of a selection committee;

Any communication regarding this RFP, RFQ or Bid between the Mayor, Town Council members and any member of the audit committee therefore;

Any communication regarding a particular RFP, RFQ or bid between any member of the TOWN'S professional staff and any member of the audit committee; and

Any communication regarding a particular RFP, RFQ or bid between a potential vendor, service provider, bidder, lobbyist or AUDITOR and the Mayor or Town Council.

II. These prohibitions do not apply to communications with the Town Attorney and his or her staff.

III. The "Cone of Silence" is imposed upon this RFP, RFQ or Bid after advertisement of said RFP, RFQ or Bid. The "Cone of Silence" shall terminate at the time that the Town Manager makes his or her recommendation to the Town Council, unless the Council refers the Manager's recommendation back to the Manager or staff for further review.

IV. The "Cone of Silence" shall NOT apply to:

A. Oral communications at pre-bid conferences;

B. Oral presentations during publicly noticed selection committee meetings;
Contract negotiations during any duly noticed public meeting;

Duly noticed site visits to determine the competency of bidders regarding a particular bid during the time period between the opening of bids and the time the Town Manager makes his or her written recommendation;

Emergency procurement of goods or services;

Communications regarding a particular RFP, RFQ or bid between any person and the Town's procurement agent or contracting officer responsible for administering the procurement process for such RFP, RFQ or bid, provided the communication is limited strictly to matters of process or procedure already contained in the corresponding solicitation document; or

Communications regarding a particular RFP, RFQ or bid between the Town's procurement agent or contracting officer responsible for administering the procurement process for such RFP, RFQ or bid and a member of the selection committee provided the communication is limited strictly to matters of process or procedure already contained in the corresponding solicitation document.

Communications in writing at any time with any Town employee, official or member of the Town Council unless specifically prohibited by the RFP, RFQ or Bid.

Communications between the Town Manager and the Chairperson of the selection committee about a particular selection committee recommendation, only after the selection committee has submitted an award recommendation to the Town Manager and provided that should any change occur in the committee recommendation, the content of the communication and of the corresponding change shall be described in writing and filed by the Town Manager with the Town Clerk and be included in any recommendation memorandum submitted by the Town Manager to the Town Council.

V. Any questions, explanations or other requests desired by a bidder regarding this RFP must be requested in writing to the Town Clerk, 10720 Caribbean Blvd, Suite 105, Cutler Bay, Florida, 33189 or via facsimile at 305-234-4251. Bidders must file copies of all written communications with the Town Clerk's Office.

VI. Please contact the Town Attorney with any questions concerning the "Cone of Silence" compliance.

VII. Upon imposition of the Cone of Silence for a particular RFP, RFQ or Bid, the Town Manager shall:

- A. issue a written notice to affected Town departments;
- B. file a copy of the Notice required by subsection (1) with the Town Clerk with a copy to the Mayor and Town Council; and
- C. include in the public solicitation for goods and services a statement disclosing the requirements of the Cone of Silence as follows:

Pursuant to subsection (t) "Cone of Silence" of Section 2-11.1 "Conflict of Interest and Code of Ethics Ordinance" of Miami-Dade County, public notice is hereby given that a "Cone of

Silence” is imposed concerning this purchase. The “Cone of Silence” prohibits communications concerning RFP’s, RFQ’s or Bids, until such time as the Town Manager makes a written recommendation to the Town Council concerning the transaction. Procedures regarding the Cone of Silence can be found in the Request for Proposal, or Request for Qualifications.

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SECTION 5 – QUALIFICATION FORMS

The forms located in this section of the RFP shall be included in the Sealed Proposal. Forms not completed in full may result in disqualification.

[THIS SPACE INTENTIONALLY LEFT BLANK]

FORM 1
AUDITOR'S STATEMENT OF ORGANIZATION

1. Full Name of Business Concern (AUDITOR):

Principal Business Address:

2. Principal Contact Person(s):

3. Form of Business Concern (Corporation, Partnership, Joint Venture, Other):

4. Provide names of partners or officers as appropriate and indicate if the individual has the authority to sign in name of AUDITOR. Provide proof of the ability of the individuals so named to legally bind the AUDITOR.

Name	Address	Title
------	---------	-------

If a corporation, in what state incorporated: _____

Date Incorporated: _____

Month

Day

Year

If a Joint Venture or Partnership, date of Agreement: _____

5. List all firms participating in this project (including subcontractors, etc.):

Name	Address	Title
------	---------	-------

1. _____

2. _____

3. _____

4. _____

FORM 1
AUDITOR'S STATEMENT OF ORGANIZATION
(CONTINUED)

6. Outline specific areas of responsibility for each firm listed in Question 5.

- 1. _____
- 2. _____
- 3. _____
- 4. _____

7. Licenses:

a. County or Municipal Occupational License No.

(Attach Copy)

b. Occupational License Classification:

c. Occupational License Expiration Date:

d. Social Security or Federal I.D. No:

[THIS SPACE INTENTIONALLY LEFT BLANK]

**FORM 2
PERSONNEL**

For each person providing services sought in the RFP, provide a detailed resume indicating that individual's areas of expertise and experience. Resumes must be provided in the following format, however, additional information may be provided at the option of the AUDITOR.

A. Name & Title

B. Years Experience with:

This Firm:

With Other Similar Firms:

C. Education:

Degree(s)

Year/Specialization

D. Professional References: (List a minimum of 3)

E. Other Relevant Experience and Qualifications

F. Attach applicable licenses for each individual performing services pursuant to this Agreement.

[THIS SPACE INTENTIONALLY LEFT BLANK]

**FORM 3
REFERENCES**

The AUDITOR shall provide a minimum of three (3) references of public agencies presently being served by the AUDITOR with similar services to those being proposed in this Proposal.

1. Name of Public Agency: _____
Address: _____

Phone Number: _____
Principal Contact Person(s): _____

Year Contract Initiated: _____

2. Name of Public Agency: _____
Address: _____

Phone Number: _____
Principal Contact Person(s): _____

Year Contract Initiated: _____

3. Name of Public Agency: _____
Address: _____

Phone Number: _____
Principal Contact Person(s): _____

Year Contract Initiated: _____

4. Name of Public Agency: _____
Address: _____

Phone Number: _____
Principal Contact Person(s): _____

Year Contract Initiated: _____

**FORM 3
REFERENCES
(CONTINUED)**

5. Name of Public Agency: _____
Address: _____

Phone Number: _____
Principal Contact Person(s): _____

Year Contract Initiated: _____

6. Name of Public Agency: _____
Address: _____

Phone Number: _____
Principal Contact Person(s): _____

Year Contract Initiated: _____

[THIS SPACE INTENTIONALLY LEFT BLANK]

FORM 4
NON-COLLUSION AFFIDAVIT

The undersigned individual, being duly sworn, deposes and says that:

1. He/She is _____ of _____, the AUDITOR that has submitted the attached Proposal;
2. He/She is fully informed respecting the preparation and contents of the attached Proposal and of all pertinent circumstances respecting such Proposal;
3. Such Proposal is genuine and is not a collusive or sham Proposal;
4. Neither said AUDITOR nor any of its officers, partners, owners, agents, representatives, employees, or parties in interest, including this affiant, has in any way colluded, connived, or agreed, directly or indirectly, with any other AUDITOR, firm or person to submit a collusive or sham proposal in connection with the Agreement for which the attached Proposal has been submitted or to refrain from proposing in connection with such Agreement, or has in any manner, directly or indirectly, sought by agreement of collusion or communication of conference with any other AUDITOR, firm, or person to fix the price or prices in the attached RFP, or of any other AUDITOR, or to fix any overhead, profit or cost element of the Proposal or the response of any other AUDITOR, or to secure through any collusion, connivance, or unlawful agreement any advantage against the Town of Miami Lakes, Florida, or any person interested in the proposed Agreement; and

[THIS SPACE INTENTIONALLY LEFT BLANK]

**FORM 4
NON-COLLUSION AFFIDAVIT
(CONTINUED)**

5. The response to the attached RFP is fair and proper and is not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the AUDITOR or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

Signature (Blue ink only)

Print Name

Title

Date

Witness my hand and official notary seal/stamp at _____ the day and year written above

STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared _____ as _____, of _____, an organization authorized to do business in the State of Florida, and acknowledged executing the foregoing Affidavit as the proper official of _____ for the use and purposes mentioned in the Affidavit and affixed the official seal of the corporation, and that the instrument is the act and deed of that corporation. He/She is personally known to me or has produced _____ as identification.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal at in the State and County aforesaid on this _____ day of _____, 200__.

NOTARY PUBLIC

My Commission Expires:

FORM 5
DRUG-FREE WORKPLACE

The undersigned vendor (firm) in accordance with Chapter 287.087, Florida Statutes, hereby certifies that _____ does:

(Name of Company)

1. Publish a statement notifying employees that the unlawful manufacturing, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the work place, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the contractual services that are under consideration a copy of the statement specified in subsection (1).
4. In the statement specified in subsection (1), notify the employee that, as a condition of working on the contractual services that are under consideration, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.

[THIS SPACE INTENTIONALLY LEFT BLANK]

**FORM 5
DRUG-FREE WORKPLACE
(CONTINUED)**

6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

Signature (Blue ink only)

Print Name

Title

Date

Witness my hand and official notary seal/stamp at _____ the day and year written above

STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared _____ as _____, of _____, an organization authorized to do business in the State of Florida, and acknowledged executing the foregoing Form as the proper official of _____ for the use and purposes mentioned in the Form and affixed the official seal of the corporation, and that the instrument is the act and deed of that corporation. He/She is personally known to me or has produced _____ as identification.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal at in the State and County aforesaid on this _____ day of _____, 200__.

NOTARY PUBLIC

My Commission Expires:

FORM 6
ACKNOWLEDGMENT OF ADDENDA

The AUDITOR hereby acknowledges the receipt of the following addenda issued by the TOWN and incorporated into and made part of this RFP. In the event the AUDITOR fails to include any such addenda in the table below, submission of this form shall constitute acknowledgment of receipt of all addenda, whether or not received by him/her.

ADDENDUM NUMBER	DATE RECEIVED	PRINT NAME	TITLE	SIGNATURE (BLUE INK ONLY)

[THIS SPACE INTENTIONALLY LEFT BLANK]

**FORM 7
INDEPENDENCE AFFIDAVIT**

The undersigned individual, being duly sworn, deposes and says that:

1. He/She is _____ of _____, the AUDITOR that has submitted the attached Proposal;

2. (a) Below is a list and description of any relationships, professional, financial or otherwise that AUDITOR may have with the TOWN, its elected or appointed officials, its employees or agents or any of its agencies or component units for the past five (5) years.

(b) Additionally, the AUDITOR agrees and understands that AUDITOR shall give the TOWN written notice of any other relationships professional, financial or otherwise that AUDITOR enters into with the TOWN, its elected or appointed officials, its employees or agents or any of its agencies or component units during the period of this Agreement.

(If paragraph 2(a) above does not apply, please indicate by stating, “not applicable” in the space below.)

[THIS SPACE INTENTIONALLY LEFT BLANK]

**FORM 7
INDEPENDENCE AFFIDAVIT
(CONTINUED)**

2. I have attached an additional page to this form explaining why such relationships do not constitute a conflict of interest relative to performing the services sought in the RFP.

Signature (Blue ink only)

Print Name

Title

Date

Witness my hand and official notary seal/stamp at _____ the day
and year written above

STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared _____ as _____, of _____, an organization authorized to do business in the State of Florida, and acknowledged executing the foregoing Affidavit as the proper official of _____ for the use and purposes mentioned in the Affidavit and affixed the official seal of the corporation, and that the instrument is the act and deed of that corporation. He/She is personally known to me or has produced _____ as identification.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal at in the State and County aforesaid on this _____ day of _____, 200__.

NOTARY PUBLIC

My Commission Expires:

FORM 8
CERTIFICATION TO ACCURACY OF PROPOSAL

AUDITOR, by executing this Form, hereby certifies and attests that all Forms, Affidavits and documents related thereto that it has enclosed in the Proposal in support of its Proposal are true and accurate. Failure by the AUDITOR to attest to the truth and accuracy of such Forms, Affidavits and documents shall result in the Proposal being deemed non-responsive and such Proposal will not be considered.

The undersigned individual, being duly sworn, deposes and says that:

1. He/She is _____ of _____, the AUDITOR that has submitted the attached Proposal;
2. He/She is fully informed respecting the preparation and contents of the attached Proposal and of all Forms, Affidavits and documents submitted in support of such Proposal;
3. All Forms, Affidavits and documents submitted in support of this Proposal and included in this Proposal are true and accurate;
4. No information that should have been included in such Forms, Affidavits and documents has been omitted; and

[THIS SPACE INTENTIONALLY LEFT BLANK]

FORM 8
CERTIFICATION TO ACCURACY OF PROPOSAL
(CONTINUED)

5. No information that is included in such Forms, Affidavits or documents is false or misleading.

Signature (Blue ink only)

Print Name

Title

Date

Witness my hand and official notary seal/stamp at _____ the day and year written above

STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared _____ as _____, of _____, an organization authorized to do business in the State of Florida, and acknowledged executing the foregoing Form as the proper official of _____ for the use and purposes mentioned in the Form and affixed the official seal of the corporation, and that the instrument is the act and deed of that corporation. He/She is personally known to me or has produced _____ as identification.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal at in the State and County aforesaid on this _____ day of _____, 200__.

NOTARY PUBLIC

My Commission Expires:

SECTION 6 – AGREEMENT

The agreement located in this Section of the RFP for Auditing Services for the TOWN is substantially the form that will be utilized, subject to negotiation with the successful AUDITOR. The TOWN reserves the right to award or not to award the Agreement in the best interests of the TOWN.

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AGREEMENT BETWEEN
THE TOWN OF CUTLER BAY
AND
FOR AUDITING SERVICES

THIS AGREEMENT is made and entered into this ____ day of _____, 2007, by and between the Town of Cutler Bay, a Florida municipal corporation (the "TOWN"), and _____ ("AUDITOR").

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

PURPOSE/AUTHORIZATION

- 1.1 The purpose of this Agreement is to provide for the TOWN'S retention of AUDITOR to perform all Auditing Services for the TOWN as described in Section 2 below.

SCOPE OF SERVICES

AUDITOR shall provide the following Auditing Services to the TOWN:

- 2.1 **Scope of Work to be Performed**

The TOWN desires the AUDITOR to express an opinion on the fair presentation of its general purpose financial statements in conformity with general accepted principles. This is a Financial Audit which shall meet the requirements of Section 218.39, Florida Statutes.

The AUDITOR shall also prepare required management reports and any other reports as may be required. The AUDITOR shall also perform certain limited procedures involving required supplementary information as may be required by the State Statutes, the Florida AUDITOR General, the Governmental Accounting Standards Board and the AICPA, as mandated by generally accepted auditing standards.

- 2.2 **Additional Services**

AUDITOR shall provide additional services to the TOWN as determined by the Town Manager or his designee.

- 2.3 **Auditing Standards to be Followed**

The audit shall be performed in accordance with generally accepted auditing standards as set forth by the American Institute of Certified Public Accountants

and generally accepted government auditing standards as promulgated by the General Accounting Office and the Rules of the Auditor General of the State of Florida, the standards for financial audits as provided below:

1. Generally Accepted Auditing Standards as set forth by the American Institute of Certified Public Accountants;
2. The standards for financial audits set forth in the U.S. General Accounting Office's *Government Auditing Standards* (2003 Revisions);
3. The provisions of the Federal Single Audit Act of 1984 (as amended in 1996 and subsequently);
4. The Florida Single Audit Act;
5. The provisions of U.S. Office of Management and Budget (OMB) Circular A-133;
6. Audits of States, Local Government, and Non-Profit Organizations, Audits of State and Local Governments (Revised) – AICPA.
7. Section 11.45, Florida Statutes;
8. State of Florida Department of Banking and Finance Regulations;
9. Rules adopted by the State of Florida AUDITOR General for form and content of governmental unit audits;
10. Any other applicable Federal, State and local laws or regulations;

Any updates of, or amendments to, these described auditing standards are to be incorporated in future audits performed by the selected AUDITOR performing auditing engagements for the Town of Miami Lakes in future fiscal years.

Note: The AUDITOR shall prepare the financial statements and footnotes. The AUDITOR shall be responsible for printing 30 copies of the annual financial statements, as well as providing an electronic, PDF version.

3. COMPENSATION

- 3.1 For all Auditing Services provided by AUDITOR as described in Sections 2.1 through 2.3 of this Agreement, AUDITOR shall be compensated _____ [to be completed].

- 3.2 The AUDITOR shall provide any such backup documentation, including staff time records, requested by the TOWN to support the amounts invoiced to the TOWN for the audit services contemplated herein. The TOWN shall pay the AUDITOR for all approved invoices, no later than 30 calendar days from the date of approval by the Town Manager of the invoice.
- 3.3 For all Additional Services as described in Sections 2.2 of this Agreement, the TOWN shall pay AUDITOR a fee mutually agreed to by the Town Manager and AUDITOR.

4. **RECORDS/RIGHT TO INSPECT AND AUDIT**

- 4.1. All records, books, documents, papers and financial information (the "Records") that result from AUDITOR providing services to the TOWN under this Agreement shall be the property of the TOWN.
- 4.2. Upon termination or expiration of this Agreement, or at any time during the term of this Agreement, and upon the written request of the Town Manager, any and all such Records shall be delivered to the TOWN by AUDITOR within 15 calendar days of the date of such request. Any compensation due to AUDITOR shall be withheld until such Records are received by the TOWN.
- 4.3. The AUDITOR shall maintain all Records for the time periods specified in the State of Florida Record Retention laws, and such other books, documents, papers and financial information pertaining to work performed under this Agreement during the term of this Agreement and for a period of three (3) years following termination or expiration of this Agreement.
- 4.4. The Town Manager or his designee shall, during the term of this Agreement and for a period of five (5) years from the date of termination or expiration of this Agreement, have access to and the right to examine and audit any Records of AUDITOR involving transactions related to this Agreement.
- 4.5. The TOWN may cancel this Agreement for refusal by AUDITOR to allow access by the Town Manager to any Records pertaining to work performed under this Agreement that are subject to the provisions of Chapter 119, Florida Statutes.

5. **INDEMNIFICATION**

- 5.1. AUDITOR shall defend, indemnify, and hold harmless the TOWN, its officers, attorneys, agents and employees, from and against any and all demands, claims, losses, suits, liabilities, causes of action, judgment or damages, arising out of, related to, or in any way connected with AUDITOR, its officers, agents or employees acts or omissions, negligence, recklessness, misconduct, performance or non-performance of any provision of this Agreement including, but not limited

to, liabilities arising from contracts between AUDITOR and third parties made pursuant to this Agreement. AUDITOR shall reimburse the TOWN for all its expenses including reasonable attorney fees and costs incurred in and about the defense of any such claim or investigation and for any judgment or damages arising out of, related to, or in any way connected with AUDITOR'S performance or non-performance of this Agreement.

5.2. AUDITOR shall defend, indemnify, and hold harmless the TOWN, its officers, attorneys, agents and employees, from all losses, injuries, damages, wages or overtime compensation due AUDITOR'S agents or employees in rendering services pursuant to this Agreement, including payment of TOWN's reasonable attorneys' fees and costs in the defense of any claim made under the Fair Labor Standards Act, Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Americans with Disabilities Act or any employment related litigation or claims under federal or state law.

5.3. The provisions of this section shall survive termination of this Agreement.

6. INSURANCE

6.1. AUDITOR shall maintain at its sole cost and expense at all times, in addition to any other insurance the TOWN may reasonably require, professional liability insurance, employee dishonesty insurance, employer's liability insurance, comprehensive general liability insurance and automotive liability insurance with minimum policy limits for each coverage in the amount of One Million Dollars (\$1,000,000.00) per occurrence, single limit for property damage and bodily injury, including death. The TOWN shall be named as an additional insured on each of the above policies, unless prohibited by law, and AUDITOR shall provide TOWN with a certificate evidencing same. Each policy shall also state that it is not subject to cancellation, modification, or reduction in coverage without 30 calendar days written notice to the TOWN prior to the effective date of cancellation, modification, or reduction in coverage.

6.2. AUDITOR shall maintain worker's compensation insurance at the statutory minimums required by Chapter 440, Florida Statutes.

6.3. AUDITOR shall maintain each of above insurance policies/coverages throughout the term of this Agreement and any extensions of this Agreement.

6.4. AUDITOR shall provide the TOWN with a current copy of each of the above insurance policies, and any renewals.

7. TERM AND RENEWAL

7.1 This Agreement shall become effective upon execution by both parties and shall continue through _____ [to be completed] unless earlier terminated as provided in Section 8 (the "Term").

- 7.2. The TOWN shall have the option to renew this Agreement upon the same terms and conditions for up to two (2) additional one (1) year extensions (the "Option"). The Option may be exercised at the sole discretion of the Town Manager. Such extension shall be effective upon written notice from the Town Manager to the AUDITOR no later than 30 days prior to the date of termination of the Term or any renewal term.

8. TERMINATION

- 8.1 The TOWN may elect to terminate all or a portion of the Agenda Management Services provided by AUDITOR in this Agreement by giving AUDITOR written notice at least 90 calendar days prior to the effective date of termination. Upon receipt of written notice of termination, AUDITOR shall not enter into any third party agreements and shall incur only those expenses specifically approved or directed in writing by the Town Manager. Upon written notice of termination, the Town Manager may elect not to use the services of AUDITOR.
- 8.2 AUDITOR may terminate the Agreement at any time by giving the TOWN written notice at least 180 calendar days prior to the effective date of termination.
- 8.3 In the event of termination or expiration of this Agreement, AUDITOR and the TOWN shall cooperate in good faith in order to effectuate a smooth and harmonious transition from AUDITOR to the TOWN, or to any other person or entity the TOWN may designate, and to maintain during such period of transition the same services provided to the TOWN pursuant to the terms of this Agreement.
- 8.4 AUDITOR will take all reasonable and necessary actions to transfer all books, records and data of the TOWN in its possession in an orderly fashion to either the TOWN or its designee in a hard copy and computer format.
- 8.5 Subsequent to the termination of this Agreement, the TOWN may contract with AUDITOR at a mutually agreed upon amount to perform specified services on an as needed basis.
- 8.6 In the event that this Agreement is terminated for convenience, the AUDITOR shall be paid for any Auditing Services performed up to the date of termination. Upon receipt of a notice of termination, the AUDITOR shall perform only those services specified by the TOWN Manager and shall not incur additional expenses without the Town Manager's prior written approval.
- 8.7 Upon termination or expiration, any compensation payable by TOWN to AUDITOR shall be withheld until all Records and documents are provided to TOWN pursuant to Section 4.2 of this Agreement.
- 8.8 Upon termination or expiration, the TOWN shall not be liable to AUDITOR for any additional compensation, consequential or incidental damages, lost profits, or any other compensation, beyond the compensation structure specifically provided for in this Agreement.

9. **ENTIRE AGREEMENT/MODIFICATION/AMENDMENT**

- 9.1. This writing contains the entire Agreement of the parties and supercedes any prior oral or written representations. No representations were made or relied upon by either party, other than those that are expressly set forth herein.
- 9.2. No agent, employee, or other representative of either party is empowered to modify and amend the terms of this Agreement, unless executed with the same formality as this document.

10. **SEVERABILITY**

- 10.1. If any term or provision of this Agreement shall to any extent be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by law.

11. **GOVERNING LAW**

- 11.1. This Agreement shall be construed in accordance with and governed by the laws of the State of Florida. Exclusive venue for any litigation shall be in Miami-Dade County, Florida.

12. **WAIVER**

- 12.1. The failure of either party to this Agreement to object to or to take affirmative action with respect to any conduct of the other which is in violation of the terms of this Agreement shall not be construed as a waiver of the violation or breach, or of any future violation, breach or wrongful conduct.

13. **NOTICES/AUTHORIZED REPRESENTATIVES**

- 13.1. Any notices required or permitted by this Agreement shall be in writing and shall be deemed to have been properly given if transmitted by hand-delivery, by registered or certified mail with postage prepaid return receipt requested, or by private postal service, addressed to the parties at the following addresses:

For the Town:

Town of Cutler Bay
Attention: Steven Alexander, Town Manager
10720 Caribbean Blvd, Suite 105
Cutler Bay, Florida 33189
Telephone: (305) 234-4262
Facsimile: (305) 234-4251

With a copy to:

Weiss Serota Helfman Pastoriza Cole &
Boniske, P.A., Town Attorneys
Attention: Mitchell Bierman, Esq.
2525 Ponce de Leon Blvd
Suite 700
Coral Gables, FL 33134
Phone: (305) 854-0800
Facsimile: (305) 854-2323

For AUDITOR:

Either party shall have the right to change its address for notice purposes by sending written notice of such change of address to the other party in accordance with the provisions hereof.

14. **INDEPENDENT AUDITOR**

14.1. AUDITOR is and shall remain an independent contractor and is not an employee or agent of the TOWN. Services provided by AUDITOR shall be by employees of AUDITOR working under the supervision and direction of AUDITOR and nothing in this Agreement shall in any way be interpreted or construed to deem said employees to be agents, employees, or representatives of the TOWN. AUDITOR agrees that it is a separate and independent enterprise from the TOWN.

14.2. AUDITOR shall be responsible for all compensation, tax responsibilities, insurance benefits, other employee benefits, and any other status or rights of its employees during the course of their employment with AUDITOR. This Agreement shall not be construed as creating any joint employment relationship between AUDITOR and the TOWN, and the TOWN will not be liable for any obligation incurred by AUDITOR, including but not limited to unpaid minimum wages and/or overtime payments.

15. **STAFFING/REMOVAL**

15.1 If at any time during the term of this Agreement the Town Manager becomes dissatisfied with the performance of any of AUDITOR'S staff assigned to provide services under this Agreement, the Town Manager may request that the particular employee be removed from servicing this account. Representatives of AUDITOR and the Town Manager shall meet to discuss appropriate remedial action to

alleviate the performance deficiencies experienced by the TOWN. If the proposed resolution is unsatisfactory to the Town Manager, AUDITOR shall reassign said personnel out of the TOWN within 3 calendar days of notification by the Town Manager.

15.2 AUDITOR agrees to act in good faith and to use its best efforts to resolve any problems experienced by the TOWN.

15.3 AUDITOR shall be responsible for maintaining current background checks on all employees and agents assigned to work in the TOWN. Background checks for each individual must be performed prior to providing any services to the TOWN. Written verification of any background checks must be provided to the TOWN if requested by the Town Manager.

16. **WAIVER OF JURY TRIAL**

16.1. In the event of any litigation arising out of this Agreement, each party hereby knowingly, irrevocably, voluntarily and intentionally waives its right to a trial by jury.

17. **ASSIGNMENT/SUBCONTRACTS**

17.1. This Agreement shall not be assignable by AUDITOR without the prior approval of the Town Council, at the TOWN'S sole discretion.

17.2 AUDITOR shall not subcontract any portion of the work required by this Agreement, except with the prior approval of the Town Manager, which shall be on his or her sole and absolute discretion.

18. **PROHIBITION AGAINST CONTINGENT FEES/CONFLICTS**

18.1. AUDITOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for AUDITOR, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person(s), company, corporation, individual or firm, other than a bona fide employee working solely for AUDITOR, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.

18.2 Neither AUDITOR nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with AUDITOR'S loyal and conscientious exercise of judgment related to its performance under this Agreement.

18.3 AUDITOR agrees that none of its officers or employees shall, during the Term or any renewal term of this Agreement, serve as an expert witness against TOWN in

any legal or administrative proceeding in which he or she is not a party, unless compelled by court process.

19. **WARRANTIES OF AUDITOR**

- 19.1 AUDITOR warrants and represents that at all times during the Term or any renewal term of this Agreement that it shall maintain in good standing with the State of Florida, that all required licenses and certificates of AUDITOR and its employees and agents required to perform services hereunder under federal, state and local laws necessary to perform the Scope of Services specified in this Agreement shall remain current and active.
- 19.2 AUDITOR warrants and represents that its employees have received sexual harassment training and that AUDITOR maintains appropriate sexual harassment and anti-discrimination policies.
- 19.3 AUDITOR warrants and represents that its employees will abide by the Code of Ethics for Public Officers and Employees, Chapter 112, Florida Statutes and the applicable provisions of the Conflict of Interest and Code of Ethics ordinances sets forth in Section 2-11.1 of the Town Code and Section 2-11.1 of the Miami-Dade County Code, as these codes may be amended from time to time.
- 19.4 AUDITOR shall not discriminate against any person in its operations, activities or delivery of services under this Agreement. AUDITOR shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery.
- 19.5 AUDITOR represents that all persons delivering the Auditing Services as required by this Agreement have the requisite knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in this Agreement and agrees to provide and perform such Auditing Services to TOWN'S satisfaction for the agreed compensation.
- 19.6 AUDITOR shall maintain a Drug-Free workplace as that term is defined in Florida Statutes.
- 19.7 AUDITOR shall comply with all applicable federal, state, county and Town laws, rules and regulations in the performance of Auditing Services.
- 19.8 The audit firm's professional personnel have received adequate continuing professional education with the proceeding two (2) years in accordance with the requirements of the Florida State Board of Accountancy and Government Auditing Standards.

20. **ATTORNEYS' FEES**

- 20.1 In the event of any litigation arising out of this Agreement, the prevailing party shall be entitled to recover its attorneys' fees and costs, including the fees and expenses of any paralegals, law clerks and legal assistants, and including fees and expenses charged for representation at both the trial and appellate levels.

[THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF the undersigned parties have executed this Agreement on the date indicated above.

WITNESSES:

Print Name: _____

Print Name: _____

ATTEST:

Town Clerk

Approved as to form and legality
for use of and reliance by the Town
of Cutler Bay only:

Town Attorney

AUDITOR

By: _____

Date: _____

TOWN OF CUTLER BAY

By: _____

Date: _____

[END OF DOCUMENT]

FORM A - PRICING INFORMATION SHEET
RFP #07-06
PROFESSIONAL AUDITING SERVICES

Proposer Firm: _____

By: _____
 Print Name and Title

Authorized Signature: _____
 Sign in Blue Ink

Date: _____

AUDIT SERVICES FEE ESTIMATE:			
Fiscal Year Ended	Financial Statement Audit Services Estimate	Single Audit Services Estimate (if applicable to Town)	Total Estimated Annual Fees
September 30, 2007			
September 30, 2008			
September 30, 2008			

FORM A - PRICING INFORMATION SHEET
RFP #07-06
PROFESSIONAL AUDITING SERVICES

HOURLY RATES FOR OTHER SERVICES (IF APPLICABLE):		
STAFF LEVEL		HOURLY RATE
PARTNER		
MANAGER		
OTHER STAFF (LIST):		

FORM R - PROPOSAL RANKING FORM
RFP #07-06
PROFESSIONAL AUDITING SERVICES

Criteria	Maximum Points	Scored Points
<u>1. Expertise and Experience (maximum 50 points):</u>		
(i) The firm's expertise and experience in local government auditing and performance on comparable government engagements	25	_____
(ii) The quality and experience of the firm's professional personnel assigned to the Town's audit engagement and the quality of the firm's management support personnel to be available for technical consultation	25	_____
<u>2. Audit Approach (maximum 40 points):</u>		
(i) Adequacy of proposed audit plan for various segments of the engagement	20	_____
(ii) Adequacy of sampling techniques	5	_____
(iii) Adequacy of analytical procedures	5	_____
(iv) Assessment of firm's ability to meet prescribed report publication dates	10	_____
<u>3. Pricing (maximum 10 points):</u>		
(i) The firm's comparable fee structure for the Town's annual financial audits and related reports and the comparable hourly rates for other services that may be requested by the Town	10	_____
TOTAL POINTS	100	_____

Evaluated By: _____
Name & Title

Signature: _____

Date: _____

**PROPOSAL
FOR AUDIT SERVICES
FOR THE**

TOWN OF CUTLER BAY, FLORIDA

**FOR THE FISCAL YEARS ENDING
SEPTEMBER 30, 2007, 2008 AND 2009**

Alberni Caballero & Castellanos, L.L.P.

4649 Ponce de Leon Blvd, Suite 404, Coral Gables, FL 33146
Telephone: (305) 662-7272 Fax: (305) 662-4266

Contact Person: Nestor Caballero, CPA
September 28, 2007



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Alberni, Caballero & Castellanos, L.L.P.

CERTIFIED PUBLIC ACCOUNTANTS & CONSULTANTS

4649 PONCE DE LEON BLVD. SUITE 404 CORAL GABLES, FL 33146 - 2118 TEL: 305-662-7272 FAX: 305-662-4266 ACC-CPA.COM

September 28, 2007

Steven Alexander, Town Manager Town of Cutler Bay, Florida 10720 Caribbean Blvd., Suite 105 Cutler Bay, Florida 33189

Re: LETTER OF INTENT- PROPOSAL FOR EXTERNAL AUDITING SERVICES

Dear Mr. Alexander:

The independent certified public accounting firm of Alberni Caballero & Castellanos, L.L.P. proudly submits the following proposal to provide professional auditing services to the Town of Cutler Bay, Florida (the Town) for the fiscal years ending September 30, 2007, 2008 and 2009.

The firm is Certified Public Accounting firm based in Dade and Broward County, consisting of 5 partners and over 20 professionals. The firm's partners have been providing professional CPA services throughout Florida for the past 30 years and are members of the American Institute of Certified Public Accountants and the Florida Institute of Certified Public Accountants. Alberni Caballero & Castellanos, L.L.P. is also a member of the recently established Government Audit Quality Center.

We are uniquely qualified to perform professional auditing services for the Town due to the following:

Throughout the years, our management team has performed numerous Public Sector audits which include the following 15 municipalities (9 of the 15 have issued CAFR'S):

- City of MIAMI SPRINGS - financial and single audit (CURRENT CLIENT)
City of SOUTH MIAMI - financial and single audit (CURRENT CLIENT)
Village of BISCAYNE PARK - financial audit and single audit (CURRENT CLIENT)
Village of EL PORTAL - financial audit and single audit (CURRENT CLIENT)
City of HIALEAH GARDENS - financial audit and single audit (CURRENT CLIENT)
Town of BRINY BREEZES - financial audit (CURRENT CLIENT)
City of HIALEAH - financial and single audit (CURRENT CLIENT)
Town of MIAMI LAKES - financial audit
City of TAMARAC - financial and single audit
City of PEMBROKE PINES - financial and single audit
City of OAKLAND PARK - financial and single audit
City of DANIA BEACH - financial and single audit
City of LAUDERHILL - financial and single audit
City of LAUDERDALE LAKES - financial and single audit
Town of SOUTHWEST RANCHES - financial audit

Our team, based out of our Coral Gables office offers the following advantages:

Experienced Personnel On-The-Job: Our Management Team's CPA's average:

- over 14 years of professional practice 10 in the governmental audit field;
over 8 years working together as a team

Knowledgeable Team: - Because our team members are devoted to the governmental sector, we are experts in the intricacies of governmental accounting and the unique issues affecting your Town.

Management Involvement: Unlike most firms:

- the professionals assigned to your engagement focus the majority of their time working exclusively with governmental organizations
experienced Firm Management (Partners) will dedicate 100 percent of their time to your engagement

- because of our experience, we will use your staff's time **efficiently** and serve as a **valuable resource** for your Town: your personnel will **not waste time "training our personnel"**

Please note the firm is assigning the following "Key" Engagement Team Members to your Engagement:

- 1 Quality Control Partner**
- 1 Engagement Partner**
- 2 Senior Accountants**
- 4 Total Key Team Members**

We humbly ask you to compare the expertise of our "Key" Engagement Team to our peer competition assigned teams. We are confident you will not see another firm assigning our level of experience to your engagement.

On-Site Decision Makers: Unlike most other firms, our partners are on-site during the engagement. This ensures that any audit issues will be resolved efficiently and timely since the key individuals of the engagement will be on-site during the audit.

Smooth Transition: transition will be **smooth**, with **minimal disruption of the Town's staff and operations**. We can guarantee this due to our engagement team's governmental audit experience.

Satisfied Clients: We have included references for several municipalities which were audited by our Partner's. We have also included several letters of recommendations.

Immediate Service Responsiveness: Accessible to Clients 7 days a week regarding ANY comments, questions, or concerns.

Timely Delivery of Services: We understand the importance of completing the audit and issuing the audited financial statements in a timely manner and will work closely with you and your staff to exceed your expectations.

Fees: We recognize that engaging and accounting firm is an important investment of the Town. You can expect that we are competitively priced and that your investment in us will add value to your Town.

Based on our understanding of your expectations and the requirements set forth in your RFP, we will summarize the scope of our proposed services and our audit approach. We will demonstrate how our approach surpasses other firms' and exceeds the Town's expectations.

We will perform an annual audit of the financial statements of the Town of Cutler Bay for the fiscal years ending September 30, 2007, 2008 and 2009, in order to express an opinion on the fairness with which they present net assets and changes in net assets in conformity with accounting principles generally accepted in the United States of America, and an audit to determine whether operations are properly conducted in accordance with legal, regulatory requirements, applicable OMB standards, Federal Single Audit Act of 1997 and the Florida Single Audit Act, (if applicable). We will perform limited procedures on the schedule of expenditures of federal awards as required by U.S. Office of Management and Budget Circular A-133, Audits of States, Local Governments and Non-Profit Organizations, and supporting schedules and verify that any outstanding audit findings from prior years has been cleared, (if applicable). **We commit to perform the work within the time period described in your request for proposal.**

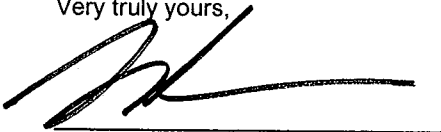
The firm will be involved throughout the entire year, by providing assistance in resolving issues and informing the Town of new evolving issues and related matters of importance.

We recognize that the Town is an important entity in Miami-Dade County and its responsibilities create a challenging and dynamic organization. We are confident that our firm is eminently qualified to meet the challenges of this engagement and to deliver quality audit services to your organization. The Town of Cutler Bay would be a valued client of our firm and we pledge to commit our resources to provide the level and quality of services that will fit the Town's needs, and exceed the Town's expectations.

This proposal is a firm and irrevocable offer for one hundred and twenty (120) days. We certify this proposal is made without previous understanding, agreement or connection either with any previous firms or corporations offering a Proposal for the same items or with the Town. We also certify that our proposal is in all respects fair, without outside control, collusion, fraud, or otherwise illegal action, and was prepared in good faith. Only the person(s), company or parties interested in the project as principals are named in the proposal. The firm has no existing or potential conflicts, and anticipates no conflicts during the engagement.

Nestor Caballero, CPA, is authorized to make representations for and to bind the firm. He can be reached at (305) 662-7272. His e-mail address is nestor@acc-cpa.com. Please do not hesitate to call if you have any questions about the information provided in this proposal. We thank you for considering our firm's qualifications and experience and look forward to serving you.

Very truly yours,



Nestor Caballero, CPA
Partner

Alberni Caballero & Castellanos, L.L.P.
4649 Ponce de Leon Blvd. Suite 404
Coral Gables, FL 33146

CHAPTER 2. AUDITOR'S STATEMENT OF ORGANIZATION

1. Full Name of Business Concern (AUDITOR):
ALBERNI CABALLERO CASTELLANOS, LP

Principal Business Address:
4649 PONCE DE LEON BLVD. SUITE 404
CORAL GABLES, FL 33146

2. Principal Contact Person(s):
NESTOR CABALLERO, CPA

3. Form of Business Concern (Corporation, Partnership, Joint Venture, Other):
PARTNERSHIP

4. Provide names of partners or officers as appropriate and indicate if the individual has the authority to sign in name of AUDITOR. Provide proof of the ability of the individuals so named to legally bind the AUDITOR.

Name	Address	Title
Nestor Caballero	4649 Ponce de Leon	Partner
Nelson Caballero	4649 Ponce de Leon	Partner
Pedro Alberni	4649 Ponce de Leon	Partner
Lorena Alberni	4649 Ponce de Leon	Partner
Elias Castellanos	4649 Ponce de Leon	Partner

If a corporation, in what state incorporated: n/a

Date Incorporated: _____
 Month Day Year

If a Joint Venture or Partnership, date of Agreement: December 1, 2005

5. List all firms participating in this project (including subcontractors, etc.):

Name	Address	Title
1. <u>NONE</u>		
2. _____		
3. _____		
4. _____		

CHAPTER 3. PERSONNEL

Management Team of CPAs' & Years Of Governmental Experience

Elias Castellanos, CPA (Quality Control Partner)
15 Years of Total Governmental Experience

Nestor Caballero, CPA (Engagement Partner)
10 Years of Total Governmental Experience

Yannick Ngendahayo, (Senior Accountant)
4 Years of Total Governmental Experience

Juan Rivera, (Senior Accountant)
3 Years of Total Governmental Experience

Experience In Governmental Engagements

The engagement team that will serve the Town is composed of individuals who understand governmental entities and possess the technical skills and experience necessary to deliver quality audit services. Our team will include One Quality Control Partner, One Engagement Partner, Two Senior Accountants and accounting staff as needed.

These professionals have a wide variety of experience in providing auditing, accounting and advisory services to governmental entities. In addition to their experience and knowledge, the members of the engagement team have the functional and technical skills to ensure the performance and completion of a comprehensive engagement.

Our engagement team of CPAs **averages over 14 years of professional practice 10 in the government audit field and the performance of financial and managerial services for governmental entities.** Unlike other firms' personnel, these individuals spend most of their time working with governmental and public sector agencies. This means they will not be wasting your time asking irrelevant questions and indeed, will be a fertile and beneficial resource to your organization.

Management Team

The management team who will serve the Town is composed of individuals who:

- are licensed CPAs;
- possess a comprehensive understanding of governmental entities;
- are highly experienced in working with a variety of public sector clients;
- demonstrate the technical skills necessary to deliver quality financial and managerial services; and
- average in excess of 10 years of professional practice in governmental accounting.

Quality Control Partner

The engagement will be under the direct supervision of a Quality Control Partner. The Quality Control Partner will be responsible for the quality control, supervision and confidentiality of information of the engagement and will participate extensively during the various stages of the engagement.

- performing an overriding review of all deliverables;
- resolving technical accounting and reporting issues;
- reviewing and approving reports, management letters, and other engagement products;
- supervising subordinate staff; and
- attending meetings and discussions with key management personnel.

CHAPTER 3. PERSONNEL (Continued)

Elias Castellanos, CPA will be the Quality Control Partner and a designated "KEY" Employee. Mr. Castellanos has extensive experience in governmental audits. He has performed governmental audits for the last **15 years**. He will devote a majority of his time to the completion of the work.

Engagement Partner-

The Engagement Partner will be assigned full time and will work closely with the Quality Control Partner. The Engagement Partner has direct responsibility for engagement policy, direction, supervision, security and communication with the Town's personnel. He will also ensure that the deliverables and all other reports are prepared in accordance with professional standards and firm policy.

He will be responsible for all phases of the engagement and he will be:

- coordinating all services with the Town;
- directing the development of the overall engagement approach and plan;
- supervising staff;
- planning the engagement;
- preparing or modifying project plans, as needed;
- evaluating internal control and assessing risk;
- reviewing work product for compliance with the Town's requirements and completeness;
- communicating with the Town the progress of the engagement; and
- reviewing deliverables and all reports issued by the firm for accuracy and completeness;
- and that they are prepared in accordance with professional standards and firm policy;
- leading meetings and discussions with key management personnel.

Nestor Caballero, CPA will be the Engagement Partner and a designated "KEY" employee. Mr. Caballero was selected for his experience with governmental engagements and more specifically for his experience with municipalities of similar scope and operations.

Senior Accountants

Two **Senior Accountants** will be assigned full-time to the engagement. The Senior Accountants will be responsible for the overall performance of the work in the field and assisting the Engagement Partner in the actual performance of the engagement.

Juan Rivera and Yannick Ngendahayo will be the Senior Accountants. Mr. Rivera and Mr. Ngendahayo were selected for their extensive knowledge in governmental accounting and for their auditing experience. They will devote 100% of their time to the completion of the work. Mr. Ngendahayo served as the assistant finance director for the Village of Biscayne Park before joining the firm and Mr. Rivera has worked on a project with the New Orleans Housing Authority for the past two years.

Staff Accountants

Staff accountants will be utilized as required by the Engagement Partner. They perform less complex audit procedures under the supervision of the Engagement Partner.

Note: All team members assigned to the audit have properly maintained CPE in governmental accounting and auditing as required by the State Board of Accountancy and the new Yellow Book requirements.

The firm's audit team who will serve the Town is composed of individuals who understand government entities and possess the technical skills and experience necessary to deliver quality audit services. Our audit team will include **TWO Partners**, who have been involved TOGETHER in the audits of government entities for at least **8 years**.

We humbly ask you to compare the level of experience and expertise we have assigned to your engagement to the other firms submitting proposals. Compare the experience of personnel assigned by those firms FULL-TIME (on-site) to OURS.

CHAPTER 3. PERSONNEL (Continued)

RESUMES

ELIAS CASTELLANOS, CPA

e-mail: elias@acc-cpa.com

Position QUALITY CONTROL PARTNER – “KEY” MEMBER

- Professional History**
- ❖ 14 years of total Professional Practice Experience
 - ❖ CPA, in Florida, March 1995, No. 27624
 - ❖ Partner, Alberni Caballero & Castellanos, LLP
 - ❖ Principal, Caballero & Castellanos P.L.- 2004 to 2006
 - ❖ Senior Audit Manager, Local CPA Firm- 2002-2004
 - ❖ Director of Operations – Quality Assurance – HUD – REAC, Washington, DC
 - ❖ Senior Audit Manager – KPMG L.L.P. Washington DC
 - ❖ Audit Supervisor – Regional CPA Firm
 - ❖ Senior Auditor, Local CPA Firm

Education ❖ Florida International University, B.A., Accounting, 1992

Clients Served and Professional References A partial list of governmental audits on which Elias has served:

- ❖ City of Miami Springs- Contact: Ron Gorland (Asst. City Manager- 305-805-5000)
- ❖ City of South Miami – Contact: Eliza Rassi (Finance Director – 305-663-6343)
- ❖ City of Hialeah Gardens – Contact: Marcos Piloto (Finance Director – 305-558-4114)
- ❖ Village of Biscayne Park
- ❖ Village of El Portal
- ❖ Town of Briny Breezes
- ❖ Performing Arts Authority (Broward Center for the Performing Arts)
- ❖ The Hialeah Housing Authority
- ❖ The Homestead Housing Authority
- ❖ Orlando Housing Authority
- ❖ Tampa Housing Authority
- ❖ Palm Beach County Housing Authority
- ❖ West Palm Beach Housing Authority
- ❖ Riviera Beach Housing Authority
- ❖ Lee County Housing Authority
- ❖ Venice Housing Authority
- ❖ Punta Gorda Housing Authority
- ❖ City of Dania Beach
- ❖ City of Lauderdale Lakes
- ❖ City of Hialeah
- ❖ City of North Miami
- ❖ Town of Golden Beach
- ❖ Village of Pinecrest
- ❖ City of Florida City

Professional Education Educational courses taken during the last three years.

<u>Course</u>	<u>Hours</u>
Government Accounting and Auditing	120

- Professional Associations**
- ❖ Member, Florida Institute of Certified Public Accountants
 - ❖ Member, American Institute of Certified Public Accountants
 - ❖ Member, Florida Government Finance Officers Association
 - ❖ Member, Government Finance Officers Association
 - ❖ Associate Member, Dade and Broward Florida League of Cities

CHAPTER 3. PERSONNEL (Continued)

NESTOR CABALLERO, CPA

e-mail: nestor@acc-cpa.com

Position **ENGAGEMENT PARTNER – “KEY” MEMBER**

- Professional History**
- ❖ 9 years of total Professional Practice Experience
 - ❖ CPA, in Florida, August 1997, No. 30376
 - ❖ Partner of Alberni, Caballero & Castellanos, L.L.P.
 - ❖ Principal of Caballero & Castellanos P.L.- 2004 to 2006
 - ❖ Audit Manager Local CPA Firm- 2002-2004
 - ❖ Audit Supervisor of Regional CPA Firm- 1996 to 2001

- Education**
- ❖ Masters Degree, Taxes, 1997, Florida International University,
 - ❖ Bachelor Degree, Accounting, 1995, Florida International University

- Clients Served and Professional References**
- A partial list of municipal audits on which Nestor has served:
- ❖ City of Miami Springs- Contact: Ron Gorland (Asst. City Manager- 305-805-5000)
 - ❖ City of South Miami – Contact: Eliza Rassi (Finance Director – 305-663-6343)
 - ❖ City of Hialeah Gardens – Contact: Marcos Piloto (Finance Director – 305-558-4114)
 - ❖ Village of Biscayne Park
 - ❖ Village of El Portal
 - ❖ Town of Briny Breezes
 - ❖ Performing Arts Authority (Broward Center for the Performing Arts)
 - ❖ City of Tamarac
 - ❖ City of Oakland Park
 - ❖ Town of Miami Lakes
 - ❖ Town of Southwest Ranches
 - ❖ City of Pembroke Pines
 - ❖ City of Hialeah
 - ❖ City of Homestead
 - ❖ Town of Lauderdale By The Sea
 - ❖ South Miami Redevelopment Agency
 - ❖ The Children’s Trust
 - ❖ The Hialeah Housing Authority
 - ❖ The Homestead Housing Authority
 - ❖ Orlando Housing Authority
 - ❖ Tampa Housing Authority
 - ❖ Palm Beach County Housing Authority
 - ❖ West Palm Beach Housing Authority
 - ❖ Riviera Beach Housing Authority
 - ❖ Lee County Housing Authority
 - ❖ Venice Housing Authority
 - ❖ Punta Gorda Housing Authority

Professional Education Educational courses taken during the last three years.

<u>Course</u>	<u>Hours</u>
Government Accounting and Auditing	<u>120</u>
Total Hours	<u>120</u>

- Professional Associations**
- ❖ Member, American Institute of Certified Public Accountants
 - ❖ Member, Florida Institute of Certified Public Accountants
 - ❖ Member, Government Finance Officers Association
 - ❖ Member, Special Review Committee -Government Finance Officers Association
 - ❖ Member, Florida Government Finance Officers
 - ❖ Member, Dade/Broward Government Finance Officers Association
 - ❖ Member, Cuban American Certified Public Accountants Association
 - ❖ Associate Member, Dade & Broward League of Cities

CHAPTER 3. PERSONNEL (Continued)

YANNICK NGENDAHAYO

e-mail: yannick@acc-cpa.com

Position SENIOR ACCOUNTANT

Professional History ❖ Senior of Alberni Caballero & Castellanos, LLP 2006-present
❖ Assistant to Finance Director- Village of Biscayne Park Florida 2004-2006

Education ❖ Bachelor Degree, Accounting, 2005 Johnson & Wales University

Clients Served and Professional References A partial list of audit clients served during the last year follows:

- ❖ City of Miami Springs- Contact: Ron Gorland (Asst. City Manager- 305-805-5000)
- ❖ City of South Miami – Contact: Eliza Rassi (Finance Director – 305-663-6343)
- ❖ City of Hialeah Gardens – Contact: Marcos Piloto (Finance Director – 305-558-4114)
- ❖ Village of El Portal
- ❖ South Miami Redevelopment Agency
- ❖ Town of Jupiter Police Officers Retirement Plan
- ❖ City of Lauderhill General Employees Retirement Plan
- ❖ City of Homestead General Employees Retirement Plan
- ❖ City of Homestead Police Officers Retirement Plan
- ❖ City of Homestead Elected Officials Retirement Plan
- ❖ Virginia Key Beach Park Trust
- ❖ Performing Arts Authority (Broward Center for the Performing Arts)
- ❖ The Hialeah Housing Authority
- ❖ Orlando Housing Authority
- ❖ Palm Beach County Housing Authority
- ❖ West Palm Beach Housing Authority
- ❖ Riviera Beach Housing Authority
- ❖ Lee County Housing Authority
- ❖ Venice Housing Authority
- ❖ Punta Gorda Housing Authority

Professional Education Educational courses taken during the last two years.

<u>Course</u>	<u>Hours</u>
Government Accounting and Auditing	<u>80</u>
Total Hours	<u>80</u>

Professional Associations ❖ Member, Florida Government Officers Association

CHAPTER 3. PERSONNEL (Continued)

JUAN RIVERA

e-mail: juan@acc-cpa.com

Position SENIOR ACCOUNTANT

Professional History ❖ Senior of Alberni Caballero & Castellanos, LLP- 2006 to present
❖ Staff accountant- small CPA firm in Washington D.C.- 2004-2006

Education ❖ Bachelor Degree, Accounting, University of Puerto Rico

Clients Served and Professional References A partial list of audit clients served during the last year follows:

- ❖ West Palm Beach Housing Authority – Contact: Prasad Valluri (Finance Dir. 561-655-8530)
- ❖ Family Counseling Services of Greater Miami, Inc.- Contact: Mario Medina (Finance Director 305-271-9800)
- ❖ Punta Gorda Housing Authority- Contact: Jean Farino (Executive Director 941-639-4344)
- ❖ New Orleans Housing Authority
- ❖ U.S. Department of the Navy
- ❖ Open House Ministries, Inc.

Professional Education	Educational courses taken during the last year.	
	<u>Course</u>	<u>Hours</u>
	Government Accounting and Auditing	<u>24</u>
	Total Hours	<u>24</u>

Professional Associations ❖ Member, Florida Government Officers Association

CHAPTER 3. PERSONNEL (Continued)

Quality Control System

The firm continually monitors performance to ensure the highest quality of services. Under the supervision of our audit partners, an audit manager/supervisor is responsible for monitoring quality control of all appropriate engagements.

The review process begins with the manager/supervisor. In engagements where a staff is assigned, the manager/supervisor is responsible for the initial review of his workpapers as well as the workpapers prepared by the staff.

Subsequent to this review, a partner is responsible for the comprehensive review of the engagement working papers. The partner is responsible for ensuring that the issues identified within the audit plan have been properly addressed. The partner will also review the financial statements to ensure that all material events and transaction have been properly reported and comply with GAAP requirements.

A second partner performs an overall review of the workpapers and financial statements to provide a "second set of eyes" and identify any areas that need strengthening prior to issuance.

Quality of the Staff Over the Term of the Engagement

The Quality Control Partner, Engagement Partner and Senior Accountants will be the designated "KEY" members. We pledge to the Town they will be returned to the audit each year of the engagement. In the unlikely event that it does become necessary to replace any of the partners, managers, senior accountants or staff, we will first attain Town's express prior permission to do so. We understand Town's right to accept or reject replacements. In addition to the engagement team members proposed herein, we also have other, well-qualified professionals who stand ready to serve your needs, if required. We can assure the highest professional qualifications of the assigned staff we will utilize for Town's engagement. In addition to our governmental focus, it is firm policy that all professional employees exceed the minimum CPE credits required for governmental audits. We currently have an in-house continuing education program which provides approximately 120 credit hours of governmental and not-for-profit accounting and auditing every two years to all of our audit staff. In addition, our staff regularly attends conferences sponsored by the FICPA and the Florida Government Finance Officers Association. Further, because we are growing and expanding, we have an ongoing recruitment program that seeks only those accountants with a proven record of academic success. When we recruit at the Senior and Manager level, we select CPA's with proven governmental auditing experience.

Firm Capacity

Our engagement team's work load is organized in such a way that the additional activities brought about by this engagement will *not* impact our current commitments to other clients. We have sufficient staff capacity to integrate these professional services for the Town into our present operations, while continuing to maintain the highest standards of quality and time lines to all of our other clients.

CHAPTER 4. EXPERIENCE

Alberni Caballero & Castellanos, L.L.P. (AC&C) is a Certified Public Accounting firm with five partners and over twenty professionals that work together on a continual basis with the main focus of serving the public sector. The firm is a professional limited liability partnership that provides comprehensive financial and compliance auditing, attestation and accounting, and other management consulting services. AC&C was formed through the merger of Alberni Caballero & Alberni, P.A., a certified public accounting firm which has served the South Florida area for over 30 years and Caballero & Castellanos, P.L. a local firm with offices in Dade and Broward County which exclusively serves the public sector and whose partners bring over 10 years of local government audit experience.

Our industry areas of specialization include:

- Governmental Organizations
- Public Housing Agencies
- Non Profit Organizations
- Local Government Retirement Plans
- Mortgage Banking

Our firm's philosophy is to provide our clients with the same high level of service they would expect from a large national firm, but with the personal attention of a small local firm. All of our audit clients have direct access to our partners and we have committed to have our partners involved throughout all phases of the audit. In other words, our partners are on the field during the audit and all the decision making is on site.

Our professional staff is prepared and fully qualified to help you determine your realistic present and future goals, and assist you in reaching them. We combine invaluable experience gained at some of the most highly regarded international accounting firms, with the kind of personal service these firms can seldom provide.

Every member of our professional staff at the firm is here because they combine outstanding accounting qualifications with proven communication skills and depth of character. Our governmental audit partners and staff are actively involved with recognized standard-setting organizations at the national level (Government Finance Officers Association), state level (FGFOA) and the local level (League of Cities). The firm is also a member of the AICPA Governmental Audit Quality Center, which holds our firm to a higher standard of quality.

Size And Number Of Staff

The following chart reflects our current organizational structure:

	TOTAL PROFESSIONAL STAFF	TOTAL CPA'S	PUBLIC SECTOR STAFF
<i>Partners</i>	5	5	4
<i>Manager/Seniors</i>	4	0	4
<i>Staff accountants</i>	8	0	6
<i>Per diem employees</i>	10	4	10
Total	27	9	24

The engagement partner, and two senior accountants and staff as needed, will be assigned full-time to the Town's engagement. The engagement will be staffed out of our Coral Gables office.

GFOA Certificate Of Achievement For Excellence In Financial Reporting Program

Our governmental audit partners are proud to have assisted all the governmental clients who have participated in the GFOA Certificate of Achievement for Excellence in Financial Reporting Program (CAFR) qualify for this award. This certificate program is recognized as the highest award in governmental financial reporting. The Certificate of Achievement has been awarded on all of the financial statements our Partners have reported in the certificate program. In addition, two of our partners participate in the GFOA's CAFR review program.

CHAPTER 4. EXPERIENCE (Continued)

Report Of Peer Review

Caballero & Castellanos, P.L.'s peer review report is presented as APPENDIX C. PEER REVIEW REPORT.

Participation in Quality Control Review Program

Alberni Caballero & Castellanos, L.L.P. is a member of the Government Audit Quality Center and as such must comply with a comprehensive quality control process specific to governmental engagements.

Electronic Workpapers

In keeping with our philosophy of providing services that you would expect from a large national firm, we use the latest paperless audit software and networking on our audit engagements. Electronic workpapers continue to improve productivity and efficiency in the audit process. These efficiencies are passed on to our clients through lower fees and time savings. The Town's workpapers will scanned or imported directly into our audit programs saving the Town time and the cost of copying or printing such workpapers.

Year-Round Involvement

Our involvement with the Town and its finance department does not end when our financial statements are issued. We remain involved with the Town through our monthly reviews of the minutes of the Town's commission meetings and communications regarding new accounting standards that have been issued that may affect future audits. Our year-round involvement ensures a timely and efficient audit and helps us and the Town address any issues before the audit.

CHAPTER 4. EXPERIENCE (Continued)

CITY OF SOUTH MIAMI

Address: 6130 Sunset Drive, South Miami, FL 33143

Phone: (305) 663-6343

Contact: Eliza Rassi, Finance Director

Type of Service Provided: Financial Statement Audit and Federal Single Audit– 9/30/06, 9/30/05 and 9/30/04- CAFR

Year Contract Initiated: 2004

CITY OF MIAMI SPRINGS

Address: 201 Westward Drive, Miami Springs, FL 33166-5289

Phone: (305) 805-5000

Contact: Ronald Gorland, Assistant City Manager

Type of Service Provided: Financial Statement Audit and Federal Single Audit– 9/30/06, 9/30/05 and 9/30/04- CAFR

Year Contract Initiated: 2004

VILLAGE OF BISCAYNE PARK

Address: 640 NE 114th Street, Biscayne Park, FL 33161

Phone: (305) 899-8000

Contact: Holly Hughdahl, Interim Finance Director

Type of Service Provided: Financial Statement Audit and Federal Single Audit– 9/30/06 and 9/30/05

Year Contract Initiated: 2005

VILLAGE OF EL PORTAL

Address: 500 Northeast 87th Street, El Portal, FL 33138

Phone: (305) 795-7880

Contact: Jason Walker, Village Manager

Type of Service Provided: Financial Statement Audit and Federal Single Audit– 9/30/06 and 9/30/05

Year Contract Initiated: 2006

TOWN OF BRINY BREEZES

Address: 5000 North Ocean Blvd., Briny Breezes, FL 33435

Phone: (561) 276-5116

Contact: Rita Taylor, City Clerk

Type of Service Provided: Financial Statement Audit– 9/30/06

Year Contract Initiated: 2006

CITY OF HIALEAH GARDENS

Address: 10001 NW 87th Ave., Hialeah Gardens, FL 33016

Phone: (305) 409-4040

Contact: Marcos Piloto, Finance Director

Type of Service Provided: Financial Statement Audit– 9/30/06

Year Contract Initiated: 2007

The Town may contact any of the references provided.

CHAPTER 5. FINANCIAL STABILITY AND FINANCIAL STATEMENTS

ALBERNI CABALLERO & CASTELLANOS, LLP
 BALANCE SHEET
 DECEMBER 31, 2006, 2005 AND 2004

	<u>2006</u>	<u>2005</u>	<u>2004</u>
ASSETS			
Current Assets			
Cash	\$ 35,774	\$ 49,807	\$ 1,938
Accounts Receivables	88,628	36,785	-
Other	<u>2,980</u>	<u>2,130</u>	<u>2,130</u>
Total Current Assets	127,382	88,722	4,068
Fixed Assets			
Equipment			
Accumulated Depreciation	(46,450)	(44,135)	(44,026)
Furniture and Equipment	<u>47,737</u>	<u>46,479</u>	<u>45,663</u>
Total Fixed Assets	<u>1,287</u>	<u>2,344</u>	<u>1,637</u>
TOTAL ASSETS	<u>\$ 128,669</u>	<u>\$ 91,066</u>	<u>\$ 5,705</u>
LIABILITIES & EQUITY			
Liabilities	\$ -	\$ -	\$ 4,516
Total Liabilities	<u>-</u>	<u>-</u>	<u>4,516</u>
Equity (net of partner distributions)	<u>128,669</u>	<u>91,066</u>	<u>1,189</u>
TOTAL LIABILITIES & EQUITY	<u>\$ 128,669</u>	<u>\$ 91,066</u>	<u>\$ 5,705</u>

ALBERNI CABALLERO & CASTELLANOS, LLP
INCOME STATEMENTS
FOR THE YEARS ENDED DECEMBER 31, 2006, 2005 AND 2004

	<u>2006</u>	<u>2005</u>	<u>2004</u>
Income			
Audits	\$ 694,173	\$ 534,616	\$ 278,544
Consulting	128,125	92,725	275,007
Other	1,724	4,799	974
Tax	<u>682,829</u>	<u>630,379</u>	<u>546,083</u>
Total Income	<u>1,506,851</u>	<u>1,262,519</u>	<u>1,100,608</u>
Expense			
Automobile Expense	37,912	24,718	26,344
Depreciation	12,273	7,957	8,589
Dues and Subscriptions	14,336	10,248	2,153
Equipment Rental	4,036	4,958	162
Insurance	80,684	37,352	38,745
Interest	1,361	214	440
Office Expense	54,065	21,002	19,775
Supplies	26,426	29,112	16,089
Salaries	518,314	348,721	305,881
Professional fees	45,069	41,601	205,581
Rent	51,586	45,368	44,706
Computer supplies and repairs	19,485	12,313	10,694
Payroll taxes	40,080	27,809	22,531
Telephone	12,340	8,800	6,472
Travel & Ent	<u>23,394</u>	<u>26,398</u>	<u>34,946</u>
Total Expense	<u>941,362</u>	<u>646,571</u>	<u>743,108</u>
Net Income	<u>\$ 565,488</u>	<u>\$ 615,948</u>	<u>\$ 357,500</u>

CHAPTER 5. FINANCIAL STABILITY AND FINANCIAL STATEMENTS

The financial statements presented above, represent the combined operations of Caballero & Castellanos, P.L. (C&C) and Alberni Caballero & Alberni, PA (ACA). The firms merged operations in 2006 and now operate under Alberni Caballero & Castellanos, LLP (ACC).

The firms are professional associations and limited liability partnerships. It is our policy to distribute earnings at year end to the partners and that is why the cash balances and equity are minimal at year end. However, we would like to draw attention to the firm's income statements which show profitability in all of the years presented and that there are no outstanding liabilities as support and proof of our firm's financial stability. Furthermore, Alberni Caballero & Alberni, P.A. has been providing professional certified public accounting services in South Florida over the past 30 years.

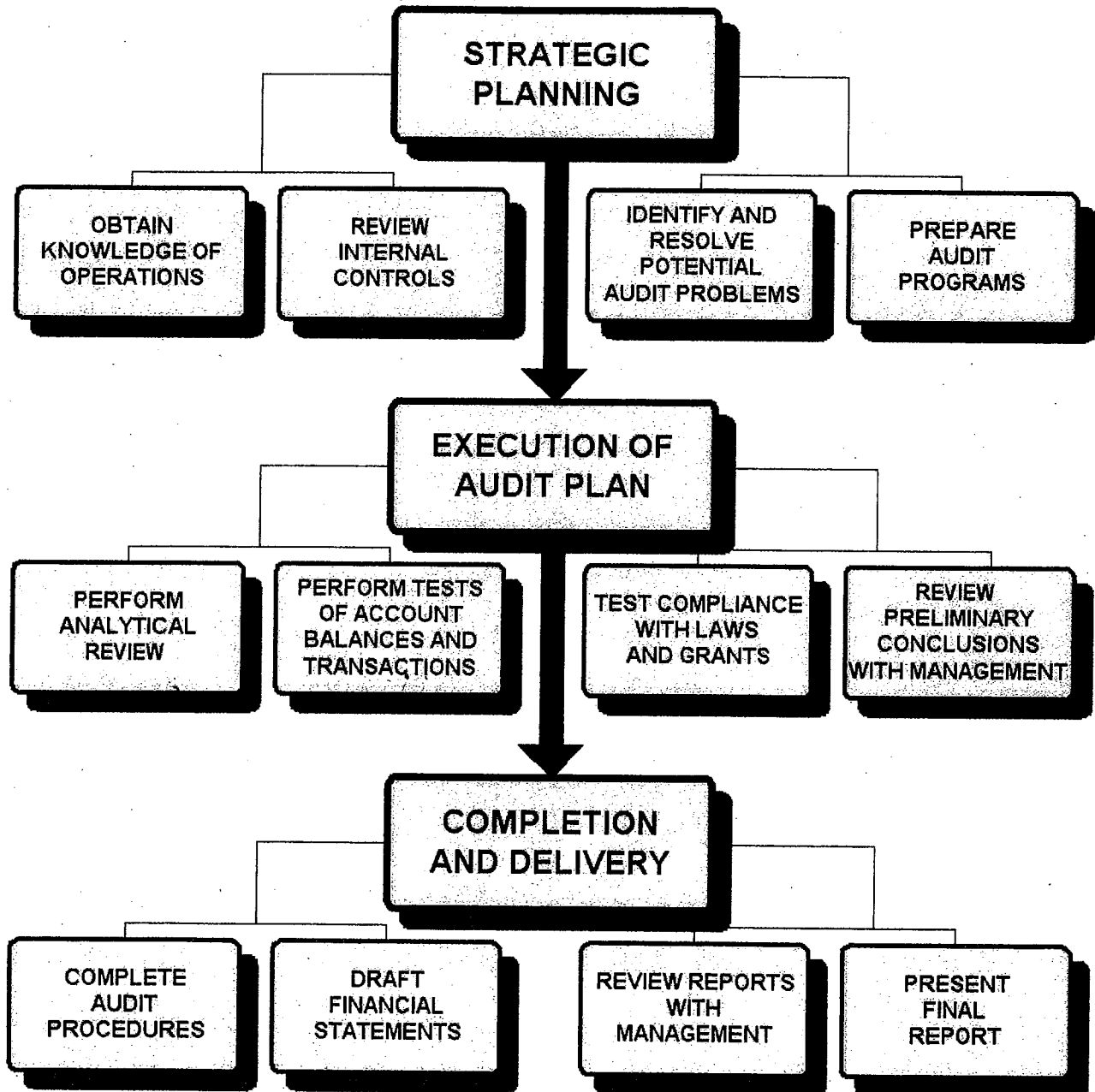
CHAPTER 6. TRANSITION PLAN

We understand that ensuring a smooth, seamless transition in of critical importance to the Town. Once we are notified that the audited has been awarded we will schedule a planning meeting with finance personnel. During that initial meeting the prior auditor will be contacted and a review of the prior year's workpapers will be scheduled. We do not anticipate any problems or delays with the review of the prior year's workpapers and can assure a smooth transition. Our firm has worked closely with the Town's prior auditors and have successfully transitioned for two of our current audit clients. We encourage the Town to contact the City of Hialeah Gardens and the City of Hialeah regarding the transition between auditors.

Below we have detailed our audit plan.

Audit Plan

Our approach to the audit engagement integrates traditional auditing techniques with a total systems concept. We will consider the methods used by the Town to process accounting information when planning our audit, since they influence the design of the internal control. The audit will be conducted in the three phases which are shown on the adjacent Chart.



CHAPTER 6. TRANSITION PLAN (Continued)

Phase I - Strategic Planning

A thorough understanding of your organization and its operating environment is essential for the development of an audit plan for an efficient, cost effective audit. During this phase, the engagement partner and audit/manager will meet with appropriate personnel to obtain and document our understanding of your operations and, at the same time, give you the opportunity to express your expectations with respect to the services that we will provide. Our work effort will be coordinated so that there will be minimal disruption to your staff.

During this phase we will perform the following activities:

- Review the regulatory, statutory and compliance requirements within which the Town operates. This will include a review of applicable federal laws, the Town's ordinances, state statutes, County and Town requirements and resolutions, debt instruments, contracts, other agreements, and minutes of meetings of the commission and various committees.
- Review major sources of information such as budgets, organization charts, procedures manuals, financial systems, and management information systems.
- Determine the procedures necessary with regard to opening balances, and obtain reasonable assurance concerning the consistency of application of accounting principles between the year being audited and the preceding year.
- Review the working papers of the predecessor auditor.
- Obtain and document an understanding of the Town's internal control structure, including making an assessment of audit risk.
- Consider the methods that the Town uses to process accounting information which influence the design of the internal control structure. This understanding includes knowledge about the design of relevant policies, procedures, and records, and whether they have been placed in operation by the Town.
- Develop audit programs to incorporate the consideration of financial statement assertions, specific audit objectives, and appropriate audit procedures to achieve the specified objectives.
- Identify and resolve accounting, auditing, and reporting matters.

Phase II - Execution of Audit Plan

The audit team will complete a major portion of transaction testing and audit requirements during this phase. The procedures performed during this period will enable us to identify any matter that may impact the completion of our work or require the attention of management. Tasks to be performed in Phase II include, but are not limited to the following:

- Analytical procedures are applied in this stage of the audit to assist in planning the nature, timing, and extent of auditing procedures used to obtain evidential matter for specific account balances or classes of transactions.
- Perform substantive tests of account balances and transactions. Samples will be drawn of major transaction systems, including cash disbursements, cash receipts, purchases, and payroll.
- Perform tests of compliance with laws, regulations, contracts, and grants.
- Review test results and preliminary conclusions.

CHAPTER 6. TRANSITION PLAN (Continued)

Phase III - Completion and Delivery

In this phase of the audit, we will complete the tasks related to the closing of year-end balances and financial reporting. This will include final testing in the areas of compliance, balance sheet accounts, revenue and expenditures, among others. All reports will be reviewed with management before issuance, and the partners will be available to meet with the commission to discuss our report and address any questions they may have.

Audit Management Plan

Our audit approach is to develop a specific audit action plan tailored to the individual needs of our client. For each audit we develop the most efficient combination of audit techniques selected from the following methodologies.

Auditing Standards promulgated by the American Institute of Certified Public Accountants provide guidance for auditors in assessing the internal control structure for the purpose of the audit. As auditors, we consider the internal control structure which consists of the following five elements.

The Control Environment

The control environment includes the management philosophy, operating style, organizational structure, functions of various boards and committees, methods of assigning responsibility, personnel policies and procedures, and various other factors that reflect the Town's concern with control in the area of finances. We will read the various documents that impact this environment, and talk to employees to see how these ideologies are portrayed at various levels.

Risk Assessment

After understanding the control environment, we will identify and assess the relevant risks to achieving the objectives of the financial system.

Control Activities

The control procedures are integrated in the components of the control environment and accounting system. While gaining an understanding of those areas, we will assess the control procedures that the Town has in place. Consideration will also be given to potential improvements to the efficiency and effectiveness of the procedures in place. Any suggestions for improvement will be communicated to the appropriate person(s).

Information and Communication

We will document the formal and informal information flow relating to the processing and recording of financial transactions.

Monitoring

In this final component we will review Town practices that are in place to monitor the performance of its internal control structure.

Sampling Considerations

Our professionals will utilize sampling methodologies designed to ensure effective audit procedures are applied in the most efficient manner.

Sampling Techniques

We will utilize representative audit sampling procedures with respect to substantive tests of details and tests of controls and tests of compliance, where a sample of documentation is to be tested as the principal evidence of a control. During tests of controls, the tests will generally consist of a combination of corroborative inquiry and either observation, examination of documents or re-performance. We will use attribute sampling to test documentary evidence as documentation will be the principal corroborative evidence of identified controls.

Statistical and Non-statistical Sampling

Substantive tests of details and tests of controls can be performed using either statistically or non-statistically based techniques. Statistical approaches will be based on our calculation of risk factors. If a non-statistical approach is deemed appropriate, we will design our procedures to obtain levels of assurance that we judge to be equivalent to those required when using statistically based techniques.

CHAPTER 6. TRANSITION PLAN (Continued)

Sample Sizes

For tests of controls, sample size will be based on the planned or supported assessed level of control risk and the number of planned or actual deviations expected. For substantive testwork, sample size will be a function of population, materiality, and risk factors.

Experience In Information Systems And Technology and Extent of Use of EDP Software in the Engagement

Our approach to auditing integrates traditional auditing techniques with a total system concept. We are actively committed to using computer-based audit techniques. Our knowledge of information systems (IS) and the use of paperless audit software yield significant savings in the time required to complete an audit.

Today's marketplace provides firms, large and small, national and local, with sophisticated computer-aided audit tools necessary to perform data analysis and report generation.

A client's IS environment influences the nature, timing, and extent of planned auditing procedures. Because most of our clients utilize computerized accounting systems, our professional team is experienced with various IS systems.

As computers have become more integral to the financial management system, we have met the challenge by incorporating new audit techniques into the audit process. Staff members are trained on new software and are skilled in a wide variety of computerized applications.

An important component of our audit is the review of IS general controls. We understand that the effectiveness of many client control procedures is dependent on reliable computer-generated data which result from proper IS general controls. Therefore, we will analyze these controls to determine the adequacy of the internal control environment.

Our IS expertise, combined with extensive auditing and consulting experience mean that we understand the technical intricacies of complex information systems in the context of real-world application.

Utilizing this expertise we will be able to:

- ❖ evaluate IS general controls within the computer environment;
- ❖ document critical transaction processing systems;
- ❖ identify key processes and controls within these transaction processing systems;
- ❖ evaluate the effectiveness of identified controls;
- ❖ advise the audit team on results of the evaluation and effect on planned audit procedures;
- ❖ design, develop and execute computer-assisted audit techniques using computer audit software packages;
- ❖ assess the internal controls

Analytical Procedures

Statement of Auditing Standards on *Analytical Procedures*, provides guidance on the use and extent of analytical procedures in all audits.

Analytical procedures are required in the planning and overall review stages of the audit, and are used in the following areas:

Audit Planning

Analytical procedures can provide great insight in planning an audit. These analyses can enhance our understanding of the Town's transactions and events that may have occurred during the year under audit. We compare the current balances to the prior year and to the current budget. Isolating significant differences can identify areas that may require additional attention during the field work. For example, such a review could identify a new revenue source for which we would need to obtain documentation supporting the Town for collecting such monies.

Substantive Tests

Analytical procedures can be used as effective substantive tests in certain circumstances, for example, testing certain payroll related expenditures, such as payroll taxes, which are a specific percent of wages.

CHAPTER 6. TRANSITION PLAN (Continued)

Overall Review

Analytical procedures used at the conclusion of the audit are designed to assess the conclusions reached and evaluate the overall financial statement presentation.

Internal Controls

The internal control segment is the foundation for the entire audit and involves an extensive understanding and evaluation of the Town's operating and management information systems and all related internal controls. The results of this evaluation will influence the nature, timing and extent of our substantive audit procedures. This approach ensures that we achieve maximum efficiency and provides valuable feedback to management regarding the effectiveness of controls being relied upon throughout the year.

A thorough understanding of the internal controls of an organization is critical in planning our audit procedures and providing useful comments and recommendations to the Town. We utilize a standardized control overview document which assists us in identifying key elements within internal control, such as the entity's risk assessment process, the control environment, information and communication systems, and general monitoring and control activities.

Our evaluation of internal control includes considering the individual components noted above and then considering the effectiveness of internal control as a whole. We will obtain our understanding of each of the elements through the following procedures:

- ❖ Meeting with the Town's personnel to discuss operations; and
- ❖ Reviewing internal assessment of internal control

The control overview document helps to ensure that all elements of internal control are considered.

Subsequently, for significant internal control categories, we will obtain an understanding of the design of relevant policies and procedures, determine whether such procedures have been placed in operation and assess control risk. This review begins by holding interviews with data processing and accounting personnel and evaluating your internal system and accounting documentation. We will then prepare documentation of the major systems. To the extent it is available; we will also use internal control documentation currently available. This review is organized into major accounting cycles.

We have found through our experience that there are two primary methods to test controls.

- ❖ **Documented controls** – Tested by reviewing a sample of transactions for evidence that the control was being performed.
- ❖ **Undocumented controls** – Tested through inquiry and observation procedures with appropriate department personnel.

Laws and Regulations

Statement on Auditing Standards from the American Institute of Certified Public Accountants, establishes standards for testing and reporting on compliance with laws and regulations. In all financial statement audits, the auditor must consider laws and regulations that have a direct and material effect on the financial statements. Further, the auditor designs audit procedures to provide reasonable assurance that the financial statements are free of material misstatements resulting from violations of these laws and regulations that have a direct and material impact on the financial statements. For governmental entities, this requirement is even more important given the variety of legal and contractual considerations typical of the government environment.

Identifying applicable laws and regulations is fundamental to fulfilling the responsibility of understanding their effects. We will obtain this knowledge through the following sources:

- ❖ Discussion of compliance requirements with the Town's officials, including legal counsel.
- ❖ Identification of compliance matters in statutes, financial ordinances, Town's policies, contracts, grants and debt agreements.

CHAPTER 6. TRANSITION PLAN (Continued)

- ❖ Review of Town's commission meeting minutes.
- ❖ Inquiries of the program administrator of the governmental entities that provided grants about restrictions, limitations, terms and conditions under which such grants were provided including review of the OMB Circular A-133 Compliance Supplement and the Florida Single Audit Act.
- ❖ Our existing knowledge of federal and state laws.

Statistical Samples Offered To Be Performed In The Audit Based On Federal Grant Funds Awarded To The Town

During the planning of the Single Audit engagement, we will identify the major programs to be audited pursuant to Circular OMB A-133. As required, the determination will be based on the dollar amount of federal expenditures and the associated program risk. Further, as appropriate, our audit will be planned to provide for a low level of assessed control risk.

- ❖ After we have identified the major programs, we will perform appropriate auditing procedures, including tests of controls, tests of compliance with laws and regulations, and substantive testwork. Sampling methodology determination, i.e., statistical, or non-statistical, random, systematic or judgmental selection method, etc., will be based on the auditor experience and judgment.

Description Of Procedures To Be Used To Ensure The Accuracy Of The Statistical And/Or Nonstatistical Samples

To ensure that samples selected for attribute testing (tests of controls and compliance) and variable testing (tests of details/substantive testwork) are "accurate", or valid, all samples will be reviewed and evaluated to ensure that items selected are,

- ❖ representative of the population so that characteristics of the sample can be reasonably projected to the entire population
- ❖ of adequate size based on internal controls, tolerable error, expected deviations, acceptable confidence levels, etc.
- ❖ from a complete population

Approach To Be Taken In Completing The Single Audit

Due to the unprecedented number of hurricanes that affected the South Florida area during September and October 2005, most municipalities received funding from FEMA for hurricane clean-up and repairs. These funds are subject to the federal single audit. If the Town received and spent over \$500,000 of federal awards, then a federal single audit will be required. We have included in our cost proposal a separate fee for a federal single audit, if it's required.

Our objective in this area is to perform a single audit which meets the needs of the grantor agencies and the requirements of OMB A-133.

In order to achieve this objective, we follow the following techniques:

Planning and Supervision

- Inquiry of management regarding identification of the grants subject to single audit
- Review of grant documents
- Review of OMB Circular A-133 Compliance Supplement
- Review of Federal legislation for the enacted laws and regulations
- Instruction to staff as to the requirements of the Single Audit
- Supervision of staff in the performance of the procedures
- Consideration of the effect of computer processing on the nature, timing and extent of auditing procedures

CHAPTER 6. TRANSITION PLAN (Continued)

Assessment of Risks

- Perform an assessment of engagement risk by considering the level of Federal financial assistance and the nature of the various programs; corresponding consideration of external environments, internal factors, irregularities, illegal acts, fraud and other noncompliance matters.
- The single audit is subject to the same risk assessment at the account balance or transaction level made in the financial audit of the entity. The single audit is designed to obtain assurance as to compliance with the grant agreements and the single audit requirements of OMB A-133, while the financial audit is designed to obtain assurance that the financial statements are free of material misstatement. Consequently, the single audit constitutes only a piece of the financial audit.

Determination of Major Programs

- Determine if the Town is a low or high risk auditee
- Identify the larger Federal programs based on the dollar threshold Identify in A-133 520(b) and label them as Type A programs, with the remaining programs labeled as Type B.
- Perform and document risk assessment procedures on each Type A program to identify those that are low risk
- Consider the criteria in A-133 when performing the risk assessment on Type B programs
- Audit at least all Type A programs not identified as low risk; audit Option 1 - At least half of the high-risk Type B programs over the Type B threshold (if risk was assessed for all Type B programs subject to risk assessment) or Option 2 - At least one high-risk Type B program for each low-risk Type A program; plus programs that are requested in accordance with the requirements in A-133 .215 (c) to be audited as major; audit such additional programs as may be necessary to comply with the percentage of coverage rule

Schedule of Expenditure of Federal and State Awards

- Perform procedures to determine the Schedule of Federal Awards are presented fairly in all material respects in relation to the Town's financial statements taken as a whole
- Determine that the Town was able to reconcile the amounts presented in the schedule to amounts in the financial statements
- Assess the appropriateness and completeness of the Town's identification of Federal programs included in the schedule
- Determine that the Town properly disclosed the basis of accounting and the significant accounting policies used in preparing the schedule

Materiality

- Determine Materiality based on the major program

Internal Control over Major Programs

- For each of the 14 types of compliance requirements (listed in the Compliance Supplement) which are applicable and material to each major program, document an understanding of the 5 components of internal control (Control Environment/Risk Assessment/Control Activities/Information and Communication/Monitoring) sufficient to plan the audit to support a low level of control risk
- Plan the testing of internal control
- Make a sample selection to test internal control following the sample selection techniques under Sample Sizes and Statistical Sampling
- Reach a conclusion as to the effectiveness of the internal control elements and all reportable conditions
- If no internal control is found on any of the 14 types of compliance requirements, disclose as a reportable condition

Compliance Testing

- Identify all applicable and material compliance requirements for the major programs
 - Perform reasonable procedures to ensure that the compliance requirements are current
 - Make a sample selection following the sample selection techniques under Sample Sizes and Statistical Sampling
- Identify all findings and questioned costs related to noncompliance with the provisions of laws, regulations, contracts, or grant agreements related to a major program

CHAPTER 7. LITIGATION HISTORY

Neither Albern Caballero & Castellanos, LLP nor any of its merger firms, or partners have ever been involved in any litigation, proceeding or disciplinary action. No complaints have ever been filed with the Florida Department of Business and Professional Regulations or any oversight bodies regarding our firm or any of its partners.

CHAPTER 8. INSURANCE REQUIREMENT

ACORD CERTIFICATE OF LIABILITY INSURANCE

OP ID YL
CABAL-1

DATE (MM/DD/YYYY)
07/25/07

PRODUCER A-1 Insurance Group, Inc. 2700 SW 137 AVE Miami FL 33175 Phone: 305-223-2533 Fax: 305-220-0765		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
INSURED Caballero & Castellanos, P.L. 13340 SW 78 ST Miami FL 33183		INSURERS AFFORDING COVERAGE	NAIC #
		INSURER A: Technology Insurance Co.	42376
		INSURER B: Philadelphia Indemnity Ins. Co	
		INSURER C:	
		INSURER D:	
		INSURER E:	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
B		GENERAL LIABILITY	PHSD263033	07/07/07	07/07/08	EACH OCCURRENCE	\$ 1,000,000
		<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 50,000
		<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				MED EXP (Any one person)	\$ 5,000
						PERSONAL & ADV INJURY	\$ 1,000,000
						GENERAL AGGREGATE	\$ 1,000,000
						PRODUCTS - COMP/OP AGG	\$ 1,000,000
						GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC	
B		AUTOMOBILE LIABILITY	PHSD263033	07/07/07	07/07/08	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
		<input type="checkbox"/> ANY AUTO				BODILY INJURY (Per person)	\$
		<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident)	\$
		<input checked="" type="checkbox"/> HIRED AUTOS				PROPERTY DAMAGE (Per accident)	\$
		<input checked="" type="checkbox"/> NON-OWNED AUTOS					
		GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT	\$
		<input type="checkbox"/> ANY AUTO				OTHER THAN EA ACC	\$
						AUTO ONLY: AGG	\$
		EXCESS/UMBRELLA LIABILITY				EACH OCCURRENCE	\$
		<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE	\$
							\$
		DEDUCTIBLE					\$
		RETENTION \$					\$
A		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	TWC3122591	11/21/06	11/21/07	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER	
		ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?				E.L. EACH ACCIDENT	\$ 100000
		If yes, describe under SPECIAL PROVISIONS below				E.L. DISEASE - EA EMPLOYEE	\$ 100000
		OTHER				E.L. DISEASE - POLICY LIMIT	\$ 500000
B		PROFESIONAL LIABIL	PHSD263033	07/07/07	07/07/08	LIABILITY	1,000,000
						DEDUCTIBL	5000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS


ACCOUNTING

CERTIFICATE HOLDER

Blank space for Certificate Holder information.

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL **10** DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE


CHAPTER 9. CRIMINAL CONVICTIONS

Neither Alberni Caballero & Castellanos, LLP nor any of its merger firms, partners, employees, members or agents who are active in the management of the entity, have ever been charged with or convicted of a public entity crime.

CHAPTER 10. AUDITOR'S NON-COLLUSION CERTIFICATION

The undersigned individual, being duly sworn, deposes and says that:

1. He/She is Nestor Caballero of Alberni Caballero & Castellanos, LLP, the AUDITOR that has submitted the attached Proposal;
2. He/She is fully informed respecting the preparation and contents of the attached Proposal and of all pertinent circumstances respecting such Proposal;
3. Such Proposal is genuine and is not a collusive or sham Proposal;
4. Neither said AUDITOR nor any of its officers, partners, owners, agents, representatives, employees, or parties in interest, including this affiant, has in any way colluded, connived, or agreed, directly or indirectly, with any other AUDITOR, firm or person to submit a collusive or sham proposal in connection with the Agreement for which the attached Proposal has been submitted or to refrain from proposing in connection with such Agreement, or has in any manner, directly or indirectly, sought by agreement of collusion or communication of conference with any other AUDITOR, firm, or person to fix the price or prices in the attached RFP, or of any other AUDITOR, or to fix any overhead, profit or cost element of the Proposal or the response of any other AUDITOR, or to secure through any collusion, connivance, or unlawful agreement any advantage against the Town of Cutler Bay, Florida, or any person interested in the proposed Agreement; and

[THIS SPACE INTENTIONALLY LEFT BLANK]

CHAPTER 11. INDEPENDENCE AFFIDAVIT

The undersigned individual, being duly sworn, deposes and says that:

1. He/She is Nestor Caballero of Alberni Caballero & Castellanos, LLP, the AUDITOR that has submitted the attached Proposal;
2. (a) Below is a list and description of any relationships, professional, financial or otherwise that AUDITOR may have with the TOWN, its elected or appointed officials, its employees or agents or any of its agencies or component units for the past five (5) years.
(b) Additionally, the AUDITOR agrees and understands that AUDITOR shall give the TOWN written notice of any other relationships professional, financial or otherwise that AUDITOR enters into with the TOWN, its elected or appointed officials, its employees or agents or any of its agencies or component units during the period of this Agreement.
(c) AUDITOR affirms that it is independent of the TOWN as defined by generally accepted auditing standards and the U.S. General Accounting Office's *Government Auditing Standards*.

(If paragraph 2(a) above does not apply, please indicate by stating, "not applicable" in the space below.)

NOT APPLICABLE FOR 2 (a)

[THIS SPACE INTENTIONALLY LEFT BLANK]

CHAPTER 11. INDEPENDENCE AFFIDAVIT (Continued)

- 2. I have attached an additional page to this form explaining why such relationships do not constitute a conflict of interest relative to performing the services sought in the RFP.

[Signature]
Signature (Blue ink only)

Nestor Caballero

Print Name

Partner

Title

September 26, 2007
Date

Witness my hand and official notary seal/stamp at OFFICE the day and year written above

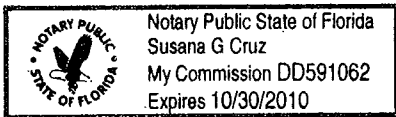
STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared Nestor Caballero as Partner of Alberni Caballero & Castellanos, LLP, an organization authorized to do business in the State of Florida, and acknowledged executing the foregoing Affidavit as the proper official of _____ for the use and purposes mentioned in the Affidavit and affixed the official seal of the corporation, and that the instrument is the act and deed of that corporation. He/She is personally known to me or has produced N/A as identification.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal at in the State and County aforesaid on this 26 day of September, 2007.

[Signature]
NOTARY PUBLIC

My Commission Expires:



CHAPTER 12. DRUG-FREE WORKPLACE

The undersigned vendor (firm) in accordance with Chapter 287.087, Florida Statutes, hereby certifies that Albani Caballero & Castellanos, LLP does:
(Name of Company)

1. Publish a statement notifying employees that the unlawful manufacturing, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the work place, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the contractual services that are under consideration a copy of the statement specified in subsection (1).
4. In the statement specified in subsection (1), notify the employee that, as a condition of working on the contractual services that are under consideration, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.

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CHAPTER 13. ADDENDA

The AUDITOR hereby acknowledges the receipt of the following addenda issued by the TOWN and incorporated into and made part of this RFP. In the event the AUDITOR fails to include any such addenda in the table below, submission of this form shall constitute acknowledgment of receipt of all addenda, whether or not received by him/her.

ADDENDUM NUMBER	DATE RECEIVED	PRINT NAME	TITLE	SIGNATURE (BLUE INK ONLY)
Number 1	9/10/07	Nestor Caballero	Partner	

[THIS SPACE INTENTIONALLY LEFT BLANK]

CHAPTER 14. CERTIFICATION OF ACCURACY OF PROPOSAL

AUDITOR, by executing this Form, hereby certifies and attests that all Forms, Affidavits and documents related thereto that it has enclosed in the Proposal in support of its Proposal are true and accurate. Failure by the AUDITOR to attest to the truth and accuracy of such Forms, Affidavits and documents shall result in the Proposal being deemed non-responsive and such Proposal will not be considered.

The undersigned individual, being duly sworn, deposes and says that:

1. He/She is Nestor Caballero of Alberni Caballero & Castellanos, LLP, the AUDITOR that has submitted the attached Proposal;
2. He/She is fully informed respecting the preparation and contents of the attached Proposal and of all Forms, Affidavits and documents submitted in support of such Proposal;
3. All Forms, Affidavits and documents submitted in support of this Proposal and included in this Proposal are true and accurate;
4. No information that shall have been included in such Forms, Affidavits and documents has been omitted; and

[THIS SPACE INTENTIONALLY LEFT BLANK]

CHAPTER 14. CERTIFICATION TO ACCURACY OF PROPOSAL (Continued)

5. ~~No~~ information that is included in such Forms, Affidavits or documents is false or misleading.

Signature (Blue ink only)

Nestor Caballero

Print Name

Partner

Title

September 26, 2007

Date

Witness my hand and official notary seal/stamp at OFFICE the day and year written above

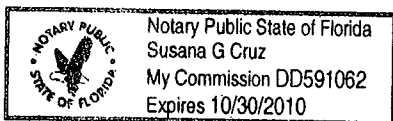
STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared Nestor Caballero as Partner of Alberni Caballero & Castellanos, LLP, an organization authorized to do business in the State of Florida, and acknowledged executing the foregoing Form as the proper official of _____ for the use and purposes mentioned in the Form and affixed the official seal of the corporation, and that the instrument is the act and deed of that corporation. He/She is personally known to me or has produced N/A as identification.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal at in the State and County aforesaid on this 26 day of September, 2007.

Susana G Cruz
NOTARY PUBLIC

My Commission Expires:



CHAPTER 15. PRICING INFORMATION SHEET

FORM A - PRICING INFORMATION SHEET
RFP #07-06
PROFESSIONAL AUDITING SERVICES

Proposer Firm: ALBERNI CABALLERO & CASTELLANOS, LLP

By: NESTOR CABALLERO
Print Name and Title

Authorized Signature: 
Sign in Blue Ink

Date: September 26, 2007

AUDIT SERVICES FEE ESTIMATE:			
Fiscal Year Ended	Financial Statement Audit Services Estimate	Single Audit Services Estimate (if applicable to Town)	Total Estimated Annual Fees
September 30, 2007	26,000	4,000	30,000
September 30, 2008	27,500	4,500	32,000
September 30, 2009	28,500	5,000	33,500

CHAPTER 15. PRICING INFORMATION SHEET

**FORM A - PRICING INFORMATION SHEET
RFP #07-06
PROFESSIONAL AUDITING SERVICES**

HOURLY RATES FOR OTHER SERVICES (IF APPLICABLE):		
STAFF LEVEL		HOURLY RATE
PARTNER		175
MANAGER		125
OTHER STAFF (LIST):		
SENIOR		90
STAFF		80
ADMINISTRATIVE		25

Note: These are discounted rates.

APPENDIX A- LETTERS OF RECOMMENDATION



City of South Miami

ELIZA B. RASSI
Finance Director

April 16, 2007


Mr. Nestor Castellanos
Alberni, Caballero & Castellanos
4649 Ponce De Leon Blvd., Suite 404
Coral Gables, FL 33146

Dear Nestor:

I would like to take this opportunity to thank you for the attention and diligence that you have provided the City of South Miami during the 2005-2006 Financial Audit. It has been a difficult year for the Finance Department in particular due to the many changes in personnel. However, you have made yourself available to me for questions at my request and that I do greatly appreciate. Your professionalism and talent is an asset to your Company.

I would have no reservations in recommending your services to other government agencies, and regret that I will not have the opportunity to work with you in this City's next Audit due to the Charter requirements.

Sincerely,



Eliza Rassi
Director of Finance

CITY OF MIAMI SPRINGS



Finance Department
201 Westward Drive
Miami Springs, FL 33166-5289
Phone: (305) 805-5014
Fax: (305) 805-5037

William Alonso
Finance Director

July 24, 2007

Mr. Nestor Caballero, CPA
Alberni, Caballero & Castellanos, LLP
4649 Ponce De Leon Blvd., Suite 404
Coral Gables, Florida 33146

Dear Sirs:

During the past four years, your firm has been responsible for the city's year end audit and subsequent presentation to Council of the city's CAFR. I would like to extend my appreciation for the professionalism with which your firm has performed this task. You have met all of our deadlines, including the presentation of the CAFR to our Council during the first Council meeting in January.

I would also like to extend our gratitude for your assistance in the development of our accounting policies and procedures manual, as well as your assistance in finding and correcting prior year accounting errors.

Once again, thank you for your dedication and professionalism.

Very Truly Yours,

William Alonso, CPA
Finance Director



Town of Southwest Ranches

John Canada
Town Administrator
6589 S. W. 160 Avenue
Southwest Ranches, FL 33331
Phone: (954) 434-0008
Fax: (954) 434-1490
Email: jcanada@swranches.org

June 28, 2004

To Whom It May Concern,

Letter of Recommendation

This letter is provided for Nestor Caballero, CPA, MST. Nestor was the audit manager with Grau & Company, P.A. for the last three (3) years, for the annual audit of the Town. He has been the audit manager for our Town since the Town began. The professional approach and the excellent effort provided by Nestor provided a foundation for our outstanding audit reports. With the assistance provided by Nestor, we believe we will receive the Government Finance Officers Association (GFOA) award for excellent financial reporting. Nestor was always there to explain and assist us, no matter how small the request.

We proudly would recommend Nestor Caballero. Any client of Nestor's will be provided for professionally and with outstanding service.

Sincerely,

John Canada
Town Administrator



City of Dania Beach
FLORIDA

July 1, 2004

Elias Castellanos, CPA
Principal
Caballero & Castellanos
2655 Le Jeune, Suite 500
Coral Gables, Florida 33134

Dear Elias:

I would like to thank you and recognize the work you performed with regard to the audit services for the City of Dania Beach for the fiscal years ended September 30, 2002 and September 30, 2003. Your work was essential in helping us meet our regulatory and self-imposed deadlines for the issuance of the City's Comprehensive Annual Financial Reports.

I would also like to take this opportunity to thank you in assisting us in all areas of implementation of GASB Statement #34. In working closely together in implementing the requirements under the new reporting model, I found that you are very knowledgeable of the requirements and that your guidance during the whole process is very much appreciated. You always show great dedication and commitment in getting the job done in a timely and perfect manner.

Once again, thanks for your dedication and I look forward to working with you in the future.

Sincerely,

Patricia Vamey, CGFO
Director of Finance



CITY OF OAKLAND PARK

Vision: "Small Town in the Big City"

3650 N.E. 12th Avenue • Oakland Park, Florida 33334

July 6, 2004

Mr. Nestor Caballero, CPA, MST
Caballero & Castellanos, P.L.
2655 Le Jeune, Suite 500
Coral Gables, FL 33134

Dear Nestor:

At this time I would like to commend you for the excellent audit work performed by you, as the Audit Manager of Grau & Company, and your staff for fiscal year 2002 and fiscal year 2003. The City was a new client during fiscal year 2002 then in fiscal year 2003 GASB 34 was implemented. Although both of these type audits can present a challenge, we encountered very little difficulty during these audits.

It takes strong "people" skills, as well as the technical knowledge, to make an audit run smoothly. The entire accounting staff was impressed with your knowledge, professionalism and courtesy displayed to our staff. In addition, we found you fully accessible at all times during both audits, and after the audit, to discuss any accounting issues that arose.

In closing, it was a positive experience working with you during the City's two audits and I wish you much success in your new endeavor.

Sincerely,

Catherine Graham
Finance Director





Town Of Miami Lakes

6853 Main Street • Miami Lakes, Florida 33014
(305) 364-6100/Fax (305) 558-8511
www.townofmiamilakes.com

MAYOR
Wayne Slaton

VICE MAYOR
Roberto Alonso

COUNCILMEMBERS

Mary Collins
Robert Meador II
Michael Pizzi
Nancy Simon
Peter Thomson

TOWN MANAGER
Alex Rey

TOWN CLERK
Beatris M. Arguelles

August 27, 2004

To Whom It May Concern:

It is with great pleasure that I write this letter of recommendation for Nestor Caballero, CPA, MST.

I have known Nestor since 2001 when he was in charge of the audit of the City of Homestead during the City's financial recovery period and I was Deputy Finance Director. Nestor's leadership, technical knowledge and professionalism resulted in the smooth and efficient completion of a fairly complex audit.

As Audit Manager for Grau & Company, Nestor did excellent work during the financial audits of the Town of Miami Lakes for the last three fiscal years. This included dealing with transitional issues for what was then the newest incorporated municipality in Miami-Dade County, and the early adoption of GASB 34.

Nestor is always responsive to the client's needs and provides practical solutions to the issues at hand. In addition to his experience and professional qualifications, Nestor brings to the table good communication skills, a positive attitude and the willingness to help and provide advice.

Sincerely,

Alfredo Acin
Finance Director



Village of Biscayne Park

August 27, 2004

Elias Castellanos, CPA
Principal
Caballero & Castellanos
2655 Le Jeune, Suite 500
Coral Gables, Florida 33134

Dear Elias:

On behalf of the Village of Biscayne Park, we would like to thank you and your partner, Nestor Caballero, and recognize the work performed for us with regard to the audit services for the fiscal years ended September 30, 2000 through 2002. Your support and organizational skills were instrumental in helping us meet our regulatory deadlines for the issuance of the Village's Comprehensive Annual Financial Reports.

We would also like to take this opportunity to thank you both in assisting us to better understand the new GASB Statement #34 rules and requirements. In working closely together during the audit, we found that your knowledge is only exceeded by your professionalism. You always show great dedication and commitment in getting the job done in a timely and acceptable manner.

Once again, thank you for your dedication and look forward to working with you in the future.

Sincerely,

Carmen Spelorzi
Village Clerk

Tom Calderon
Finance Director



Officers/Executive Committee

David Lawrence Jr.
Chair
Dr. Wil J. Blechman
Vice Chair
Valria C. Screen
Secretary
Octavio F. Verdeja
Treasurer
Isabel Afanador
Executive Committee
Maria A. Alonso, Chair
Procurement Committee
Charisse Grant, Chair
Program Services Committee
Dr. Steven E. Marcus, Chair
Human Resources

The Board of Directors

Dr. Nelson Adams
Karen Aronowitz
Dr. Linda Blanton
George M. Burgess
Dr. Rudy Crew
Major James DiBernardo
Hon. Kathy Fernandez Rundle
Luis A. Gazitua
Hon. Norman S. Gerstein
Josee Gregoire
Sara B. Herald
Charles M. Hood III
Hon. Barbara Jordan
Dr. Martin Karp
Hon. Cindy S. Lederman
Debbie Noguera
Juan-Carlos "J.C." Planas
Lillian Rivera
Adam C. Rosen
Thomas M. Rozek
Dr. Judy Schaechter
Gerald K. Schwartz
Hon. Mary Scott Russell
Eileen Segal
Dr. Jose Vicente

Modesto E. Abety
President & CEO
Maria Arista-Volsky
Legal Counsel

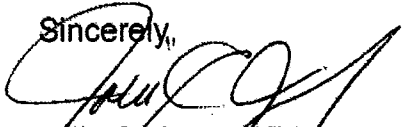
June 8, 2005

To Whom It May Concern:

At this time I would like to take the opportunity to commend Mr. Nestor Caballero on his work during our September 30, 2003 audit. He provided excellent advice and technical knowledge to The Children's Trust during the audit. The entire accounting staff was impressed with his knowledge, professionalism and the courtesy he displayed to our staff. In addition, we found him fully accessible at all times during the audit and after the audit, to discuss any accounting issues that arose.

We also contracted with Mr. Caballero to assist our staff with fiscal and administrative monitoring of our summer programs and again for our youth experiencing success programs. Due to Mr. Caballero's high level of expertise, he enabled our staff to complete this monitoring in a timely and professional manner.

I believe that Mr. Caballero would provide the same high quality of service and dedication to every project and highly recommend his services.

Sincerely,

Jolie G. Jerry, CPA
Chief Financial Officer

JCJ/mls

**APPENDIX B- LICENSES TO PRACTICE IN THE STATE
OF FLORIDA**



STATE OF FLORIDA

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

BOARD OF ACCOUNTANCY
240 NW 76TH DRIVE, SUITE A
GAINESVILLE FL 32607

(352) 333-2500

ALBERNI, CABALLERO & CASTELLANOS, LLP
4649 PONCE DE LEON BLVD
SUITE 404
CORAL GABLES FL 33146

STATE OF FLORIDA AC# 241777
 DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
 AD64536 02/03/06 050525431
 ACCOUNTANCY CORPORATION
 ALBERNI, CABALLERO & CASTELLANOS

IS LICENSED under the provisions of Ch.473 FS.
 Expiration date: DEC 31, 2007 L06020300007

DETACH HERE

AC# 2417773

STATE OF FLORIDA

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
BOARD OF ACCOUNTANCY

SEQ#L06020300007

DATE	BATCH NUMBER	LICENSE NBR
02/03/2006	050525431	AD64536

The ACCOUNTANCY CORPORATION
Named below IS LICENSED
Under the provisions of Chapter 473 FS.
Expiration date: DEC 31, 2007

ALBERNI, CABALLERO & CASTELLANOS, LLP
4649 PONCE DE LEON BLVD
SUITE 404
CORAL GABLES FL 33146

JEB BUSH
GOVERNOR

SIMONE MARSTILLER
SECRETARY




STATE OF FLORIDA

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

**BOARD OF ACCOUNTANCY
240 NW 76TH DRIVE, SUITE A
GAINESVILLE FL 32607**

(352) 333-2500

**CASTELLANOS, ELIAS SAMUEL
13055 SW 21 STREET
MIRAMAR FL 33027**

 **STATE OF FLORIDA** AC# 2370966
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

AC0027624 12/29/05 050396633

**CERTIFIED PUBLIC ACCOUNTANT
CASTELLANOS, ELIAS SAMUEL**

IS LICENSED under the provisions of Ch.473 FS.
 expiration date: DEC 31, 2007 L05122900580

DETACH HERE

AC# 2370966

STATE OF FLORIDA

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
BOARD OF ACCOUNTANCY**

SEQ#L05122900580

DATE	BATCH NUMBER	LICENSE NBR
12/29/2005	050396633	AC0027624

The **CERTIFIED PUBLIC ACCOUNTANT**
Named below IS **LICENSED**
Under the provisions of Chapter 473 FS.
Expiration date: DEC 31, 2007

**CASTELLANOS, ELIAS SAMUEL
19680 NE 12 CT
NORTH MIAMI BEACH FL 33179**

**JEB BUSH
GOVERNOR**

DISPLAY AS REQUIRED BY LAW

**SIMONE MARSTILLER
SECRETARY**



STATE OF FLORIDA

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

BOARD OF ACCOUNTANCY
240 NW 76TH DRIVE, SUITE A
GAINESVILLE FL 32607

(352) 333-2500

CABALLERO, NESTOR
4649 PONCE DE LEON BLVD.
SUITE 404
CORAL GABLES FL 33146

STATE OF FLORIDA AC# 3011173
 DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
 AC0030376 01/03/07 068117638
 CERTIFIED PUBLIC ACCOUNTANT
 CABALLERO, NESTOR
 IS LICENSED under the provisions of ch. 473 FS.
 Expiration date: DEC 31, 2008. L07010300595

DETACH HERE

AC# 3011173

STATE OF FLORIDA

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
BOARD OF ACCOUNTANCY

SEQ# L07010300595

DATE	BATCH NUMBER	LICENSE NBR
01/03/2007	068117638	AC0030376

The CERTIFIED PUBLIC ACCOUNTANT
Named below IS LICENSED
Under the provisions of Chapter 473 FS.
Expiration date: DEC 31, 2008

CABALLERO, NESTOR
15525 MIAMI LAKE WAY N., # 105
MIAMI LAKES FL 33014

CHARLIE CRIST
GOVERNOR

DISPLAY AS REQUIRED BY LAW

HOLLY BENSON
SECRETARY

CITY OF CORAL GABLES, FLORIDA

OCCUPATIONAL LICENSE TAX 2006-2007

11410
FILE No.

BUSINESS NAME ALBERNI CABALLERO &
CASTELLANOS LLP
LOCATION 4649 PONCE DE LEON BLVD #404
0500

AMOUNT PAID \$153.00

CLASSIFICATION No. UNITS UNIT DESCRIPTION
RDF SVC CORP/FIRM/PARTNSP

For and in consideration of the sum shown, the legal entity as listed herein is hereby licensed to operate only the business as set forth in the application, with such license being subject to revocation should the licensee violate any conditions contained in the municipal charter and/or municipal code of the City of Coral Gables, Florida.

ALBERNI CABALLERO &
CASTELLANOS LLP
4649 PONCE DE LEON BL STE 404
CORAL GABLES FL 33146

THIS LICENSE EXPIRES SEPTEMBER 30, 2007

DISPLAY LICENSE IN CONSPICUOUS PLACE AT ALL TIMES.

VALID ONLY AT LOCATION GIVEN ABOVE

*** THIS OCCUPATIONAL LICENSE CAN BE DECLARED NULL AND VOID IF BUILDING AND ZONING REQUIRES CERTIFICATE OF USE FOR THE SPACE OCCUPIED AND IT IS NOT OBTAINED. ***

MIAMI-DADE COUNTY
TAX COLLECTOR
140 W. FLAGLER ST.
14th FLOOR
MIAMI, FL 33130

2006 OCCUPATIONAL LICENSE TAX 2007
MIAMI-DADE COUNTY - STATE OF FLORIDA
EXPIRES SEPT. 30, 2007
MUST BE DISPLAYED AT PLACE OF BUSINESS
PURSUANT TO COUNTY CODE CHAPTER 8A - ART. 9 & 10

FIRST-CLASS
U.S. POSTAGE
PAID
MIAMI, FL
PERMIT NO. 231

THIS IS NOT A BILL-DO NOT PAY

580530-5

RENEWAL

BUSINESS NAME / LOCATION
ALBERNI CABALLERO & CASTELLANOS
LLP
4649 PONCE DE LEON BLVD 404
33146 CORAL GABLES

LICENSE NO. 605307-8

OWNER
ALBERNI CABALLERO & CASTELLANOS
Sec. Type of Business
212 P.A./CORP/PARTNERSHIP/FIRM

EMPLOYEE/S
1

THIS IS AN OCCUPATIONAL
TAX ONLY. IT DOES NOT
PERMIT THE LICENSEE TO
VIOLATE ANY EXISTING
REGULATORY OR ZONING
LAWS OF THE COUNTY OR
CITIES. NOR DOES IT
EXEMPT THE LICENSEE
FROM ANY OTHER LICENSE
OR PERMIT REQUIRED BY
LAW. THIS IS NOT A
CERTIFICATION OF THE
LICENSEE'S QUALIFICA-
TION.

DO NOT FORWARD

ALBERNI CABALLERO & CASTELLANOS
LLP
PEDRO L ALBERNI PRES
4649 PONCE DE LEON BLVD 404
CORAL GABLES FL 33146

PAYMENT RECEIVED
MIAMI-DADE COUNTY TAX
COLLECTOR

09/05/2006
60020000384
0000\$.00



SEE OTHER SIDE

APPENDIX C- PEER REVIEW REPORT



INFANTE & COMPANY

CERTIFIED PUBLIC ACCOUNTANTS • BUSINESS CONSULTANTS

Members of:

- American Institute of CPAs
 - Center for Public Company Audit Firms
 - Tax Division
 - Personal Financial Planning Section
- Florida Institute of CPAs
- National Associated Certified Public Accounting Firms

Harrison Executive Centre • Suite 30B
1930 Harrison Street
Hollywood, Florida 33020
Telephone (954) 922-8866
Fax (954) 922-8884
www.infantecocpa.com
iccpas@aol.com

June 29, 2006

To The Partners
Caballero and Castellanos, P.L.

We have reviewed the system of quality control for the accounting and auditing practice of Caballero and Castellanos, P.L. (the "Firm") in effect for the year ended November 30, 2005. A system of quality control encompasses the Firm's organizational structure, the policies adopted and procedures established to provide it with reasonable assurance of conforming with professional standards. The elements of quality control are described in the Statements on Quality Control Standards issued by the American Institute of Certified Public Accountants (AICPA). The firm is responsible for designing a system of quality control and complying with it to provide the Firm reasonable assurance of conforming with professional standards in all material respects. Our responsibility is to express an opinion on the design of the system of quality control and the Firm's compliance with its system of quality control based on our review.

Our review was conducted in accordance with standards established by the Peer Review Board of the AICPA. During our review, we read required representations from the firm, interviewed firm personnel and obtained an understanding of the nature of the Firm's accounting and auditing practice, and the design of the Firm's system of quality control sufficient to assess the risks implicit in its practice. Based on our assessments, we selected engagements and administrative files to test for conformity with professional standards and compliance with the Firm's system of quality control. The engagements selected represented a reasonable cross-section of the firm's accounting and auditing practice with emphasis on higher-risk engagements. The engagements selected included among others, audit of an Employee Benefit Plan, and engagements performed under Governmental Auditing Standards and OMB Circular A-133. Prior to concluding the review, we reassessed the adequacy of the scope of the peer review procedures and met with firm management to discuss the results of our review. We believe that the procedures we performed provide a reasonable basis for our opinion.

In performing our review, we obtained an understanding of the system of quality control for the Firm's accounting and auditing practice. In addition, we tested compliance with the Firm's quality control policies and procedures to the extent we considered appropriate. These tests covered the application of the Firm's policies and procedures on selected engagements. Our review was based on selected tests therefore it would not necessarily detect all weaknesses in the system of quality control or all instances of noncompliance with it. There are inherent limitations in the effectiveness of any system of quality control and therefore noncompliance with the system of quality control may

occur and not be detected. Projection of any evaluation of a system of quality control to future periods is subject to the risk that the system of quality control may become inadequate because of changes in conditions, or because the degree of compliance with the policies or procedures may deteriorate.

In our opinion, the system of quality control for the accounting and auditing practice of Cabalero and Castellanos, P.L. in effect for the year ended November 30, 2005, has been designed to meet the requirements of the quality control standards for an accounting and auditing practice established by the AICPA and was complied with during the year then ended to provide the Firm with reasonable assurance of conforming with professional standards.

Infante & Company



FLORIDA INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS

325 WEST COLLEGE AVENUE • P.O. BOX 5437 • TALLAHASSEE, FLORIDA 32314
TELEPHONE (850) 224-2727 • FAX (850) 222-8190

September 20, 2006

Nestor Caballero, CPA
Caballero and Castellanos, PL
13340 SW 78 St
Miami, FL 33183

Dear Mr. Caballero:

It is my pleasure to notify you that on September 19, 2006 the Florida Peer Review Committee accepted the report on the most recent peer review of your firm. The due date for your next review is May 31, 2009. This is the date by which all review documents should be completed and submitted to the administering entity.

As you know,, the reviewer's opinion was unmodified. The Committee asked me to convey its congratulations to the firm.

Sincerely,

Paul N. Brown
Peer Review
Director of Technical Services

cc: A Roger Infante, CPA

Firm Number: 3809865

Review Number: 235789

A I C P A
PEER REVIEW PROGRAM

is proud to present this

Certificate of Recognition

to

Caballero & Castellanos, PL

For having a system of quality control for its accounting and auditing practice in effect for the year ended November 30, 2005 which has been designed to meet the requirements of the quality control standards for an accounting and auditing practice established by the AICPA and which was complied with during the year then ended to provide the firm with reasonable assurance of conforming with professional standards.



A handwritten signature in dark ink, appearing to read "David Jentho".

David A. Jentho, Chair
AICPA Peer Review Board
2005



Alberni, Caballero & Castellanos, L.L.P.

CERTIFIED PUBLIC ACCOUNTANTS & CONSULTANTS

4649 PONCE DE LEON BLVD. SUITE 404 CORAL GABLES, FL 33146 TEL: 305-662-7272 FAX: 305-662-4266 ACC-CPA.COM

September 28, 2007

Steven Alexander, Town Manager Town of Cutler Bay, Florida 10720 Caribbean Blvd., Suite 105 Cutler Bay, Florida 33189

Re: PROPOSAL FOR EXTERNAL AUDITING SERVICES

Alberni Caballero & Castellanos, L.L.P. (AC&C) would like to thank you and the Town of Cutler Bay, Florida (the Town) for providing us the opportunity to respond to the Town's proposal for independent auditing services.

We propose a total all-inclusive maximum price for the audit of the comprehensive annual financial reports of the Town of Cutler Bay, for the fiscal years ending September 30, 2007, 2008 and 2009 of \$30,000, \$32,000, \$33,500.

Cost For Additional Services

The following schedule summarizes our rates for any additional services that may be requested by the Town:

Table with 3 columns: Personnel Classifications, Standard Hourly Billing Rates, Proposed Hourly Billing Rates. Rows include Quality Control Partner, Engagement Partner, Partner/Manager, Accounting Senior, Accounting Staff, and Administrative.

Please note that we have discounted our hourly rates for the benefit of the Town.

This proposal is a firm and irrevocable offer for one hundred and twenty (120) days. We certify this proposal is made without previous understanding, agreement or connection either with any previous firms or corporations offering a Proposal for the same items or with the Town. We also certify that our proposal is in all respects fair, without outside control, collusion, fraud, or otherwise illegal action, and was prepared in good faith. Only the person(s), company or parties interested in the project as principals are named in the proposal. The firm has no existing or potential conflicts, and anticipates no conflicts during the engagement.

Nestor Caballero, CPA, is authorized to make representations for and to bind the firm. He can be reached at (305) 662-7272. His e-mail address is nestor@acc-cpa.com. Please do not hesitate to call if you have any questions about the information provided in this proposal. We thank you for considering our firm's qualifications and experience and look forward to serving you.

Very truly yours,

Alberni Caballero & Castellanos, L.L.P.


A handwritten signature in black ink, appearing to read 'Nestor Caballero', is written over a horizontal line.

Nestor Caballero, CPA

FORM A - PRICING INFORMATION SHEET
RFP #07-06
PROFESSIONAL AUDITING SERVICES

Proposer Firm: ALBERNI CABALLERO & CASTELLANOS, LLP

By: NESTOR CABALLERO
 Print Name and Title

Authorized Signature: 
 Sign in Blue Ink

Date: September 26, 2007

AUDIT SERVICES FEE ESTIMATE:		Financial Statement	Single Audit Services	Total Estimated
Fiscal Year Ended	Audit Services Estimate	Estimate (if applicable to Town)	Annual Fees	
September 30, 2007	26,000	4,000		30,000
September 30, 2008	27,500	4,500		32,000
September 30, 2009	28,500	5,000		33,500

CHAPTER 15. PRICING INFORMATION SHEET

**FORM A - PRICING INFORMATION SHEET
RFP #07-06
PROFESSIONAL AUDITING SERVICES**

HOURLY RATES FOR OTHER SERVICES (IF APPLICABLE):		
STAFF LEVEL		HOURLY RATE
PARTNER		175
MANAGER		125
OTHER STAFF (LIST):		
SENIOR		90
STAFF		80
ADMINISTRATIVE		25

Note: These are discounted rates.

TAB 3



MEMORANDUM

To: Honorable Mayor and Town Council

From: Steven J. Alexander, Town Manager

Date: November 8, 2007

Re: Professional Services

REQUEST

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, RELATING TO PROFESSIONAL SERVICES; APPROVING THE QUALIFICATION OF FIRMS TO PROVIDE GENERAL CIVIL ENGINEERING, TRANSPORTATION PLANNING AND ENGINEERING, AND LANDSCAPE ARCHITECTURE SERVICES TO THE TOWN; AUTHORIZING THE TOWN MANAGER TO A NON-EXCLUSIVE PROFESSIONAL SERVICES AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, THE CORRADINO GROUP, MARLIN ENGINEERING, INC., CRAIG A. SMITH AND ASSOCIATES, INC., AND CORZO, CASTELLA, CARBALLO, THOMPSON, SALMON (C3TS); PROVIDING FOR AN EFFECTIVE DATE.

BACKGROUND AND ANALYSIS

The Public Works Department will be responsible for overseeing various Capital Improvement Projects and conducting various studies. As the administration begins to implement various projects & studies, the need for outside professional services is required. A Request for Qualifications was authorized by the Town Council via Resolution # 07-03. The following professional services categories were advertised:

- General Civil Engineering (**10 proposals received**)
- Landscape Architecture (**5 proposals received**)
- Transportation Planning & Engineering Services (**6 proposals received**)

A review and consultant selection committee was established which included the Town's Public Works Director, Planning & Zoning Director, and Parks & Recreation Director. The committee performed primary screening and reviewed each submittal.

The evaluation criteria for the selection committee were established by RFQ # 2007-02. The selection committee "short-listed" firms and conducted oral presentations from these presentations, three (3) firms per category would be recommended to the Town Manager.



Office of the Town Manager

As a result of the presentations and deliberations, the selection committee has recommended firms in the following service categories: (ranked by total score)

- **General Civil Engineering:** Kimley-Horn & Associates, Inc.
The Corradino Group
Corzo, Castella, Carballo, Thompson,
Salmon (C3TS)
- **Transportation Planning and Engineering Services:** Kimley-Horn & Associates, Inc.
The Corradino Group
Marlin Engineering, Inc.
- **Landscape Architecture Services:** Kimley-Horn & Associates, Inc.
Craig A. Smith & Associates, Inc.
Marlin Engineering, Inc.

RECOMMENDATION

We recommend that the attached resolution containing selection committee's recommendations and authorize the Town Manager to negotiate an hourly rate and execute a Non-Exclusive Professional Services Agreement with the top-three selected firms in each category.

RESOLUTION NO. 07-_____

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, RELATING TO PROFESSIONAL SERVICES; APPROVING THE QUALIFICATION OF FIRMS TO PROVIDE GENERAL CIVIL ENGINEERING, TRANSPORTATION PLANNING AND ENGINEERING, AND LANDSCAPE ARCHITECTURE SERVICES TO THE TOWN; AUTHORIZING THE TOWN MANAGER TO A NON-EXCLUSIVE PROFESSIONAL SERVICES AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, THE CORRADINO GROUP, MARLIN ENGINEERING, INC., CRAIG A. SMITH AND ASSOCIATES, INC., AND CORZO, CASTELLA, CARBALLO, THOMPSON, SALMON (C3TS); PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay desires to improve the structure and environment of the Town, and determines that contracting for professional services is in the best interest of the Town; and

WHEREAS, the Town Council adopted Resolution # 07-03 Authorizing the issuance of a Request for Qualification (RFQ) Number 2007-02; and

WHEREAS, the RFQ was prepared to identify the best available consultants to provide Professional Services: General Civil Engineering, Landscape Architecture, and Transportation Planning and Engineering Services; and

WHEREAS, the Town of Cutler Bay desires to select firms recommended by the selection committee.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, THAT:

Section 1. **Recitals.** The above Recitals are true and correct and are incorporated herein by this reference.

Section 1. **Firms Selected.** The following firms as noted are recommended to provide professional services for the Town of Cutler Bay in following categories:

General Civil Engineering:

Kimley-Horn & Associates, Inc.
The Corradino Group
C3TS

Transportation Planning and
Engineering Services:

Kimley-Horn & Associates, Inc.
The Corradino Group
Marlin Engineering, Inc.

Landscape Architecture Services:

Kimley-Horn & Associates, Inc.
Craig A. Smith & Associates, Inc.
Marlin Engineering, Inc.

Section 3. Authorization of Town Officials. The Town Manager is authorized to negotiate and execute a Continuing Professional Services Contract (Exhibit "A") for Professional Services with the qualified firms in each category.

Section 4. Effective Date. This Resolution shall take effect immediately upon adoption.

PASSED and ADOPTED this _____ day of _____, 2007.

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ-SANTAMARIA, CMC
Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:

WEISS SEROTA HELFMAN PASTORIZA
COLE & BONISKE, P.L.
Town Attorney

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman _____

Vice Mayor Edward P. MacDougall _____

Councilmember Peggy R. Bell _____

Councilmember Timothy J. Meerbott _____

Councilmember Ernest N. Sochin _____



NON-EXCLUSIVE PROFESSIONAL SERVICES AGREEMENT

CONTINUING PROFESSIONAL SERVICES

THIS AGREEMENT, made and entered into this _____ day of _____, 2007 between the Town of Cutler Bay, hereinafter referred to as “the Town,” and, _____ hereinafter referred to as Consultant;

RECITALS:

Whereas, this shall constitute a continuing contract pursuant to Section 287.055, F.S.

Now therefore, in consideration of the promises and the mutual covenants herein contained, the parties agree as follows:

1. The specific nature of the services to be provided by Consultant are outlined in Exhibit “A” attached hereto and incorporated herein, and are further outlined in the text of Town's RFQ # 2007-02.
2. For services performed in accordance with the provisions of paragraph one above and Section II below, the Town shall pay Consultant in accordance with the terms and conditions more fully set out in Sections V and VI.

SECTION I — TOWN OBLIGATIONS

The Town agrees that the Town Manager or his authorized designee shall furnish to the Consultant any plans and other data readily available in the Town files pertaining to the work to be performed under this Agreement. Information shown on such plans or data shall be that which has been made available to the Town, and shall be provided to the Consultant. Such information is furnished by the Town without guarantee regarding its reliability and accuracy. The Consultant shall be responsible for independently verifying such information if it shall be used by the Consultant to accomplish the work undertaken pursuant to this Agreement. The Consultant may be compensated for any necessary verification work requested by Town, subject to the express written authorization of the Town.

The Town reserves the right to certify the accuracy of information provided by the Town to the Consultant. When such certification is provided in writing, the Consultant shall not be compensated for independent verification of said information.

SECTION II — PROFESSIONAL SERVICES

- (a) Consultant shall perform professional services for the benefit of the Town in connection with and as envisioned in the Town's RFQ # 2007-02 _____. The consultant shall be issued Purchase Orders by the Town as the need for services arises, covering in detail the scope, time for completion and compensation for the work to be accomplished. In case of emergency, the Town reserves the right to issue oral authorization to the Consultant with the understanding that written confirmation shall follow immediately thereafter. The Consultant shall submit a proposal upon the Project Manager's request prior to the issuance of a Notice to Proceed. No payment shall be made for the Consultant's time or services in connection with the preparation of any such proposal. The Town

shall confer with the Consultant before any Notice to Proceed is issued to discuss and agree upon the scope, time for completion, and fee for services to be rendered pursuant to this Agreement.

- (b) In connection with professional services to be rendered pursuant to this Agreement, the Consultant further agrees to:
1. Maintain an adequate staff of qualified personnel on the work at all times to ensure its completion within the term specified in the applicable Notice to Proceed.
 2. Comply with any Federal, State and local government laws, ordinances, processes, standards, rules, orders, etc. applicable to the work.
 3. Cooperate fully with the Town in the scheduling and coordination of all tasks and phases of the work.
 4. Prepare necessary documents, as required or requested, for all applicable agencies including regulatory requirements and permits.
 5. Report the status of the work to the Town upon request and hold pertinent data, calculations, field notes, records, sketches, procedures, proposals, records, and other work products open to inspection of the Town.
 6. Submit for Town review computations, sketches, and other data representative of the work's progress at the percentage stages of completion which may be stipulated in the applicable Notice to Proceed. Submit for Town approval the final work products upon incorporation of any modifications requested by the Town during any previous review.
 7. Be available at all reasonable times for general consultation and advice through the effective term of this Agreement.
 8. Confer with the Town at any time during the further development and implementation of improvements for which the Consultant has provided professional services as to interpretation of plans and other documents, correction of errors and omissions and preparation of any necessary plan thereof. The Consultant shall not be compensated for the correction of errors and omissions to the extent that those errors and omissions are the responsibility of the Consultant.
 9. Perform all services in a competent and skilled manner.

SECTION III — SCHEDULE OF WORK AND TIME FOR COMPLETION

- (a) The Town shall have the sole right to determine assignment of work and on which units or sections of the work the Consultant shall proceed and in what order. Written Purchase Orders issued by the Town shall cover in detail the scope, time for completion and intent of requested services and shall serve to authorize the assignment of work outlined in Exhibit "A" or referenced in paragraph 1 of the Recitals to this Agreement.
- (b) The services to be rendered by the Consultant for each section of the work or upon the assignment, shall commence upon receipt of a written executed Purchase Order and/or a notice to proceed (the "NTP") from the Town subsequent to the execution of the Agreement, and shall be completed within the time stated in the Purchase Order or the NTP.

- (c) A reasonable extension of time shall be granted in the event there is a delay on the part of the Town in fulfilling its part of the Agreement or should a Force Majeure, as defined in Section IV hereof, render performance of the Consultant's duties impossible. Such extension of time shall not be cause for any claim by the Consultant for extra compensation.

SECTION IV — FORCE MAJEURE

- (a) Force Majeure shall mean an act of God, epidemic, lightning, earthquake, fire, explosion, hurricane, flood or similar occurrence, strike, an act of public enemy, or blockade, insurrection, riot, general arrest or restraint of government and people, civil disturbance or similar occurrence, which has had or may reasonably be expected to have a material adverse effect on the rights and obligations under this Agreement, and which, by the exercise of due diligence, such parties shall not have been able to avoid. Such acts or events DO NOT INCLUDE inclement weather (except as noted above) or the acts or omissions of subconsultants/subcontractors, third-party consultants/contractors, materialmen, suppliers, or their subcontractors, unless such acts or omissions are otherwise encompassed by the definition set forth above.
- (b) No party hereto shall be liable for its failure to carry out its obligations under the Agreement during a period when such party is rendered unable, in whole or in part, by Force Majeure to carry out such obligations, but the obligation of the party or parties relying on such Force Majeure shall be suspended only during the continuance of any inability so caused and for no longer period of said unexpected or uncontrollable event, and such cause shall, so far as possible, be remedied with all reasonable dispatch.
- (c) It is further agreed and stipulated that the right of any party hereto to excuse its failure to perform by reason of Force Majeure shall be conditioned upon such party giving, to the other party or parties, written notice of its assertion that a Force Majeure delay has commenced within ten (10) working days after such commencement, unless there exists good cause for failure to give such notice, in which event failure to give such notice shall not prejudice any party's right to justify any non-performance as caused by Force Majeure unless the failure to give timely notice causes material prejudice to the other party or parties.

SECTION V — COMPENSATION

- (a) The Town agrees to pay and the Consultant agrees to accept, for satisfactory performance, as determined solely by the Town of services rendered pursuant to this Agreement, including work as stipulated by Section II – Professional Services, and all preliminary and/or incidental work thereto, fees computed in accordance with Exhibit “B” the negotiated schedule of rates, a copy of which is attached hereto, or as otherwise set forth in the Purchase Order for the specific work.
- (b) Reimbursement for the reasonable and necessary expenses of the Consultant for postage, copying, long distance telephone calls, document reproduction, and authorized travel may be provided in accordance with the Purchase Order.

SECTION VI — PAYMENTS

Unless negotiated and otherwise agreed to, the Town shall make monthly fee payments to the Consultant, computed in accordance with Section V, for all work performed during the previous calendar month for work which has been assigned by Town to Consultant. The Consultant shall submit duly certified monthly invoices to the Town in the amount due for services performed to date and including any previously authorized reimbursable expenses incurred during the month. For lump sum assignments,

invoices shall be based upon the percentage of work completed at invoice date. Invoices shall be processed pursuant to Section 218.70, Florida Statutes.

SECTION VII — SUBCONTRACTING

The Consultant shall not subcontract, assign or transfer any work under this Agreement without the prior written consent of the Town. When applicable and upon receipt of such consent in writing, the Consultant shall cause the names of the firms responsible for the major portions of each separate specialty of the work to be inserted in the pertinent documents or data. Any sub-consultant shall be subject to all terms and conditions of this Agreement. All insurance certificates pertaining to such subconsultants shall be provided to the Town upon issuance of a Purchase Order or NTP.

SECTION VIII — EXTRA WORK

In the event extra work and/or expenses are necessary due to changes requested after the applicable portion of the work is approved by the Town, such extra work shall be the subject of an additional Purchase Order or a modification of the original Purchase Order.

SECTION IX — APPROVAL

The Town agrees, within thirty (30) days after delivery, to approve, reject, or return with indicated suggested revisions or recommendations, all schedules, submittals or other written communications submitted by the Consultant to the Town for approval. Such approval, revisions, or recommendations by the Town shall not relieve the Consultant of responsibility for the completeness or correctness of the work.

SECTION X — RIGHT OF DECISIONS

- (a) All services shall be performed by the Consultant to the satisfaction of the Town's Project Manager who shall decide all questions, difficulties, and disputes of whatever nature, which may arise under or by reason of this Agreement. The monitoring of the prosecution and fulfillment by the Consultant of the services hereunder, and the character, quality, amount and value thereof, are within the Project Manager's authority. The Project Manager's decision upon all claims, questions, and disputes shall be final, conclusive, and binding upon the parties hereto unless such determination is arbitrary or unreasonable.
- (b) Adjustments of compensation and time for completion of services hereunder because of any major changes in the work that might become necessary or be deemed desirable, as the work progresses shall be left to the absolute discretion of the Project Manager. In the event that the Consultant does not concur with the decisions of the Project Manager, the Consultant shall present any such objections in writing to the Town Manager. The Project Manager and the Consultant shall abide by the decisions of the Town Manager unless arbitrary or unreasonable. This paragraph does not constitute a waiver of either party's right to proceed in a court of competent jurisdiction, subject to the standards set forth above.

SECTION XI — OWNERSHIP OF DOCUMENTS

All reports, tracings, plans, specifications, maps, contract documents, designs, and/or other data (the "Documents") developed by the Consultant pursuant to this Agreement shall become the property of the Town without restrictions or limitations upon their use and shall be made available by the Consultant at any time upon request by the Town. Reuse of such Documents by the Town for any purpose other than that for which prepared shall be at the Town's sole risk. When each individual section or assignment of

work requested pursuant to this Agreement is complete, all of the above Documents shall be delivered to the Town. The level of information required to be provided at the completion of an assigned task shall be specified within the Purchase Order authorizing the work.

SECTION XII — REUSE OF DOCUMENTS

The Consultant may reuse data from other sections of the work included in this Agreement provided irrelevant material is deleted. The Town shall not accept any reused data containing an excess of irrelevant material which has no substantial connection with the applicable portion of the work.

SECTION XIII — NOTICES

Any notices, reports or other written communications from the Consultant to the Town shall be considered delivered when posted by certified mail or delivered in person to the Project Manager. Any notices, reports or other communications from the Town to the Consultant shall be considered delivered when posted by certified mail to the Consultant at the last address left on file with the Town or delivered in person to said Consultant or the Consultant's authorized representative.

SECTION XIV — AUDIT RIGHTS, RETENTION OF RECORDS

The Town, the Florida Department of Community Affairs, the U.S. Department of Housing and Urban Development, the Comptroller General of the United States, and any of their duly authorized representatives reserves the right to audit the records of the Consultant related to this Agreement at any time during the prosecution of the work included herein and for a period of three years after final payment is made. The Consultant agrees to provide copies of any records necessary to substantiate payment requests to the Town.

The Consultant shall retain all records relating to this Contract for four (4) years after the Town makes final payment and all other pending matters are closed.

SECTION XV — PROHIBITION AGAINST CONTINGENT FEES

The Consultant warrants that no companies or persons, other than bona fide employees working solely for the Consultant have been retained or employed to solicit or secure this Agreement or have been paid or guaranteed payment of any fees, commissions, percentage fees, gifts or any other considerations contingent upon or resulting from the award or making of this Agreement. The Consultant also warrants that no Town personnel, whether full-time or part-time employees, or officers, has or shall be retained or employed in any capacity, by the Consultant or the Town authorized subconsultants, to accomplish the work contemplated under the terms of this Agreement. For breach or violation of this warranty, the Town shall have the right to annul this Agreement without liability.

SECTION XVI — TERMINATION OF THIS AGREEMENT

- (a) This Agreement may be terminated, in whole or in part, in writing, by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given: (1) not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate; and (2) an opportunity for consultation with the terminating party prior to termination. If termination for default of the Consultant is effected by the Town pursuant to paragraph (a), Consultant shall be paid only

for all work satisfactorily completed prior to the notice of termination. Consultant shall remain liable for the damages, if any, caused by its default.

- (b) This Agreement may be terminated, in whole or in part, in writing, by the Town for its convenience, provided that the Consultant is afforded the same notice and consultation opportunity specified in paragraph (a) above. Only Town has the unilateral right to terminate for its convenience. Consultant recognizes that other covenants of the Agreement serve as consideration for and support this unilateral right of Town.

If termination for convenience is effected by the Town, an equitable adjustment in compensation payable to Consultant shall be made, which equitable adjustment shall include a reasonable profit for services or other work already properly performed prior to the notice of intent to terminate for which profit has not been already included in an invoice. For any such termination for convenience, the equitable adjustment shall provide for payment to the Consultant for services rendered and expenses incurred prior to receipt of the notice of intent to terminate, in addition to termination settlement costs directly and reasonably incurred by the Consultant relating to commitments (e.g., suppliers, subcontractors) which had become irrevocable prior to receipt of the notice of intent to terminate. Except as expressly stated above in this paragraph (b), Town shall have no further liability to compensate or pay Consultant.

- (c) Upon receipt of termination action under paragraphs (a) or (b) above, the Consultant shall (1) promptly discontinue all affected work (unless the notice directs otherwise) and (2) deliver or otherwise make available to the Town all data, drawings, reports specifications, summaries and other such information, as may have been accumulated by the Consultant in performing this Agreement, whether completed or in process.
- (d) Prior to termination, the Town may take over the work and may award another party an Agreement to complete the work described in this Agreement.
- (e) If, after termination for failure of the Consultant to fulfill contractual obligations, under paragraph (a) above, it is determined that the Consultant had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of the Town. In such event, adjustment of the contracted price shall be made as provided in paragraph (b) above.
- (f) The parties may also terminate this Agreement by mutual written agreement.

SECTION XVII — DURATION OF AGREEMENT

This Agreement shall remain in full force and effect from execution and for an uncertain term thereafter with no time limitation and as a continuing contract, subject to termination under Section XVI.

SECTION XVIII — CLEAN AIR ACT

If any work order issued under this contract exceeds \$100,000, the Consultant shall comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and U.S. Environmental Protection Agency regulations (40 C.F.R. Part 15). The Consultant shall include this clause in any subcontracts over \$100,000.

SECTION XIX — ENERGY POLICY AND CONSERVATION ACT

The Consultant shall comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163).

SECTION XX — TRUTH-IN-NEGOTIATION

Consultant certifies that the wage rates and other factual unit costs, supporting the compensation are accurate, complete and current at the time of contracting. The original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the Town determines the contract price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. All such contract adjustments shall be made within one year following the end of the contract.

SECTION XXI — DRUG FREE WORK PLACE

The Consultant shall comply with all mandatory standards and policies relating to the Federal Drug-Free Workplace Act's Requirements.

SECTION XXII — SPECIAL PROVISIONS

- (a) The Consultant agrees to comply with Title VI of the Civil Right Act of 1964, the Davis-Bacon Act, the Copeland Anti-Kickback Act, the Contract Work Hours Standard Act, the Health and Safety Standards Act, Section 109 of the Housing and Community Development Act of 1974, Section 3 compliance in the Provision of Training, Employment and Business Opportunities, and the Consultant further agrees not to maintain or provide for its employees any facilities that are segregated on a basis of race, color, creed, national origin, handicap, religion, ancestry, sex or age.
- (b) No officer or employee of the Town or its designees or agents, no member of the governing body, and no other public official of the Town who exercises any function or responsibility with respect to this contract, during his/her tenure or for one (1) year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds. Consultant shall cause to be incorporated in all subcontracts the language set forth in this paragraph prohibiting conflicts of interest.
- (c) The Consultant shall perform the work herein above set out as an independent contractor free from direct control or supervision by the Town as to the means and methods of performing the work and all persons engaged in the performance of the work shall be solely the servants or employees of the Consultant or its subcontractors, as the case may be.

- (d) The Consultant agrees to comply with Executive Order 11246, which prohibits discrimination in employment regarding race, color, creed, national origin, handicap, religion, ancestry, sex, or age. An excerpt of such Executive Order being attached hereto and made a part hereto by reference. The Consultant further agrees to comply with the filing of any and all information and reports required by the Executive Order and by the rules, regulations, and orders of the Secretary of Labor.

SECTION XXIII— INSURANCE AND INDEMNIFICATION

- (a) Consultant shall indemnify and hold harmless the Town, its officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness or intentional wrongful conduct of the Consultant and persons employed or utilized by the Consultant in the performance of the Agreement.
- (b) The Consultant shall not commence any work pursuant to this Agreement until all insurance required under this Section has been obtained. Consultant must have and provide to Town a Certificate of Insurance showing the Town of Cutler Bay as additional insured. The Consultant shall maintain during the term of this Agreement the following insurance coverage for services to be performed for Town Departments:

Workmen's Compensation Insurance — as required by law.

Employer's Liability Insurance — \$1,000,000.

Professional Liability Insurance — \$1,000,000.

Comprehensive General Liability Insurance — This coverage must be written on the comprehensive form of policy. The basic policy form is not acceptable. The policy must contain minimum limits of liability as follows or \$1,000,000 Single Limit.

Bodily Injury: \$1,000,000;

Property Damage: \$1,000,000 each occurrence.

Comprehensive Automobile Liability Insurance — This coverage must be written on the comprehensive form of policy. The basic form is not acceptable. The policy must contain minimum limits of liability as follows or \$1,000,000 Single Limit.

\$1,000,000 each person;

\$1,000,000 each occurrence bodily injury;

\$1,000,000 each occurrence property damage;

The policy must provide coverage for any automobiles.

- (c) All insurance policies must be issued by companies authorized to do business under the laws of the State of Florida. The companies must be rated no less than "B" as to management and no less than "Class V" as to strength by the latest edition of Best's Insurance guide, published by A.M. Best Company, Olwick, New Jersey, or its equivalent, or, at Town's discretion, the companies must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance

Companies Authorized or Approved to do Business in Florida,” issued by the State of Florida Department of Insurance and are members of the Florida Guaranty Fund.

- (d) The Consultant shall furnish certificates of insurance to the Public Works Department: 10720 Caribbean Blvd., Suite 105, Cutler Bay, Florida 33189, prior to the commencement of operations, which certificates shall clearly indicate that the Consultant has obtained insurance in the type, amount, and classification as required for strict compliance with this Section and that no material change or cancellation of this insurance shall be effective without thirty (30) days prior written notice to the Town.
- (e) Compliance with the foregoing requirements shall not relieve the Consultant of the liabilities and obligations under this Section or under any other portion of this Agreement, and the Town shall have the right to inspect the original insurance policies in the event that submitted certificates of insurance are inadequate to ascertain compliance with required coverage.

SECTION XIV— ENTIRETY OF AGREEMENT; VENUE; NO JURY-TRIAL

- (a) This writing embodies the entire agreement and understanding between the parties hereto, and there are no other agreements and understandings, oral or written with reference to the subject matter hereof that are not merged herein and superseded hereby. No alteration, change or modification of the terms of this Agreement shall be valid unless made in writing, signed by both parties hereto, and approved by the Town. The Town Manager shall act for Town hereunder.
- (b) This Agreement, regardless of where executed, shall be governed by and construed according to the laws of the State of Florida, and venue for any litigation hereunder shall be made in Miami-Dade County, Florida.
- (c) **Each party hereby expressly waives any right to trial by jury in any litigation hereunder or which is in any way related to the conduct or course of dealing between the parties.**

IN WITNESS WHEREOF the parties hereto have executed these presents this ____ day of _____ 2007.

Consultant

Town of Cutler Bay
10720 Caribbean Blvd., Suite 105
Cutler Bay, Florida 33189

By: _____
Signed

Name/Title

By: _____
Steven J. Alexander
Town Manager

Attest:

Attest:

Town Clerk

or

Approved as to form and legal sufficiency:

Witnessed:

By: _____

Name: _____

By: _____

Name: _____

WEISS SEROTA HELFMAN PASTORIZA
COLE & BONISKE, P.L.
Town Attorney

[Space left intentionally blank]

EXHIBIT "A"

INSERT LANGUAGE FROM ORIGINAL RFQ (SCOPE OF WORK)

EXHIBIT "B"

SCHEDULE OF RATES

As set forth on pages 1 to _____ attached hereto and incorporated herein,
and initialed by Town Manager.

TAB 4



Office of the Town Attorney

Mitchell A. Bierman
Town Attorney

MEMORANDUM

To: The Honorable Mayor and Town Council

From: Mitchell Bierman, Town Attorney
Andrew Mai, Town Attorney

Date: November 8, 2007

Re: Prosecution of Municipal Ordinances by the State Attorney's Office

This memorandum will address the authority of the State's Attorney's Office to prosecute Municipal Ordinances and the advantages of allowing the State Attorney's Office this power.

The State Attorney's Office wishes to have the ability to prosecute ordinance violations for the Town. The State Attorney's Office has the ability to prosecute ordinances which are ancillary to felony prosecutions. Section 27.02(1), Florida Statutes. Section 27.34(1), Florida Statutes, requires the Town to enter into a contract with the State Attorney for prosecutions of municipal ordinances which are not ancillary to a felony.

The State Attorney's Office has requested the Town enter in a contract allowing them to prosecute Town ordinances. Although municipalities typically prefer to let the State Attorney's Office prosecute ordinances, it is in the Town's discretion to prosecute the ordinances themselves. If the Town chooses to allow the State to prosecute the ordinances the State's proposed contract should be executed and returned.

RESOLUTION NO. 07-____

A RESOLUTION OF THE MAYOR AND THE TOWN COUNCIL OF THE TOWN OF CUTLER, BAY, FLORIDA APPROVING THE AGREEMENT BETWEEN THE OFFICE OF THE STATE ATTORNEY OF THE ELEVENTH JUDICIAL CIRCUIT OF FLORIDA AND THE TOWN OF CUTLER BAY; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in order for the State Attorney of the Eleventh Judicial Circuit of Florida to prosecute municipal ordinances which are not ancillary to a felony, Section 27.34(1), Florida Statutes, requires the Town to enter into a contract for reimbursement of costs for these prosecutions; and

WHEREAS, the Town and the State Attorney wish to have the State Attorney prosecute these cases.

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct and are incorporated herein by this reference.

Section 2. Agreement Approved. The Agreement between State of Florida, Office of the State Attorney for the Eleventh Judicial Circuit of Florida and the Town of Cutler Bay for the reimbursement of the State Attorney for the cost of State Attorney prosecution of town ordinances is approved in the form attached as Exhibit "A" ("Agreement").

Section 3. Implementation. The Town Mayor is authorized to execute the Agreement on behalf of the Town.

Section 4. Effective Date. This Resolution shall be effective immediately upon adoption.

PASSED and ADOPTED this ____ day of _____ 2007.

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ-SANTAMARIA, CMC
Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:

WEISS SEROTA HELFMAN PASTORIZA
COLE & BONISKE, P.L.
Town Attorney

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman _____

Vice Mayor Edward P. MacDougall _____

Councilmember Peggy R. Bell _____

Councilmember Timothy J. Meerbott _____

Councilmember Ernest N. Sochin _____

AGREEMENT BETWEEN THE TOWN OF CUTLER BAY, FLORIDA AND THE STATE OF FLORIDA, OFFICE OF THE STATE ATTORNEY FOR THE ELEVENTH JUDICIAL CIRCUIT OF FLORIDA TO REIMBURSE THE STATE FOR THE COST OF STATE ATTORNEY PROSECUTION OF CERTAIN CRIMINAL VIOLATIONS OF THE TOWN OF CUTLER BAY CODE

This agreement is entered into this ____ day of _____, 2007, by and between the Town of Cutler Bay, Florida, a political subdivision of the State of Florida (hereinafter referred to as the “Town”) and the Office of the State Attorney for the Eleventh Judicial Circuit of Florida (hereinafter referred to as “State Attorney”).

WHEREAS, the Town finds that in order to maintain and improve the health, safety, and welfare of this community, it is necessary to adequately enforce and prosecute violations of the Town’s Municipal Code; and

WHEREAS, Section 27.02, Florida Statutes, authorizes the State Attorney to prosecute municipal ordinance violations punishable by incarceration if ancillary to state prosecution or, if not ancillary to state prosecution, when the State Attorney contracts with the Town for reimbursement.

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE I
Services

The State Attorney agrees to prosecute municipal ordinance violations as authorized in Sections 27.02, and 27.34, Florida Statutes. The Town agrees to remit, subject to the terms outlined in Article III of this agreement, to the State Attorney the required funds to reimburse for costs associated with the prosecution of violations of the Municipal Code for the period of October 1, 2007, through September 30, 2008. The State Attorney shall provide such clerical and professional personnel as may be required for the performance of any of the functions of the State Attorney as set forth in this agreement. This agreement does not commit the Town to pay for the prosecution of Municipal Code violations ancillary to state prosecution or for the prosecution of municipal ordinance violations not punishable by incarceration. This agreement specifically does not authorize the State to handle appeals of municipal ordinances on constitutional grounds, which shall remain the responsibility of the municipality that passed the ordinance.

ARTICLE II
Terms

This agreement shall expire on September 30, 2008, unless terminated earlier pursuant to Article VII of this agreement. Under no circumstances shall the Town be liable to continue or extend this agreement beyond this date. This agreement may only be amended in writing, through a document executed by duly authorized representatives of the signatories to this agreement.

ARTICLE III
Payment Schedule

The Town agrees to reimburse the State Attorney on an hourly basis for services rendered at a rate of Fifty dollars (\$50) per hour. On a quarterly basis, the State Attorney shall provide the Town with an invoice including, but not limited to, the hours of services rendered, number of cases prosecuted as set forth in this agreement, and the total amount due for payment for the previous month. The Town shall remit each payment within ten (10) days after receiving said invoice from the State Attorney.

ARTICLE IV
Responsibilities

The Town does not delegate any of its responsibilities or powers to the State Attorney other than those enumerated in this agreement. The State Attorney does not delegate any of its responsibilities or powers to the Town other than those enumerated in this agreement.

ARTICLE V
Reporting

All required reports shall be submitted to the Town Manager.

ARTICLE VI

Indemnification

It is expressly understood and intended that the State Attorney is only a recipient of the reimbursements paid by the Town and is not an agent of the Town. The respective parties agree, subject to the provisions of Chapter 768.28 (17), Florida Statutes, that they will hold each other harmless from any claims arising from this agreement.

ARTICLE VII

Termination

Either party may terminate this agreement at any time with or without cause by furnishing written notice to the other party with no less than ninety (90) days notice.

ARTICLE VIII

Service Charges

This agreement is contingent upon all Town funding provided, and any interest earned thereon, not being subject to any State service charges or administrative assessments.

ARTICLE IX

Non-Discrimination

The State Attorney agrees to abide and be governed by Title II of the Americans with Disabilities Act of 1990, Title VI and VII, Civil Rights Act of 1964 (42 USC 200d, e) and Title VIII of the Civil Rights Act of 1968, as amended, which provides in part that there will not be discrimination of race, color, sex, religious background, ancestry, or national origin in performance of this contract, in regard to persons served, or in regard to

employees or applicants for employment and it is expressly understood that upon receipt of evidence of discrimination, the Town shall have the right to terminate said agreement.

IN WITNESS THEREOF, the parties have caused this agreement to be executed by their respective and duly authorized officers the day and year first above written.

ATTEST:

NAME

Town Commission

By: _____
POSITION

By: _____

ATTEST

State Attorney's Office
Eleventh Judicial Circuit

By: _____

By: _____
T. F. Mannelli
Executive Director

TAB 5

RESOLUTION NO. 07-___

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING A PROJECT AGREEMENT BETWEEN THE STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR STORMWATER IMPROVEMENT PROJECTS BY THE TOWN; AUTHORIZING TOWN OFFICIALS TO FINALIZE THE TERMS AND CONDITIONS OF THE AGREEMENT AND TO EXECUTE ANY DOCUMENTS NECESSARY TO EFFECTUATE THE GRANT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE AGREEMENT, TO EXECUTE ANY REQUIRED DOCUMENTS, TO IMPLEMENT THE TERMS AND CONDITIONS OF THE AGREEMENT AND TO EXECUTE ANY EXTENSIONS TO THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay (the "Town") applied and was awarded by the State of Florida a \$200,000 Fiscal Year 2007-2008 General Appropriation; and

WHEREAS, the grant funds will be administered by the Florida Department of Environmental Protection ("FDEP"); and

WHEREAS, in order to receive the grant funds, a local match in the amount of \$200,000 is required and is included in the Town's 2007-2008 general operating budget; and

WHEREAS, the Town Council finds that approval of the agreement is in the best interest of the Town.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The foregoing Recitals are true and correct and are incorporated herein by this reference.

Section 2. Approval of Agreement. The Agreement for grant funding for Stormwater Improvement Projects between the Town and the FDEP, a copy of which is attached as Exhibit "A," together with such non-material changes as may be acceptable to the Town Manager and approved as to form and legality by the Town Attorney, is approved.

Section 3. Authorization of Town Officials. The Town Manager and/or his designee and the Town Attorney are authorized to take all actions necessary to implement the terms

and conditions of the Agreement, to submit to the FDEP any documents necessary to effectuate the grant and to request any necessary extensions to the Agreement.

Section 4. Authorization of Fund Expenditure. The Town Manager is authorized to expend budgeted funds to implement the terms and conditions of the Agreement.

Section 5. Execution of Agreement. The Town Manager is authorized to execute the Agreement on behalf of the Town, to execute any required agreements and/or documents to implement the terms and conditions of the Agreement and to execute any extensions to the Agreement.

Section 6. Effective Date. This Resolution shall be effective immediately upon its adoption.

PASSED and ADOPTED this _____ day of _____, 2007.

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ-SANTAMARIA, CMC
Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:

WEISS SEROTA HELFMAN PASTORIZA
COLE & BONISKE, P.L.

FINAL VOTE AT ADOPTION:

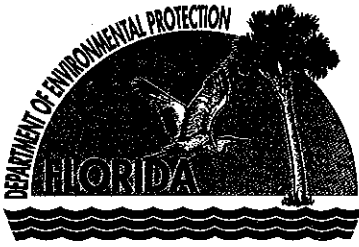
Mayor Paul S. Vrooman _____

Vice Mayor Edward P. MacDougall _____

Councilmember Peggy R. Bell _____

Councilmember Timothy J. Meerbott _____

Councilmember Ernest N. Sochin _____



Florida Department of Environmental Protection

Bob Martinez Center
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

October 30, 2007

Mr. Rafael G. Casals, Director
Public Works
Town of Cutler Bay
10720 Caribbean Blvd., Suite 105
Cutler Bay, FL 33189

Re: LP6819 – Town of Cutler Bay
Cutler Bay Stormwater Utility and Management Projects Plan

Dear Mr. Casals:

Enclosed are two original copies of the proposed Legislative Project grant agreement for the Town's stormwater improvement project.

Please have the Town Manager sign on page 6 of the enclosed two copies. Return both copies to us at 2600 Blair Stone Road, Mail Station 3505, Tallahassee, Florida, 32399-2400. We will arrange for the Deputy Division Director to sign the agreements and mail a fully executed copy to the Town.

If you have any questions about the agreement, please call Michael Isaacson at 850/245-8358.

Sincerely,

A handwritten signature in cursive script that reads "Robert E. Holmden".

Robert E. Holmden, P.E., Chief
Bureau of Water Facilities Funding

RH/mi

Enclosures

cc: Steven J. Alexander – Town of Cutler Bay

**STATE FINANCIAL ASSISTANCE AGREEMENT
TOWN OF CUTLER BAY
DEP AGREEMENT NO. LP6819**

**STATE OF FLORIDA
GRANT ASSISTANCE**

~~PURSUANT TO LINE ITEM 1859 OF THE 2007-2008 GENERAL APPROPRIATIONS ACT~~

THIS AGREEMENT is entered into between the STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION, whose address is 2600 Blair Stone Road, MS 3505, Tallahassee, Florida 32399-2400 (hereinafter referred to as the "Department") and the TOWN OF CUTLER BAY, whose address is 10720 Caribbean Blvd., Suite 105, Cutler Bay, Florida 33189 (hereinafter referred to as "Grantee" or "Recipient"), a local government under the laws of the State of Florida, to provide funds for the Cutler Bay Stormwater Utility and Management Projects Plan.

In consideration of the mutual benefits to be derived herefrom, the Department and the Grantee do hereby agree as follows:

1. The Grantee does hereby agree to perform in accordance with the terms and conditions set forth in this Agreement, **Attachment A** (Project Work Plan), and all attachments and exhibits named herein which are attached hereto and incorporated by reference. For purposes of this Agreement, the terms "Contract" and "Agreement" and the terms "Grantee", "Recipient" and "Contractor" are used interchangeably.
2. This Agreement shall begin upon execution by both parties and end no later than April 30, 2009, inclusive. This Agreement may be amended to provide for additional services if additional funding is made available by the Legislature.
3.
 - A. As consideration for the services rendered by the Grantee under the terms of this Agreement, the Department shall pay the Grantee on a cost reimbursement basis in an amount not to exceed \$200,000. The parties hereto agree that the Grantee is responsible for providing a minimum match of \$200,000 toward the project described in **Attachment A**. Written approval from the Department's Grant Manager shall be required for changes between budget categories up to 10% of the total budget. The DEP Grant Manager will transmit a copy of the written approval and revised budget to the DEP Contracts Disbursements Office for inclusion in the Agreement file. Changes greater than 10% will require a formal amendment to the Agreement. If the Grantee finds, after receipt of competitive bids, that the work described in **Attachment A** cannot be accomplished for the current estimated project cost, the parties hereto agree to modify the Project Work Plan described in **Attachment A** to provide for the work that can be accomplished for the funding identified above.
 - B. The Grantee shall be reimbursed on a cost reimbursement basis for all eligible project costs upon receipt and acceptance of a properly completed Disbursement Request Package (provided as **Attachment B**). In addition to the Disbursement Request Package, the Grantee must provide from its accounting system, a listing of expenditures charged against this Agreement. The listing shall include, at a minimum, a description of the goods or services purchased, date of the transaction, voucher number, amount paid, and vendor name. All requests for reimbursement of travel expenses shall be in accordance with the travel limits established in Section 112.061, Florida Statutes. The Disbursement Request Package must include:
 - (1) A completed Disbursement Request Form signed by the Grantee's Grant Manager. Such requests must be accompanied by sufficiently itemized summaries of the materials, labor, or services to identify the nature of the work performed; the cost or charges for such work; and the person providing the service or performing the work. If payment is based on an authorized advance for incurred costs, invoices reflecting such costs must be included. After receipt of advance funds the Grantee shall provide proof of payment to the Department

within 30 days receipt of advance funds. If payment is based on reimbursement, proof of payment of the invoices is required; and

- (2) A certification signed by the Grantee's Grant Manager as to the current estimated cost of the Project; that the materials, labor, or services represented by the invoice have been satisfactorily purchased, performed, or received and applied to the project; that all funds received to date have been applied toward completing the Project; and that under the terms and provisions of the contracts, the Grantee is required to make such payments; and
- (3) A certification by the engineer responsible for overseeing construction stating that equipment, materials, labor and services represented by the construction invoices have been satisfactorily invoiced, purchased, or received, and applied to the Project in accordance with construction contract documents; stating that payment is in accordance with construction contract provisions; stating that construction, up to the point of the requisition, is in compliance with the contract documents; and identifying all additions or deletions to the Project which have altered the Project's performance standards, scope, or purpose since the issue of the Department construction permit; and
- (4) Such other certificates or documents by engineers, attorneys, accountants, contractors, or suppliers as may reasonably be required by the Department.

C. In addition to the invoicing requirements contained in paragraph 3.B. above, the Department will periodically request proof of a transaction (invoice, payroll register, etc.) to evaluate the appropriateness of costs to the Agreement pursuant to State and Federal guidelines (including cost allocation guidelines), as appropriate. This information when requested must be provided within 30 calendar days of such request. The Grantee may also be required to submit a cost allocation plan to the Department in support of its multipliers (overhead, indirect, general administrative costs, and fringe benefits). All bills for amounts due under this Agreement shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof.

D. State guidelines for allowable costs can be found in the Department of Financial Services' Reference Guide for State Expenditures at <http://www.fldfs.com/aadir/reference%5Fguide>.

4. The State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. The parties hereto understand that this Agreement is not a commitment of future appropriations.
5. Progress Reports (Attachment C) shall be submitted describing the work performed, problems encountered, problem resolution, schedule updates and proposed work for the next reporting period. Progress reports shall be submitted in conjunction with the Disbursement Request Package, described in paragraph 3.B. If advance payment is authorized, the Grantee shall report (and document as required under paragraph 3 above and on Attachment E) the amount of funds expended during the reporting period, the Agreement expenditures to date, interest earned during the quarter and clearly indicate the method for repayment of the interest to the Department (see paragraph 15). It is understood and agreed by the parties that the term "reporting period" reflects the period of time for which the invoices submitted in the Disbursement Request Package are covered. The Department's Grant Manager shall have ten (10) calendar days to review deliverables submitted by the Grantee.
6. Each party hereto agrees that it shall be solely responsible for the negligent or wrongful acts of its employees and agents. However, nothing contained herein shall constitute a waiver by either party of its sovereign immunity or the provisions of Section 768.28, Florida Statutes.
7. A. The Department may terminate this Agreement at any time in the event of the failure of the Grantee to fulfill any of its obligations under this Agreement. Prior to termination, the Department

shall provide thirty (30) calendar days written notice of its intent to terminate and shall provide the Grantee an opportunity to consult with the Department regarding the reason(s) for termination.

- B. The Department may terminate this Agreement for convenience by providing the Grantee with thirty (30) calendar days written notice.
8. This Agreement may be unilaterally canceled by the Department for refusal by the Grantee to allow public access to all documents, papers, letters, or other material made or received by the Grantee in conjunction with this Agreement, unless the records are exempt from Section 24(a) of Article I of the State Constitution and Section 119.07(1), Florida Statutes.
9. A. The Grantee shall comply with the applicable provisions contained in Attachment D (Special Audit Requirements), attached hereto and made a part hereof. Exhibit 1 to Attachment D summarizes the funding sources supporting the Agreement for purposed of assisting the Grantee in complying with the requirements of Attachment D. A revised copy of Exhibit 1 must be provided to the Grantee for each amendment, which authorizes a funding increase or decrease. If the Grantee fails to receive a revised copy of Exhibit 1, the Grantee shall notify the Department's Grant Manager identified in this Agreement to request a copy of the updated information.
- B. The Grantee is hereby advised that the Federal and/or Florida Single Audit Act Requirements may further apply to lower tier transactions that may be a result of this Agreement. The Grantee shall consider the type of financial assistance (federal and/or state) identified in Attachment D, Exhibit 1 when making its determination. For federal financial assistance, the Grantee shall use the guidance provided under OMB Circular A-133, Subpart B, Section __.210 for determining whether the relationship represents that of a subrecipient or vendor. For state financial assistance, the Grantee shall use the form entitled "Checklist for Nonstate Organizations Recipient/Subrecipient vs Vendor Determination" (form number DFS-A2-NS) that can be found under the "Links/Forms" section appearing at the following website:
- <http://apps.fldfs.com/fsaa>
- The Grantee should confer with its chief financial officer, audit director, or contact the Department for assistance with questions pertaining to the applicability of these requirements.
10. A. The Grantee may subcontract, assign, or transfer any work under this Agreement without the written consent of the Department's Grant Manager. The Grantee shall submit a copy of the subcontract upon the request of the Department's Grant Manager. The Grantee agrees to be responsible for the fulfillment of all work elements included in any subcontract consented to by the Department and agrees to be responsible for the payment of all monies due under any subcontract. It is understood and agreed by the Grantee that the Department shall not be liable to any subcontractor for any expenses or liabilities incurred under the subcontract and that the Grantee shall be solely liable to the subcontractor for all expenses and liabilities incurred under the subcontract.
- B. The Department of Environmental Protection supports diversity in its procurement program and requests that all subcontracting opportunities afforded by this Agreement embrace diversity enthusiastically. The award of subcontracts should reflect the full diversity of the citizens of the State of Florida. The Department will be glad to furnish a list of minority owned businesses for consideration in subcontracting opportunities.
11. In accordance with Section 216.347, Florida Statutes, the Grantee is hereby prohibited from using funds provided by this Agreement for the purpose of lobbying the Legislature, the judicial branch or a state agency.

12. The Grantee shall comply with all applicable federal, state and local rules and regulations in providing services to the Department under this Agreement. The Grantee acknowledges that this requirement includes compliance with all applicable federal, state and local health and safety rules and regulations. The Grantee further agrees to include this provision in all subcontracts issued as a result of this Agreement.
13. The Department's Grant Manager for this Agreement is identified below.

Tommy Williams
Bureau of Water Facilities Funding
Florida Department of Environmental Protection
2600 Blair Stone Road, MS 3505
Tallahassee, Florida 32399-2400
Phone: 850-245-8358
Fax: 850-245-8411
Email: thomas.e.williams@dep.state.fl.us

14. The Grantee's Grant Manager for this Agreement is identified below.

Rafael G. Casals
Town of Cutler Bay
10720 Caribbean Blvd., Suite 105
Cutler Bay, Florida 33189
Phone: 305-234-4262
Fax: 305-234-4251
Email: rcasals@cutlerbay-fl.gov

15. In accordance with Section 216.181(16)(b), Florida Statutes, the Department, upon written request from the Grantee and written approval from the State's Chief Financial Officer, if applicable, may provide an advance to the Grantee. The Grantee must temporarily invest the advanced funds, and return any interest income to the Department, within thirty (30) days of each calendar quarter, or apply said interest income against the Department's obligation to pay, if applicable, under this Agreement. Interest earned must be returned to the Department within the timeframe identified above or invoices must be received within the same timeframe that shows the offset of the interest earned.

Unused funds, and interest accrued on any unused portion of advanced funds that has not been remitted to the Department, shall be returned to the Department within sixty (60) days of Agreement completion.

The parties hereto acknowledge that the State's Chief Financial Officer may identify additional requirements, which must be met in order for advance payment to be authorized. If the State's Chief Financial Officer imposes additional requirements, the Grantee shall be notified, in writing, by the Department's Grant Manager regarding the additional requirements. Prior to releasing any advanced funds, the Grantee shall be required to provide a written acknowledgement to the Department's Grant Manager of the Grantee's acceptance of the terms imposed by the State's Chief Financial Officer for release of the funds.

If advance payment is authorized, the Grantee shall be responsible for submitting the information requested in the Interest Earned Memorandum (Attachment E) and the Advance Payment Justification Form (Attachment F) to the Department's Grant Manager quarterly. This information shall be requested by the Grant Manager and submitted by the Grantee on a quarterly basis in conjunction with the invoice/reporting requirements established in paragraphs 3 and 5.

16. To the extent required by law, the Grantee will be self-insured against, or will secure and maintain during the life of this Agreement, Workers' Compensation Insurance for all of his employees connected with the work of this project and, in case any work is subcontracted, the Grantee shall require the subcontractor similarly to provide Workers' Compensation Insurance for all of the latter's employees unless such

employees are covered by the protection afforded by the Grantee. Such self-insurance program or insurance coverage shall comply fully with the Florida Workers' Compensation law. In case any class of employees engaged in hazardous work under this Agreement is not protected under Workers' Compensation statutes, the Grantee shall provide, and cause each subcontractor to provide, adequate insurance satisfactory to the Department, for the protection of those employees not otherwise protected.

17. The Grantee, as an independent contractor and not an agent, representative, or employee of the Department, agrees to carry adequate liability and other appropriate forms of insurance. The Department shall have no liability except as specifically provided in this Agreement.
18. The Grantee covenants that it presently has no interest and shall not acquire any interest that would conflict in any manner or degree with the performance of services required.
19. The purchase of non expendable personal property or equipment costing \$1,000 or more is not authorized under the terms of this Agreement.
20. The Department may at any time, by written order designated to be a change order, make any change in the Project Work Plan within the general scope of this Agreement (e.g., specifications, task timeline within current authorized agreement period, method or manner of performance, requirements, etc.). All change orders are subject to the mutual agreement of both parties as evidenced in writing. Any change order that causes an increase or decrease in the Grantee's cost or time shall require formal amendment to this Agreement.
21.
 - A. No person, on the grounds of race, creed, color, national origin, age, sex, or disability, shall be excluded from participation in; be denied the proceeds or benefits of; or be otherwise subjected to discrimination in performance of this Agreement.
 - B. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not award or perform work as a contractor, supplier, subcontractor, or consultant under contract with any public entity, and may not transact business with any public entity. The Florida Department of Management Services is responsible for maintaining the discriminatory vendor list and intends to post the list on its website. Questions regarding the discriminatory vendor list may be directed to the Florida Department of Management Services, Office of Supplier Diversity, at 850/487-0915.
22. Land acquisition is not authorized under the terms of this Agreement.
23. This Agreement represents the entire agreement of the parties. Any alterations, variations, changes, modifications or waivers of provisions of this Agreement shall only be valid when they have been reduced to writing, duly signed by each of the parties hereto, and attached to the original of this Agreement, unless otherwise provided herein.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed, the day and year last written below.

TOWN OF CUTLER BAY

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: _____
Town Manager

By: _____
Deputy Director
Division of Water Resource Management

Date: _____

Date: _____

Tommy Williams, DEP Grant Manager

FEID No.: _____

*For Agreements with governmental boards/commissions: If someone other than the Chairman signs this Agreement, a resolution, statement or other document authorizing that person to sign the Agreement on behalf of the governmental board/commission must accompany the Agreement.

List of attachments/exhibits included as part of this Agreement:

Specify Type	Letter/ Number	Description (include number of pages)
<u>Attachment</u>	<u>A</u>	<u>Project Work Plan (4 Pages)</u>
<u>Attachment</u>	<u>B</u>	<u>Disbursement Request Package (3 Pages)</u>
<u>Attachment</u>	<u>C</u>	<u>Progress Report Form (2 Pages)</u>
<u>Attachment</u>	<u>D</u>	<u>Special Audit Requirements (5 Pages)</u>
<u>Attachment</u>	<u>E</u>	<u>Advance Payment – Interest Earned Memorandum (1 Page)</u>
<u>Attachment</u>	<u>F</u>	<u>Advance Payment Justification Form (3 Pages)</u>

ATTACHMENT A PROJECT WORK PLAN

Please complete this form with as much detail as possible

I. GRANTEE/PROJECT INFORMATION:

Grantee:	Town of Cutler Bay
Project Title:	Cutler Bay Stormwater Improvements
DEP Grant #:	LP6819

II. FUNDING PLAN:

Category of Expenditure	2006-2007 LP Grant Funds Provided	2006-2007 Match Required	Total 2006-2007 Funding
Professional Services		200,000	200,000
Construction & Demolition	200,000		200,000
Land			
Equipment			
Other (Specify)			
Total	200,000	200,000	400,000

III. SCOPE OF WORK:

Stormwater Master Plan (\$200,000-Local Match)

An initial assessment of the stormwater management system within the Town of Cutler Bay will be conducted in three (3) phases as part of the Town's Stormwater Master Plan. The first phase included a review of drainage complaints filed with Miami-Dade County Environmental Resources Management (DERM), Miami-Dade County Public Works and the Town of Cutler Bay. The complaint locations will become a starting point to graphically illustrate problem areas that need mitigation.

The second phase of the drainage assessment will consist of an evaluation of drainage structures within the Town. Geographic Information System (GIS) data provided obtained from Miami-Dade County's Department of Environmental Resource Management (DERM) will be used to map the location of the majority of the public drainage structures within the Town. A sample of approximately 200 of drainage structures will be chosen for field evaluation. The selected structures chosen for field evaluation will include those in the areas where roadway flooding was noticeable.

The final phase will involve a visual assessment of roadway flooding conditions within the Town. This assessment will be conducted during rainy periods between April and August, 2007. The roadway drainage conditions were assessed within the first 15 to 75 minutes after rainfall events lasting at least one hour. Areas where flooding extended into the roadways will be documented.

In Summary, the Stormwater Master Plan will include the following components:

- ✓ A review of existing stormwater and drainage data, reports, and plans available through the SFWMD, Miami-Dade County, and Town resources
- ✓ A field inventory of existing drainage structures
- ~~✓ A drainage atlas including the type, size, and general location of drainage infrastructure elements~~
- ✓ Basin and Sub-basin delineations based on available survey data and other sources
- ✓ Hydrologic and hydraulic modeling analysis of the existing systems and their capacity to handle the 5-year/1 day, 10-year/1 day, 25-year/3 day, and 100-year/3 day storm events
- ✓ Identification and analysis of alternatives for improvements needed to alleviate deficiencies identified in the hydrologic and hydraulic modeling phase
- ✓ Development of a Capital Improvement Plan to implement the identified improvements

As part of the Stormwater Master Plan, a Capital Improvement Plan will be developed to identify and prioritize improvement projects with associated costs. In addition to capital costs, operation and maintenance budgets will be established. The Town of Cutler Bay Public Works Department will become responsible for the operation and maintenance of the stormwater management system within Town boundaries with the exception of canals maintained by South Florida Water Management District (SFWMD). As a recently incorporated municipality, the Town's stormwater operation and maintenance responsibilities are currently funded through the Miami-Dade County Stormwater Utility. The Town is considering establishing its own stormwater utility to fund the cost of operation and maintenance of the stormwater management system and to provide revenue for capital improvements to upgrade the system. This would allow the Town to assume responsibility for its own stormwater management system from Miami-Dade County.

SCOPE DETAIL:

Stormwater Improvements (\$200,000 LP6819 Grant Funds)

Phase 1 – Project Initiation, Coordination and Schematic Design

As part of this task, the Town will obtain, review, and analyze survey and soil testing for the Project Area. The survey, soil testing results and information collected during site visits will be utilized to develop a schematic drainage design plan. The schematic design plan will be represented on one (1) plan sheet identifying proposed drainage improvements and existing conditions.

As part of this task, two (2) copies of the survey will be forwarded to each utility company known to operate in the vicinity of the Project Area. Each utility company will be requested to return one redlined survey, identifying the horizontal and vertical location of their facilities and any proposed improvements planned within the next two years to the Town. This information will be incorporated into the Design Development Plans upon receipt from the utility companies

Phase 2 – Design Development Plans

Utilizing the survey, soil testing results and schematic plan developed in Phase 1, the Town will prepare Design Development Plans for the construction of paving and drainage improvements within the Project Area. These Design Development Plans shall show the geometric layout on top of the base survey data. The basis for design will be the schematic design plan, Miami-Dade County Public

Works Manual, and Florida Department of Transportation (the "FDOT") Standard Indexes where applicable.

Phase 3 – Drainage Design and Permitting

Coordination Meetings

The Town will attend one coordination meeting each with representatives of the Miami Dade County Department of Environmental Resources Management ("DERM") and the Miami-Dade County Department of Public Works ("Miami-Dade Public Works") during the course of the design and permitting process. The intent of the meetings will be to review the proposed design and permitting requirements.

Hydraulic Analysis

The hydraulic analysis will be completed for the Project Area based upon the geotechnical and survey information obtained in Phase 1. During the analysis, the volume of stormwater runoff will be calculated from the design storm and the capacity of the existing stormwater collection system will be evaluated. The results of the above noted calculations along with the incorporation of budget constraints will be the basis for design of the upgraded stormwater system.

Permitting

The Town will prepare, submit, and obtain permits from DERM and Miami-Dade Public Works as required.

Phase 4 – Final Construction Plans and Contract Documents

Upon receipt of the comments from DERM and Miami-Dade Public Works, the 60% design plans will be upgraded to construction plans incorporating the permitting agency comments.

Contract Documents

The Engineers Joint Contract Documents Committee ("EJCDC") standard contract documents will be utilized for this project. It is intended that the FDOT Technical Specifications be used for this project. Supplemental Technical Specifications shall be prepared by the Town to address construction elements not addressed in the FDOT Standard Technical Specifications, or elements that are included, but require modifications to make them project specific.

Phase 5 – Contractor Selection

The Town will utilize a competitive bidding process to hire a contractor to construct the improvements described in the final construction plans and contract documents.

Phase 6 – Construction

The Town will construct the improvements described in the Final Construction Plans and Contract Documents utilizing the services of the contractor selected in Phase 5. Upon completion of construction, the permits obtained in Phase 6 will be closed out.

DELIVERABLES & SCHEDULE

The following deliverables are associated with each phase of the project scope above. The timeline given for each is from execution the agreement.

Phase Number – Deliverables	Months from Agreement Execution
Phase 1 – Survey, Soils Report, Schematic Plan	3 months
Phase 2 – Design Development Plans	5 months
Phase 3 – Permits	8 months
Phase 4 – Final Construction Plans	9 months
Phase 5 – Executed Construction Contract	10 months
Phase 6 – Permit Close-out Documentation	18 months

IV. PROJECT MILESTONES:

(i.e. timelines, contracts, if funded in prior year(s) where is the project now)

Timeline:

State Appropriation (LP6819)	2007 Session (Chapter 2007-72)
Completion of Stormwater Master Plan	Feb. 2008
Design Phase	Aug. 2008
Permitting Process	Nov. 2008
Contract Award Process	Jan. 2009
Stormwater Project estimated completion date	April 2009

If the scope of work includes construction:

Estimated Construction start Feb 2009
 date:
 Estimated scope of work April 2009
 completion date: _____

V. LOCAL MATCH & OTHER GRANT FUNDS:

List the sources and amounts for all funds being used to fund this project.

SOURCE	AMOUNT(\$)
2006-2007 LP grant (LP6819 – Appropriation)	200,000
2006-2007 Match (Town of Cutler Bay)	200,000
i.e. 2005-2006 LP05xx grant	0
i.e. CDBG grant	0
i.e. SRF loan WWxxxxx	0
i.e. prior year local match	0
i.e. federal funds – STAG grant	0
Total Project Cost	400,000

ATTACHMENT B
Disbursement Request Package
 Legislative Projects (LP) Grants

1. Grantee/Recipient TOWN OF CUTLER BAY
2. Project Number LP6819 Date of Request _____
3. Disbursement Request Number _____ Required Match % _____
4. Type of Request: Partial Final
5. Federal Employer Identification Number _____
6. Mail EFT Send Remittance to: _____

Disbursement Details

(cumulative amounts rounded to the nearest dollar)

- | | |
|--|-------------|
| 1. Professional Services (attach invoices) | \$ _____ |
| 2. Construction and Demolition (attach invoices) | _____ |
| 3. Equipment (attach invoices) | _____ |
| 4. Land (attach invoices) | _____ |
| 5. Other (list - must be specified in agreement) | _____ |
| _____ | _____ |
| _____ | _____ |
| 6. Total cumulative to date | \$ _____ |
| 7. Disbursements previously requested | \$(_____) |
| 8. Amount requested for disbursement (line 6 minus line 7) | \$ _____ |

Requests for Invoices already Paid:

- 1) Copy of Invoice
- 2) Proof of Payment

Requests for Invoices not yet Paid:

- 1) Copy of Invoice
- 2) Advance Payment Justification (one per quarter)
- 3) Advance Payment – Interest Earned (after initial advance)

***If prior Disbursement Request was requested by invoices without proof of payment documentation, proof of the prior payment will be required before this request can be disbursed.**

**** SUBMIT ONE ORIGINAL COPY OF THIS FORM AND SUPPORTING DOCUMENTATION TO: ****

Florida Department of Environmental Protection
 Bureau of Water Facilities Funding MS 3505
 2600 Blair Stone Road
 Tallahassee, Florida 32399-2400

**Grant Manager's Certification
of Disbursement Request**

I, _____,
(name of Grantee's Grant Manager designated in the Agreement)

on behalf of _____, do hereby certify that:
(name of Grantee/Recipient)

1. The disbursement amount requested on Page 1 of this form is for allowable costs for the project described in the Agreement.
2. Materials, labor, equipment, and/or services representing costs included in the amount requested have been satisfactorily purchased, performed or received, and applied toward completing the project; such costs are documented by invoices or other appropriate documentation which are filed in the Grantee's permanent records.
3. The Grantee is required to pay such costs under the terms and provisions of contracts relating directly to the project, and the Grantee is not in default of any terms or provisions of the contracts.
4. All funds received to date have been applied toward completing the project.
5. All permits and approvals required for the construction which is underway have been obtained.

(Signature of Grant Manager)

(Date)

Engineer's Certification
of Disbursement Request

I, _____, being the Professional Engineer retained by
(name of Professional Engineer)
_____, am responsible for overseeing construction of the
(name of Grantee/Recipient)
project described in the Agreement and do hereby certify that:

1. Equipment, materials, labor, and services represented by the construction invoices have been satisfactorily purchased or received and applied to the project in accordance with construction contract documents filed with and previously approved by the Department of Environmental Protection;
2. Payment is in accordance with construction contract provisions;
3. Adequate construction supervision is being provided to assure compliance with construction requirements and Florida Administrative Code Chapter 62-600 or Chapter 62-604, as appropriate;
4. Construction up to the point of this disbursement is in compliance with the contract documents;
5. All changes, additions, or deletions to the construction contract(s) have been documented by change order and all change orders have been submitted to the Department; and
6. All additions or deletions to the Project which have altered the Project's performance standards, scope, or purpose (since issue of the pertinent Department permit) have been identified in writing to the Department or are identified and attached hereto.

Signature of Professional Engineer

Firm or Affiliation

(Date)

(P.E. Number)

ATTACHMENT C
 PROGRESS REPORT FORM

DEP Agreement No.:	LP6819		
Grantee Name:	TOWN OF CUTLER BAY		
Grantee Address:			
Grantee's Grant Manager:		Telephone No.:	
Quarterly Reporting Period:			
Project Number and Title:			
<p>Provide a summary of project accomplishments to date. (Include a comparison of actual accomplishments to the objectives established for the period. If goals were not met, provide reasons why.)</p>			
<p>Provide an update on the estimated time for completion of the project and an explanation for any anticipated delays.</p>			
<p>Provide any additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.</p>			

(continued from page 1)

Identify below, and attach copies of, any relevant work products being submitted for the project for this reporting period (e.g., report data sets, links to on-line photographs, etc.)

Provide a project budget update, comparing the project budget to actual costs to date.

Budget Category	Total Project Budget	Expenditures Prior to this Reporting Period	Expenditures this Reporting Period	Project Funding Balance

This report is submitted in accordance with the reporting requirements of DEP Agreement No. LP6819 and accurately reflects the activities and costs associated with the subject project.

Signature of Grantee's Grant Manager

Date

ATTACHMENT D

SPECIAL AUDIT REQUIREMENTS

The administration of resources awarded by the Department of Environmental Protection (*which may be referred to as the "Department", "DEP", "FDEP" or "Grantor", or other name in the contract/agreement*) to the recipient (*which may be referred to as the "Contractor", Grantee" or other name in the contract/agreement*) may be subject to audits and/or monitoring by the Department of Environmental Protection, as described in this attachment.

MONITORING

In addition to reviews of audits conducted in accordance with OMB Circular A-133 and Section 215.97, F.S., as revised (see "AUDITS" below), monitoring procedures may include, but not be limited to, on-site visits by Department staff, limited scope audits as defined by OMB Circular A-133, as revised, and/or other procedures. By entering into this Agreement, the recipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Department of Environmental Protection. In the event the Department of Environmental Protection determines that a limited scope audit of the recipient is appropriate, the recipient agrees to comply with any additional instructions provided by the Department to the recipient regarding such audit. The recipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Chief Financial Officer or Auditor General.

AUDITS

PART I: FEDERALLY FUNDED

This part is applicable if the recipient is a State or local government or a non-profit organization as defined in OMB Circular A-133, as revised.

1. In the event that the recipient expends \$500,000 or more in Federal awards in its fiscal year, the recipient must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised. EXHIBIT 1 to this Agreement indicates Federal funds awarded through the Department of Environmental Protection by this Agreement. In determining the Federal awards expended in its fiscal year, the recipient shall consider all sources of Federal awards, including Federal resources received from the Department of Environmental Protection. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit of the recipient conducted by the Auditor General in accordance with the provisions of OMB Circular A-133, as revised, will meet the requirements of this part.
2. In connection with the audit requirements addressed in Part I, paragraph 1., the recipient shall fulfill the requirements relative to auditee responsibilities as provided in Subpart C of OMB Circular A-133, as revised.
3. If the recipient expends less than \$500,000 in Federal awards in its fiscal year, an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, is not required. In the event that the recipient expends less than \$500,000 in Federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, the cost of the audit must be paid from non-Federal resources (i.e., the cost of such an audit must be paid from recipient resources obtained from other than Federal entities).
4. The recipient may access information regarding the Catalog of Federal Domestic Assistance (CFDA) via the internet at <http://12.46.245.173/cfda/cfda.html>.

PART II: STATE FUNDED

This part is applicable if the recipient is a nonstate entity as defined by Section 215.97(2)(m), Florida Statutes.

1. In the event that the recipient expends a total amount of State financial assistance equal to or in excess of \$500,000 in any fiscal year of such recipient, the recipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Department of Financial Services; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit

organizations), Rules of the Auditor General. EXHIBIT 1 to this Agreement indicates State financial assistance awarded through the Department of Environmental Protection by this Agreement. In determining the State financial assistance expended in its fiscal year, the recipient shall consider all sources of State financial assistance, including State financial assistance received from the Department of Environmental Protection, other state agencies, and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.

2. In connection with the audit requirements addressed in Part II, paragraph 1; the recipient shall ensure that the audit complies with the requirements of Section 215.97(7), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
3. If the recipient expends less than \$500,000 in State financial assistance in its fiscal year, an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. In the event that the recipient expends less than \$500,000 in State financial assistance in its fiscal year, and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the non-State entity's resources (i.e., the cost of such an audit must be paid from the recipient's resources obtained from other than State entities).
4. For information regarding the Florida Catalog of State Financial Assistance (CSFA), a recipient should access the Florida Single Audit Act website located at <https://apps.fldfs.com/fsaa> for assistance. In addition to the above websites, the following websites may be accessed for information: Legislature's Website at <http://www.leg.state.fl.us/Welcome/index.cfm>, State of Florida's website at <http://www.myflorida.com/>, Department of Financial Services' Website at <http://www.fldfs.com/> and the Auditor General's Website at <http://www.state.fl.us/audgen>.

PART III: OTHER AUDIT REQUIREMENTS

(NOTE: This part would be used to specify any additional audit requirements imposed by the State awarding entity that are solely a matter of that State awarding entity's policy (i.e., the audit is not required by Federal or State laws and is not in conflict with other Federal or State audit requirements). Pursuant to Section 215.97(8), Florida Statutes, State agencies may conduct or arrange for audits of State financial assistance that are in addition to audits conducted in accordance with Section 215.97, Florida Statutes. In such an event, the State awarding agency must arrange for funding the full cost of such additional audits.)

PART IV: REPORT SUBMISSION

1. Copies of reporting packages for audits conducted in accordance with OMB Circular A-133, as revised, and required by PART I of this Attachment shall be submitted, when required by Section .320 (d), OMB Circular A-133, as revised, by or on behalf of the recipient directly to each of the following:
 - A. The Department of Environmental Protection at the following address:

Audit Director
Florida Department of Environmental Protection
Office of the Inspector General, MS 40
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000
 - B. The Federal Audit Clearinghouse designated in OMB Circular A-133, as revised (the number of copies required by Sections .320 (d)(1) and (2), OMB Circular A-133, as revised, should be submitted to the Federal Audit Clearinghouse), at the following address:

Federal Audit Clearinghouse
Bureau of the Census
1201 East 10th Street
Jeffersonville, IN 47132

- C. Other Federal agencies and pass-through entities in accordance with Sections .320 (e) and (f), OMB Circular A-133, as revised.
2. Pursuant to Section .320(f), OMB Circular A-133, as revised, the recipient shall submit a copy of the reporting package described in Section .320(c), OMB Circular A-133, as revised, and any management letters issued by the auditor, to the Department of Environmental Protection the following address:

Audit Director
Florida Department of Environmental Protection
Office of the Inspector General, MS 40
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

3. Copies of financial reporting packages required by PART II of this Attachment shall be submitted by or on behalf of the recipient directly to each of the following:

- A. The Department of Environmental Protection at the following address:

Audit Director
Florida Department of Environmental Protection
Office of the Inspector General, MS 40
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

- B. The Auditor General's Office at the following address:

State of Florida Auditor General
Room 401, Claude Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1450

4. Copies of reports or management letters required by PART III of this Attachment shall be submitted by or on behalf of the recipient directly to the Department of Environmental Protection at the following address:

Audit Director
Florida Department of Environmental Protection
Office of the Inspector General, MS 40
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

5. Any reports, management letters, or other information required to be submitted to the Department of Environmental Protection pursuant to this Agreement shall be submitted timely in accordance with OMB Circular A-133, Florida Statutes, or Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

6. Recipients, when submitting financial reporting packages to the Department of Environmental Protection for audits done in accordance with OMB Circular A-133, or Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date that the reporting package was delivered to the recipient in correspondence accompanying the reporting package.

PART V: RECORD RETENTION

The recipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of 5 years from the date the audit report is issued, and shall allow the Department of Environmental Protection, or its designee, Chief Financial Officer, or Auditor General access to such records upon request. The recipient shall ensure that audit working papers are made available to the Department of Environmental Protection, or its designee, Chief Financial Officer, or Auditor General upon request for a period of 3 years from the date the audit report is issued, unless extended in writing by the Department of Environmental Protection.

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ATTACHMENT E
ADVANCE PAYMENT – INTEREST EARNED MEMORANDUM
WHEN REPORTING OR REMITTING, PLEASE RETURN A COPY OF THIS REQUEST

TO:

FROM: Darinda McLaughlin, Finance and Accounting Director
 Bureau of Finance and Accounting, MS 78

DATE:

SUBJECT: Advance Payment - Contract No.
 Interest Due to DEP:

Pursuant to Section 216.181(16), Florida Statutes, advance payments may be required to be deposited into an interest bearing account until all funds have been depleted. In order to update the status on the **unused portion of the advanced funds and/or interest due**, advance approval of the Chief Financial Officer, and the terms of the above referenced contract, the following information is needed for our records **no later than** _____.

- | | | |
|--|----|--|
| Initial advance funding disbursed _____ | \$ | |
| 1. Advanced funds principle expended or returned by contractor covering period of _____ to _____ | \$ | |
| 2. Balance advance funding principle available | \$ | |
| 3. Interest earned on advanced funds covering period of _____ to _____ | \$ | |
| 4. Amount of interest paid to DEP as of _____ | \$ | |
| 5. Interest balance due to DEP as of _____ | \$ | |

 (Project Manager's Signature)

 (Date)

Special Instructions: If the grant/contract specifies that any accrued interest, which is based upon a grant/contract advance payment(s), will not be paid to DEP until after termination of the grant/contract, the advance fund recipient shall complete report items 1 and 2 only for the first three quarters of the state's fiscal year. The report for the state's fourth fiscal year quarter shall include items 1, 2, 3, 4, and 5. Items 3, 4, and 5 will be the life to date interest

If the contract states that no interest is due, quarterly reports of unexpended advances are required, lines 1 and 2.

In all cases the line 1 and 2 reported amounts are on a cash basis for the advance payment principle. Do not include receivables, payables, or interest previously paid to DEP.

If the grant/contract requires quarterly accrued interest payments to DEP, the fund recipient must complete items 1 through 5 for each quarterly report.

Payments of interest due to DEP shall be paid within the specifications of the contract/grant.

Thank you for your cooperation in providing the above information. If you have questions, please contact Lydia Louis (850) 245-2452 in the Contracts Disbursement Section.

ATTACHMENT F ADVANCE PAYMENT JUSTIFICATION FORM

Use of this form is not required unless the advance requested requires the prior approval of the Comptroller. For advance requests that are equal to or less than the purchasing threshold of category two as defined in Section 287.017, Florida Statutes, and meet one of the advance payment requirements identified in Section 215.422(14), Florida Statutes, use of this form is waived. However, the purchase requisition or contract review form must clearly identify the criteria being met under 215.422(14), Florida Statutes that allows the advance to be made without prior Comptroller approval.

Name/Address of the Vendor/Recipient:			
Contact Person/Phone No.:			
Agreement No./Purchase Order No. (if known):	LP6819		
Commodities/Services/Project Description:			
Organizational Structure (i.e. local gov't, non-profit corporation, etc.):			
Value of Purchase or Grant:			
Advance Payment Amount Requested:			
Period Advance Payment to Cover:	<input type="checkbox"/> 90 days startup	<input type="checkbox"/> Full Contract Period	
	<input type="checkbox"/> Quarterly	<input type="checkbox"/> Other (specify):	
Indicate Statutory Authority:	<input type="checkbox"/> 215.422, F.S.	<input type="checkbox"/> 216.181, F.S.	
GAA Year and Line Item Info:	SFY:	Line Item:	
1. Reason advance payment is required:			
2. The following information required for advances requested pursuant to 215.422, Florida Statutes (and the Comptroller's Voucher Processing Handbook) which exceed the purchasing threshold of category two as defined in 287.017, Florida Statutes.			
<p>A. Document, if applicable, the cost savings to be incurred as a result of an advance payment that are equal or greater than the amount the State would earn by investing the funds and paying in arrears. Include the percent (%) savings to be realized. In calculating the percent savings as compared to the percent that can be earned by the State, information may be obtained from the Department of Insurance, Division of Treasury at 850/413-2776 or SunCom 293-2776 regarding the current Treasury earnings rate.</p>			
<p>B. Document, if applicable, how the goods or services are essential to the operation of the Department and why they are available only if advance payment is made:</p>			

C. Identify the procurement method used to select the vendor.

3. The following information required for advances to Governmental Entities and Non-Profits pursuant to 216.181, Florida Statutes. (Limited to GAA Authorized, Statutorily Authorized, and Grant & Aid Appropriation Categories 05XXXX or 14XXXX)

A. The entity acknowledges the requirement to invest advance funds in an interest bearing account and to remit interest earned to the Department on a quarterly basis.

Provide a description of how the entity intends to invest the advanced funds and track the interest earned on the advanced funds:

Remittances must: 1) be identified as interest earnings on advances, 2) must identify the applicable DEP Agreement (or Contract) No., and 3) be forwarded to the following address:

Florida Department of Environmental Protection
Bureau of Finance and Accounting
Receipts Section
P.O. Box 3070
Tallahassee, Florida 32315-3070

B. A letter requesting advance payment from the recipient, on its letterhead, must be attached.

3. The recipient must provide an estimated budget for each quarter covered by the agreement. The summary information should include salaries, fringe benefits, overhead, contracts (specify services to be contracted out), equipment, if authorized (specify items to be purchased), supplies, travel, and other costs.

A sample summary format is provided below. The summary should include the breakdown for each quarter of the agreement period.

Description	First Quarter	Second Quarter	Third Quarter	Fourth Quarter
Salaries (identify personnel/titles)				
Fringe Benefits				
Contractual Services (list services and estimated costs)				
Equipment (identify each item and cost)				
Supplies				
Travel				
Other (specify)				
Overhead/Indirect				
Total:				

Certification Statement

The forgoing information is presented to the Florida Department of Environmental Protection in support of our request for advance payment. I certify that the information provided accurately reflects the financial issues facing the entity at this time.

By: _____ Date _____
 Type Name of Signatory:
 Title: Chief Financial Officer or designee

DEP Program Area Review/Approval

Recommendation: Approve Request Deny Request

By: _____ Date _____
 Type Name of Signatory:
 Title: Bureau: Division:

The DEP Program Area should forward this information to the Contracts Disbursements Section at MS78. The Contracts Disbursements Section will forward requests for advance payment to the State Comptroller for review and legislature consultation, as appropriate.

Bureau of Finance & Accounting Use Only

TAB 6

RESOLUTION NO. 07-____

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, RELATING TO OFFICE SPACE; AUTHORIZING THE TOWN MANAGER TO ENTER INTO TWO LEASE AGREEMENTS WITH PINNACLE INVESTMENT PROPERTIES, INC. FOR APPROXIMATELY 1,291 SQUARE FEET OF OFFICE SPACE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay (the “Town”) has been leasing temporary office space at 10720 Caribbean Boulevard, Miami, Florida 33189 from Pinnacle Investment Properties, Inc. (“Pinnacle”) on a month-to-month basis; and

WHEREAS, Pinnacle has agreed to enter into a one (1) year and an eleven (11) month lease for Suite No. 115 and Suite No. 120 respectively (the “Leases”); and

WHEREAS, the Town Council deems this to be in the best interest of the Town; and

WHEREAS, in accordance with Section 3.10 of the Town Charter, Town Manager has made or written recommendation to the Town Council and the Town Council has determined that it is impracticable to competitively bid these items because of the immediate need to procure said items.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct and are incorporated herein by this reference.

Section 2. Authorization. The Town Manager is authorized to execute the Leases substantially in the form attached hereto as Exhibit “A” for office space. Section 3.10 of the Charter is hereby waived to the extent it requires competitive procurement of the same.

Section 3. Effective Date. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this ____ day of _____, 2007.

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ-SANTAMARIA, CMC
Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:

WEISS SEROTA HELFMAN PASTORIZA
COLE & BONISKE, P.L.
Town Attorney

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman _____

Vice Mayor Edward P. MacDougall _____

Councilmember Peggy R. Bell _____

Councilmember Timothy J. Meerbott _____

Councilmember Ernest N. Sochin _____

LEASE AGREEMENT

1. **PARTIES:** THIS LEASE is made this ___ day of _____, _____ by and between Pinnacle Investment Properties Inc., (as "Landlord"), and **Town of Cutler Bay, a Florida Municipal Corporation** (as "Tenant").
2. **DEMISED PREMISES:** Subject to the terms and provisions of this Lease, Landlord hereby leases to Tenant and Tenant hereby leases from Landlord, those certain premises ("the Premises") identified as **Suite No. 115** on the **1st** floor of **South Dade Office Tower 2** (the "Building") which Building is located at 10720 Caribbean Boulevard Miami, FL 33189. The exact location and dimensions of the Premises within the Building are more particularly shown on the floor plans initialed by the parties, attached to this Lease as Exhibit "A", and hereby made a part hereof. The Term "Net Rentable Area" as used herein shall refer to the area included within the Premises plus the Tenant's agreed share of common areas. Such common areas include, but are not limited to, elevator foyers, corridors, restrooms, mechanical rooms and other facilities in the building. Landlord and Tenant agree that the Net Rentable Area of the Premises, based on the above definition, is hereby stipulated for all purposes of the Lease to be approximately **461** square feet constituting **(0.63%)** percent of the Total Net Rentable Area in the Building which is approximately 73,412. The foregoing statement of square footage and percentage of Net Rentable Area shall govern for all purposes of this lease, irrespective of the actual measurement.
3. **USE:** The Premises shall be used for **Temporary Municipal Office** and for no other business or purpose whatsoever without the prior written consent of Landlord. Tenant shall exercise reasonable care in the use of the Premises and all other portions of the Building. Tenant's use shall be further subject to the provisions of Paragraph 11, Uses Prohibited, below.
4. **TERM:** The Term of this Lease shall be for a period of **One (1) year** commencing on **November 1, 2007**, and ending on **October 31, 2008**, inclusive.
5. **BASE RENTAL:** As rental for the lease of the Premises, Tenant shall pay to Landlord for the Term of this Lease a total Base Rental of **Eight Thousand Three Hundred and Ninety Dollars and 20/100 (8,390.20)**. The initial installment of Base Rent has been computed by multiplying the initial Base Rental Rate of **\$18.20** times the Net Rentable Area and dividing the resulting by twelve (12). The Base Rental Rate for each lease year (the twelve month period beginning on the Lease commencement date as indicated above in paragraph 4, Term, and ending one day prior to the anniversary of the Lease commencement date, the "Lease Year") shall be as listed in paragraph 6, Base Rental Increase, and due on the first day of each month during the Term of this Lease free from all unreasonable claims, demands or set-offs against Landlord of any kind or character whatsoever. If the Term of this Lease shall begin and/or terminate other than as of the first day of a calendar month, the rent for such portion of said partial calendar month(s) shall be apportioned and paid on the basis of a thirty (30) day month.

In the event any installment of Base Rental or other charges accruing under the Lease shall become more than five (5) Days overdue, a "Late Charge" of \$.10 per each dollar so overdue may be charged by Landlord for the purposes of defraying the expense incident to handling such delinquent payment. If any installment of Base Rental or other charges under this Lease remain overdue for more than fifteen (15) days, an additional Late Charge in an amount equal to 1 1/2% per month (18% per annum) of the unpaid amount may be charged by Landlord, such charge to be computed for the entire period for which the amount is overdue. All Late Charges shall be due immediately upon demand by Landlord without set-offs or defense. Rent shall be paid in lawful money of the United States of America at the office of Landlord at: **Pinnacle Investment Properties Inc., 10720 Caribbean Boulevard, Suite 101, Miami, Florida 33189**, or at such other place as Landlord may hereafter designate in writing.

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6. **BASE RENTAL INCREASE:** The Base Rental set forth in paragraph 5 above shall be adjusted at the beginning of each Lease Year during the Term of this Lease by increasing the Base Rental Rate by Four percent (4 %).

Year	Mos.	Per Sq	Monthly	Annual
	11	\$18.20	\$ 699.18	\$ 8,390.20
Total				\$ 8,390.20

The new Base Rental shall continue to be payable in monthly installments and Landlord shall give written notification to Tenant of the new monthly Base Rental prior to the commencement of the new Lease Year. Tenant shall pay such new monthly Base Rental, on the first day of each calendar month of the coming year, without set-off or defense. Failure of Landlord to timely notify Tenant of the new monthly Base Rental shall not be deemed a waiver by Landlord of the increased rental; the new monthly Base Rental shall be payable, retroactive to the commencement of the new Lease Year upon notification by Landlord to Tenant of the amount of the new monthly Base Rental.

7. **ADDITIONAL RENT:**

For purposes of this section, Tenant's Pro-rata share is agreed to be **0.63%**, hereby defined to be the percentage which represents the Net Rentable Area leased by Tenant. The total Net Rentable Area contained in the Building which is approximately **73,412** rentable square feet. The Base Year is hereby defined as calendar year **2007**.

7A. In the event that the cost to Landlord for the Operating Expenses of the Building, as hereinafter defined, during any calendar year of the Lease Term subsequent to the Base Year shall exceed the cost to Landlord for the Operating Expenses of the Building during the Base Year, Tenant shall pay to Landlord as additional rent Tenant's Pro-Rata Share (as such term is hereinabove defined) of the increase in such costs for each calendar year, if any. The amount of such additional rent, if any, shall be determined in accordance with the following formula: Pro-Rata Share multiplied by any increase in Operating Expenses over the Operating Expenses of the Base Year equals additional rent due from Tenant except that such additional rent shall be prorated for any partial calendar year following the commencement of the Lease Term.

The term "Operating Expenses" as used herein shall mean all expenses, costs and disbursements of every kind and nature which Landlord shall pay or become obligated to pay because of or in connection with the ownership, maintenance and/or operation of the Building, computed on the accrual basis, but shall not include new capital improvements. By way of explanation and clarification, these Operating Expenses shall include, without limitation, the following:

1. Wages and salaries of all employees engaged in operation and maintenance of the Building, employer's social security taxes, unemployment taxes or insurance, and any other taxes which may be levied on such wages and salaries, the cost of disability and hospitalization insurance, pension or retirement benefits, or any other fringe benefits for such employees.

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- 2. All supplies and materials used in operation and maintenance of the Building.
- 3. Cost of all utilities including water, sewer, electricity, gas and fuel used by the Building and not charged directly to another tenant.
- 4. Cost of customary building management, janitorial services, trash and garbage removal, guard service, painting, window cleaning, landscaping and gardening, servicing and maintenance of all systems and equipment, including but limited to, elevators, plumbing, heating, air conditioning, ventilating, lighting, electrical, security and fire alarms, fire pumps, fire extinguishers and hose repair, cabinets, mail chutes, and staging; and damage caused by fire or other casualty not otherwise recovered including the deductibles applicable to any insurance policies.
- 5. Cost of insurance for property, loss of rents, casualty and other liability applicable to the Building and Landlord's personal property used in connection therewith.
- 6. The amortized cost of any capital improvement which reduces the Operating Expenses.
- 7. All impositions.

In the event the Operating Expenses in any year after the Base Year are reduced because of a capital improvement, then the Operating Expenses for the Base Year shall be reduced accordingly for the purpose of determining additional rent as though such improvement or automation was in effect during the Base Year.

Landlord shall notify Tenant after the end of the Base Year and each calendar year thereafter during the Term hereof, of the amount which Landlord estimates (as evidenced by budgets prepared by or on behalf of Landlord) shall be the amount of Tenant's Pro-Rata Share of increases in Operating Expenses for the then current calendar year and Tenant shall pay such sum in advance to Landlord in equal monthly installments, during the balance of said calendar year, commencing on the first day of the first month following Tenant's receipt of such notification. Following the end of each calendar year after the Base Year, Landlord shall submit to Tenant a statement showing the actual amount which should have been paid by Tenant with respect to increases in Operating Expenses for the past calendar year, the amount thereof actually paid during that year by Tenant and the amount of the resulting balance due thereon, or overpayment thereof, as the case may be. Within thirty (30) days after receipt by Tenant of said statement, Tenant shall have the right in person to inspect Landlord's books and records showing the Operating Expenses for the Building for the calendar year covered by said statement. Said statement shall become final and conclusive between the parties, their successors and assigns as to the matter set forth therein unless Landlord receives written objections with respect thereto within said thirty (30) days of Tenant's receipt of said statement. Any balance shown to be due pursuant to said statement shall be paid by Tenant to Landlord within thirty (30) days following Tenant's receipt thereof and any overpayment shall be immediately credited against Tenant's obligation to pay expected additional rent in connection with anticipated increases in Operating Expenses or, if by reason of any termination of the Lease no such future obligation exists, refunded to Tenant. Anything herein to the contrary notwithstanding, Tenant shall not delay or withhold payment of any balance shown to be due pursuant to a statement rendered by Landlord to Tenant, pursuant to the terms hereof, because of any objection which Tenant may raise with respect thereto. Landlord shall immediately credit any overpayment found to be owing to Tenant against Tenant's Pro-Rata Share of increases in Operating Expenses for the then current calendar year (and future calendar years, if necessary) upon the resolution of said objection or, if at the time of the resolution of said objection the Lease Term has expired, immediately refund to Tenant any overpayment found to be owing to Tenant. Landlord agrees to maintain accounting books and records reflecting Operating Expenses of the Building in accordance with generally accepted accounting principles.

Additional rent, due by reason of the provisions of this subparagraph 7A for the final months of this Lease, is due and payable even though it may not be calculated until subsequent to the termination date of the Lease; the Operating Expenses for the calendar year during which the Lease terminates shall be prorated according to that portion of said calendar year that this Lease was actually in effect. Tenant expressly agrees that Landlord, at Landlord's sole discretion, may apply the Security Deposit specified in paragraph 9, Security Deposit, hereof, if any, in full or partial satisfaction of any additional rent due for the final

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months of this Lease by reason of the provisions of this subparagraph 7A. If said security deposit is greater than the amount of any such additional rent, and there are no other sums or amount owed Landlord by Tenant by reason of any other terms, provisions, covenants or conditions of this Lease, then Landlord shall refund the balance of said Security Deposit to Tenant as provided in paragraph 9 hereof. Nothing herein contained shall be construed to relieve Tenant, or imply that Tenant is relieved of the liability or the obligation to pay any additional rent due for the final months of this Lease by reason of the provisions of this subparagraph 7A if the Security Deposit is less than such additional rent, nor shall Landlord be required to first apply the Security Deposit to such additional rent if there are any other sums or amounts owed Landlord by Tenant by reason of any other terms, provisions, covenants or conditions of this Lease.

7B. Tenant shall pay to Landlord, as additional rent, Tenant's Pro-Rata Share of the Impositions for each calendar year, if any.

The term "Impositions" as used herein shall mean all tax assessments (special or otherwise), water and sewer assessments and other governmental liens or charges of any and every kind, nature and sort whatsoever, ordinary and extraordinary, foreseen and unforeseen, and substitutes therefore, including all taxes whatsoever (except only those taxes of the following categories: any inheritance, estate, succession, transfer of gift taxes imposed upon Landlord or any income taxes specifically payable by Landlord as a separate taxpaying entity without regard to Landlord's income sources arising from or out of the Building and/or the land on which it is located) attributable in any manner to the Building, the land on which the Building is located or the rents (however the term may be defined) receivable therefrom, or any part thereof, or any use thereon, or any facility located therein or used in conjunction therewith or any charge or other payment required to be paid to any governmental authority, whether or not any of the foregoing shall be designated "real estate tax", "sales tax", "rental tax", "excise tax", "business tax", or designated in any other manner.

Landlord shall notify Tenant, after the end of the calendar year in which the Lease Agreement commenced, of the amount which Landlord estimates (as evidenced by budgets prepared by or on behalf of Landlord) shall be the amount of Tenant's Pro-Rata Share of increases in Impositions for the then current calendar year, and Tenant shall pay such sum to Landlord in equal monthly installments during the balance of said calendar year, in advance on the first day of each month commencing on the first day of the first month following Tenant's receipt of such notification. Following the date on which Landlord receives a tax bill or statement showing what the actual Impositions are with respect to each calendar year, Landlord may submit to Tenant a statement, together with a copy of said bill or statement, showing the actual amount to be paid by Tenant in the year in question with respect to increases in Impositions for such year, the amount thereof theretofore paid by Tenant and the amount of the resulting balance due thereon, or overpayment thereof, as the case may be. Any balance shown to be due pursuant to said statement shall be spread over the remaining months of the year and be paid by Tenant to Landlord or if after the close of the calendar year within ten (10) days following Tenant's receipt thereof and any overpayment shall be immediately credited against Tenant's obligation to pay such additional rent in connection with increased Impositions in later years, or, if no such future obligation exists, be immediately refunded to Tenant.

Additional rent, due by reason of the provisions of this subparagraph 7B for the final months of this Lease, shall be payable even though the amount thereof is not determinable until subsequent to the termination of the Lease; the Impositions for the calendar year during which the Lease terminates shall be prorated according to that portion of the calendar year that this Lease was actually in effect. Tenant expressly agrees that Landlord at Landlord's sole discretion, may apply the Security Deposit specified in Paragraph 9 hereof, if any, in full or partial satisfaction of any additional rent due for the final months of this Lease by reason of the provision of this subparagraph 7B. If the Security Deposit is greater than the amount of such additional rent and there are no other sums or amount owed Landlord by Tenant by reason of any other terms, provisions, covenants or conditions of this Lease, then Landlord shall refund the balance of the Security Deposit to Tenant as provided in paragraph 9, Security Deposit, hereof. Nothing herein contained shall be construed to relieve Tenant, or imply that Tenant is relieved of the liability for or the obligation to pay any additional rent due for the final months of this Lease by reason of the provisions of this subparagraph 7B if the Security Deposit is less than such additional rent; nor shall Landlord be required to first apply the Security Deposit to such additional rent if there are any other sums or amounts owed Landlord by Tenant by reason of any of the terms, provisions, covenants, or conditions of this Lease.

7C. It is the intention of the parties hereto to provide that Tenant shall pay in advance of their due date Tenant's Pro-Rata Share of increases in Operating Expenses and Impositions and to share in reduction only by category to the end that an increase in

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Operating Expenses shall not be offset by a decrease in Impositions and vice versa. In no event shall the Base Rental be reduced by reason of decreases in Operating Expenses and/or Impositions. This paragraph shall survive the termination of the Lease.

- 8. **SALES TAX:** All payments of Base Rental and additional rent shall be paid by Tenant together with applicable Florida sales tax.

- 9. **SECURITY DEPOSIT:** Simultaneously with the execution of this Lease, Tenant has paid to Landlord the sum of **Six Hundred and Ninety Nine Dollars and 18/100 (\$ 699.18)**, to be held by Landlord without interest as a Security Deposit for the full and faithful performance by Tenant of the terms and conditions of this Lease, which deposit may be commingled with Landlord's other funds. Landlord may utilize such part of the Security Deposit as is necessary to cure any default of Tenant under the Lease, and in such event Tenant shall immediately replace such portions as may be expended by Landlord. Upon the expiration of this Lease (except by default of Tenant) and delivery of the Premises to Landlord in their original condition, ordinary wear and tear excepted, the Security Deposit shall be returned to Tenant. Upon any conveyance of the Building by Landlord to a successor in title, the successor shall become liable to Tenant for the return of the Security Deposit and the conveying party released for same. Landlord shall not be required to hold the Security Deposit in any special account for the benefit of the Tenant nor to pay any interest thereon. In the event any installment of Base Rental or other charges accruing under this Lease shall not be paid when due (including the return of Tenant's check for insufficient funds), Landlord shall have the right, at Landlord's sole discretion, to require Tenant to place an additional Security Deposit in an amount sufficient to correct the problem, which sum shall be added to and become part of the original Security Deposit.

- 10. **DELIVERY OF POSSESSION:** Landlord agrees to prepare the Premises for occupancy with due diligence, and, while it is contemplated that the commencement date of this Lease shall be as set forth in Paragraph 4 above, in the event the Premises are not ready for occupancy on such commencement date, then the commencement date shall be deferred until the Premises are ready, and the termination date of this Lease shall be likewise extended for a similar period. In such event, Landlord will give written notice of the availability of the Premises and the commencement date of this Lease shall be five (5) days after issuance of said notice. With respect to the completion of the Building, if applicable, Tenant may, with permission of the Contractor constructing the Premises and at Tenant's sole risk, enter into the Premises prior to completion and make such installations as Tenant deems desirable for its use of the Premises, and as may be permitted by this lease, provided that entry and installation shall be done in such manner as not to interfere with the Contractor's or Landlord's completion of the Building. If Tenant delays Landlord's completion of the Premises, then, after written notice, Landlord shall be entitled to complete any work undertaken by Tenant in readiness of the Premises (and Tenant shall reimburse Landlord for the cost thereof). In no event shall Landlord be liable to Tenant for any damages whatsoever for failure to deliver the Premises as aforesaid nor shall Tenant be liable for any rent until such time as Landlord can deliver possession unless the delay was caused by the actions of the Tenant. Further, should Tenant enter to make installations prior to the commencement date, insurance will be provided as described in Paragraph 19, Insurance, below.

- 11. **USES PROHIBITED:** Tenant shall not do or permit anything to be done in or about the Premises, not bring nor keep anything therein which will in any way affect the fire or other insurance upon the Building, or any of its contents, which shall in any way conflict with any law, ordinance, rule or regulation affecting the occupancy and use of the Building, which is now, or may hereafter be, enacted or promulgated by any public authority. Tenant shall not obstruct or interfere with the rights of other tenants of the Building, or injure or annoy them. Tenant shall not use, or allow the Premises to be used, for any improper, immoral or objectionable purpose, or for sleeping purposes, washing of clothes, or cooking, and nothing shall be prepared, manufactured or mixed in the Premises which might emit an odor and/or fumes of any type into any part of the Building.

- 12. **RULES AND REGULATIONS:** The rules and regulations attached to this Lease, as well as such rules and regulations as may be hereafter adopted by Landlord for the safety, care and cleanliness of the Building and the preservation of good order therein and for the most efficient and advantageous use by all tenants, agents, employees, invitee and visitors of the automobile parking spaces provided by Landlord, are expressly made a part of this Lease and Tenant agrees to comply with such rules and regulations. No rules and regulations shall be inconsistent with the reasonable use of the Premises by Tenant, its agents, employees, invitee and visitors for the purposes permitted by this Lease.

Initials

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- 13. **ASSIGNMENT AND SUBLETTING:** Tenant will not assign, mortgage, pledge, or hypothecate this Lease, or any interest therein, nor shall Tenant permit the use of the Premises by any person or persons other than Tenant, nor shall Tenant sublet the Premises, or any part thereof, without the written consent of Landlord, which, consistent with the provisions of this paragraph 13, shall not be unreasonably withheld. Consent to any such assignment or subletting shall not operate to release Tenant from its obligations hereunder, nor operate as a waiver of the necessity for a consent to any subsequent assignment or subletting, and the terms of such consent shall be binding upon any person holding by, under or through Tenant. In the event Tenant desires to sublease the Premises, or assign this Lease, Tenant shall submit to Landlord the name of the proposed sub-tenant or assignee, along with sufficient background and credit information to enable Landlord to determine the qualifications of the proposed sub-tenant or assignee. Landlord shall notify Tenant of the acceptance or rejection of the proposed sub-tenant or assignee within twenty days (20) following the receipt by Landlord of the aforesaid information. In the event Landlord rejects the proposed sub-tenant or assignee, Landlord shall state the reasons for such rejection and the burden of overcoming the reasons for the rejection shall be that of the Tenant or proposed sub-tenant or assignee.

Notwithstanding anything contained herein to the contrary, the acceptance by Landlord of any prospective sub-tenant or assignee is contingent upon both Tenant and prospective sub-tenant or assigned executing an affidavit attaching a true and complete copy of the sublease or assignment and stating all terms of the sublease or assignment including all consideration paid or to be paid under the sublease or assignment. To the extent that the total consideration to be paid under the sublease or assignment exceeds the total consideration that would have been paid by Tenant pursuant to the terms of this Lease, Landlord may require, as a condition of its approval of the sub-tenant or assignee that all or a portion of said economic benefit be paid directly to Landlord.

- 14. **MAINTENANCE OF DEMISED PREMISES:** Tenant shall not commit nor allow any waste or damage to be committed on any portion of the Premises. Tenant shall, at its own cost and expense, make any repairs or replacements to the Premises required by the acts, whether of commission or omission, of Tenant or Tenant's agents, employees, invitee, or visitors. If Tenant fails to make such repairs or replacements, Landlord may, but shall not be obligated to, make such repairs or replacements and Tenant shall repay the cost thereof as additional rent to Landlord upon demand, together with interest thereon at the highest rate permitted by applicable law from the date of advancement to repayment by Tenant.

Notwithstanding anything contained herein to the contrary, upon the expiration of this Lease, Tenant shall deliver the Premises to Landlord in their original condition, ordinary wear and tear excepted. Tenant shall be obligated, at its own cost and expense, to make any repairs or replacements above and beyond ordinary wear and tear to the Premises prior to vacating the Premises. Tenant shall notify Landlord of any needed repairs to the Premises, and Landlord shall respond to Tenant within twenty four (24) hours. Should Landlord fail to respond to Tenant within such time, and should Tenant be required to make such repairs or contract for same, Landlord shall be responsible for reimbursing Tenant for any cost incurred in such repairs. Should Landlord refuse to repair or maintain the Premises as required herein, Tenant shall have the sole and absolute right to terminate this Lease, after the expiration of any applicable cure period, and all deposits shall be returned to the Tenant within fifteen (15) days after such termination.

- 15. **ALTERATIONS, ADDITIONS OR IMPROVEMENTS:** Tenant will not make nor allow to be made any alterations or physical additions in or to the Premises without the prior written consent of Landlord, such consent not to be unreasonably withheld or delayed. Unless otherwise provided by written agreement, all such consented alterations, additions or improvements, except those items installed by Tenant without damaging the Premises, shall be done by licensed contractors in a good and workmanlike manner, but at the sole cost of Tenant, and shall become the property of Landlord and shall remain upon and be surrendered with the Premises. All trade fixtures and equipment installed by Tenant in the Premises shall be new or completely reconditioned and shall remain the property of Tenant. Tenant will not install or maintain any electrically operated equipment or other machinery or equipment except light office machines normally used in the operations and uses of the Premises permitted under this Lease, without first obtaining the consent in writing of Landlord who may condition such consent upon the payment by Tenant of additional rent as compensation for excess consumption of water and/or electricity occasioned by the operation of said equipment or machinery.

- 16. **DESTRUCTION OF PREMISES:** If the Premises or the Building shall be destroyed by fire or other cause, or be so damaged thereby that they are untenable and cannot be rendered tenable within a reasonable time, considering the extent

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of the destruction or damage, from the date of such destruction or damage, this Lease may be terminated by Landlord or Tenant by written notice given by the terminating party to the other within forty-five (45) days after the event causing such untenantability and rent shall cease as of the date of such untenantability. In the event that the Premises shall be destroyed or so damaged as to be untenantable and should this Lease not be terminated in the manner hereinbefore provided, then rent shall abate from the period of such untenantability, provided such damage or destruction is not caused by the Tenant, its agents, employees or invitees, and the Term of this Lease shall be extended by the period of such untenantability. In case the damage or destruction is not such as to permit a termination of the Lease as above provided, a proportionate reduction shall be made in the rent herein reserved corresponding to the time during which, and applicable to the portion of the Premises of which, Tenant shall be deprived of possession, provided such damage or destruction is not caused by Tenant, its agents, employees or invitees.

17. **ENTRY AND INSPECTION:** Tenant will permit Landlord and its agents to enter into and upon the Premises at all reasonable times for the purpose of inspecting the same, or for the purpose of protecting Landlord's reversions, or to make alterations, additions, or repairs required of Landlord under the terms of this Lease or repairs to any adjoining space or utility services, or make repairs, alterations, or additions to any other portion of the Building, or for maintaining any service provided by Landlord to tenants in the Building. Landlord reserves the right and Tenant hereby consents to allow Landlord access to and from the corridor through Tenant's leased Premises by way of the ceiling. Tenant will permit Landlord upon twenty four (24) hours notice at any time within thirty (30) days prior to the expiration of this Lease to bring prospective tenants upon the Premises for purposes of inspection or display.

18. **HOLD HARMLESS:** Except for damage resulting from Landlord's ordinary negligence, Landlord shall not be liable to Tenant, Tenant's agents, employees or invitee for any injury or damage that may result to any person or property by or from any cause whatsoever (and without limiting the generality of the foregoing, whether caused by gas, fire, oil, electricity, bursting of pipes or defective construction) in, on or about the Building or the Premises, or any part thereof. Subject to the provisions and monetary limitations of Section 768.28(5), Florida Statutes, which limitations shall be applicable regardless of whether such provisions would otherwise apply, and to the extent permitted by law. Tenant agrees to hold Landlord harmless from and indemnify Landlord against any and all claims, liabilities, costs or expenses whatsoever (including attorney's fees and court costs) for any injury or damage to any person or property whatsoever, (a) occurring in, on or about the Premises or any part thereof, and (b) occurring in, or about any facilities the use of which Tenant may have in conjunction with other tenants of the Building, when such injury or damage shall be caused in part or in whole by the act, negligence or fault of, or omission of any duty with respect to the same by Tenant, its agents, invitees or employees.

It is specifically understood and agreed that there shall be no personal liability on Landlord in respect to any of the covenants, conditions or provisions of this Lease; in the event of a breach or default by Landlord of any of its obligations under this Lease, Tenant shall look solely to the equity of Landlord in the Building for the satisfaction of Tenant's remedies.

19. **INSURANCE:** Tenant will acquire at its own cost and expense (with coverage to commence at the time Tenant enters the Premises to make installations, etc., or at the commencement of the term of this Lease, whichever occurs earlier), and will maintain in force continuously throughout the term of this Lease (a) Comprehensive General Public Liability Insurance, including automobile liability coverage, on an occurrence basis with minimum limits of liability in an amount of One Million (\$1,000,000.00) Dollars for bodily injury, personal injury or death to any one person and One Million (\$1,000,000.00) Dollars for bodily injury, personal injury or death to more than one person, and One Hundred Thousand (\$100,000.00) Dollars for property damage, and (b) Fire Insurance, Extended Coverage, Vandalism, Malicious Mischief, and Special Extended Coverage as protection against loss or damage by fire or windstorm in an amount adequate to cover the cost of replacement of all decorations and improvements to, and replacement of all fixtures, outside plate glass, and contents of, the Premises.

Tenant shall forthwith furnish Landlord a certificate by the Insurer that such insurance is in force. In the event Tenant fails to obtain and maintain the insurance required hereunder, Landlord may, at its option, obtain same and any costs incurred by Landlord in connection therewith shall be deemed additional rent to be paid by Tenant and payable as such upon demand, together with interest thereon at the highest rate permitted by applicable law from the date of advancement to repayment by Tenant.

Any insurance procured by Tenant as herein required shall be issued by a company licensed to do business in the State of Florida

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and reasonably acceptable to Landlord and shall contain endorsements that (a) such insurance may not be canceled or amended without thirty (30) days advance written notice by certified mail to Landlord by the insurance company; and (b) Tenant shall be solely responsible for payment of premiums and Landlord shall not be required to pay any premiums for such insurance.

20. **SERVICE:** Landlord agrees to furnish the Premises, subject to the regulations of the Building, and subject to the availability of utility services from the public utility companies and authorities furnishing the requisite utility services to the Building, with (a) heated and refrigerated air conditioning from 7:00 a.m. to 6:00 p.m. Monday through Friday and 8:00 a.m. to 12:00 p.m. Saturdays (excluding generally recognized holidays), at such temperatures and in such amounts as may reasonably be required; (b) elevator service; (c) water for domestic consumption; (d) sewage service; (e) sufficient electricity for normal and customary usage for the purposes for which the Premises are leased as determined by Landlord; (f) janitorial service; and (g) exterminating service. In addition, the buildings have in place an alarm system at all building main entrances and exits. All of the aforesaid shall be furnished by Landlord at no additional cost to Tenant in a manner and to the extent deemed by Landlord to be reasonable for an office building. In the event Tenant wishes air-conditioning or heat during periods other than the above specific hours, or electricity in amounts of excess of those specified above, Tenant shall request same and Landlord may, at its option, provide such service; provided, however, Tenant shall be responsible for the reasonable cost thereof, as specified by Landlord and shall pay same within ten (10) days following request for payment by Landlord, without set-off or defense. The cost of overtime air conditioning shall be at a rate of \$35.00 per hour subject to increases at Landlord sole discretion based on Florida Power & Light Company. Landlord shall also maintain all public and special service areas in a like manner. Landlord shall not be liable to Tenant for any interruption in the service of any utility as referenced above, including elevator service and air conditioning which Landlord undertakes to furnish to Tenant so long as Landlord exercises reasonable efforts to assure a continuance of said services. It is understood that Landlord does not guarantee uninterrupted utility services to the Premises and Tenant assumes the risk of any interruption of utility services caused by a failure or interruption of utility service from the utility company or authority providing that service. No interruption or failure of said services shall relieve Tenant from the obligation to pay the full amount of the rent herein reserved, unless electric service should remain disrupted for a period of longer than seven (7) days. Tenant's rent shall be pro-rated accordingly, and failure of services shall not constitute a constructive or other eviction of Tenant. Tenant shall give Landlord prompt notice of all accidents to or defects in air conditioning equipment, plumbing, electric facilities or any part or appurtenance of the leased Premises.

21. **NOTICES:** All notices required or permitted to be given under the terms and provisions of this Lease by either party to the other shall be given in writing and shall be given by personal delivery or by registered or certified mail, return receipt requested, and postage prepaid, sent to Landlord at the address stated in paragraph 5 hereof and to Tenant at the Premises. Any notice to be given to Tenant under the terms of this Lease, if given by registered or certified mail, as above provided, shall be sent to Tenant at: **10720 Caribbean Blvd., Suite 115, Miami, Florida 33189.** Notice given by personal delivery shall be effective as of the date of delivery and notice mailed shall be effective as of the third day (not a Saturday, Sunday or legal holiday) next following the date of mailing.

22. **DEFAULT AND RE-ENTRY:** Tenant covenants and agrees that any of the following events shall be a default under this Lease; (i) if any financial report or statement, certificate, statement, representation or warranty at any time furnished or made by or on behalf of Tenant or any guarantor of any of Tenant's obligations hereunder, including, without limitation, any representation or warranty made by Tenant herein, proves to have been false or misleading in any material respect at the time the facts therein set forth were stated or certified, or any such financial report or statement has omitted any material contingent or unliquidated liability or claim against Tenant or any such guarantor; or (ii) if Tenant or any guarantor of any of Tenant's obligations hereunder shall fail to perform or observe any covenant, condition or agreement to be performed or observed by it hereunder or under any guaranty agreement; or (iii) if Tenant or any guarantor of Tenant's obligations hereunder shall be in breach of or in default in the payment and performance of any obligation owing to Landlord, whether or not related to this Lease and howsoever arising, whether by operation or law or otherwise, present or future, contracted for or acquired, and whether joint, several, absolute, contingent, secured, unsecured, matured or unmatured; or (iv) if Tenant or any guarantor of any of Tenant's obligations hereunder shall cease doing business as a going concern, make an assignment for the benefit of creditors, generally not pay its debts as they become due or admit in writing its inability to pay its debts as they become due, file a petition

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commencing a voluntary case under any chapter of the Bankruptcy Code, 11 U.S.C. 101 et seq. (the "Bankruptcy" Code"), be adjudicated an insolvent, file a petition seeking for itself any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar arrangement under any present or future statute, law, rule or regulation, or file an answer admitting the material allegations of a petition filed against it in any such proceeding, consent to the filing of such a petition or acquiesce in the appointment of a trustee, receiver, custodian or other similar official for it or of all or any substantial part of its assets or properties, or take any action looking to its dissolution or liquidation; or (v) if an order for relief against Tenant or any guarantor of any of Tenant's obligations hereunder shall have been entered under any chapter of the Bankruptcy Code, or a decree or order by a court having jurisdiction over the Premises shall have been entered approving as properly filed a petition seeking reorganization, arrangement, readjustment, liquidation, dissolution or similar relief against Tenant or any guarantor of any of Tenant's obligations hereunder under any present or future statute, law, rule, or regulation, or within thirty (30) days after the appointment without Tenant's or such guarantor's consent or acquiescence, of any trustee, receiver, custodian or other similar official for it or such guarantor or of all or any substantial part of its or such guarantor's assets and properties, such appointment is not vacated; or (vi) if Tenant shall abandon or vacate the Premises, or if Tenant shall fail to use the property for the purposes outlined in Paragraph 3 for a continuous period of thirty (30) calendar days, the determination of which shall be in Landlord's sole judgment. In the event of any of the foregoing defaults, Landlord may, at its option, subject to the provisions of paragraph 23, Grace Period, of this Lease:

- (a) re-take and recover possession of the Premises and terminate this Lease, and retain Tenant's Security Deposit as liquidated damages. The parties agree in the event of a default by Tenant, Landlord's damages would be difficult to determine and this option of Landlord for liquidated damages is fair and not in the nature of a penalty.
- (b) re-take and recover possession of the Premises, without terminating this Lease, in which event Landlord may re-rent the Premises as agent for and for the account of Tenant and recover from Tenant the difference between the rental herein specified and the rent provided in such re-rental.
- (c) permit the Premises to remain vacant in which event Tenant shall continue to be responsible for all rental and other payments thereunder.
- (d) re-take and recover possession of the Premises, accelerate and collect all rentals due hereunder for the balance of the Term of this Lease.
- (e) declare all installments of rent for the whole Term hereof due and payable at once without demand.
- (f) take such other action as may be permitted under applicable law.

All of the foregoing remedies shall be cumulative and election by Landlord to take any one remedy shall not preclude Landlord from taking any other remedy. In the event Landlord fails to keep or perform any material term, covenant, condition, or provision of this Lease, and such failure continues for thirty (30) days after written notice from Lessee and opportunity to cure; unless such failure requires work to be performed, acts to be done, or conditions to be removed which cannot be performed, done or removed within such thirty (30) days, in which case the default shall not be deemed to exist as long as Landlord: (i) advises Tenant by written notice within fifteen (15) days after Tenant's notice that Landlord intends to take all steps necessary to remedy such failure with due diligence; and (ii) duly commences and diligently and continuously prosecutes completion of all steps necessary to cure and remedy the same; Tenant shall have the option to terminate this lease after the expiration of the time required for the Landlord to avail itself of the opportunity to cure, and all deposits shall be returned to the Tenant within fifteen (15) days after such termination.

23. GRACE PERIOD: Before Landlord takes any action against Tenant under this Lease as the result of any claimed default other than for the payment of rent, or additional rent, Landlord shall give Tenant five (5) days advance written notice specifically setting forth the claimed default, and Landlord shall not have the right to declare this Lease terminated if within five (5) days after the effective date of such notice Tenant shall have undertaken to cure and correct claimed default or defaults and shall thereafter proceed with diligence in the curing and correction of such default or defaults.

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24. **ATTORNEY'S FEES AND COSTS:** In the event of any litigation arising out of the enforcement of this Lease, the prevailing party in such litigation shall be entitled to recovery of all costs, including reasonable attorney's fees.

25. **NON-WAIVER OF BREACH:** Landlord's failure to take advantage of any default or breach of covenant on the part of Tenant shall not be or be construed as a waiver thereof, nor shall any custom or practice which may grow between the parties in the course of administering this instrument be construed to waive or to lessen the right of Landlord to insist upon the performance by Tenant of any term, covenant or condition hereof, or to exercise any rights given him on account of any such default. A waiver of a particular breach or default shall not be deemed to be a waiver of the same or any other subsequent breach or default. The acceptance of rent hereunder shall not be, or be construed to be, a waiver of any breach of any term, covenant or condition of this Lease and neither shall be the presentation of any rent in the form of a check marked by Tenant to constitute a waiver constitute same unless Landlord acknowledges same by separate written instrument. No surrender of the Premises for the remainder of the Term hereof shall operate to release Tenant from liability hereunder.

26. **SUBORDINATION BY TENANT:** This Lease, and Tenant's rights hereunder, are hereby made expressly subject and subordinate at all times to any and all mortgages, ground or underlying leases affecting the Premises which have been executed and delivered by Landlord, or its successors or assigns, or are hereafter created and any and all extensions and renewals thereof and substitutions therefor and modifications and amendments thereof, and to any and all advances made or to be made under or upon said mortgages, ground or underlying leases. Tenant agrees to execute any instrument or instruments which the Landlord may deem necessary or desirable to further evidence the subordination of this Lease to any or all such mortgages, ground or underlying leases. Tenant hereby irrevocably appoints Landlord as Attorney-in-Fact for Tenant with full power and authority to execute and deliver in the name of Tenant any such instrument or instruments. In the event the Tenant shall refuse after reasonable notice to execute such instrument or instruments, the Landlord may, in addition to any right or remedy occurring hereunder, terminate this Lease without incurring any liability whatsoever and the estate hereby granted is expressly limited accordingly. Tenant further agrees to make such reasonable modifications to this Lease (not increasing Tenant's obligations hereunder) as may be requested by the holder of any such mortgage, ground or underlying Lease. Tenant will remain in possession if Tenant is in compliance with the Lease.

27. **TIME:** It is understood and agreed between the parties that time is of the essence of this Lease, and to all of the terms, conditions and provisions contained herein.

28. **TRANSFERABILITY:** Landlord shall have the right to transfer and assign, in whole or in part, all and every feature of its rights and obligations hereunder and in the Building and property referred to herein, and upon an assignment of this Lease and/or sale of the Building, Landlord named herein shall no longer be liable to Tenant for any obligations hereunder, but instead, Landlord's successor in interest shall become the new Landlord hereunder, and subject to the provisions hereof.

29. **AMENDMENT OF LEASE:** This Lease may not be altered, changed or amended, except by an instrument in writing, signed by the party against who enforcement is sought. This Lease contains the entire agreement reached in all previous negotiations between the parties hereto and there are no other representations, agreements or understandings except as specifically set forth herein.

30. **CONDEMNATION:** In the event the whole or any part of the Building other than a part not interfering with the maintenance or operation thereof shall be taken or condemned for any public or quasi- public use or purpose, the Landlord may at its option terminate this Lease from the time title to or right to possession of the Building or part thereof shall vest in or be taken for such public or quasi-public use or purpose. Tenant shall not be entitled to receive any portion of any award made or paid to Landlord representing the property of Landlord taken or damaged and Tenant hereby expressly waives and relinquishes any right or claim to any portion of any such award regardless of whether any such award includes any value attributable to Tenant's leasehold estate. However, Tenant shall have the right to claim and recover from the condemning authority, but not from Landlord, such special and separate damages as may be recoverable by Tenant independent of and without diminution of Landlord's recovery.

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- 31. **SURRENDER OF DEMISED PREMISES:** At the expiration or termination of the tenancy, Tenant shall surrender the Premises in good condition, reasonable wear and tear excepted, and damage by unavoidable casualty (except to the extent that the same is covered by Landlord's fire insurance policy with extended coverage endorsement), and Tenant shall surrender all keys for the Premises to Landlord at the place then fixed for the payment of Rent and shall inform Landlord of all combinations on locks, safes and vaults, if any, in the Premises. Tenant shall remove all its trade fixtures and any alterations or improvements, subject to the provisions of paragraph 15, Alterations, Additions or Improvements, before surrendering the Premises, and shall repair, at its own expense, any damage to the Premises caused thereby. Tenant's obligations to observe or perform this covenant shall survive the expiration or other termination of the Term of this Lease.

- 32. **HOLDING OVER:** In case of holding over by Tenant after expiration or termination of this Lease, Tenant will pay as liquidated damages during such holdover period double the amount of the monthly rent installment for the last month in the Term of this Lease for each month in the holdover period during the entire holdover period. No holding over by Tenant after the Term of this Lease shall operate to extend the Lease, except that any holding over with the consent of Landlord in writing shall thereafter constitute this Lease as a month to month tenancy. In addition, Tenant specifically agrees that in the event Tenant retains possession and does not quit and surrender the Premises to Landlord, then Tenant shall pay to Landlord all damages that Landlord may suffer on account of Tenant's failure to so surrender and quit the Premises, and Tenant will indemnify and save Landlord harmless from and against any and all claims made by succeeding tenant of the Premises against Landlord on account of delay of Landlord in delivering possession of the Premises to said succeeding tenant, to the extent that such delay is occasioned by the failure of Tenant to so quit and surrender said Premises.

- 33. **CONSTRUCTION:** The parties hereto intend that the laws of the State of Florida govern the interpretation and enforcement of this Lease. The words "Landlord" and "Tenant" as used herein shall include the plural as well as the singular. Words used in masculine gender include the feminine and neuter. If there is more than one Landlord or Tenant, the obligations hereunder imposed upon Landlord or Tenant shall be joint and several. The words "Landlord" and "Tenant" shall also extend to and mean the successors in interest of the respective parties hereto although this shall not be construed as conferring upon the Tenant the right to assign this Lease or sublet the Premises or confer rights of occupancy upon anyone other than Tenant. The marginal headings or titles to the paragraphs of this Lease are not a part of this Lease and shall have no effect upon the construction or interpretation of any part thereof.

- 34. **QUIET ENJOYMENT:** Tenant shall and may peaceably have, hold and enjoy the Premises subject to the terms of this Lease and provided Tenant pays the rental herein reserved and performs all the covenants and agreements herein contained.

- 35. **ATTORMENT:** In the event any proceedings are brought for the foreclosure of, or in the event of exercise of the power of sale under any mortgage or lease made by Landlord encumbering the Premises and/or the Building, Landlord shall be released from all liability hereunder and Tenant shall attorn to the purchaser upon any such foreclosure or sale and recognize such purchaser as the Landlord under this Lease.

- 36. **ESTOPPEL CERTIFICATE:** Within ten (10) days after request therefore by Landlord, Tenant shall deliver to Landlord in a form satisfactory to Landlord, a certificate certifying (i) the good standing and absence of default under this Lease, (ii) the absence of set-offs or charges hereunder, (iii) the validity and completeness of a copy of this Lease and all amendments, to be attached to the certificate, (iv) the amount of pre-paid rent, (v) the amount of Security Deposit, (vi) the commencement and expiration dates hereof, (vii) the dates and amounts of the last made and next due rental installments, and such other reasonable matters as Landlord shall request.

- 37. **INTENTIONALLY DELETED:**

- 38. **BROKERAGE:** Each of the parties represents and warrants that there are no brokers involved in this Lease transaction and that neither party has been contacted by any other broker with regard to the leasing of space by Landlord to Tenant or in connection with the execution of this Lease, except as listed below, and each of the parties agrees, subject to the provisions and monetary limitations of Section 768.28(5), Florida Statute, which limitations shall be applicable regardless of whether such provision would otherwise apply, and to the extent permitted by law, to indemnify the other, and hold him harmless from all liabilities arising from any such claim, including, without limitation, any suit costs and counsel fees incurred in connection with

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any such claim.

Broker: n/a

- 39. **RECORDING:** Tenant shall not record this Lease without the written consent of the Landlord.
- 40. **CONFIDENTIALITY:** Landlord and Tenant hereby agree that the terms and conditions of this Lease are of a confidential nature. Tenant covenants that Tenant will not reveal either the terms, provisions or conditions under which Tenant occupies the Premises. This clause shall be binding on the Tenant, his employees and agents who may be acting in his capacity.
- 41. **SEVERABILITY:** Inapplicability, invalidation, or unenforceability of any one or more of the provisions of this Lease or any instrument executed and delivered pursuant hereto, by judgment, court order or otherwise, shall in no way affect any other provision of this Lease or any other such instrument, which shall remain in full force and effect.
- 42. **LIMITATION OF LIABILITY:** Tenant shall look solely to Landlord's equity interest in the Premises for the satisfaction of any judgment or decree requiring the payment of money by Landlord, based upon any default under this Lease, and no other property or asset of Landlord shall be subject to levy, execution or other enforcement procedure for the satisfaction of such judgment or decree, it being intended that Landlord shall not be personally liable for any judgment or deficiency.
- 43. **LIENS FOR IMPROVEMENTS:** The interest of the Landlord in the property covered by this Lease shall not be subject to any liens for improvements made by the Tenant to the Premises.
- 44. **DISPLAYS, FIXTURES, ETC.:** In order to preserve the building aesthetics, no display material (e.g. signs, decorations, lettering, advertising, etc.) will be permitted on the windows of Tenant's suite. Further, installation of any displays within the suite which may be visible from the lobby and/or corridor, and/or exterior of the building, shall require written approval of the Landlord. Additionally, Landlord reserves the right to provide additional window tinting, and/or blinds, as per specifications of Landlord and at Landlord's expense. Landlord further reserves the right to provide additional window tinting and/or blinds in the lobby, if in Landlord's judgment Tenant does not maintain the Premises in a neat, clean and orderly fashion. Finally, all fixtures (e.g. blinds, railings, etc.) behind any interior glass is considered property of the Building and cannot be altered, modified or moved in any way.
- 45. **RADON:** Radon is a naturally occurring radioactive gas that, when accumulated in buildings in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed Federal and State guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.
- 46. **PERSONAL PROPERTY:** If any personal property belonging to Tenant remains on the Premises after the tenancy created under this Lease has terminated or expired, and the Premises have been vacated by Tenant voluntarily, by eviction, or otherwise, then such personal property shall be conclusively presumed to have been abandoned and Landlord shall dispose of said personal property without notice to Tenant, by sale, removal or otherwise, or to use said personal property without notice to Tenant. Tenant does hereby waive any claims against Landlord or anyone else concerning such personal property remaining on the Premises.
- 47. **HAZARDOUS MATERIAL:** Under no circumstances will Tenant use the suite for storage of hazardous materials and/or corrosive, flammable fluids.
- 48. **WAIVER OF JURY TRIAL:** Each party waives the right to trial by jury in any dispute relating to this agreement.

ENTIRE AGREEMENT: This Lease and the Exhibit(s) made a part hereof constitute the entire agreement and understanding of the

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parties hereto, and shall not be modified or amended except by written instrument duly executed by the parties hereto.

IN WITNESS WHEREOF, Landlord and Tenant have duly executed this Lease in several counterparts as of the day and year first hereinbefore written, each of which counterparts shall be considered an executed original and in making proof of this Lease it shall not be necessary to produce or account for more than one counterpart.

LANDLORD:

PINNACLE INVESTMENT PROPERTIES, INC.

By _____
(Landlord) **William A. Sport, President**

TENANT:

**Town of Cutler Bay, a Florida
Municipal Corporation**

By _____
(Tenant) **Steven Alexander, Town Manager**

By _____
(Tenant) **Town Clerk**

WITNESSES:

(As to Landlord)

(As to Tenant)

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RULES AND REGULATIONS

- 1. **SIGNS:** No sign, placard, picture, advertisement, name or notice shall be inscribed, displayed, printed or affixed on or to any part of the outside of the building or to any interior public area without the written consent of Landlord, and Landlord shall have the right to remove any such objectionable sign, placard, picture, advertisement, name or notice without notice to, and at the expense of Tenant.
- 2. **BULLETIN BOARD:** The bulletin board or directory of the building will be provided exclusively for the display of the name and location of Tenant only, and Landlord reserves the right to exclude any other names therefrom.
- 3. **LOCKS:** No additional locks and/or replacement locks shall be placed on any door without a written request to Landlord and per Landlord's written consent. Landlord requires that changes be done by Landlord at Tenant's expense and that Landlord retain a key to each lock installed for security/safety purposes.
- 4. **NON-RESPONSIBILITY:** Landlord is not responsible to any tenant for the non-observance or violation of the rules and regulations by any other tenant.
- 5. **DOORS:** The doors between the premises and the corridors of the building shall at all times, except when in actual use for ingress and egress, be kept closed.
- 6. **HALLS AND STAIRWAYS:** The entries, passages, stairways and elevators shall not be obstructed by tenants, or used for any purposes other than ingress or egress to and from their respective offices. Tenant shall not bring into or keep within the building any animal or vehicle.
- 7. **NO SMOKING:** The Building is a non smoking building. Smoking will not be permitted in any of the common areas; hallways, bathrooms, stairways, entry/exit areas.
- 8. **PLUMBING:** The wash-bowls, water closets and urinals shall not be used for any purpose other than those for which they were constructed. Any stoppages within demised premises shall be corrected by Tenant at Tenant's expense.
- 9. **CLOSING PRECAUTIONS:** Tenant shall see that the doors of the demised premises are closed and securely locked before leaving the building, and Tenant shall exercise extraordinary care and caution that all water faucets or water apparatus are entirely shut off before Tenant or Tenant's employees leave the building, and that all electricity, gas, air conditioning or heating shall likewise be carefully shut off, so as to prevent waste or damage, and for any default or carelessness, Tenant shall make good all injuries sustained by other tenants or occupants of the building or Landlord.
- 10. **MOVING FURNITURE, SAFES, ETC.:** No furniture, freight or equipment of any kind shall be brought into or removed from the building without the consent of Landlord and all moving of same, into or out of building by tenants shall be done at such times and in such manner as Landlord shall designate. Landlord shall have the right to prescribe the weight, size and position of all safes and other heavy property brought into the building, and also the times and manner of moving the same in and out of the building. Landlord will not be responsible for loss of or damage to any such safe or property from any cause; but all damage done to the building by moving or maintaining any such safe or property shall be repaired at the expense of Tenant.

All deliveries, unless hand-carried, must be made in designated padded elevator for freight. Landlord reserves right to stop deliveries when elevator is needed for passenger transport.
- 11. **NUISANCE:** Tenant will conduct his business and prevent his agents, employees, invitees and visitors from creating any nuisance, annoyance, disturbance or excessive noise within the building.
- 12. **VIOLATION OF RULES:** Landlord reserves the right to exclude or expel from the building, any person who, in the judgement of Landlord, is intoxicated or under the influence of liquor or drugs, or who shall in any manner do any act in violation of the rules and regulations of the building.

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13. **REQUIREMENTS OF TENANT:** The requirements of Tenant will be attended to only upon application to the management of the building. Employees of Landlord shall not perform any work or do anything outside of their regular duties unless under special instructions from the management of the building, and no employee will admit any person (Tenant or otherwise) to any office without specific instructions from the management of the building.

14. **ROOMS USED IN COMMON:** Rooms used in common by tenants shall be subject to such regulations as are posted therein.

15. **ENTRANCE DOORS:** Landlord reserves the right to close and keep locked all entrance and exit doors of the building during such hours as the building is not generally open for business. In such event, Landlord shall supply keys to tenants, or may employ a watchman to control entry into the building. In the event a watchman is employed, all persons entering or leaving the building during hours when it is not normally open for business may be required to sign the building register. Landlord may require that any person wishing to enter the building during such hours obtain a previously arranged pass or provide other satisfactory identification showing his right of access to the building. Landlord assumes no responsibility and shall not be liable for any damage resulting from any error in regard to any such pass or identification, or from the admission of any unauthorized person to the building.

16. **LAWS AND REGULATIONS:** Tenant will keep and maintain the demised premises in a clean and healthful condition and comply with all laws, ordinances, orders, rules and regulations (State, Federal, Municipal and other agencies or bodies having any jurisdiction thereof), with reference to use, conditions or occupancy of the demised premises.

17. **LICENSES:** Tenant shall obtain and maintain in force at its expense throughout the Term of the Lease all licenses required by the Dade County, i.e., Certificate of Use and Occupancy, Occupational License, etc.....

18. **PARKING:** A parking area reserved for use by tenants of the building will be maintained by Landlord. Landlord shall use reasonable efforts to prevent unauthorized use of the reserved parking area, but shall not be liable to Tenant for any such unauthorized use, nor does Landlord warrant that a parking space shall, in every event, be available for Tenant, nor shall any such portion of reserved parking area be considered a portion of Tenant's demised premises. Overnight parking shall not be permitted.

The parking rules set forth above may be changed at the discretion of Landlord in order to accomplish the most efficient use of the parking area by all tenants, their agents, employees, invitees, and visitors. Additionally, Landlord may designate a certain portion of the parking area as reserved for specific tenants, and access to this area may be limited to said tenants who pay a monthly fee for use of this parking area. Landlord reserves the right to place stickers on, and/or tow, any violating vehicles.

19. **WIRING:** When wiring of any kind is introduced, it must be connected as directed by Landlord, and no boring or cutting for wires will be allowed except with the consent of Landlord. The location of telephones, call boxes and other office equipment affixed to the demised premises shall be prescribed by Landlord. Tenant will not, without the written consent of Landlord, connect any apparatus or device, the use of which is not usual and normal for the purposes for which the demised have been leased, which will in any way increase the amount of electricity, water or gas usually furnished or supplied to the premises, or which shall overload the circuits from which Tenant obtains electrical current. All telecommunications and data wiring shall be at Tenant's expense. Cabling contractor for phones and data must be a licensed contractor who will be able to obtain a low voltage permit from the Miami-Dade County before starting work and must have their inspections from the Miami-Dade County on all cable installations jobs. Tenant's contractor shall provide Landlord with a Certificate of Insurance naming Landlord as additional insured. Tenant agrees to remove all telecommunications and data wiring and all cabling at Lease Termination, at Tenant's sole cost and expense, by a licensed contractor and shall provide Landlord with a Certificate of Insurance naming Landlord as additional insured.

20. **REPORTING ACCIDENTS:** Tenant shall report to Landlord any accident involving personal injury or property damage occurring within demised premises or occurring within the public areas and which is reported to Tenant. Such report to Landlord shall be made without undue delay.

21. **DRAPERY AND VENETIAN BLINDS:** Although no window coverings are permitted in the building, Landlord

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reserves the right to require blinds of a specific color to be installed at Tenant's expense.

22. **LOSS:** Landlord will not be responsible for any lost or stolen personal property, including but not limited to equipment, machinery, money or jewelry from Tenant's area or public rooms regardless of whether such loss occurs when the area is locked against entry or not.

23. **KEYS:** Upon expiration of this Lease, keys must be returned to the building manager or the leasing office and a receipt obtained by the Tenant. In the event Tenant fails to return keys, Landlord may retain \$50.00 of Tenant's security deposit for necessary locksmith work and administration.

24. **PETS:** No pets or animals are allowed in or around the premises and environs, with the exception to assist any handicap person.

25. **FIREARMS:** Other than law enforcement personnel, Tenant and all persons entering the building under the authority of Tenant shall be prohibited from carrying firearms of any kind into the building.

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ADDENDUM

Attached to and made a part of Lease Agreement dated _____, 2007, by and between Pinnacle Investment Properties, Inc., whose address for purposes hereof is 10720 Caribbean Boulevard, Suite 101, Miami, Florida 33189, hereinafter called "Landlord" and Town of Cutler Bay, a Florida Municipal Corporation, whose address for purposes herein is 10720 Caribbean Blvd. Ste 115, Miami, Florida 33189, hereinafter called "Tenant".

49. OPTION TO RENEW:

Tenant shall have Three (3) One (1) year options to renew the lease upon 90 days prior written notice to Landlord. If Tenant exercises this option to renew, all terms, provisions, covenants and conditions of this lease shall continue in full force and effect.

50. TENANT IMPROVEMENTS:

Landlord will complete the Leased Premises substantially in accordance with the plans and specifications to be approved by both Tenant and Landlord. Landlord will provide at Landlord's sole cost improvements to the Premises as described in Exhibit "B" hereinafter referred to as "Building Standard Work", which improvements shall be the building standard specifications of color, quantity and quality. In the event the cost of improvements for finishing premises exceeds the Landlord's "Building Standard Work" the cost in excess will be paid in advance by Tenant, the amount of such advance payment to be determined on the basis of Landlord's estimate of the total cost of finishing the Leased premises, such estimate to be based on the aforementioned plans and specifications. Cost will included direct and indirect construction costs, demolition costs, permit fees, architectural fees, applicable insurance premiums and any other costs directly attributable in finishing the Leased premises will be refunded to Tenant by landlord after a final accounting of the total cost of constructing said leased Premises is completed by landlord. All improvements made to the Leased premises shall be the property of the Landlord during the term of this Lease and shall remain the property of the Landlord upon termination of this Lease.

51. UNAMORTIZED TENANT IMPROVEMENTS:

Tenant improvements will be amortized at Twenty (\$20.00) Dollars per Square foot over Five (5) years. Tenant will be responsible for the unamortized portion of Tenant Improvements if lease terminates before this time.

Exhibit "A"

	Initials
_____ Landlord	_____ Tenant

Attached to and made a part of Lease Agreement dated _____, 2007, by and between Pinnacle Investment Properties, Inc., whose address for purposes hereof is 10720 Caribbean Boulevard, Suite 101, Miami, Florida 33189, hereinafter called "Landlord" and Town of Cutler Bay, a Florida Municipal Corporation, whose address for purposes herein is 10720 Caribbean Blvd., Suite 115, Miami, Florida 33189, hereinafter called "Tenant".

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LEASE AGREEMENT

1. **PARTIES:** THIS LEASE is made this ___ day of _____, _____ by and between Pinnacle Investment Properties Inc., (as "Landlord"), and **Town of Cutler Bay, a Florida Municipal Corporation** (as "Tenant").
2. **DEMISED PREMISES:** Subject to the terms and provisions of this Lease, Landlord hereby leases to Tenant and Tenant hereby leases from Landlord, those certain premises ("the Premises") identified as **Suite No. 120** on the **1st** floor of **South Dade Office Tower 2** (the "Building") which Building is located at 10720 Caribbean Boulevard Miami, FL 33189. The exact location and dimensions of the Premises within the Building are more particularly shown on the floor plans initialed by the parties, attached to this Lease as Exhibit "A", and hereby made a part hereof. The Term "Net Rentable Area" as used herein shall refer to the area included within the Premises plus the Tenant's agreed share of common areas. Such common areas include, but are not limited to, elevator foyers, corridors, restrooms, mechanical rooms and other facilities in the building. Landlord and Tenant agree that the Net Rentable Area of the Premises, based on the above definition, is hereby stipulated for all purposes of the Lease to be approximately **830 square feet** constituting **(1.1%)** percent of the Total Net Rentable Area in the Building which is approximately 73,412. The foregoing statement of square footage and percentage of Net Rentable Area shall govern for all purposes of this lease, irrespective of the actual measurement.
3. **USE:** The Premises shall be used for **Temporary Municipal Office** and for no other business or purpose whatsoever without the prior written consent of Landlord. Tenant shall exercise reasonable care in the use of the Premises and all other portions of the Building. Tenant's use shall be further subject to the provisions of Paragraph 11, Uses Prohibited, below.
4. **TERM:** The Term of this Lease shall be for a period of **Eleven (11) months** commencing on **December 1, 2007**, and ending on **October 31, 2008**, inclusive.
5. **BASE RENTAL:** As rental for the lease of the Premises, Tenant shall pay to Landlord for the Term of this Lease a total Base Rental of **Thirteen Thousand Eight Hundred and Forty Seven Dollars and 17/100 (13,847.17)**. The initial installment of Base Rent has been computed by multiplying the initial Base Rental Rate of **\$18.20** times the Net Rentable Area and dividing the resulting by twelve (12). The Base Rental Rate for each lease year (the twelve month period beginning on the Lease commencement date as indicated above in paragraph 4, Term, and ending one day prior to the anniversary of the Lease commencement date, the "Lease Year") shall be as listed in paragraph 6, Base Rental Increase, and due on the first day of each month during the Term of this Lease free from all unreasonable claims, demands or set-offs against Landlord of any kind or character whatsoever. If the Term of this Lease shall begin and/or terminate other than as of the first day of a calendar month, the rent for such portion of said partial calendar month(s) shall be apportioned and paid on the basis of a thirty (30) day month.

In the event any installment of Base Rental or other charges accruing under the Lease shall become more than five (5) Days overdue, a "Late Charge" of \$.10 per each dollar so overdue may be charged by Landlord for the purposes of defraying the expense incident to handling such delinquent payment. If any installment of Base Rental or other charges under this Lease remain overdue for more than fifteen (15) days, an additional Late Charge in an amount equal to 1 1/2% per month (18% per annum) of the unpaid amount may be charged by Landlord, such charge to be computed for the entire period for which the amount is overdue. All Late Charges shall be due immediately upon demand by Landlord without set-offs or defense. Rent shall be paid in lawful money of the United States of America at the office of Landlord at: **Pinnacle Investment Properties Inc., 10720 Caribbean Boulevard, Suite 101, Miami, Florida 33189**, or at such other place as Landlord may hereafter designate in writing.

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6. **BASE RENTAL INCREASE:** The Base Rental set forth in paragraph 5 above shall be adjusted at the beginning of each Lease Year during the Term of this Lease by increasing the Base Rental Rate by Four percent (4 %).

Year	Mos.	Per Sq	Monthly	Annual
	11	\$18.20	\$ 1,258.83	\$ 13,847.17
Total				\$13,847.17

The new Base Rental shall continue to be payable in monthly installments and Landlord shall give written notification to Tenant of the new monthly Base Rental prior to the commencement of the new Lease Year. Tenant shall pay such new monthly Base Rental, on the first day of each calendar month of the coming year, without set-off or defense. Failure of Landlord to timely notify Tenant of the new monthly Base Rental shall not be deemed a waiver by Landlord of the increased rental; the new monthly Base Rental shall be payable, retroactive to the commencement of the new Lease Year upon notification by Landlord to Tenant of the amount of the new monthly Base Rental.

7. **ADDITIONAL RENT:**

For purposes of this section, Tenant's Pro-rata share is agreed to be **1.1%**, hereby defined to be the percentage which represents the Net Rentable Area leased by Tenant. The total Net Rentable Area contained in the Building which is approximately **73,412** rentable square feet. The Base Year is hereby defined as calendar year **2007**.

7A. In the event that the cost to Landlord for the Operating Expenses of the Building, as hereinafter defined, during any calendar year of the Lease Term subsequent to the Base Year shall exceed the cost to Landlord for the Operating Expenses of the Building during the Base Year, Tenant shall pay to Landlord as additional rent Tenant's Pro-Rata Share (as such term is hereinabove defined) of the increase in such costs for each calendar year, if any. The amount of such additional rent, if any, shall be determined in accordance with the following formula: Pro-Rata Share multiplied by any increase in Operating Expenses over the Operating Expenses of the Base Year equals additional rent due from Tenant except that such additional rent shall be prorated for any partial calendar year following the commencement of the Lease Term.

The term "Operating Expenses" as used herein shall mean all expenses, costs and disbursements of every kind and nature which Landlord shall pay or become obligated to pay because of or in connection with the ownership, maintenance and/or operation of the Building, computed on the accrual basis, but shall not include new capital improvements. By way of explanation and clarification, these Operating Expenses shall include, without limitation, the following:

1. Wages and salaries of all employees engaged in operation and maintenance of the Building, employer's social security taxes, unemployment taxes or insurance, and any other taxes which may be levied on such wages and salaries, the cost of disability and hospitalization insurance, pension or retirement benefits, or any other fringe benefits for such employees.

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2. All supplies and materials used in operation and maintenance of the Building.
3. Cost of all utilities including water, sewer, electricity, gas and fuel used by the Building and not charged directly to another tenant.
4. Cost of customary building management, janitorial services, trash and garbage removal, guard service, painting, window cleaning, landscaping and gardening, servicing and maintenance of all systems and equipment, including but limited to, elevators, plumbing, heating, air conditioning, ventilating, lighting, electrical, security and fire alarms, fire pumps, fire extinguishers and hose repair, cabinets, mail chutes, and staging; and damage caused by fire or other casualty not otherwise recovered including the deductibles applicable to any insurance policies.
5. Cost of insurance for property, loss of rents, casualty and other liability applicable to the Building and Landlord's personal property used in connection therewith.
6. The amortized cost of any capital improvement which reduces the Operating Expenses.
7. All impositions.

In the event the Operating Expenses in any year after the Base Year are reduced because of a capital improvement, then the Operating Expenses for the Base Year shall be reduced accordingly for the purpose of determining additional rent as though such improvement or automation was in effect during the Base Year.

Landlord shall notify Tenant after the end of the Base Year and each calendar year thereafter during the Term hereof, of the amount which Landlord estimates (as evidenced by budgets prepared by or on behalf of Landlord) shall be the amount of Tenant's Pro-Rata Share of increases in Operating Expenses for the then current calendar year and Tenant shall pay such sum in advance to Landlord in equal monthly installments, during the balance of said calendar year, commencing on the first day of the first month following Tenant's receipt of such notification. Following the end of each calendar year after the Base Year, Landlord shall submit to Tenant a statement showing the actual amount which should have been paid by Tenant with respect to increases in Operating Expenses for the past calendar year, the amount thereof actually paid during that year by Tenant and the amount of the resulting balance due thereon, or overpayment thereof, as the case may be. Within thirty (30) days after receipt by Tenant of said statement, Tenant shall have the right in person to inspect Landlord's books and records showing the Operating Expenses for the Building for the calendar year covered by said statement. Said statement shall become final and conclusive between the parties, their successors and assigns as to the matter set forth therein unless Landlord receives written objections with respect thereto within said thirty (30) days of Tenant's receipt of said statement. Any balance shown to be due pursuant to said statement shall be paid by Tenant to Landlord within thirty (30) days following Tenant's receipt thereof and any overpayment shall be immediately credited against Tenant's obligation to pay expected additional rent in connection with anticipated increases in Operating Expenses or, if by reason of any termination of the Lease no such future obligation exists, refunded to Tenant. Anything herein to the contrary notwithstanding, Tenant shall not delay or withhold payment of any balance shown to be due pursuant to a statement rendered by Landlord to Tenant, pursuant to the terms hereof, because of any objection which Tenant may raise with respect thereto. Landlord shall immediately credit any overpayment found to be owing to Tenant against Tenant's Pro-Rata Share of increases in Operating Expenses for the then current calendar year (and future calendar years, if necessary) upon the resolution of said objection or, if at the time of the resolution of said objection the Lease Term has expired, immediately refund to Tenant any overpayment found to be owing to Tenant. Landlord agrees to maintain accounting books and records reflecting Operating Expenses of the Building in accordance with generally accepted accounting principles.

Additional rent, due by reason of the provisions of this subparagraph 7A for the final months of this Lease, is due and payable even though it may not be calculated until subsequent to the termination date of the Lease; the Operating Expenses for the calendar year during which the Lease terminates shall be prorated according to that portion of said calendar year that this Lease was actually in effect. Tenant expressly agrees that Landlord, at Landlord's sole discretion, may apply the Security Deposit specified in paragraph 9, Security Deposit, hereof, if any, in full or partial satisfaction of any additional rent due for the final

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months of this Lease by reason of the provisions of this subparagraph 7A. If said security deposit is greater than the amount of any such additional rent, and there are no other sums or amount owed Landlord by Tenant by reason of any other terms, provisions, covenants or conditions of this Lease, then Landlord shall refund the balance of said Security Deposit to Tenant as provided in paragraph 9 hereof. Nothing herein contained shall be construed to relieve Tenant, or imply that Tenant is relieved of the liability or the obligation to pay any additional rent due for the final months of this Lease by reason of the provisions of this subparagraph 7A if the Security Deposit is less than such additional rent; nor shall Landlord be required to first apply the Security Deposit to such additional rent if there are any other sums or amounts owed Landlord by Tenant by reason of any other terms, provisions, covenants or conditions of this Lease.

7B. Tenant shall pay to Landlord, as additional rent, Tenant's Pro-Rata Share of the Impositions for each calendar year, if any.

The term "Impositions" as used herein shall mean all tax assessments (special or otherwise), water and sewer assessments and other governmental liens or charges of any and every kind, nature and sort whatsoever, ordinary and extraordinary, foreseen and unforeseen, and substitutes therefore, including all taxes whatsoever (except only those taxes of the following categories: any inheritance, estate, succession, transfer of gift taxes imposed upon Landlord or any income taxes specifically payable by Landlord as a separate taxpaying entity without regard to Landlord's income sources arising from or out of the Building and/or the land on which it is located) attributable in any manner to the Building, the land on which the Building is located or the rents (however the term may be defined) receivable therefrom, or any part thereof, or any use thereon, or any facility located therein or used in conjunction therewith or any charge or other payment required to be paid to any governmental authority, whether or not any of the foregoing shall be designated "real estate tax", "sales tax", "rental tax", "excise tax", "business tax", or designated in any other manner.

Landlord shall notify Tenant, after the end of the calendar year in which the Lease Agreement commenced, of the amount which Landlord estimates (as evidenced by budgets prepared by or on behalf of Landlord) shall be the amount of Tenant's Pro-Rata Share of increases in Impositions for the then current calendar year, and Tenant shall pay such sum to Landlord in equal monthly installments during the balance of said calendar year, in advance on the first day of each month commencing on the first day of the first month following Tenant's receipt of such notification. Following the date on which Landlord receives a tax bill or statement showing what the actual Impositions are with respect to each calendar year, Landlord may submit to Tenant a statement, together with a copy of said bill or statement, showing the actual amount to be paid by Tenant in the year in question with respect to increases in Impositions for such year, the amount thereof theretofore paid by Tenant and the amount of the resulting balance due thereon, or overpayment thereof, as the case may be. Any balance shown to be due pursuant to said statement shall be spread over the remaining months of the year and be paid by Tenant to Landlord or if after the close of the calendar year within ten (10) days following Tenant's receipt thereof and any overpayment shall be immediately credited against Tenant's obligation to pay such additional rent in connection with increased Impositions in later years, or, if no such future obligation exists, be immediately refunded to Tenant.

Additional rent, due by reason of the provisions of this subparagraph 7B for the final months of this Lease, shall be payable even though the amount thereof is not determinable until subsequent to the termination of the Lease; the Impositions for the calendar year during which the Lease terminates shall be prorated according to that portion of the calendar year that this Lease was actually in effect. Tenant expressly agrees that Landlord at Landlord's sole discretion, may apply the Security Deposit specified in Paragraph 9 hereof, if any, in full or partial satisfaction of any additional rent due for the final months of this Lease by reason of the provision of this subparagraph 7B. If the Security Deposit is greater than the amount of such additional rent and there are no other sums or amount owed Landlord by Tenant by reason of any other terms, provisions, covenants or conditions of this Lease, then Landlord shall refund the balance of the Security Deposit to Tenant as provided in paragraph 9, Security Deposit, hereof. Nothing herein contained shall be construed to relieve Tenant, or imply that Tenant is relieved of the liability for or the obligation to pay any additional rent due for the final months of this Lease by reason of the provisions of this subparagraph 7B if the Security Deposit is less than such additional rent; nor shall Landlord be required to first apply the Security Deposit to such additional rent if there are any other sums or amounts owed Landlord by Tenant by reason of any of the terms, provisions, covenants, or conditions of this Lease.

7C. It is the intention of the parties hereto to provide that Tenant shall pay in advance of their due date Tenant's Pro-Rata Share of increases in Operating Expenses and Impositions and to share in reduction only by category to the end that an increase in

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Operating Expenses shall not be offset by a decrease in Impositions and vice versa. In no event shall the Base Rental be reduced by reason of decreases in Operating Expenses and/or Impositions. This paragraph shall survive the termination of the Lease.

8. **SALES TAX:** All payments of Base Rental and additional rent shall be paid by Tenant together with applicable Florida sales tax.

9. **SECURITY DEPOSIT:** Simultaneously with the execution of this Lease, Tenant has paid to Landlord the sum of **One Thousand Two Hundred and Fifty Eight Dollars and 83/100 (\$1,258.83)**, to be held by Landlord without interest as a Security Deposit for the full and faithful performance by Tenant of the terms and conditions of this Lease, which deposit may be commingled with Landlord's other funds. Landlord may utilize such part of the Security Deposit as is necessary to cure any default of Tenant under the Lease, and in such event Tenant shall immediately replace such portions as may be expended by Landlord. Upon the expiration of this Lease (except by default of Tenant) and delivery of the Premises to Landlord in their original condition, ordinary wear and tear excepted, the Security Deposit shall be returned to Tenant. Upon any conveyance of the Building by Landlord to a successor in title, the successor shall become liable to Tenant for the return of the Security Deposit and the conveying party released for same. Landlord shall not be required to hold the Security Deposit in any special account for the benefit of the Tenant nor to pay any interest thereon. In the event any installment of Base Rental or other charges accruing under this Lease shall not be paid when due (including the return of Tenant's check for insufficient funds), Landlord shall have the right, at Landlord's sole discretion, to require Tenant to place an additional Security Deposit in an amount sufficient to correct the problem, which sum shall be added to and become part of the original Security Deposit.

10. **DELIVERY OF POSSESSION:** Landlord agrees to prepare the Premises for occupancy with due diligence, and, while it is contemplated that the commencement date of this Lease shall be as set forth in Paragraph 4 above, in the event the Premises are not ready for occupancy on such commencement date, then the commencement date shall be deferred until the Premises are ready, and the termination date of this Lease shall be likewise extended for a similar period. In such event, Landlord will give written notice of the availability of the Premises and the commencement date of this Lease shall be five (5) days after issuance of said notice. With respect to the completion of the Building, if applicable, Tenant may, with permission of the Contractor constructing the Premises and at Tenant's sole risk, enter into the Premises prior to completion and make such installations as Tenant deems desirable for its use of the Premises, and as may be permitted by this lease, provided that entry and installation shall be done in such manner as not to interfere with the Contractor's or Landlord's completion of the Building. If Tenant delays Landlord's completion of the Premises, then, after written notice, Landlord shall be entitled to complete any work undertaken by Tenant in readiness of the Premises (and Tenant shall reimburse Landlord for the cost thereof). In no event shall Landlord be liable to Tenant for any damages whatsoever for failure to deliver the Premises as aforesaid nor shall Tenant be liable for any rent until such time as Landlord can deliver possession unless the delay was caused by the actions of the Tenant. Further, should Tenant enter to make installations prior to the commencement date, insurance will be provided as described in Paragraph 19, Insurance, below.

11. **USES PROHIBITED:** Tenant shall not do or permit anything to be done in or about the Premises, not bring nor keep anything therein which will in any way affect the fire or other insurance upon the Building, or any of its contents, which shall in any way conflict with any law, ordinance, rule or regulation affecting the occupancy and use of the Building, which is now, or may hereafter be, enacted or promulgated by any public authority. Tenant shall not obstruct or interfere with the rights of other tenants of the Building, or injure or annoy them. Tenant shall not use, or allow the Premises to be used, for any improper, immoral or objectionable purpose, or for sleeping purposes, washing of clothes, or cooking, and nothing shall be prepared, manufactured or mixed in the Premises which might emit an odor and/or fumes of any type into any part of the Building.

12. **RULES AND REGULATIONS:** The rules and regulations attached to this Lease, as well as such rules and regulations as may be hereafter adopted by Landlord for the safety, care and cleanliness of the Building and the preservation of good order therein and for the most efficient and advantageous use by all tenants, agents, employees, invitee and visitors of the automobile parking spaces provided by Landlord, are expressly made a part of this Lease and Tenant agrees to comply with such rules and regulations. No rules and regulations shall be inconsistent with the reasonable use of the Premises by Tenant, its agents,

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employees, invitee and visitors for the purposes permitted by this Lease.

- 13. **ASSIGNMENT AND SUBLETTING:** Tenant will not assign, mortgage, pledge, or hypothecate this Lease, or any interest therein, nor shall Tenant permit the use of the Premises by any person or persons other than Tenant, nor shall Tenant sublet the Premises, or any part thereof, without the written consent of Landlord, which, consistent with the provisions of this paragraph 13, shall not be unreasonably withheld. Consent to any such assignment or subletting shall not operate to release Tenant from its obligations hereunder, nor operate as a waiver of the necessity for a consent to any subsequent assignment or subletting, and the terms of such consent shall be binding upon any person holding by, under or through Tenant. In the event Tenant desires to sublease the Premises, or assign this Lease, Tenant shall submit to Landlord the name of the proposed sub-tenant or assignee, along with sufficient background and credit information to enable Landlord to determine the qualifications of the proposed sub-tenant or assignee. Landlord shall notify Tenant of the acceptance or rejection of the proposed sub-tenant or assignee within twenty days (20) following the receipt by Landlord of the aforesaid information. In the event Landlord rejects the proposed sub-tenant or assignee, Landlord shall state the reasons for such rejection and the burden of overcoming the reasons for the rejection shall be that of the Tenant or proposed sub-tenant or assignee.

Notwithstanding anything contained herein to the contrary, the acceptance by Landlord of any prospective sub-tenant or assignee is contingent upon both Tenant and prospective sub-tenant or assigned executing an affidavit attaching a true and complete copy of the sublease or assignment and stating all terms of the sublease or assignment including all consideration paid or to be paid under the sublease or assignment. To the extent that the total consideration to be paid under the sublease or assignment exceeds the total consideration that would have been paid by Tenant pursuant to the terms of this Lease, Landlord may require, as a condition of its approval of the sub-tenant or assignee that all or a portion of said economic benefit be paid directly to Landlord.

- 14. **MAINTENANCE OF DEMISED PREMISES:** Tenant shall not commit nor allow any waste or damage to be committed on any portion of the Premises. Tenant shall, at its own cost and expense, make any repairs or replacements to the Premises required by the acts, whether of commission or omission, of Tenant or Tenant's agents, employees, invitee, or visitors. If Tenant fails to make such repairs or replacements, Landlord may, but shall not be obligated to, make such repairs or replacements and Tenant shall repay the cost thereof as additional rent to Landlord upon demand, together with interest thereon at the highest rate permitted by applicable law from the date of advancement to repayment by Tenant.

Notwithstanding anything contained herein to the contrary, upon the expiration of this Lease, Tenant shall deliver the Premises to Landlord in their original condition, ordinary wear and tear excepted. Tenant shall be obligated, at its own cost and expense, to make any repairs or replacements above and beyond ordinary wear and tear to the Premises prior to vacating the Premises. Tenant shall notify Landlord of any needed repairs to the Premises, and Landlord shall respond to Tenant within twenty four (24) hours. Should Landlord fail to respond to Tenant within such time, and should Tenant be required to make such repairs or contract for same, Landlord shall be responsible for reimbursing Tenant for any cost incurred in such repairs. Should Landlord refuse to repair or maintain the Premises as required herein, Tenant shall have the sole and absolute right to terminate this Lease, after the expiration of any applicable cure period, and all deposits shall be returned to the Tenant within fifteen (15) days after such termination.

- 15. **ALTERATIONS, ADDITIONS OR IMPROVEMENTS:** Tenant will not make nor allow to be made any alterations or physical additions in or to the Premises without the prior written consent of Landlord, such consent not to be unreasonably withheld or delayed. Unless otherwise provided by written agreement, all such consented alterations, additions or improvements, except those items installed by Tenant without damaging the Premises, shall be done by licensed contractors in a good and workmanlike manner, but at the sole cost of Tenant, and shall become the property of Landlord and shall remain upon and be surrendered with the Premises. All trade fixtures and equipment installed by Tenant in the Premises shall be new or completely reconditioned and shall remain the property of Tenant. Tenant will not install or maintain any electrically operated equipment or other machinery or equipment except light office machines normally used in the operations and uses of the Premises permitted under this Lease, without first obtaining the consent in writing of Landlord who may condition such consent upon the payment by Tenant of additional rent as compensation for excess consumption of water and/or electricity occasioned by the operation of said equipment or machinery.

- 16. **DESTRUCTION OF PREMISES:** If the Premises or the Building shall be destroyed by fire or other cause, or be so

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damaged thereby that they are untenable and cannot be rendered tenable within a reasonable time, considering the extent of the destruction or damage, from the date of such destruction or damage, this Lease may be terminated by Landlord or Tenant by written notice given by the terminating party to the other within forty-five (45) days after the event causing such untenability and rent shall cease as of the date of such untenability. In the event that the Premises shall be destroyed or so damaged as to be untenable and should this Lease not be terminated in the manner hereinbefore provided, then rent shall abate from the period of such untenability, provided such damage or destruction is not caused by the Tenant, its agents, employees or invitees, and the Term of this Lease shall be extended by the period of such untenability. In case the damage or destruction is not such as to permit a termination of the Lease as above provided, a proportionate reduction shall be made in the rent herein reserved corresponding to the time during which, and applicable to the portion of the Premises of which, Tenant shall be deprived of possession, provided such damage or destruction is not caused by Tenant, its agents, employees or invitees.

17. **ENTRY AND INSPECTION:** Tenant will permit Landlord and its agents to enter into and upon the Premises at all reasonable times for the purpose of inspecting the same, or for the purpose of protecting Landlord's reversion, or to make alterations, additions, or repairs required of Landlord under the terms of this Lease or repairs to any adjoining space or utility services, or make repairs, alterations, or additions to any other portion of the Building, or for maintaining any service provided by Landlord to tenants in the Building. Landlord reserves the right and Tenant hereby consents to allow Landlord access to and from the corridor through Tenant's leased Premises by way of the ceiling. Tenant will permit Landlord upon twenty four (24) hours notice at any time within thirty (30) days prior to the expiration of this Lease to bring prospective tenants upon the Premises for purposes of inspection or display.

18. **HOLD HARMLESS:** Except for damage resulting from Landlord's ordinary negligence, Landlord shall not be liable to Tenant, Tenant's agents, employees or invitee for any injury or damage that may result to any person or property by or from any cause whatsoever (and without limiting the generality of the foregoing, whether caused by gas, fire, oil, electricity, bursting of pipes or defective construction) in, on or about the Building or the Premises, or any part thereof. Subject to the provisions and monetary limitations of Section 768.28(5), Florida Statutes, which limitations shall be applicable regardless of whether such provisions would otherwise apply, and to the extent permitted by law. Tenant agrees to hold Landlord harmless from and indemnify Landlord against any and all claims, liabilities, costs or expenses whatsoever (including attorney's fees and court costs) for any injury or damage to any person or property whatsoever, (a) occurring in, on or about the Premises or any part thereof, and (b) occurring in, or about any facilities the use of which Tenant may have in conjunction with other tenants of the Building, when such injury or damage shall be caused in part or in whole by the act, negligence or fault of, or omission of any duty with respect to the same by Tenant, its agents, invitees or employees.

It is specifically understood and agreed that there shall be no personal liability on Landlord in respect to any of the covenants, conditions or provisions of this Lease; in the event of a breach or default by Landlord of any of its obligations under this Lease, Tenant shall look solely to the equity of Landlord in the Building for the satisfaction of Tenant's remedies.

19. **INSURANCE:** Tenant will acquire at its own cost and expense (with coverage to commence at the time Tenant enters the Premises to make installations, etc., or at the commencement of the term of this Lease, whichever occurs earlier), and will maintain in force continuously throughout the term of this Lease (a) Comprehensive General Public Liability Insurance, including automobile liability coverage, on an occurrence basis with minimum limits of liability in an amount of One Million (\$1,000,000.00) Dollars for bodily injury, personal injury or death to any one person and One Million (\$1,000,000.00) Dollars for bodily injury, personal injury or death to more than one person, and One Hundred Thousand (\$100,000.00) Dollars for property damage, and (b) Fire Insurance, Extended Coverage, Vandalism, Malicious Mischief, and Special Extended Coverage as protection against loss or damage by fire or windstorm in an amount adequate to cover the cost of replacement of all decorations and improvements to, and replacement of all fixtures, outside plate glass, and contents of, the Premises.

Tenant shall forthwith furnish Landlord a certificate by the Insurer that such insurance is in force. In the event Tenant fails to obtain and maintain the insurance required hereunder, Landlord may, at its option, obtain same and any costs incurred by Landlord in connection therewith shall be deemed additional rent to be paid by Tenant and payable as such upon demand, together with interest thereon at the highest rate permitted by applicable law from the date of advancement to repayment by Tenant.

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Any insurance procured by Tenant as herein required shall be issued by a company licensed to do business in the State of Florida and reasonably acceptable to Landlord and shall contain endorsements that (a) such insurance may not be canceled or amended without thirty (30) days advance written notice by certified mail to Landlord by the insurance company; and (b) Tenant shall be solely responsible for payment of premiums and Landlord shall not be required to pay any premiums for such insurance.

20. **SERVICE:** Landlord agrees to furnish the Premises, subject to the regulations of the Building, and subject to the availability of utility services from the public utility companies and authorities furnishing the requisite utility services to the Building, with (a) heated and refrigerated air conditioning from 7:00 a.m. to 6:00 p.m. Monday through Friday and 8:00 a.m. to 12:00 p.m. Saturdays (excluding generally recognized holidays), at such temperatures and in such amounts as may reasonably be required; (b) elevator service; (c) water for domestic consumption; (d) sewage service; (e) sufficient electricity for normal and customary usage for the purposes for which the Premises are leased as determined by Landlord; (f) janitorial service; and (g) exterminating service. In addition, the buildings have in place an alarm system at all building main entrances and exits. All of the aforesaid shall be furnished by Landlord at no additional cost to Tenant in a manner and to the extent deemed by Landlord to be reasonable for an office building. In the event Tenant wishes air-conditioning or heat during periods other than the above specific hours, or electricity in amounts of excess of those specified above, Tenant shall request same and Landlord may, at its option, provide such service; provided, however, Tenant shall be responsible for the reasonable cost thereof, as specified by Landlord and shall pay same within ten (10) days following request for payment by Landlord, without set-off or defense. The cost of overtime air conditioning shall be at a rate of \$35.00 per hour subject to increases at Landlord sole discretion based on Florida Power & Light Company. Landlord shall also maintain all public and special service areas in a like manner. Landlord shall not be liable to Tenant for any interruption in the service of any utility as referenced above, including elevator service and air conditioning which Landlord undertakes to furnish to Tenant so long as Landlord exercises reasonable efforts to assure a continuance of said services. It is understood that Landlord does not guarantee uninterrupted utility services to the Premises and Tenant assumes the risk of any interruption of utility services caused by a failure or interruption of utility service from the utility company or authority providing that service. No interruption or failure of said services shall relieve Tenant from the obligation to pay the full amount of the rent herein reserved, unless electric service should remain disrupted for a period of longer than seven (7) days. Tenant's rent shall be pro-rated accordingly, and failure of services shall not constitute a constructive or other eviction of Tenant. Tenant shall give Landlord prompt notice of all accidents to or defects in air conditioning equipment, plumbing, electric facilities or any part or appurtenance of the leased Premises.

21. **NOTICES:** All notices required or permitted to be given under the terms and provisions of this Lease by either party to the other shall be given in writing and shall be given by personal delivery or by registered or certified mail, return receipt requested, and postage prepaid, sent to Landlord at the address stated in paragraph 5 hereof and to Tenant at the Premises. Any notice to be given to Tenant under the terms of this Lease, if given by registered or certified mail, as above provided, shall be sent to Tenant at: **10720 Caribbean Blvd., Suite 120, Miami, Florida 33189**. Notice given by personal delivery shall be effective as of the date of delivery and notice mailed shall be effective as of the third day (not a Saturday, Sunday or legal holiday) next following the date of mailing.

22. **DEFAULT AND RE-ENTRY:** Tenant covenants and agrees that any of the following events shall be a default under this Lease: (i) if any financial report or statement, certificate, statement, representation or warranty at any time furnished or made by or on behalf of Tenant or any guarantor of any of Tenant's obligations hereunder, including, without limitation, any representation or warranty made by Tenant herein, proves to have been false or misleading in any material respect at the time the facts therein set forth were stated or certified, or any such financial report or statement has omitted any material contingent or unliquidated liability or claim against Tenant or any such guarantor; or (ii) if Tenant or any guarantor of any of Tenant's obligations hereunder shall fail to perform or observe any covenant, condition or agreement to be performed or observed by it hereunder or under any guaranty agreement; or (iii) if Tenant or any guarantor of Tenant's obligations hereunder shall be in breach of or in default in the payment and performance of any obligation owing to Landlord, whether or not related to this Lease and howsoever arising, whether by operation of law or otherwise, present or future, contracted for or acquired, and whether joint, several, absolute, contingent, secured, unsecured, matured or unmatured; or (iv) if Tenant or any guarantor of any of Tenant's obligations hereunder shall cease doing business as a going concern, make an assignment for the benefit of creditors,

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generally not pay its debts as they become due or admit in writing its inability to pay its debts as they become due, file a petition commencing a voluntary case under any chapter of the Bankruptcy Code, 11 U.S.C. 101 et seq. (the "Bankruptcy" Code"), be adjudicated an insolvent, file a petition seeking for itself any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar arrangement under any present or future statute, law, rule or regulation, or file an answer admitting the material allegations of a petition filed against it in any such proceeding, consent to the filing of such a petition or acquiesce in the appointment of a trustee, receiver, custodian or other similar official for it or of all or any substantial part of its assets or properties, or take any action looking to its dissolution or liquidation; or (v) if an order for relief against Tenant or any guarantor of any of Tenant's obligations hereunder shall have been entered under any chapter of the Bankruptcy Code, or a decree or order by a court having jurisdiction over the Premises shall have been entered approving as properly filed a petition seeking reorganization, arrangement, readjustment, liquidation, dissolution or similar relief against Tenant or any guarantor of any of Tenant's obligations hereunder under any present or future statute, law, rule, or regulation, or within thirty (30) days after the appointment without Tenant's or such guarantor's consent or acquiescence, of any trustee, receiver, custodian or other similar official for it or such guarantor or of all or any substantial part of its or such guarantor's assets and properties, such appointment is not vacated; or (vi) if Tenant shall abandon or vacate the Premises, or if Tenant shall fail to use the property for the purposes outlined in Paragraph 3 for a continuous period of thirty (30) calendar days, the determination of which shall be in Landlord's sole judgment. In the event of any of the foregoing defaults, Landlord may, at its option, subject to the provisions of paragraph 23, Grace Period, of this Lease:

- (a) re-take and recover possession of the Premises and terminate this Lease, and retain Tenant's Security Deposit as liquidated damages. The parties agree in the event of a default by Tenant, Landlord's damages would be difficult to determine and this option of Landlord for liquidated damages is fair and not in the nature of a penalty.
- (b) re-take and recover possession of the Premises, without terminating this Lease, in which event Landlord may re-rent the Premises as agent for and for the account of Tenant and recover from Tenant the difference between the rental herein specified and the rent provided in such re-rental.
- (c) permit the Premises to remain vacant in which event Tenant shall continue to be responsible for all rental and other payments thereunder.
- (d) re-take and recover possession of the Premises, accelerate and collect all rentals due hereunder for the balance of the Term of this Lease.
- (e) declare all installments of rent for the whole Term hereof due and payable at once without demand.
- (f) take such other action as may be permitted under applicable law.

All of the foregoing remedies shall be cumulative and election by Landlord to take any one remedy shall not preclude Landlord from taking any other remedy. In the event Landlord fails to keep or perform any material term, covenant, condition, or provision of this Lease, and such failure continues for thirty (30) days after written notice from Lessee and opportunity to cure; unless such failure requires work to be performed, acts to be done, or conditions to be removed which cannot be performed, done or removed within such thirty (30) days, in which case the default shall not be deemed to exist as long as Landlord: (i) advises Tenant by written notice within fifteen (15) days after Tenant's notice that Landlord intends to take all steps necessary to remedy such failure with due diligence; and (ii) duly commences and diligently and continuously prosecutes completion of all steps necessary to cure and remedy the same; Tenant shall have the option to terminate this lease after the expiration of the time required for the Landlord to avail itself of the opportunity to cure, and all deposits shall be returned to the Tenant within fifteen (15) days after such termination.

23. GRACE PERIOD: Before Landlord takes any action against Tenant under this Lease as the result of any claimed default other than for the payment of rent, or additional rent, Landlord shall give Tenant five (5) days advance written notice specifically setting forth the claimed default, and Landlord shall not have the right to declare this Lease terminated if within five (5) days after the effective date of such notice Tenant shall have undertaken to cure and correct claimed default or defaults and shall thereafter proceed with diligence in the curing and correction of such default or defaults.

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- 24. **ATTORNEY'S FEES AND COSTS:** In the event of any litigation arising out of the enforcement of this Lease, the prevailing party in such litigation shall be entitled to recovery of all costs, including reasonable attorney's fees.

- 25. **NON-WAIVER OF BREACH:** Landlord's failure to take advantage of any default or breach of covenant on the part of Tenant shall not be or be construed as a waiver thereof, nor shall any custom or practice which may grow between the parties in the course of administering this instrument be construed to waive or to lessen the right of Landlord to insist upon the performance by Tenant of any term, covenant or condition hereof, or to exercise any rights given him on account of any such default. A waiver of a particular breach or default shall not be deemed to be a waiver of the same or any other subsequent breach or default. The acceptance of rent hereunder shall not be, or be construed to be, a waiver of any breach of any term, covenant or condition of this Lease and neither shall be the presentation of any rent in the form of a check marked by Tenant to constitute a waiver constitute same unless Landlord acknowledges same by separate written instrument. No surrender of the Premises for the remainder of the Term hereof shall operate to release Tenant from liability hereunder.

- 26. **SUBORDINATION BY TENANT:** This Lease, and Tenant's rights hereunder, are hereby made expressly subject and subordinate at all times to any and all mortgages, ground or underlying leases affecting the Premises which have been executed and delivered by Landlord, or its successors or assigns, or are hereafter created and any and all extensions and renewals thereof and substitutions therefor and modifications and amendments thereof, and to any and all advances made or to be made under or upon said mortgages, ground or underlying leases. Tenant agrees to execute any instrument or instruments which the Landlord may deem necessary or desirable to further evidence the subordination of this Lease to any or all such mortgages, ground or underlying leases. Tenant hereby irrevocably appoints Landlord as Attorney-in-Fact for Tenant with full power and authority to execute and deliver in the name of Tenant any such instrument or instruments. In the event the Tenant shall refuse after reasonable notice to execute such instrument or instruments, the Landlord may, in addition to any right or remedy occurring hereunder, terminate this Lease without incurring any liability whatsoever and the estate hereby granted is expressly limited accordingly. Tenant further agrees to make such reasonable modifications to this Lease (not increasing Tenant's obligations hereunder) as may be requested by the holder of any such mortgage, ground or underlying Lease. Tenant will remain in possession if Tenant is in compliance with the Lease.

- 27. **TIME:** It is understood and agreed between the parties that time is of the essence of this Lease, and to all of the terms, conditions and provisions contained herein.

- 28. **TRANSFERABILITY:** Landlord shall have the right to transfer and assign, in whole or in part, all and every feature of its rights and obligations hereunder and in the Building and property referred to herein, and upon an assignment of this Lease and/or sale of the Building, Landlord named herein shall no longer be liable to Tenant for any obligations hereunder, but instead, Landlord's successor in interest shall become the new Landlord hereunder, and subject to the provisions hereof.

- 29. **AMENDMENT OF LEASE:** This Lease may not be altered, changed or amended, except by an instrument in writing, signed by the party against who enforcement is sought. This Lease contains the entire agreement reached in all previous negotiations between the parties hereto and there are no other representations, agreements or understandings except as specifically set forth herein.

- 30. **CONDEMNATION:** In the event the whole or any part of the Building other than a part not interfering with the maintenance or operation thereof shall be taken or condemned for any public or quasi-public use or purpose, the Landlord may at its option terminate this Lease from the time title to or right to possession of the Building or part thereof shall vest in or be taken for such public or quasi-public use or purpose. Tenant shall not be entitled to receive any portion of any award made or paid to Landlord representing the property of Landlord taken or damaged and Tenant hereby expressly waives and relinquishes any right or claim to any portion of any such award regardless of whether any such award includes any value attributable to Tenant's leasehold estate. However, Tenant shall have the right to claim and recover from the condemning authority, but not from Landlord, such special and separate damages as may be recoverable by Tenant independent of and without diminution of Landlord's recovery.

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- 31. **SURRENDER OF DEMISED PREMISES:** At the expiration or termination of the tenancy, Tenant shall surrender the Premises in good condition, reasonable wear and tear excepted, and damage by unavoidable casualty (except to the extent that the same is covered by Landlord's fire insurance policy with extended coverage endorsement), and Tenant shall surrender all keys for the Premises to Landlord at the place then fixed for the payment of Rent and shall inform Landlord of all combinations on locks, safes and vaults, if any, in the Premises. Tenant shall remove all its trade fixtures and any alterations or improvements, subject to the provisions of paragraph 15, Alterations, Additions or Improvements, before surrendering the Premises, and shall repair, at its own expense, any damage to the Premises caused thereby. Tenant's obligations to observe or perform this covenant shall survive the expiration or other termination of the Term of this Lease.

- 32. **HOLDING OVER:** In case of holding over by Tenant after expiration or termination of this Lease, Tenant will pay as liquidated damages during such holdover period double the amount of the monthly rent installment for the last month in the Term of this Lease for each month in the holdover period during the entire holdover period. No holding over by Tenant after the Term of this Lease shall operate to extend the Lease, except that any holding over with the consent of Landlord in writing shall thereafter constitute this Lease as a month to month tenancy. In addition, Tenant specifically agrees that in the event Tenant retains possession and does not quit and surrender the Premises to Landlord, then Tenant shall pay to Landlord all damages that Landlord may suffer on account of Tenant's failure to so surrender and quit the Premises, and Tenant will indemnify and save Landlord harmless from and against any and all claims made by succeeding tenant of the Premises against Landlord on account of delay of Landlord in delivering possession of the Premises to said succeeding tenant, to the extent that such delay is occasioned by the failure of Tenant to so quit and surrender said Premises.

- 33. **CONSTRUCTION:** The parties hereto intend that the laws of the State of Florida govern the interpretation and enforcement of this Lease. The words "Landlord" and "Tenant" as used herein shall include the plural as well as the singular. Words used in masculine gender include the feminine and neuter. If there is more than one Landlord or Tenant, the obligations hereunder imposed upon Landlord or Tenant shall be joint and several. The words "Landlord" and "Tenant" shall also extend to and mean the successors in interest of the respective parties hereto although this shall not be construed as conferring upon the Tenant the right to assign this Lease or sublet the Premises or confer rights of occupancy upon anyone other than Tenant. The marginal headings or titles to the paragraphs of this Lease are not a part of this Lease and shall have no effect upon the construction or interpretation of any part thereof.

- 34. **QUIET ENJOYMENT:** Tenant shall and may peaceably have, hold and enjoy the Premises subject to the terms of this Lease and provided Tenant pays the rental herein reserved and performs all the covenants and agreements herein contained.

- 35. **ATTORNEYMENT:** In the event any proceedings are brought for the foreclosure of, or in the event of exercise of the power of sale under any mortgage or lease made by Landlord encumbering the Premises and/or the Building, Landlord shall be released from all liability hereunder and Tenant shall attorn to the purchaser upon any such foreclosure or sale and recognize such purchaser as the Landlord under this Lease.

- 36. **ESTOPPEL CERTIFICATE:** Within ten (10) days after request therefore by Landlord, Tenant shall deliver to Landlord in a form satisfactory to Landlord, a certificate certifying (i) the good standing and absence of default under this Lease, (ii) the absence of set-offs or charges hereunder, (iii) the validity and completeness of a copy of this Lease and all amendments, to be attached to the certificate, (iv) the amount of pre-paid rent, (v) the amount of Security Deposit, (vi) the commencement and expiration dates hereof, (vii) the dates and amounts of the last made and next due rental installments, and such other reasonable matters as Landlord shall request.

- 37. **INTENTIONALLY DELETED:**

- 38. **BROKERAGE:** Each of the parties represents and warrants that there are no brokers involved in this Lease transaction and that neither party has been contacted by any other broker with regard to the leasing of space by Landlord to Tenant or in connection with the execution of this Lease, except as listed below, and each of the parties agrees, subject to the provisions and monetary limitations of Section 768.28(5), Florida Statute, which limitations shall be applicable regardless of whether such provision would otherwise apply, and to the extent permitted by law, to indemnify the other, and hold him harmless from all

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liabilities arising from any such claim, including, without limitation, any suit costs and counsel fees incurred in connection with any such claim.

Broker: n/a

- 39. **RECORDING:** Tenant shall not record this Lease without the written consent of the Landlord.
- 40. **CONFIDENTIALITY:** Landlord and Tenant hereby agree that the terms and conditions of this Lease are of a confidential nature. Tenant covenants that Tenant will not reveal either the terms, provisions or conditions under which Tenant occupies the Premises. This clause shall be binding on the Tenant, his employees and agents who may be acting in his capacity.
- 41. **SEVERABILITY:** Inapplicability, invalidation, or unenforceability of any one or more of the provisions of this Lease or any instrument executed and delivered pursuant hereto, by judgment, court order or otherwise, shall in no way affect any other provision of this Lease or any other such instrument, which shall remain in full force and effect.
- 42. **LIMITATION OF LIABILITY:** Tenant shall look solely to Landlord's equity interest in the Premises for the satisfaction of any judgment or decree requiring the payment of money by Landlord, based upon any default under this Lease, and no other property or asset of Landlord shall be subject to levy, execution or other enforcement procedure for the satisfaction of such judgment or decree, it being intended that Landlord shall not be personally liable for any judgment or deficiency.
- 43. **LIENS FOR IMPROVEMENTS:** The interest of the Landlord in the property covered by this Lease shall not be subject to any liens for improvements made by the Tenant to the Premises.
- 44. **DISPLAYS, FIXTURES, ETC.:** In order to preserve the building aesthetics, no display material (e.g. signs, decorations, lettering, advertising, etc.) will be permitted on the windows of Tenant's suite. Further, installation of any displays within the suite which may be visible from the lobby and/or corridor, and/or exterior of the building, shall require written approval of the Landlord. Additionally, Landlord reserves the right to provide additional window tinting, and/or blinds, as per specifications of Landlord and at Landlord's expense. Landlord further reserves the right to provide additional window tinting and/or blinds in the lobby, if in Landlord's judgment Tenant does not maintain the Premises in a neat, clean and orderly fashion. Finally, all fixtures (e.g. blinds, railings, etc.) behind any interior glass is considered property of the Building and cannot be altered, modified or moved in any way.
- 45. **RADON:** Radon is a naturally occurring radioactive gas that, when accumulated in buildings in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed Federal and State guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.
- 46. **PERSONAL PROPERTY:** If any personal property belonging to Tenant remains on the Premises after the tenancy created under this Lease has terminated or expired, and the Premises have been vacated by Tenant voluntarily, by eviction, or otherwise, then such personal property shall be conclusively presumed to have been abandoned and Landlord shall dispose of said personal property without notice to Tenant, by sale, removal or otherwise, or to use said personal property without notice to Tenant. Tenant does hereby waive any claims against Landlord or anyone else concerning such personal property remaining on the Premises.
- 47. **HAZARDOUS MATERIAL:** Under no circumstances will Tenant use the suite for storage of hazardous materials and/or corrosive, flammable fluids.
- 48. **WAIVER OF JURY TRIAL:** Each party waives the right to trial by jury in any dispute relating to this agreement.

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ENTIRE AGREEMENT: This Lease and the Exhibit(s) made a part hereof constitute the entire agreement and understanding of the parties hereto, and shall not be modified or amended except by written instrument duly executed by the parties hereto.

IN WITNESS WHEREOF, Landlord and Tenant have duly executed this Lease in several counterparts as of the day and year first hereinbefore written, each of which counterparts shall be considered an executed original and in making proof of this Lease it shall not be necessary to produce or account for more than one counterpart.

LANDLORD:

PINNACLE INVESTMENT PROPERTIES, INC.

By _____
(Landlord) **William A. Sport, President**

TENANT:

**Town of Cutler Bay, a Florida
Municipal Corporation**

By _____
(Tenant) **Steven Alexander, Town Manager**

By _____
(Tenant) **Town Clerk**

WITNESSES:

(As to Landlord)

(As to Tenant)

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RULES AND REGULATIONS

1. **SIGNS:** No sign, placard, picture, advertisement, name or notice shall be inscribed, displayed, printed or affixed on or to any part of the outside of the building or to any interior public area without the written consent of Landlord, and Landlord shall have the right to remove any such objectionable sign, placard, picture, advertisement, name or notice without notice to, and at the expense of Tenant.

2. **BULLETIN BOARD:** The bulletin board or directory of the building will be provided exclusively for the display of the name and location of Tenant only, and Landlord reserves the right to exclude any other names therefrom.

3. **LOCKS:** No additional locks and/or replacement locks shall be placed on any door without a written request to Landlord and per Landlord's written consent. Landlord requires that changes be done by Landlord at Tenant's expense and that Landlord retain a key to each lock installed for security/safety purposes.

4. **NON-RESPONSIBILITY:** Landlord is not responsible to any tenant for the non-observance or violation of the rules and regulations by any other tenant.

5. **DOORS:** The doors between the premises and the corridors of the building shall at all times, except when in actual use for ingress and egress, be kept closed.

6. **HALLS AND STAIRWAYS:** The entries, passages, stairways and elevators shall not be obstructed by tenants, or used for any purposes other than ingress or egress to and from their respective offices. Tenant shall not bring into or keep within the building any animal or vehicle.

7. **NO SMOKING:** The Building is a non smoking building. Smoking will not be permitted in any of the common areas; hallways, bathrooms, stairways, entry/exit areas.

8. **PLUMBING:** The wash-bowls, water closets and urinals shall not be used for any purpose other than those for which they were constructed. Any stoppages within demised premises shall be corrected by Tenant at Tenant's expense.

9. **CLOSING PRECAUTIONS:** Tenant shall see that the doors of the demised premises are closed and securely locked before leaving the building, and Tenant shall exercise extraordinary care and caution that all water faucets or water apparatus are entirely shut off before Tenant or Tenant's employees leave the building, and that all electricity, gas, air conditioning or heating shall likewise be carefully shut off, so as to prevent waste or damage, and for any default or carelessness, Tenant shall make good all injuries sustained by other tenants or occupants of the building or Landlord.

10. **MOVING FURNITURE, SAFES, ETC.:** No furniture, freight or equipment of any kind shall be brought into or removed from the building without the consent of Landlord and all moving of same, into or out of building by tenants shall be done at such times and in such manner as Landlord shall designate. Landlord shall have the right to prescribe the weight, size and position of all safes and other heavy property brought into the building, and also the times and manner of moving the same in and out of the building. Landlord will not be responsible for loss of or damage to any such safe or property from any cause; but all damage done to the building by moving or maintaining any such safe or property shall be repaired at the expense of Tenant.

All deliveries, unless hand-carried, must be made in designated padded elevator for freight. Landlord reserves right to stop deliveries when elevator is needed for passenger transport.

11. **NUISANCE:** Tenant will conduct his business and prevent his agents, employees, invitees and visitors from creating any nuisance, annoyance, disturbance or excessive noise within the building.

12. **VIOLATION OF RULES:** Landlord reserves the right to exclude or expel from the building, any person who, in the judgement of Landlord, is intoxicated or under the influence of liquor or drugs, or who shall in any manner do any act in violation of the rules and regulations of the building.

Initials

Landlord

Tenant

13. **REQUIREMENTS OF TENANT:** The requirements of Tenant will be attended to only upon application to the management of the building. Employees of Landlord shall not perform any work or do anything outside of their regular duties unless under special instructions from the management of the building, and no employee will admit any person (Tenant or otherwise) to any office without specific instructions from the management of the building.

14. **ROOMS USED IN COMMON:** Rooms used in common by tenants shall be subject to such regulations as are posted therein.

15. **ENTRANCE DOORS:** Landlord reserves the right to close and keep locked all entrance and exit doors of the building during such hours as the building is not generally open for business. In such event, Landlord shall supply keys to tenants, or may employ a watchman to control entry into the building. In the event a watchman is employed, all persons entering or leaving the building during hours when it is not normally open for business may be required to sign the building register. Landlord may require that any person wishing to enter the building during such hours obtain a previously arranged pass or provide other satisfactory identification showing his right of access to the building. Landlord assumes no responsibility and shall not be liable for any damage resulting from any error in regard to any such pass or identification, or from the admission of any unauthorized person to the building.

16. **LAWS AND REGULATIONS:** Tenant will keep and maintain the demised premises in a clean and healthful condition and comply with all laws, ordinances, orders, rules and regulations (State, Federal, Municipal and other agencies or bodies having any jurisdiction thereof), with reference to use, conditions or occupancy of the demised premises.

17. **LICENSES:** Tenant shall obtain and maintain in force at its expense throughout the Term of the Lease all licenses required by the Dade County, i.e., Certificate of Use and Occupancy, Occupational License, etc....

18. **PARKING:** A parking area reserved for use by tenants of the building will be maintained by Landlord. Landlord shall use reasonable efforts to prevent unauthorized use of the reserved parking area, but shall not be liable to Tenant for any such unauthorized use, nor does Landlord warrant that a parking space shall, in every event, be available for Tenant, nor shall any such portion of reserved parking area be considered a portion of Tenant's demised premises. Overnight parking shall not be permitted.

The parking rules set forth above may be changed at the discretion of Landlord in order to accomplish the most efficient use of the parking area by all tenants, their agents, employees, invitees, and visitors. Additionally, Landlord may designate a certain portion of the parking area as reserved for specific tenants, and access to this area may be limited to said tenants who pay a monthly fee for use of this parking area. Landlord reserves the right to place stickers on, and/or tow, any violating vehicles.

19. **WIRING:** When wiring of any kind is introduced, it must be connected as directed by Landlord, and no boring or cutting for wires will be allowed except with the consent of Landlord. The location of telephones, call boxes and other office equipment affixed to the demised premises shall be prescribed by Landlord. Tenant will not, without the written consent of Landlord, connect any apparatus or device, the use of which is not usual and normal for the purposes for which the demised have been leased, which will in any way increase the amount of electricity, water or gas usually furnished or supplied to the premises, or which shall overload the circuits from which Tenant obtains electrical current. All telecommunications and data wiring shall be at Tenant's expense. Cabling contractor for phones and data must be a licensed contractor who will be able to obtain a low voltage permit from the Miami-Dade County before starting work and must have their inspections from the Miami-Dade County on all cable installations jobs. Tenant's contractor shall provide Landlord with a Certificate of Insurance naming Landlord as additional insured. Tenant agrees to remove all telecommunications and data wiring and all cabling at Lease Termination, at Tenant's sole cost and expense, by a licensed contractor and shall provide Landlord with a Certificate of Insurance naming Landlord as additional insured.

20. **REPORTING ACCIDENTS:** Tenant shall report to Landlord any accident involving personal injury or property damage occurring within demised premises or occurring within the public areas and which is reported to Tenant. Such report to Landlord shall be made without undue delay.

21. **DRAPERY AND VENETIAN BLINDS:** Although no window coverings are permitted in the building, Landlord

Initials

Landlord

Tenant

reserves the right to require blinds of a specific color to be installed at Tenant's expense.

22. **LOSS:** Landlord will not be responsible for any lost or stolen personal property, including but not limited to equipment, machinery, money or jewelry from Tenant's area or public rooms regardless of whether such loss occurs when the area is locked against entry or not.

23. **KEYS:** Upon expiration of this Lease, keys must be returned to the building manager or the leasing office and a receipt obtained by the Tenant. In the event Tenant fails to return keys, Landlord may retain \$50.00 of Tenant's security deposit for necessary locksmith work and administration.

24. **PETS:** No pets or animals are allowed in or around the premises and environs, with the exception to assist any handicap person.

25. **FIREARMS:** Other than law enforcement personnel, Tenant and all persons entering the building under the authority of Tenant shall be prohibited from carrying firearms of any kind into the building.

Initials

Landlord

Tenant

ADDENDUM

Attached to and made a part of Lease Agreement dated _____, 2007, by and between Pinnacle Investment Properties, Inc., whose address for purposes hereof is 10720 Caribbean Boulevard, Suite 101, Miami, Florida 33189, hereinafter called "Landlord" and Town of Cutler Bay, a Florida Municipal Corporation, whose address for purposes herein is 10720 Caribbean Blvd. Ste 120, Miami, Florida 33189, hereinafter called "Tenant".

49. OPTION TO RENEW:

Tenant shall have Three (3) One (1) year options to renew the lease upon 90 days prior written notice to Landlord. If Tenant exercises this option to renew, all terms, provisions, covents and conditions of this lease shall continue in full force and effect.

50. TENANT IMPROVEMENTS:

Landlord will complete the Leased Premises substantially in accordance with the plans and specifications to be approved by both Tenant and Landlord. Landlord will provide at Landlord's sole cost improvements to the Premises as described in Exhibit "B" hereinafter referred to as "Building Standard Work", which improvements shall be the building standard specifications of color, quantity and quality. In the event the cost of improvements for finishing premises exceeds the Landlord's "Building Standard Work" the cost in excess will be paid in advance by Tenant, the amount of such advance payment to be determined on the basis of Landlord's estimate of the total cost of finishing the Leased premises, such estimate to be based on the aforementioned plans and specifications. Cost will included direct and indirect construction costs, demolition costs, permit fees, architectural fees, applicable insurance premiums and any other costs directly attributable in finishing the Leased premises will be refunded to Tenant by landlord after a final accounting of the total cost of constructing said leased Premises is completed by landlord. All improvements made to the Leased premises shall be the property of the Landlord during the term of this Lease and shall remain the property of the Landlord upon termination of this Lease.

51. UNAMORTIZED TENANT IMPROVEMENTS:

Tenant improvements will be amortized at Twenty (\$20.00) Dollars per Square foot over Five (5) years. Tenant will be responsible for the unamortized portion of Tenant Improvements if lease terminates before this time.

Exhibit "A"

Initials

Landlord

Tenant

Attached to and made a part of Lease Agreement dated _____, 2007, by and between Pinnacle Investment Properties, Inc., whose address for purposes hereof is 10720 Caribbean Boulevard, Suite 101, Miami, Florida 33189, hereinafter called "Landlord" and Town of Cutler Bay, a Florida Municipal Corporation, whose address for purposes herein is 10720 Caribbean Blvd., Suite 120, Miami, Florida 33189, hereinafter called "Tenant".

	Initials
_____ Landlord	_____ Tenant

TAB 7



Steven J. Alexander
Town Manager

MEMORANDUM

To: Honorable Mayor and Town Council

From: Steven J. Alexander, Town Manager

Date: November 8, 2007

Re: Building Department Permitting Software

REQUEST

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, RELATING TO CONTRACTS; AUTHORIZING THE TOWN MANAGER TO ENTER INTO AGREEMENT FOR THE PURCHASE OF SOFTWARE LICENSES AND SERVICE RELATED TO THE INSTALLATION OF A NEW BUILDING DIVISION PERMITTING SOFTWARE WITH ENERGOV SOLUTIONS, LLC; PROVIDING AN EFFECTIVE DATE.

BACKGROUND AND ANALYSIS

We are in need of software related to the building division, permit issuance and tracking. The new software would increase efficiencies in the department as well as enable citizens and contractors to view the status of their applications online.

Staff has researched the numerous software vendors by attending online demonstrations and meeting/interviewing with vendor's current building department clients from at least five potential suppliers. Based on the proposals received we have determined that the building division software offered by Energov Solutions will provide us with the necessary tools to process permits more efficiently, with less room for human error and at the same time provide our citizens with the ability to access their permits online within budget. Benefits this software will provide to the building division include streamlining the permit application process making it less complicated and more efficient to use for the permitting staff. It has the ability to schedule inspections and add inspection results electronically from the field. It can create more accurate reporting to the finance department as well as the reports required by the County, State and Census Bureau. With this software we can put holds on properties that have code enforcement violations to prevent them from applying for permits without paying code enforcement fines. Further, it has the ability to put holds on contractors whose information has expired. Citizens will be able to view the status of their applications as well as the results of their inspections without leaving their home or office.

The market for Permitting Software solutions is very extensive and in most cases very costly. Software solutions such as Accela or Trakit can run anywhere between 60,000 – 150,000+. Staff was able to find several comparable software solutions that were closer to our budget



Office of the Town Manager

(BluePrince, CitizenServe, EnerGov and InkForce). All of these programs in essence offered similar features such as creating permits, scheduling and tracking inspections, calculating permit fees, reporting tools. Differences among the programs consisted in the user interface friendliness, ease of use, ability to add additional modules in the future if needed, experience and customer satisfaction of the software company and pricing (although all are in the range of 16,000 – 50,000). Most of them required purchase of additional features or modules in order to allow citizen online access. Staff visited other local municipalities' building departments for a first hand look at the software in use as well. Our staff visited Miami Shores, who has been using EnerGov for over a year and they are very pleased with it. The other two municipalities visited were Pembroke Park and West Park, who are relatively new users of InkForce. Both of these programs integrate with GIS, but of the two systems, EnerGov has had more implementations and has more experience than InkForce. Based on our analysis, EnerGov has all of the features we were looking for in a permitting software system at an economically acceptable price.

Pursuant to section 3.10 of the Town Charter, I have specifically determined that it is not advantageous for the Town to competitively bid a contract for such services at this time as the contract is with a sole source provider.

RECOMMENDATION

The Town Manager should be authorized to execute an agreement for the Purchase of Software Licenses and Service related to the installation, and implementation of Building Department Permitting software with Energov Solutions. The final decision by the Manager to enter into an agreement with Energov Solutions will be subsequent to the selection of the building services vendor.

RESOLUTION NO. 07-____

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, RELATING TO CONTRACTS; AUTHORIZING THE TOWN MANAGER TO ENTER INTO AN AGREEMENT FOR THE PURCHASE OF SOFTWARE LICENSES AND SERVICE RELATED TO THE INSTALLATION OF A NEW BUILDING DIVISION PERMITTING SOFTWARE WITH ENERGOV SOLUTIONS, LLC; WAIVING THE REQUIREMENT FOR BIDDING OF THE CONTRACT IN ACCORDANCE WITH SECTION 3.10 OF THE TOWN CHARTER; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay (the “Town”) is in need of software related to the building division, permit issuance and tracking; and

WHEREAS, pursuant to Section 3.10 of the Town Charter the Town Manager has specifically determined in the attached memorandum that it is not advantageous for the Town to competitively bid a contract for such services at this time because of the unique capabilities of the product.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, THAT:

Section 1. Recitals. The above recitals are true and correct and are incorporated herein by this reference.

Section 2. Town Manager Authorized. The Town Manager is authorized, on behalf of the Town, to execute the contract with Energov Solutions, LLC.

Section 3. Effective Date. This Resolution shall be effective immediately upon adoption.

PASSED and ADOPTED this ____ day of _____, 2007.

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ-SANTAMARIA, CMC
Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:

WEISS SEROTA HELFMAN PASTORIZA
COLE & BONISKE, P.L.
Town Attorney

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman _____
Vice Mayor Edward P. MacDougall _____
Councilmember Peggy R. Bell _____
Councilmember Timothy J. Meerbott _____
Councilmember Ernest N. Sochin _____

TAB 8

RESOLUTION NO. 07-____

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, RELATING TO APPOINTMENT OF COMMITTEE MEMBERS; REQUIRING CERTAIN MATERIALS BE PRESENTED PRIOR TO APPOINTMENT OF A COMMITTEE MEMBER; REQUIRING APPEARANCE BY COMMITTEE MEMBERS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 2.2 of the Town of Cutler Bay (the “Town”) Charter the Town Council has authority to appoint members to various committees; and

WHEREAS, in order to appoint the most qualified members, the Town Council would like to have background information regarding the prospective appointees.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, THAT:

Section 1. **Recitals.** The above recitals are true and correct and are incorporated herein by this reference.

Section 2. **Town Committee Appointees.** The Town Manager shall provide relevant background information related to prospective Town Committee Appointees. This information shall be provided prior to the meeting in which appointment of the prospective Town Committee Appointees are being considered. The background information may include a resume, a list of qualifications, a statement by the prospective appointee and/or any other relevant information. Furthermore, each prospective appointee shall make themselves available to the Council for the meeting in which their appointment is being considered.

Section 3. **Effective Date.** This Resolution shall be effective immediately upon adoption.

PASSED and ADOPTED this ____ day of _____, 2007.

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ-SANTAMARIA, CMC
Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:

WEISS SEROTA HELFMAN PASTORIZA
COLE & BONISKE, P.L.
Town Attorney

Moved By:
Seconded By:

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman _____
Vice Mayor Edward P. MacDougall _____
Councilmember Peggy R. Bell _____
Councilmember Timothy J. Meerbott _____
Councilmember Ernest N. Sochin _____

TAB 9

RESOLUTION NO. 07-___

A RESOLUTION OF THE MAYOR AND THE TOWN COUNCIL OF THE TOWN OF CUTLER, BAY, FLORIDA APPROVING AN ADDENDUM TO THE AGREEMENT BETWEEN THE MIAMI-DADE COUNTY, THE MIAMI-DADE POLICE DEPARTMENT AND THE TOWN OF CUTLER BAY; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Resolution 06-67, the Town of Cutler Bay (the "Town") previously approved an agreement between Miami-Dade County (MDC), the Miami-Dade Police Department ("MDPD") and the Town for Local Police Services; and

WHEREAS, the Town, MDPD and MDC wish to amend the agreement to allow the Town to provide police vehicles to the MDPD and MDC.

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct and are incorporated herein by this reference.

Section 2. Addendum A Approved. Addendum A between MDC, MDPD and the Town related to police vehicles is approved in the form attached as Exhibit "A" ("Addendum").

Section 3. Implementation. The Town Mayor is authorized to execute the Agreement on behalf of the Town.

Section 4. Effective Date. This Resolution shall be effective immediately upon adoption.

PASSED and ADOPTED this ____ day of _____ 2007.

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ-SANTAMARIA, CMC
Town Clerk

APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND BENEFIT OF THE TOWN OF CUTLER BAY ONLY:

WEISS, SEROTA, HELFMAN, PASTORIZA,
COLE & BONISKE, P.L.
Town Attorney

Moved By:
Seconded By:

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman _____

Vice Mayor Edward P. MacDougall _____

Councilmember Peggy R. Bell _____

Councilmember Timothy J. Meerbott _____

Councilmember Ernest N. Sochin _____

ADDENDUM A
INTERLOCAL AGREEMENT BETWEEN
MIAMI-DADE COUNTY AND
TOWN OF CUTLER BAY FOR
LOCAL POLICE SERVICES

THIS ADDENDUM, by and between the Town of Cutler Bay a municipal corporation organized and existing under the laws of the State of Florida, (hereinafter referred to as "the Town"), Miami-Dade County, Florida (hereinafter referred to collectively as "MDC"), the Miami-Dade Police Department (hereinafter referred to as "MDPD").

WHEREAS, MDC and the Town pursuant to Article XXXI of this Agreement are desirous of adding the following provision:

1. Vehicles utilized by units assigned to the Town shall be provided, maintained, and purchased solely by MDPD, unless, at the sole discretion of the Town, the Town purchases vehicles directly using MDPD vehicles specifications, as they may change from time-to-time. If the Town elects to purchase the vehicles, the Town will notify MDC no later than June 1 of each calendar year in order for MDC and the Town to coordinate the transition of the existing vehicles with the Town-provided vehicles for the following fiscal year. If the Town elects to directly purchase these vehicles, the title for these vehicles purchased by the Town will be subsequently transferred to MDC for the sum of one dollar for each and for the duration of the Agreement, the Town will be responsible for performing the maintenance of these vehicles that were formerly owned by the Town. All costs associated with any damages caused to the vehicles while in use for the Town will be the responsibility of the Town. In the event that a vehicle that was originally purchased with Town funds and subsequently titled to MDC is damaged beyond repair or "totaled" according to MDPD criteria, title will be transferred back to the Town and such vehicle will be replaced with a vehicle from the existing fleet that is similar in terms of make, model, age, mileage, and condition, and all policy charges associated with that vehicle will be incurred by the Town. After expiration or termination of the Agreement, and if there is no renewal of the Agreement, MDC agrees to transfer title to all vehicles originally purchased with Town funds back to the Town for the sum of one dollar for each and provide the Town with copies of all current maintenance records. The sale of these vehicles back to the Town will be phased in during the transition period as provided in Article XXVII. MDPD will continue to own, operate and maintain possession of any of these vehicles during the transition period when necessary to supply patrol officers with vehicles in order to maintain services pursuant to this Agreement. Furthermore, these vehicles that were originally purchased with Town funds and subsequently titled to MDC will be retired according to MDPD policies. The Town will be responsible for replacing these vehicles as they are retired. MDPD will notify the Town of the number of vehicles anticipated for retirement according to printouts provided by MDC General Services Division. Retired vehicles will be transferred back to the Town for the sum of one dollar for each vehicle.

Date: _____

STEVEN ALEXANDER
Town Manager

Date: _____

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY

WEISS SEROTA HELFMAN
PASTORIZA COLE & BONISKE, P.A.
Town Attorney

Date: _____

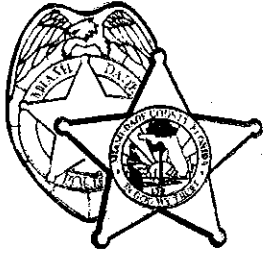
GEORGE M. BURGESS
County Manager

APPROVED BY COUNTY ATTORNEY AS
TO FORM AND LEGAL SUFFICIENCY

Cynthia Johnson-Stacks
Craig Coller

Prepared by MDPD Legal Bureau

Bart Armstrong, Esq.



Miami-Dade Police Department

Director's Office



An Internationally
Accredited
Police Service

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October 25, 2007

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Mr. Steven Alexander
Town Manager
Town of Cutler Bay
10720 Caribbean Boulevard
Suite 105
Cutler Bay, Florida 33189

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Dear Mr. Alexander:

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Thank you for your recent request to purchase vehicles with Town monies. Once purchased, you will then transfer title of the vehicles to Miami-Dade County for the sum of one dollar each, which will remain in effect for the duration of the Local Police Patrol Agreement. As the current Local Police Patrol Agreement does not contain this provision, Addendum A to the Agreement has been designed by our Police Legal Bureau to facilitate your request.

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Addendum A is enclosed for your review and signature. Upon receipt, the Miami-Dade Police Department will further execute this document through the County Manager's Office. We look forward to working with you and Town Commander Richard Pichardo to facilitate implementation of your request.

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If you should have any questions, please contact Major James J. O'Donnell at (305) 471-3226.

Sincerely,

Robert Parker
Director

Enclosure

c: George M. Burgess
County Manager

Alina T. Hudak
Assistant County Manager

TAB 10



R. Don O'Donniley, AICP
Planning Director

MEMORANDUM

To: Steven Alexander, Town Manager

From: Don O'Donniley, AICP, Planning Director

Date: November 14, 2007

**Re: Application No. 3689-07-03
Commerce Bank Site Plan Approval**

APPLICANT REQUEST:

The applicant, Commerce Bank, is requesting site plan approval for a retail bank consisting of 3,393 square feet with two drive through lanes on approximately 0.51 acres.

LOCATION:

19199 S. Dixie Highway (US-1/SR-5).

BACKGROUND:

This parcel was previously occupied as a gas station and is currently zoned BU-2. This proposal is for a single 3,393 square foot retail bank building with two drive through lanes. The applicant also proposes to remove and replace the sidewalks fronting this property along Marlin Road and S. Dixie Highway.

Town staff has reviewed this application and has met with the applicant on numerous occasions.

On April 10, 2007, a zoning workshop was held for this project where the public and the Town Council reviewed and commented on this application. Subsequent to that workshop the applicant has significantly revised the site plan in response to the comments that they received that night.

ANALYSIS

Town Staff has reviewed the proposed development in accordance with Section 33-253.9 of the Town Code and the nonresidential regulations as follows:

(1) Planning studies. Design or planning studies completed by the Department and submitted to the Town Council that include recommendations for development patterns or site plan criteria which would apply to the development proposal under review shall be utilized in the site plan review process.

The proposed site plan complies with the regulations for non-residential development within the Town.

(2) Exterior spatial relationships. The three-dimensional air-space volume created by the arrangement of structures and landscape shall produce spatial relationships that function with the intended use of the project and are compatible with the development or zoning in the adjoining area.

The intended use as a retail bank along South Dixie Highway is compatible with the development within the adjoining area. In addition, the arrangement of the bank and the landscaping does produce spatial relationships that do function with this intended use.

(3) Landscape. Landscape shall be preserved in its natural state insofar as practicable by minimizing tree removal. Landscape treatment shall be provided to enhance architectural features, strengthen vistas and important axes and provide shade.

Since this site was previously occupied by a gas station there is currently minimal landscaping on the site. The proposed site plan meets the landscape requirements as provided in Chapter 18A of the Town Code and substantially increases the amount of landscaping on the site. In addition, the landscaping enhances proposed architectural features, strengthen vistas and important axes and provides shade.

(4) Buffers. Buffering elements that provide a logical transition to adjoining, existing or permitted uses shall be provided.

This site is an out parcel in the mall and the proposed site plan does adequately buffer this site from the adjoining buildings in the mall.

(5) Scale. Scale of proposed structures shall be compatible with surrounding existing or permitted uses or shall be made compatible by the use of the buffering element.

The site plan proposes a one story structure, which is compatible in scale to the surrounding existing or proposed uses.

(6) Signs and outdoor lighting. All outdoor lighting, signs or permanent outdoor advertising or identification features shall be designed as an integral part of and be harmonious with the building design and the surrounding landscape.

All signs and outdoor lighting meet the requirements of the Town Code and are an integral part of and harmonious with the building design and the surrounding landscape.

(7) Roof installation and facilities. All permitted installations housing mechanical equipment located on the roof shall be screened from ground view and from view at the level in which the installations are located, and shall be designed as an integral part of and be harmonious with the building design.

All mechanical equipment located on the roof is screened from view to be an integral part of and harmonious with the building design pursuant to the Town's nonresidential regulations.

(8) Circulation. Pedestrian and auto circulation shall be separated insofar as practicable and all circulation systems shall adequately serve the needs of the project and be compatible and functional with circulation systems outside the development.

The proposed site plan provides for adequate pedestrian and auto circulation.

(9) Parking areas. Building wall extensions, plantings, berms or other innovative means shall be used as a means of minimizing the adverse effect of the visual impact of parking areas. This requirement is in addition to the requirements of the landscape regulations of the Town Code.

The Town Code requires 14 parking spaces for the proposed building. The proposed site plan provides 16 parking spaces, which exceeds the parking requirements by 2 spots. In addition, the parking areas are located in the rear of building decreasing the adverse effect of the visual impact of the parking areas.

(10) Service areas. Service areas which may be provided shall be screened and so located as not to be visible from view.

No service areas are provided.

(11) Visual screening for decorative walls

There are no decorative walls provided on site so visual screening is not necessary.

RECOMMENDATION:

Approval with conditions.

CONDITIONS:

1. The development shall be consistent with the following plans as revised and all other building plans and elevations on file in the Town Planning Department:
 - a. Site Plan, Titled "Commerce Bank at 19199 South Dixie Highway, Cutler Bay", prepared by Kimley-Horn and Associates, Inc., Dated 10/12/07, sheets CS, C-1, C-2, C-3, C-4, SP-1, SP-2 and PH-1, signed and sealed on 10/15/07.
 - b. Paving, Grading and Drainage Plans, entitled "Commerce Bank at 19199 South Dixie Highway, Cutler Bay", prepared by Kimley-Horn and Associates,

Inc., Dated 10/12/07, sheets C-4, C-5, WS-1, WS-2, D-1 and D-2, signed and sealed on 10/15/07.

c. Landscape Plans, Titled “Bank at 19199 S. Dixie Hwy. Cutler Bay”, prepared by Kimley-Horn and Associates, Inc, Dated 10/3/07, signed and sealed on 10/15/07, sheets LA-1 through LA-4 and IR-1 through IR-3.

d. Architecture, entitled “Commerce Bank”, prepared by InterArch, Dated 10/17/07, signed and sealed on 10/17/07, sheets A-200, A-200.1, A,300 and A-300.1.

2. Prior to the issuance of the first principal Building Permit, the applicant shall provide written approval of a permit relating to the construction, operation, and maintenance of improvements within the Florida Department of Transportation right-of-way on S. Dixie Highway (US-1/SR-5); and
3. Prior to the issuance of the first principal Building Permit, the applicant will submit architectural plans demonstrating the use of building materials other than stucco integrated as a base or a top treatment.

RESOLUTION NO. 07-____

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, GRANTING SITE PLAN APPROVAL FOR A 3,960 SQUARE FOOT BANK ON APPROXIMATELY .51 ACRES, LOCATED AT 19199 SOUTH DIXIE HIGHWAY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Rob Curtis of the Curtis Group, on the behalf of Commerce Bank (the “Applicant”), has submitted an application to the Town of Cutler Bay (the “Town”) for site plan approval of a bank consisting of 3,960 square feet on approximately .51 acres of land; and

WHEREAS, on April 10, 2007, the Applicant presented the proposed site plan during a public zoning workshop to receive input and feedback from the public and the Town Council; and

WHEREAS, staff recommended approval of the requested site plan, attached as Exhibit “A,” in its report dated November 5, 2007, as conditioned herein; and

WHEREAS, public notice was provided in accordance with law; and

WHEREAS, the Town Council finds that this Resolution is in the best interest and welfare of the residents of the Town.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct and are incorporated herein by this reference.

Section 2. Approval of Site Plan. The Town Council hereby approves the requested site plan, attached as Exhibit “A,” to this Resolution, subject to the conditions set forth below.

Section 3. Conditions. The approvals granted by this Resolution are subject to the Applicant’s compliance with the following conditions, to which the Applicant stipulated at the public hearing:

1. The development shall be consistent with the following plans as revised and all other building plans and elevations on file in the Town Planning Department:

- a. Site Plan, Titled “Commerce Bank at 19199 South Dixie Highway, Cutler Bay”, prepared by Kimley-Horn and Associates, Inc., Dated 10/12/07, sheets CS, C-1, C-2, C-3, C-4, SP-1, SP-2 and PH-1, signed and sealed on 10/15/07.
 - b. Paving, Grading and Drainage Plans, entitled “Commerce Bank at 19199 South Dixie Highway, Cutler Bay”, prepared by Kimley-Horn and Associates, Inc., Dated 10/12/07, sheets C-4, C-5, WS-1, WS-2, D-1 and D-2, signed and sealed on 10/15/07.
 - c. Landscape Plans, Titled “Bank at 19199 S. Dixie Hwy. Cutler Bay”, prepared by Kimley-Horn and Associates, Inc, Dated 10/3/07, signed and sealed on 10/15/07, sheets LA-1 through LA-4 and IR-1 through IR-3.
 - d. Architecture, entitled “Commerce Bank”, prepared by InterArch, Dated 10/17/07, signed and sealed on 10/17/07, sheets A-200, A-200.1, A,300 and A-300.1.
2. Prior to the issuance of the first principal Building Permit, the applicant shall provide written approval of a permit relating to the construction, operation, and maintenance of improvements within the Florida Department of Transportation right-of-way on S. Dixie Highway (US-1/SR-5); and
 3. Prior to the issuance of the first principal Building Permit, the applicant will submit architectural plans demonstrating the use of building materials other than stucco integrated as a base or a top treatment.

Section 4. **Effective Date.** This Resolution shall take effect immediately upon adoption.

PASSED and ADOPTED this _____ day of _____, 2007.

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ-SANTAMARIA, CMC
Town Clerk

APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND BENEFIT OF THE TOWN OF CUTLER BAY ONLY:

WEISS, SEROTA, HELFMAN, PASTORIZA,
COLE & BONISKE, P.L.
Town Attorney

Moved By:
Seconded By:

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman	_____
Vice Mayor Edward P. MacDougall	_____
Councilmember Peggy R. Bell	_____
Councilmember Timothy J. Meerbott	_____
Councilmember Ernest N. Sochin	_____

Hearing Number: 3689-07-03

Applicant Name: Commerce Bank

Location: 19199 S. Dixie Highway, Cutler Bay

Size of property: 0.51 acres

Request: Request for Site Plan Approval for a retail bank

Hearing Location: South Dade Regional Library, 2nd Floor, 10750 SW 211 Street

Hearing Date: November 14, 2007

Hearing Time: 7:00 p.m.

Plans are on file with the Town of Cutler Bay, 10720 Caribbean Drive, Suite 105, 305-234-4262 and may be examined at Town Hall. These plans may be modified at the public hearing.

TAB 11



MEMORANDUM

To: Honorable Mayor and Town Council

From: Steven J. Alexander, Town Manager

Date: November 8, 2007

Re: Ordinance Creating the Town's Stormwater Utility

REQUEST

APPROVE AN ORDINANCE CREATING A STORMWATER UTILITY SYSTEM FOR THE TOWN; PROVIDING AUTHORITY; PROVIDING FOR DEFINITIONS; MAKING CERTAIN FINDINGS AND DETERMINATIONS; ESTABLISHING A STORMWATER UTILITY FEE SYSTEM; ESTABLISHING THE RATE OF STORMWATER UTILITY FEE; ESTABLISHING A METHOD AND PROCEDURE FOR THE COLLECTION OF STORMWATER UTILITY FEES; PROVIDING FOR REQUESTS FOR ADJUSTMENT; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

BACKGROUND AND ANALYSIS

In order for the Town to control the maintenance and operation of the existing stormwater infrastructure, the Town must opt out of the Miami-Dade County Stormwater Utility and create its own Stormwater Utility. Town Council previously adopted Resolution # 07-18, which notified the Miami-Dade County Board of Commissioners that the Town was exercising its option to be exempt from the County's Stormwater Utility. Simultaneously, the Town's Consulting Engineer's (Kimley-Horn & Associates) is developing the Town's Stormwater Master Plan which, was funded through a \$200,000 grant from the South Florida Water Management District.

By creating the Utility the Town will become responsible for the ownership, maintenance and expansion of the existing stormwater management system located within the Town's limits for the purpose of collecting and disposing of storm and other surface water. Each developed property in the Town has varying degrees of water retention, all properties contribute to some extent to the Town's stormwater drainage problems therefore, all of the residents will benefit from the establishment of a Stormwater Utility.

The fee structure set forth in the attached ordinance represents a logical, reasonable and rational basis for allocating the costs for a Stormwater Utility to the several types of developed properties and based upon the relative contribution of such developed properties.



Office of the Town Manager

The adoption of a Stormwater Utility Program will generate fees needed to implement the level of service (LOS) standards contained in the Town's Comprehensive Plan's Drainage Element and the Capital Improvement Element, adopted in conformance with the requirements of Chapter 163, Florida Statutes. Additionally, the purpose and intent of this ordinance is to establish a Town-wide stormwater utility in furtherance of the provisions of Section 403.0893(1), Florida Statutes, the Comprehensive Plan, to insure compliance with the Federal Clean Water Act, the Environmental Protection Agency Stormwater NPDES Permitting Program, Rule 62-25, Florida Administrative Code, and to adopt stormwater utility fees sufficient to plan, fund, construct, operate and maintain a local stormwater management system pursuant to Section 403.0891(3), Florida Statutes.

The Town staff finds it to be in the best interest of the health, safety, and general welfare of the residents and citizens of the Town to provide for a municipal stormwater management utility to maintain and operate the stormwater utility. The local natural resources features (such as waterways, lakes, mangroves, wetlands, and groundwater supplies) can be protected and enhanced as part of the Stormwater Utility.

The Stormwater Utility Fund's proceeds are estimated to total \$ 974,000 per fiscal year. The Utility's projected customer base is comprised of 13,471 residential and 6,711 non-residential customers, for a total of 20,182 customers. These customers are currently being billed by Miami-Dade Stormwater Utility at a rate of \$4.00 per month per Equivalent Residential Unit (ERU).

Town staff has reviewed the "Draft" Stormwater Management Plan and is recommending to the Town Council, to maintain the existing Miami-Dade Stormwater Utility's Rate.

ORDINANCE NO. 07-_____

AN ORDINANCE OF TOWN OF CUTLER BAY, FLORIDA, CREATING A STORMWATER UTILITY SYSTEM FOR THE TOWN; PROVIDING AUTHORITY; PROVIDING FOR DEFINITIONS; MAKING CERTAIN FINDINGS AND DETERMINATIONS; ESTABLISHING A STORMWATER UTILITY FEE SYSTEM; ESTABLISHING THE RATE OF STORMWATER UTILITY FEE; ESTABLISHING A METHOD AND PROCEDURE FOR THE COLLECTION OF STORMWATER UTILITY FEES; PROVIDING FOR REQUESTS FOR ADJUSTMENT; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town is currently part of the Miami-Dade County Stormwater Utility and, as part of the Utility, Miami-Dade County is responsible for the maintenance of the Town's stormwater management system; and

WHEREAS, by the adoption of Resolution No. 07-18 the Town has exercised its option to be exempt from the provisions of the Miami-Dade County Stormwater; and

WHEREAS, by creating the Utility the Town will become responsible for the ownership, maintenance and expansion of the existing stormwater management system located within the Town's limits for the purpose of collecting and disposing of storm and other surface water; and

WHEREAS, the Town finds that although each developed property in the Town has varying degrees of water retention, all properties contribute to some extent to the Town's stormwater drainage problems and that all citizens will benefit from the establishment of a Stormwater Utility; and

WHEREAS, the fee structure set forth herein represents a logical, reasonable and rational basis for allocating the costs for a Stormwater Utility to the several types of developed properties of the Town and based upon the relative contribution of such developed properties to the need for the Stormwater Management System; and

WHEREAS, the adoption of a Stormwater Utility Program will generate fees needed to implement the level of service (LOS) standards contained in the Town's Comprehensive Plan's Drainage Element and the Capital Improvement Element, adopted in conformance with the requirements of Chapter 163, Florida Statutes; and

WHEREAS, the purpose and intent of this ordinance is to establish a Town-wide stormwater utility in furtherance of the provisions of Section 403.0893(1), Florida Statutes, the Town of Cutler Bay Comprehensive Plan, to insure compliance with the Federal Clean Water Act,

the Environmental Protection Agency Stormwater NPDES Permitting Program, Rule 62-25, Florida Administrative Code, and to adopt stormwater utility fees sufficient to plan, fund, construct, operate and maintain a local stormwater management system pursuant to Section 403.0891(3), Florida Statutes; and

WHEREAS, the Town Council finds it to be in the best interest of the health, safety, and general welfare of the residents and citizens of the Town to provide for a municipal stormwater management utility to maintain and operate the stormwater utility; and

WHEREAS, local natural resources features (such as waterways, lakes, mangroves, wetlands, and groundwater supplies) can be protected and enhanced as part of the Stormwater Utility.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF TOWN OF CUTLER BAY, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. The above Recitals are true and correct and are incorporated herein by this reference.

Section 2. A new section of the Town Code entitled, “Stormwater Utility System” is hereby created as follows:

STORMWATER UTILITY SYSTEM

Sec. 1. Authority.

- (a) As authorized by the Town’s Home Rule authority and Section 403.0893(1), Florida Statutes, as amended, a municipal stormwater utility within the geographic boundaries of the Town of Cutler Bay implementing the provisions of Section 403.0893(1), Florida Statutes which shall be known as the Cutler Bay Stormwater Utility (the “Utility”) is created.
- (b) The Utility shall be a public body corporate and politic which, through its governing body may exercise all those powers specifically granted herein , those powers granted by law and those powers necessary in the exercise of those powers herein enumerated.
- (c) The governing body of the Utility shall be the Town Council.
- (d) The Utility shall be responsible for the operation, maintenance, and governance of a Town wide stormwater utility to plan, construct, operate and maintain the Town’s Stormwater Management System.
- (e) The Town Manager shall be the Director of the Utility.
- (f) The Utility Director shall prescribe the organization and operating

procedures of the Utility. The Utility Director shall employ such consultants and employees as may be necessary to operate the Utility.

Sec. 2. Definitions.

The following, when used in this Ordinance, shall have the meanings ascribed in this section, except where the context clearly indicates a different meaning:

- (a) “*Developed Property*” shall mean any parcel of land that contains an impervious area.
- (b) “*Dwelling*” shall mean any building that is wholly or partly used or intended to be used for living, sleeping, cooking and eating.
- (c) “*Dwelling Unit*” shall mean any room or group of rooms located within a dwelling and forming a single habitable unit with facilities used or intended to be used for living, sleeping, cooking and eating.
- (d) “*ERU*” (“Equivalent Residential Unit”) shall mean the statistically estimated average of impervious area of residential developed properties per dwelling unit. The estimated average (which equals 1,548 square feet) is calculated by dividing the total estimated impervious area of residential properties by the estimated total number of dwelling units.
- (e) “*Impervious Area*” shall mean the horizontal ground surface that is incapable of being penetrated by rainwater. This shall include, but not be limited to, all structures, roof extensions, slabs, patios, porches, asphalt, driveways, sidewalks, parking areas, and decks.
- (f) “*Nonresidential Developed Property*” shall mean any parcel of land that contains an impervious area and that is classified by the Miami-Dade county Property Appraiser as land use types 10 through and including 99, as set forth in Florida Administrative Code Rule 12D-8.008(2)(c), as amended from time to time.
- (g) “*Residential Developed Property*” shall mean any parcel of land that contains an impervious area and is classified by the Miami-Dade County Property Appraiser as land use types 00 through and including 09 as set forth in Florida Administrative Code Rule 12D-8.008(2)(c), as amended from time to time.
- (h) “*Stormwater Infrastructure*” shall mean the structural, non-structural or natural features of a parcel of land or watershed which collect, convey, store, absorb, inhibit treat, use, reuse, or otherwise affect the quantity or quality of stormwater.
- (i) “*Stormwater*” shall mean the surface water runoff that results from

rainfall.

(j) “*Stormwater Management System*” (or the “System”) shall have the meaning specified by Section 403.031(16), Florida Statutes, as amended from time to time.

(k) “*Stormwater Utility*” shall have the meaning specified by Section 403.031(17) Florida Statutes, as amended from time to time.

(l) “*Stormwater Utility Fund*” shall mean that separate Fund established by the Town for the deposit and use of all Stormwater Utility Fees collected.

(m) “*Stormwater Utility Fee*” shall have the meaning specified by Section 403.0893, Florida Statutes, as amended from time to time.

Sec. 3. Findings and Determinations.

It is hereby determined and declared as follows:

(a) The Town desires to create a Stormwater Management System to maintain and improve water quality, to control flooding that results from rainfall events, to deter unmanaged rainwater from eroding sandy soils, to deter the disruption of the habitat of aquatic plants and animals and to provide for the collection of Stormwater Utility Fees for those expenses connected with the planning, constructing, operating and maintaining of a Stormwater Management System.

(b) The collection of and disposal of stormwater and regulation of groundwater are of benefit to all property within the Town including property not currently served by the system.

(c) The cost of operating and maintaining the System should, to the extent practicable, be allocated in relationship to the contributions to the system.

Sec. 4. Stormwater Utility Fee.

(a) A Stormwater Utility Fee is assessed against each Developed Property within the Town for services and facilities provided by the Stormwater Management System.

(b) The Utility Director or his/her designee is directed to prepare a list of lots and parcels within the Town and to assign a classification of Single-family Dwelling Unit, Multi-family Dwelling Unit, or Nonresidential Developed Property to each lot or parcel.

- (c) ERU's shall be assigned as follows:
 - (1) Single Family Dwelling Units: 1.0 ERU.
 - (2) Multi-family Dwelling Units: 1.0 ERU per Dwelling Unit.
 - (3) Non-Residential Developed Properties: shall be assigned ERU's on the basis of (1) ERU per 1,548 square feet of impervious area.

- (d) The following criteria shall be used to calculate Stormwater Utility Fees:
 - (1) Each Single-Family Dwelling Unit, Multi-family Dwelling Unit and Nonresidential Developed Property shall be assessed a Stormwater Utility Fee calculated by multiplying the rate for one ERU by the number of ERU's provided in Sections 4(c)(1), (2) and (3), respectively.
 - (2) For the purpose of calculating Stormwater Utility Fees, the calculation of ERU's is based upon property usage. The property usage shall be determined by the Town based on, but not be limited by, state and county land use codes, occupational licenses and site inspections.
 - (3) Any authorized representative of the Town shall have access to the properties at any reasonable time for the purpose of determining property usage for the purpose of calculating Stormwater Utility Fees and obtaining billing account information.
 - (4) The number of ERU's calculated for each account shall be rounded up to the nearest whole number.
 - (5) The minimum charge assessed against each Developed Property shall be one (1) ERU.

- (e) The fees owed to the Town and collected by the Miami-Dade County Water and Sewer Department (WASD) with respect to the Stormwater Utility, together with investment earnings thereon, shall be deposited in the Stormwater Utility Fund and shall be used exclusively for planning, constructing, financing, operation and maintaining the Stormwater Utility and the infrastructure of the Stormwater Management System. The Town may pledge such fees as security for indebtedness incurred by it in connection with the Stormwater Utility and the Stormwater Management System.

- (f) The fee per ERU Billing shall be \$4.00 per month.

(g) The ERU fee approved in Section 4(f) may be amended by the Town Council by Resolution.

Sec. 5. Collection of Stormwater Utility Fee; Liens.

- (a) The Stormwater Utility Fee shall be shown as a separate item on WASD bills (or as shown on a stormwater utility bill if no water bill is issued) and shall be paid by the owner, tenant or occupant in possession of the premises at the same time and in the same manner as is provided in WASD regulations for the payment of bills. For properties not receiving monthly utility bills for other services, the bill or statement for the Stormwater Utility Fee shall be sent to the owner of the property as determined from the tax rolls by the Town. The Utility Director may render annual or semi-annual billing on such properties if determined to be in the best interest of the Town.
- (b) The Stormwater Utility Fee shall be billed to the owner, tenant or occupant of each Developed Property. If the Stormwater Utility Fee is not fully paid by the owner, tenant or occupant on or before the past due date set forth on the owner's, tenant's or occupant's bill, a ten percent (10%) late charge may be added to the bill. Any unpaid balance of the owner, tenant or occupant for a Stormwater Utility Fee shall be subject to an interest charge at a rate of eight percent (8%) per annum. Imposition of this interest charge shall commence 60 days after the past due date of the fees set forth on the bill of the owner of the Developed Property. WASD is authorized to act as the Town's agent for the purpose of billing and collecting Stormwater Utility Fees. Stormwater Utility Fees shall be billed by WASD in the same manner and subject to the same rules and regulations governing WASD's water and sewer bills, including, but to limited to, the right to discontinue service. Fees and late charges, together with any interest charges, shall be debts due and owing the Town's Stormwater Utility.
- (c) All Stormwater Utility Fees, late charges and interest accruing thereupon due and owing to the Town's Stormwater Utility which remain unpaid 60 days after the past due date shall become a lien against and upon the Developed Property for which the Stormwater Utility Fees are due and owing to the same extent and character as a lien for a special assessment. Until fully paid and discharged, such fees, late charges, and interest accrued shall constitute a special assessment lien equal in rank and dignity to all other liens, encumbrances, titles, and claims in, to or against the Developed Property involved for the period of five years from the date such Stormwater Utility Fees, late charges, and interest accrued thereupon became a lien as set forth in this ordinance. This lien may be enforced and satisfied by the Town pursuant to Chapter 173, Florida Statutes, as amended from time to time, or by any other method permitted by law. The lien provided for in this

sub-section shall not be deemed to be in lieu of any other legal remedies for recovery of such fee, late charges, and accrued interest available to the Town.

- (d) For Stormwater Utility Fees which become more than 60 days past due and unpaid, the Town shall cause to be filed in the office of the Clerk of the Circuit court of Miami-Dade county, Florida, a notice of lien or statement showing a legal description of the Developed Property against which the lien is claimed, its location by street and number, the name of the owner, and an accurate statement of the fees and late charges then unpaid. A copy of such notice of lien shall be mailed within a reasonable time to the owner of the Developed Property involved as shown by the records of the tax collector of Miami-Dade County. No such lien shall be enforceable by the Town unless this notice is filed within six months from the date the fees and late charges become a lien as established in this section.
- (e) Liens may be discharged and satisfied by payment to the Town of the aggregate amounts specified in the notice of lien, together with interest accrued, and all filing and recording fees. When any such lien has been fully paid or discharged, the Town shall cause evidence of the satisfaction and discharge of such lien to be filed with the office of the Clerk of the Circuit court of Miami-Dade County, Florida.
- (f) Notwithstanding other provisions to the contrary, the Utility Director shall have the discretion not to file notices of lien for fees, late charges, and interest accrued in an amount less than one hundred dollars (\$100.00). If the Utility Director elects not to file a notice of lien, such fees, late charges, and accrued interest shall remain as debts due and owing in accordance with section (b) above.
- (g) The owner of Developed Property is ultimately responsible for all unpaid fees established under this section.
- (h) The Utility Director or his designee is authorized and directed to certify upon written request the amount of fees, late charges and interest accrued, which are due and owing to the Town for any Developed Property which is subject to payment of said fees, or the Town Manager may certify that no fees, late charges or accrued interest are due and owing.

Sec. 6. Request for Adjustment.

The owner, tenant or occupant may request an adjustment of the Stormwater Utility Fees assessed against a parcel of Developed Property. The Utility Director or his designee shall be authorized to adjust the stormwater utility fee upon determination that the property should not be subject to the assessment of a fee or that the

calculated fee is incorrect. The procedure to request an adjustment shall be as follows:

- (a) All requests shall be in writing and set forth in detail the grounds upon which relief is sought.
- (b) All adjustment requests shall be submitted no later than 30 calendar days from the date of the bill under dispute.
- (c) The owner, tenant or occupant requesting the adjustment may be required, at his own cost, to provide supplemental information to the Utility director, including, but not limited to, survey data and engineering reports approved by either a registered professional land surveyor (R.P.L.S.) or professional engineer (P.E.). Failure to provide such information may result in denial of the adjustment request.
- (d) The Utility Director shall provide the person requesting the adjustment with a written determination of the request. Any adjustments shall be prorated monthly.
- (e) No adjustment may be requested unless the Stormwater Utility Fee is first paid to the Town.

Section 2. Repeal of conflicting Ordinances. Article IV of Chapter 24 of the

Miami-Dade County Code, concerning the same subject matter, as made applicable to the Town by Article VIII, Sections 8.3 of the Town Charter, is hereby repealed and replaced. Notwithstanding the foregoing, for the purposes of the collection of past due fees assessed prior to the effective date of this ordinance, the prior provisions of Chapter 24 of the Town Code shall remain in effect.

Section 4. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Inclusion in the Code. It is the intention of the Town Council, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Code of the Town of Cutler Bay; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the work "Ordinance" shall be changed to "Section" or other appropriate word.

Section 6. Effective Date. This ordinance shall take effect ten (10) days after adoption on second reading.

PASSED on first reading this _____, day of _____, 2007.

PASSED and ADOPTED on second reading this _____day of _____, 2007.

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ-SANTAMARIA, CMC
Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:

WEISS SEROTA HELFMAN PASTORIZA
COLE & BONISKE, P.L.
Town Attorney

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman _____

Vice Mayor Edward P. MacDougall _____

Councilmember Peggy R. Bell _____

Councilmember Timothy J. Meerbott _____

Councilmember Ernest N. Sochin _____

TAB 12



Office of the Town Attorney

Mitchell A. Bierman
Town Attorney

MEMORANDUM

To: The Honorable Mayor and Town Council

From: Mitchell Bierman, Town Attorney
Andrew Mai and Michael L. Stines, Town Attorneys

Date: November 8, 2007

Re: Red Light Camera Enforcement

The running of red lights causes a safety hazard. New camera technology has been developed which allows remote recordation of red light violations. The legislature, recognizing this danger has considered adopting legislation specifically allowing for use of remote cameras to record and pursue red light violators. However, the legislature again failed to adopt this legislation in 2007.

Several municipalities have chosen to enforce red light regulations using remote cameras without specific state legislation granting such authority.

The Municipal Home Rule Powers Act (Ch. 166, F. S.) grants to municipalities broad home rule powers. Section 166.021(1) states:

As provided in s. 2(b), Art. VIII of the State Constitution, municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law.

Therefore, unless expressly prohibited by law, municipalities may use red light cameras.

State Statutes

Section 316.008(1)(w), Fla. Stat. (2007), expressly authorizes local authorities to, "monitor traffic by security devices or personnel on public streets." Section 316.002, Fla. Stat. 2007, forbids passing or enforcing an ordinance which is in conflict with the provisions of state law. Section 316.007, Fla. Stat. (2007), provides that, "no local authority shall enact or enforce any ordinance on a matter covered by this chapter unless expressly authorized." Section 316.075, Fla. Stat. (2007), contains enforcement and penalty provisions for violations of traffic control signal lights. See AGO 2005-41.



Office of the Town Attorney

Arguably, a red light camera ordinance adopted by a municipality forbidding running of red lights and providing for enforcement through a remote camera system, is authorized through Section 316.008(1)(w), Fla. Stat. (2007). In order to use the remote camera system, which is a security device under 316.008(1)(w), a municipality must create a new enforcement system since the normal citation system involving issuance of a citation by an officer is impossible when the violation is being registered by a remote camera rather than an officer on the scene. Therefore, the authority granted in Section 316.008(1)(w), Fla. Stat. (2007), authorizes a municipality to create an ordinance enforcement system and as long as it does not conflict with state law. See Section 316.007, Fla. Stat. (2007). The proposed ordinance does not conflict with state law in that it seeks to prohibit red light running, an act already prohibited by Chapter 316.

Further, the proposed enforcement system using unmanned cameras later examined by a Traffic Control Infraction Officer is almost identical to the means by which the State of Florida enforces toll violations on state toll roads. This system has been determined to be fair, reasonable and sufficient by the state legislature and could be helpful in the event of a challenge to the structure or process set forth in the proposed ordinance. See Section 316.1001, Fla. Stat. (2007).

AGO 2005-41 may offer further support that the proposed ordinance does not conflict with state law. AGO 2005-41 states,

“In light of the proscription contained in section 316.007, Florida Statutes, that ‘no local authority shall enact or enforce any ordinance on a matter covered by this chapter unless expressly authorized,’ this office continues to be of the opinion expressed in Attorney General Opinion 97-06 that legislative changes are necessary before local governments may issue **traffic citations and penalize drivers** who fail to obey red light indications on traffic signal devices.”

AGO 2005-41 and Chapter 316, Florida Statutes do not address the propriety of the issuance of a notice of code infraction. Nor do they contemplate whether the penalization of owners of vehicles would be prohibited. Therefore, a good faith argument supported by AGO 2005-41 can be made that the act of issuing notices of infraction to owners of vehicles as a method of enforcement has not been preempted by Chapter 316, Florida Statutes, but rather supplements the enforcement and penalties provisions therein.

County Code

Section 30-203 of the Miami Dade County code entitled, “Applicability of chapter.” provides,

“This chapter shall pertain to all violations hereof within the County, and supersedes and nullifies any and all municipal ordinances or codes and any and all County ordinances or codes relative to the regulation of traffic and its enforcement, except as otherwise provided in Chapter 25 of this Code. This chapter is applicable in all the unincorporated and incorporated areas of the County.”



Office of the Town Attorney

Section 30-281 of the County Code forbids running of red lights. Sec. 30-204 "Enforcement" vests enforcement of the traffic laws with municipalities stating:

"(3) Municipalities. The Police Department of each chartered municipality shall enforce the traffic laws of this State on all the streets and highways thereof and elsewhere throughout the municipality, wherever the public has the right to travel by motor vehicle within the respective municipalities; provided, however, nothing in this act shall affect any law, general, special or otherwise, in effect on the effective date of this act relating to "hot pursuit" without the boundaries of the municipality."

Arguably, the red light camera ordinance adoption by a municipality is authorized by Section 30-204 of the County Code as an enforcement mechanism, especially since the County also forbids the running of red lights.

Conclusion

State and County law forbid the running of red lights. Municipalities have been delegated the responsibility of enforcing these traffic regulations. This delegation authorizes the municipality the right to create red light camera ordinances in order to enforce the regulations.

ORDINANCE NO. 07-_____

AN ORDINANCE OF THE TOWN OF CUTLER BAY, FLORIDA; AMENDING THE TOWN CODE BY CREATING THE “DANGEROUS INTERSECTION SAFETY” REGULATIONS, PROVIDING FOR RECORDED IMAGE MONITORING AND ENFORCEMENT OF RED LIGHT INFRACTIONS, AND FOR RELATED PROCEDURES AND PROVISIONS; AMENDING ORDINANCE 07-09, SECTION 10 “SCHEDULE OF CIVIL PENALTIES”, TO FACILITATE USE OF CODE ENFORCEMENT MECHANISM FOR DANGEROUS INTERSECTION SAFETY; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the running of red lights causes a safety hazard affecting every citizen and traveler in the Town of Cutler Bay (the “Town”); and

WHEREAS, the Town wishes to reduce the running of red lights by creating an additional enforcement mechanism.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF CUTLER BAY, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. That the recitals set forth above are hereby adopted and confirmed.

Section 2. Dangerous Intersection Safety. That the Town Code of the Town of Cutler Bay is hereby amended by creating “Dangerous Intersection Safety”, to read as follows:

Dangerous Intersection Safety

Sec. 1. Intent.

The purpose of this article is to authorize the use of an unmanned cameras/monitoring system to promote compliance with red light signal directives as proscribed by this article, and to adopt a civil enforcement system for red light signal violations. This article will also supplement law enforcement personnel in the enforcement of red light signal violations and shall not prohibit law enforcement officers from issuing a citation for a red light signal violation in accordance with other routine statutory traffic enforcement techniques.

Sec. 2. Use of Image Capture Technologies.

The Town shall utilize image capture technologies as a supplemental means of monitoring compliance with laws related to traffic control signals, while assisting law enforcement personnel in the enforcement of such laws, which are designed to protect and improve public health, safety and welfare. This section shall not supersede, infringe, curtail or

impinge upon state or county laws related to red light signal violations or conflict with such laws. Nothing herein shall conflict with the primary jurisdiction of Miami-Dade County to install and maintain traffic signal devices. This article shall serve to enable the Town to provide enhanced enforcement and respect for authorized traffic signal devices. The Town may utilize image capture technologies as an ancillary deterrent to traffic control signal violations and to thereby reduce accidents and injuries associated with such violations. Notices of infractions issued pursuant to this article shall be addressed using the Town's own Special Magistrates pursuant to Ordinance 07-09 of the Town Code and not through uniform traffic citations or county courts. This shall not bar the use of uniform traffic citations and the county courts when Town police personnel decide not to rely on this article as the enforcement mechanism for a specific violation.

Sec. 3. Definitions.

The following definitions shall apply to this article:

INTERSECTION. The area embraced within the prolongation or connection of the lateral curb line; or, if none, then the lateral boundary lines, of the roadways of two roads which join or intersect one another at, or approximately at, right angles; or the area within which vehicles traveling upon different roads joining at any other angle may come in conflict.

MOTOR VEHICLE. Any self-propelled vehicle not operated upon rails or guide way, but not including any bicycle or electric personal assisted mobility device.

OWNER/VEHICLE OWNER. The person or entity identified by the Florida Department of Motor Vehicles, or other state vehicle registration office, as the registered owner of a vehicle. Such term shall also mean a lessee of a motor vehicle pursuant to a lease of six months or more.

RECORDED IMAGES. Images recorded by a traffic control signal monitoring system/device:

- (1) On:
 - (a) Two or more photographs;
 - (b) Two or more electronic images;
 - (c) Two or more digital images;
 - (d) Digital or video movies; or
 - (e) Any other medium that can display a violation; and
- (2) Showing the rear of a motor vehicle and on at least one image, clearly identifying the license plate number of the vehicle.

RED ZONE INFRACTION. A traffic offense whereby a traffic control signal monitoring system established that a vehicle entered an intersection controlled by a duly erected

traffic control device at a time when the traffic control signal for such vehicle's direction of travel was emitting a steady red signal.

SPECIAL MAGISTRATE. The Town's Code Enforcement Special Magistrate, as described in the Town Code.

TRAFFIC CONTROL INFRACTION REVIEW OFFICER. The Town police department employee designated, pursuant to Sec. 7 herein, to review recorded images and issue red zone infractions based upon those images.

TRAFFIC CONTROL SIGNAL. A device exhibiting different colored lights or colored lighted arrows, successively one at a time or in combination, using only the colors green, yellow, and red which indicate and apply to drivers of motor vehicles as provided in F.S. § 316.075.

TRAFFIC CONTROL SIGNAL MONITORING SYSTEM/DEVICE. An electronic system consisting of one or more vehicle sensors, working in conjunction with a traffic control signal, still camera and video recording device, to capture and produce recorded images of motor vehicles entering an intersection against a steady red light signal indication.

Sec. 4. Adherence to Red Light Traffic Control Signals.

Motor vehicle traffic facing a traffic control signal's steady red light indication shall stop before entering the crosswalk on the near side of an intersection or, if none, then before entering the intersection and shall remain standing until a green indication is shown on the traffic control signal; however, the driver of a vehicle which is stopped at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection in obedience of a steady red traffic control signal, may make a right turn (unless such turn is otherwise prohibited by posted sign or other traffic control device) but shall yield right-of-way to pedestrians and other traffic proceeding as directed by the traffic control signal at the intersection.

Sec. 5. Violation.

A violation of this article, known as a red zone infraction, shall occur when a motor vehicle does not comply with the requirements of Sec. 4. Violations shall be enforced pursuant to Sec. 7.

Sec. 6. Ninety Day notice; introductory period.

The Police Chief shall notify the Town Manager when the red light camera system is operating correctly at the initial location established. For the ninety days following said notification, unless the driver of a vehicle received a citation from a police officer at the time of a red zone infraction in accordance with routine traffic enforcement techniques, the vehicle owner shall receive a warning in the form of a courtesy notice of the violation. Commencing ninety one days after the above referenced notification, the vehicle owner is subject to the enforcement provisions as provided herein and no warning shall be given pursuant to this article.

Sec. 7. Review of Recorded Images.

(A) The owner of the vehicle which is observed by recorded images committing a red zone infraction, shall be issued a notice of violation (hereinafter also known as a “notice”). The recorded image shall be sufficient grounds to issue a notice.

(B) The Town’s Chief of Police shall designate a Traffic Control Infraction Review Officer, who shall be a police officer of the Town or who shall meet the qualifications set forth in F.S. § 316.640(5)(A), or any other relevant statute. The Traffic Control Infraction Review Officer shall review recorded images prior to the issuance of a notice to ensure the accuracy and integrity of the recorded images. Once the Traffic Control Infraction Review Officer has verified the accuracy of the recorded images, he or she shall complete a report, and a notice shall be sent to the vehicle owner at the address on record with the Florida Department of Highway Safety and Motor Vehicles or the address on record with the appropriate agency having such information in another state.

Sec. 8. Notice of Violation.

The notice shall be in the form as provided for in Ordinance Number 07-09 of the Town Code but shall also include:

- (A) The name and address of the vehicle owner;
- (B) The license plate number and registration number of the vehicle;
- (C) The make, model, and year of the vehicle;
- (D) Notice that the infraction charged is pursuant to this article;
- (E) The location of the intersection where the infraction occurred;
- (F) Notice that there are recorded images relating to the vehicle and a statement that the recorded images are evidence of a red zone infraction;
- (G) Images depicting the infraction;
- (H) A signed statement by the Traffic Control Infraction Review Officer that, based on inspection of recorded images, the vehicle was involved in and was utilized to commit a red zone infraction.

Sec. 9. Vehicle Owner Responsibilities

- (A) A vehicle owner receiving a notice may:
 - (1) Pay the assessed civil penalty pursuant to instructions on the notice; or
 - (2) Appear before the Special Magistrate to contest the notice.
- (B) The failure to pay the assessed civil penalty and failure to appear before the Special Magistrate to contest the notice will be considered an admission of liability and in such

case an order may be entered against the violator for an amount up to the maximum civil penalty, plus any administrative costs.

Sec. 10. Hearing before the Special Magistrate.

(A) The Town’s Code Enforcement Special Magistrates are authorized to hold hearings related to the enforcement of this article. A hearing shall be scheduled for all notices for which the vehicle owner timely requests an administrative hearing.

(B) Upon receipt of the named violator’s timely request for an administrative hearing, the Town shall schedule a hearing before the Special Magistrate pursuant to Ordinance 07-09 of the Town Code. Notice of hearing shall be provided to the vehicle owner pursuant to the notice provisions contained in Ordinance 07-09 of the Town Code.

(C) The hearing shall be held pursuant to the procedures set forth in Ordinance 07-09 of the Town Code. The Traffic Control Infraction Review Officer may testify at the hearing. The vehicle owner may present testimony and evidence.

(D) Recorded images indicating a red zone infraction, verified by the Traffic Control Infraction Review Officer, are admissible in any proceeding before the Town’s Special Magistrate to enforce the provisions of this article, and shall constitute prima facie evidence of the violation.

(E) Unless an affidavit is provided pursuant to Section 11, it is presumed that the person registered as the vehicle owner with the Florida Department of Motor Vehicles or any other state vehicle registration office, or an individual having the owner’s consent, was operating the vehicle at the time of a red zone infraction.

Sec. 11. Vehicle Owner Affidavit of Non-Responsibility.

(A) In order for the vehicle owner to establish that the motor vehicle was, at the time of the red zone infraction, either: (1) in the care, custody, or control of another person without the consent of the registered owner or (2) was subject to a short term (less than six months) car rental agreement entered into between a car rental agency ,which is licensed as required by applicable law and is authorized to conduct business in the State of Florida ,and the operator of the vehicle , the vehicle owner is required, within 20 days from the date listed on the notice, to furnish to the Town, an affidavit setting forth the circumstances demonstrating, either: (1) that the motor vehicle was not in the vehicle owner’s care, custody, or control, and was not in the care, custody or control of another person with the vehicle owner’s consent or (2) that the motor vehicle was subject to a short term(less than six months) rental agreement between the car rental agency receiving the notice and the vehicle operator and provide a true and correct copy of the short term car rental agreement, as applicable. The affidavit must be executed in the presence of a notary, and include:

- (1) If known to the vehicle owner, the name, address, and the driver’s license number of the person who had care, custody, or control of the motor vehicle, without the vehicle owner’s consent , at the time of the alleged red zone infraction; or

- (2) The name, address and drivers license number of the person who rented the motor vehicle from the car rental agency which has received the notice, at the time of the alleged red zone infraction; or
- (3) If the vehicle was stolen, the police report indicating the vehicle was stolen at the time of the alleged red zone infraction; and
- (4) The following language immediately above the signature line: "Under penalties of perjury, I declare that I have read the foregoing affidavit and that the facts stated in it are true."
- (5) Upon timely receipt of a sufficient affidavit pursuant to this section, any prosecution of the notice issued to the vehicle owner shall be terminated. Proceedings may be commenced by the Town against the responsible person identified in the affidavit, and in such event, the responsible person shall be subject to the same process and procedures which are applicable to vehicle owners.

Sec. 12. Administrative Charges.

In addition to the penalty pursuant to Sec. 15 herein, administrative charges may be assessed pursuant to Ordinance 07-09 of the Town Code in the event of a hearing and/or the necessity to institute collection procedures arises.

Sec. 13. Collection of fines.

Collection of fines shall be accomplished pursuant to Ordinance 07-09 of the Town Code.

Sec. 14. Exceptions.

This article shall not apply to red zone infractions involving vehicle collisions or to any authorized emergency vehicle responding to a bona fide emergency; nor shall a notice be issued in any case where the operator of the vehicle was issued a citation for violating the state statute regarding the failure to stop at a red light indication for the same event or incident.

Sec. 15. Penalty.

A violation of this article shall be deemed a non-criminal, non-moving violation for which a civil penalty, as proscribed in this Ordinance, shall be assessed. As the violation relates to this article and not to the Florida Statutes, no points as otherwise provided in F.S. § 322.27, shall be recorded on the driving record of the vehicle owner or responsible party.

Sec. 16. Enforcement.

This article may be enforced by any other means available to the Town.

Sec. 17. Signage.

The Town shall, to the extent practicable, at the primary motor vehicle entry points to the Town, cause to be erected and maintained signs, which substantially meet the design

specifications indicated in Exhibit “A”, providing notice of this article. Failure to erect, maintain or create these signs shall not invalidate or impair any enforcement of this article.

Section 3. Schedule of violations and civil penalties amended. That the Town Code of the Town of Cutler Bay is hereby amended by amending Ordinance 07-09, Section 10 “Schedule of civil penalties”, to read as follows: ¹

Sec. 10. Schedule of civil penalties.

TABLE INSET:

<i>Code Section</i>	<i>Description of Violation</i>	<i>Civil Penalty</i>
***	***	***
	<u>Violation of the Dangerous Intersection Safety Regulations</u>	<u>\$125.00 first offense</u> <u>\$250.00 second offense</u> <u>\$500.00 each additional offense</u>
***	****	***

Section 4. Severability. The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Inclusion in the Code. It is the intention of the Town Commission, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the Town of Cutler Bay; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 6. Effective Date. That this Ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading this _____, day of _____, 2007.

PASSED and ADOPTED on second reading this ____day of _____, 2007.

¹ / Proposed additions to text of TOWN Code are indicated by underline; proposed deletions from text of TOWN Code are indicated by ~~strikethrough~~.

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ-SANTAMARIA, CMC
Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:

WEISS SEROTA HELFMAN PASTORIZA
COLE & BONISKE, P.L.
Town Attorney

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman _____
Vice Mayor Edward P. MacDougall _____
Councilmember Peggy R. Bell _____
Councilmember Timothy J. Meerbott _____
Councilmember Ernest N. Sochin _____

Exhibit "A"

Signage shall use the following language written so that it may be readily observed from the adjacent roadways:

NOTICE OF TRAFFIC MONITORING

ALL PERSONS ARE HEREBY ADVISED THAT CERTAIN INTERSECTIONS WITHIN THE TOWN ARE SUBJECT TO RED LIGHT TRAFFIC SIGNAL ENFORCEMENT BY PHOTOGRAPHIC MEANS AND THAT NOTICES OF VIOLATION MAY BE ISSUED TO VEHICLE OWNERS AND/OR OPERATORS FOR THE VIOLATION OF TRAFFIC SIGNALS, PURSUANT TO THE TOWN'S CODE ENFORCEMENT SYSTEM.

CUTLER BAY POLICE DEPARTMENT

TAB 13

ORDINANCE NO. 07-_____

AN ORDINANCE OF THE TOWN OF CUTLER BAY, FLORIDA; AMENDING THE TOWN CODE BY ADOPTING REGULATIONS RELATED TO SMOKING IN PARKS; AMENDING ORDINANCE 07-09, SECTION 10 “SCHEDULE OF CIVIL PENALTIES”, TO FACILITATE USE OF CODE ENFORCEMENT SYSTEM FOR ELIMINATING SMOKING IN NON-SMOKING AREAS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay (the “Town”) is concerned about the health and welfare of its residents and others who use Town parks, most especially children; and

WHEREAS, in a 2006 report the Surgeon General of the United States determined among other things that second hand smoke causes disease and premature death in children and adults who do not smoke; children exposed to secondhand smoke are at an increased risk for sudden infant death syndrome (SIDS), acute respiratory infections, ear problems, and more severe asthma and smoking by parents causes respiratory symptoms and slows lung growth in their children; exposure of adults to secondhand smoke has immediate adverse effects on the cardiovascular system and causes coronary heart disease and lung cancer; and the scientific evidence indicates that there is no risk-free level of exposure to secondhand smoke; and

WHEREAS, parks are places where children play and if children are exposed to second hand smoke in the parks their health will be detrimentally affected; and

WHEREAS, parks are places where adults exercise and engage in other recreational activities in order to maintain and improve their health and if adults are exposed to second hand smoke in the parks their health will be detrimentally affected.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF CUTLER BAY, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. That the recitals set forth above are hereby adopted and confirmed.

Section 2. Park Regulations Related to Smoking. That the Town Code of the Town of Cutler Bay is hereby amended to adopt Park Regulations Related to Smoking, as follows:

Non-Smoking Areas in Parks

1) No person shall smoke in an area of a park which has been designated as a non-smoking area. No person shall smoke within fifty feet of any children in a park whether or not the area is designated as a non-smoking area.

2) The Town Manager, or his designee, is hereby granted the authority to limit smoking in the Town’s parks to certain areas and to erect signage indicating the areas where smoking is permitted and prohibited. The Town Manager shall consider if children are likely to frequent an area, if cardiovascular physical activity will be taking place in an area or any other relevant factors related to the health of the citizens of Cutler Bay, when designating non-smoking areas.

Section 3. Schedule of violations and civil penalties amended. That the Town Code of the Town of Cutler Bay is hereby amended by amending Ordinance 07-09, Section 10 “Schedule of civil penalties”, to read as follows: ¹

Sec. 10. Schedule of civil penalties.

TABLE INSET:

<i>Code Section</i>	<i>Description of Violation</i>	<i>Civil Penalty</i>
***	***	***
	<u>Smoking in a Non-Smoking area of a park or within fifty feet of children in a park</u>	<u>\$125.00 first offense</u> <u>\$250.00 second offense</u> <u>\$500.00 each additional offense</u>
***	****	***

Section 4. Severability. The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Inclusion in the Code. It is the intention of the Town Commission, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the Town of Cutler Bay; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 6. Effective Date. That this Ordinance shall be effective immediately upon adoption on second reading.

¹ / Proposed additions to text of TOWN Code are indicated by underline; proposed deletions from text of TOWN Code are indicated by ~~strikethrough~~.

PASSED on first reading this ____, day of _____, 2007.

PASSED and ADOPTED on second reading this ____ day of _____, 2007.

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ-SANTAMARIA, CMC
Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:

WEISS SEROTA HELFMAN PASTORIZA
COLE & BONISKE, P.L.
Town Attorney

Moved By:
Seconded By:

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman	_____
Vice Mayor Edward P. MacDougall	_____
Councilmember Peggy R. Bell	_____
Councilmember Timothy J. Meerbott	_____
Councilmember Ernest N. Sochin	_____

TAB 14

ORDINANCE NO. 07-_____

**AN ORDINANCE OF THE TOWN OF CUTLER BAY,
FLORIDA; AMENDING THE TOWN CODE BY
ADOPTING REGULATIONS RELATED TO
HOMEOWNERS' ASSOCIATIONS; PROVIDING FOR
SEVERABILITY; PROVIDING FOR INCLUSION IN THE
CODE; PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, Homeowners' Associations exist in the Town of Cutler Bay (the "Town");
and

WHEREAS, the Town wishes to require Homeowners' Associations to maintain properties under their control to a standard.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF CUTLER BAY, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. That the recitals set forth above are hereby adopted and confirmed.

Section 2. Homeowners' Association Regulations. That the Town Code of the Town of Cutler Bay is hereby amended to adopt Homeowners' Association Regulations, as follows:

Homeowners' Association Regulations

Sec. 1. *Intent.* The intent of this section is to insure that existing and future multi-family residential developments meet minimum standards for maintenance. This section shall not be construed so as to delete or decrease existing code requirements regulating maintenance of multi-family residential developments. The intent of this section is to impose additional minimum maintenance standards upon those multi-family residential developments which were constructed prior to the adoption by the town of other code provisions requiring maintenance of multi-family residential developments as well as upon those multi-family residential developments to be constructed in the future. The provisions of this section shall apply only to homeowners' association property within multi-family residential developments.

Sec. 2. *Landscaping.* The homeowners' association responsible for a multi-family residential development must maintain all landscaping, in a healthy, living condition. All plant material shall be kept pruned in a neat, tidy, and attractive manner and all turf areas shall be regularly mowed as necessary by weather conditions. Dead and/or diseased plant material shall be removed and replaced with a suitable planting in a prompt manner.

Sec. 3. *Obstructions to visibility.* No obstruction to visibility at street intersections or access easement intersections, or obstruction of traffic control devices, either in the form of landscaping or shrubbery or fence or other structure, shall be permitted at any time.

Sec. 4. *Parking areas and drives; drainage.*

(a) ***Paved areas.*** The homeowners' association must maintain all paved areas reserved for parking and driving of motor vehicles, including driveway aprons, in a smooth condition, free from ruts, potholes, loose aggregate, and deterioration.

(b) ***Curbing and wheel stops.*** All curbing must be maintained free from cracks and deterioration by the homeowners' association. In those multi-family residential developments in which wheel stops are required by other provisions of the Town code, said wheel stops must be maintained by the owner free from cracks and deterioration. All wheel stops must remain affixed in those locations where such wheel stops were to be placed in accordance with approved site plans for the development's parking area.

(c) ***Striping.*** The homeowners' association must stripe all paved areas reserved for vehicular parking and fire zones. Such striping shall be maintained in a manner free from peeling and shall be of sufficient contrast with the surface upon which such striping is placed so as to readily delineate to a person of normal visual ability the location of a parking space or fire zone.

Sec. 5. *Traffic control devices.* Within 60 days of the adoption of this chapter, all homeowners' associations not presently in compliance with the United States Department of Transportation's *Manual on Uniform Traffic Control Devices* (MUTCD) must come into compliance with said *Manual*. The homeowners' association shall also be responsible for the immediate repair and/or replacement of any traffic control device which is damaged.

Sec. 6. *Drainage.* The homeowners' association must maintain all drainage facilities in a manner allowing for the storm flow for which said facilities were designed, free from obstructions. All catch basin grates must be maintained in their original condition and must be replaced immediately, if damaged.

Sec. 7. *General maintenance.* The homeowners' association, on all association property within a multi-family residential development, shall maintain all windows, roofs, fences, sidewalks, and masonry walls in a clean condition free from cracks greater than 1/16 of an inch in width, graffiti, peeling paint, mold, mildew, rust stains and missing materials. All surfaces, including roofs, requiring painting or which are otherwise protected from the elements shall be kept painted or protected. Painted or stained surfaces shall be maintained with uniform colors, void of any evidence of deterioration. All fences or walls in a continuous line shall be uniform in color.

Sec. 8. *Registration.* Any and every homeowners' association created pursuant to law within the corporate limits of the town shall register annually, on the first workday in April of each year, with the Town Clerk. The following information shall be provided:

(a) The name, address, and telephone number of the president of the homeowners' association.

(b) The name, address, and telephone number of the registered agent of said homeowners' association.

(c) The name, address, telephone number, and appropriate representative of the management company, if any, with which the association has contracted to perform their maintenance responsibilities.

Section 3. Severability. The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Inclusion in the Code. It is the intention of the Town Commission, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the Town of Cutler Bay; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 5. Effective Date. That this Ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading this ____, day of _____, 2007.

PASSED and ADOPTED on second reading this ____ day of _____, 2007.

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ-SANTAMARIA, CMC
Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:

WEISS SEROTA HELFMAN PASTORIZA
COLE & BONISKE, P.L.
Town Attorney

Moved By:
Seconded By:

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman _____
Vice Mayor Edward P. MacDougall _____
Councilmember Peggy R. Bell _____
Councilmember Timothy J. Meerbott _____
Councilmember Ernest N. Sochin _____

TAB 15

ORDINANCE NO. 07- _____

AN ORDINANCE OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING ORDINANCE 07-24 WHICH ADOPTED AN OPERATING AND CAPITAL OUTLAY BUDGET FOR THE FISCAL YEAR COMMENCING OCTOBER 1, 2007 THROUGH SEPTEMBER 30, 2008 BY REVISING SAID BUDGET AS OUTLINED IN EXHIBIT "A" HERETO AND AUTHORIZING THE TOWN MANAGER TO MAKE EXPENDITURES CONSISTENT THEREWITH AND DO ALL THINGS NECESSARY TO CARRY OUT THE INTENT OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, upon periodic review and analysis of current budgetary commitments and obligations and based on the projected needs and requirements of the Town of Cutler Bay (the "Town") and with the concurrence of the Town Manager and his Finance Director, it is deemed necessary to adjust, amend and implement the Operating and Capital Outlay Budget for the fiscal year commencing October 1, 2007 as set forth in exhibit "A" hereto and made a part hereof.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF CUTLER BAY, FLORIDA, AS FOLLOWS:

Section 1. That the above recitals are true and correct and are incorporated herein by this reference.

Section 2. That the Town Council hereby authorizes the amendment of Ordinance No. 07-24 which ordinance adopted the Operating and Capital Outlay Budget for the fiscal year commencing October 1, 2007 through September 30, 2008, by revising said budget as set forth in exhibit "A", which exhibit is deemed incorporated by reference as if set forth in full herein.

Section 3. The Town Manager is hereby authorized to make such expenditures and to do all things necessary to carry out the intent of this ordinance.

PASSED on first reading this _____ day of _____, 2007.

PASSED AND ADOPTED on second reading this ____ day of _____, 2007.

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ-SANTAMARIA, CMC
Town Clerk

APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND BENEFIT OF THE TOWN OF CUTLER BAY ONLY:

WEISS, SEROTA, HELFMAN, PASTORIZA,
COLE & BONISKE, P.L.
Town Attorney

Moved By:
Seconded By:

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman _____

Vice Mayor Edward P. MacDougall _____

Councilmember Peggy R. Bell _____

Councilmember Timothy J. Meerbott _____

Councilmember Ernest N. Sochin _____

EXHIBIT A

GENERAL GOVERNMENT

Account Description	Account Number	As Approved 9/24/07	Change	As Revised Nov. 2007
Salaries	001-513000-1200	302,778	(24,960)	277,818
Payroll Taxes	001-513000-2100	35,199	(1,919)	33,280
Retirement Contributions	001-513000-2200	105,681	(2,459)	103,222
Life and Health Insurance	001-513000-2300	58,800	(8,400)	50,400
Repairs and Maintenance	001-513000-4600	28,800	(3,000)	25,800
Capital Outlay	001-513000-6400	11,000	(1,500)	9,500
			<u>(42,238)</u>	

TOWN CLERK

Account Description	Account Number	As Approved 9/24/07	Change	As Revised Nov. 2007
Salaries	001-512000-1200	54,600	24,960	79,560
Payroll Taxes	001-512000-2100	4,177	1,919	6,096
Retirement Contributions	001-512000-2200	7,164	2,459	9,623
Life and Health Insurance	001-512000-2300	8,400	8,400	16,800
Repairs and Maintenance	001-512000-4600	7,920	3,000	10,920
Capital Outlay	001-512000-6400	0	1,500	1,500
			<u>42,238</u>	
		Net Change	<u>0</u>	

Effect of change - Move one funded position for a fees collection employee from "General Government" department to "Town Clerk" department

TAB 16



Planning & Zoning Department

R. Don O'Donniley, AICP
Planning Director

MEMORANDUM

To: Steve Alexander, Town Manager

From: R. Don O'Donniley

Date: November 14, 2007

Re: The Town Council's Consideration of the LPA's Recommendation to Transmit the Growth Management Plan

BACKGROUND

The LPA conducted a public hearing on September 19, 2007 on the proposed Town of Cutler Bay growth Management Plan. At the conclusion of the hearing, the LPA transmitted the draft to the Town Council. The Town Council heard from the public at its October 17, 2007 meeting and deferred to set a public meeting to further explain the Growth Management Plan and offer an additional opportunity for input. The "public meeting" was held on October 30, 2007. Staff has responded and presents the GMP, as modified for consideration by the Town Council.

REQUEST

Approve the transmittal of the Growth Management Plan to the Department of Community Affairs for State review.

WHAT THE TOWN'S NEW GROWTH MANAGEMENT PLAN PROVIDES

- More conservation lands along the eastern boundary of development and for implementation with the CERP project
- Reduced maximum density of the Low Density Residential land use category from 6 to 5 dwelling units an acre (a 20% reduction)
- Green, smart growth policies – bike paths, greenways, pedestrian friendly, opportunities to live and work in the same place. Following the hearing before Town Council on 10/17/07, staff has added additional policies

promoting green development and these are attached to the staff memorandum.

- A vision that offers well thought out approaches to managing growth not open to unwanted development through inadequate regulations
- Focuses development consistent with the Old Cutler Road and Cutler Ridge Charrettes
- Lowers maximum heights in the core area of the UCD zoning
- Protects existing single family neighborhoods

PUBLIC INVOLVEMENT PROCESS

- Surveys distributed and analyzed by Town staff
- Meetings with residents and property owners (Ongoing)
- E-mails from the public (Ongoing)
- Meeting with Elderly Transportation Advisory Committee
- Meeting with the South Dade Rotary
- Staff took into account public comments and amended documents as needed
- April 5, 2007 First Public Workshop
- June 26, 2007 Second Public Workshop
- July 12, 2007 Third Public workshop
- September 19, 2007 Local Planning Agency Hearing
- October 17, 2007 Public Hearing by the Town Council to transmit to the Department of Community Affairs

- Council interviews were held throughout the process

- The public hearing held by the Town Council, October 17, 2007

- A “Public Meeting” to further explain the draft GMP and solicit additional input.

MEETINGS HELD WITH OTHER AGENCIES

- Miami-Dade County Department of Environmental Resources Management
- Miami-Dade Park and Recreation
- Miami-Dade Planning and Zoning
- South Florida Regional Planning Council
- South Florida Water Management District
- Miami-Dade County Public Schools

ANALYSIS

The Growth Management Plan is an ever evolving document which will change over time. Further adjustments can be considered before final adoption following DCA review. Under Florida Statutes, the GMP may be amended two times a year (Growth Management Plan amendments). And, every seven years a full review of the Plan is required by Statute.

Staff responded to Council direction by providing an analysis of the Council of the Town's current exposure under the County's CDMP that documented qualitative and quantitative comparisons for the Public hearing conducted 10/19/07.

The Town Council directed staff to conduct an additional informational effort with the public and to further hear input into the proposed draft GMP. The public meeting was conducted October 30, 2007. In general, input focused on two concerns. The first was height within the land use designation for the area delineated Town Center and the second was concerns with policies guiding more environmentally friendly development.

Staff believes it is important to review again the major changes contained within the Growth management Plan. We have a draft that substantially increases conservation. It also lowers the intensity of development and reduces density. The proposed plan establishes increased standards for park land that would result from demand created by development. We propose a greener, more appropriate development pattern that supports walking, bicycling and transit. Opportunities are presented to attract community scale shopping instead of the big box development that was a potential under County rules. Further delay increases exposure to developments that comply with current the County's CDM.

Following the input received at the "Public Meeting", staff again reviewed the concerns.

Staff supports the limited designation within the Town Center land use area. It is important to remember the area has existing zoning rights that need to be considered. The approach taken by staff recognizes the zoning but can result in a variation in height that will not result in one monolith in development and will also establish lower heights on approximately 40% of the Town Center area than was abdicated by some at the public meeting on 10/30/07. Staff has developed additional environmentally policies and these policies are attached.

RECOMMENDATION

Staff recommends the Council consider the additional policies added from input at the hearing and public meeting and transmit the Growth Management Plan to the Department of Community Affairs.

Suggested Additional GMP Policies

The following are the changes to the Growth Management Plan that have been proposed since the first reading at the Town Council on Wednesday, October 17, 2007.

Volume 1

Conservation Element
Objective C-12
Page C-12

Revision: The following policies are to be added to Objective C-12 *The Town will take measurable steps toward becoming a “sustainable” community by providing a healthy setting for residents, workers, and visitors and increase public and private awareness of green building practices.*

Policy C-12E: The Town will include regulations in the Land Development Regulations that will require all buildings taller than 18 stories must be LEED certified or similar.

Policy C-12F: All buildings and developments constructed by the Town will be LEED certified or similar.

Policy C-12G: The Town will urge Miami-Dade County to build all new buildings, remodel/retrofit buildings and developments to be LEED certified or similar.

Policy C-12H: The Land Development Regulations will include site plan review criteria that will require the developer to submit statement and all necessary information to explain the green development standards they are utilizing within their developments.

Policy C-12I: The Land Development Regulations will include site plan review requirements that all stormwater collected on rooftops will be directed to drain into landscape planter bed or otherwise be utilized on-site before running into a storm drain catch-basin.

Policy C-12J: The Town will include requirements in Land Development Regulations to have new development contribute to increasing the tree canopy of the town.

Policy C-12K: All new buildings that are taller than three stories must include awning, canopies or similar methods to increase the amount of outdoor shaded areas that are open to the public.

ORDINANCE NO. 07-__

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ADOPTING THE INITIAL COMPREHENSIVE PLAN (GROWTH MANAGEMENT PLAN) FOR THE TOWN IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 163, FLORIDA STATUTES; PROVIDING FOR THE ADOPTION OF THE FUTURE LAND USE MAP; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on November 9, 2005, the Town of Cutler Bay (the “Town”) incorporated and became the newest municipality within Miami-Dade County; and

WHEREAS, pursuant to Section 163.3167(4), Florida Statutes, Miami-Dade County’s Comprehensive Development Master Plan is deemed controlling until the Town adopts its own Comprehensive Plan (the “Growth Management Plan”); and

WHEREAS, the Town’s staff along with the Town’s planning and zoning consultants have been preparing the Town’s Growth Management Plan, attached as Exhibit “A,” since March 2007; and

WHEREAS, over the last six (6) months, several public workshops with Town residents and business owners have been held in order to discuss and receive input on the proposed Growth Management Plan and vision for the Town; and

WHEREAS, on September 19, 2007, the Town Council, in its capacity as the Local Planning Agency, reviewed the proposed Growth Management Plan and recommended approval; and

WHEREAS, public notice and advertisement of the proposed Growth Management Plan has been provided in accordance with applicable law; and

WHEREAS, the Town Council finds adoption of this Growth Management Plan to be in the best interest and welfare of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY AS FOLLOWS:

Section 1. Findings. The foregoing “Whereas” clauses are hereby ratified and incorporated as the legislative intent of this Ordinance.

Section 2. Adoption of the Comprehensive Plan (Growth Management Plan). Pursuant to Chapter 163, Florida Statutes, the Town Council of the Town of Cutler Bay hereby adopts the Town’s initial Comprehensive Plan (Growth Management Plan), attached as Exhibit “A” to this Ordinance.

Section 3. Severability. If any section, clause, sentence, or phrase of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this Ordinance.

Section 4. Conflict. All Sections or parts of Sections of the Code of Ordinances, all ordinances or parts of ordinances, and all Resolutions, or parts of Resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

Section 5. Effective Date. This Ordinance shall be effective immediately upon passage by the Town Council on second reading, except that the effective date of the Comprehensive Plan (the "Growth Management Plan") approved by this Ordinance shall be the date a final order is issued by the Department of Community Affairs or Administration Commission finding the Growth Management Plan in compliance in accordance with Section 163.3184, Florida Statutes, whichever occurs earlier. The Department of Community Affairs notice of intent to find the Growth Management Plan in compliance shall be deemed to be a final order if no timely petition challenging the Growth Management Plan is filed.

PASSED on first reading this _____ day of _____, 2007.

PASSED AND ADOPTED on second reading this ____ day of _____, 2007.

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ-SANTAMARIA, CMC
Town Clerk

APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND BENEFIT OF THE TOWN OF CUTLER BAY ONLY:

WEISS, SEROTA, HELFMAN, PASTORIZA,
COLE & BONISKE, P.L.
Town Attorney

Moved By:
Seconded By:

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman _____

Vice Mayor Edward P. MacDougall _____

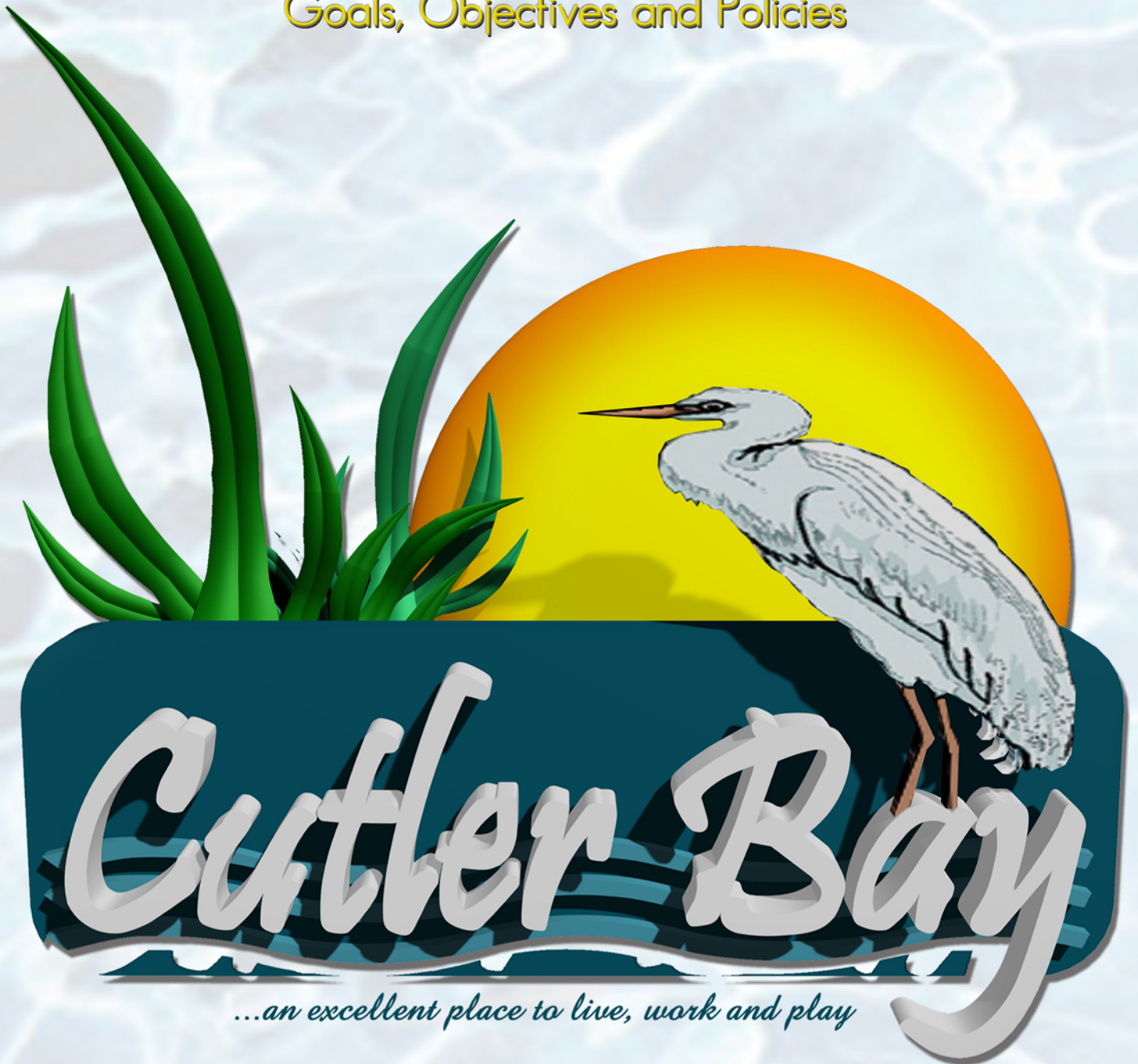
Councilmember Peggy R. Bell _____

Councilmember Timothy J. Meerbott _____

Councilmember Ernest N. Sochin _____

Town of Cutler Bay

Growth Management Plan
Volume No. 1
Goals, Objectives and Policies



...an excellent place to live, work and play

Prepared By:
The Corradino Group, Inc.
Bell David Planning Group, Inc.

**THE
CORRADINO
GROUP**


BELL DAVID PLANNING GROUP, INC.
Navigating Florida's Planning Requirements

July 2, 2007

Future Land Use



Goal

PROTECT AND IMPROVE THE TOWN'S BUILT AND NATURAL ENVIRONMENT THROUGH THE USE OF LAND IN A MANNER THAT ENHANCES EXISTING NEIGHBORHOODS, CONSERVES RESOURCES, ENSURES THE AVAILABILITY OF PUBLIC FACILITIES AND SERVICES, AND REALIZES THE COMMUNITY'S VISION FOR ITS FUTURE.

Objective FLU-1: Future Land Use Map

The Future Land Use Map (Exhibit FLU-1A) depicts the Town's vision for its current and future development through the provision and location of specific future land use districts. All development and redevelopment in the Town shall be in accordance with the Map, as it may be amended from time to time.

Monitoring Measures FLU-1

1. Number of development orders deemed consistent with the Comprehensive Plan.
2. Number of applications to amend the Future Land Use Map.
3. Number, type and acreage of Future Land Use Map amendments.

Policy FLU-1A: The Future Land Use Map shall contain an adequate supply of land in each district to meet the demands of the existing and future population up to the projected 2020 population of 60,000, and the Town shall ensure that infrastructure and services are or will be made available to meet the needs of this projected population. In the event that the Town's land area increases or decreases, the projected 2020 population will be adjusted accordingly.

Policy FLU-1B: The Town, through its Future Land Use Map and Land Development Regulations, will ensure that land uses are located in conjunction with appropriate topographic and soil conditions.

Policy FLU-1C: The Town's Land Development Regulations shall conform to, and implement, the use, intensity and density standards prescribed for the land use districts provided on the Future Land Use Map, and detailed as shown in the table on page FLU-3.

Policy FLU-1D: The Town's Planning Director shall be the principal administrative interpreter of the Growth Management Plan. In the event of a dispute regarding the location of a boundary line on the Future Land Use Map, the Planning Director shall make the final determination regarding the location of said boundary.

Future Land Use



District	Uses	Density and Intensity
Conservation	Public or private lands protected for conservation or recreational purposes via ownership or regulatory mechanisms	n/a
Parks and Recreation	Public and private parks, open space, and outdoor recreational facilities	n/a
Water	Natural and man-made water bodies for stormwater drainage and retention, recreation, flood control, and natural resource protection and enhancement	n/a
Institutional	Governmental facilities, educational facilities, communications facilities, religious institutions, fraternal organizations, hospitals, and congregate care and nursing homes .	Maximum Floor Area Ratio of 1.75 . Maximum height of 38 feet. Architectural features can exceed maximum height limitations.
Transportation and Roadways	Roadways, rights-of-ways, and transportation infrastructure	n/a
District	Uses	Density and Intensity
Estate Density Residential	Residential units and public schools	One (1) to 2.5 units per gross acre, maximum Floor Area Ratio of 4.0 for public schools and religious institutions <u>Estate Density-Conservation</u> One (1) to 2.5 units per gross acre, until such time as the land is transferred in ownership for conservation purposes or other public use, or otherwise protected from development via conservation mechanisms. Schools and religious institutions are not allowed.
Low Density Residential	Residential units, public schools and religious institutions	2.5 to 5 units per gross acre, maximum Floor Area Ratio of 4.0 for public schools and religious institutions <u>Low Density-Conservation</u> 2.5 to 6 units per gross acre, until such time as the land is transferred in ownership for conservation purposes or other public use, or otherwise protected from development via conservation mechanisms. Schools and religious institutions not allowed.
Medium Density Residential	Residential units, public schools and religious institutions	5 to 13 units per gross acre, maximum Floor Area Ratio of 4.0 for public schools and religious institutions <u>Medium Density-Conservation</u> 5 to 13 units per gross acre, until such time as the land is transferred in ownership for conservation purposes or other public use, or otherwise protected from development via conservation mechanisms. Schools and religious institutions not allowed.

Future Land Use



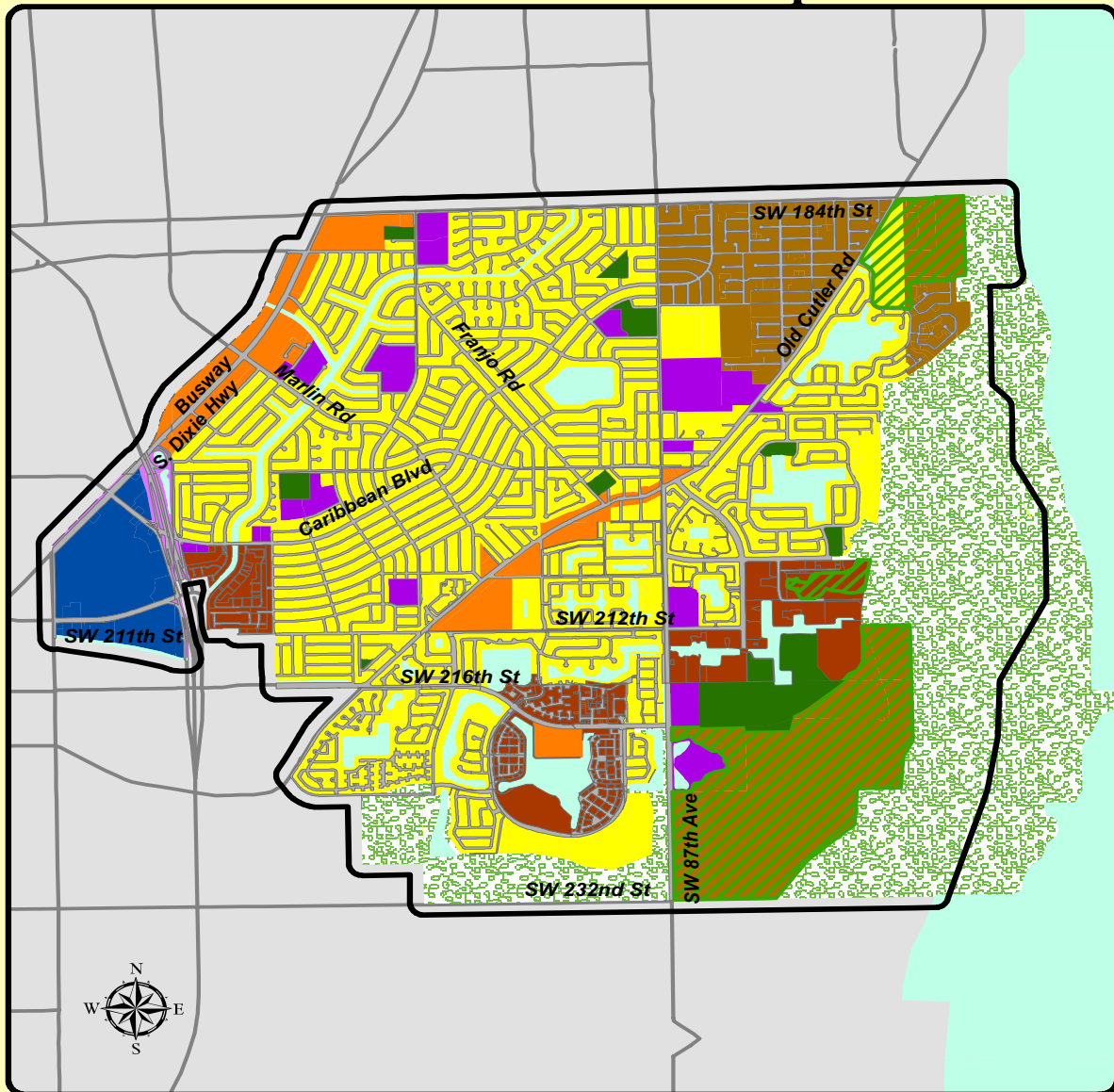
District	Uses	Density and Intensity
<p>Mixed Use</p>	<p>Sales and service activities, professional and clerical offices, hotels, motels, medical buildings and offices, cultural and entertainment uses, community facilities, institutional, parks and open space, and residential uses in a high quality mixed use environment. Vertical mixed use buildings are allowed in all underlying zoning districts in the Mixed Use districts, with the sales and service components being located on the ground floors and residential and office uses being located on higher floors. Horizontal mixed use development (different uses in different buildings on the same site or block face) is allowed, with specific uses determined by the underlying zoning district. Vertical mixed use buildings shall be encouraged on sites that can accommodate the mix of uses under the prescribed parameters, while horizontal mixed use development is encouraged on sites that cannot otherwise accommodate vertical mixed use.</p>	<p><u>US-1 Corridor</u> Mix of uses, with residential uses comprising no less than 20 percent and no greater than 80 percent of the total floor area of a vertical mixed use building, and no less than 20 percent and no more than 80 percent of the buildings on a development site or block face. Floor area ratio of 2.0, multi-family residential density at 15 units per gross acre except where the Town Council authorizes an increase up to 30 units based upon criteria within the Land Development Regulations. Maximum building height of four stories, 45 feet for the frontage and three stories, 35 feet for the remainder. Architectural features can exceed maximum height limitations.</p> <p><u>Old Cutler Road Corridor</u> Mix of uses, with residential uses comprising no less than 20 percent and no greater than 80 percent of the total floor area of a vertical mixed use building, and no less than 20 percent and no more than 80 percent of the buildings on a development site or block face. Floor area ratio of 2.0, multi-family residential density at 15 units per gross acre except where the Town Council authorizes an increase up to 30 units based upon criteria within the Land Development Regulations. Maximum building height of four stories, 45 feet for the frontage and three stories, 35 feet for the remainder. Architectural features can exceed maximum height limitations.</p> <p><u>Lakes-by-the-Bay Mixed-Use Site</u> Commercial, office, community facilities, and recreation open space uses that serve the surrounding residential communities. Floor Area Ratio of .5, maximum building height of two stories, 35 feet. Architectural features can exceed maximum height limitations.</p> <p><u>Institutional Uses</u> Maximum FAR of .5 for Institutional uses in the US-1 and Old Cutler Road corridors, and .4 in the SW 184 Street and Lakes-by-the-Bay Mixed-Use sites.</p>
<p>Town Center</p>	<p>Sales and service activities, professional and clerical offices, hotels, motels, medical buildings and offices, cultural and entertainment uses, community facilities, governmental facilities, institutional uses, parks and open space, and residential uses integrated both horizontally and vertically in a high quality, design-unified, mixed-use environment. Horizontal and vertical mixed use development is allowed, in accordance with the frontage and use requirements incorporated into the land development regulations.</p>	<p>Density and Intensity</p> <p><u>Core</u> An average, building height of 18 stories, floor area ratio of 3.0, and density of 200 units per gross acre. Architectural features can exceed maximum height limitations.</p> <p><u>Center</u> Floor Area Ratio of 2.5, 150 units per gross acre. Maximum building height of 10 stories. Architectural features can exceed maximum height limitations.</p> <p><u>Edge</u> Floor Area Ratio of 1.0, 50 units per gross acre. Maximum building height of 8 stories. Architectural features can exceed maximum height limitations.</p> <p><u>Institutional Uses</u> Maximum Floor Area Ratio of .8 for Institutional uses in the Town Center.</p>

Future Land Use



Exhibit FLU-1A
Future Land Use Map

Town of Cutler Bay Future Land Use Map



Cutler Bay Boundary	Estate Density	Town Center	Residential - Conservation
Water	Low Density	Institutional	
Roadways	Medium Density	Parks and Recreation	
Transportation	Mixed Use	Conservation	



Source: Town of Cutler Bay,
THE CORRADINO GROUP

Exhibit FLU - 1A

Future Land Use



Objective FLU-2: Town Center

The area designated “Town Center” on the Future Land Use Map shall be redeveloped as a high quality, design-unified, mixed use downtown for Cutler Bay.

Monitoring Measures FLU-2

1. Number and type of development orders that have been approved in the District that implement the Town Center designation.
2. Adoption of Land Development Regulations to implement the Town Center designation

Policy FLU-2A: Development and redevelopment in the Town Center shall provide for the development of a well-designed and compatible area that provides attractive places to live, work and shop and that is accessible via the full range of transportation options, including transit, automobiles, bicycles, and pedestrians.

Policy FLU-2B: The Town shall implement improved multi-modal transportation access to, from and within the Town Center.

Policy FLU-2C: Building heights in the Town Center shall be regulated through the Land Development Regulations in order to implement a unified design, and provide appropriate densities and intensities.

Policy FLU-2D: The mix of uses and street frontages in the Town Center shall be regulated through the Land Development Regulations in order to ensure its redevelopment as a functional mixed-use downtown area for Cutler Bay, and to ensure that a variety of uses and functions are provided within a compact area.

Policy FLU-2E: The Town shall implement unified high quality urban design in the Town Center in accordance with the adopted regulating plan for the area, as it is periodically amended.

Policy FLU-2F: The Town shall ensure the provision of open space, park space, entrance features, and focal points in the Town Center.

Policy FLU-2G: The Town shall coordinate with Miami-Dade County, as appropriate, to implement strategies to provide multimodal transportation linkages between, to and from the South Dade Government Center, new Performing Arts Center, and other uses in the Town Center that might reduce the need for internal vehicular trips.

Policy FLU-2H: The Town shall coordinate with Miami-Dade County, as appropriate, to implement strategies to better incorporate the South Dade Government Center, new Performing Arts Center, and other County facilities into the Town Center Area.

Policy FLU-2I: The Town shall implement strategies to improve access to Black Creek Canal through pedestrian walkways, open spaces, and other mechanisms.

Future Land Use



Policy FLU-2J: The Town shall investigate strategies to promote the development of a hotel complex and meeting facilities in the Town Center Area.

Future Land Use



Objective FLU-3: Mixed Use Districts

The areas designated “Mixed Use” on the Future Land Use Map shall be **developed** or redeveloped through the Land Development Regulations as design unified horizontal and vertical mixed use areas in accordance with adopted plans and studies that reflect the community’s vision.

Monitoring Measures FLU-3

1. Number and type of development orders that have been approved in the District that implement the Mixed Use designation.
2. Adoption of Land Development Regulations to implement the Mixed Use designation.

Policy FLU-3A: Areas designated mixed use shall contain commercial, office, residential, community, institutional and recreation and open space uses integrated vertically or horizontally, in accordance with Policy **FLU-1C**.

Policy FLU-3B: By 2010 the Town shall evaluate the feasibility of developing a focus study and/or charrette plan to address the development and redevelopment of the areas designated “Mixed-Use” along the US-1 corridor north of the Town Center District.

Policy FLU-3C: The area located along the Old Cutler Road corridor and designated “Mixed Use” on the Future Land Use Map shall be redeveloped as a place where living, working, shopping, and civic activities can take place within a town center type environment.

Policy FLU-3D: New development and redevelopment along Old Cutler Road shall consist of a variety of buildings and uses that will encourage pedestrian activity with wide sidewalks, balconies, outdoor cafes, squares, and plazas.

Policy FLU-3E: The Town, through the Land Development Regulations, shall implement the development of a civic district and public gathering space along the Old Cutler Road corridor.

Policy FLU-3F: The Town shall provide improved multi-modal transportation circulation and streetscapes within the Old Cutler Road corridor and adjacent areas through the implementation of capital projects, intergovernmental coordination, and other mechanisms as appropriate.

Policy FLU-3G: The Town shall implement unified high quality, well-designed horizontal and vertical mixed use development on the Old Cutler Road corridor.

Future Land Use



Objective FLU-4: Residential Districts

The Town shall protect, maintain and improve its residential districts, as designated on the Future Land Use Map.

Monitoring Measures FLU-4

1. Adoption of Land Development Regulations to protect neighborhoods and provide transitions.
2. Status of neighborhood improvement strategies.

Policy FLU-4A: The Town shall implement strategies to provide appropriate transitions between its residential districts and the higher intensity Mixed Use, Town Center, and Institutional districts through its Land Development Regulations and other appropriate mechanisms.

Policy FLU-4B: The Town shall ensure the provision of multi-modal transportation access between its residential neighborhoods, the Town Center, and mixed-use districts along US-1 and Old Cutler Road.

Policy FLU-4C: Development and redevelopment in the residential districts shall be regulated to ensure compatibility with the existing neighborhood, implement the recommendations of neighborhood improvement plans or initiatives that may be adopted, and prevent the encroachment of incompatible uses. When considering redevelopment proposals, maintaining consistency with existing densities and intensities shall be a major factor. Please see Objective LU-5 and its implementing policies for information regarding development compatibility criteria.

Policy FLU-4D: The Town shall implement strategies to improve residential neighborhoods.

Policy FLU-4E: When a parcel located in the Residential-Conservation Overlay District is in negotiation for purchase for conservation or public use, density may be transferred to areas within the Town Center or Mixed Use districts through the appropriate regulatory mechanisms.

Policy FLU-4F: When a parcel located in the Residential-Conservation Overlay District is purchased for conservation or public use, or is otherwise protected from development via conservation mechanisms that compensate the owner for development rights, its Future Land Use designation shall convert to Conservation.

Future Land Use



Objective FLU-5: Land Development Regulations and Compatibility

The Town shall adopt and implement innovative Land Development Regulations in order to foster compatible and high quality development and redevelopment in the Town, in accordance with the principals and concepts of this Comprehensive Plan.

Monitoring Measures FLU-5

1. Adoption of Land Development Regulations and/or other programs and initiatives that implement policies 5A – 5J.

Policy FLU-5A: Factors that may be considered in establishing zoning districts shall include, but not be limited to: use; density and intensity; height, scale and mass; ingress and egress requirements; noise impacts; sky exposure; setbacks; signage; fencing and other separations, and landscaping.

Policy FLU-5B: Development and redevelopment in the Town shall provide for pedestrian friendly street design, an interconnected street network and hierarchy to reduce congestion and improve traffic flow, design that promotes the use of non-motorized transportation modes, connectivity to transit, and a range of uses in a compact area to reduce the need for external trips.

Policy FLU-5C: The Town shall promote high quality urban design for development and redevelopment by encouraging developers to incorporate the concepts outlined in Miami-Dade County's *Urban Design Manual*, or other design guidelines that may be developed for the Town, into their developments.

Policy FLU-5D: The Land Development Regulations shall promote energy efficient design and water conservation in new development and redevelopment.

Policy FLU-5E: The Town shall discourage urban sprawl by directing new development and redevelopment in accordance with the Future Land Use Map, which provides for mixed-use development in areas currently served by urban infrastructure and services, and by designating environmentally sensitive areas as "Conservation".

Policy FLU-5F: The Town shall require aesthetically pleasing and environmentally sensitive landscaping as an important component of development and redevelopment projects. To the maximum extent feasible, existing on-site native vegetation shall be preserved.

Policy FLU-5G: In developing the Land Development Regulations, the site planning process will incorporate mechanisms to ensure the compatibility of development with adjacent and proximate uses.

Policy FLU-5H: The Town, through its Land Development Regulations, shall seek to reduce the number of uses that are inconsistent with the Comprehensive Plan and Future Land Use Map, and/or that are incompatible with the character of the surrounding neighborhood.

Future Land Use



Policy FLU-5I: The Town shall ensure that any applications to amend the Growth Management Plan and/or Future Land Use Map are reflective of the community's vision as expressed in this Plan or special neighborhood plans, and will not result in increased sprawl.

Policy FLU-5J: Although there are currently no military installations within or proximate to Cutler Bay, the Town shall adhere to State statutory requirements to ensure compatibility of new development and redevelopment with military operations if a military installation is located within the Town or within one-half mile of its boundaries in the future.

Policy FLU-5K: The Town, through its Land Development Regulations, shall include provisions for Planned Unit Developments as a mechanism for preventing urban sprawl and promoting unified, high quality development.

Policy FLU-5L: Where a parcel is under a single ownership and has two land use designations the land use permitted by the two categories may be rearranged within the parcel so long as the aggregate development permission does not exceed the land use designations and bonuses associated with this Plan.

Policy FLU-5M: All unexpired site plans approved by the Town or the County shall be deemed consistent with the Town's Comprehensive Plan.

Policy FLU-5N: The Town's Planning Director shall be the principal administrative interpreter of the Land Development Regulations. In the event of a dispute regarding the location of a boundary line, the Planning Director shall make the final determination regarding the location of said boundary.

Future Land Use



Objective FLU-6: Development and Redevelopment

The Town shall maintain and improve the quality of existing neighborhoods and development, and provide for redevelopment in appropriate locations, as needed.

Monitoring Measures FLU-6

1. Adoption and enforcement of code enforcement and building standards.
2. Number of code enforcement violations corrected.

Policy FLU-6A: The Town shall utilize building and code enforcement standards and redevelopment programs to eliminate blighted conditions and dilapidated structures, rehabilitate substandard buildings and developments, and proactively prevent slum and blighted conditions from occurring.

Policy FLU-6B: The Town, on an ongoing basis, shall investigate the availability of grants and other funding sources to implement redevelopment programs and achieve redevelopment goals.

Policy FLU-6C: The Town shall implement, to the extent financially feasible, capital improvements to address the needs of residential neighborhoods.

Future Land Use



Objective FLU-7: Availability of Services and Infrastructure

Development and redevelopment, in accordance with the Future Land Use Map, shall be coordinated with the availability of public facilities and services.

Monitoring Measures FLU-7

1. Achievement of Level of Service Standards.
2. Impact fees enacted/collected.
3. Adoption of Land Development Regulations requiring infrastructure improvements.

Policy FLU-7A: All development orders shall be contingent upon the provision of services at or above the Level of Service standards specified in the Capital Improvements Element.

Policy FLU-7B: The Town, through its Land Development Regulations, shall require developers to provide for their proportionate fair share of the cost for the infrastructure and services required to serve their development through impact fees or other appropriate mechanisms.

Policy FLU-7C: The Town, through its Land Development Regulations, shall require developers to provide for the necessary on-site infrastructure improvements, including: parking; safe and convenient traffic circulation; sidewalks and multi-modal transportation facilities, as appropriate; open space; water and wastewater connections or facilities, and drainage and stormwater management.

Policy FLU-7D: The Town shall coordinate with the County on the subdivision of properties through the platting process to ensure the availability of land for adequate public infrastructure.

Future Land Use



Objective FLU-8: Public Schools

The Town shall coordinate with the appropriate entities on an ongoing basis to ensure the provision and availability of adequate school sites to serve the existing and future population.

Monitoring Measures FLU-8

1. Status of coordination that has occurred between the Town and Miami-Dade County Public Schools.
2. Number of new student stations that have been constructed or approved in the Town, and an evaluation of whether these schools were approved in accordance with policies 8A – 8G.
3. Number of schools that have been collocated with other public facilities in the Town.
4. Number of new schools designated or existing schools retrofitted as emergency shelters to serve Town residents.

Policy FLU-8A: Public schools shall be allowed by right in all residential land use districts and the Institutional Land Use District, and as a special exception in all other districts, except Conservation, and all Residential-Conservation Overlay Districts.

Policy FLU-8B: New schools shall not be located adjacent to existing uses that will have negative impacts on the health, safety and welfare of students, teachers, employees, and visitors. Conversely, new uses that will negatively impact the health, safety and welfare of students, teachers, employees and visitors shall not be located adjacent or proximate to public schools.

Policy FLU-8C: New schools will minimize negative impacts on surrounding areas through site location, configuration, access and development. Conversely, new development and redevelopment shall minimize and/or mitigate negative impacts on existing school facilities.

Policy FLU-8D: The location of new schools should occur where capacity of other public facilities and services is available to accommodate the infrastructure needs of the educational facility.

Policy FLU-8E: New schools shall not have negative impacts on historic or archeological resources, and should be located away from floodplains and environmentally sensitive lands.

Policy FLU-8F: To the maximum extent feasible, the Town shall coordinate with the appropriate entities to collocate public schools with other public facilities, including the provision of joint park-school sites.

Policy FLU-8G: To the maximum extent feasible new schools should be designed to serve as emergency shelters in the event of an emergency.

Policy FLU-8H: To the maximum extent feasible the design of additions to existing schools should further the facility's ability to serve as a shelter in the event of an emergency.

Policy FLU-8I: The Town shall encourage public schools to replace portable student stations with permanent student stations.

Future Land Use



Policy FLU-8J: New public schools, and additions to existing schools, shall be built to State Requirements for Educational Facilities (SREF) standards.

Future Land Use



Objective FLU-9: Natural Resource Protection

The Town shall ensure the preservation and conservation of natural resources within its boundaries and in adjacent areas.

Monitoring Measures FLU-9

1. Acres of natural areas preserved in Town.
2. Adoption of ordinances to achieve natural resource protection.
3. Examples of intergovernmental coordination efforts to achieve natural resource protection goals.

Policy FLU-9A: The Town shall coordinate the protection of natural resources with the appropriate local, County, State and federal agencies.

Policy FLU-9B: The Town, through its Conservation Element, shall ensure that development and redevelopment does not negatively impact natural resources.

Policy FLU-9C: The Town shall coordinate with the appropriate local, County, State and federal agencies to protect surface waters within and proximate to its boundaries.

Policy FLU-9D: The Town shall coordinate with the appropriate local, County, State and federal agencies to protect the quality and quantity of ground water within and proximate to its boundaries.

Policy FLU-9E: The Town shall coordinate with the appropriate local, County, State and federal to protect air quality.

Policy FLU-9F: The Town shall participate in the National Flood Insurance Program, and shall maintain the development standards required for such participation.

Policy FLU-9G: The Town shall ensure that adequate pervious surface areas are maintained and protected at prime aquifer recharge areas.

Policy FLU-9H: The Town, through the Land Development Regulations, shall require adequate pervious surface areas by zoning districts.

Policy FLU-9I: The Town shall require that all new development and redevelopment connect to the central potable water and sanitary sewer system, where available. In the event that it is not available, septic tanks and private wells will be permitted after being approved through the proper regulatory channels and where suitable soil and environmental conditions exist.

Policy FLU-9J: Land uses that produce hazardous wastes or that are otherwise detrimental to potable water wells shall be separated from wellfields through distance criteria.

Future Land Use



Policy FLU-9K: The Town shall require on-site stormwater management for development and redevelopment, and establish standards for the design of stormwater management systems.

Policy FLU-9L: The Town shall require no net post-development increase in stormwater runoff from development and redevelopment sites.

Policy FLU-9M: The Town shall require developers to identify and mitigate constraints based on soils, topography, and floodplains.

Policy FLU-9N: The Town shall use conservation easements, transfer of development rights, purchase of development rights, fee simple purchase, and other strategies to facilitate the protection of environmentally sensitive areas and natural resources within its boundaries.

Future Land Use



Objective FLU-10: Historic, Archeological and Cultural Resource Protection

The Town shall identify, designate and protect historic, archeological and cultural resources within its boundaries.

Monitoring Measures FLU-10

1. Completion of historic and archeological resource survey.
2. Number of sites identified and designated.
3. Adoption of protection mechanisms in the Land Development Regulations.
4. Examples of intergovernmental coordination efforts to achieve resource protection goals.

Policy FLU-10A: By 2010, the Town shall conduct a survey to determine the extent of historic and archeological sites within its boundaries, and thereafter shall maintain a database of such sites.

Policy FLU-10B: The Town shall incorporate, into the Land Development Regulations, mechanisms to protect designated historic, archeological and cultural resources, if any, and shall review development proposals to ensure that development and redevelopment does not negatively impact these resources.

Policy FLU-10C: In the event that significant historic, archeological or cultural resources are identified in the surveying effort, the Town shall consider the establishment of local register and listing processes and procedures.

Policy FLU-10D: The Town shall coordinate, as appropriate, with local, County, State and federal agencies and the private sector to ensure the protection of historic, archeological and cultural resources that may be identified within its boundaries.

Policy FLU-10E: In the event that significant historic, archeological and/or cultural resources are identified in the survey and so designated, the Town shall ensure that information and educational materials about these resources are made available through the appropriate mechanisms.

Future Land Use



Objective FLU-11: Emergency Management and Response

The Town shall coordinate with the appropriate agencies in the development and implementation of emergency management and response plans to ensure its ability to protect residents and property from hurricane events and other natural and man-made disasters, and in the development and implementation of post-disaster recovery plans.

Monitoring Measures FLU-11

1. Status of Emergency Management Plans
2. Description and evaluation of emergency management and post-disaster recovery efforts, if any.
3. Regulations to prevent residential density increases in the coastal high hazard area.

Policy FLU-11A: The Town shall not permit increased residential densities within the portions of the Town that are in the Coastal High Hazard Area.

Policy FLU-11B: The Town shall coordinate with the Miami-Dade County, the South Florida Regional Planning Council, and other agencies as appropriate in the development of a Town Emergency Response Plan. The Plan shall address factors such as the incident command system structure, delegation of responsibilities and duties, community outreach, and post-disaster mitigation and recovery.

Policy FLU-11C: The Town shall evaluate the impact of proposed Growth Management Plan amendments on evacuation routes and times utilizing the best available information from the South Florida Regional Planning Council.

Policy FLU-11D: The Town shall coordinate with Miami-Dade County Public Schools, Miami-Dade County, and other agencies as appropriate to ensure the availability of adequate shelter for its residents.

Policy FLU-11E: The Town, as appropriate and feasible, shall encourage the elimination or reduction of uses that are incompatible with hazard mitigation goals and interagency hazard mitigation report recommendations.

Future Land Use



Objective FLU-12: Incentive Programs

The Town shall implement innovative incentive programs within its Land Development Regulations.

Monitoring Measures FLU-12

1. Status of adoption or enactment of incentive programs.
2. Number of development requests for which incentives were provided, and the net result of these incentives, to the extent that the results can be documented.

Policy FLU-12A: The Town, through the Land Development Regulations, may create administrative variance criteria for minor deviations to a site plan when the development for which such variance(s) is/are requested is demonstrated to further the achievement of adopted urban design, economic development, affordable housing, conservation, public education, and/or recreation and open space goals, objectives, and policies.

Policy FLU-12B: By 2010, the Town shall establish and implement a transfer of development rights programs to further the achievement of adopted urban design, economic development, affordable housing, conservation, public education, and/or recreation and open space goals, objectives, and policies.

Policy FLU-12C: The Town shall utilize density increases, transfer of development rights, and other appropriate strategies to encourage transit oriented development along transit corridors within its boundaries, and in the Town Center.

Policy FLU-12D: The Town shall allow the transfer of development rights from areas identified as appropriate for recreation and open space, conservation, government facilities, or other public uses to areas within transit corridors or the Town Center, as appropriate.

Policy FLU-12E: The Town, through the Land Development Regulations, may create development bonuses, as appropriate, to further the achievement of adopted urban design, economic development, affordable housing, conservation, public education, and/or recreation and open space goals, objectives, and policies.

Policy FLU-12F: The Town, on an on-going basis, shall seek to reduce regulatory barriers to the achievement of adopted urban design, economic development, affordable housing, conservation, public education, and/or recreation and open space goals, objectives, and policies.

Future Land Use



Objective FLU-13: Economic Development

The Town shall seek to maintain and increase its role as an employment and commercial center for south Miami-Dade County.

Monitoring Measures FLU-13

1. Status of economic development and coordination efforts.
2. Number of licenses issues for new business start-ups or relocations.
3. Employment and retail sales statistics.

Policy FLU-13A: The Town shall coordinate with the private sector, chambers of commerce, and economic development organizations to support existing businesses, new business start-ups, and attract existing businesses seeking new locations.

Policy FLU-13B: The Town shall coordinate with the private sector, chambers of commerce, and economic development organizations to develop and implement strategies to improve the business mix, improve commercial uses, and increased job opportunities for existing and future residents.

Policy FLU-13C: The Town shall support the location of employment centers, offices, and retail uses proximate to residential areas through the implementation of the Town Center and Mixed Use land use districts, in accordance with this Plan.

Policy FLU-13D: The Town shall promote its Town Center and Mixed Use districts as excellent locations for business by providing for their development and redevelopment in accordance with charrettes and/or other special plans.

Policy FLU-13E: The Town shall study and implement marketing strategies to attract quality restaurants and other underrepresented retail and commercial uses.

Policy FLU-13F: The Town shall establish and facilitate a Business Alliance Committee in order to maintain and improve relationships with local business leadership.

Housing



Goal 1

ENSURE THE AVAILABILITY OF A DECENT, SAFE AND SANITARY HOUSING STOCK TO ACCOMMODATE CURRENT AND FUTURE RESIDENTS.

Objective H1-1: Housing Sites

The Town shall designate an adequate supply of residential land on its Future Land Use Map to accommodate its current and projected population, up to the projected 2020 population of 60,000.

Monitoring Measures H1-1

1. Acreage of residentially designated lands on Future Land Use Map
2. Housing inventory
3. Land Development Regulations supportive of a variety of housing types.

Policy H1-1A: The Town shall maintain the residential Future Land Use designation of its existing and developing residential neighborhoods.

Policy H1-1B: In order to discourage sprawl and encourage housing in areas with the necessary infrastructure and services, including proximity to mass transit, retail, community services, and employment centers, the Town shall allow residential development in appropriate locations in the Town Center and Mixed Use Districts.

Policy H1-1C: The Town shall encourage housing proximate to transit and employment centers by allowing residential development at appropriate densities along transit corridors.

Policy H1-1D: The Town's residential zoning districts shall allow a variety of housing types in residential districts in order to meet the housing needs of current and projected residents.

Policy H1-1E: Public infrastructure and services shall be provided concurrent or prior to development, or within the timeframes mandated by State statute.

Housing



Objective H1-2: Housing Stock

The Town shall seek to eliminate all substandard units by 2015.

Monitoring Measures H1-2

1. Number of substandard units in the Town that have been corrected as a result of code enforcement action or rehabilitation assistance.

Policy H1-2A: Enforce the Town codes to achieve correction of housing that does not meet property maintenance standards, as defined in Florida Statutes.

Policy H1-2B: Coordinate with Miami-Dade County and other agencies as appropriate, including non-profit organizations, to ensure the availability of housing rehabilitation assistance to qualified households.

Policy H1-2C: The Town, through its Land Development Regulations, shall prohibit out-of-scale development, redevelopment, additions, and/or improvements in residential neighborhoods.

Policy H1-2D: The Town shall implement strategies to meet the needs of specific residential neighborhoods, and may identify subareas that warrant special studies.

Policy H1-2E: When reviewing a conversion of residential rental units to condominium units for compliance with applicable zoning requirements, the Town shall enforce any restrictions placed upon the property relating to density bonuses which were granted to further the achievement of affordable, workforce, or elderly housing.

Housing



Objective H1-3: Historically Significant Housing

The Town shall protect officially designated historically significant housing that may be located within its boundaries.

Monitoring Measures H1-3

1. Completion of historic and archeological resource survey
2. Number of sites identified and designated.
3. Adoption of protection mechanisms in the land development regulations.
4. Examples of intergovernmental coordination efforts to achieve resource protection goals.

Policy H1-3A: By 2010, the Town shall coordinate with the appropriate agencies to conduct a survey to determine if historically significant housing structures are within its boundaries, and to maintain a database of such sites.

Policy H1-3B: The Town shall incorporate mechanisms to protect historically designated housing, if any, into its Land Development Regulations, and shall review development proposals to ensure that development and redevelopment does not negatively impact these structures.

Policy H1-3C: In the event that historically significant housing structures are identified in the surveying effort, the Town shall consider the establishment of a local register and listing processes and procedures.

Policy H1-3D: The Town shall coordinate, as appropriate, with local, County, State and federal agencies and the private sector to ensure the protection of historically designated housing that may be located within its boundaries.

Policy H1-3E: In the event that historically designated housing is identified in the survey, the Town shall ensure that information and educational materials about these structures are made available through the appropriate mechanisms.

Housing



Goal 2

ENSURE THE AVAILABILITY OF HOUSING THAT IS AFFORDABLE TO CURRENT AND FUTURE RESIDENTS OF ALL INCOME AND SPECIAL NEEDS GROUPS IN THE TOWN OF CUTLER BAY.

Objective H2-1: Affordable, Workforce, Elderly and Special Needs Housing

The Town shall promote the provision of a full range of housing types to meet the existing and future needs of all income groups and residents at all stages in the life cycle and/or with special housing needs in proportions reflective of demand.

Monitoring Measures H2-1

1. Land Development Regulations that mitigate regulatory barriers or provide incentives for the provision of a variety of housing types.
2. Number of cost burdened households by income, age, and special needs group and tenure
3. Housing costs

Policy H2-1A: The Town shall utilize the most current U.S. Department of Housing and Urban Development standards to define affordable housing.

Policy H2-1B: The Town shall coordinate with the private sector in order to identify regulatory barriers to the provision of affordable, workforce, elderly and special needs housing, and ensure that these barriers are revised or removed in the Land Development Regulations.

Policy H2-1C: The Town, in its Land Development Regulations, shall support the provision of affordable, workforce, elderly and special needs housing units throughout the Town, while avoiding their concentration in specific areas.

Policy H2-1D: Within residential districts, density or intensity bonuses or administrative variances may be allowed through the Land Development Regulations when such bonuses or variances are demonstrated to further the achievement of affordable, workforce, elderly and/or special needs housing goals, and will not result in incompatible development.

Policy H2-1E: The Town shall investigate strategies to ensure that new housing developments provide a diversity and mix of housing types in order to meet the needs of residents of different income, age and needs groups, in proportions reflective of demand. To the maximum extent feasible, these incentives should be incorporated into the Land Development Regulations.

Policy H2-1F: The Town shall encourage housing, including affordable, workforce, elderly and special needs housing, proximate to transit and employment centers by providing adequate locations for mixed-use development and allowing residential development at appropriate densities along transit corridors.

Housing



Policy H2-1G: When development incentives are offered to provide affordable, workforce, elderly or special needs housing, a special use approval process shall be utilized to ensure that units resulting from the incentives remain affordable upon future transfer of ownership.

Policy H2-1H: When reviewing a conversion of residential rental units to condominium units for compliance with applicable zoning requirements, the Town shall enforce any restrictions placed upon the property relating to density bonuses which were granted to further the achievement of affordable, workforce, elderly or special needs housing.

Housing



Objective H2-2: Public and Private Sector Coordination

The Town shall coordinate with the private sector and other agencies to ensure the provision of housing that is affordable to residents of all income, age and needs groups at levels that are reflective of existing and projected demand.

Monitoring Measures H2-2

1. Number of affordable, workforce, elderly and special needs housing units provided as a result of programs, incentives and requirements.

Policy H2-2A: The Town shall coordinate with Miami-Dade County and other agencies as appropriate to ensure that public funds earmarked for affordable, workforce, elderly or special needs housing are made available to residents who would qualify for assistance.

Policy H2-2B: The Town shall coordinate with non-profit affordable housing providers as appropriate to address the affordable, workforce, elderly or special housing needs of current and future residents.

Policy H2-2C: The Town, on an ongoing basis, shall investigate the availability of grants and other funding sources to implement affordable, workforce, elderly or special needs housing programs.

Policy H2-2D: In consideration of a developer's provision of affordable, workforce, elderly or special needs housing, the Town, through the Land Development Regulations, shall consider granting up to a 20 percent density increase, to the extent that such an increase is compatible with surrounding development and site characteristics.

Policy H2-2E: When a development bonus is granted that will result in the addition of ten or more new units, approximately 20 percent of the new units shall be affordable to low and moderate income households. When a development bonus will result in less than ten units, the developer shall contribute to a funding set-aside established by the Town for low and moderate income units.

Policy H2-2F: The Town shall support the establishment of area wide affordable, workforce, elderly and special needs housing goals, and participate as appropriate in the development and implementation of the South Florida Regional Planning Council's Regional Affordable Housing Strategy.

Policy H2-2G: Utilize existing private, County, State and federal programs which assist individuals with home ownership through such means as subsidies, loans, loan guarantees, counseling or through other similar means, including such programs as the County Surtax Mortgage Program.

Policy H2-2H: The Town shall continue to ensure that it maintains and/or expands its stock of

Housing



housing for residents and households at all stages of life and income groups, including apartments and starter homes, inexpensive to expensive single family homes, empty nester housing, adult congregate living facilities, and low income and subsidized senior housing.

Housing



Objective H2-3: Relocation Assistance

The Town shall ensure that public sector relocation assistance is provided to households who are displaced by public projects, in accordance with State statutes.

Monitoring Measures H2-3

1. Number of households who required relocation assistance.
2. Number of households provided with relocation assistance.

Policy H2-3A: The Town shall ensure the availability of decent, safe, sanitary, affordable, and accessible housing units that will be available to households who will be displaced by public projects prior to authorizing such projects.

Policy H2-3B: The Town shall coordinate with the County to ensure the availability of adequate emergency shelters, transitional housing, and relocation assistance for low and moderate income households who might be displaced by natural disasters as part of its emergency response and post-disaster recovery efforts.

Housing



Objective H2-4: Special Needs Housing

The Town shall ensure that the housing needs of special needs groups are addressed through the appropriate mechanisms.

Monitoring Measures H2-4

1. Land Development Regulations that permit group homes, small-scale affordable housing facilities for the elderly, assisted living facilities, adult day-care facilities, and foster care facilities.
2. Number of group homes, small-scale affordable housing facilities for the elderly, assisted living facilities, adult day-care facilities, and foster care facilities.

Policy H2-4A: The Town shall permit the location of group homes, small-scale affordable housing facilities for the elderly, assisted living facilities, adult day-care facilities, and foster care facilities in residential neighborhoods, in accordance with State law.

Policy H2-4B: The Town shall enforce compliance with the Americans with Disabilities Act (ADA) in order to ensure that persons with disabilities have equal access to housing, employment and services.

Policy H2-4C: The Town shall consider allowing an increase in the size of existing group homes to the extent that there is no impact on adjacent neighborhoods.

Policy H2-4D: The Town will comply with State regulations related to group homes while examining their impacts on single family neighborhoods.



Goal 1: Potable Water

WORK WITH THE TOWN-WIDE SERVICE PROVIDER, MIAMI-DADE COUNTY WATER AND SEWER DEPARTMENT (WASD), TO ASSURE A SUFFICIENT, DEPENDABLE, AND HIGH QUALITY POTABLE WATER SUPPLY TO MEET THE NEEDS OF CUTLER BAY RESIDENTS AND BUSINESSES ON A TIMELY BASIS, AT A REASONABLE COST AND IN COMPLIANCE WITH ALL STATE AND FEDERAL REQUIREMENTS TO PROTECT THE HEALTH AND SAFETY OF THE PUBLIC.

Objective I1-1

The Town will meet or exceed the adopted Levels-of-Service (LOS) standard throughout the planning period.

Monitoring Measures I1-1

The Town's required reports showing the potable water Level-of-Service from County WASD.

Policy I1-1A: The adopted Cutler Bay LOS standard for potable water is:

Regional Treatment. System shall operate with rated capacity that is no less than 2% above maximum daily flow for the preceding year.

User LOS. Maintain capacity to produce and deliver 155 gallons per capita per day.

Water Quality. Shall meet all county, state and federal primary potable water standards.

Countywide Storage. Storage capacity for finished water shall equal no less than 15% of countywide average daily demand (County).

Policy I1-1B: The Town will monitor the planning, capital programming and construction programs of the Miami-Dade County WASD to help ensure that Cutler Bay residents, businesses and other Town users are provided with potable water services in compliance with the adopted LOS standard throughout the planning period.

Policy I1-1C: The Town will review all development proposals to make sure that if the proposed projects are constructed, the Town's adopted potable water LOS standard will be maintained.

Policy I1-1D: The Town will work closely with Miami-Dade County WASD to ensure treatment capacity of potable water for all existing and future development in the Town to maintain the adopted LOS standard.

Policy I1-1E: The Town will urge Miami-Dade County WASD to provide looped water lines and water lines of an adequate size for fire suppression purposes.

Infrastructure



Objective I1-2

The Town will coordinate with the Miami-Dade WASD to help ensure the cost-efficient use of existing facilities and coordinate prudent future expansion plans consistent with projected needs to accommodate development at the densities and intensities proscribed in the Future Land Use Element.

Monitoring Measures I1-2

The Town requests development reviews from Miami-Dade County WASD.

Policy I1-2A: The Town will encourage future development into areas that are already served, or programmed to be served by County WASD potable water facilities.

Policy I1-2B: The Town will coordinate future public and private land use plans of the Town with the Miami-Dade County WASD to assist that agency in effectively planning for Cutler Bays' future growth.

Policy I1-2C: The Town will include the review and comment of Miami-Dade County's WASD in the development review process for Comprehensive Plan amendments, rezonings, site plan and plat approvals to help ensure the cost-efficient use of existing County water facilities and extension of new water service.



Objective I1-3

The Town will actively encourage all residents and businesses in Cutler Bay to conserve potable and non-potable water to the maximum extent possible.

Monitoring Measures I1-3

The promotion of water conservation by the Town through distributed brochures, pamphlets, and other media when appropriate.

Policy I1-3A: Town Hall shall serve as a central distribution point for South Florida Water Management District, Florida ERP and Miami-Dade County WASD news releases, brochures and public presentations on ways for homeowners, businesses and industry to conserve all forms of water resources.

Policy I1-3B: The Town's Land Development Regulations shall contain standards requiring the use of all feasible water-saving devices in new and renovation building construction.

Policy I1-3C: The Town's Land Development Regulations will contain the minimum standards for the use of water-saving "xeriscape" plants, watering techniques and landscape designs in existing and future developed areas of the Town.

Policy I1-3D: The Town will encourage homeowners and businesses in Cutler Bay to use non-potable water for landscaping and lawn care and maintenance.

Policy I1-3E: The Town will assist South Florida Water Management District in providing educational materials on innovative ways homeowners can landscape and install devices such as rainbarrels to collect rainwater for reuse within their own yards.

Policy I1-3F: Where feasible, the Town will assist Miami-Dade County WASD in the installation of treated re-used (grey) water lines in Cutler Bay for use in parks, on road Rights-of-Way and other appropriate landscaped areas within the Town limits.

Policy I1-3G: The Town will cooperate fully with emergency water conservation measures mandated by the South Florida Water Management District; including enforcement.



Goal 2: Sanitary Sewer

THE TOWN WILL PROTECT THE HEALTH AND SAFETY OF THE PUBLIC BY ENSURING WASTEWATER TREATMENT FACILITIES AND SERVICES ARE ENVIRONMENTALLY SOUND, COST EFFECTIVE, AND MEET THE COMMUNITY'S PRESENT AND FUTURE NEEDS.

Objective I2-1

Sanitary sewer services to the Town will meet or exceed the adopted Levels-of-Service (LOS) standard throughout the planning period.

Monitoring Measures I2-1

The Town will obtain annual reports showing the sanitary sewer Level-of-Service from County WASD as available.

Policy I2-1A: The adopted Cutler Bay LOS standard for sanitary sewer service is 100 gallons per capita per day.

Policy I2-1B: The Town will monitor the planning, capital programming and construction programs of the Miami-Dade County WASD to help ensure that Cutler Bay residents, businesses and other town users are provided with sanitary sewer services in compliance with the adopted LOS standard throughout the planning period.

Policy I2-1C: The Town will review all development proposals through the concurrency process to make sure that if the proposed projects are constructed, the Town's adopted sanitary sewer LOS standards will be maintained.

Infrastructure



Objective I2-2

The Town will coordinate with the Miami-Dade WASD to help ensure the cost-efficient use of existing sanitary sewer facilities and coordinate prudent future expansion plans consistent with projected needs to accommodate development at the densities and intensities proscribed in the Future Land Use Element.

Monitoring Measures I2-2

The Town requests development reviews to assess sanitary sewer impacts from Miami-Dade County WASD.

Policy I2-2A: The Town will encourage future development into areas that are already served, or programmed to be served, by County WASD sanitary sewer facilities.

Policy I2-2B: The Town will coordinate future land use plan amendments of the Town with the Miami-Dade County WASD to assist that agency in effectively planning for Cutler Bays' future infrastructure growth.

Policy I2-2C: The Town will include the review and comment of Miami-Dade County WASD in the development review process for Comprehensive Plan amendments, rezonings, site plan and plat approvals to help ensure the cost-efficient use of existing County sanitary sewer facilities and extension of new central sewer service.

Infrastructure



Objective I2-3

The Town will coordinate with Miami-Dade County WASD to promote the reuse of treated wastewater for aquifer recharge and development of viable products and services.

Monitoring Measures I2-3

The annual measurement of grey water lines in linear feet installed in Cutler Bay.

Policy I2-3A: The Town will assist Miami-Dade County WASD any way possible to install treated re-used (grey) water lines in Cutler Bay for use in parks, on road Rights-of-Way and other appropriate landscaped areas within the Town limits.

Policy I2-3B: The Town will investigate the possibility of using fertilizers and other reuse products on public landscape areas within Cutler Bay.

Policy I2-3C: The Town will request Miami-Dade County WASD look at a creating a program to identify and replace undersized sanitary sewer lines within the Town of Cutler Bay.



Goal 3: Stormwater Management (Drainage)

TO PROTECT THE HEALTH AND SAFETY OF THE PUBLIC BY ENSURING STORMWATER MANAGEMENT FACILITIES AND SERVICES ARE PROPERLY MAINTAINED, ENVIRONMENTALLY SOUND, COST EFFECTIVE, AND MEET THE COMMUNITY'S PRESENT AND FUTURE DEMANDS.

Objective I3-1

The Town will correct stormwater deficiencies and maintain adopted Level-of-Service (LOS) standards. The Town will coordinate with South Florida Water Management District and Miami-Dade County to ensure that the Town's stormwater management system meets or exceeds adopted LOS design standards over the planning period.

Monitoring Measures I3-1

The correction of storm water management deficiencies by the allocation of sufficient funds. The annual number of development review applications where compliance with stormwater LOS standards is required.

Policy I3-1A: The Town of Cutler Bay shall maintain a Level-of-Service Standard for new and existing development, based on the following stormwater quantity and quality criteria:

Stormwater Quality Standard. Stormwater facilities shall be designed to meet the design and performance standards established in Chapter 62-25, 25.025, F.A.C. as amended with treatment of the first 1 inch of rainfall runoff to meet water quality standards required by Chapter 62-302, 62-302.500, F.A.C., as amended.

Stormwater Quantity Standard. Where two or more standards impact a specific development, the most restrictive standards shall apply:

Post-development runoff shall not exceed the pre-development runoff rate for a 25-year storm event, up to and including an event with a 24-hour duration. Treatment of the runoff from the first 1 inch of rainfall onsite or the first 0.5 inch of runoff, whichever is greater.

Policy I3-1B: The Town will seek funding sources to address existing stormwater deficiencies that will be identified in the Stormwater Master Plan when it is complete.

Policy I3-1C: The Town will review development proposals to make sure that when the proposed projects are constructed, the Town's adopted sanitary sewer LOS standard will be maintained.

Policy I3-1D: All structures shall be constructed at or above the minimum floor elevations specified in the Federal Insurance Rate Maps for Miami-Dade County and Cutler Bay.

Policy I3-1E: The Town will inspect and approve, if acceptable, the stormwater management facilities installed by developers, contractors and public agencies in Cutler Bay.

Infrastructure



Objective I3-2

The Town will accommodate future growth needs through proper planning and effective coordination with the appropriate water management agencies.

Monitoring Measures I3-2

The programmed storm water projects in the Stormwater Master Plan approved by the Town Council in a timely manner.

Policy I3-2A: The Town will encourage future development into areas that are already served, or programmed to be served, by under-capacity stormwater management facilities.

Policy I3-2B: The Town will incorporate projects as they are identified and defined in the Stormwater Master Plan into the Five-Year Schedule of Capital Improvements contained in the Capital Improvements Element of this Growth Management Plan.

Policy I3-2C: The Town will update the Stormwater Master Plan every 7 years in order to ensure that future growth needs of the Town are prudently accommodated and planned for.

Policy I3-2D: The Town will actively coordinate the Town's stormwater planning, programming and construction with the South Florida Water Management District and the Miami-Dade County Public Works Department.

Infrastructure



Objective I3-3

The Town will use the Stormwater Master Plan process to ensure that private development and public infrastructure projects maintain required surface water quality standards and serve to recharge the groundwater aquifer.

Monitoring Measures I3-3

Projects reviewed in which there is an enhanced groundwater recharge and reduced run-off through stormwater management.

Policy I3-3A: A primary objective of the Stormwater Master Plan will be to protect the surface water quality through the Land Development Regulation requirements that will mandate acceptable paving and drainage plans, adequate open (pervious) space areas, and stormwater detention and retention in private development projects.

Infrastructure



Objective I3-4

The Town will use the Land Development Regulations to ensure that private development and public infrastructure projects maintain required surface water quality standards and serve to recharge the groundwater aquifer.

Monitoring Measures I3-4

Projects reviewed in which there is an enhanced groundwater recharge and reduced run-off through stormwater management.

Policy I3-4A: The Town will review the Land Development Regulations on a regular basis to ensure that all feasible options are being utilized to protect water quality and enhance groundwater recharge.

Infrastructure



Objective I3-5

The Town will implement a proactive maintenance program to ensure that all current and future stormwater management facilities operate at designed capacity.

Monitoring Measures I3-5

On an annual basis, a certain amount of stormwater systems will be inspected.

Policy I3-5A: Based on the results of the Town's Stormwater Master Plan, the Town will develop within one to two years of Plan adoption a basin management program to ensure timely maintenance of existing and future stormwater facilities.

Policy I3-5B: The Town will conduct annual inspections of stormwater facilities and coordinate with Miami-Dade County and the South Florida Water Management District in reporting annual findings.



Goal 4: Solid Waste

THE TOWN WILL PROMOTE EFFICIENT AND ECONOMICAL BALANCE OF PUBLIC AND PRIVATE SOLID WASTE COLLECTION AND DISPOSAL SERVICES FOR THE TOWN OF CUTLER BAY THAT WILL MEET ESTABLISHED REQUIREMENTS IN A MANNER THAT WILL PROTECT THE PUBLIC HEALTH, SAFETY AND ENVIRONMENTAL RESOURCES OF THE COMMUNITY.

Objective I4-1

The Town will coordinate with Miami-Dade County Department of Solid Waste Management and licensed private solid waste haulers to help ensure the maintenance of a safe, dependable, and efficient solid waste collection and disposal system for Cutler Bay residents and businesses and in compliance with the adopted Level-of-Service (LOS).

Monitoring Measures I4-1

The Town will obtain annual reports showing the solid waste Level-of-Service from Miami-Dade County as available.

Policy I4-1A: The adopted Cutler Bay LOS standard for solid waste is 9.9 pounds per capita, per day and maintain solid waste disposal capacity sufficient to accommodate waste flows committed to the system through long-term interlocal agreements or contracts along with anticipated non-committed solid waste flows for a period of 5 years

Policy I4-1B: The Town will monitor the solid waste planning, capital programming and construction programs of Miami-Dade County to help ensure that Cutler Bay residents, businesses and other town users are provided with solid waste services in compliance with the adopted LOS standard throughout the planning period.

Policy I4-1C: The Town will review all development proposals to make sure that when the proposed projects are constructed, the Town's adopted solid waste LOS standard will be maintained. Language and standards will be drafted for inclusion in the Land Development Regulations to require all new non-residential development to have on-site trash facilities (such as a dumpster) that are completely enclosed and screened from public view.

Policy I4-1D: The Town will coordinate land use amendments and rezonings with Miami-Dade County solid waste agency to assist them in effectively planning for Cutler Bays' future solid waste collection and disposal.

Policy I4-1E: The Town will ensure diligent monitoring of construction sites and vacant lots by Town personnel to prevent or abate illegal dumping activities.

Policy I4-1F: The Town will develop an ordinance that states that prior to a storm event, construction sites will be required to be clean of excess debris and fully secure all equipment and construction materials.

Infrastructure



Objective I4-2

The Town will assist the County's Solid Waste Agency in promoting good recycling habits among the Town's residents and businesses

Monitoring Measures I4-2

The Town will promote solid waste recycling through distribution of brochures, pamphlets, and other media.

Policy I4-2A: The Town will promote the County's Solid Waste Agency to achieve its goals for countywide recycling in compliance with State mandated waste stream reduction objectives.

Policy I4-2B: The Town will encourage residents and businesses to recycle solid waste to the maximum extent possible.



Objective I4-3

The Town will assist Miami-Dade County Department of Solid Waste Management in ensuring that hazardous materials are properly disposed of.

Monitoring Measures I4-3

The Town will promote proper handling and disposal of hazardous and toxic materials through annual distribution of brochures, pamphlets, and other media.

Policy I4-3A: The Town will cooperate with the Miami-Dade Department of Solid Waste Management to assure that any hazardous wastes generated within the Town are properly managed to protect the environment.

Policy I4-3B: The Town will develop language and standards in the Land Development Regulations by 2008-2009 that incorporate development restrictions of uses and management of hazardous materials.

Policy I4-3C: The Town will assist Miami-Dade County DERM in the preparation and maintenance of an up-to-date list of all businesses in the Town that store, use and/or dispose of hazardous and toxic materials and/or waste, and coordinate with DERM in their monitoring of these establishments to ensure they have a current waste management and spill clean-up plan.

Policy I4-3D: The Town will coordinate with the Miami-Dade County Fire-Rescue Department to ensure they have a viable, rapid-response plan and the proper equipment for responding effectively to hazardous and toxic waste spills in the Town.

Policy I4-3E: The Town will use the Florida Building Code, occupational licensing and code enforcement procedures to monitor the management of hazardous materials within the Town.



Goal 5: Natural Groundwater Resources

THE TOWN WILL CONTINUE TO SUPPORT AND MONITOR COUNTY, SOUTH FLORIDA WATER MANAGEMENT DISTRICT, STATE AND FEDERAL EFFORTS TO PROTECT, CONSERVE AND MANAGE THE QUALITY AND QUANTITY OF NATURAL GROUNDWATER RESOURCES.

Objective I5-1

The Town will coordinate with Miami-Dade County, regional, state and federal water management agencies, to correct any documented recharge deficiencies and by supporting the projects identified in the South Florida Water Management District Acceler8 plan.

Monitoring Measures I5-1

The Town will update the Stormwater Master Plan, including groundwater recharge deficiencies, if needed.

Policy I5-1A: The Town will maintain and enhance, where appropriate, the capacity and periodicity of natural surface water drainage and recharge.

Policy I5-1B: The Town will develop language and standards in the Land Development Regulations to comply with the water conservation policies of the South Florida Water Management District (SFWMD) to conserve the potable water supply and protect the Town from saltwater intrusion, including coordinating with SFWMD related to the Comprehensive Everglades Restoration Plan (CERP) Acceler8 plan, groundwater recharge, installing water-saving devices and xeriscape concepts.

Infrastructure



Objective I5-2

The Town will assist Miami-Dade County, regional and state efforts, where appropriate, in the protection of the functions of natural groundwater recharge areas and natural drainage features in Cutler Bay.

Monitoring Measures I5-2

The Town will work in coordination with County and state agencies to serve new growth with adequate aquifer capacity, keeping in mind the protection of environmental resources.

Policy I5-2A: The Town will continue to enforce the on-site water retention standards for new development and redevelopment projects.

Policy I5-2B: The Town will develop language and standards such that all new development and redevelopment projects shall use retention, infiltration and detention systems pursuant to applicable regional and state standards.

Coastal Management



Introduction

The purpose of the Coastal Management Element is to protect natural coastal resources, to protect lives and property from natural disasters, to improve public access to Biscayne Bay, and to preserve any historical sites that may be in the coastal area.

The goals, objectives and policies that are contained in this Element build upon past planning, evaluation and monitoring efforts through Miami-Dade County. Completed and ongoing studies were reviewed to update the County's Coastal Management Element as recent as the 2006 Evaluation and Appraisal Report based amendments, the Governor's Commission on a Sustainable South Florida, Post Hurricane Wilma assessments, and the 2006 South Florida Regional Hurricane Evacuation Traffic Study.

The Coastal Management Element has also been written to comply with the directives of Chapter 163, Florida Statutes (F.S.), and Administrative Rule 9J-5.012 and to be consistent with the Miami-Dade Comprehensive Development Master Plan, the State Comprehensive Plan and the Strategic Regional Policy Plan for South Florida. It has most importantly been written to reflect the uniqueness of the coast along the Eastern border of the Town of Cutler Bay.

House Bill 1359, which was passed in 2006, changed the definition of the Coastal High Hazard Area (CHHA) from a Category 1 Hurricane Evacuation Zone to a Category 1 Storm Surge Zone. Local governments have until July 1, 2008 to adopt these new changes into the Coastal Element and Future Land Use Map of their Comprehensive Plans.

At the writing of this Growth Management Plan, the South Florida Regional Planning Council staff is working on an all-hazards regional evacuation study. This study is part of the Statewide Regional Evacuation Study Program that includes updated storm surge mapping, which will provide the data and analysis necessary to redefine the CHHA for South Florida. This study will also provide local governments with the data and analysis they need to amend their comprehensive plans. This study's expected completion date is summer 2008. Due to the fact that this data will not be available until after the Cutler Bay Growth Management Plan is anticipated to be adopted, a policy is included to amend this Coastal Management Element utilizing the updated evacuation model when it is completed.

Exhibit T-11 in the Transportation Element identifies the current hurricane evacuation zones in Miami-Dade County. Zones A, B and C. The Town of Cutler Bay jurisdictional boundaries fall within all Zones. Zone A, the Coastal High Hazard Area, encompasses the County's Atlantic beaches and barrier islands, including the cities of Miami Beach, Surfside, Sunny Isles Beach and Golden Beach. In Cutler Bay this consists of a small uninhabited area in the north east corner of the Town.

Basically, the portion of the Town of Cutler Bay east of Old Cutler Road is located within Zone B, requiring residents to evacuate in the event of a Category 3 or stronger storm. The rest of the Town being under Zone C would be required to evacuate in the event of a Category 4 or 5 storm. However, evacuation is encouraged during any major storm event. The ability of the Town's roadway system to allow evacuation in a safe and timely manner is integral to the function of the emergency management system, and the health and safety of the Town's residents. As the Town and its neighboring communities and municipalities continue to develop and redevelop, increased permanent, seasonal and temporary populations must be evacuated.

Coastal Management



Storm risk data and these evacuation boundaries are continually reevaluated by OEM and may be changed whenever deemed appropriate for emergency management purposes. For the most part, these existing objectives and policies were retained from the County's Coastal Management Element and have been adapted for the purposes of relating to the Town of Cutler Bay.

Coastal Management



Goal

PROVIDE FOR THE CONSERVATION, ENVIRONMENTALLY SOUND USE AND PROTECTION OF ALL NATURAL AND HISTORIC RESOURCES; LIMIT PUBLIC EXPENDITURES IN AREAS SUBJECT TO DESTRUCTION BY NATURAL DISASTERS; AND PROTECT HUMAN LIFE AND PROPERTY IN THE COASTAL AREA OF THE TOWN OF CUTLER BAY, FLORIDA.

Objective CM-1

Protect, conserve and enhance coastal wetlands and living marine resources within the coastal area of the Town of Cutler Bay.

Monitoring Measures CM-1

Policy CM-1A: The Town of Cutler Bay will limit the impacts of development and redevelopment upon wetlands, water quality, water quantity, wildlife habitat and living marine resources through the development review process.

Policy CM-1B: Threatened or endangered species shall be identified on potential development sites by the preparation of an environmental report to record the occurrence of listed plant and animal species. The environmental report will be reviewed during the development review process and when necessary, the development application will describe measures that will be taken to protect species in accordance with state and federal guidelines.

Policy CM-1C: Consistent with the Miami-Dade County Comprehensive Development Master Plan, coastal mangroves and scrub forests within and adjacent to Biscayne National Park shall be designated as "Mangrove Protection Areas". In these areas, no cutting, trimming, pruning or other alteration of mangrove shall be permitted except for purposes of surveying or for projects that are : 1) necessary to prevent or eliminate a threat to public health, safety or welfare; 2) water dependent; or 3) clearly in the public interest and where no reasonable upland alternative exists. In such cases, the trimming or alteration shall be kept to a minimum, and done in a manner which preserves the functions of the mangrove system, and does not reduce or adversely affect habitat used by endangered or threatened species.

Policy CM-1D: The Town will coordinate with the county and state agencies to implement natural surface water flow regimes into and through coastal wetland systems will be restored and maintained to the maximum extent possible.

Policy CM-1E: Where shoreline access is to be provided through Mangrove Protection Areas, elevated boardwalks, designed to minimize the impact of wetland vegetation, shall be utilized.

Policy CM-1F: Where development or redevelopment is to occur, mangrove forest, coastal hammock or other natural vegetative communities shall be maintained, protected, and incorporated into landscape plans.

Coastal Management



Policy CM-1G: Wherever low grade wetlands are degraded or destroyed, a wetland within the Town with an equal or greater amount of habitat value shall be created or restored, maintained and monitored for three years or until such time as a viable self-perpetuating wetland habitat is established. Created habitats shall be perpetually maintained free of invasive exotic vegetation. Habitats of endangered or threatened species shall not be degraded or destroyed.

Policy CM-1H: Replanting of mangroves and marsh grasses shall be used, as appropriate, to enhance parks and other public or semi-public areas along the coastline.

Policy CM-1I: The Town will assist county and state agencies in enforcement and monitoring of compliance with the Florida Department of Environmental Protection (FDEP) Coastal Construction Control Line (CCCL) regulations established in August 1997.

Policy CM-1J: The Town will take into consideration the results from long-term monitoring of water quality, benthic habitats, and living resources performed by the Miami-Dade County Department of Environmental Resources Management (DERM) and the South Florida Water Management District (SFWMD) to be consistent with Florida Water Policy (Chapter 62-40.430, F.A.C.) and State water quality regulations (Chapter 62-43.430, F.A.C.) to improve future coastal restoration and enhancement activities coordinated by the Town.

Policy CM-1K: The Town will coordinate with Miami-Dade County DERM, SFWMD, the US Environmental Protection Agency (EPA), and the US Army Corp of Engineers to ensure that all regulatory programs administered through each of these agencies is integrated, as applicable, into the Town of Cutler Bay Land Development Regulations.

Coastal Management



Objective CM-2

The Town will support Miami-Dade County to reduce the number of instances water quality standards are exceeded for coastal and estuarine waters.

Monitoring Measures CM-2

Policy CM-2A: The Town shall work with Miami-Dade County, Florida Department of Environmental Protection and South Florida Water Management District in consultation with the National Park Service to pinpoint sources of environmental degradation, refine existing water quality standards, and develop new standards for sediments and their toxic components.

Policy CM-2B: The Town shall support the County in their efforts to identify and monitor all businesses in the Coastal Planning Area (east of Old Cutler Road) of the Town that generate more than 55 gallons of hazardous or industrial wastes per year. The Land Development Regulations should include standards to require hazardous waste to be pretreated on-site and a hazardous spill plan to be maintained on-site.

Policy CM-2C: The Town will establish new standards for stormwater management techniques where it will re-hydrate the coastal area which emphasize retention and infiltration techniques, including injection wells; back-sloping and berming as applicable, into the Town of Cutler Bay Land Development Regulations.

Policy CM-2D: The Town will establish new standards for stormwater management techniques for the purpose of regulating point and non-point sources of pollution into the stormwater system.

Coastal Management



Objective CM-3

The Town shall increase the amount of shoreline and public access locations in Cutler Bay by the Year 2012.

Monitoring Measures CM-3

Policy CM-3A: The Town shall seek to provide for limited passive access to the shoreline while assuring that activities associated with the land use minimize impact to the natural areas.

Policy CM-3B: The Town will place a high priority on the acquisition of unprotected coastal lands for use as passive parks and preserves.

Policy CM-3C: The Town will establish development standards in the Land Development Regulations for siting future water-related uses that address land use compatibility, availability of upland support services, existing protective status of ownership, hurricane contingency planning, protection of water quality, water depth, environmental disruptions, mitigation actions, availability for public use, economic need, and feasibility.

Policy CM-3D: Where new developments along the coastal fringes occur, the Town will work with developers, the Miami-Dade County Department of Environmental Resources Management and Biscayne National Park to include environmentally compatible shoreline access facilities such as walkways, piers and elevated viewing areas where appropriate.

Coastal Management



Objective CM-4

Through compliance with Federal Emergency Management Agency (FEMA) regulations and by targeting repetitive flood loss and vulnerable properties for mitigation, the Town will reduce natural hazard impacts.

Monitoring Measures CM-4

Policy CM-4A: Land Development Regulations will be drafted which will implement the national standards related to flood protection measures for development in a floodplain.

Policy CM-4B: The Town will continue to participate in the Federal Emergency Management Agency's National Flood Insurance Program.

Policy CM-4C: The Town will continue to maintain records consistent with the Federal Insurance Administration's listing of community selection factors for assistance in purchasing properties under Section 1362 of the National Flood Insurance Act.

Policy CM-4D: The Town shall minimize the disturbance of natural shorelines that provide stabilization and protect landward areas from storm impacts.

Coastal Management



Objective CM-5

The Town will support the protection of endangered and threatened animal species and the restoration and management of coastal habitats to improve wildlife values.

Monitoring Measures CM-5

Policy CM-5A: Areas that are used for nesting, feeding or congregation by endangered and threatened species shall be protected from alteration and human activities that would further imperil those species.

Policy CM-5B: The Town will support Miami-Dade County in their efforts to establish, or reestablish wildlife corridors in appropriate coastal locations within Cutler Bay, if any are identified.

Policy CM-5C: Travel corridors used by endangered or threatened species shall be protected to the extent possible from alteration and human activities that would further imperil those species.

Coastal Management



Objective CM-6

The Town will continue to cooperate with Miami-Dade Office of Emergency Management (OEM) related to maintaining or lowering the existing time period required to complete the evacuation of people from flood vulnerable Coastal Areas prior to the arrival of sustained tropical storm force winds.

Monitoring Measures CM-6

Policy CM-6A: The Town shall provide land use and population data, as appropriate, to the OEM for inclusion in the most current Comprehensive Emergency Management Plan (CEMP).

Policy CM-6B: The Town shall participate in regular coordination meetings of local and regional evacuation planning professionals and maintain a liaison with Miami-Dade County OEM during a state of emergency to participate in the County's administration through the State of Florida emergency warning system.

Policy CM-6C: The Town shall coordinate with officials from the OEM to identify "Persons with Special Needs" and inform these individuals of evacuation transportation and shelter services that may be available to them.

Policy CM-6D: The Town shall help disseminate the public education program developed by the OEM prior to the hurricane season to notify households of their need to evacuate and seek safe shelter outside of evacuation areas in the event of a hurricane. The public education program will also be used to convey emergency preparedness information including encouraging residents to be better prepared and more self-reliant.

Policy CM-6E: The Town shall coordinate with OEM to maintain an efficient and timely evacuation process in the case of a hurricane or tropical storm in accordance with Rules 9G-6 and 9G-7 of the Florida Administrative Code.

Policy CM-6F: The Town shall examine the feasibility of requiring, or adding as an option for new residential construction, a structurally reinforced "safe room" for use as a private storm shelter. For existing residences, the Town shall encourage retrofitting a safe room on a voluntary basis. The Town shall also explore incentives and other measures to encourage the wind and/or floor hardening of structures.

Policy CM-6G: As deemed necessary, the Town will work with County, regional, state and federal agencies to improve evacuation route capacities through improved design and reconstruction of the street network, signage and expansion of public transportation systems and services.

Policy CM-6H: The Town will cooperate with OEM to coordinate damage assessments with assistance from other local, regional, state and federal governmental agencies.

Coastal Management



Policy CM-6I: The Town will update this Coastal Management Element and the Future Land Use Map when the South Florida Regional Planning Council has completed the all-hazards regional evacuation study. This study is part of the Statewide Regional Evacuation Study Program that includes updated storm surge mapping, which will provide the data and analysis necessary to redefine the Coastal High Hazard Area of the Town.

Coastal Management



Objective CM-7

The Town will coordinate with the Miami-Dade County Office of Emergency Management (OEM) to develop and implement post-disaster redevelopment and hazard mitigation plans that reduce or eliminate exposure of life and property to natural hazards towards the protection of health, safety, and welfare.

Monitoring Measures CM-7

Policy CM-7A: Miami-Dade County shall be notified if inconsistencies are to comply with the policies under this objective, and shall contain step-by-step details for post-disaster recovery operations.

Policy CM-7B: After a hurricane but prior to re-entry of the population into evacuated areas, the Town Council shall meet to hear preliminary damage assessments, appoint a Recovery Task Force and consider a temporary moratorium or an expedited permitting process of building activities not necessary for the public health, safety and welfare.

Policy CM-7C: The Recovery Task Force shall include the Town Manager, Planning Director, Building Official and other members as directed by the Town Council. Staff shall be provided by the department whose directors are Task Force members.

Policy CM-7D: The Recovery Task Force shall review and decide upon emergency building permits; coordinate with Miami-Dade County, state and federal officials to prepare disaster assistance applications; analyze and recommend to the Town Council hazard mitigation options including reconstruction or relocation of damaged public facilities; develop a redevelopment plan; and recommend amendments to the Growth Management Plan and other appropriate policies and procedures.

Policy CM-7E: Immediate repair and clean-up actions needed to protect the public health and safety include repairs to potable water, wastewater and power facilities; removal of building and/or vegetative debris; stabilization or removal of structures about to collapse; and minimal repairs to make dwellings habitable such as minor roof repairs and other weatherproofing/security measures. These actions shall receive first priority in permitting decisions. Long term redevelopment activities shall be postponed until the Recovery Task Force has completed its tasks.

Policy CM-7F: If rebuilt, structures which suffer damage in excess of fifty (50) percent of their appraised value shall be rebuilt to meet all current requirements, including those enacted since construction of the structure.

Policy CM-7G: Following a natural disaster and prior to the implementation of long-term development, the Town shall do the following: Based upon the damage assessment report prepared by the Town of Cutler Bay Public Works Department, the Town shall consult with the Town Manager, Planning Director and Building Official to evaluate options for damaged public facilities including abandonment, repair in place, relocation, and repair with structural modification, to

Coastal Management



determine the most strategic approach to long-term development. The evaluation shall include but not be limited to issues pertaining to damage caused by natural disaster, cost to construct repairs, cost to relocate, cost to structurally modify, limitations of right-of-way, and maintenance costs.

Coastal Management



Objective CM-8

The Town will reduce the exposure of life and property to hurricanes through the planning and implementation of pre-disaster hazard mitigation measures. Pre-disaster planning for post-disaster redevelopment shall direct population concentrations away from the undeveloped identified high-risk areas during post-disaster redevelopment.

Monitoring Measures CM-8

Policy CM-8A: The Town shall develop a Town Emergency Response Plan and update it every two years to provide comprehensive pre-disaster planning for pre- and post-disaster activities, development and redevelopment consistent with the County's Comprehensive Emergency Management Plan.

Policy CM-8B: The Town shall provide input into the County's Comprehensive Emergency Management Plan as appropriate.

Policy CM-8C: During pre-disaster planning, hazard mitigation proposals shall be developed by the Town in conjunction with other agencies and, where appropriate, included in the Town's Emergency Response Plan or the Growth Management Plan.

Policy CM-8D: As the Town locates facilities, the Town shall determine the feasibility and necessity of relocating public buildings away from high-risk areas. The Town shall develop a formal process and guidelines for evaluation alternative to the replacement or repair of public facilities damaged by hurricanes such as abandonment, relocation, or repair and reconstruction with structural modifications. The costs; environmental impacts; mitigative effects; community impacts; economic development issues; employment effects; legal issues; consistency with local, regional and state plans; time period for implementation; and availability of funds should be evaluated for each alternative.

Policy CM-8E: The Town shall maintain a map depicting the three evacuation zones: Zone A (Coastal High Hazard Area), Zone B (Hurricane Vulnerability Zone) and Zone C (related to the most severe storms) and make it available to the public for information purposes. This map shall be maintained and updated, including incorporating any changes the State may make to the definitions of the evacuation zones. The public shall be informed as appropriate.

Policy CM-8F: In advance of a storm, the Town shall identify areas suitable and unsuitable for post-disaster relief staging areas, debris storage, disposal or burning. Debris shall not be located in wetlands, parklands with adjacent natural areas or other areas identified as unsuitable for such activities. Debris shall not be burned in the airsheds of Biscayne National Park and Everglades National Park.

Coastal Management



Objective CM-9

During post-disaster recovery and redevelopment, the Town shall implement its Emergency Response Plan (ERP) and applicable Growth Management Plan policies and assist hurricane damaged areas with recovery and hazard mitigation measures that reduce the potential for future loss of life and property.

Monitoring Measures CM-9

Policy CM-9A: To facilitate post-disaster recovery and redevelopment following a major hurricane and consistent with available personnel and funding, the Town shall implement its Emergency Response Plan (ERP). The ERP will be prepared by 2008.

Policy CM-9B: If an area in need of major post-disaster redevelopment is determined to be a high-risk area for development, permitted post-disaster densities and intensities shall not exceed the permitted pre-storm densities and intensities.

Policy CM-9C: The Town will coordinate with existing resource protection plans through appropriate regulatory procedures.

Policy CM-9D: The Town will enforce applicable recommendations of post-disaster hazard mitigation plans required under Section 406 of the Disaster Relief Act of 1974.

Policy CM-9E: Long-term redevelopment following a major hurricane event shall be conducted in accordance with standards maintained by the Florida Department of Natural Resources.

Policy CM-9F: All post-disaster reconstruction of structures with damage shall be reconstructed to insure compliance with the most current version of the Florida Building Code.

Policy CM-9G: During post-disaster redevelopment, structures that suffer repeated damage to pilings, foundations, or load bearing walls shall be required to rebuild landward of their present location and/or be structurally modified to meet current building codes.

Policy CM-9H: The Town will coordinate with Miami-Dade County and the State of Florida to ensure that damaged infrastructure is replaced and/or improved concurrent with redevelopment.

Conservation



Conservation Defining Principle

“Cutler Bay will be viewed as a beautiful Town by its residents and by residents of surrounding communities”

Florida’s Statutory Requirements

This element is also intended to meet the requirements of State of Florida Administrative Code Chapter 9J-5.013, Conservation Element.

Goal

PROTECT AND ENHANCE THE LONG TERM ENVIRONMENTAL RESOURCES OF THE TOWN OF CUTLER BAY TO ENSURE CONTINUED RESOURCE AVAILABILITY AND ENVIRONMENTAL QUALITY THROUGH PRUDENT MANAGEMENT, PUBLIC EDUCATION, APPROPRIATE REGULATIONS AND ENFORCEMENT, AND ACTIVE PARTNERSHIP WITH GOVERNMENTAL AND ENVIRONMENTAL ENTITIES.

Objective C-1

Sustain the Town of Cutler Bay’s high ambient air quality and protect it from potential degradation to the maximum extent feasible.

Monitoring Measures C-1

The town will analyze the results from regional, state, and federal agency air quality impact assessments.

Policy C-1A: The Town will coordinate with Miami-Dade County and State agencies to ensure Federal air quality standards are not exceeded in order to maintain and improve the existing air quality.

Policy C-1B: The Town will develop language and standards in the Land Development Regulations that combat erosion, the generation of excessive airborne dust from construction sites and cleared areas and nuisance odors from industrial and business uses.

Conservation



Objective C-2

Increase potable water conservation in order to better meet present and projected needs of all consumers and reduce demands on water service.

Monitoring Measures C-2

The successful implementation of the following policies will be analyzed to determine if water resources were conserved.

Policy C-2A: The Town will develop language and standards in the Land Development Regulations to comply with the water conservation policies of the South Florida Water Management District (SFWMD) to conserve the potable water supply and protect the Town from saltwater intrusion, including groundwater recharge, water-saving devices and xeriscape concepts.

Policy C-2B: The Town will coordinate with Miami-Dade County Water and Sewer Department (WASD) to encourage the creation and expansion of storage and distribution facilities for reclaimed water to institutional, commercial and residential properties in an effort to reduce the use of potable water for irrigation purposes.

Policy C-2C: The Town will cooperate with local, regional, state and federal agencies concerning the proper management of fresh water resources in order to conserve and maintain sufficient fresh water supplies, especially during dry periods, including cooperation with the Miami-Dade County WASD and SFWMD for implementation of water demand management policies and programs.

Policy C-2D: The Town will cooperate with emergency water conservation measures mandated by the Miami-Dade County WASD and SFWMD.

Policy C-2E: The Town will communicate the projected water demands for potable water, agriculture use, and industrial use to the Miami-Dade County WASD to ensure for a ten year period demand is reflected in WASD's water supply reports and licenses with SFWMD and other State and Federal agencies.

Policy C-2F: All county, regional, state and federal water quality standards shall continue to be enforced in the Town of Cutler Bay.

Policy C-2G: By 2008, the Town will hand out water conservation booklets and brochures at the Town Hall and on the official Town website as well as other public facilities.

Conservation



Objective C-3

Maintain and improve the water quality of the community's water bodies based on current Florida Department of Environmental Protection (FDEP), South Florida Water Management District (SFWMD), and Miami-Dade County rules and regulations.

Monitoring Measures C-3

A Level-of-Service standard will be set through the Town's Land Development Regulation for the quality of water bodies.

Policy C-3A: The Town will cooperate with Miami-Dade County Department of Environmental Resource Management (DERM) and FDEP to conduct routine water quality tests in and adjacent to waterways for bacteriological contamination.

Policy C-3B: The Town will coordinate with SFWMD programs to monitor water quality parameters and coordinate improvements where necessary to maintain acceptable water quality within the Town.

Policy C-3C: The Town will coordinate with regional and state environmental agencies to provide educational outreach materials to enhance public awareness of surface water quality issues and best management practices to protect water quality.

Policy C-3D: The Town will develop language and standards in the Land Development Regulations by 2008-2009 to ensure that adequate stormwater management standards for pervious areas, retention and detention are included from the SFWMD and Miami-Dade County DERM and that the drainage LOS standard adopted in this Growth Management Plan is met.

Conservation



Objective C-4

Protect the 100-year floodplain, groundwater aquifer recharge, and the natural drainage features within the Town of Cutler Bay.

Monitoring Measures C-4

The development review process will be used to ensure the Town is in compliance with the Land Development Regulations.

Policy C-4A: The Town will develop language and standards in the Land Development Regulations by 2008-2009 to preserve and enhance the functions of natural groundwater aquifer recharge and natural drainage features and to protect water quality.

Policy C-4B: The Town will work with the Miami-Dade County DERM to encourage aquifer recharge and storage capacity for the Biscayne Aquifer through stormwater management permitting.

Policy C-4C: The Town will create its first Stormwater Master Plan to identify areas within the Town that are experiencing drainage problems and to set priorities for stormwater system improvement projects. The Stormwater Master Plan will include a cost estimate of each project which will be included in the Capital Improvements Element as appropriate during the yearly updates.

Policy C-4D: The Town will develop language and standards in the Land Development Regulations by 2008-2009 for surface water management and flood damage prevention regulations by maintaining consistency with program policies of the Federal Insurance Administration.

Policy C-4E: The Town will monitor new, cost-effective programs for minimizing flood damage, including modification to construction setback requirements or other site design techniques, as well as upgraded building and construction techniques.

Policy C-4F: The Town will continue to regulate development within identified flood plains by enforcing its flood plain ordinance and continue to comply with the standards and requirements of the National Flood Insurance Program.

Conservation



Objective C-5

The Town will conserve and protect the remaining natural systems of Cutler Bay in recognition of the inherent values of these areas left in their natural state.

Monitoring Measures C-5

The development review process will be used to ensure the Town is in compliance with the Land Development Regulations.

Policy C-5A: The Town will set management standards in the Land Development Regulations for environmentally sensitive natural systems. The standards will cover water resources, wetlands, and native habitats of flora and fauna.

Policy C-5B: The Town will continue to coordinate with the South Florida Water Management District (SFWMD), the South Florida Regional Planning Council, Miami-Dade County, state agencies and Biscayne National Park with managing natural resources to protect the values and functions of these sensitive natural systems that are located within Cutler Bay.

Policy C-5C: The Town will work with Miami-Dade County to implement the Environmentally Endangered Lands (EEL) program. The Town will work with Miami-Dade County to secure additional land within the Town for conservation land use when feasible.

Policy C-5D: The Town will recommend to Miami-Dade County and SFWMD to purchase land that is designated Conservation on the Future Land Use Map. The Town further recognizes that property owners retain development rights until the Conservation land is transferred to the County or SFWMD.

Policy C-5E: The Town will work to increase public awareness of critical wildlife areas and natural preserves. The Town will allow appropriate access to wildlife areas and will report violations of the rules and regulations to the appropriate agencies.

Policy C-5F: Any new development project is to demonstrate that it does not create a substantial adverse impact to the environment.

Conservation



Objective C-6

Ensure that identified wetlands under county, regional, state or federal jurisdiction are protected from unlawful, intrusive actions that could result in environmental damage or degradation.

Monitoring Measures C-6

The development review process will be used to ensure the Town is in compliance with the Land Development Regulations.

Policy C-6A: Wetlands that are to be protected will be identified based on the type of wetland, function, size, conditions, location, and overall resource value. The wetlands shall be used for purpose that are compatible with their natural values and functions, and Land Development Regulations shall be adopted to provide these areas with the maximum feasible protection, by using such tools as compensatory wetland mitigation and dedication of conservation easements for preserving open space. All development with the potential to impact wetland areas shall be consistent with South Florida Water Management District (SFWMD) regulations. Activities in wetland areas may be permitted provided all applicable local, regional, state and federal external environmental agency permits have been obtained and one of the following standards is satisfied:

1. Such an activity is necessary to prevent or eliminate a public hazard;
2. Such an activity would provide direct public benefit, which would exceed those lost as a result of the modification;
3. Such an activity is proposed for habitats in which the functions and values currently provided are significantly less than those typically associated with such habitats and cannot be reasonably restored;
4. Because of the unique geometry of the site, it is the unavoidable consequence of development for uses that are appropriate given site characteristics.

Policy C-6B: The Town will support the acquisition of identified wetlands by South Florida Water Management District.

Policy C-6C: The Town will protect and conserve remaining coastal wetlands, living marine resources and wildlife habitats as evident within the coastal areas of Cutler Bay through policies outlined in this element and in the Coastal Management Element.

Conservation



Objective C-7

The Town will ensure that wildlife and plant species listed as endangered, threatened, or of special concern that inhabit the environments in Cutler Bay are protected and enhanced where possible.

Monitoring Measures C-7

Development standards that support the protection of plants and wildlife will be incorporated into the Town's Land Development Regulations.

Policy C-7A: The Town will cooperate with local, regional, state and federal agencies in protecting wildlife and plant species listed as endangered, threatened, rare or of special concern, and support their efforts to protect and conserve the habitats in which they reside.

Policy C-7B: The Town will develop language and standards in the Land Development Regulations to protect wildlife and vegetative habitats that are endangered, threatened or species of special concern. The Town shall further protect these habitats by promoting public acquisition and the dedication of conservation easements or reservations where appropriate.

Policy C-7C: The Town will place conditions on all development plans to require that all necessary local, state and federal permits pertaining to listed flora and fauna species be obtained and remain on file with the Town prior to clearing and/or grading the site.

Policy C-7D: The Town will make every effort to increase public appreciation and awareness of native wildlife and plant habitats in and around the community through various means which may include the official Town website.

Policy C-7E: The Town will require the preservation of native trees during development or redevelopment wherever possible and if any native trees must be removed, the same type of native trees shall be planted to replace the removed tree. More than one replacement tree shall be planted for every single tree that is removed.

Conservation



Objective C-8

Conserve and protect minerals and soils in the Town of Cutler Bay.

Monitoring Measures C-8

The development review process will be used to ensure the Town is in compliance with the Land Development Regulations.

Policy C-8A: The Town will develop standards in the Land Development Regulations by 2008-2009 to prohibit mining of minerals except as incidental to the development of land for residential or nonresidential purposes.

Policy C-8B: The Town will develop standards in the Land Development Regulations by 2008-2009 to provide drainage regulations for the purpose of preserving soils.

Conservation



Objective C-9

Help ensure that hazardous materials are properly disposed of and recycling is encouraged.

Monitoring Measures C-9

Through the development review process, the Town is under compliance of development regulations.

Policy C-9A: The Town will cooperate with the Miami-Dade Department of Solid Waste Management (DSWM) to assure that any hazardous wastes generated within the Town are properly managed to protect the environment.

Policy C-9B: The Town will develop language and standards in the Land Development Regulations by 2008-2009 that incorporate development restrictions of uses and management of hazardous materials.

Policy C-9C: The Town will encourage residents and businesses to recycle solid waste to the maximum extent possible.

Conservation



Objective C-10

The Town will ensure future land development activities incorporate appropriate measures to prevent damage to archaeologically and historically significant resources in the Town of Cutler Bay to the maximum extent feasible.

Monitoring Measures C-10

The development review process will be used to ensure the Town is in compliance with the Land Development Regulations.

Policy C-10A: The Town will coordinate with Miami-Dade County, the state and federal government in developing programs for identifying, preserving, and enhancing sites of historical and archaeological significance, if any are located within the Town.

Policy C-10B: Development activities shall include precautions necessary to prevent adverse impacts to historic or archaeological sites of significance, if any are located within the Town.

Policy C-10C: The Town will work with all appropriate agencies to preserve any archaeological and historically significant sites identified within the Town of Cutler Bay.

Policy C-10D: The Town will develop language and standards in the Land Development Regulations by 2008-2009 that preserve identified historically significant resources to the maximum extent feasible, if any are identified to be located within the Town.

Conservation



Objective C-11

The Town will continually seek opportunities for public acquisition of additional areas for nature preserves and passive open spaces to expand the opportunities for conservation and increase public appreciation of natural habitats within the community.

Monitoring Measures C-11

The development review process will be used to ensure the Town is in compliance with the Land Development Regulations.

Policy C-11A: The Town will pursue available grant opportunities for preservation of natural areas.

Policy C-11B: The Town will participate in activities with other entities involved in the improvement and preservation of the Town's ecosystems.

Conservation



Objective C-12

The Town will take measurable steps towards becoming a “sustainable” community by providing a healthy setting for residents, workers, and visitors and increase public and private awareness of green building practices.

Monitoring Measures C-12

The number of new green development projects that are built within the Town.

Policy C- 12A: The Town will aspire to be recognized by the Florida Green Development Standard.

Policy C-12B: The Town will encourage participation in green building practices for public and private buildings, such as choosing local, energy efficient and recycled materials.

Policy C-12C: The Town will pursue all available local, state and federal incentives to achieve environmental goals.

Policy C-12D: The Town encourages mixed-use development and infill development.

Intergovernmental Coordination



Introduction

The purpose of the Intergovernmental Coordination Element is to provide for effective and efficient coordination between the Town, its neighbors, Miami-Dade County, regional, state, other governmental entities and service providers whose actions may impact the Town, its citizens and businesses.

This type of assistance and coordination was provided by the Village of Palmetto Bay to the Town immediately after incorporation in order to begin the process of creating the Town government.

These coordination efforts will assist in identifying and resolving incompatible goals, objectives or policies between the various entities.

Intergovernmental Coordination Defining Principle

“Regional approaches to large scale problems, mindful of the well being of our neighbors outside of Cutler Bay”

Town of Cutler Bay 2006-2011 Strategic Plan Core Value, Fall 2006

Florida’s Statutory Requirements

This element is also intended to meet the requirements of State of Florida Administrative Code Chapter 9J-5.015, Intergovernmental Coordination Element.

Intergovernmental Coordination



Goal

CONTINUE TO STRENGTHEN RELATIONSHIPS THROUGH INTERGOVERNMENTAL COORDINATION WITH ADJACENT MUNICIPALITIES, THE MIAMI-DADE COUNTY PLANNERS TECHNICAL COMMITTEE, MIAMI-DADE COUNTY, MIAMI-DADE COUNTY PUBLIC SCHOOL SYSTEM, REGIONAL, STATE AND OTHER GOVERNMENTAL ENTITIES AND SERVICE PROVIDERS THAT HAVE REGULATORY, SUPPLY AND/OR JURISDICTIONAL AUTHORITY TO IDENTIFY METHODS FOR INFORMATION SHARING AND FUNDING, ASSISTANCE AND SUPPORT IN ORDER TO PROTECT THE HEALTH, SAFETY AND WELFARE OF THE COMMUNITY AND TO ENSURE CONSISTENCY BETWEEN THE LOCAL, COUNTY, REGIONAL AND STATE POLICIES AND PLANS WHEN IMPLEMENTING THE TOWN'S GROWTH MANAGEMENT PLAN. THE TOWN WILL OFFER TO PROVIDE GUIDANCE AND ASSISTANCE TO FUTURE MUNICIPALITIES IN MIAMI-DADE COUNTY.

Objective IC-1

The Town shall continue to coordinate with the Village of Palmetto Bay (Village) and Miami-Dade County (Unincorporated Municipal Service Area) in the area of planning or other activities in order to achieve mutual goals. The Town Manager or his designee shall act as the Town's liaison.

Monitoring Measures IC-1

Establish a formal monitoring function within the Town government for intergovernmental coordination with the Village and Miami-Dade County (UMSA).

Policy IC-1A: The Town shall forward its Growth Management Plan to the Village and Miami-Dade County for review and comment for consistency with its own plan.

Policy IC-1B: The Town shall formally notify the Village and Miami-Dade County of Growth Management Plan Amendments or Zoning District Boundary changes which may impact the Village and strive to avoid conflicts.

Policy IC-1C: The Town, Village and Miami-Dade County will utilize the South Florida Regional Planning Council's mediation process, or in the alternative the statutory process as outlined in Chapter 164 F.S., Governmental Disputes, for the resolution of conflicts or issues.

Policy IC-1D: The Town, Village and Miami-Dade County shall enter into and maintain mutual aid agreements, as necessary.

Policy IC-1E: The Town, Village and Miami-Dade County shall identify other areas in which to cooperate.

Intergovernmental Coordination



Objective IC-2

The municipalities of Cutler Bay, Palmetto Bay, Pinecrest, South Miami, Homestead and Florida City, (and any areas which may incorporate in the future) which make up the South Miami-Dade County Region municipalities and have inherently the same issues, shall coordinate on mutual issues such as: planning, residential density increases in unincorporated South Miami-Dade County; population projections; annexations; public facility planning; level-of-service standards; siting of facilities of countywide significance; and/or, the reuse of the Busway for heavy rail. The Town Manager or his designee shall act as the Town's liaison.

Monitoring Measures IC-2

Maintain regular communication channels by meeting at least quarterly with coordinating governmental agencies and communities and maintain a high level of participation in reviewing land use plans and the development processes of adjacent jurisdictions.

Policy IC-2A: The Town and the other South Miami-Dade County Region municipalities shall identify other areas in which to cooperate and strive to be unified on issues.

Policy IC-2B: The municipalities will utilize the South Florida Regional Planning Council's mediation process, or in the alternative the statutory process as outlined in Chapter 164 F.S., Governmental Disputes, for the resolution of conflicts or issues.

Policy IC-2C: The municipalities shall meet at least semi-annually to discuss issues and find solutions to these issues that impact the South Miami-Dade Region.

Policy IC-2D: The municipalities shall share information which is deemed mutually beneficial.

Policy IC-2E: The municipalities shall enter into and maintain mutual aid agreements as necessary.

Policy IC-2F: The municipalities will seek to coordinate with Miami-Dade County to create an overlay district in order to promote development through the use of air rights over the South Dade Busway.

Intergovernmental Coordination



Objective IC-3

The Town will coordinate with Miami-Dade County wholly, and the following agencies individually, in order to ensure the adequate provision of services: Police, Fire, Water and Sewer, DERM, Solid Waste, Planning and Zoning, Emergency Management, Public Works, MPO and Transit, Housing, Parks or any other agency which is determined to be necessary for the provision of services.

The Town Manager or his designee shall act as the Town's liaison.

Monitoring Measures IC-3

Maintain regular communication channels and a high level of participation with Miami-Dade County when mutual cooperation and coordination is necessary.

Policy IC-3A: The Town shall coordinate with Miami-Dade County for the provision of local and specialized police services pursuant to Town Master Interlocal Agreement and the subsequent Agreements for Local and Specialized Police Services. In addition, the Town may expand the relationship with the Miami-Dade County Police Department to increase the levels of assigned officers within budget constraints.

Policy IC-3B: The Town shall continue to coordinate with the Miami-Dade County Fire Rescue Department for the provision of additional services to the Town and to cooperate with the Department in its efforts to expand Fire Station 34 and create a redesigned facility that will be in keeping with the design guidelines as set forth in the Urban Center District.

Policy IC-3C: The Town shall coordinate the planning of potable water and sanitary sewer facilities and services and level-of-service standards with the Miami-Dade County Water and Sewer Department, DERM and the South Florida Water Management District.

Policy IC-3D: The Town shall coordinate the planning of water and environmental resources, maintenance of the County's Secondary Canal System, enforcement of Chapter 24 of the Code of Miami-Dade County and programs delegated to Miami-Dade County by the State of Florida, Stormwater Management Permit Administration, National Flood Insurance Program and any other issues as necessary with DERM.

Policy IC-3E: The Town shall coordinate, as necessary, with the Department of Solid Waste Management for the continued provision of solid waste collection services to existing and future customers and for the review of level-of-service standards as maintained by the Department.

Policy IC-3F: The Town shall coordinate with the Miami-Dade Department of Planning and Zoning on planning and zoning matters including transmitting the Town's new Growth Management Plan and any future plan amendments to ensure consistency with the Miami-Dade County Comprehensive Development Master Plan, issues relating to Levels-of-Service, concurrency issues, and capital improvements projects. Additionally, the Town shall coordinate population projections with the County through data

Intergovernmental Coordination



sharing and evaluating projections based on County and mid-range projections by the University of Florida's Bureau of Economic and Business Research (BEBR).

Policy IC-3G: The Town shall coordinate with the Office of Emergency Management and Homeland Security concerning current or future land use or zoning matters or population changes that would impact hurricane shelters or emergency evacuation routes, hurricanes or other emergencies, hazard mitigation planning, or on other issues, as necessary.

Policy IC-3H: The Town shall coordinate with the Department of Public Works and Florida Department of Transportation on the maintenance of Rights-of-Way; the analysis, design, installation, maintenance and replacement of traffic signs, pavement markings, and traffic signals; signal timing; and, Level-of-Service standards and monitoring.

Policy IC-3I: The Town shall coordinate with and support the Metropolitan Planning Organization and Miami-Dade Transit in its efforts toward multi-modal transportation planning. The Town shall also seek to improve existing service in order to meet the transportation needs of all of its citizens.

Policy IC-3J: The Town shall encourage Miami-Dade Transit to evaluate established transit routes on an annual basis.

Policy IC-3K: The Town shall support the implementation of a countywide transit impact fee.

Policy IC-3L: The Town shall request to be consulted by all agencies planning, designing, or constructing transportation facilities within the Town boundaries, so as to have local input in the decision making process.

Policy IC-3M: The Town shall coordinate with and support the efforts of the Miami-Dade Housing Agency to expand affordable housing opportunities for low- and moderate-income residents, with the Housing Finance Authority in its mission to stimulate the construction and rehabilitation of multi-family housing and to assist in the creation of housing ownership opportunities, and with the Office of Community and Economic Development to administer the state and federal funding that supports the development of viable urban neighborhoods.

Policy IC-3N: The Town and the Miami-Dade County Park and Recreation Department shall coordinate for the provision of parks (including regional facilities) and support the County in its mission to create outstanding recreational, natural and cultural experiences.

Policy IC-3O: The Town and County shall continue working together to ensure adequate delivery of services to the Town and to implement any state policies that impact the Town and County.

Intergovernmental Coordination



Objective IC-4

The Town shall continue to coordinate with and support Miami-Dade County Public Schools in the joint effort to implement the “Interlocal Agreement for Public School Facilities Planning” in Miami-Dade County and for public schools facilities planning. As further enumerated in the Educational Facilities Element of this Plan, the Town and Miami-Dade County Public Schools will remain consistent and compliant with Sections 1013.33 and 163.31777, F.S., as amended.

The Town Manager or his designee shall act as the Town’s liaison.

Monitoring Measures IC-4

Maintain a high level of participation in school system planning and open regular communication channels for information sharing as required by the Interlocal Agreement.

Policy IC-4A: The Town, Miami-Dade County Public Schools and other signatories of the Interlocal Agreement shall continue to hold joint meetings to formulate and recommend policies regarding educational facilities planning.

Policy IC-4B: The Town shall grant Miami-Dade County Public Schools the opportunity to review and comment on proposed Growth Management Plan amendments, land use or zoning decisions which would, if approved, increase residential densities.

Policy IC-4C: Miami-Dade County Public Schools shall coordinate with Miami-Dade County and other signatories to the adopted Interlocal Agreement establish Level-of-Service Standards (including Interim LOS standards) for public school facilities and any amendments affecting public school concurrency.

Policy IC-4D: The Town, Miami-Dade County Public Schools and other signatories of the Interlocal Agreement shall assure the timely provision of new student stations by sharing information on student enrollment and projections and by the tracking of development for the collection of impact fees in order to ensure funding availability.

Policy IC-4E: The Town, Miami-Dade County Public Schools and other signatories of the Interlocal Agreement shall strive to maintain and/or improve the Level-of -Service for school concurrency.

Policy IC-4F: The Town and Miami-Dade County Public Schools shall also collaborate on traffic impacts of new schools and developments, to identify potential joint use facilities, and on any other issues that would be beneficial or required.

Policy IC-4G: If, in the future, a new high school is warranted for the south Miami-Dade County region, the Town shall encourage Miami-Dade County Public Schools to consider locating the school within the Town.

Intergovernmental Coordination



Objective IC-5

The Town shall continue to improve the coordination of planning activities with the agencies that have regulatory, supply or jurisdictional authority within the Town; such as, the South Florida Regional Planning Council, the South Florida Water Management District, the Florida Department of Transportation – District 6, the Department of Community Affairs, the Department of Environmental Protection, the Department of State, the U.S. Department of Interior – Biscayne National Park, the Bureau of the Census and any other entity where coordination would be beneficial to the Town.

The Town Manager or his designee shall act as the Town's liaison.

Monitoring Measures IC-5

Maintain regular communication channels with coordinating governmental agencies, communities and the public in general. Update contact lists and other information to remain current.

Policy IC-5A: The Town shall coordinate planning activities, as needed, with the South Florida Regional Planning Council and utilize the professional resources and services it offers. To further this Objective, the Town Growth Management Plan shall maintain consistency with the goals and policies of the *Strategic Regional Policy Plan for South Florida* and, more specifically Goal 21. Coordinated Planning & Regional Cooperation, in developing a regional approach to planning, regional transportation, inter-regional cooperation and affordable housing and promoting awareness of the impacts of decision-making.

Policy IC-5B: The Town will coordinate with the South Florida Water Management District concerning its jurisdictional authority as necessary and support its efforts concerning the *Lower East Coast Water Supply Plan 2005-2006 Update*, ACCELER8 Everglades and CERP and the Biscayne Bay Coastal Wetlands Project to protect an Outstanding Florida Water – Biscayne Bay.

Policy IC-5C: The Town will coordinate planning activities with the Florida Department of Transportation when Department (HEFT, US 1 and SW 112 Avenue) facilities are impacted and for sharing information relating to roadway Level-of-Service.

Policy IC-5D: The Town shall request to be consulted by FDOT when planning, designing, or constructing transportation facilities within the Town boundaries, so as to have local input in the decision making process.

Policy IC-5E: The Town shall coordinate planning activities, as needed, with the Department of Community Affairs and utilize the professional resources and services it offers. The Town Growth Management Plan shall maintain consistency with the goals and policies of the State Comprehensive Plan and more specifically with the goals pertaining to coastal, marine and natural resources, land use, urban revitalization, public facilities, transportation and plan implementation.

Policy IC-5F: The Town shall coordinate planning and permitting activities, as needed, with the De-

Intergovernmental Coordination



partment of Environmental Protection which has jurisdictional authority over environmental issues and natural resource protection.

Policy IC-5G: The Town shall coordinate with the Florida Department of State, as needed. The Department's Division of Historical Resources will address planning issues surrounding historic and archeological sites of significance.

Policy IC-5H: The Town shall coordinate with, provide support and assist the U.S. Department of Interior – Biscayne National Park in its mission to protect this important national resource.

Policy IC-5I: The Town shall coordinate with the Bureau of the Census and Miami-Dade County to ensure, if possible, that all Census Tract and Traffic Analysis Zone boundaries correlate with the Town boundaries.

Policy IC-5J: The Town will improve coordination with other utility or service providers or with any special independent district staff that have no regulatory authority over land use.

Intergovernmental Coordination



Objective IC-6

The Town will commit to work with and participate in the Miami-Dade County Planners Technical Committee.

The Town Manager or his designee shall act as the Town's liaison.

Monitoring Measure IC-6

The number of monthly meetings that are attended either in person or electronically by Town staff is to be reviewed on an annual basis.

Policy IC-6A: The Town shall continue to actively participate as a member of the Miami-Dade County Planners Technical Committee to share information and to communicate with other Miami-Dade County municipal and county planners, as appropriate.

Capital Improvements



Introduction

The purpose of the Capital Improvements Element is to evaluate the need for public facilities as identified in other Elements, to estimate the cost of improvements, to analyze the fiscal capability of the local government to finance and construct improvements, to guide the funding of improvements, to schedule the funding and construction of improvements, and to ensure that an adequate concurrency management system will be implemented. In other words, make this Growth Management plan “fiscally feasible”.

Capital Improvements Defining Principle

“The Town of Cutler Bay will provide the infrastructure needed to meet current and emerging needs of the community”

Town of Cutler Bay 2006-2011 Strategic Plan Goal 3.1, Fall 2006

Florida’s Statutory Requirements

This element is also intended to meet the requirements of State of Florida Administrative Code Chapter 9J-5.015, Capital Improvements Element.

Implementation of capital improvements will be through the Adopted Operating Budget of the Town of Cutler Bay and the proposed 5-Year Schedule of Improvements. Since the Town was incorporated in November, 2005 the first full year official budget was for FY2006-07, which began October 1, 2006 and will end September 30, 2007.

As the Town moves forward into the next budget cycle a 5-Year Schedule of Improvements will be completed.

Attached under Appendix A is the “Adopted Operating Budget Fiscal Year 2006-07”.

Capital Improvements



Goal 1

IDENTIFY THE PUBLIC FACILITIES AND INFRASTRUCTURE CAPACITY NEEDED, AS OUTLINED IN THIS GROWTH MANAGEMENT PLAN, TO ACCOMMODATE EXISTING AND FUTURE RESIDENTS AND BUSINESSES IN THE TOWN OF CUTLER BAY, TO PROVIDE SUCH FACILITIES AND INFRASTRUCTURE IN A TIMELY AND EFFICIENT MANNER AND ADOPT FINANCIAL POLICIES IN ORDER TO GUIDE THE FUNDING, SCHEDULING AND CONSTRUCTION OF IMPROVEMENTS.

Objective CI1-1

The Town shall identify the public and infrastructure capacities needed to address any deficiencies, accommodate new growth and/or replace obsolete or worn-out facilities, so as to be consistent with the adopted level-of-service standards and the Growth Management Plan, and plan for that growth through the Town's annual Adopted Operating Budget (Appendix "A") and a Town 5-year Schedule of Capital Improvements and the capital improvements plans of other agencies which provide public facilities and infrastructure.

Monitoring Measures CI1-1

1. The number of capital improvements completed in order to maintain the adopted levels of service.
2. Update and implement the Town's 5-Year Capital Improvements Schedule on an annual basis in coordination with the Town's Adopted Operating Budget.

Policy CI1-1A: Beginning in FY2007-08, adopt and implement a 5-year Schedule of Improvements as shown in Appendix "B" and update annually.

Policy CI1-1B: Identify large-scale projects or plans (\$10,000 or greater) in the Growth Management Plan elements as capital improvements for inclusion in the Schedule of Capital Improvements.

Policy CI1-1C: Coordinate planning for any Town improvements with the Village of Palmetto Bay, Miami-Dade County, the Miami-Dade County Public School System, regional and state agencies, other service providers and private contributors, as necessary, to ensure that capital improvements are implemented to support development.

Policy CI1-1D: Manage the Town's land development process so that public facility needs do not exceed the Town's ability to provide and fund, or require the provision of, the necessary improvements. This shall be accomplished through the enforcement of the Land Development Regulations and the collection of impact fees.

Policy CI1-1E: Ensure that all development orders are contingent upon the provision of services at or above the Level-of-Service standards specified in the Capital Improvements Element.

Capital Improvements



Policy CI1-1F: Evaluate the proposed capital improvement projects for consistency with the Comprehensive Plan and prioritize them according to the following guidelines:

1. Protection of public health, safety and welfare;
2. Fulfillment of any legal commitments of the Town to provide facilities and services;
3. Correction of existing deficiencies;
4. Maintenance of adopted levels-of-service standards;
5. Provision for the most efficient and effective use of existing and/or future facilities;
6. Provision of new capacity to accommodate future growth consistent with this Plan;
7. Prevention or reduction of future improvements costs;
8. Promotion of the cost-effective use of time and revenue.

Policy CI1-1G: Provide for the amendment of the Schedule of Capital Improvements if the funding is not available by allowing:

1. Adjustment of the schedule by removing the lowest priority projects;
2. Delay of the projects until funding is secured;
3. No issuance of development orders which would continue to cause a deficiency;
4. The pursuit of alternate funding sources.

Policy CI1-1H: Repair, rehabilitate and replace Town capital facilities according to generally accepted engineering principles and Florida building code guidelines.

Policy CI1-1I: Assess new development a pro rata share of the public facility costs necessary to accommodate the impacts of new development at the adopted levels-of-service through the enforcement of existing public facility funding mechanisms and impact fees. Public facilities include:

1. Transportation Facilities including mass transit;
2. Sanitary Sewer;
3. Solid Waste;
4. Drainage;
5. Potable Water;
6. Parks and Recreation;
7. Public Educational Facilities.

Policy CI1-1J: The Town, through its Land Development Regulations, shall require developers to provide for the necessary on-site infrastructure improvements, including: parking; safe and convenient traffic circulation; sidewalks and multi-modal transportation facilities, as appropriate; water and wastewater connections or facilities, and; drainage and stormwater management.

Policy CI1-1K: The Town shall coordinate with Miami-Dade County on the subdivision of properties to ensure the availability of land for adequate public infrastructure.

Policy CI1-1L: It shall be the intent of the Town to limit public expenditures that subsidize development in coastal high hazard areas.

Capital Improvements



Objective CI1-2

Identify, manage and enhance, if possible, revenues to ensure the availability of the public facility improvements required for redevelopment, previously approved development orders and planned future growth.

Monitoring Measures CI1-2

1. Continue to ensure the availability of funding sources and grants for the Town's capital improvements.

Policy CI1-2A: Prior to the issuance of new development orders, the Town shall ensure that the capital revenues and/or developer commitments/contributions are in place to provide all public facilities at the adopted levels-of-service.

Policy CI1-2B: As part of the annual preparation of the Annual Operating Budget and the 5-Year Schedule of Improvements the Town shall detail existing and potential revenue sources and funding mechanisms in order to implement capital improvements. Funding sources may include: ad valorem taxes, utility taxes, local government half-cent sales taxes, communications service taxes, state revenue sharing, franchise fees, license and permit fees and fines, impact fees, bonds, grants, special purpose authorities, developer proportionate fair share, other private funds, grants and interest earnings.

Capital Improvements



Objective CI1-3

Manage expenditures and debt so as to provide the necessary funds for the public facility improvements required for redevelopment, previously approved development orders and planned future growth.

Monitoring Measures CI1-3

1. Maintain a record of current generally accepted standards concerning debt management practices.

Policy CI1-3A: When incurring debt for public facilities the Town shall adhere to the generally accepted municipal finance principles and guidelines.

Policy CI1-3B: The Town shall evaluate future operating costs and maintenance when evaluating whether to incur debt for a new public facility or to accept a facility by others.

Policy CI1-3C: The Town's total debt service expenditures shall be no more than 10% of total revenue.

Policy CI1-3D: The Town's outstanding capital indebtedness shall be no more than 5% of its property tax base.

Capital Improvements



Goal 2

DEVELOP AND MAINTAIN A CONCURRENCY MANAGEMENT SYSTEM, INCLUDING THE ADOPTED LEVEL OF SERVICE STANDARDS, TO TRACK AND ISSUE DEVELOPMENT ORDERS IN ORDER TO ENSURE THE AVAILABILITY OF PUBLIC FACILITIES AND INFRASTRUCTURE NEEDED TO SUPPORT DEVELOPMENT ARE AVAILABLE CONCURRENT WITH THE IMPACTS OF SUCH DEVELOPMENT.

Objective CI2-1

Decisions regarding the issuance of development orders and permits shall be based on the availability of the necessary public facilities, consistent with the Town’s adopted levels of service and concurrent with the impacts of development.

Monitoring Measures CI2-1

The ability to maintain the Town’s adopted Levels of Service to meet the demand for capital facilities

Policy CI2-1A: The Town shall comply with the following minimum level of service (LOS):

**Table CI-1
LEVEL OF SERVICE (LOS) STANDARDS**

Transportation Facilities transit		Level of Service Standard		
Non-FIHS Roadways within Cutler Bay				
		Transit Availability		
Location	Facility – Town, County and State Roadways	No Transit Service	20 Min. Headway Transit Service Within 1/2 Mile	Extraordinary Transit (Commuter Rail or Express Bus)
Outside Miami - Dade Urban Infill Area	Principal Arterials	LOS D	LOS E (100% of Capacity)	120% of Capacity
	Minor Arterials	LOS E	LOS E (100% of Capacity)	120% of Capacity
	Collectors	LOS D	LOS E (100% of Capacity)	120% of Capacity
	Local Roads	LOS D	LOS E (100% of Capacity)	120% of Capacity
FIHS Roadways within Cutler Bay				
		Location		
FIHS Facility –State Jurisdiction Type	Inside Cutler Bay	Roadways Parallel to Exclusive Transit Facilities	Inside Transportation Concurrency Management Areas	Constrained or Backlogged Roadways
Limited Access Facilities	LOS D [E]	LOS D [E]	LOS D [E]	Manage
Controlled Access Facilities	LOS D [E]	LOS E	LOS E	Manage

Notes: LOS inside of [brackets] applies to general use lanes only when exclusive through lanes exist.
FIHS = Florida Intrastate Highway System

Capital Improvements



Other Public Facilities	Level of Service Standard																										
Sanitary Sewer	<ul style="list-style-type: none"> ▪ The system shall maintain the capacity to treat 100 gallons/capita/day ▪ Discharges shall meet all federal, State and County standards ▪ Regional treatment plants shall operate with physical capacity no less than the annual average daily sewage flow <p>The Countywide system shall maintain the capacity to collect and dispose of 102% of the average daily sewage system demand for the preceding 5 years (Miami-Dade County)</p>																										
Solid Waste	<p>The County shall maintain a solid waste disposal capacity sufficient to accommodate waste flows committed to the system through long-term (20 year) Interlocal Agreements or contracts with anticipated non-committed waste flows for a period of 5 years (Miami-Dade County Reso. 96-30)</p>																										
Drainage	<ul style="list-style-type: none"> ▪ The minimum standard for Flood Protection shall be protection from the degree of flooding that would result for the duration of a day from a 10-year storm ▪ All structures shall be constructed at, or above, the minimum floor elevation specified in the federal Flood Insurance Rate Maps for Miami-Dade County ▪ The water quality standard shall be met when the annual average for each of the listed National Pollutant Discharge Elimination System pollutants does not exceed the following target criteria (as may be amended) within a canal basin: <table border="1" data-bbox="841 1333 1318 1839"> <thead> <tr> <th data-bbox="841 1333 1079 1362">Pollutant</th> <th data-bbox="1079 1333 1318 1362">Target Criterion</th> </tr> </thead> <tbody> <tr> <td data-bbox="841 1362 1079 1419">Biological Oxygen Demand</td> <td data-bbox="1079 1362 1318 1419">9 mg/l</td> </tr> <tr> <td data-bbox="841 1419 1079 1476">Chemical Oxygen Demand</td> <td data-bbox="1079 1419 1318 1476">65 mg/l</td> </tr> <tr> <td data-bbox="841 1476 1079 1533">Total Suspended Solids</td> <td data-bbox="1079 1476 1318 1533">40 mg/l</td> </tr> <tr> <td data-bbox="841 1533 1079 1562">Total Dissolved Solids</td> <td data-bbox="1079 1533 1318 1562">1,000 mg/l</td> </tr> <tr> <td data-bbox="841 1562 1079 1644">Total Ammonia-Nitrogen and Organic Ammonia</td> <td data-bbox="1079 1562 1318 1644">1.5 mg/l</td> </tr> <tr> <td data-bbox="841 1644 1079 1673">Total Nitrate</td> <td data-bbox="1079 1644 1318 1673">0.68 mg/l</td> </tr> <tr> <td data-bbox="841 1673 1079 1703">Total Phosphate</td> <td data-bbox="1079 1673 1318 1703">0.33 mg/l</td> </tr> <tr> <td data-bbox="841 1703 1079 1732">Dissolved Phosphate</td> <td data-bbox="1079 1703 1318 1732">Not Available</td> </tr> <tr> <td data-bbox="841 1732 1079 1761">Cadmium</td> <td data-bbox="1079 1732 1318 1761">0.0023 mg/l</td> </tr> <tr> <td data-bbox="841 1761 1079 1791">Copper</td> <td data-bbox="1079 1761 1318 1791">0.0258 mg/l</td> </tr> <tr> <td data-bbox="841 1791 1079 1820">Lead</td> <td data-bbox="1079 1791 1318 1820">0.0102 mg/l</td> </tr> <tr> <td data-bbox="841 1820 1079 1850">Zinc</td> <td data-bbox="1079 1820 1318 1850">0.231 mg/l</td> </tr> </tbody> </table>	Pollutant	Target Criterion	Biological Oxygen Demand	9 mg/l	Chemical Oxygen Demand	65 mg/l	Total Suspended Solids	40 mg/l	Total Dissolved Solids	1,000 mg/l	Total Ammonia-Nitrogen and Organic Ammonia	1.5 mg/l	Total Nitrate	0.68 mg/l	Total Phosphate	0.33 mg/l	Dissolved Phosphate	Not Available	Cadmium	0.0023 mg/l	Copper	0.0258 mg/l	Lead	0.0102 mg/l	Zinc	0.231 mg/l
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Capital Improvements



Policy CI2-1B: Any proposed development that is deemed to generate a de minimus impact (as defined in subsection 163.3180(6), F.S) shall not be required to establish transportation concurrency.

Policy CI2-1C: A growth management plan amendment shall be required to eliminate, defer, or delay construction of any road or mass transit facility or service that is needed to maintain the adopted level of service standard.

Policy CI2-1D: The Town shall develop a Concurrency Management System in order to monitor the availability of public facility and infrastructure capacity and ensure adherence to the adopted level of service standards:

**Table CI-2
CONCURRENCY MANAGEMENT SYSTEM**

Sanitary Sewer, Solid Waste, Drainage and Potable Water
<p>Prior to the issuance of any development order for new development or redevelopment, sanitary sewer, solid waste, drainage and potable water facilities needed to support the development at adopted LOS standards must meet one of the following timing requirements:</p> <p style="padding-left: 40px;">The development order includes the conditions that the necessary facilities and services needed to serve the new development shall be in place upon site plan approval or plat approval or its functional equivalent; or</p> <p style="padding-left: 40px;">The necessary facilities and services are guaranteed in an enforceable development agreement, pursuant to Section 163.3220, F.S., or an agreement or development order issued pursuant to Chapter 380, F.S., to be in place and available to serve new development at the time of the issuance of a site plan approval or plat approval.</p>
Recreation and Open Space
<p>Prior to the issuance of any development order for new development or redevelopment impacting recreational and open space facilities, recreation and open space public facilities needed to support the development at adopted level of service standards must meet one of the following timing requirements:</p> <p style="padding-left: 40px;">The necessary facilities and services are in place or under construction; or</p> <p style="padding-left: 40px;">The development order includes the condition that at the time of the issuance of a certificate of occupancy or its functional equivalent, the acreage for the necessary facilities and services to serve the new development is dedicated or acquired by the local government, or funds in the amount of the developer's fair share are committed; and</p> <p style="padding-left: 40px;">The development order includes the conditions that the necessary facilities and services needed to serve the new development are scheduled to be in place or under actual construction not more than one year after issuance of a certificate of occupancy or its functional equivalent as provided in the adopted 5-Year Schedule of Capital Improvements; or</p> <p style="padding-left: 40px;">The necessary facilities and services are the subject of a binding executed agreement which requires the necessary facilities and services to serve the new development to be in place or under construction not more than one year after issuance of a certificate of occupancy or its functional equivalent; or</p> <p style="padding-left: 40px;">The necessary facilities and services are guaranteed in an enforceable development agreement, pursuant to Section 163.3220, F.S., or an agreement or development order issued pursuant to Chapter 380, F.S., to be in place or under actual construction not more than one year after the issuance of a certificate of occupancy or its functional equivalent.</p>

Capital Improvements



Transportation Facilities, including mass transit

Prior to the issuance of any development order for new development or redevelopment, public transportation facilities needed to support the development at adopted LOS standards must meet one of the following timing requirements:

The necessary facilities and services are in place or under construction; or

A development order or permit is issued subject to the conditions that the necessary facilities and services needed to serve the new development are scheduled to be in place or under actual construction not more than three years after issuance of a certificate of occupancy or its functional equivalent as provided in the Town's adopted 5-Year Schedule of Capital Improvements or transportation projects included in the first three years of the applicable, adopted Florida Department of Transportation Five Year Work Program and Miami Dade County's 5-Year Transportation Improvement Program.

The following must also be included:

The estimated date of commencement of actual construction and the estimated date of project completion.

The necessary facilities and services are the subject of a binding executed agreement which requires the necessary facilities and services to serve the new development to be in place or under actual construction within three years after the Town approves a building permit or its functional equivalent that results in traffic generation; or

The necessary facilities and services are guaranteed in an enforceable development agreement, pursuant to Section 163.3180 (1)(c) F.S., or an agreement or development order issued pursuant to Chapter 380, F.S., to be in place or under actual construction within three years after the Town approves a building permit or its functional equivalent that results in traffic generation.

Educational Facilities

Prior to the issuance of any development order for new development or redevelopment impacting educational facilities, public educational facilities needed to support the development at adopted LOS standards must meet one of the following timing requirements:

The necessary facilities and services are in place or under actual construction within three years after issuance of final subdivision or site plan approval; or

The developer executes a legally binding commitment to provide mitigation proportionate to the demand for public school facilities to be created by the actual development of the property subject to the final plat or site plan.

The Town in coordination with the Miami-Dade County Public Schools shall by ordinance, include proportionate share mitigation methodologies and options for public school facilities in its concurrency management program and Interlocal Local Agreement for Public Facility Planning between the Town, Miami-Dade County Public Schools, Miami-Dade County and the other signatories, consistent with the requirements of Chapter 163, Florida Statutes. The intent of these options is to provide for the mitigation of residential development impacts on public school facilities through mechanisms that might include, but are not limited to, one or more of the following: contribution of land; the construction, expansion, or payment for land acquisition or construction of a permanent public school facility; or, the creation of a mitigation bank based on the construction of a permanent public school facility in exchange for the right to sell capacity credits.

Capital Improvements



The application of the above requirements must ensure the availability of public facilities and services needed to support development concurrent with the impacts of such development.

Policy CI2-1E: The Town shall include as part of its Concurrency Monitoring System, in the Town's Land Development Regulations, provisions to annually assess whether the necessary facilities and services are being constructed in accordance with the 5-Year Schedule of Improvements and the levels of service, committed capacity and facility needs to maintain the adopted levels-of-service.

Policy CI2-1F: Public facilities and services must meet or exceed the levels-of-service standards established in this Element of the Growth Management Plan. Public facilities must be available at the adopted levels-of-service standards when needed for development. If facilities are not available at the time of site plan approval or plat approval, development orders or building permits are to be conditioned upon the availability of public facilities and services, or the necessary facilities must be guaranteed either in an enforceable development agreement adopted pursuant to Chapter 163, F.S. or in a development order issued pursuant to Chapter 380, F.S. Regardless of agreements, permits, development orders or similar documents, the necessary sanitary sewer, solid waste, drainage, adequate water supplies and potable water facilities shall be in place and available to serve new development no later than the issuance of a certificate of occupancy or its functional equivalent by the Town.

Policy CI2-1G: Evaluate proposed plan amendments and requests for new development or redevelopment according to the following guidelines:

Is the action consistent with the goals, objectives and policies of the Future Land Use Element, including the Future Land Use Map?

Will the action generate public facility demands that may be accommodated by capacity increases, which will maintain adopted level-of-service standards either planned in the 5-Year Schedule of Capital Improvements or by developer commitment?

Will the action exacerbate any existing public facility capacity deficiency, as described in the Transportation, Infrastructure, Education Facilities or Recreation and Open Space Elements?

If the Town provides public facilities, in part or whole, is the action financially feasible pursuant to this Element?

Will the action contribute to a condition of public hazard and safety?

Ensuring the availability of services and infrastructure to serve the existing and future population and land uses is an important function of the Comprehensive Plan. The Comprehensive Plan establishes levels of service for key facilities and infrastructure, including roadways, mass transit, potable water, sanitary sewer, drainage, and parks and recreation. The Capital Improvements Schedule identifies planned and programmed capital improvements that will be implemented by the Town and other agencies in order to meet or exceed the level-of-service standards or otherwise implement the Comprehensive Plan. In order to be financially feasible, revenues adequate to fund the projects identified as funded on the Capital Improvements Schedule must be demonstrated. Unfunded or under-funded projects should be identified.

Town of Cutler Bay 5-Year Schedule of Capital Improvements

Capital Improvements



Table CI-3
Cutler Bay Agencies
2006-2011

Agency	Project No.	Project Name	Description	Funding Source	Activity/Phase	Previous Years Funding	Fiscal Year					Total
							06/07	07/08	08/09	09/10	10/11	
Cutler Bay Parks and Recreation												
		Cutler Ridge Park Canvas Canopy	Shading for playground equipment	SN, QNIP				\$40				\$40*
		School Property	New Grass	SN, QNIP				\$75				\$75
		School Property	Field Lighting	SN, QNIP				\$150				\$150
		School Property	New parking lot	SN, QNIP				\$188				\$188
		Cutler Ridge Park Pavilion	New Picnic Pavilion	SN, QNIP				\$35				\$35
		Cutler Ridge Park Vita Course	Vita course around perimeter of park and school field	SN, QNIP				\$40				\$40
		Cutler Ridge Park landscaping	Planting of trees	SN, QNIP				\$30				\$30
		Cutler Ridge Park Swimming Pool	Improvements	SN, QNIP				\$430				\$430
		Gateway Park	Property acquisition	Park Impact				\$1,165				\$1,165
		Saga Bay Park	New tennis courts, restrooms, shading for playground equipment	QNIP and grants					\$400			\$400
Miami-Dade County Parks and Recreation Department												
	63	Lakes by the Bay Park	New Regional Park	BBCBP	Planning	0.0	0.0	\$360	\$160	\$730	\$2,250	\$3,500

SN - Safe Neighborhood Parks Bond Program
 QNIP - Quality Neighborhood Improvements Program
 BBCBP - Building Better Communities Bond Program

* In Thousands

Capital Improvements



Table CI-4
Miami-Dade County Public Works

Project No.	Project Name	Site	Estimated Cost	Paid to Date 4/13/07
20030007	PTP Sidewalk	SW 107 th Avenue and US1	\$1,161.71	\$0.0
20030014	PTP School Flashers	Gulfstream Road between Coral Sea Road and Montego Bay Drive SW 87 th Avenue and SW 212 th Street	\$52,796.50 \$99,038.00	\$42,322.51 \$80,516.52
20030015	PTP Traffic Signals	SW 87 th Avenue and SW 212 th Street	\$87,160.63	\$61,278.37
20030249	Drainage (Countywide)	SW 97 th Avenue and SW 210 th Street	\$42,994.48	\$33,522.88
20040276	Street Pavement Rehabilitation (WASD) Zone 2	SW 92 nd Avenue and SW 212 th Street SW 208 th Street and SW 80 th Court SW 216 th Street and Old Cutler Road 11100 SW 211 th Street 18940 SW 96 th Avenue SW 216 th Street between Old Cutler Road and SW99 th Court 20320 SW 92 nd Avenue 211136 Permit Lane 8773 SW 214 th Lane	\$5,442.61 \$5,518.51 \$4,838.28 \$38,879.00 \$38,879.00 \$2,920.33 \$5,442.61 \$5,442.61 \$5,442.61	\$2,647.63 \$1,467.39 \$3,775.96 \$24,270.52 \$24,270.52 \$2,275.92 \$2,647.63 \$2,647.63 \$2,647.63
20040512	Flashing School Signals	Coral Sea Road between Bahama Drive and SW 200 th Street Belview Drive between Sterling Drive and SW 19400 Block SW 214 th Street between SW 10400 Block and SW 10200 Block	\$111,136.69 \$83,707.36 \$127,883.45	\$73,521.58 \$41,267.95 \$6,116.91
20050310	Traffic Signal Detection Loop Replacement No. 1	Galloway Road (SW 87 th Avenue) and SW 216 th Street	\$27,991.58	\$0.0
20060024	Hurricane Traffic Signal Repair	Quail Roost Drive and South Dixie Highway	\$13,215.97	\$11,346.10
20060147	Sidewalk Improvement Contract	Between SW 200 th Terrace and SW 203 rd Terrace and between SW 106 th Avenue and SW 106 th Court	\$19,150.49	\$18,005.61
20070542	CTI Construction Testing and Inspection, Inc.	SW 216 th Street between Old Cutler Road and SW 99 th Court	\$4,400.00	\$0.00

Capital Improvements



Table CI-5
Other Agencies
2006-2011

Agency	Project No.	Project Name	Description	Funding Source	Activity/Phase	Previous Years Funding	Fiscal Year					Total
							06/07	07/08	08/09	09/10	10/11	
MDTA												
	4204601	Busway Park & Ride	@ Quail Roost	CM				2,458				2,458*
	0000007	Busway Park & Ride	@ SW 200 th Street 350 spaces	DS LF			335 335					670
PTP												
	20040341	SW 87 th Avenue	SW 216 th to SW 168 th Streets 2 to 4 Lanes	PTPBP	PE CST	12			442	900	1,500	12,604
	N/A	Old Cutler Road Traffic Circles	Traffic Circles @ 87 th and 97 th Avenues	Commission District 8 Discretionary Fund	PE CST				1,000			1,000
FDOT												
	4154881	HEFT	SW 216 th Street to Eureka Drive Widen	PE	PE			2,923				
	4146211	SW 112 th Avenue	SW 224 th Street to US1	DS DIH DS				2,391				
	4147541	US1	SW 17 th to SW 112 th Avenues Surveillance System	DS			140					
MPO	4183331	South Dade Greenway Bike Path		SE SE	PE CST	290		510	1,880	1,745		
	2152651	Black Creek & Biscayne Trail Bridges	Pedestrian Underpass	SE				90	90	758		
	4183371	Miami-Dade Greenways Signage/Pavement Markings		SE			40	50				

Transportation



Transportation Defining Principle

“Optimize the smooth flow of traffic through the Town of Cutler Bay by minimizing traffic congestion and maximizing the capacity of our local roadways”

Town of Cutler Bay 2006 – 2011 Strategic Plan Core Value, Fall 2006

Florida’s Statutory Requirements

This element is also intended to meet the requirements of State of Florida Administrative Code Chapter 9J-5.019, Transportation Element.

Introduction

The Town of Cutler Bay is poised to be an economic engine in Miami Dade County. Through good fortune there are well balanced proportions of residential and commercial land, each in the aggregated space from which to gain significant impact from. Through good planning and foresight, the Town has examined itself and delineated areas of mixed-use commercial development in the most appropriate places. Being on the County’s eastern edge, and being serviced by extraordinary transit, provides the opportunity to attract and sustain appropriate development where it is desired. Cutler Bay wishes to provide development that is supportive of high occupancy transit, as is warranted by its location along the transit corridor, while maintaining the character and function of its single-family residential areas. Being cognizant of this, the Town seeks to provide incentives for Transit Oriented Development, while providing the transportation infrastructure to serve it. Goals, Objectives and Policies, herein are structured to strike the balance between the competing interests in the intended spirit of concurrency and to truly manage growth, not merely react to it.

Statutory Requirements

Chapter 9J-5 presents minimum criteria for review of local government Comprehensive Plans. This element uses a planning horizon of the year 2030. The following are specified for inclusion. The element shall contain one or more goal statements. In addition it shall contain one or more specific objectives for each goal statement which address the requirements of subsections and which:

- Provide for a safe, convenient, and energy efficient multimodal transportation system;
- Coordinate the transportation system with the Future Land Use Map and ensure that existing and proposed population densities, housing and employment patterns, and land uses are consistent with the transportation modes and services proposed to serve these areas;
- Coordinate the transportation system with the plans and programs of the Miami-Dade County Metropolitan Planning Organization, Miami-Dade Transit authority, the Florida Transportation Plan and Florida Department of Transportation’s Adopted Work Program;

Transportation



- Address the provision of efficient public transit services based upon existing and proposed major trip generators and attractors, safe and convenient public transit terminals, land uses and accommodation of the special needs of the transportation disadvantaged, including the elderly;
- Provide for the protection of existing and future Rights-of-Way from building encroachment;

The element shall also contain one or more policies for each objective.

Organization of the Transportation Element

The Cutler Bay Transportation Element consists of two Goals followed by Objectives and Policies pursuant to the goals. The Element is organized around objectives addressing the following topics:

- Levels-of-Service for a Safe, Convenient and Efficient Transportation System,
- Alternative Modes of Transportation;
- Safe and Convenient Pedestrian and Bicycle Networks;
- A Transportation System Coordinated with Land Use;
- Transportation Plans Coordinated with other Jurisdictions;
- A Transportation System to Enhance and Preserve Town Neighborhoods;
- Concurrency and Growth Management;
- Transportation that Serves the Regional Needs as well as Local Interests
- Hurricane Preparedness
- Capital Improvement Program
- Financing

The Transportation Element is one of the elements which collectively represent the Town of Cutler Bay Growth Management Plan. This element must be view and interpreted in context with the other elements, and has coordinated as such, most specifically with the Future Land Use Element.

Implementation of the Cutler Bay Growth Management Plan

Implementation of the Cutler Bay Growth Management Plan Transportation Element will require attention from both the public sector and the private sector to be ultimately successful. In this regard many of the plans components discuss or encourage the Town undertake certain actions. These will be the methods by which the Guiding Principles espoused in the introductory section of this Growth Management Plan may be achieved.

Transportation



Goal 1

PROVIDE FOR THE CITIZENS OF CUTLER BAY, A SAFE, CONVENIENT, ACCESSIBLE AND EFFICIENT TRANSPORTATION SYSTEM.

Objective T1-1: Level-of-Service Standards

To provide a safe, convenient, accessible and efficient transportation system with a Level-of-Service that sustains the Town's social, aesthetic, economic, and natural resources.

Policy T1-1A: Adopted roadway LOS standards shall vary depending on the classification of the roadway, roadway location, and availability of transit. **Table T-1** below summarizes the adopted peak-period LOS standards for all local, County and roads in Cutler Bay.

Table T-1
Peak-Period Roadway LOS Standard

NON-FIHS ROADWAYS WITHIN TOWN OF CUTLER BAY				
Location	Facility – Town, County and State Roadways	Transit Availability		
		No Transit Service	20 Min. Headway Transit Service Within 1/2 Mile	Extraordinary Transit (Commuter Rail or Express Bus)
Outside Miami - Dade Urban Infill Area	Principal Arterials	LOS D	LOS E (100% of Capacity)	120% of Capacity
	Minor Arterials	LOS E	LOS E (100% of Capacity)	120% of Capacity
	Collectors	LOS D	LOS E (100% of Capacity)	120% of Capacity
	Local Roads	LOS D	LOS E (100% of Capacity)	120% of Capacity

FIHS ROADWAYS WITHIN CUTLER BAY			
FIHS Facility –State Jurisdiction Type	Location		
	Inside Cutler Bay	Roadways Parallel to Exclusive Transit Facilities	Constrained or Backlogged Roadways
Limited Access Facilities	LOS D [E]	LOS D [E]	Manage
Controlled Access Facilities	LOS D [E]	LOS E	Manage

Notes: LOS inside of [brackets] applies to general use lanes only when exclusive through lanes exist.

FIHS = Florida Intrastate Highway System

Transportation



Policy T1-1B: The Town shall ensure that roads operating worse than the adopted standards shall be maintained at or better than the Level-of-Service condition at the time of development review. For backlogged and constrained facilities, the cumulative impact of any single development shall not exceed ten percent (10%) of the Annualized Average Daily Traffic (AADT) at the time of development review, without mitigation which maintains the predevelopment Level-of-Service condition.

Policy T1-1C: The Town shall ensure that no development approvals are issued that would degrade the Level-of-Service conditions beyond the acceptable Level-of-Service standards as stated in the Comprehensive Plan.

Policy T1-1D: The Town shall ensure that no development approvals are issued that would degrade the Level-of-Service conditions on roads operating below adopted standards.

Policy T1-1E: The Town, in cooperation with the Metropolitan Planning Organization, Miami-Dade County and The Florida Department of Transportation shall study and recommend specific roadway improvements, transit improvements, as well as Transportation System Management (TSM) and Transportation Demand Management (TDM) measures to alleviate congestion on thoroughfares where LOS is, or is projected to be, below the adopted standard.

Policy T1-1F: The Town shall ensure that development which increases traffic on roads which are backlogged, constrained or projected to be at deficient Levels-of-Service by 2015 be required to provide one or more of the following:

- Conventional mitigation measures, such as physical capacity enhancements; additional transit service providing the roadway can carry additional person trips;
- A Transportation Demand Management (TDM) or Transportation Systems Management (TSM) plan for approval by the Town; or
- Other remedies as provided by State Statutes, such as measurement of concurrency in an area wide manner.

Policy T1-1G: The Town shall not vacate any public Rights-of-Way unless it provides no public benefit, or is not in the best interest of the Town to retain for future use.

Policy T1-1H: The Town shall control vehicular access onto Town and County streets through its Land Development Regulations and site plan review process in order to reduce existing or potential congestion and safety problems. Access Management studies shall be undertaken by the Town and financed by the developers on facilities when appropriate. Access to state highways is controlled by The Florida Department of Transportation.

Policy T1-1I: To provide an incentive for development in designated charrette areas, where higher, Transit Oriented Densities are encouraged, the Town shall work with the County and the State to seek alternative means of capacity; including advocacy of a transit impact fee.

Policy T1-1J: In lower density areas, outside of designated charrette areas the Town shall work with the County and the State to maximize, where appropriate, through traffic management and planned improvements, particularly on section line and half section line roads, which form the basic surface mobility network.

Transportation



Policy T1-1K: In low density residential neighborhoods, the Town will work to minimize traffic intrusion, and thereby focusing non-local and cut through traffic onto the thoroughfares formed by the section line and half-section line roads, which serve to connect with significant traffic generators or thoroughfares.

Policy T1-1L: The Town shall connect the transportation grid where thoroughfares are disconnected from providing service by canals, railways, etc. where the Town has jurisdiction. The Town will measure the negative impacts where it might not be possible.

Policy T1-1M: The Town shall undertake a Transportation Master Plan to specifically identify areas of need, as well as short and long term multimodal and policy oriented mitigation measures, as well as measures of effectiveness. Each project shall have an opinion of probable cost associated with it, to assist in determining a cost feasible Capital Improvement Element.

Policy T1-1N: The projects identified on the approved Transportation Master Plan shall be implemented as needed to achieve and maintain the adopted Levels-of-Service standards. These projects will be the basis of the Capital Improvements Element relative to transportation.

Policy T1-1O: To the extent applicable by State law, the Town shall regulate encroachments in the public Rights-of-Way. No encroachment shall be allowed unless it is permitted by the Florida Building Code or is permitted by a written agreement between the Town and the owner of the encroachment. The agreement will identify terms and conditions upon which the encroachment is allowed within the public Right-of-Way. The Town will not support encroachments on State Roads. The Charrette areas and US-1 are an exception due to the fact that it is the intent of design standards in these areas to have new development constructed up to the "build to" line, which is the Right-of-Way. Minor encroachments such as awnings and balconies will be permitted, provided they do not interfere with travel.

Policy T1-1P: In an effort to minimize the contribution of trips on the FHHS, the Town shall pursue TSM and TDM measures, in coordination with South Florida Commuter Services, as appropriate, to remedy existing and projected Level-of-Service (LOS) deficiencies.

Policy T1-1Q: Emergency vehicle access shall be considered during any modification of the transportation system, including access to parcels, and the design and construction of roads and traffic mitigation devices.

Policy T1-1R: The Town shall assess the condition of and repave, where necessary, the streets of Cutler Bay as funds are available.

Policy T1-1S: The Town shall develop a Concurrency Management System to effectively and efficiently track roadway capacities as mandated by the State of Florida by 2008-2009.

Policy T1-1T: The Town shall work with Miami-Dade County Transit to implement transit service improvements where warranted throughout the town and along the US-1 Busway, including but not limited to Signal Prioritization, Minimal Headways, Special Use Lanes, and other Transportation Demand Management, Transportation Systems Management, Tolling and High Occupancy Vehicle approaches that may be practical.

Transportation



Objective T1-2: Alternative Modes of Transportation

The Town shall work to provide for alternative modes of transportation, in coordination with other units of Local, County and State government and the private sector.

Policy T1-2A: The Town shall work with The Florida Department of Transportation, Miami-Dade Transit and the Metropolitan Planning Organization to identify strategies in which it can achieve a more balanced modal split.

Policy T1-2B: The Town shall work with The Florida Department of Transportation and Miami-Dade Transit to implement parking strategies in the charrette areas and along the Busway to provide incentive for the further development of transit friendly urban design.

Policy T1-2C: The Town shall use appropriate Transportation Systems Management (TSM) and Transportation Demand Management (TDM) strategies to improve system efficiency and enhance safety. These include, but are not limited to:

- Coordination with South Florida Regional Commuter Services
- Coordination with Miami-Dade Transit
- Coordination with local municipal circulators
- Congestion management;
- Access management;
- Installation of on-road bicycle lanes and bicycle parking and storage facilities;
- Parking policies which discourage driving alone;
- Employer-sponsored programs to encourage carpooling, vanpooling, bicycling, flexible work hours, telecommuting and transit usage;
- Site development;
- Designs which foster transit usage and pedestrian accessibility; and
- Bus pull-in/pull-out areas, where deemed safe and necessary to retain highway Level-of-Service.

Policy T1-2D: The Town shall, in conjunction with Miami-Dade County, support Miami-Dade Transit in continuing to provide bus service within the Town at defined Levels-of-Service as specified by Miami-Dade Transit in their Transit Development Program (TDP).

Policy T1-2E: The Town shall encourage Miami-Dade Transit to evaluate all aspects of the existing transit system, including regular Miami-Dade Transit routes, any existing paratransit, STS, demand response or other transportation demand strategy approaches being used.

Policy T1-2F: In the Old Cutler Road Charrette and UCD Charrette Areas, the Town shall develop Land Development Regulations that promote Transit Oriented Development and mixed-use development.

Policy T1-2G: In the Charrette Areas, the Town shall work with the development community to specify other commitments that serve to reduce single-occupant motor vehicle trips.

Policy T1-2H: Encourage Miami-Dade Transit to analyze the existing local Miami-Dade Transit route system for connection to the larger, regional system, like the Busway and Metrorail.

Transportation



Policy T1-2I: As envisioned in the Future Land Use Element, the Town will work to develop land use strategies and densities along US-1 which will facilitate the justification and implementation of high capacity transit, such as Metrorail.

Policy T1-2J: The Town supports the implementation of an extension of the Metrorail System between Dadeland and Florida City on the US-1 Busway, and therefore supports a funding shift from primarily roadway projects to a more alternative mode/transit mobility programming.

Policy T1-2K: In cooperation with the Metropolitan Planning Organization and Miami-Dade Transit, the Town shall request that a survey be taken and analyzed to determine local employer/employee/resident travel characteristics, and to develop issues and needs for Transportation Demand Management techniques, including enhanced mass transit, carpooling, vanpooling, flexible work hours, guaranteed ride home, and employee bonuses to refrain from driving alone.

Policy T1-2L: Cutler Bay shall work with Miami-Dade Transit to construct bus shelters and enhanced stops at all transit stops within the Town.

Policy T1-2M: The Town will work with Miami-Dade Transit to decrease bus headways mid-day to 30 minutes or less.

Policy T1-2N: Cutler Bay shall support County plans for the higher level of transit service along on the Busway, including the examination of High Occupancy Toll lanes, or development of the Metrorail. The Town will advocate for a transit impact fee.

Policy T1-2O: Cutler Bay will explore implementing unique and innovative transportation options that can provide alternates to traditional modes of travel. One new mode is an aerial cable car system that could provide overhead views of environmentally sensitive areas and could link Cutler Bay to major public attractions such as the Metro Zoo as well as existing public transit systems such as the Metrorail.

Transportation



Objective T1-3: Safe and Convenient Pedestrian and Bicycle Network

The Town shall provide a safe and convenient pedestrian and bicycle network including links to schools, recreational facilities, bus stops, and major trip generators.

Policy T1-3A: The Town shall work with The Florida Department of Transportation and Miami-Dade Transit to provide safe and convenient pedestrian connections to Busway Stations across US-1.

Policy T1-3B: The Town shall continue to identify sidewalk needs in the following areas:

- Existing roadways;
- Hazardous routes;
- Designated school walking routes;
- Connecting existing sidewalks to schools, parks, recreational facilities, and new developments;
- Repairing and replacing existing deteriorated sidewalks; in connection with new road construction; and
- Accessing Miami-Dade Transit bus stops.

Policy T1-3C: The Town shall promote pedestrian and bicycle linkages between residential and non-residential land uses. The principles of Crime Prevention through Environmental Design shall be a consideration in site plan reviews.

Policy T1-3D: The Town shall continue to seek supplemental funding for local sidewalk construction programs. In particular the Town shall seek to be included formally in the funding allocated by the Peoples Transportation Plan.

Policy T1-3E: As part of a Pedestrian Safety Plan, the Town shall continue to identify and install pedestrian safety improvements in conformance with the Manual of Uniform Traffic Control Devices. Streets through residential neighborhoods should be maintained and identified in a manner that promotes and protects the residential environment and enhances pedestrian safety.

Policy T1-3F: The Town shall coordinate with Miami-Dade Transit for improved pedestrian facilities within ¼ mile of all transit stations, and areas of transit oriented densities. **The Town strongly supports a pedestrian overpass on US-1 to the busway and will work with the appropriate agencies to implement this project.**

Policy T1-3G: The Town shall work to develop on and off-road bike lanes paths, greenways and trails.

Policy T1-3H: The Town shall identify and prioritize enhancement projects for pedestrian and bicycle ways in conjunction with the Metropolitan Planning Organization.

Policy T1-3I: The Town shall work to assure that all sidewalks are ADA compliant.

Policy T1-3J: The Town shall coordinate with Miami-Dade County Schools, and the Metropolitan Planning Organization to develop safe routes to and from schools.

Policy T1-3K: The design and construction of thoroughfare roads shall provide for safe on-road bicycle

Transportation



lanes, wherever possible and practical as determined by the Town's Planning and Public Works departments.

Policy T1-3L: All requests for development shall be required to install safe and convenient pedestrian and bicycle access, as provided for in the Land Development Regulations.

Policy T1-3M: The Town shall implement a design strategy known as an "intersection sleeve" at certain intersections on high capacity thoroughfares particularly along US-1. These will make high-volume traffic roadways safe for pedestrians to cross. These locations shall be determined from a comprehensive pedestrian amenity study. The "sleeve" strategy involves clearly striping cross-walks and using different paving materials, crossing signage and lighting, and reducing the distance between curb corners where possible to reduce pedestrian crossing distance.

Policy T1-3N: The Town shall examine the connection of major traffic generators, transit stops and areas of density, with an interconnected system of sidewalks and or bicycle paths, this task should be coordinated with the Town's Recreational Master Plan system.

Policy T1-3O: The Town shall work to reduce conflicts among modes of transportation. This can be done through:

- a. Establishing enhanced intersections with more visible crosswalks and enhanced signage;
- b. Developing bike paths and lanes with bollards and raised islands to increase safety at intersections by preventing vehicles from entering the special lanes;
- c. Bus shelters;
- d. Traffic calming where appropriate; and
- e. Pedestrians islands.

Transportation



Objective T1-4: A Transportation System Coordinated with Land Use

The Town shall continue to evaluate the mutual interaction between the transportation system and land use in order to sustain the Town's natural, aesthetic, social and economic resources.

Policy T1-4A: The Town shall develop regulations that promote Transit Oriented Development (TOD) in the charrette areas, and around existing and future transit and express bus stations, where appropriate. The regulations shall promote infill development with the appropriate transit sufficient densities around Busway transit stations.

Policy T1-4B: Transportation Demand Management techniques and Transportation System Management measures shall be examined by the Town through its Transportation Master Plan.

Transportation



Objective T1-5: Coordination of Transportation Plans with Other Jurisdictions:

The Town shall coordinate transportation plans and programs with the plans and programs of local, regional and jurisdictions.

Policy T1-5A: The Town shall develop a Transportation Master Plan by 2010.

Policy T1-5B: The Town's Transportation Master Plan shall be used as the initial public input to the Metropolitan Planning Organization's Long Range Transportation Plan.

Policy T1-5C: Cutler Bay shall request to be involved with all planning, designing, or constructing transportation facilities within the Town boundaries by other agencies, so as to have local input on the decision making process.

Policy T1-5D: The Town shall develop a Capital Improvement Program in coordination with the plans of the Florida Department of Transportation; the Miami-Dade County Metropolitan Planning Organization; Miami-Dade Transit, Miami Dade County Public Works, and the surrounding communities.

Policy T1-5E: Town staff shall meet with The Florida Department of Transportation and the County Transportation Department staff as needed to discuss common issues, including the status of projects in each jurisdiction's Capital Improvements Programs.

Policy T1-5F: The Town shall continuously coordinate transportation improvements, including those in its Capital Improvements Program, with the Metropolitan Planning Organization's short-term Transportation Improvement Program and Long Range Transportation Plan.

Policy T1-5G: The Town shall consult with Miami-Dade Transit to assure its Transit Development Program is responsive to the community's

Transportation



Objective T1-6: A Transportation System to Enhance and Preserve Neighborhoods

The Town shall develop a transportation system that helps preserve and enhance the Town's neighborhoods.

Policy T1-6A: The Town shall develop standards and a palate of acceptable improvements for protecting neighborhoods to minimize impacts from traffic intrusion.

Policy T1-6B: The Town shall assess traffic intrusion through residential neighborhoods, and work in coordination with Miami Dade County and its traffic flow modification process to mitigate such negative situations with the appropriate traffic calming measures.

Policy T1-6C: Safe, convenient, on-site traffic flow with adequate parking will be established for all redeveloping non-residential and multi-family residential facilities.

Policy T1-6D: The Town shall periodically request the Florida Department of Transportation and or Miami-Dade County to partner with it to study access management techniques on the appropriate facilities. These techniques may include but shall not be limited to:

- Local street access on streets where cut-through traffic is impossible;
- Access on the highest-classified street where The Florida Department of Transportation standards can be met;
- Joint access, cross access, and shared access;
- Raised median diverters;
- Angled entrances and exits and other driveway configurations which channel traffic away from the neighborhood;
- Enforceable signs ("do not enter", "no thru traffic," etc.);
- Building orientation away from the neighborhood, including drive-through windows;
- Internal traffic circulation to discourage use of the side streets;
- Pedestrian access to encourage walking rather than driving short distances;
- Limited curb cuts;
- Transit orientation, including safe and convenient pedestrian routes to the nearest bus stop.

Policy T1-6E: The Town shall work to provide a connected grid network based on County section line and half-section line roads. Capacities of these facilities and their intersections shall be maximized within existing Right-of-Way limits, when needed.

Policy T1-6F: The Town shall implement the aesthetics of road corridors during the design process. Where adequate Right-of-Way exists or can be reasonably acquired, landscaped medians shall be the preferred center component of road cross sections. When major new public facilities are planned, their design should be aesthetically compatible with the surrounding area, whenever practical.

Policy T1-6G: The Town will work with Miami-Dade Transit, The Florida Department of Transportation and the Department of Community Affairs to develop appropriate methods by which to utilize transit as alternative capacity when existing traditional roadway capacity is expended.

Transportation



Policy T1-6H: Public involvement shall be ensured by staff presentations to neighborhood associations and/or groups during the preliminary design stage for road projects involving changes in the road configuration, including alignment, number of lanes, and calming devices.

Policy T1-6I: Any missing links in the sidewalk system shall be eliminated, provided that financial resources are available.

Policy T1-6J: The Town shall improve its ROW's in order to encourage pedestrian activity. Where pedestrian activity would be encouraged without significant adverse effect on public safety, such improvements may include, but would not necessarily be limited to, development of "sleeves", straightening of medians, realignment of streets, realignment of street curbs at intersections, establishing parallel or angled parking, extending sidewalks to accommodate trees or tree planters, improving crosswalks, reducing the number or width of automobile travel lanes, or improving pedestrian ramps.

Policy T1-6K: Strategies shall be identified to assist in the preservation of the regional function of the Florida Intrastate Highway System facilities (FIHS).

Transportation



Objective T1-7: Concurrency and Growth Management

The Town shall implement Growth Management standards for concurrency.

Policy T1-7A: The Town shall explore the feasibility of utilizing transportation impact fees to fund mobility improvements; including a transit impact fee.

Policy T1-7B: The Town shall develop a formal Concurrency Management System (CMS), which allows for the monitoring of remaining roadway capacities.

Policy T1-7C: The Town shall explore the measurement of Level-of-Service in an area-wide manner, as opposed to the link by link analysis method, as a way to provide incentive for the redevelopment of the Charrette Areas.

Policy T1-7D: The Town shall explore measuring Level-of-Service in terms of person trips, allowing transit to provide trip capacity within the area.

Policy T1-7E: The Town shall develop a formal process for measuring the impact of development. This shall require developers to prepare and submit traffic impact studies and circulation plans including ingress and egress from and to adjacent roadways for automobiles, trucks and delivery vehicles, pedestrian, mass transit, and bicycles. Traffic circulation plans shall be reviewed and approved by the Town. All proposed land developments will be required to work with the Town on the implementation of this policy.

Policy T1-7F: The Town shall work with other jurisdictions abutting US-1 to determine if a corridor-wide capacity and acceptable Level-of-Service is practical to implement as a means by which to manage growth and determine the need for the development of higher levels of transit, such as Metrorail, as currently approved by the Metropolitan Planning Organization.

Policy T1-7G: Advocate for the reprioritization of the South Dade Corridor as a Tier 1 priority in the Metropolitan Planning Organizations funding priorities.

Policy T1-7H: Work to expedite the implementation of the corridor wide improvements as approved by the Metropolitan Planning Organization in the South Dade Corridor Alternatives Analysis.

Policy T1-7I: Development Agreements that commit the developer to make specified transportation improvements may be required as a condition prior to the issuance of a development permit. Development Agreements may also require the developer to participate in TSM and TDM programs.

Policy T1-7J: Developments that are *non-de minimus* shall be required to perform traffic studies to estimate their compliance with the LOS standards. If these studies estimate that a developments traffic impact does not meet the LOS standards, the Town shall require enforceable development agreements that commit the developer to make certain improvements to meet those standards. During this interim period, developments that cannot meet the above standards shall not be approved.

Policy T1-7K: The Town shall develop traffic impact analysis methodologies, which will be used by developers to assess the impacts of their developments.

Transportation



Policy T1-7L: Developments of Regional Impact shall remain subject to the applicable requirements of Chapter 380, Florida Statutes.

Policy T1-7M: The Town shall protect its single-family residential areas from non-residential, high density residential, or other inappropriate intrusion.

Transportation



Objective T1-8: Transportation that Serves Regional and Local Interests

The Town shall work with other Local, County and State bodies to assure that the transportation system is regionally connected and context sensitive as it traverses Cutler Bay.

Policy T1-8A: The Town shall identify within its Land Development Regulations areas of appropriate intensity and land use mix to provide incentive to the use of transit, pedestrian facilities and discourage the use of the automobile. These incentives should concentrate on the three Charrette areas, the Old Cutler Road, the US-1 Corridor, and Urban Center District Charrettes, as well as planned Busway stations.

Policy T1-8B: The Town shall seek grants or planning assistance that encourages housing within the Metro Center land use category.

Policy T1-8C: The Town shall actively participate in the Metropolitan Planning Organization's planning processes to assure it has a voice in the development of local and regional transportation facilities.

Policy T1-8D: Retrofitted or reconstructed streets, wherever practical as determined by the Town, shall include amenities such as shade trees and benches, curb, gutter and adequate drainage infrastructure, as well as pedestrian safe designs; such as, refuge medians where more than two-lane roadways exist, raised pavements to alert motorists to pedestrian crossings, and sidewalk bulb-outs where there is on-street parking.

Policy T1-8E: The Town shall review requests for development approval for transportation circulation, including, but not limited to, ingress and egress from and to adjacent roadways for automobiles, trucks and delivery vehicles, pedestrians, mass transit, and bicycles.

Transportation



Objective T1-9: Hurricane Evacuation & Disaster Preparedness

The Town shall coordinate with Miami-Dade County, adjacent municipalities and the State of Florida in addressing the evacuation, structural integrity, and disaster-preparedness needs of Cutler Bay.

Policy T1-9A: Work with Miami-Dade County, adjacent municipalities and the State of Florida to ensure the transportation system is adequately prepared for hurricane evacuation.

Policy T1-9B By 2008, the Town shall implement an Emergency Response Plan (ERP) addressing disaster-preparedness, hurricane evacuation and post disaster redevelopment plans, procedures and personnel duties.

Policy T1-9C: Work with Miami-Dade County to ensure that Town employees are adequately trained in the policies and procedures required during and after a disaster emergency and the long term post disaster.

Transportation



Objective T1-10: Elderly and Transit Dependant Transportation Services

The Town shall focus on the provision of transit services to the elderly and transportation disadvantaged population.

Policy T1-10A: The Town shall encourage Miami-Dade Transit to develop an individual route system more tuned to local needs of the elderly, such as the Southland Mall, parks, grocery stores, and the pharmacy, with minimal transfers. Where feasible, changes/adjustments will be made to be more responsive to the users' needs in bus frequency, routing and Level-of-Service.

Policy T1-10B: Explore coordination with other municipal circulators to enhance its ridership and provide the elderly a valuable community service.

Policy T1-10C: Work with Miami-Dade Transit to educate the elderly population on the transit services available to them, including Special Transportation Services.

Policy T1-10D: Work with Miami-Dade Transit to restructure the route system to more adequately connect the elderly population with the destinations they frequent such as the Southland Mall, Town of Cutler Bay Parks and local pharmacies.

Policy T1-10E: Examine the expansion of Saga Bay Max service to include 30 minute headways between 9:00 am and 4:00 pm.

Policy T1-10F: Encourage Miami-Dade Transit to evaluate established transit routes on a semi-annual basis

Policy T1-10G: Explore the feasibility of the development of a local circulator system that is responsive to elderly and transit dependant populations.

Policy T1-10H: Study the implementation of a Municipal Circulator to work in coordination with Miami-Dade Transit service to satisfy the unmet needs of the elderly community. This should examine need, origins, destination, plan routes, headways as well as operational and maintenance costs.

Transportation



Goal 2

THE TOWN SHALL DEVELOP A FINANCIALLY FEASIBLE TRANSPORTATION SYSTEM THAT MEETS THE NEEDS OF THE TOWN RESIDENTS.

Objective T2-1 Capital Improvement Program

The Town shall implement a Capital Improvement Plan, including methods of funding, and fiscal controls for all major traffic and roadway projects.

Policy T2-1A: The Town shall compile and prioritize a project list of major repair and maintenance for existing roadways under its jurisdiction and include the project list in Capital Improvement Plan.

Policy T2-1B: On an annual basis, the Town shall program needed capital transportation projects and improvements in the Town's Capital Improvement Plan.

Transportation



Objective T-2-2 Financing Mechanisms

The Town shall investigate new financing alternatives to overcome shortfalls of transportation funding.

Policy T2-2A: The Town shall continue to aggressively seek funds from the Florida Department of Transportation, the Department of Community Affairs, U.S. Department of Transportation, the Federal Transit Administration, and other appropriate state and regional agencies to meet the necessary funding for needed transportation improvements.

Policy T2-2B: New development shall pay a share of transportation improvement costs through impact fee assessments, construction of pedestrian/bicycle facilities, donations of needed Rights-of-Way or other appropriate means.

Recreation & Open Space



Recreation and Open Space Principle

“The Town of Cutler Bay will develop parks, recreational facilities and recreational programs to meet the current and emerging needs of residents of all ages”

Town of Cutler Bay 2006 – 2011 Strategic Plan Core Value, Fall 2006

Goal

TO PROVIDE AND ENSURE A COMPREHENSIVE SYSTEM OF PUBLIC PARKS, OPEN SPACES AND RECREATIONAL PROGRAMS, THAT ARE WELL PLANNED, CONVENIENT AND CUSTOMIZED TO THE RECREATIONAL NEEDS OF THE RESIDENTS OF CUTLER BAY WHILE PRESERVING AND PROTECTING VALUABLE NATURAL RESOURCES FOR FUTURE GENERATIONS.

Objective ROS-1

Maintain a coordinated system of parks, recreational land and open spaces serving the residents of Cutler Bay at a level of service of 3.0 acres per 1,000 residents through the year 2020.

Monitoring Measures ROS-1

The Town adopts a level of service requiring 3.0 acres of parks, recreational land and private and public open space per 1,000 residents, implemented by the concurrency management system.

Policy ROS-1A: The Town will provide local recreation open spaces to serve the close to home recreation and open space needs of the residents of Cutler Bay. Active open spaces shall be provided at a Level-of-Service Standard of 1.2 acres per 1,000 residents and consist of the following:

1. Local parks consisting of mini-parks, neighborhood parks, community parks, single-purpose parks and a relative percentage of regional parks used as local recreation open space and designated in the inventory of parks maintained by the Town of Cutler Bay and the County;
2. Public school playfields that are used as local recreation open space through written agreement;

Policy ROS-1B: The Town shall add additional active park land to the Town’s inventory to meet and maintain the established Active Open Space Level-of-Service Standard of 1.2 acres per 1,000 residents.

Policy ROS-1C: The Town will ensure private open space is provided to serve the recreational and open space needs of the residents of Cutler Bay. Private open space shall be provided at a Level-of-Service Standard of 0.9 acres per 1,000 residents.

Recreation & Open Space



Policy ROS-1D: The Town will ensure conservation open space is provided to serve the environmental and health needs of the residents of Cutler Bay. Conservation open space shall be provided at a Level-of-Service Standard of 0.9 acres per 1,000 residents.

Policy ROS-1E: The Town will periodically review and modify the LOS standard as necessary to ensure that it accurately reflects the recreational needs of the residents of Cutler Bay.

Policy ROS-1F: In coordination with the Future Land Use Element and the Coastal Management Element, public access to Biscayne National Park will be provided where possible. Where shoreline access is to be provided through Mangrove Protection Areas, elevated boardwalks, designed to minimize the impact of wetland vegetation, shall be utilized.

Recreation & Open Space



Objective ROS-2

The Town will require the creation of adequate local recreation open space as a condition for the approval of residential development projects and maintain an adequate inventory of recreational areas and facilities through the standards of the Land Development Regulations, private donations and the collection of concurrency fees.

Policy ROS-2A: The Town shall maintain an updated inventory of recreation open spaces. The Park and Recreation Director shall maintain information on designated public parks and open space and associated facilities for accurate and regular measurement of levels of service and administration of the concurrency management system.

Policy ROS-2B: The Town will develop language and standards to be included in the Land Development Regulations related to the appropriate definitions for open space needs and standards.

Recreation & Open Space



Objective ROS-3

The Town will develop and implement a Park and Recreation Master Plan that reflects the current and emerging needs of the community of Cutler Bay.

Policy ROS-3A: The Park and Recreation Master Plan will provide guidance for the acquisition, operation and maintenance of the existing Town of Cutler Bay controlled open space parks and recreation facilities.

Policy ROS-3B: The Park and Recreation Master Plan will include plans for future water related facilities and programs that will be available for use by residents of all ages in Cutler Bay.

Policy ROS-3C: In coordination with the Educational Facilities Element, the Park and Recreation Master Plan will provide criteria whereby the Town can focus on seeking sites for future parks which are adjacent to existing or planned public schools, community centers, libraries or other compatible civic uses for the purpose of encouraging joint use facilities or the creation of logical focal points for community activity.

Policy ROS-3D: The Town will seek private and public funding sources as may be available through various sources to fund the acquisition and development of land for future parks, recreational facilities and programs.

Policy ROS-3E: The Town will cooperate with the Miami-Dade Park and Recreation Department on the future completion of the County regional park at Lakes by the Bay.

Policy ROS-3F: In certain special situation, coordination between the Town and Federal agencies shall play a key role in the management of natural areas and recreational open space.

Recreation & Open Space



Objective ROS-4

The Town will provide improved access to parks and recreational facilities within Cutler Bay.

Policy ROS-4A: The Town will continue to improve motorized access to parks and recreation open spaces on roads and transit routes through the coordination with the Transportation Element and the Future Land Use Element.

Policy ROS-4B: The Town will provide adequate parking at all existing and future active recreational parks and facilities within Cutler Bay.

Policy ROS-4C: The Town will promote non-motorized access to all existing and future parks and recreation open spaces within Cutler Bay by creating and improving greenways, trails, bike lanes, sidewalks and improved connectivity between parks and residences, schools, community centers, activity centers and transportation hubs.

Policy ROS-4D: The Town of Cutler Bay's Park and Recreation Department shall seek to increase public awareness of available recreation opportunities through information programs, including making handouts available at Town Hall, posting information on the official Town Website, placing signage on roadways and at parks.

Policy ROS-4E: The Town shall continue to provide improved access for persons with disabilities by removing architectural, communication and program barriers to participation in compliance with the Americans with Disabilities Act.

Recreation & Open Space



Objective ROS-5

In coordination with the Coastal Management Element, the Town shall place a high priority in the acquisition of unprotected coastal lands for use as parks and preservation that provide public access for residents and visitors to the shoreline.

Policy ROS-5A: The Town shall maintain information on environmentally sensitive land, coastal areas, historic places and archeological sites under public and private ownership that provide public interpretive and recreational opportunities.

Policy ROS-5B: Those portions of park properties containing important natural, historic, or archaeological resources will be developed and managed for long-term viability and integrity of the resource. The Town will assure that land in the vicinity of such park properties is developed for a use that is compatible with the protection of the natural, historic or archaeological resources.

Policy ROS-5C: The Town will use native plant materials for park landscaping where appropriate and shall use it especially in developing and maintaining environmentally sensitive parklands.

Policy ROS-5D: When the Town acquires land it shall restore damaged or degraded natural areas including removing invasive plants and replacing them with native plants. The Town will rehabilitate mosquito control ditches as appropriate.

Recreation & Open Space



Objective ROS-6

The Town will maintain and improve communications between the Park and Recreation Department and visitors to ensure that the population's expressed needs and desires are considered in the further development and operation of the parks system.

Policy ROS-6A: The Park and Recreation Department shall periodically survey the Town residents to assess participation patterns and identify priorities for the delivery of services.

Policy ROS-6B: The Town shall include public participation in all aspects of site planning for future park and recreation open space.

Educational Facilities



Introduction

The Growth Management Law of 2005, made significant changes to the Growth Management Act. A key requirement of the Growth Management Law of 2005 is that all local governments adopt a public school facility element in their comprehensive growth management plan and adopt required updates to its public schools interlocal agreement.

This Element contains policies and provisions consistent with the Town's Growth Management Plan, the Miami-Dade County Comprehensive Development Master Plan, Strategic Regional Policy Plan for South Florida and State Comprehensive Plan. The data and analysis necessary to support the proposed level of service standard is attached in a separate volume and labeled Support Data and Analysis.

Educational Facilities



Goal

DEVELOP, OPERATE, AND MAINTAIN A SYSTEM OF PUBLIC EDUCATION BY MIAMI-DADE COUNTY PUBLIC SCHOOLS, IN COOPERATION WITH THE COUNTY AND OTHER APPROPRIATE GOVERNMENTAL AGENCIES, WHICH WILL STRIVE TO IMPROVE THE QUALITY AND QUANTITY OF PUBLIC EDUCATIONAL FACILITIES AVAILABLE TO THE CITIZENRY OF MIAMI-DADE COUNTY, FLORIDA.

Objective EDU-1

Work with Miami-Dade County Public Schools towards the reduction of the overcrowding which currently exists in Miami-Dade County Public Schools, while striving to attain an optimum level of service pursuant to Objective EDU-2. Provide additional solutions to overcrowding so that countywide enrollment in Miami-Dade County's public schools will meet state requirements for class size by September 1, 2010.

Monitoring Measure EDU-1

Policies relating to the maintenance and improvement of specific level of service for public educational facilities, as specified in the Educational Facilities Impact Fee Ordinance, shall be reviewed annually. Each year, Miami-Dade County Public Schools will compare the official enrollment of the school system with the number of student stations available to determine the current operating LOS.

Policy EDU-1A: Cooperate with Miami-Dade County Public Schools in their efforts to continue to provide new student stations through the Capital Outlay program, in so far as funding is available.

Policy EDU-1B: Miami-Dade County shall collect impact fees from new development, with proof given to the Town prior to issuance of building permits, for transfer to Miami-Dade County Public Schools to offset the impacts of these additional students on the capital facilities of the school system.

Policy EDU-1C: Cooperate with Miami-Dade County Public Schools in their efforts to develop and implement alternative educational facilities, such as primary learning centers, which can be constructed on small parcels of land and relieve overcrowding at elementary schools, in so far as funding and rules permit.

Policy EDU-1D: Cooperate with Miami-Dade County Public Schools in their efforts to provide public school facilities to the students of Cutler Bay, which operate at optimum capacity, in so far as funding is available and while taking into account transportation, as well as, other costs and factors. Operational alternatives may be developed and implemented, where appropriate, which mitigate the impacts of overcrowding while maintaining the instructional integrity of the educational program.

Policy EDU-1E: Cooperate with Miami-Dade County Public Schools in their efforts to maintain and/or improve the established level of service (LOS), for Public Educational Facilities, as established for the purposes of public school concurrency.

Educational Facilities



Policy EDU-1F: Miami-Dade County Public Schools comments shall be sought and considered on comprehensive growth management plan amendments and other land use and zoning decisions, or Development of Regional Impact which could impact the school district, in order to be consistent with the terms of the state mandated Interlocal Agreement pursuant to Sections 1013.33 and 163.31777, Florida Statutes.

Policy EDU-1G: In accordance with Section 163.3174(1), Florida Statutes, the School Board of Miami-Dade County shall be invited to appoint a non-voting member to the Town's Local Planning Agency in order to receive comment on applications which could impact the school district.

Policy EDU-1H: Capital improvement programming by Miami-Dade Public Schools should be based on future enrollment projections and demographic shifts and targeted to enhance the effectiveness of the learning environment. The future enrollment projections should utilize student population projections based on information produced by the demographic, revenue, and education estimating conferences pursuant to Section 216.136, Florida Statutes, where available, as modified by the School Board based on development data and agreement with the local governments, the State Office of Educational Facilities and the State SMART Schools Clearinghouse. The School Board may request adjustment to the estimating conferences' projections to reflect actual enrollment and development trends using the COHORT Projection Waiver available on the Florida Department of Education website. In formulating such a request, the School Board will coordinate with the Cities and County regarding development trends and future population projections.

Policy EDU-1I: It is the policy of Cutler Bay that Miami-Dade Public Schools should give priority to the Urban Infill Area (UIA) identified in the Growth Management Plan when allocating resources toward the attainment of the level of service objective for public educational facilities (Objective EDU-1), followed by more recently developed and newly developing areas outside the UIA and within the Urban Development Boundary (UDB).

Educational Facilities



Objective EDU-2

The Town of Cutler Bay shall coordinate new residential development with the future availability of public school facilities¹ consistent with the adopted level of service standards for public school concurrency.

Monitoring Measures EDU-2

An annual review of the latest adopted Miami-Dade County Public Schools Facility Work Program will be conducted pursuant to the Interlocal Agreement in order to determine if the adopted concurrency level of service standard (including the Interim LOS standards) is being achieved. The number of development orders approved, those disapproved and those that have achieved LOS standards through mitigation options will also be reviewed. The Town may also request the Work Program in order to monitor progress.

Policy EDU-2A: Upon public school concurrency becoming effective, the adopted level of service (LOS) standard for all Miami-Dade County public school facilities is 100% utilization of Florida Inventory of School Houses (FISH) Capacity (With Relocatable Classrooms). This LOS standard shall be applicable in each public school concurrency service area (CSA), defined as the public school attendance boundary established by the Miami-Dade County Public Schools.

All public school facilities should continue to maintain or decrease their percent utilization of FISH capacity (With Relocatable Classrooms). Public school facilities that achieve 100% utilization of Permanent FISH capacity (No Relocatable Classrooms) should no longer utilize relocatable classrooms except as an operational solution².

Policy EDU-2B: It is the goal of the Town of Cutler Bay, Miami-Dade County Public Schools, Miami-Dade County and the other signatories to the Interlocal Agreement for all public school facilities to achieve 100% utilization of Permanent FISH (No Relocatable Classrooms) capacity by January 1, 2018. To this end, beginning January 1, 2013 Miami-Dade County Public Schools should not use relocatable classrooms to provide additional FISH capacity at any school except as an operational solution². Additionally, beginning January 1, 2013 Miami-Dade County Public Schools will implement a schedule to eliminate all remaining relocatable classrooms by January 1, 2018.

By December 2010, the Town of Cutler Bay in cooperation with Miami-Dade County Public Schools, Miami-Dade County and the other signatories to the Interlocal Agreement will assess the viability of modifying the adopted LOS standard to 100% utilization of Permanent FISH for all CSAs.

Policy EDU-2C: In the event the adopted LOS standard of a CSA cannot be met as a result of a proposed development's impact, the development may proceed provided at least one of the following conditions is met:

a) The development's impact can be shifted to one or more contiguous CSAs that have available capacity and is located, either in whole or in part, within the same Educational Impact Fee Benefit District as the proposed development; or

Educational Facilities



b) The development's impact is mitigated, proportionate to the demand for public schools it created, through a combination of one or more appropriate proportionate share mitigation options, as defined in Section 163.3180 (13)(e)1, Florida Statutes.

c) The development's impacts are phased to occur when sufficient capacity will be available. If none of the above conditions is met, the development shall not be approved.

¹ Level of Service standards for public school facilities apply to those traditional educational facilities, owned and operated by Miami-Dade County Public Schools, that are required to serve the residential development within their established Concurrency Service Area. Level of Service standards do not apply to magnet schools, charter schools and other educational facilities that may have districtwide attendance boundaries; however, their capacity is credited against the impact of development. It is provided, however, that no credit against the impact of development shall be given for such districtwide educational facilities if their enrollment is at, or above, 100% FISH capacity (with Relocatable Classrooms).

² Relocatable classrooms may be used by the Miami-Dade County Public Schools as an operational solution to achieve the level of service standard during replacement, remodeling, renovation or expansion of a public school facility.

Educational Facilities



Objective EDU-3

Obtain suitable sites for the development and expansion of public education facilities.

Monitoring Measures EDU-3

Objective EDU-3 will be monitored through the annual inventory and assessment by Miami-Dade County Public Schools of School Board owned property. The number of new sites shall be reported annually and in the full review period reported in the EAR.

Policy EDU-3A: It is the policy of Cutler Bay that Miami-Dade County Public Schools shall not purchase sites for schools nor build new schools outside of the Urban Development Boundary (UDB), and that new elementary schools constructed should be located at least 1/4 mile inside the UDB; new middle schools should be located at least 1/2 mile inside the UDB, and; new senior high schools should be located at least one mile inside the UDB. In substantially developed areas of the County where suitable sites in full conformance with the foregoing are not available and a site or portion of a site for a new school must encroach closer to the UDB, the majority of the site should conform with the foregoing location criteria and the principal school buildings and entrances should be placed as far as functionally practical from the UDB. The same criteria of this paragraph that apply to public schools also pertain to private schools.

Policy EDU-3B: In the selection of sites for future educational facility development, the Town of Cutler Bay encourages Miami-Dade County Public Schools to consider whether a school is in close proximity to residential areas and is in a location that would provide a logical focal point for community activities.

Policy EDU-3C: Where possible, Miami-Dade County Public Schools should seek sites which are adjacent to existing or planned public recreation areas, community centers, libraries, or other compatible civic uses for the purpose of encouraging joint use facilities or the creation of logical focal points for community activity.

Policy EDU-3D: The Town of Cutler Bay acknowledges and concurs that, when selecting a site, Miami-Dade County Public Schools will consider if the site meets the minimum size criteria as recommended by the State Department of Education or as determined to be necessary for an effective educational environment.

Policy EDU-3E: When considering a site for possible use as an educational facility, Miami-Dade County Public Schools should review the adequacy and proximity of other public facilities and services necessary to the site such as roadway access, transportation, fire flow and portable water, sanitary sewers, drainage, solid waste, police and fire services, and means by which to assure safe access to schools, including sidewalks, bicycle paths, turn lanes, and signalization.

Policy EDU-3F: When considering a site for possible use as an educational facility Miami Dade County Public Schools should consider whether the present and projected surrounding land uses are compatible with the operation of an educational facility.

Educational Facilities



Policy EDU-3G: The Town of Cutler Bay shall encourage and cooperate with Miami-Dade County Public Schools in their effort for public school siting reviews to help accomplish the objectives and policies of this element and other elements of the Growth Management Plan. The Town shall cooperate with Miami-Dade County Public Schools to establish provisions for a scoping or pre-application meeting as part of the educational facilities review process, if determined to be warranted.

Policy EDU-3H: Permitting of school facilities for Miami-Dade County Public Schools requires that a building permit application be made to the Miami-Dade County Public School Building Official prior to commencing any work, regardless of cost.

Policy EDU-3I: The Town will continue to cooperate with Miami-Dade County Public Schools in utilizing Miami-Dade County Public Schools as emergency shelters during county emergencies.

Educational Facilities



Objective EDU-4

Miami-Dade County Public Schools, in conjunction with the Town, Miami-Dade County and other appropriate agencies, will strive to improve security and safety for students and staff.

Monitoring Measures EDU-4

Objective EDU-4 will be monitored through the review and analysis of the statistics relating to school safety, as compiled annually, by the MDCPS Division of Police. A review and analysis of new and existing reactive and proactive safety and crime prevention programs will also be conducted on an annual basis.

Policy EDU-4A: Continue to cooperate with Miami-Dade County Public Schools to develop and/or implement programs and policies designed to reduce the incidence of violence, weapons and vandalism on school campuses. Encourage the design of facilities, which do not encourage criminal behavior and provide clear sight lines from the street.

Policy EDU-4B: Continue to cooperate with Miami-Dade County Public Schools to develop and/or implement programs and policies designed to reduce the number of incidents related to hazardous conditions as reported by the Environmental Protection Agency (EPA), the fire marshal, the State Department of Education (DOE), and other appropriate sources.

Policy EDU-4C: Continue to cooperate with Miami-Dade County Public Schools to provide for the availability of alternative programs for at-risk students at appropriate public educational facilities.

Policy EDU-4D: Coordinate with Miami-Dade County Public Schools, Miami-Dade County and municipalities to provide for pedestrian and traffic safety in the area of schools, and signalization for educational facilities.

Policy EDU-4E: Coordinate with Miami-Dade County Public Schools Division of School Police and other law enforcement agencies, where appropriate, to improve and provide for a secure learning environment in the public schools and their vicinity.

Policy EDU-4F: Cooperate with Miami-Dade County Schools Division of School Police and other law enforcement agencies to provide additional support or security, when appropriate.

Educational Facilities



Objective EDU-5

Continue to develop programs and opportunities to bring the schools and community closer together.

Monitoring Measures EDU-5

Objective EDU-5 shall be monitored by Miami-Dade County Public Schools by reporting and reviewing the progress and number of new and existing community oriented programs, including an enrollment analysis, by age and ethnicity, of adult, community and vocational programs.

Policy EDU-5A: Cooperate with Miami-Dade County Public Schools in their efforts to provide “full service” schools, parent resource centers, adult and community schools and programs as appropriate.

Policy EDU-5B: Cooperate with Miami-Dade County Public Schools in their efforts to continue to provide opportunities for community and business leaders to serve on committees and task forces, which relate to the development of improved provision of public educational facilities.

Policy EDU-5C: Cooperate with Miami-Dade County Public Schools to continue to work with the development industry to encourage partnerships in the provision of sites and educational facilities including early childhood centers.

Policy EDU-5D: Cooperate with Miami-Dade County Public Schools through agreement with appropriate agencies to increase medical, psychological, and social services for children and their families as appropriate.

Educational Facilities



Objective EDU-6

Miami-Dade County Public Schools will continue to enhance effectiveness of the learning environment.

Monitoring Measures EDU-6

Objective EDU-6 shall be monitored by Miami-Dade County Public Schools by reporting the number of educational facility enhancements such as media centers, art/music suite, and science laboratories.

Policy EDU-6A: Miami-Dade County Public Schools is encouraged to continue the design and construction of educational facilities which create the perception of feeling welcome, secure and positive about the students' school environment and experiences.

Policy EDU-6B: Miami-Dade County Public Schools is encouraged to continue to design and construct facilities which better provide student access to technology designed to improve learning, such as updated media centers and science laboratories.

Policy EDU-6C: Miami-Dade County Public Schools is encouraged to continue to improve existing educational facilities, in so far as funding is available, through renovation and expansion to better accommodate increasing enrollment, new educational programs and other activities, both curricular and extra-curricular.

Educational Facilities



Objective EDU-7

The Town of Cutler Bay, Miami-Dade County Public Schools, Miami-Dade County and the other signatories to the Interlocal Agreement shall establish and implement mechanisms for on-going coordination and communication, to ensure the adequate provision of public educational facilities.

Monitoring Measures EDU-7

Objective EDU-7 will be addressed by implementing and tracking the development of appropriate mechanisms, including interlocal agreements and coordination efforts, which serve to expedite the provision or enhancement of public educational facilities.

Policy EDU-7A: The Town shall coordinate and cooperate with Miami-Dade County Public Schools, the State of Florida, Miami-Dade County and other municipalities and other appropriate agencies to develop or modify rules and regulations in order to simplify and expedite proposed new educational facility developments and renovations.

Policy EDU-7B: The location of future educational facilities should occur where capacity of other public facilities and services is available to accommodate the infrastructure needs of the educational facility.

Policy EDU-7C: Miami-Dade County Public Schools should coordinate school capital improvement plans with the planned capital improvement projects of the Town and other County and municipal agencies.

Policy EDU-7D: The Town shall cooperate with Miami-Dade County Public Schools in their efforts to ensure that they are not obligated to pay for off-site infrastructure in excess of their fair share of the costs.

Policy EDU-7E: The Town, the County, other municipalities and Miami-Dade Public Schools shall periodically review the Educational Facilities Impact Fee Ordinance to strive to ensure that the full eligible capital costs associated with the development of public school capacity (new schools and expansion of existing ones) are identified when updating the impact fee structure. Pursuant to the terms of the state mandated Interlocal Agreement, the Town, other municipalities, the County and School Board shall annually review the Ordinance, its formula, the Educational Facilities Impact Fee methodology and technical report, in order to make recommendations for revisions to the Board of County Commissioners and the Miami-Dade County School Board.

Policy EDU-7F: The Town and Miami-Dade County Public Schools will annually review the Educational Element and make amendments, if necessary, through the process of updating the Growth Management Plan in accordance with the Interlocal Agreement for Public School Facility Planning.

Educational Facilities



Policy EDU-7G: The Town shall seek to coordinate with Miami-Dade County Public Schools in formalizing criteria for appropriate sharing of responsibility for required off-site facility improvements attributable to construction of new public schools or expansion of existing ones. The criteria should be prepared prior to the next full review of the School Impact Fee Ordinance.

Policy EDU-7H: The Town shall coordinate with Miami-Dade County Public Schools, the County and other local governments to eliminate infrastructure deficiencies surrounding existing school sites.

Policy EDU-7I: The Town and Miami-Dade County Public Schools shall coordinate efforts to ensure the availability of adequate sites for the required educational facilities.

Policy EDU-7J: The Town and Miami-Dade County Public Schools shall coordinate the appropriate roles and responsibilities of affected governmental jurisdictions in ensuring the timely, orderly and efficient provision of adequate educational facilities.

Policy EDU-7K: The Town, where appropriate, will account for the infrastructure needs of new, planned or expanded educational facilities when formulating and implementing its own capital improvement plans.

TAB 17

ORDINANCE NO. 07- _____

AN ORDINANCE OF THE TOWN OF CUTLER BAY, FLORIDA, RE-ADOPTING THE ORDINANCE ADOPTING AN OPERATING AND CAPITAL OUTLAY BUDGET WITH TOTAL EXPENDITURES IN THE AMOUNT OF \$27,891,607 FOR THE FISCAL YEAR COMMENCING OCTOBER 1, 2007 THROUGH SEPTEMBER 30, 2008 PURSUANT TO FLORIDA STATUTE 200.065 (TRIM BILL); AND AUTHORIZING THE TOWN MANAGER TO MAKE EXPENDITURES CONSISTENT THEREWITH AND AUTHORIZING THE TOWN MANAGER TO MAKE CERTAIN BUDGET AMENDMENTS WITHIN A DEPARTMENT PROVIDED THAT THE TOTAL OF THE APPROPRIATIONS IS NOT CHANGED; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Manager presented to the Town Council of the Town of Cutler Bay (the "Town") the proposed Operating and Capital Outlay Budget for the fiscal year commencing October 1, 2007; and

WHEREAS, on July 18, 2007, the Town Council adopted Resolution 07-38 which adopted a proposed millage rate for the fiscal year commencing October 1, 2007 and scheduled the public hearing required by Section 200.065 of the Florida Statutes for September 17, 2007 at 7:00 p.m.; and

WHEREAS, the Town Council also held a budget workshop to discuss the Town Manager's proposed Operating and Capital Outlay Budget for fiscal year commencing October 1, 2007; and

WHEREAS, the Property Appraiser of Miami-Dade County properly noticed the public hearing scheduled for September 17, 2007, at 7:00 p.m., at the South Dade Regional Library, 10750 Southwest 211th Street, 2nd Floor, Cutler Bay, Florida as required by Florida Statutes; and

WHEREAS, two public hearings were held by the Town Council on September 17, 2007 and September 24, 2007 commencing at 7:00 p.m., as previously noticed and the public and all interested parties having had an opportunity to address their comments to the Town Council; and

WHEREAS, the Town Council had an opportunity to amend the manager's proposed budget as it deemed appropriate, considered the comments of the public regarding the proposed budget and complied with the "TRIM" requirements of the Florida Statutes; and

WHEREAS, the budget was duly adopted by emergency ordinance on September 24, 2007 in order to comply with the requirements of the Town Charter and Florida Law with respect to the adoption of the budget and this qualified as a public emergency affecting public property under section 4.4 of the Town Charter and the Charter provides that emergency ordinances must be re-adopted in the same manner as regular ordinances within 60 days.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF CUTLER BAY, FLORIDA, AS FOLLOWS:

Section 1. That the Operating and Capital Outlay Budget for the fiscal year commencing October 1, 2007 through September 30, 2008, attached as Exhibit A, as presented by the Town Manager and amended by the Town Council, with total expenditures in the amount of \$27,891,607 be and is hereby re-adopted as provided by Section 200.065 of the Florida Statutes and Section 4.4 of the Town Charter . The Town Manager is authorized to expend funds appropriated in the Town Budget in accordance with the Town Charter and applicable law. Pending receipt of adequate ad valorem tax or other revenue collections, the Town Manager is hereby authorized to expend necessary funds from the Contingency Account or other available town funds to meet the obligations and requirements of the Town and to charge the appropriate line item of the budget for such purpose once adequate ad valorem tax or other revenues are received. The Town Manager as the designated budget officer of the Town may authorize certain budget amendments within a department, provided that the total of the appropriations of the department is not changed.

Section 2. That upon adoption on second reading, this Ordinance shall be effective immediately and shall be applied retroactively to September 24, 2007.

PASSED on first reading this 17th day of October, 2007.

PASSED AND ADOPTED on second reading this ____ day of _____, 2007.

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ-SANTAMARIA, CMC
Town Clerk

APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND BENEFIT OF THE TOWN OF CUTLER BAY ONLY:

WEISS, SEROTA, HELFMAN, PASTORIZA,
COLE & BONISKE, P.L.
Town Attorney

Moved By:
Seconded By:

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman	_____
Vice Mayor Edward P. MacDougall	_____
Councilmember Peggy R. Bell	_____
Councilmember Timothy J. Meerbott	_____
Councilmember Ernest N. Sochin	_____

TAB 18

ORDINANCE NO. 07-__

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING CHAPTER 19 “RESPONSIBLE PROPERTY OWNER AND MERCHANT ACT” RELATING TO THE AMOUNT OF TIME PERMITTED TO CORRECT A VIOLATION AND THE TOWN’S AUTHORITY TO ABATE A PUBLIC NUISANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, property owners within the Town of Cutler Bay (the “Town”) have a responsibility to maintain their property in accordance with the provisions of the Town Code of Ordinances (the “Town Code”); and

WHEREAS, the Town Council finds that providing ten (10) days from the service of notice to correct a violation is an adequate amount of time to correct a violation; and

WHEREAS, violations of the Town Code that are not remedied or appealed constitute a continuing public nuisance within the Town; and

WHEREAS, providing Town staff with the authority to abate such a continuing public nuisance during the pendency of an appeal is necessary to protect the health, safety, and welfare of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY AS FOLLOWS¹:

Section 1. Findings. The foregoing “Whereas” clauses are hereby ratified and incorporated as the legislative intent of this Ordinance.

Section 2. Amendment to Chapter 19 of the Town Code. The Town Council of the Town of Cutler Bay hereby amends Chapter 19 “Responsible Property Owner and Merchant Act” of the Town Code as follows:

Sec. 19-4.2. Failure to Comply; Penalties.

Except as otherwise specifically provided, the Town County ~~may~~ shall issue a warning notice the first time a property owner is cited for a violation of this Chapter, and shall provide the property owner a reasonable time to come into compliance before the Town County pursues further enforcement procedures. Thereafter, the Town County shall have the option to enforce this Chapter as follows:

¹ Coding: underlined words are additions to existing text, ~~struck through~~ words are deletions from existing text, shaded text reflects changes made from First Reading.

- (A) Issuance of civil penalties under Chapter 8CC;
- (B) Petition for injunctive relief in the Circuit Court;
- (C) Filing of criminal charges; Penalties of this chapter are punishable by 60 days in jail or a fine of \$500 per offense.

Except as otherwise stated in this Chapter, the Town Manager or his or her designee ~~Director of Team Metro~~ shall have the authority to determine the enforcement procedures for each subsection of this Chapter.

Sec. 19-4.4. Appellate Procedures for Civil Penalty--First-Time Violator; Time for correction.

For first-time violators receiving a civil violation notice, the owner shall have ten ~~fourteen (104)~~ calendar days from service of the notice pursuant to ~~Miami-Dade County Code Sec. 8CC-3(e)~~ to correct the violation, or seven (7) calendar days from service to file for an appeal. The appeal shall be in the manner described within the Uniform Civil Violation Notice.

Sec. 19-4.7. ~~County~~Town's Authority to Abate Public Nuisance.

Failure to comply with or appeal the terms of this Chapter shall constitute a continuing public nuisance. The Town Manager or his or her designee ~~Director~~ shall then have the authority, even during the pendency of an appeal, to promptly abate the public nuisance, in whole or in part, at the expense of the owner. At least five (5) days prior to an abatement of a public nuisance pursuant to this section, the Town shall give notice to the owner of the property that the Town will correct the violation if it is not otherwise corrected by the date specified in the notice and that all costs incurred will become a lien against the property. Such notice may be provided either by certified mail return receipt requested or by regular mail and posting on the property and at Town hall.

Section 3. Severability. If any section, clause, sentence, or phrase of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this Ordinance.

Section 4. Conflict. All Sections or parts of Sections of the Code of Ordinances, all ordinances or parts of ordinances, and all Resolutions, or parts of Resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

Section 5. Effective Date. This Ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading this 17th day of October, 2007.

PASSED AND ADOPTED on second reading this ____ day of _____, 2007.

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ-SANTAMARIA, CMC
Town Clerk

APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND BENEFIT OF THE TOWN OF CUTLER BAY ONLY:

WEISS, SEROTA, HELFMAN, PASTORIZA,
COLE & BONISKE, P.L.
Town Attorney

Moved By:
Seconded By:

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman	_____
Vice Mayor Edward P. MacDougall	_____
Councilmember Peggy R. Bell	_____
Councilmember Timothy J. Meerbott	_____
Councilmember Ernest N. Sochin	_____

TAB 19



Planning & Zoning Department

R. Don O'Donniley, AICP
Planning Director

MEMORANDUM

To: Steven Alexander, Town Manager

From: R. Don O'Donniley, AICP, Planning Director

Date: November 14, 2007

Re: Proposed revisions to Chapter 33, "Zoning"; to Public Zoning Workshop provisions to establish additional public notice procedures.

REQUEST :

On July 19, 2006, the Town Council adopted a suggestion from the Mayor to create a public zoning workshop procedure to afford the public and members of the Town Council an opportunity to participate in the approval of proposed site plans prior to construction. The proposed revision to the code establishes a procedure for mailed notice to improve opportunities for public input within the Zoning Workshop process.

BACKGROUND AND ANALYSIS

The current Zoning workshop ordinance was adopted July 19, 2007. Recently, Zoning Workshops have been conducted with notice provided in the Miami Herald and by posting the property. It has been suggested mailed notice could increase citizen awareness and attendance. A Councilmember has proposed the attached ordinance to amend the current Ordinance and provide a mailed notice to property owners within 1,000 thousand feet. The proposed amendment will only apply to larger properties that constitute a half acre. The expense of mailing the notice would be borne by the applicant under the Town's Full Cost Recovery ordinance. No significant burden for staff would occur. The result is increased opportunity for citizens to be informed and participate in the development review process.

A second administrative amendment is suggested by staff to ensure the workshop process and actual consideration of the site plan can occur within a two month time frame. Currently it is not possible to conduct both meetings within a two month time frame.

Staff concludes the increased notice provided by this proposal is a goal in keeping with the Town's adopted Strategic Plan; Goal 1.1, which supported an open and participatory development review process. The proposed minor adjustment is consistent with Goal 1.2 of the Strategic Plan; where staff is charged with being responsive to the citizenry.

On October 17, 2007, the Town Council heard this proposed revision to the Workshop process on first reading and passed it to second reading.

RECOMMENDATION

Staff recommends approval.

ORDINANCE NO. 07- _____

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA AMENDING THE PROCEDURES AND NOTICE FOR ZONING WORKSHOPS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on July 19th, 2006, the Town Council of the Town of Cutler Bay (the “Town”) adopted a public zoning workshop process (the “Zoning Workshop Ordinance”), which afforded the public and the Town Council the opportunity to ask questions and to provide feedback to developers about proposed developments in an open forum; and

WHEREAS, the zoning workshop process has allowed the public to become more involved in the development review process, though the Town Council would like to further increase the public’s involvement and participation in zoning workshops by requiring the mailing of courtesy notices to properties within the surrounding area of the proposed development; and

WHEREAS, to further streamline the zoning workshop process, the Town Council has determined to shorten the timeframe between a zoning workshop and Town Council meeting for a proposed development; and

WHEREAS, the Town Council finds that these changes are in the best interest and welfare of the residents of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY AS FOLLOWS¹:

Section 1. Findings. The foregoing “Whereas” clauses are hereby ratified and incorporated as the legislative intent of this Ordinance.

Section 2. Amendment to the Zoning Workshop Ordinance. The Town Council hereby amends the zoning workshop ordinance as follows:

Section 1. Zoning Workshops.

A. **Intent.** It is the intent of the zoning workshop process to provide an open and public forum for members of the public, as well as the Town Council, to comment on proposed developments within the Town. It is further the intent that any communications between members of the Town Council and the applicant during a zoning workshop shall not be considered an ex parte communication, and shall not create a presumption of bias

¹ Coding: underlined words are additions to existing text, ~~struck through~~ words are deletions from existing text, **shaded** text reflects changes made from First Reading.

in relation to any future quasi-judicial decision on the applicant's application. The zoning workshop shall not be considered part of the quasi-judicial hearing. Each application shall be evaluated based upon the record presented at the Town Council hearing(s) on the application.

B. Applicability. A pre-application conference with the Town's planning and zoning staff shall be held prior to an application being presented at a zoning workshop. A zoning workshop shall be held no fewer than thirty (30) days prior to the ~~publication of the advertisement for the~~ first Town Council ~~or local planning agency~~ meeting at which the application will be heard. A zoning workshop shall be required for the following types of applications:

1. Rezoning;
2. Site plan approval;
3. Site plan amendments that seek to develop additional square footage;
4. Variances
5. Special exceptions;
6. Unusual uses; and
7. Any zoning application deemed necessary by the town manager or his or her designee.

C. Exemptions. The following applications shall be exempt from the zoning workshop requirement:

Any applications related to the approval of one (1) single family residence.

D. Advertisement and Mailed Notice. At least 5 days prior to a zoning workshop, an advertisement shall be published in a local newspaper and a courtesy notice shall be mailed to properties within a 1,000 foot radius of the property. at least 5 days prior to a zoning workshop. The advertisement and courtesy notice shall state the date, time, and place of the zoning workshop. In addition, the advertisement and courtesy notice shall provide a description and the location of the proposed development. The cost of publishing an advertisement and mailing of the courtesy notices for a zoning workshop shall be paid by the applicant. Failure to receive the courtesy mailed notice shall not require the application to go before another zoning workshop. For purposes of this section, mailed courtesy notice shall only be required for those projects consisting of property greater than or equal to 21,780 square feet in size.

Section 3. Severability. If any section, clause, sentence, or phrase of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this Ordinance.

Section 4. Conflict. All Sections or parts of Sections of the Code of Ordinances, all ordinances or parts of ordinances, and all Resolutions, or parts of Resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

Section 5. Effective Date. This Ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading this 17th day of October, 2007.

PASSED AND ADOPTED on second reading this _____ day of _____, 2007.

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ-SANTAMARIA, CMC
Town Clerk

APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND BENEFIT OF THE TOWN OF CUTLER BAY ONLY:

WEISS, SEROTA, HELFMAN, PASTORIZA,
COLE & BONISKE, P.L.
Town Attorney

Moved By:
Seconded By:

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman _____

Vice Mayor Edward P. MacDougall _____

Councilmember Peggy R. Bell _____

Councilmember Timothy J. Meerbott _____

Councilmember Ernest N. Sochin _____

TAB 20

ORDINANCE NO. 07- _____

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA AMENDING ORDINANCE 06-28 RELATING TO BURGLAR ALARM FEES AND REGISTRATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on November 15, 2006, the Town Council of the Town of Cutler Bay (the "Town") adopted an ordinance requiring registration of burglar alarms systems within the Town; and

WHEREAS, the Town currently requires the annual registration of burglar alarm systems as well as an annual registration fee; and

WHEREAS, the Town Council has determined that there should be a registration renewal fee of twenty-five dollars (\$25.00) if the burglar alarm system has had a false alarm requiring police dispatch during the prior registration period; and

WHEREAS, the Town Council has further determined that there should be no registration renewal fee for a burglar alarm system if there was not a false alarm requiring police dispatch during the prior registration period; and

WHEREAS, the Town Council finds these changes to be in the best interest and welfare of the residents of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA AS FOLLOWS:

Section 1. **Findings.** The foregoing "Whereas" clauses are hereby ratified and incorporated as the legislative intent of this Ordinance.

Section 2. **Amendment to Ordinance 06-28.** The Town Council hereby amends Ordinance 06-28 as follows:

Burglar Alarms.

(1) **Purpose of regulations.** The purpose of this section is to place responsibility on the alarm user to prevent, by use of appropriate mechanical, electrical, or other means, false burglar alarms.

(3) **Permits required for installation or modification of Burglar Alarm Systems.** All Alarm Companies installing or modifying Burglar

Alarm Systems which shall operate at any Premises located within the Town shall obtain a Burglar Alarm Permit from the Town ~~Building Department~~. Only Alarm Companies may apply for, be issued, and perform the work authorized under the Burglar Alarm Permit.

(4) Registration of alarm system and fee.

(a) *Registration of Burglar Alarm Systems.* All Burglar Alarm Systems which operate at any Premises located within the Town shall be registered with the Town by the Alarm User. The Alarm User shall complete and submit to the Town an annual registration for each Burglar Alarm System together with the appropriate fee. A new registration fee shall be necessary upon a change in the Alarm User. Failure to register a Burglar Alarm System shall constitute a violation of this Ordinance.

(d) *Annual Registration Fee.* Effective November 1, 2006, there shall be an annual registration fee of twenty-five dollars (\$25.00) for all alarm registrations. Each separate alarm system shall require a separate registration. The registration period will be for one year. Upon renewal for registration periods beginning on or after November 1, 2007, the fee will be as follows: (1) reduced to fifteen twenty-five dollars (\$25.00) if the Burglar Alarm System has had a False Alarm requiring police dispatch during the prior registration period; or (2) there shall be no fee if the Burglar Alarm System has not had a False Alarms requiring police dispatch during the prior registration period. ~~For the registration period beginning November 1, 2006, the registration deadline shall be extended until January 1, 2007 provided however that the registration period shall still be deemed to run from November 1, 2006 to November 1, 2007.~~

Section 3. Severability. If any section, clause, sentence, or phrase of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this Ordinance.

Section 4. Conflict. All Sections or parts of Sections of the Code of Ordinances, all ordinances or parts of ordinances, and all Resolutions, or parts of Resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

Section 5. Effective Date. This Ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading this 17th day of October, 2007.

PASSED AND ADOPTED on second reading this ____ day of _____, 2007.

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ-SANTAMARIA, CMC
Town Clerk

APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND BENEFIT OF THE TOWN OF CUTLER BAY ONLY:

WEISS, SEROTA, HELFMAN, PASTORIZA,
COLE & BONISKE, P.L.
Town Attorney

Moved By:
Seconded By:

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman	_____
Vice Mayor Edward P. MacDougall	_____
Councilmember Peggy R. Bell	_____
Councilmember Timothy J. Meerbott	_____
Councilmember Ernest N. Sochin	_____

SUPPLEMENT



MEMORANDUM

To: Honorable Mayor and Town Council

From: Steven J. Alexander, Town Manager

Date: November 8, 2007

Re: Request for Proposal – Building and Permitting Services, RFP #07-05

Recommendation

The Selection Committee evaluated and ranked the top two respondents in the following order: first choice, MT Causley, 2 votes CAP Government 1 vote and second place, MT Causley, 1 vote CAP Government 2 votes. The Chair of the Selection Committee noted that the results were very close virtually to the point of being effectively even. However, some of the responses, which the committee based their recommendations on, were still not fully based on realistic presumptions.

Notwithstanding the recommendation of the Selection Committee, the Town Manager is recommending entering into final negotiations with CAP Government, the current vendor for the following reasons based in part from my conversations with the Chair of the Selection Committee:

The rankings were very close. The current vendor is doing a great job and that was reflected in the rankings. This vendor has a high level of direct contact with our residents and has proven over the last year to be very responsive and respectful of citizen needs. Although there are some issues with the current vendors, these are in the process of being corrected or addressed.

Additionally, new building permitting software has been authorized in the new budget and should dramatically eliminate these issues as well as provide additional transparency for our residents and their contractors.

I do not believe that the probable lack of continuity, which will result from making a change to such an important vendor, is in the best interest of the Town at this time. For instance: accounting and processing issues, which are currently being revised and now have an additional review by the current vendor will continue to improve.

Some other cities have experienced loss of continuity when transitioning between building permitting vendors.

Changing software and vendors at this point may be too much change at a time when we are physically reconfiguring the office space as well.



Office of the Town Manager

The RFP provides, The Town reserves the right to reject any or all Proposals, to terminate the process at any time, to waive any informalities or irregularities in any submittal, to award in whole or in part to one or more respondents or take any other such actions that may be deemed in the best interest of the Town.

Notwithstanding the recommendation of the Selection Committee, for the above referenced reasons, I hereby recommend that the Council authorize the Manager to negotiate with CAP Government and failing to arrive at suitable terms to the Town, to then negotiate with MT Causley. Upon successful negotiations the Manger will present an agreement for Council approval. This recommendation is made in the effort to achieve the best interests of the Town.

Background

The Building Division is one of three divisions of the Department of Community Development. The other divisions include planning and zoning and code compliance. Since incorporation, all building and permitting functions have been provided to the Town through a contractual agreement with a private firm in accordance with the Town's procurement process and outsourcing model. In June 2007, prior to the expiration of the contract for building services, Town staff conducted a review of current operations and upcoming demand for services.

After a thorough analysis of the operation of the Building Division, the recommendation was, among other things, that the Town continues to outsource plan review, inspections and administrative support services to either firms providing all or some of the services required or to individuals as independent contractors. In conjunction with the analysis it was recommended that the Town consider hiring a full-time Office Manager. The Town expressly reserves the right to consider employing in house staff for some or all the services required.

Building permit activity and corresponding revenues have increased since the Town's incorporation, indicating a healthy trend in the Town that is expected to continue. Table I shows building permit activity and total revenue for the Town for this year through the month of June. Approximately 3,000 permits were issued, with the volume of revenue starting at @ \$10,000 in October and increasing virtually every month to a total of \$58,330 in June 2007.

The Town of Cutler Bay solicited Proposals from qualified firms and individuals to provide building and permitting services to the Town as approved by the Council on July 18,2007. Proposals from qualified firms or individuals ("Respondent") are to provide building and permitting services to include plan reviews, inspections and administrative support in the issuance of building permits for the Town. The Respondent will work under the supervision of the Building Official and an Office Manager. The Office Manager will be an employee of the Town.

The Town Clerk, on or before Monday, August 27th, 2007, received sealed Proposals at 3:00 PM, at which time they were publicly opened and announced. A Cone of Silence



Office of the Town Manager

took effect and has been adhered to upon advertisement of the RFP and terminates when the Town Manager makes a recommendation for award to the Town Council.

The Town reserves the right to reject any or all Proposals, to terminate the process at any time, to waive any informalities or irregularities in any submittal, to award in whole or in part to one or more respondents or take any other such actions that may be deemed in the best interest of the Town.

A decision was to be made on the proposals on or before Monday, September 17, 2007 however due to some issues raised by some of the responses we extended the time for a recommendation to the Council until such questions had been answered and this is the first opportunity for this to occur since we had received responses to those questions.

Although Customer Service Requirements were detailed in 17 criteria, we still had some concerns regarding the number of supplied personnel and the hours that they would be at the counter. We also wanted to know if any increase in staffing as may be required by the Town would change the Compensation for Services. We subsequently requested additional information on this subject and the selection considered this information in their recommendation.

Compensation for this vendor will be a negotiated price for services. As of October 1, 2007 under the current agreement, compensation for all building and permitting services currently supplied to the Town is shared from gross revenues at 80% paid to the outsourced firm or and 20% of gross revenues retained by the Town.

Our current Code provides in part, "The County Manager and the Chairperson of the selection committee may communicate about a particular selection committee recommendation, but only after the committee has submitted an award recommendation to the Manager and provided that should any change occur in the committee recommendation, the content of the communication and of the corresponding change shall be described in writing and filed by the Manager with the Clerk of the Board and be included in any recommendation memorandum submitted by the Manager to the Board of County Commissioners. It permits communication with the chair of the selection committee after the selection committee has made a recommendation.

Evaluation Criteria

The following represent the principal selection criterion which was considered during the evaluation process:

	<u>Points</u>
1. Qualifications and related experience of Respondent	15
2. Assigned personnel capability and experience	15
3. Approach to delivery of building and permitting services	20
4. Approach to meeting customer service requirements	20
5. Innovative performance ideas and concepts	10



6.	Compensation & methodology	<u>20</u>
	TOTAL:	100

Selection

All responsive Proposals submitted in response to this RFP were evaluated by a selection committee, appointed by the Town Manager, based upon the criteria specified in Section 4.03 of the RFP. Respondents were requested to make a presentation to the selection committee for the purpose of reviewing the submittal and further evaluation of the response. Additional information was requested.