



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, December 19, 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

3. APPROVAL OF MINUTES

A. Regular Council Meeting – November 14, 2007

TAB 1

4. REPORTS

A. TOWN MANAGER'S REPORT

1. Memo – Annexation

TAB 2

B. TOWN ATTORNEY'S REPORT

C. BOARD AND COMMITTEE REPORTS

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, RELATING TO APPOINTMENT OF COMMITTEE MEMBERS; REQUIRING CERTAIN MATERIALS BE

TAB 3

PRESENTED PRIOR TO APPOINTMENT OF A COMMITTEE MEMBER; REQUIRING APPEARANCE BY COMMITTEE MEMBERS; AND PROVIDING FOR AN EFFECTIVE DATE. **(MACDOUGALL)**

B. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ENDORSING THE FLORIDA GREEN BUILDING COALITION'S "GREEN LOCAL GOVERNMENT STANDARD;" PROVIDING AUTHORIZATION FOR THE TOWN MANAGER TO PURSUE THE GREEN LOCAL GOVERNMENT STANDARD; PROVIDING FOR THE ENCOURAGEMENT OF THE FLORIDA LEGISLATURE AND GOVERNOR TO SUPPORT THE GREEN LOCAL GOVERNMENT PROGRAM; AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 4

C. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING THE INTERLOCAL AGREEMENT FOR THE INSTALLATION OF ENTRY FEATURE MONUMENT SIGNS BETWEEN MIAMI-DADE COUNTY PUBLIC WORKS DEPARTMENT AND THE TOWN OF CUTLER BAY; AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY TO IMPLEMENT THE TERMS AND CONDITIONS OF THE AGREEMENT; AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 5

D. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, WAIVING THE PLANNING DEPARTMENT'S SPECIAL EVENT FEES FOR NOT-FOR-PROFIT AND CHARITABLE ORGANIZATIONS; AND PROVIDING FOR AN EFFECTIVE DATE. **(SOCHIN)**

TAB 6

E. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING THE AGREEMENT FOR BILLING OF STORMWATER CHARGES BETWEEN MIAMI-DADE COUNTY AND THE TOWN OF CUTLER BAY; AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY TO IMPLEMENT THE TERMS AND CONDITIONS OF THE AGREEMENT; AUTHORIZING THE TOWN MANAGER TO EXPEND A BUDGETED FUNDS; AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 7

F. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING THE "AMENDED AND RESTATED INTERLOCAL AGREEMENT FOR PUBLIC SCHOOL FACILITY PLANNING IN MIAMI-DADE COUNTY;" PROVIDING FOR THE AUTHORIZATION OF THE TOWN MANAGER TO ENTER INTO

TAB 8

THIS AMENDED AND RESTATED INTERLOCAL AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

- G. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, RESPECTIVELY REQUESTING MIAMI-DADE COUNTY TO DEFER APPLICATION NUMBER Z07-207 RELATING TO FLORIDA POWER AND LIGHT'S (FPL) NUCLEAR POWER PLANT (TURKEY POINT) EXPANSION UNTIL SUCH TIME THAT FPL REPRESENTATIVES HOLD PUBLIC INFORMATIONAL FORUMS WITHIN THE TOWN TO INFORM THE RESIDENTS OF THE TOWN ABOUT THE PROPOSED EXPANSION; AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 9

- H. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING A CHARTER REVISION COMMISSION; PROVIDING FOR AN APPOINTMENT PROCEDURE FOR MEMBERS OF A CHARTER REVISION COMMISSION; PROVIDING FOR DISSOLUTION OF THE COMMISSION; PROVIDING FOR AN EFFECTIVE DATE.

TAB 10

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 11

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

- A. AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, PROVIDING FOR THE ISSUANCE OF SOLID WASTE FRANCHISE FOR COMMERCIAL AND MULTI-FAMILY RESIDENTIAL SOLID WASTE COLLECTION; PROVIDING FOR DEFINITIONS; IMPOSING A FRANCHISE FEE FOR COMMERCIAL AND MULTI-FAMILY RESIDENTIAL SOLID WASTE COLLECTION ACTIVITIES ; AWARDED FRANCHISES TO CERTAIN PERMITTED PRIVATE HAULERS; PROVIDING FOR PENALTIES, SPECIAL ASSESMENT LIEN PRIORITY; PROVIDING FOR REPEALER AND INCLUSION IN THE CODE, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

TAB 12

B. AN ORDINANCE OF THE TOWN OF CUTLER BAY, FLORIDA; AMENDING SECTION 21-276 "BURGLAR ALARMS" OF THE TOWN CODE BY PRO RATING THE FEE FOR NEW BURGLAR ALARM REGISTRATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

TAB 13

C. AN ORDINANCE OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING ORDINANCE 07-24 WHICH ORDINANCE ADOPTED AN OPERATING AND CAPITAL OUTLAY BUDGET FOR THE FISCAL YEAR COMMENCING OCTOBER 1, 2007 THROUGH SEPTEMBER 30, 2008 BY REVISING SAID BUDGET TO APPROPRIATE \$200,000 DESIGNATED AS CONTINGENCY RESERVES AND PROVIDE SUCH FUNDS BE ALLOCATED TO THE COMMUNITY DEVELOPMENT DEPARTMENT FOR GREEN BUILDING INITIATIVE EXPENDITURES 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.

TAB 14

8. ORDINANCES FOR FIRST READING (PUBLIC HEARING REQUIRED)

9. ORDINANCES FOR SECOND READING (PUBLIC HEARING 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 15

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

TAB 16

INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.
(MEERBOTT)

- 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 17

- 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 18

- 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 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)**

TAB 19

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, January 16, 2007, 7:00 P.M.
South Government Center, Room 203
10720 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, November 14, 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. Proclamations were presented to Representatives JC Planas, Ed Bullard, and Senator Larcenia Bullard.

3. APPROVAL OF MINUTES:

A. Councilmember Meerbott made a motion approving the minutes of the meeting of October 17, 2007. The motion was seconded by Councilmember Bell 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 the road agreements with the County, there were issues for sidewalk repair which are holding up the progress of the agreement and the turnover. He also discussed that green conference in Chicago was quite successful. One of the committees of the County Commission discussed the dissolution of the MAC's, neither commissioner Moss or Sorenson were in attendance at the Committee meeting, the item was forwarded to the next County Commission meeting without a recommendation, the item is to stop incorporation processs for Goulds or any other incorporation efforts. The manager introduced Major Pichardo who proceeded to report that crime is still down. Major Pichardo then introduced the new Captain for the Cutler Bay Police Department, Captain Julie Miller.

B. TOWN ATTORNEY'S REPORT

The Town Attorney reminded that the Council will need to appoint members for the Charter Review Committee by the next meeting as per the Charter requirement.

C. BOARD AND COMMITTEE REPORTS

Councilmember Bell thanked all volunteers that participated during the Hometown Harvest Ride and mentioned that it was a great success and looks forward to similar events in the near future.

5. CONSENT AGENDA:

- 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.

- 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.

- 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.

- 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 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.

- 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 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.

- 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.

Councilmember Bell pulled Item G from the Consent Agenda for discussion.

Councilmember Meerbott made a motion to approve the Consent Agenda as amended with pulled Item G. The motion was seconded by Councilmember Bell and Resolutions 07-51 through 07-57 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.

The town clerk read the following resolution by title:

- 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)**

After some discussion, Councilmember Bell made a motion to defer the resolution to date uncertain. The motion was seconded by Councilmember Meerbott and was approved 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.

- 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.

Councilmember Meerbott made a motion to defer the item for date certain on December 19, 2007 Council meeting. The motion was seconded by Councilmember Bell and adopted by unanimous voice 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 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.

Vice Mayor MacDougall 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 December 19, 2007.

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

- 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)**

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 December 19, 2007.

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

- 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)**

Vice Mayor MacDougall 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 December 19, 2007.

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

- 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.

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 December 19, 2007.

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

- 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 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)**

Councilmember Sochin made a motion to approve the ordinance on first reading. The motion was seconded by Vice Mayor MacDougall 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 December 19, 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. Joy Cooper, 9365 Nassau Drive, J. Robbins, 7582 Southwest 191 Street, Bob Gallaher, 16655 Southwest 87 Place, Steve Zarzecki, 9640 Martinique Drive, Herb Parlato, 9742 Southwest 220 Street, Amy Roda, 9221 Neptune Drive, John Herin, 150 West Flagler Street, J.L. Demps Jr., 11025 Southwest 223 Street, Julie Hill, 444 Brickell Avenue, Jaime Reyes, 9750 Southwest 215 Lane, Andy Arfo, 11150 Southwest 211 Street, Art Nanni, 18843 Southwest 92 Avenue, Benny Tekolini, no address given, Louise Lockwood, 9071 Ridgeland Drive, Bill Meiklejohn, 9311 Sterling Drive, Martin Lampkin, 10235 Southwest 172 Street.

After extensive discussion, the following amendments were made:

Councilmember Meerbott offered the following amendment:

- Changing the core of the Town center from 18 stories to an average of 12 stories.

Councilmember Meerbott made a motion to approve the Meerbott amendment. The motion was seconded by Councilmember Sochin. There continued to be discussion on the amendment and later

Councilmember Sochin withdrew his seconding of the motion. There were no seconds and the motion died due to lack of a second.

Councilmember Meerbott offered the following amendment:

- Amend the triangle at Old Cutler Road known as the "Potato Field" as a low density designation.

Councilmember Meerbott made a motion approving the Meerbott amendment. The motion was seconded by Councilmember Bell and approved by a 3-2 roll call vote. The vote was as follows: Councilmembers Bell, Meerbott, and Mayor Vrooman voting Yes; Councilmember Sochin and Vice Mayor MacDougall voting No.

Councilmember Sochin offered the following amendment:

- Changing the Town core maximum from 18 stories to 10 stories.

Councilmember Sochin made a motion approving the Sochin amendment. The motion was seconded by Councilmember Meerbott and failed by a 2-3 roll call vote. The vote was as follows: Councilmembers Sochin and Meerbott, voting Yes; Councilmember Bell, Vice Mayor MacDougall and Mayor Vrooman voting No.

Councilmember Bell offered the following amendment:

- Amending the Capital Element chapter of the Growth Management Plan to include landscaping and capital improvements on Southwest 208 Street.

Councilmember Bell made a motion approving the Bell amendment. The motion was seconded by Vice Mayor MacDougall and approved by a unanimous roll call vote. The vote was as follows: Councilmembers Bell, Sochin and Meerbott, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

Councilmember Bell offered the following amendment to the conservation policy in Volume 1:

- Policy LU-5P: The Town will establish through the Land Development Regulations, LEED Neighborhood "green standards" or similar criteria when reviewing subdivision and site plans.

Councilmember Meerbott made a motion to include the suggested conservation policies as amended. The motion was seconded by Councilmember Bell and approved by unanimous roll call vote. The vote was as follows: Councilmembers Bell, Sochin and Meerbott, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

The Mayor recessed the Council meeting at 9:15 p.m. The Council meeting resumed at 9:25 p.m.

9. ORDINANCES FOR SECOND READING (PUBLIC HEARING REQUIRED):

The clerk read the following ordinance, on second 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.

The Mayor opened the public hearing. There were no speakers at this time.

Vice Mayor MacDougall made a motion to approve the ordinance on second 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.

The clerk read the following ordinance, on second 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.**

The Mayor opened the public hearing. Joy Cooper, 9365 Nassau Drive, Louise Lockwood, 9071 Ridgeland Drive, addressed the Council

Vice Mayor MacDougall made a motion to approve the ordinance on second 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.

The clerk read the following ordinance, on second 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. (MEERBOTT)**

The Mayor opened the public hearing. There were no speakers at this time.

Councilmember Bell made a motion to approve the ordinance on second 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.

The clerk read the following ordinance, on second 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)**

The Mayor opened the public hearing. There were no speakers at this time.

Councilmember Bell made a motion to approve the ordinance on second 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.

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: Barbara Condon, 19641 Holiday Road, Bill Meiklejohn,

11. MAYOR AND COUNCIL COMMENTS

Mayor Vrooman discussed the green building standards that were passed along with Growth Management Plan. The Mayor requested that staff arrange workshops and allocate funds to budget for implementing the green building standards. He reminded the public that the Youth Summit is will be on Saturday, December 1st at Cutler Ridge Middle School at 9:00 a.m.

Councilmember Meerbott requested where the projected funds from the CITT funds for Caribbean Boulevard will go. Member Meerbott felt that the Turnpike side of Caribbean Boulevard needed the most improvement. Member Meerbott requested that Public Works look out for shopping carts around Town.

Councilmember Sochin discussed the WiFi issue. Through extensive discussion with members of the County-wide WiFi team, he hopes that by the upcoming holidays there will be something in place.

12. OTHER BUSINESS: None at this time.

13. ADJOURNMENT

The next council meeting will be held on December 19, 2007, at South Dade Government Regional Library.

The meeting was officially adjourned at 10:45 P.M.

Respectfully submitted:

*Erika Gonzalez-Santamaria, CMC
Town Clerk*

*Adopted by the Town Council on
this 19th day of December, 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



Office of the Town Manager

Steven J. Alexander
Town Manager

M E M O R A N D U M

To: Honorable Mayor and Town Council

From: Steven J. Alexander, Town Manager

Date: December 14, 2007

Re: Request by County regarding Annexation

Background

The process of annexing a lengthily process as spelled out in the County Code. Proper deliberations on this issue by the Cutler Bay will require significant research and assembly of materials by our staff. The staff has begun to assemble this information and analyze information like expected service demands police calls and general cost of the expansion of our town by an area which is 80% the size of the area we currently service, is the same staff as is required to build and refine the budget.

Some of that information is attached below. Perhaps the most pertinent document is the estimated impact on UMSA Budget page, which shows that the Goulds area costs the County more than \$5.4 million over revenues generated within that same area. We believe the county numbers to be very conservative which would indicate that it actually would cost more to provide an adequate level of service. These estimates are being updated by the county at this time.

Subject: Goulds Impact to UMSA FY 2007-08.xls
Date: Wednesday, December 12, 2007 11:33 AM
From: Fernandez, Jorge (OSBM) <jjorge@miamidade.gov>
To: <salexander@cutlerbay-fl.gov>
Conversation: Goulds Impact to UMSA FY 2007-08.xls

Steve, here is the Impact to UMSA updated based on the FY 2007-08 budget. It includes the 2007 taxable values for the area.

Please let me know if you need any additional information.

Thanks.

Estimated Impact on UMSA Budget

Based on FY 07-08 Budget	Incorporation Assumptions	
Property Tax Revenue	Allocation based on tax roll & millage	\$2,659,000
Franchise Fees	County Retains Revenues	
Sales Tax	Allocation based on \$64.52 per person	\$808,235
Utility Taxes	County Retains Revenues	
Communications Tax	Allocated based on tax roll/population	\$738,315
Alcoholic Beverage License	Allocation based on \$0.24 per person	\$3,055
Occupational License	Allocation based on \$1.72 per person	\$21,524
Interest	Allocation based on 1.31% of total revenue	\$55,489
Miscellaneous Revenues	Allocation based on \$0.45 per person	\$5,670
Revenue to UMSA		\$4,291,288
Cost of Providing UMSA Services		
Police Department		\$7,649,743
UMSA Police Budget (without specialized)	\$284,505,000	
Park and Recreation Dept	Based on cost of parks	\$0
Public Works		
	Centerline Miles	
	Centerline miles times cost per lane mile	\$148,737
Planning, Team Metro and others	Direct cost times 11.2%	\$873,430
QNIP (pay-as you-go)	Utility Taxes as a % of debt service 14.8%	\$0
Policy Formulation/Internal Support	Direct cost times 11.2%	\$873,430
Cost of Providing UMSA Services		\$9,545,339
Net to UMSA		(\$5,254,051)
<p>1. Does not include gas tax funded projects 2. Does not include canal maintenance revenues or expenses 3. Does not include proprietary activities: Building, Zoning, Solid Waste 4. Does not include Fire and Library Districts 5. Revenues are based on allocations not actuals</p> <p>Disclaimer: These calculations do not represent a projected or suggested municipal budget. They indicate only the fiscal impact of this area's incorporation on the remaining UMSA.</p>		
2007 Taxable Property Rolls		1,356,570,331
2000 Area Census Population		12,526
2006 UMSA Population		1,091,421
2006-07 UMSA Millage		2.0416
Patrollable Sq. Miles - UMSA (post Cutler Bay)		443.53
Total Calls For Service - UMSA 2006		649,776
Part 1 Crimes - UMSA 2005		54,753
Part 2 Crimes - UMSA 2005		21,408
Patrollable Sq. Miles - Study Area		7.59
Total Calls for Service - Study Area		18,128
Part 1 Crimes - Study Area		1,823
Part 2 Crimes - Study Area		956
Cost per Centerline Mile		\$2,424
Number of Centerline Miles		61.36
Per Capita Taxable Value		\$108,300.36

Memorandum



Date: December 11, 2007

GOE

To: Honorable Chairman Bruno A. Barreiro and Members,
Board of County Commissioners

Agenda Item No.

From: George M. Burgess
County Manager

7(E)

Subject: Report on Interest of Municipalities to Annex Neighboring MAC areas

On September 4, 2007, the Board of County Commissioners (BCC) adopted Ordinance 07-120, suspending consideration of incorporations until such time as the County Manager presents a report indicating the interest of municipalities surrounding or proximate to the unincorporated areas represented by Municipal Advisory Committees (MACs) and provide updated financial information related to the North Central MAC Study Area. The financial impact information regarding the North Central MAC Study Area was forwarded to the BCC on September 21, 2007. In order to gauge municipalities' interest in annexing adjacent MAC areas, on August 3, 2007, staff sent letters to twelve municipalities adjacent to the eight MAC areas. A response was requested by September 15, 2007. To date nine municipalities have responded. A summary of the status of each MAC and the surrounding municipal interest is summarized below.

Fontainebleau MAC

The Fontainebleau MAC was created by Resolution 598-02 of the BCC on June 4, 2002, and by ordinance 04-104 on May 6, 2003. The group met for fifteen (15) months with the support of County staff, to complete its charge assessing the fiscal feasibility and desirability of incorporating the area into its own municipality. The MAC completed its report on December 18, 2003. The public hearing for the proposed incorporation of the Fontainebleau area was held before the Boundaries Commission on September 1, 2004, and the public hearing before the Planning Advisory Board (PAB) was held on January 10, 2005. The Boundaries Commission recommended that the incorporation move forward, and the PAB recommended denial of the incorporation. Some of the concerns expressed by the PAB members at the public hearing included: the potential increase in taxes to area residents for the current level of services, the lack of community interest in incorporation, and the proposed municipal budget. As required by BCC Resolution R-130-05, a third party consultant completed an independent financial analysis of the proposed municipal revenues and expenditures for Fontainebleau. The firm PMG Associates, Inc. (PMGA) concluded in its review that the proposed municipality of Fontainebleau did not provide for a viable municipality. Before the BCC public hearing for the proposed incorporation of the Fontainebleau area, Ordinance 05-192 suspending consideration of proposed incorporations and annexations was adopted.

As required by Ordinance 07-120, staff sent letters on August 3, 2007, to municipalities adjacent to the Fontainebleau MAC. Letters were sent to Doral and Sweetwater. The City of Doral has requested additional information for the Fontainebleau area. As of the date of this report the City of Sweetwater has not responded to the request.

North Central MAC

The North Central MAC was created by Resolution 1445-01 of the BCC on December 18, 2001, and by Ordinance 03-42 on March 11, 2003. The group met for thirty-one (31) months with the support of County staff to complete its charge assessing the fiscal feasibility and desirability of incorporating the area into its own municipality. The MAC completed its report on June 30, 2004. The public hearing for the proposed municipality in the North Central MAC area was heard before the Boundaries Commission on September 29, 2004 and the public hearing before the PAB was held on December 6, 2004. The Boundaries Commission and PAB recommended denial of the incorporation. Some of the concerns expressed by the PAB members at the public hearing included: the fiscal viability of the proposed new city and the majority of the public hearing speakers against the incorporation effort. As required by BCC Resolution R-130-05, a third party consultant completed an independent financial analysis of the proposed municipal revenues and expenditures for North Central MAC. The firm PMG Associates, Inc. (PMGA) concluded in its review that the proposed municipality in the North Central area did not provide for a viable municipality. Before the BCC public hearing for the proposed incorporation of the North Central area, Ordinance 05-192 suspending consideration of proposed incorporations and annexations was adopted.

As required by Ordinance 07-120, staff sent letters on August 3, 2007, to municipalities adjacent to the Fontainebleau MAC. Letters were sent to Hialeah, Miami, North Miami and Opa-Locka. As of the date of this report, the municipalities of Miami, North Miami and Opa-Locka have responded. The City of Miami has expressed interest in a portion of the MAC area and other UMSA areas, North Miami has expressed interest in a portion of the MAC area and other UMSA areas, and Opa-Locka has expressed interest in a portion of the MAC area and other UMSA areas. The City of Hialeah has not responded to the request for interest.

Northeast MAC

The Northeast MAC was created by Resolution 341-03 on April 8, 2003, and by Ordinance 04-104 on May 11, 2004. The group met for twenty (20) months with the support of County staff to complete its charge assessing the fiscal feasibility and desirability of incorporating the area into its own municipality. The MAC completed its report on December 15, 2004. The public hearing for the proposed municipality in the Northeast MAC area was held before the Boundaries Commission on March 23, 2005 and the public hearing before the PAB was held on August 8, 2005. The Boundaries Commission and the PAB recommended approval of the incorporation. As required by BCC Resolution R-130-05, a third party consultant completed an independent financial analysis of the proposed municipal revenues and expenditures for Northeast. The firm PMG Associates, Inc. (PMGA) concluded in its review that the proposed municipality of Northeast provides for a viable municipality. Prior to the incorporation being heard by the BCC, Ordinance 05-192 suspending consideration of proposed incorporations and annexations was adopted by the BCC on November 1, 2005. The incorporation and annexation suspension was lifted on May 8, 2007, and on September 4, 2007 the BCC adopted Ordinance 07-120 suspending consideration of incorporations. Before the BCC public hearing for the proposed incorporation of the Northeast area, Ordinance 05-192 suspending consideration of proposed incorporations and annexations was adopted.

As required by Ordinance 07-120, Staff sent letters on August 3, 2007, to municipalities adjacent to the Northeast MAC. Letters were sent to Aventura and North Miami Beach. The City of Aventura has expressed interest in approximately half of the Northeast MAC study area. The City of North Miami Beach expressed interest in the remaining MAC area.

Redland MAC

The Redland MAC was created by Resolution 529-00 on May 23, 2000, and by Ordinance 01-100 on June 5, 2001. The group met for fifteen (15) months with the support of County staff, to complete its charge assessing the fiscal feasibility and desirability of incorporating the area into its own municipality. The MAC completed its report on August 29, 2001. The public hearing for the proposed municipality in the Redland area was heard before the Boundaries Commission on July 11, 2001 and the public hearing before the PAB was held on July 25, 2001. The Boundaries Commission and PAB recommended approval of the proposed incorporation. On November 20, 2001 the Board held a public hearing regarding the proposed incorporation of the Redland area. Based on testimony from Goulds and Princeton area residents regarding boundary disputes with the proposed Redland area incorporation, the Board deferred the proposed incorporation indefinitely in order to give the MAC and its neighboring communities the opportunity to resolve the boundary disputes.

On January 20, 2004, the Board adopted Resolution R-116-04 directing the County Manager to enter into agreement with the Florida Conflict Resolution Consortium (FCRC) to assess the use of a collaborative process to resolve the boundary issues of incorporation proposals in South Miami-Dade County. Between August and October 2004 the FCRC focused its mediation efforts on issues between Redland, PLANT, and Goulds MACs. However, in late October 2004 the mediation efforts were placed on hold to allow the PLANT and Goulds MACs time to understand the implications of a petition for incorporation filed with the Clerk of the Board by the Friends of Redland. The petition sought to incorporate boundaries that were part of the mediation process discussion. From November 2004 through May 2005 there was a pause in the mediation efforts, which created an indefinite impasse. On November 28, 2005, the FCRC submitted a final report identifying a change in the willingness of key parties to engage in a mediated resolution process. As a result, the existing boundary disputes have not been resolved.

→ The Redland area is outside of the urban development boundary. The area is not adjacent to any municipality, therefore no letters were sent out to any municipality to gauge interest in this area. Additionally, at the October 2, 2007 BCC meeting, an ordinance to repeal ordinance 01-100 creating the Redland MAC was adopted on first reading. A public hearing for the ordinance was held at the Governmental Operations and Environment Committee meeting on November 13, 2007. The committee forwarded the ordinance to the December 4, 2007 BCC meeting with a favorable recommendation.

Goulds MAC

The Goulds MAC was created by Resolution 519-03 on May 6, 2003 and by Ordinance 04-148 on July 27, 2004. The group actively met until the FCRC was contracted to mediate the boundary issue between the Goulds, PLANT, and Redland MACs as discussed above.

As required by Ordinance 07-120, staff sent a letter on August 3, 2007, to the municipality adjacent to the Goulds MAC, the Town of Cutler Bay. As of the date of this report, the Town of Cutler Bay has not officially responded, but has been requesting information for the Goulds area. Additionally, at the October 2, 2007 BCC meeting, an ordinance to repeal the ordinances creating the Goulds and PLANT MACs was adopted on first reading. A public hearing on the ordinance was held at the Governmental Operations and Environment Committee meeting on November 13, 2007. The Committee forwarded the ordinance to the December 4, 2007 BCC meeting without a recommendation.

PLANT MAC

The PLANT MAC was created by Resolution 518-03 on May 6, 2003 and by Ordinance 04-136 on July 13, 2004. The group actively met until the FCRC was contracted to mediate the boundary issue between the Goulds, PLANT, and Redland MACs as discussed above.

As required by Ordinance 07-120, staff sent a letter on August 3, 2007, to the municipality adjacent to the PLANT MAC, the City of Homestead. The City has responded to the request by stating that it would be interested in annexing unincorporated areas adjacent to the City, but no further detail was provided. Additionally, at the October 2, 2007 BCC meeting, an ordinance to repeal the ordinances creating the Goulds and PLANT MACs was adopted on first reading. A public hearing on the ordinance was held at the Governmental Operations and Environment Committee meeting on November 13, 2007. The Committee forwarded the ordinance to the December 4, 2007 BCC meeting without a recommendation.

Biscayne Gardens MAC

The Biscayne Gardens MAC was created by Resolution 974-03 on September 9, 2003 and by Ordinance 04-142 on July 27, 2004. This MAC has continued to meet with the support of County staff to complete its charge assessing the fiscal feasibility and desirability of incorporating the area into its own municipality. As of the date of this report, the MAC has yet to produce a pro forma budget for the proposed municipality, or a final report to the BCC. Additionally, the MAC's membership has one fewer member than the minimum seven members needed to meet minimum quorum requirements.

As required by Ordinance 07-120, staff sent a letter on August 3, 2007 to the municipalities adjacent to the Biscayne Gardens MAC, the City of Opa-Locka, North Miami, North Miami Beach and Miami Gardens. The City Opa-Locka has not requested any area of the Biscayne Gardens MAC study area in its response, the City of North Miami is interested in a portion of the MAC study area, the City of North Miami Beach is interested in another portion of the MAC study area and the City of Miami Gardens has requested additional information on the MAC area but has not officially responded with their interest.

Fisher Island MAC

The Fisher Island MAC was created by Resolution 838-04 on July 13, 2004 and by Ordinance 05-185 on October 18, 2005. This MAC has continued to meet with the support of County staff to complete its charge assessing the fiscal feasibility and desirability of incorporating the area into its own municipality. The MAC created a pro forma budget for the proposed municipality. As required by BCC Resolution R-130-05, a third party consultant completed an independent financial analysis of the proposed municipal revenues and expenditures for Fisher Island. The firm PMG Associates, Inc. (PMGA) concluded in its review in November of 2006, stating that the proposed municipality of Fisher Island can meet its obligations to provide the necessary services as expressed in the pro forma budget. The Fisher Island MAC decided to cease holding meetings when the BCC adopted on first reading what subsequently became Ordinance 07-120 suspending consideration of incorporations. The MAC has also lost the required membership for quorum since it currently has only four members out of its original seven.

As required by Ordinance 07-120, staff sent a letter on August 3, 2007 to the municipalities adjacent to the Biscayne Gardens MAC, the City of Miami and the City of Miami Beach. Both cities have responded that they would be interested in annexing the MAC study area.

Annexation Process


Chapter 20 of the Miami-Dade County Code (Code) governs the process by which these municipalities may initiate an annexation of an unincorporated area. Municipalities are required to begin the annexation process by adopting a resolution from their governing body after a public hearing where all of the property owners within the proposed annexation area and 600 thereof have been notified. The municipality must present to the Miami-Dade County Clerk of the Board an annexation application meeting all of the requirements in Chapter 20-3 of the Code, inclusive of a petition indicating the consent of 25 percent plus one of the electors in the area. Once the application is accepted by the BCC, it is forwarded to the Office of Strategic Business Management (OSBM) for review. After staff review, a report on the annexation is prepared and forwarded to the Planning Advisory Board Incorporation and Annexation Committee for analysis and boundaries review. The Committee makes a recommendation to the Planning Advisory Board (PAB) and the PAB makes a recommendation to the BCC based on the criteria described in Section 20-6(b) of the Code. After the PAB meeting, the County Manager makes a recommendation to the BCC. The application along with the County Manager's and the PAB recommendations is placed on the Governmental Operations and Environment Committee agenda, where a public hearing is held to consider the proposed annexation. After the public hearing, the Governmental Operations and Environment Committee can recommend the BCC approve, deny or defer the application. If the Committee takes the action to approve or deny the application, it is placed on the BCC agenda where the BCC will approve, deny, or defer the application. If the application is approved, the BCC directs the County Attorney to draft an ordinance modifying the municipal boundaries to include the annexation area. If there are more than 250 resident electors and the area is developed more than 50 percent residential the boundary change will be contingent upon an affirmative vote of the registered voters within the proposed annexation area. A boundary change can occur upon BCC approval of an ordinance modifying the municipal boundaries where there are less than 250 registered voters and the area is less than 50 percent developed residential.

There are some options the BCC may consider with regards to incorporation and annexation. The BCC may allow the MAC areas that have completed feasibility studies to move forward and at the public hearing the BCC may determine the feasibility and viability of these communities and determine if the area should be allowed to incorporate. The BCC may temporarily place a hold on incorporations to allow the municipalities that have responded to the request for interest to begin the annexation of the areas the municipalities have indicated. Should the BCC determine that the MAC areas that have completed their studies continue through the process, all financial information on the impact to UMSA and municipal budget for the proposed incorporation area would require updating in order to provide the most current information.

There is no more complex issue for local government than the issue of annexation and incorporation. While some residents are content with annexing unincorporated areas to existing municipalities, others have overwhelmingly rejected municipality driven annexations, as in the most recent case of the failed annexation effort undertaken by the City of Sweetwater in March of 2006. Additionally, some UMSA residents have expressed concern at being annexed because they believe that the character of their community will not continue to exist and will be diluted by being part of a municipality. As a result, those residents believe that incorporation is the only venue to retain a cohesive identity and sense of historical community. On the other hand, many UMSA residents have expressed satisfaction with County provided services their satisfaction leads them to continue to be part of UMSA as opposed to creating a new municipality, including one of the lowest millage rates in the County.

Honorable Chairman Bruno A. Barreiro and Members,
Board of County Commissioners
Page 6 of 6

Attachments A. – Ordinance 07-120
B – Municipal Advisory Committee Maps
C – Letters of request for interest to municipalities
D – Responses from municipalities



Jennifer Glazer-Moon
Director, Office of Strategic Business Management

CMO 05208



Office of the Town Manager

Steven J.
Alexander
Town Manager

December 7, 2007

Mrs. Jennifer Glazer-Moon
Director, Strategic Business Management
111 NW 1st - 22 Floor
Miami, FL 33128-1994

Re: Annexation of Unincorporated Miami-Dade County

Dear Mrs. Glazer-Moon: *JENN*

In reference to your letter dated August 3, 2007 regarding current on-going efforts throughout the County and its municipalities to maximize annexations into existing municipalities, the Town would hereby like to inform you of our Council Meeting on December 19 to review preliminary information necessary to respond to your inquiry regarding the annexation of this area. However, these areas would require additional research and analysis by the Town prior to beginning any annexation process.

I have directed staff to begin a more thorough research and analysis of the Goulds area. Upon completion of our analysis the Town will notify you and the respective County Commissioners, of the areas of interest, prior to taking further steps in the application process.

We look forward to working together with your department in the review and analysis process as we move forward.

Sincerely,


Steven J. Alexander
Town Manager

10720 Caribbean Boulevard, Suite 105
Cutler Bay, FL 33189
(305) 234-4262 Office
(305) 234-4251 Fax
www.cutlerbay-fl.gov

Goulds MAC

Pct #	# Registered Voters	Comments
849	435	Partial Group 1– other part proposed Cutler Ridge
843	24	
839	625	
847	0	Partial
932	110	
928	924	
925	203	Partial
834	1915	
831	474	Partial
833	2387	

**Social and Economic Characteristics
Goulds MAC Area and Miami-Dade County**

	Goulds MAC	Miami-Dade
<u>Population Characteristics, 2000</u>	12,526	2,253,362
Percent White, Not Hispanic	8.2	20.7
Percent Black, Not Hispanic	61.6	19.0
Percent Other, Not Hispanic	2.4	3.0
Percent Hispanic Origin	27.9	57.3
<u>Income</u>		
Median Household Income	\$24,591	\$35,966
Per-capita Income	\$10,127	\$18,497
<u>Housing</u>		
Percent Owner Occupied	40.3	57.8
Percent Single Unit detached	47.8	42.7

Source: U.S. Census Bureau, Census 2000 Summary File 1 and Summary File 3. Miami-Dade County, Department of Planning and Zoning, 2004.

**Goulds MAC Ordinance 04-148
Population By Race and Hispanic Origin
Miami-Dade County, 2000**

Tract	Total Persons	White Not Hispanic	Black Not Hispanic	Other Not Hispanic	Hispanic Origin Any Race
102.03	791	25	448	33	285
104.00	639	54	395	27	163
105.00	4,743	363	3,525	82	773
106.02	2,915	53	2,250	27	585
106.07	3,438	528	1,097	126	1,687
Total:	12,526	1,023	7,715	295	3,493
Percent:	100%	8.2%	61.6%	2.4%	27.9%

Source: U.S. Census Bureau, Census 2000 Summary File 1, Miami-Dade County, Department of Planning and Zoning, 2004.

Note: (p) denotes partial Census Tract represented.

Boundaries:

North: start at SW 208 Street from SW 127 Avenue east to Black Creek Canal; southeast-east to South Dixie Highway; north to approx. SW 112 Avenue; south to Black Creek Canal; east to SR-821 Extension; north to approx. SW 211 Street; east to C-1-N canal; south to canal between SW 211 and 212 Streets; south to SW 212 Street; east to SW 103 Avenue; east to Old Cutler Road;

East: start at Old Cutler Road at SW 216 Street south to SW 224 Street; east approx. SW 99 Court; south to approx. SW 229 Street; east to SW 97 Avenue; south to SW 232 Street; east to SW 87 Avenue; south to Black Creek Canal; south to SW 248 Street;

South: SW 248 Street from SW 127 Avenue east to SW 87 Avenue; and

West: SW 127 Avenue from SW 208 Street south to SW 224 Street; east to SW 126 Avenue; south to SW 228 Street; east to Old Dixie Highway; southeast to South Dixie Highway; south west to SW 232 Street and SW 127 Avenue; and south to SW 248 Street.



Please respond to:

State Office
The Florida State University
Shaw Building, Suite 132
2031 East Paul Dirac Drive
Tallahassee, FL 32310
(850) 644-6320
Suncom 284-6320
FAX (850) 644-4968
E-mail: flacrc@mailier.fsu.edu
http://consensus.fsu.edu

Regional Office
University of Central Florida
Downtown Academic Center
36 West Pine Street, Suite 201
Orlando, FL 32801
(407) 835-3443
Suncom 344-3443
FAX (407) 317-7815

Regional Office
The Florida Atlantic University
Social Science Building,
Room 386
777 Glades Road
P.O. Box 3091
Boca Raton, FL 33431-0991
(561) 297-3185
Suncom 238-3185
FAX (561) 297-2626

PROCESS REPORT SOUTH DADE INCORPORATION AND ANNEXATION BOUNDARIES MEDIATION

November 28, 2005

This report outlines activity in South Dade incorporation boundaries mediation since May of 2004 and summarizes the status of negotiations as of the end of November, 2005.

March - May

During this period, the mediation team conducted an assessment to determine the issues that would need to be addressed in any effort to resolve incorporation boundaries issues in South Dade, and whether the parties would be willing to engage in a process to resolve them. The results of that assessment are available in a separate document entitled *Assessment of the Feasibility of a Mediated Process to Address Boundary Issues Among Incorporation Efforts in South Dade County*.

June - July 2004

During June and July 2004, the mediation team focused on issues between Cutler Ridge and Goulds in order to fully explore the possibility of an agreement that would meet the needs of both parties and still allow the question of Cutler Ridge incorporation to be placed on the November 2004 ballot. The two parties reached agreement in July 2005. This agreement is on record with the County.

August --- October 2004

During August 2004 the mediation team focused on issues between Goulds, PLANT (Princeton, Leisure City and Naranja), Redland, Redland's Edge and, to a lesser extent, the City of Homestead. The team conducted several rounds of meetings with negotiators for each of the incorporation efforts separately, in order to develop a framework for initiating face-to-face negotiations between them. In late August and early September 2004, changes in the position of some parties necessitated additional rounds of discussions. By early October 2004, the mediation team had concluded these discussions, developed a framework for negotiations, and scheduled a meeting to initiate face-to-face negotiations between the parties for October 30, 2004.

In October 2004, the Redland incorporation petition submitted by Friends of Redland in May of 2004 appeared on the Boundaries Commission agenda for October 20, 2004. This prompted the negotiators for Goulds and PLANT to request that face-to-face negotiations be placed on hold to allow them time to fully understand and respond to the petition's implications for them. The mediation team subsequently contacted negotiators for each of the parties in order to explore and assess the implications of the petition from their point of view.

At the end of October 2004, therefore, face-to-face negotiations were placed on hold to allow the Goulds and PLANT negotiators to reach conclusions regarding how they would proceed.

November 2004 – May 2005

From November of 2004 through May of 2005, there was a pause in the negotiations. The negotiation team had a variety of conversations with the negotiators from each community during this period. While these conversations resulted in some progress on issues relating to County support for the Goulds and PLANT incorporation efforts, none of these conversations resulted in the resumption of negotiations among the parties.

Several events in April of 2005 seemed to offer the possibility of resuming negotiations: the Redland incorporation effort appointed new spokespeople to represent it in the negotiations; the Goulds and PLANT negotiators indicated their willingness to explore a resumption of negotiations; and the Redland's Edge negotiators indicated renewed willingness to explore alternative boundaries.

The mediation team therefore met with the Goulds and PLANT negotiators, and held discussions with the negotiators from each of the other communities, in order to explore on what terms negotiations might be resumed. Two major issues emerged from these discussions. The first is the potential role in the negotiations of the so-called "uncontested area" east of US 1 (an area surrounding PLANT and extending east to Biscayne Bay). The PLANT negotiators asked for a clarification of whether this area might be "on the table" for the negotiations. The second issue is a potential new "starting line" for negotiations between Goulds and Redland representatives. The Goulds negotiators requested that the Redland negotiators propose a revised boundary line to demonstrate good faith and provide a new starting point for negotiations.

June 2005 – November 2005

During this period the mediation team explored the issues that were raised in the April and May conversations: 1) whether Goulds or Redland negotiators would be willing to offer as a starting point a new boundary line different from those that had been publicly discussed, and what the rationale might be for such a boundary; and 2) whether any of the unincorporated areas east of US 1 might be on the table for the negotiations.

Productive discussions took place between the Chair of the PLANT MAC and Commissioner Sorensen's office regarding the unincorporated areas east of US 1. None of the groups, however, were willing to offer a different boundary or rationale for a boundary in advance of face-to-face negotiations.

The following paragraphs summarize the current stance of each party relative to the negotiation (not their position on substantive issues) at the end of November 2005.

Goulds

Negotiators for Goulds remain unwilling to engage in negotiations under current conditions. In their view, these conditions include concerns about the good faith of Redland negotiators, the ongoing litigation related to the Redland incorporation petition, and insufficient progress on the issues they outlined in the April and May 2005 discussions.

Homestead

Homestead initially expressed a willingness to discuss issues related to its annexation policy that were of concern to Redland and Redlands Edge, although it highlighted difficulties in reaching agreement on those issues. The mediation team has not asked the City of Homestead to engage in any discussions of boundaries issues since early 2005, pending clarification of the position of other parties.

PLANT (Princeton, Leisure City and Naranja)

The chair of the PLANT MAC has expressed a willingness to engage in negotiations with Redland, and continues to explore issues related to incorporation effort boundaries, such as those related to areas east of US 1 outside of any current MAC boundaries. He has also expressed a willingness to engage in discussions with Redland's Edge representatives.

Redland

Negotiators for Redland have remained willing to engage in negotiations, although they highlight a number of difficulties in the way of reaching agreement. They have indicated, however, that if agreement is reached in the negotiations, such an agreement should serve as the basis for resolving all issues related to the boundary between Goulds, PLANT and Redland, including issues related to the Friends of Redland petition.

Redland's Edge

The group exploring Redland's Edge incorporation has elected to pursue its goals in a way that no longer poses a boundary conflict between Redland's Edge incorporation or community building activities and the Goulds incorporation effort. It continues to express a desire to explore potential common interests with the PLANT incorporation effort, and continuing differences over annexation issues with Homestead.

Summary of Status as of November 28, 2005

As of November 28, 2005, negotiations are at an impasse, as they have been since October of 2004. In the time since then, there has been discussion of conditions under which negotiations might resume, and some indirect communication among the parties through the mediators, but no direct negotiation among the parties themselves. In the judgment of the mediators, no additional

progress can be made until all key parties are willing to participate, with the assistance of a mediator, in such negotiations.

Prospects for Future Agreements

Some circumstances in South Dade have changed since May 2004, notably the initiation of litigation by representatives of Redland in an effort to move their incorporation activities forward. Nevertheless, the substantive and relationship issues in the dispute, and their importance to the communities involved, continue to be those outlined in the initial *Assessment* report. What has changed is the expressed willingness of key parties to engage in a mediated resolution process.

If all parties were to choose to resume negotiations, the mediation team continues to believe that a resolution of the central issue, the boundary between the Goulds and Redland incorporation efforts, is possible in a way that would ultimately be acceptable to both parties. Other issues related to incorporation effort boundaries should also be resolvable, once the central issue is settled.

ANNEXATION CHECKLIST
Governing Body of Municipality Initiated Request

County Code Section	Requirement
20-3.	3 certified copies of resolution requesting boundary change
20-3.	Proof of compliance with public hearing notice requirements - held pursuant to written notice mailed to all owners of property within the area and 600' thereof and pursuant to published notice - not required if property owners consent to boundaries change in writing
20-3. (A)	Accurate legal description of the land area
20-3. (B)	Map or survey sketch showing location of area involved, existing boundaries of municipality affected, and indicating relation of area to existing municipal boundaries
20-3. (C)	Certificate of the County Supervisor of Registration certifying that the area involved contains either more or fewer than 250 qualified electors
20-3. (D)	Statement setting forth the grounds or reasons for the proposed boundary changes
20-3. (E)	In the event any municipality other than the municipality initiating the proposed boundary change is materially affected thereby, a duly certified copy of a resolution of the governing body of such affected municipality consenting to the proposed boundary change
20-3. (F)	Additional Information
(1.)	Land use plan and zoning - information shall be submitted regardless of size of area or state of existing development
(2.)	List of services to be provided under listed headings - described in detail - the character and amount of services the municipality would provide if area is annexed - discussion of service levels shall take into account existing development and changes in the character and extent of development which may reasonably anticipated in near future based on land use plan and zoning for area - the character and amount of services currently received in the area sought for annexation shall be set forth for comparative purposes
(a)	Police protection
(b)	Fire protection
(c)	Water supply and distribution

	County Code Section	Requirement
	(d)	Facilities for the collection and treatment of sewage
	(e)	Garbage and refuse collection and disposal
	(f)	Street lighting
	(g)	Street construction and maintenance
	(h)	Parks and recreation facilities and services
	(i)	Building Inspection
	(j)	Zoning administration
	(k)	Local planning services
	(l)	Special services not listed above (stormwater management and housing and economic development)
	(m)	General government
	(3.)	Timetable for supplying services listed above in terms of how soon after annexation the service will be provided - if changes in the character and extent of the development in the area can be reasonably anticipated, these changes shall be taken into account in the proposed timetable
	(4.)	Financing of the services listed above - include estimates of the cost of providing, maintaining, and operating the service along with the method used to in making the estimate - funding sources shall be stated and the effect this will have on the remainder of the municipality shall be analyzed
	(5.)	Tax load on the area to be annexed - narrative, including estimated figures, direct and indirect tax revenue from the area sought after annexation compared with the current period before annexation - appraise the tax impact on property owners and others residing or doing business in area and within the municipality - methods utilized in making estimates shall be fully and clearly set forth
	(6.)	Identification of any areas designated as terminals in the County's Adopted Land Use Plan Map
	(a)	The reason any area designated terminals and areas located within one-half mile should be annexed to the municipality
	(b)	The impact that annexation may have on the operation and future development of facilities within designated terminals
	(c)	Municipalities assessment of present and future importance to the economy, job generation, and future development of the County and the region of any area designated terminals and surrounding areas to be included in the annexation
	(d)	Whether the land uses within areas designated terminals and

	County Code Section	Requirement
		surrounding areas are compatible with adjacent land uses within the annexing municipality
	(e)	Proposed interlocal agreement with the County would include provisions agreeing to the County's retention of master plan and regulatory control over any area designated terminals and surrounding areas
	20-3. (G)	Certificate of the Director of the Department of Planning, Development and Regulation certifying that in the Director's sole determination an area proposed for annexation or separation having two hundred and fifty (250) or fewer registered electors is more than fifty (50) percent developed residential
	20-3. (H)	A petition filed with the Clerk of the County Commission indicating the consent of twenty-five (25) percent plus one (1) of the electors in the area proposed for annexation provided however, no petition shall be required where the property proposed for annexation is vacant or where there are two hundred fifty (250) or fewer resident electors
	20-6 (a)	The statements contained in the annexation report pertaining to the quality, quantity, cost, and timetable of services the municipality will provide will be reviewed by county departments to determine if the services proposed are adequate - statements pertaining to financing services and analysis of the tax load on the area will be reviewed by OMB

The following chronology assumes smooth sailing all the way

- Application is submitted to the Clerk of the Board with an application fee (per A.O. 4-11; \$5.13/acre)
- Clerk submits application to BCC as a report
- BCC forwards application to Planning Advisory Board (PAB) - means that OMB (my office) reviews for completion, collects input from departments, and prepares comprehensive report
- Application and report goes to PAB committee (public hearing)
- Application, report and PAB committee recommendation go to PAB for public hearing
- Application, report, PAB committee and PAB recommendations go to Governmental Operations and Environment Committee (GOE) for public hearing
- Application, report, PAB committee, PAB, and GOE recommendations go to BCC - BCC may direct County Attorney to prepare an ordinance changing the city's boundaries

- Ordinance changing boundaries goes to BCC for first reading
- No less than 6 weeks later interlocal agreement between county and annexing city (assuming there is one) goes to GOE; GOE holds a public hearing on ordinance changing city's boundaries
- Ordinance changing boundaries goes back to BCC for second reading
- Election (assuming there are more than 250 residents in annexed area or area is more than 50% developed residential)
- City takes over provision of municipal services to area as indicated in interlocal agreement

Goulds MAC

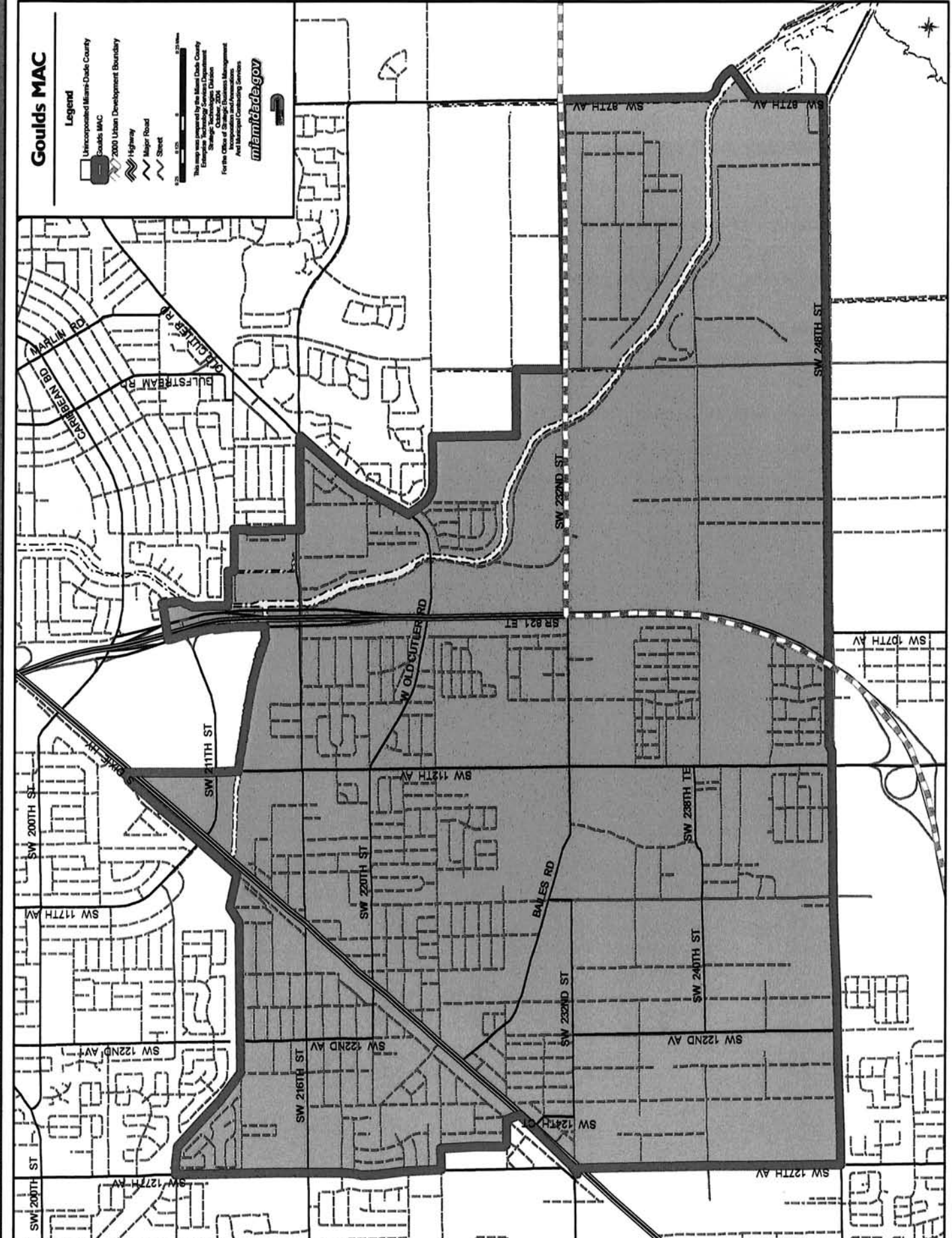
Legend

- Unincorporated Miami-Dade County
- Goulds MAC
- 2000 Urban Development Boundary
- Highway
- Major Road
- Street

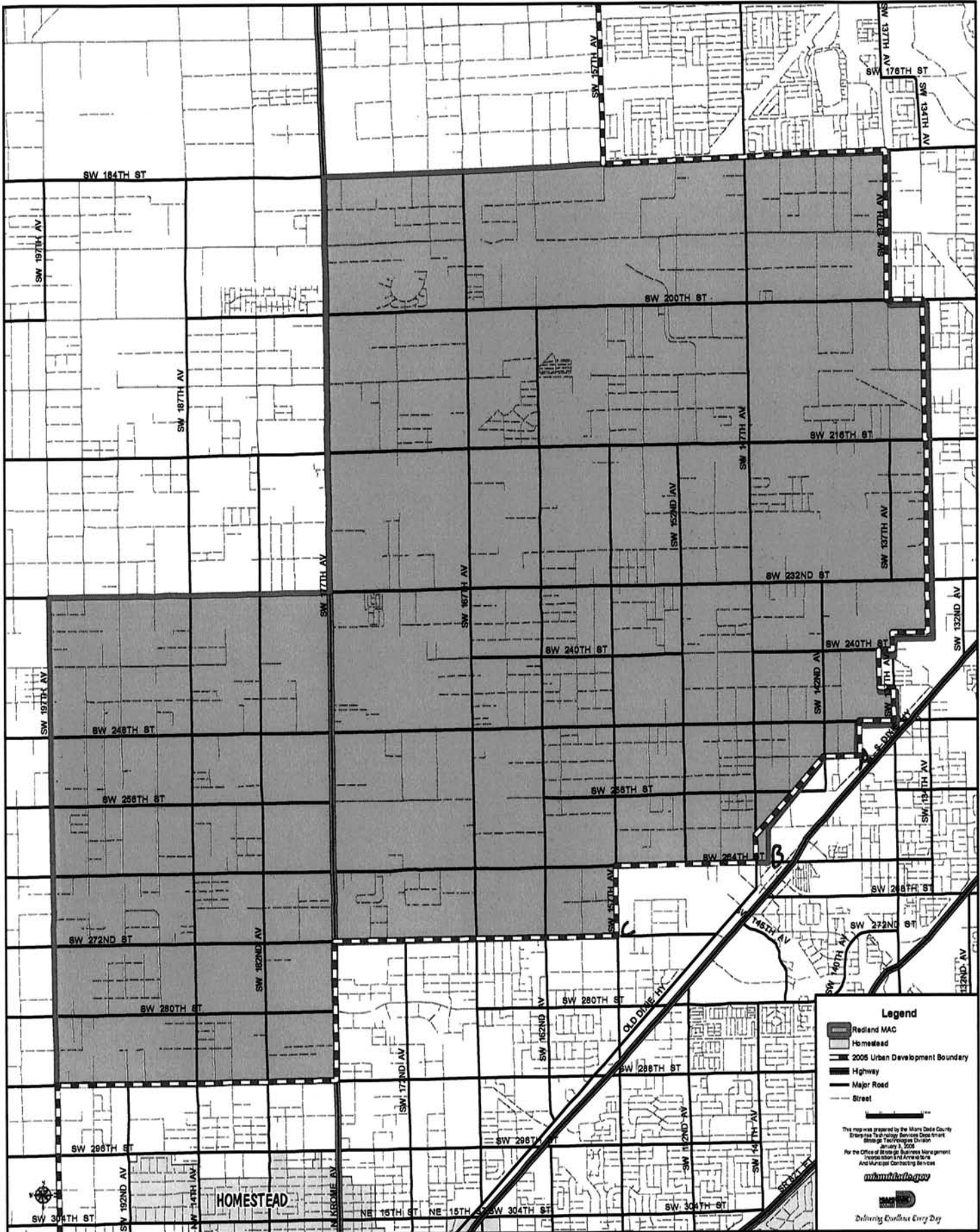


This map was prepared by the Miami-Dade County
Economic Technology Services Department
on October 20th, 2004.
For the Office of Strategic Business Management
and Municipal Consulting Services

miamidade.gov



Miami-Dade County Redland MAC



Legend

- Redland MAC
- 2005 Urban Development Boundary
- Highway
- Major Road
- Street

This map was prepared by the Miami-Dade County
Enterprise Technology Services Department
Planning Technology Division
January 3, 2008
For the Office of Strategic Business Management
Infrastructure and Assets
And Municipal Contracting Services

miamidade.gov

Delivery Excellence Every Day

Miami-Dade Code

Revised for briefing purposes

Sec. 20-3. Initiated by governing body of municipality.

Any proposed boundary change desired by the governing body of a municipality shall be:

- initiated by resolution of such governing body

- adopted after a public hearing

- held pursuant to written notice mailed to all owners of property within the area and within six hundred (600) feet thereof in such proposed boundary changes, according to the current tax assessment roll, and pursuant to published notice;

The cost of such notice shall be paid by the governing body of the municipality.

Three (3) duly certified copies of such resolution requesting the proposed boundary changes, together with proof of compliance with the notice requirements aforesaid, shall be filed with the Clerk of the County Commission, and shall be accompanied by the following:

(A) An accurate legal description of the lands or land area involved in such proposed boundary change.

(B) A map or survey sketch accurately showing the location of the area involved, the existing boundaries of the municipality or municipalities affected, and indicating the relation of the area involved to the existing municipal boundaries.

(C) Certificate of the County Supervisor of Registration certifying that the area involved in the proposed boundary change contains either more than two hundred fifty (250)

residents who are qualified electors, or less than two hundred fifty (250) residents who are qualified electors.

(D) A brief statement setting forth the grounds or reasons for the proposed boundary changes.

(E) In the event any municipality other than the municipality initiating the proposed boundary change is materially affected thereby, a resolution of the governing body of such affected municipality or municipalities consenting to the proposed boundary changes shall be obtained and duly certified copy thereof furnished to the Clerk of the County Commission.

(F) In addition to the foregoing, there shall be filed with the Clerk of the County Commission the following information:

(1) *Land use plan and zoning.* The municipality shall present a general land use plan and a map showing proposed zoning for the subject area which, if annexed, will be enacted by the municipality. This information shall be submitted regardless of size of area or state of existing development.

(2) *List of services to be provided.* In this section the municipality shall describe in detail the character and amount of services which the municipality would provide to the area if annexed. The discussion of service levels shall take into account not only existing development but changes in the character and extent of development which may be reasonably anticipated in the near future based on the land use plan and zoning for the area as submitted by the municipality in accordance with (1) above. The statements pertaining to the various services shall be set forth under the headings listed below. The character and amount of services now being received in the area sought for annexation shall be set forth for comparative purposes.

- (a) Police protection.
- (b) Fire protection.
- (c) Water supply and distribution.
- (d) Facilities for the collection and treatment of sewage.

- (e) Garbage and refuse collection and disposal.
- (f) Street lighting.
- (g) Street construction and maintenance.
- (h) Park and recreation facilities and services.
- (i) Building inspection.
- (j) Zoning administration.
- (k) Local planning services.
- (l) Special services not listed above.
- (m) General government.

(3) *Timetable for supplying the services listed above.* For each of the services listed the time schedule for the provision of that service shall be set forth. The timetable shall be in terms of how soon after the annexation ordinance is finally adopted will the service be provided. If changes in the character and extent of the development in the area can reasonably be anticipated, these changes shall be taken into account in the proposed timetable.

(4) *Financing of the services listed above.* For each of the services listed above, estimates of the costs of providing, maintaining and operating the service shall be set forth along with the methods used in making the estimates. The sources of funds which the municipality would utilize in providing, maintaining and operating the services listed shall be stated for each service and the effect this will have on the remainder of the municipality shall be analyzed.

(5) *The tax load on the area to be annexed.* This section of the report shall discuss in narrative form, including estimated figures, the direct and indirect tax revenue from the area sought for annexation after annexation compared with the current period before annexation. Particularly this section shall clearly and concisely appraise the tax impact on the property owners and others residing and/or doing business in the area, and on those residing and/or doing business within the municipality. Methods utilized in making estimates contained in this section shall be fully and clearly set forth.

(6) *Identification of any areas designated as terminals in the County's Adopted Land Use Plan Map ("terminals").* The

municipality shall set forth the following information in its annexation petition or shall supplement its annexation petition, if such petition is pending as of the effective date of this ordinance:

a. The reason that any area designated terminals and areas located within one-half (1/2) mile surrounding any area designated terminals ("surrounding areas") should be annexed to the municipality;

b. The impact that annexation may have on the operation and future development of facilities within any area designated terminals and surrounding areas;

c. The municipality's assessment of the present and future importance to the economy, job generation, and future development of the County and the region of any area designated terminals and surrounding areas proposed to be included in the area annexed;

d. Whether the land uses within areas designated terminals and surrounding areas are compatible with adjacent land uses within the annexing municipality; and

e. A proposed Interlocal Agreement with the County which would include provisions agreeing to the County's retention of master plan and regulatory control over any area designated terminals and surrounding areas, which shall set forth with specificity the limitations and conditions to be imposed on the municipality's jurisdiction of the area proposed for annexation.

(G) Certificate of the Director of the Department of Planning and Zoning certifying that in the Director's sole determination an area proposed for annexation or separation having two hundred and fifty (250) or fewer registered electors is more than fifty (50) percent developed residential. This certification will determine whether an election of registered electors will be required as provided in Section 20-9.

(H) A petition filed with the Clerk of the County Commission indicating the consent of twenty-five (25) percent plus one (1) of the electors in the area proposed for annexation provided however, no petition shall be required where the

property proposed for annexation is vacant or where there are two hundred fifty (250) or less resident electors.

Initial consideration of proposed boundary changes.

The Clerk of the County Commission, upon receipt of a request for boundary change filed in compliance with County Code Section 20-3 or Section 20-4 is necessary to enable the issue to be placed upon the official agenda of a regular meeting of the County Commission.

The County Clerk shall notify the municipality initiating the boundary change of the date of the regular meeting at which such matter will be considered by the County Commission.

A representative of such municipality, may be heard briefly by the County Commission in respect to the merits or propriety of the request for such boundary change.

The County Commission shall refer such proposed boundary change to the County Planning Advisory Board for review, study, consideration and recommendations.

Consideration by Planning Advisory Board.

- (a) The Planning Advisory Board, upon receipt of a petition or resolution referred by the County Commission shall study, review and consider the request for boundary changes embodied therein.
- (b) The chair of the Planning Advisory Board shall appoint a committee of the Board as well as a chair for such committee for the purpose of studying and making a report and recommendation to the full Board on the boundary change request.
- (c) In making its recommendation to the full Board,

the committee shall utilize the guidelines set forth in subsection (b).

- (d) The Planning Advisory Board, in its discretion, may conduct a public hearing in respect to such proposed boundary changes and hear from all interested persons;
- (e) the Board may require the petitioners or the municipality to furnish any additional information, data or instruments deemed necessary or desirable for consideration of such request.
- (f) If the Planning Advisory Board conducts a public hearing in respect to such proposed boundary changes, it shall give written notice of such hearing to all owners of property within the area and within six hundred (600) feet thereof.
- (g) The cost of such notice shall be paid by the individual, group or municipality initiating the proposed change.

Before the Planning Advisory Board studies and reviews the request, the annexation report will be reviewed by the appropriate County personnel.

The statements contained in the annexation report pertaining to the quality, quantity, cost and timing of the services the municipality will extend to the areas requested for annexation will be reviewed by the appropriate County department to determine if the services proposed are adequate.

The statements pertaining to the financing of the services and analysis of the tax load on the area to be annexed will be reviewed by the Miami-Dade County Budget Officer.

Upon completion of these reviews, the entire application will be reviewed in accordance with this section by the Planning Advisory Board and then forwarded to the County Manager's office for review and recommendation prior to submittal to the

Board of County Commissioners for their consideration.

(b) The Planning Advisory Board shall make written recommendations to the County Commission concerning such proposed boundary changes.

Copies of such recommendations shall be filed with the Clerk of the County Commission, and copies shall be mailed to a representative of the petitioners or the municipality.

In evaluating the appropriateness of a boundary change request, the Planning Advisory Board shall consider the guidelines in Section 20-7, as well as whether the annexation:

- (1) will divide a historically recognized community;
- (2) will if approved result in an annexation area that is compatible with existing planned land uses and zoning of the municipality to which the area is proposed to be annexed;
- (3) will, if currently qualified, continue to be eligible for any benefits derived from inclusion in federal or state enterprise zones, or targeted area assistance provided by federal, state and local government agencies;
- (4) will impact public safety response times;
- (5) will introduce barriers to municipal traffic circulation due to existing security taxing districts, walled communities and/or private roads;
- (6) to the degree possible, will be served by the same public service franchises, such as cable and communication services, as the existing municipality, or will it have full access to all available municipal programming through its franchises provider;
- (7) if identified by the federal government as a flood zone or by emergency planners as an evacuation zone, has the annexing municipality indicated its preparedness to address any extraordinary needs that may arise;
- (8) will be connected to municipal government offices and commercial centers by public transportation; and
- (9) to the degree possible, will be contained in one or

more school district boundaries governing admission to elementary, middle and high schools as the adjoining municipal area.

(c) The Planning Advisory Board's recommendation to the Board of County Commissioners shall be either:

- (1) Approval of the proposed boundary change;
- (2) Approval of the proposed boundary change on a modified basis;
- (3) Deferral of the proposed boundary change for more information;
- (4) Deferral of the proposed boundary change to permit modification; or
- (5) Denial of the proposed boundary change.

Public hearing.

The Clerk of the County Commission, upon receipt of the recommendations of the Planning Advisory Board, shall set the matter of such proposed boundary changes for public hearing at a regular meeting of the County Commission.

The County Clerk shall cause notice of such public hearing to be published in a daily newspaper of general circulation in Miami-Dade County at least once not less than one (1) week prior to the date of such public hearing.

Notice of such public hearing shall be furnished to a representative of the petitioner or the municipality initiating the proposed boundary change and to all property owners within the area and within six hundred (600) feet thereof.

The cost of such notice shall be paid by the individual, group or municipality initiating the proposed change.

At such public hearing, the County Commission shall review and consider the recommendations of the Planning Advisory Board, and shall afford to all interested persons an opportunity to be

heard upon the merits and propriety of the proposed boundary changes.

(A) At the conclusion of the public hearing the Board of County Commissioners, in evaluating the appropriateness of a petition for boundary change shall consider the following guidelines:

(1) The suitability of the proposed boundaries, in conjunction with the existing municipality, provide for a municipal community of interest that is both cohesive and inclusive. The proposed annexation area should:

(a) Not divide a U.S. Census Designated Place, to the extent feasible.

(b) Include adjacent areas of ethnic minority and lower income residents in which a majority of those residents have so petitioned.

(c) Have contiguity and not create any unincorporated enclave area(s). An unincorporated enclave area is defined as an area that would be 1) surrounded on more than eighty (80) percent of its boundary by one (1) or more municipalities and 2) of a size that could not be serviced efficiently or effectively.

(d) Have natural or built barriers as boundaries, to the extent feasible, and

(2) The existing and proposed projected property tax cost for municipal-level services to average homeowners in the area as currently unincorporated and as included as part of the annexing municipality,

(3) The proposed annexation area is totally contained within the Urban Development Boundary depicted on the future Land Use Plan map of the Miami-Dade County Comprehensive Development Master Plan,

(4) The impact of the proposal on the revenue base of the unincorporated area, and on the ability of the County to efficiently and effectively provide services to adjacent remaining unincorporated areas,

(5) The financial impacts of the proposed boundary change on the remaining unincorporated areas of Miami-Dade County. Specifically in order to insure fiscal equity the per capita taxable property value of the proposed annexation area should fall between twenty thousand dollars (\$20,000.00) and forty-eight thousand dollars (\$48,000.00) in order to assure that fiscal viability is maintained in the unincorporated area.

The range of per capita taxable value shall not apply to the annexation of unincorporated enclave areas that are surrounded by more than eighty (80) percent of their boundary by one (1) or more municipalities and are of a size that can not be served efficiently or effectively.

(6) Any other factor that arises by virtue of recommendations of the Boundaries Commission, pursuant to Section 20-30 of the Code.

(7) Any other factor that arises by virtue of any special or unique circumstances of a given area.

(8) Whether the proposed annexation excludes areas designated terminals on the County's Adopted Land Use Plan Map; alternatively, if included, the County retains applicable master plan and regulatory authority over any area designated terminals and areas, excluding existing incorporated municipalities, located within one-half (1/2) mile surrounding any area designated terminals ("surrounding areas") so as to protect the operations, land uses authorized within such area, and future development of areas designated terminals and surrounding areas located therein.

(9) Whether the proposed annexation provides that the County retains master plan and regulatory authority over areas designated terminals and surrounding areas to encourage the use of public transportation and urban infill development.

(B) At the conclusion of such public hearing, the County Commission, in the exercise of its discretion, may deny the requested boundary change, by motion, or may direct the County Attorney to prepare an appropriate ordinance accomplishing the proposed boundary change,

- (C) which ordinance shall be placed on the official agenda of a subsequent regular meeting of the County Commission for consideration and adoption on first reading,
- (D) the County Commission may defer such requested boundary change for further consideration at a subsequent meeting, at which no public hearing or discussion by others than members of the County Commission shall be required.

Enactment of ordinance changing boundaries.

The enactment of any ordinance providing for changes in municipal boundaries shall be accomplished in accordance with the requirements of Section 1.02 of the Home Rule Charter, this Chapter, and the Rules of Procedure governing meetings of the Board of County Commissioners.

Retention of electric franchise revenues.

Any changes in the boundaries of municipalities involving the annexation of unincorporated areas of the County shall be made subject to the provisions of Ordinance No. 89-81 granting an electric franchise to the Florida Power & Light Company, and shall be effective only upon the condition and with the reservation herein stated that the County shall continue to collect and receive all electric franchise revenues accruing within such annexed areas from the effective date of Ordinance No. 89-81 during the full term of the County franchise in the same manner as though such annexed areas remained a part of the unincorporated areas of the County.

Every ordinance enacted to effectuate the annexation of unincorporated areas of the County to a municipality shall expressly set forth such condition, unless the Board of County Commissioners, for good cause, shall waive such condition by two-thirds vote of the entire membership of the board.

Retention of all utility tax revenues.

Any changes in the boundaries of municipalities involving the

annexation of unincorporated areas of the County, and shall be effective only upon the condition and with the reservation that the County shall forever continue to collect and receive all utility tax revenues accruing within such annexed areas in the same manner as though such annexed areas remained a part of the unincorporated areas of the County.

Every ordinance enacted to effectuate the annexation of unincorporated areas of the County to a municipality shall expressly set forth such condition.

Retention of cigarette tax revenues.

Any changes in the boundaries of municipalities involving the annexation of unincorporated areas of the County shall be made subject to the provisions of Ordinance No. 69-7 [Sec. 29-2], imposing an excise tax on the retail sale of cigarettes in the unincorporated area of Miami-Dade County pursuant to the provisions of Article VIII, Section 6(f), Florida Constitution, and Section 210.03, Florida Statutes, and shall be effective only upon the condition and with the reservation that the County shall continue to collect and receive all cigarette tax revenues accruing within such annexed areas in the same manner as though such annexed areas remained a part of the unincorporated areas of the County.

Every ordinance enacted to effectuate the annexation of unincorporated areas of the County to a municipality shall expressly set forth such condition.

Retention of garbage and refuse collection and disposal.

Any changes in the boundaries of municipalities involving the annexation of unincorporated areas of the County shall be effective only upon the condition and with the reservation that the County shall either forever continue to collect and dispose of all residential waste in such annexation areas in the same manner as though such annexed areas remained part of the

unincorporated areas of the County, unless the authority to collect such waste is delegated by the County to the governing body of the municipality throughout a twenty (20) year interlocal agreement which provides for collection services, and a twenty (20) year interlocal agreement which provides for disposal services in substantially the form approved by Resolution No. R-1198-95.

Every ordinance enacted to effectuate the annexation of unincorporated areas of the County to a municipality shall expressly set forth such condition.

Annexing Municipality's Responsibilities for Bond Indebtedness.

Any changes in the boundaries of a municipality involving the annexation of unincorporated areas of the County shall be effective only upon the condition that such municipality shall be responsible for (i) its pro-rata share of any County debt outstanding for the area annexed at the time of the annexation; and with respect to any municipality that is part of the Stormwater Utility, debt outstanding for the area annexed at the time the municipality elects to be separated from the Stormwater Utility through an interlocal agreement or by exemption and (ii) its pro-rata share of any refunding of such debt. The municipality's annual pro-rata share of debt service for the annexed area shall be determined by multiplying the total debt service on the outstanding debt in each Fiscal Year by the municipality's percentage share of pledged revenues (revenues pledged by the County to the repayment of the debt).

The municipality's percentage share shall be determined by dividing the pledged revenues collected within the annexed area during the County's Fiscal Year in which annexation is executed, and with respect to the Stormwater Utility in the Fiscal Year in which the municipality elects to separate from the Stormwater Utility district; by the total pledged revenues collected in that same Fiscal Year.

It is further provided that the annexation shall be effective only upon the condition that the County continues to collect and distribute the pledged revenues in a manner that is consistent with the requirements of the debt.

The requirements of this section shall be the subject of an interlocal agreement between the County and the annexing municipality that shall be adopted by the annexing municipality prior to the County Commission's adoption of any ordinance authorizing a boundary change.

Areas and Facilities of Countywide Significance.

(a) Definition. "Areas and Facilities of Countywide Significance" consist of any private or public lands, including surface, subsurface, and appurtenant airspace and improvements thereupon, located in unincorporated Miami-Dade County as of the date of this ordinance that are deemed necessary by the Board of County Commissioners for the coordinated use of lands, development and service delivery within the County to promote the health, safety, order, convenience, prosperity, and welfare of the current and future residents and tourists of this County.

(b) Designation. The Board of County Commissioners hereby designates each of the following lands listed on Exhibit A, as an "Area or Facility of Countywide Significance". Any future designation of lands as an Area or Facility of Countywide Significance may be made by resolution of the Board of County Commissioners, upon a finding that:

- 1) The area or facility is susceptible to substantial change and development that will detrimentally affect the facility or land;
- 2) There is a need for the continued, unimpaired functioning of the area or facility by the greater community and;
- 3) The service provided at or by the area or facility, or at a combination of areas or facilities, is a significant resource to the greater community.

If the Board of County Commissioners determines that an area or facility no longer meets the definition of an "Area or Facility of Countywide Significance" as defined herein, the Commission, by resolution, may relinquish regulatory control to the municipality in which such area or facilities are located.

(c) **Regulatory Jurisdiction Over Areas or Facilities of Countywide Significance Reserved to the County.** Jurisdiction for purposes of comprehensive planning, zoning and building and other development approvals (including but not limited to land use, site plan approvals, issuance of building permits, building inspections, issuance of certificates of occupancy, zoning applications, special exceptions, variances, building or zoning moratoria, and all other types of functions typically performed by the departments responsible for building, planning and/or zoning), water and sewer installations, compliance with environmental regulations, and utility regulation shall be and are hereby vested in Miami-Dade County regardless of any municipal code, charter, or ordinance provision to the contrary.

If an "Area or Facility of Countywide Significance" is located in an area which is sought to be annexed to a municipality or incorporated, the County shall not transfer operation, maintenance, or regulatory jurisdiction of such Area or Facility to a municipality, unless expressly permitted herein.

(d) **Applicability.** The requirements of this ordinance apply to unincorporated areas annexed after the effective date of this ordinance.

(e) **Condition of Annexation.** The provisions of this section shall be considered a condition of annexation for any area annexed after the effective date of this ordinance and shall be the subject of an interlocal agreement between the County and the annexing municipality.

This interlocal agreement shall be adopted by the annexing municipality prior to the County Commission's adoption of any

ordinance authorizing a boundary change.

Mitigation on proposed boundary changes.

(a) The Board of County Commissioners may require as a condition of municipal boundary change involving an area that is not revenue neutral, that the municipality shall agree to make an annual mitigation payment to the County's Municipal Services Trust Fund in the Unincorporated Municipal Services Area Budget.

The amount of the annual mitigation payment shall be determined by the Board of County Commissioners. For purposes of this section, "a revenue neutral area" is defined as an area that previously, as part of the unincorporated municipal service area, generated revenues equal to or less than the cost of services provided to the area by the County.

(b) In determining whether as a condition of any municipal boundary change the annexing municipality will be required to pay an annual mitigation payment to the County's Municipal Services Trust Fund, the Board of County Commissioners may consider, among other factors deemed appropriate by the Board, whether the proposed annexation will eliminate enclave areas in the unincorporated area.

Election on proposed boundary changes; required.

(a) If a boundary change involves the annexation or separation of an area having two hundred fifty (250) or fewer resident electors, and the area is more than fifty (50) percent developed residential, no proposed boundary change shall be accomplished unless a majority of resident electors voting at such an election approve such boundary change.

All costs of such elections shall be paid in advance by the

persons, group or municipality initiating the proposed boundary change.

The determination of whether an area is more or less than fifty (50) percent developed residential shall be made in the sole discretion of the Director of the Department of Planning and Zoning.

- (b) In the event that a boundary change involves the annexation or separation of an area of which more than two hundred fifty (250) residents are electors, the Board of County Commissioners, pursuant to Section 5.04(B) of the Home Rule Charter of Miami-Dade County, Florida, may call an election to be held for the purpose of submitting to these electors the question whether the proposed boundary change shall be approved or disapproved.
- (c) All costs of such elections shall be paid in advance by the municipality initiating the proposed boundary change.

TAB 3

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 4

RESOLUTION NO. 07-_____

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ENDORSING THE FLORIDA GREEN BUILDING COALITION'S "GREEN LOCAL GOVERNMENT STANDARD;" PROVIDING AUTHORIZATION FOR THE TOWN MANAGER TO PURSUE THE GREEN LOCAL GOVERNMENT STANDARD; PROVIDING FOR THE ENCOURAGEMENT OF THE FLORIDA LEGISLATURE AND GOVERNOR TO SUPPORT THE GREEN LOCAL GOVERNMENT PROGRAM; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay (the "Town") recognizes the importance of environmental stewardship in a variety of media, including energy, water, air, land and waste; and

WHEREAS, successful environmental stewardship practices will enhance local and national energy security, protect natural resources for future generations, and result in long term cost savings; and

WHEREAS, the Florida Green Building Coalition, Inc., is a Florida non-profit corporation with open membership whose primary mission is to develop and maintain Green Designation Standards for Florida and to promote cost-effective, sustainable improvements in the built environment; and

WHEREAS, the Florida Green Building Coalition not only presents opportunities for a municipality to "be green", but also provides examples and resources covering how to do it; and

WHEREAS, the Florida Green Building Coalition, Inc., has developed the "Green Local Government Standard," which designates Green Cities and Green Counties for outstanding environmental stewardship; and

WHEREAS, the Green Local Government Standard focuses on improving municipal environmental performance through measurable criteria for municipalities to pursue in order to promote alternative energies and a cleaner environment; and

WHEREAS, because the Green Local Government Standard was developed with the participation of cities and counties, it recognizes the diversity of Florida's municipalities and their need for flexibility and autonomy; and

WHEREAS, municipalities who incorporate sufficient criteria such that they meet or exceed designated thresholds are "certified" or "registered" as a Green Local Government; and

WHEREAS, a Green Local Government is defined as a city or county that incorporates multiple environmental, ecological, and sustainability features throughout the functions they

perform that improve the environmental performance considerably over a city or a county that just minimally meets state and local regulations; and

WHEREAS, the Green Local Government Standard is a useful reference even for those municipalities who do not choose to become “certified” or “registered”, but who are trying to achieve a particular environmental goal.

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. **Florida Green Building Coalition Endorsement.** The Town Council hereby endorses the Florida Green Building Coalition’s “Green Local Government Standard” as a voluntary means for municipalities to take positive steps toward improving and advancing environmental quality and energy security.

Section 3. **Town Manager Authorization.** The Town Council hereby authorizes the Town Manager to take all action necessary to pursue steps toward becoming a Florida Green Local Government using the Green Local Government Standard developed by the Florida Green Building Coalition, including the expenditure by the Manager of the \$3,000.00 application fee.

Section 4. **Encouragement of the Florida Legislature and Governor.** The Town Council hereby encourages the Florida Legislature and the Governor to support the Green Local Government program of the Florida Green Building Coalition, Inc., as a means for Florida municipalities to use their home rule powers to improve their environmental stewardship through participation in a program that is voluntary, fiscally defensible, and tailored to the specific environmental goals of each municipality and its citizens.

Section 5. **Transmittal of Resolution.** The Town Council hereby authorizes the Town Clerk to transmit this Resolution to the Florida Legislature and Governor.

Section 6. **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

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 5

RESOLUTION NO. 07-____

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING THE INTERLOCAL AGREEMENT FOR THE INSTALLATION OF ENTRY FEATURE MONUMENT SIGNS BETWEEN MIAMI-DADE COUNTY PUBLIC WORKS DEPARTMENT AND THE TOWN OF CUTLER BAY; AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY TO IMPLEMENT THE TERMS AND CONDITIONS OF THE AGREEMENT; AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Cutler Bay (the “Town”) has requested that entrance feature monument signs be installed to clearly identify the Town’s limits along Miami-Dade County owned roadways; and

WHEREAS, an Interlocal Agreement with the Miami-Dade County Public Works Department would provide the Town with the right and responsibility of installing and maintaining entrance feature monument signs within the Town’s limits; and

WHEREAS, the Town Council finds that it is in the best interest of the Town to approve the agreement between the Town and Miami-Dade County for installation of entrance feature monument signs.

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. Approval of Agreement. The Agreement for the installation and maintenance of monument signs between Miami-Dade County and the Town of Cutler Bay, 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 Town Attorney are authorized to take all steps necessary to implement the terms and conditions of the Agreement.

Section 4. Execution of Agreement. The Mayor is authorized to execute the Agreement on behalf of the Town.

Section 5. **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

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	_____

**INTERGOVERNMENTAL AGENCY AGREEMENT
TO PERFORM TRAFFIC ENGINEERING FUNCTIONS.**

THIS INTERGOVERNMENTAL AGENCY AGREEMENT TO PERFORM TRAFFIC ENGINEERING FUNCTIONS (**AGREEMENT**), made and entered into this ____ day of _____, 2008, by and between the Town of Cutler Bay, FLORIDA, a municipal corporation of the STATE OF FLORIDA, hereinafter referred to as the “**TOWN**” and **MIAMI-DADE COUNTY**, a political subdivision of the STATE OF FLORIDA, MIAMI-DADE County.

WITNESSETH

WHEREAS, pursuant to Section 2-96.1 of the Miami Dade County Code, all traffic control and traffic engineering services in Miami-Dade County are under the exclusive jurisdiction of the **COUNTY**; and

WHEREAS, the **TOWN** desires to assume the installation and maintenance responsibilities of certain traffic engineering functions pertaining to it’s local municipal streets only; and

WHEREAS, the **COUNTY** has determined that the **TOWN** is both equipped and able to perform the traffic engineering functions as herein specified on its local streets; and

WHEREAS the **TOWN** has, by proper resolution attached hereto and by reference made a part hereof, authorized its officer to enter into this **AGREEMENT**.

NOW THEREFORE, the **TOWN** and the **COUNTY** agree as follows:

1. The recitals set forth above are incorporated herein by reference.
2. The **TOWN** will only install and maintain the following designated types of traffic control devices and only on those local municipal streets operated and maintained by the **TOWN** within its boundaries:

PRE-FABRICATED MONUMENT ENTRY SIGNS

SIX (6) SITES:

- SITE# 1: SW 211 Street (east of SW 112 Avenue)**
- SITE# 2: Caribbean Blvd & SW 107 Avenue**
- SITE# 3: SW 184 Street & SW 87 Avenue**
- SITE# 4: Old Cutler Road (south of SW 184 Street)**
- SITE # 5: SW 87 Avenue & SW 232 Street**
- SITE # 6: Old Cutler Road (north of SW 224 Street)**

Traffic calming devices may be installed on local municipal streets only after an appropriate traffic engineering study has been performed and sealed and signed plans have been submitted to the Public Works Department of the **COUNTY** for its review and approval.

3. The **TOWN** shall attach a decal to the back of the sign panels indicating ownership and date of installation.

4. The **TOWN** assumes sole and complete responsibility for the maintenance of all such signs that are installed by the **TOWN** within its boundaries.

5. The **TOWN** assumes sole and complete liability for any accidents and/or injuries which may or are alleged to occur or arise out of the installation, operation or maintenance of said traffic control devices, and hereby indemnifies and saves harmless the **COUNTY** from any and all claims of negligence as a result of the installation, operation or maintenance of said signs.

6. All traffic control signs installed by the **TOWN** in accordance with this **AGREEMENT** shall conform to the applicable requirements established by the following publications:

Florida Department of Transportation Standard Specifications for Road and Bridge Construction.

Manual on Uniform Traffic Control Devices for Streets and Highways, U.S. Department of Transportation Federal Highway Administration (ANSI D6.1e-1989), including latest revisions.

Standard Highway Signs, U.S. Department of Transportation, Federal Highway Administration.

Miami-Dade County Public Works Manual (available from the Public Works Department, Reproduction Services, 111 NW 1 Street, Suite 1604, Miami, FL 33128)

7. For installation of traffic control devices, the **TOWN** shall hire a **COUNTY** licensed contractor or perform the work in-house by the **TOWN'S** Public Works crew.

8. Should the **TOWN** install street name signs at the same locations where a stop-top street name exists, then the **TOWN** shall utilize the other corners of the intersection. Subsequently, the **TOWN**, shall remove the **COUNTY'S** stop-top street name signs by an approved sign contractor. All signs and hardware removed shall be dismantled and returned to the Traffic Signals and Signs Division of the **COUNTY** Public Works Department.

9. The **TOWN** shall be responsible for keeping records of any and all installations and repairs, and furnishing pertinent documents as and when said records may be requested.

10. Failure to carry out any of the duties and responsibilities assumed herein by the **TOWN** may result in termination of this **AGREEMENT**, at the sole discretion of the **COUNTY**.

IN WITNESS WHEREOF, the **TOWN** and the **COUNTY** have set their hands the day and year above written.

MIAMI-DADE COUNTY

Attest:

HARVEY RUVIN, CLERK

By: _____

By: _____
County Deputy Clerk

Approved as to form and legal sufficiency:

Assistant County Attorney

Attest:

Town of Cutler Bay

By: _____
Erika Gonzalez-Santamaria
Town Clerk

By: _____
Steven J. Alexander
Town Manager

Approved as to form and legal sufficiency:

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

TAB 6



Planning & Zoning Department

R. Don O'Donniley, AICP
Planning Director

MEMORANDUM

To: Steve Alexander, Town Manager

From: R. Don O'Donniley

Date: December 19, 2007

Re: A Resolution Waiving Planning Department Review Fees for Non-profit Bazaars

BACKGROUND

The Town of Cutler Bay adopted a fee schedule for services performed by the Planning Department in the review of applications submitted to the Town. The Town of Cutler Bay has an \$85.00 fee established for review of applications for special event permits (bazaars) sponsored by non-profit organizations. Councilmember Sochin has asked staff to review this application procedure and propose any appropriate amendment that would facilitate such events for not for profit organizations.

ANALSIS

Staff has examined the application procedure. Over the past year, there have been few requests for applications to conduct a bazaar by non-profit organizations. The proposal has very minimal impact on Town revenue.

Non-profit organizations are a vital part of our community. Our "Code" already exempt such activities from the need to pay the "business license" (occupational license) for bazaars. The Town already offers a number of permit services without requiring a fee to assure citizens can conduct common activities but with the assurance these activities do not continue unabated or cause severe negative impacts on neighborhoods.

RECOMMENDATION

Staff recommends the Council adopt the Resolution.

RESOLUTION NO. 07-_____

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, WAIVING THE PLANNING DEPARTMENT'S SPECIAL EVENT FEES FOR NOT-FOR-PROFIT AND CHARITABLE ORGANIZATIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, not-for profit and charitable organizations often hold special events such as, fairs and carnivals, in order to raise money for their respective causes; and

WHEREAS, the Town Code of Ordinances (the "Town Code") requires the Planning Department to review such special events in order to ensure compliance with the Town Code; and

WHEREAS, given that such organizations are not-for-profit, the Town Council has determined that it is appropriate to waive the Planning Department fees for such a review; and

WHEREAS, the Town Council finds that approving 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. **Waiving of Special Event Fees.** The Town Council hereby waives the Planning Department's fee for reviewing a charitable or not-for-profit organization's special event in accordance with the Town Code of Ordinances. However, notwithstanding the foregoing, the Planning Department shall continue to charge a fee for review of a special event where: (1) a vendor operates on a site not owned by a not-for-profit or charitable organization for a profit; or (2) a vendor operates on a charitable or not-for profit organization's site for profit and is not participating in a charitable or fund raising activity being conducted by the not for profit organization as a part of the special event permit.

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

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 7



Steven J. Alexander
Town Manager

MEMORANDUM

To: Honorable Mayor and Town Council

From: Steven J. Alexander, Town Manager

Date: December 14, 2007

Re: Stormwater Billing Agreement

REQUEST

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING THE AGREEMENT FOR BILLING OF STORMWATER CHARGES BETWEEN MIAMI-DADE COUNTY AND THE TOWN OF CUTLER BAY; AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY TO IMPLEMENT THE TERMS AND CONDITIONS OF THE AGREEMENT; AUTHORIZING THE TOWN MANAGER TO EXPEND A BUDGETED FUNDS; AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

BACKGROUND AND ANALYSIS

The Town Council 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. Additionally, the Town was awarded a \$200,000 grant from the South Florida Water Management District in order to develop a Stormwater Master Plan. The Town's Consultants (Kimley-Horn & Associates) have completed the Stormwater Master Plan and Executive Summary.

Town Staff has reviewed the Stormwater Master Plan's Executive Summary and is recommending that the Miami-Dade County Water and Sewer Department perform the initial billing/collection services. Residents will be billed the Town's adopted stormwater fee on their regular utility bill. **The fee will remain the same as previously billed by the County.** On the utility bill, the Town's stormwater fee will be identified as a separate fee and the Town's phone number will be printed, for any questions/concerns in this regard.

It is recommended that the Town enter into an Agreement with the Miami-Dade Water and Sewer Department in order to bill/collect the Town's stormwater rates. The funds collected by Miami-Dade's Water and Sewer Department will be forwarded to the Town at the end of each billing cycle. An eighty-seven cent (\$0.87) administrative fee per bill will be charged by Miami-Dade Water and Sewer Department in order to bill/collect the Town's stormwater fees.



Office of the Town Manager

Upon adoption of the proposed Town Resolution, Town staff will immediately coordinate with County staff to present the agreement before the County's Governmental Operations and Environment Committee (GOE). Once the GOE Committee approves the agreement, the item will be discussed before the Board of County Commissioners. Town staff estimates the County's approval process to be completed before April 2008. For this reason, Section (6) of the proposed agreement has been left blank and specific dates will be inserted upon adoption by the Board of County Commissioners.

Town Staff has reviewed similar agreements from other municipalities (ie: Miami, Key Biscayne, Aventura, Miami Lakes, South Miami, Palmetto Bay, and Miami Gardens) that are billing their respective stormwater fees through Miami-Dade Water and Sewer Department's Billing Agreement. These municipalities mentioned are billed the same administrative fee (\$0.87 per bill) by Miami-Dade Water and Sewer Department.

RECOMMENDATION

We recommend that the attached Resolution be adopted.

RESOLUTION NO. 07-_____

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING THE AGREEMENT FOR BILLING OF STORMWATER CHARGES BETWEEN MIAMI-DADE COUNTY AND THE TOWN OF CUTLER BAY; AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY TO IMPLEMENT THE TERMS AND CONDITIONS OF THE AGREEMENT; AUTHORIZING THE TOWN MANAGER TO EXPEND A BUDGETED FUNDS; AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Cutler Bay (the “Town”) has requested that the Town be allowed to operate and maintain its own stormwater utility; and

WHEREAS, the Town has additionally requested that the County provide stormwater billing and collection services to the Town in conjunction with its County water and sewer billing; and

WHEREAS, the Town Council finds that it is in the best interest of the Town to approve the agreement between the Town and the county for stormwater billing services.

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. Approval of Agreement. The Agreement for the Billing of Stormwater Charges between Miami-Dade County and the Town of Cutler Bay, 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 Town Attorney are authorized to take all steps necessary to implement the terms and conditions of 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 Mayor is authorized to execute the Agreement on behalf of the Town.

Section 6. **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

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 FOR THE BILLING OF
STORMWATER CHARGES
BETWEEN
MIAMI-DADE COUNTY
AND
TOWN OF CUTLER BAY

THIS AGREEMENT, entered into this ___ day of _____, 2008, by and between the TOWN OF CUTLER BAY, FLORIDA, a municipal corporation of the State of Florida (the "TOWN"), and MIAMI-DADE COUNTY, a political subdivision of the State of Florida (the "COUNTY").

W I T N E S S E T H:

WHEREAS, the COUNTY, through its Miami-Dade Water and Sewer Department (the "Department"), operates the water and sewer utility systems within the TOWN; and

WHEREAS, the TOWN desires to be responsible to operate and maintain the stormwater utility system within the TOWN boundaries, and

WHEREAS, by Resolution No. _____, approved on _____, 2008, by the Board of County Commissioners, as of _____ 1, 2008 the TOWN shall be exclusively responsible to operate and maintain the stormwater utility system within the TOWN boundaries, and

WHEREAS, the TOWN has requested the COUNTY to administer, bill and collect a stormwater utility service charge simultaneously with the issuance of the COUNTY's bills for water and sewer service, and

WHEREAS, the TOWN acknowledges that there are several customers within TOWN boundaries who are not provided water and sewer service by the Department and stormwater billing services for such customers are not a part of this agreement, and

WHEREAS, the COUNTY needs to retain, from the stormwater utility service charges it collects for the TOWN, on a monthly basis, the TOWN's pro-rata share of debt service on the Stormwater Utility Revenue Bonds, Series 1999 and Series 2004 (the "Stormwater Bonds") outstanding on the Exemption Date of the Town from the Miami-Dade County Stormwater Utility;

NOW, THEREFORE, in consideration of mutual advantages, it is agreed:

Section 1. The TOWN, jointly with the COUNTY, will designate and cause to be identified from time to time the water and sewer service accounts of the Department which thereafter, under the rules and regulations of the TOWN, shall be billed for stormwater utility service charges. The TOWN shall designate the rate classifications applicable thereto in writing in a format acceptable to the COUNTY. The COUNTY shall act thereon until such designations and classifications are changed in writing by the TOWN. The TOWN understands and accepts that the COUNTY shall consider the person or persons whose names appear on the COUNTY's water and sewer service account as the persons responsible for the stormwater utility service charges at the location involved.

Section 2. The TOWN shall deliver to the COUNTY a minimum of thirty (30) calendar days in advance of the effective date its schedule of rates and any revisions of such schedule of rates by furnishing to the Department's Assistant Director of Finance a certified copy of the ordinance or other action of the TOWN promulgating said revised schedule of rates. Until the COUNTY is so furnished with a revised schedule, the COUNTY shall act upon the prior delivered schedule. The stormwater utility service charge shall be prorated in accordance with the revised schedule of rates. No security deposits shall be collected by the COUNTY nor shall delinquent penalty charges be imposed by the COUNTY on the stormwater utility charge.

Section 3. The COUNTY agrees, during the COUNTY's regular and periodic billing procedures, to cause to be billed and collected from each water and sewer customer under said accounts, as an added and designated separate item on the bill, the stormwater utility service charge, according to the schedule of rates established by the TOWN for such customer. During the term of this Agreement, this shall be the exclusive method for billing stormwater utility service charges by the County; no separate bills shall be issued, except for those bills that may be generated by the TOWN. The TOWN authorizes and empowers the COUNTY to render such billing for the TOWN's account and on the payment thereof to give receipt and acquittance therefore, either by endorsement of payment upon such billings or by separate receipt. Upon the initial billing by the COUNTY to each user of stormwater utility service and at any time during the term of this agreement, as deemed necessary by the COUNTY or the TOWN, the TOWN shall at its sole cost and expense and independent of this Agreement, advise such user of the method and arrangement between the TOWN and the COUNTY for the billing and collection of said charge by the COUNTY for and on behalf of the TOWN as the TOWN's agent. Furthermore, the TOWN shall notify its stormwater utility users of future rate increases. The COUNTY shall not be responsible for the notification of new owners, occupants or tenants that there is a stormwater utility service charge.

Section 4. The COUNTY agrees to observe the same diligence, policy and procedure in the billing, and collection of stormwater utility service accounts as is used by the COUNTY in billing and collecting its water service accounts, except that the COUNTY shall not terminate water and/or sewer service for non-payment of stormwater utility service charges, except when account balances exceed \$100 nor shall it institute or maintain suits at law for collection of stormwater utility service charges. The COUNTY may provide water and sewer service to customers irrespective of said customer's failure to pay the applicable stormwater utility charge. The COUNTY shall not be responsible for the billing of accounts that are inactive. The COUNTY shall not file any liens on property for the collection of the stormwater utility charges. Legal actions for non-payment of stormwater utility charges shall be the sole responsibility of the TOWN.

Section 5. The COUNTY will keep correct and proper books of accounts, showing monthly gross billings of stormwater utility service charges, and shall provide to the TOWN a monthly statement in writing, showing the net amount owed the TOWN by the COUNTY for the month covered by such statement. The COUNTY shall provide this statement and the remittance due the TOWN within sixty (60) days of the end of each monthly period. Based on such statement, the COUNTY shall make payment to the TOWN of the amount due, less the COUNTY's compensation for the billing and collection of said charges and less any other payments or deductions as hereinafter specifically provided in Paragraphs 7, 10, and 11 of this Agreement.

The TOWN agrees that the COUNTY shall remit monthly payments based on the collection of stormwater utility service charges, when the COUNTY's billings system is capable of this method of remittance on all accounts.

Section 6. For billings performed from _____ 1, 2008 through the expiration of this agreement, the stormwater billings and remittance to the TOWN shall be as shown below:

- A. Quarterly billings represent service rendered for the previous 90 day period and shall be prorated for a period from _____ 1, 2008 through _____ 31, 2008 as follows:

_____ 2008 – 83.3% of the revenue billed shall be retained by the COUNTY and 16.7% shall be remitted to the TOWN.

_____ 2008 – 50% of the revenue billed shall be retained by the COUNTY and 50% shall be remitted to the TOWN.

_____ 2008 - 16.7% of the revenue billed shall be retained by the COUNTY and 83.3% of shall be remitted to the TOWN.

- B. Monthly billings represent service rendered for the previous 30-day period, therefore, for the month of _____ 2007, the revenue billed shall be prorated and 50% of the revenue shall be retained by the COUNTY and 50% of the revenue shall be remitted to the TOWN.

- C. For monthly billings performed after _____ 1, 2007 and quarterly billings performed after June 1, 2007, to the termination of the agreement, 100% of the billed amounts will be paid to the TOWN less the deductions as provided in Sections 7, 10 and 11.

Section 7. Adjustments for uncollected stormwater billings shall be made on a regular basis, at least annually, as a deduction provided in Section 5.

Section 8. Upon written request from the TOWN, the COUNTY shall make available for inspection or audit by the TOWN and its representatives at any reasonable time all of its records pertaining to the COUNTY's actions under this Agreement as agent for the TOWN and shall also furnish to the TOWN such information concerning the administration of this Agreement as the TOWN may reasonably request, including information as to delinquent stormwater utility charges and accounts not currently being billed. Should the TOWN, in any audit of the COUNTY's records, find a discrepancy between the amount of funds remitted to the TOWN and the actual billing and collection by the COUNTY, the COUNTY shall within 30 days of receipt of written notification from the TOWN remit to the TOWN the sums owed.

Section 9. Both the TOWN and the COUNTY recognize that in the billing and collection of stormwater utility service charges involving thousands of customers, numerous situations arise which require discretion. The TOWN agrees with the COUNTY that the COUNTY may use its best judgment in such instances. The COUNTY's method or manner shall not be considered as negligence under or independent of the terms and conditions of this Agreement or as a breach thereof and the COUNTY shall not be liable or responsible to the TOWN for any loss in stormwater utility service charge revenues by reason of the COUNTY's discretionary handling of such situations. Specifically, the COUNTY shall have the right to remove or adjust the stormwater utility service charge from a customer's bill if the customer provides proof acceptable to the COUNTY that he or she was not the owner, occupant or tenant of the property on the date that the stormwater utility service charge was applied. However, the COUNTY shall advise the TOWN of all

adjustments to TOWN accounts as part of the monthly statements provided pursuant to Section 5. Except as otherwise specified in this paragraph, any adjustments to accounts assessed a stormwater utility service charge shall be initiated solely by the TOWN and provided to the COUNTY in writing.

Section 10. The TOWN agrees to pay to the COUNTY and the COUNTY shall receive from the TOWN, by means of deduction from payments for monthly billings, compensation determined as follows:

- A. A one-time reimbursement in the amount of \$500.00 to the COUNTY for costs incidental to the COUNTY's establishment of the original records necessary for the COUNTY to bill stormwater utility service charges or accounts for and on behalf of the TOWN and as the agent of the TOWN, including but not limited to (1) payroll cost and related overhead costs; (2) equipment purchased for the exclusive use of maintaining records necessary for billing said charges; (3) cost of all changes in COUNTY's billing equipment to make feasible the COUNTY's billing for stormwater utility service charges. This amount shall be deducted from the first payment to the TOWN; and
- B. For the period from _____ 1, 2008, until this agreement is modified pursuant to Section 12 hereinafter, a charge in the amount of eighty-seven cents (\$0.87) per bill for all accounts to be charged the TOWN's stormwater utility service charge; and
- C. For all costs and expenses incurred and paid by the COUNTY during the preceding month in defending legal actions brought against the COUNTY by any person, firm or corporation, excluding the TOWN, involving billing or collection of stormwater utility service charges on behalf of the TOWN, or involving the COUNTY's administration of the terms and conditions of this Agreement.

The COUNTY shall notify the TOWN in writing of any legal claims filed against the COUNTY pertaining to the COUNTY's billing and collection of the TOWN's stormwater fees within thirty (30) working days of receipt of any claim. The TOWN shall have the option to defend the COUNTY on any such claims and settle or compromise the same unless such a claim involves employee dishonesty or theft.

Section 11. The TOWN agrees to pay to the COUNTY and the COUNTY shall receive from the TOWN, by means of deduction from payments for monthly billings of stormwater utility service charges collected by the COUNTY for the TOWN, the TOWN's pro-rata share of debt service on (i) the Stormwater Bonds until they are paid in full or provision made for their payment pursuant to Article IX of Ordinance No. 98-187, enacted by the Board on December 15, 1998 in accordance with the debt service schedule set forth in Exhibit A and (ii) any obligations associated with cost sharing Stormwater Management Projects that may include, but not be limited to, canal dredging, canal maintenance and drainage projects agreed to subsequent to the date of this Agreement for which payment will be based on a mutually agreed fraction. For any payments pursuant to (ii) above, the COUNTY, through its Department of Environmental Resources

Management with a copy to Miami-Dade Water and Sewer Department, will inform the TOWN thirty (30) calendar days prior to the beginning of each Fiscal Year, the amount of stormwater utility service charges the County will retain each month in addition to the those retained pursuant to Exhibit A. Upon agreement by both parties, Exhibit A may be modified to include any additional TOWN share of debt service due to future TOWN annexations.

Section 12. The COUNTY reserves the right to review and revise the charges provided for in Section 10 (B) hereinabove and, revise charges.

Section 13. All telephone calls and correspondence from customers regarding the stormwater utility shall be the responsibility of the TOWN. The COUNTY shall cause the telephone number for the TOWN, as provided by the TOWN, to be printed on the COUNTY's regular bill stock.

Section 14. The TOWN agrees that the COUNTY shall not be held liable for any damage, delay or other loss which the TOWN may experience as a result of the COUNTY's practices in administering this Agreement, unless such loss arises from negligence of the COUNTY, its employees or agents.

Section 15. This Agreement shall remain in full force and effect for a period of ten (10) years after its date of execution. This Agreement may be extended at that time by written request from the TOWN to the Department's Assistant Director-Finance and mutual agreement by the Department, without which it shall terminate. Notwithstanding the above provisions, this Agreement shall terminate and be cancelled without further writings between the TOWN and the COUNTY upon either party providing six (6) months notice in writing to the other party so advising the other party.

Notwithstanding the provisions of this paragraph, should the COUNTY fail to timely bill the TOWN's customers in accordance with the agreed upon billing cycles and rates or fail to remit payment to the TOWN in the timeframes specified in Paragraph 5 or 6, the TOWN may terminate this Agreement on thirty (30) days written notice to the COUNTY.

Notwithstanding the above, this Agreement may not be terminated at any time without a COUNTY approved alternate method of payment by the TOWN to the COUNTY of the TOWN's outstanding debt service obligation for the Stormwater Bonds.

Section 16. It is understood and agreed between the TOWN and the COUNTY that the COUNTY's obligation is limited to billing and collection of stormwater utility service charges as specifically provided for in this Agreement.

Section 17. The TOWN shall not allow or permit construction or installation of any connections of stormwater mains which allow stormwater to enter the COUNTY's sanitary sewer system. The TOWN agrees to use its best efforts to detect and lawfully disconnect all stormwater connections to the COUNTY's sanitary sewer system within the TOWN's jurisdiction and submit within ninety (90) days of the execution of this Agreement a timetable for the elimination of such stormwater connections which is reasonably acceptable to the COUNTY.

Section 18. This Agreement shall be binding upon the respective successors and assigns of both the TOWN and the COUNTY.

Section 19. All references to the TOWN under this Agreement that require direction to the

COUNTY shall mean the TOWN Manager or his designee. Whenever written notice to the TOWN is required it shall be sent by Certified Mail, Return Receipt Requested, to the Town of Cutler Bay, 10720 Caribbean Blvd., Suite# 105, Cutler Bay, Florida, 33189 (Attention: Town Manager). Whenever written notice to the COUNTY is required it shall be sent by Certified Mail, Return Receipt Requested, to Miami-Dade County, Miami-Dade Water and Sewer Department, 3071 S. W. 38th Avenue, Miami, Florida 33146, (Attention: Assistant Director-Finance).

Section 20. The County shall maintain adequate records to justify all charges, expensive, and costs relating to County administration billing and collection of Stormwater Utility charges for Town of Cutler Bay residences, for at least three years after termination or expiration of this agreement. The TOWN shall have access to all books, records, and documents as required in this Section for the purpose of inspection or auditing during normal business hours.

Section 21. Governing Law: This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. The COUNTY and the TOWN agree to submit to service of process and jurisdiction of the State of Florida for any controversy or claim arising out of or relating to this Agreement or a breach of this Agreement. Venue for any court action between the parties for any such controversy arising from or related to this Agreement shall be in the Eleventh Judicial Circuit in and for Miami-Dade County, Florida.

Section 22. Entirety of Agreement: This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understanding applicable to the matters contained in this Agreement. The parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this Agreement, and that this Agreement contains the entire agreement between the parties as to all matters contained herein. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that any oral representations or modifications concerning this Agreement shall be of no force or effect, and that this Agreement may be modified, altered or amended only by a written amendment duly executed by both parties hereto or their authorized representatives.

Section 23. Heading: Captions and headings in this Agreement are for ease of reference only and do not constitute a part of this Agreement and shall not affect the meaning or interpretation of any provisions herein.

Section 24. Rights of Others: Nothing in this Agreement expressed or implied is intended to confer upon any person other than the parties any rights or remedies or by reason of this Agreement.

Section 25. Representation of Town: The TOWN represents that this Agreement has been duly authorized, executed and delivered by the Town Council of the Town of Cutler Bay, as the governing body of the TOWN and it has the required power and authority to perform this Agreement and has granted the Town Manager the required power and authority to perform this Agreement.

Section 26. Waiver: There shall be no waiver of any right related to this Agreement unless in writing and signed by the Party waiving such right. No delay or failure to exercise a right under this Agreement shall impair such right or shall be construed to be a waiver thereof. Any waiver shall be limited to the particular right so waived and shall not be deemed a waiver of the

same right at a later time or of any other right under this Agreement.

Section 27. Invalidation of Provisions, Severability: Wherever possible, each provision of the Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Agreement, provided that the material purposes of this Agreement can be determined and effectuated.

Section 28. COUNTY shall perform all work and services desired herein as an independent contractor and not as an officer, agent, servant, or employee of the TOWN. COUNTY shall have control of the work performed in accordance with the terms of this Agreement and of all persons performing the same, and COUNTY shall be responsible for the acts and omissions of its officers, agents, employees, contractors, and subcontractors, if any.

Section 29. Indemnification: To the extent permitted by law the TOWN shall indemnify and hold harmless the COUNTY and its officers, employees, agents, and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the COUNTY or its officers, employees, agents or instrumentalities may incur as a result arising out of, relating to or resulting from the performance of this Agreement by the TOWN or its employees, agents, servants, partners, principals, subconsultants or subcontractors. The TOWN shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the COUNTY, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. Provided, however, this indemnification shall only be to the extent and within limitations of Section 768.25 Fla. Stat., subject to the provisions of that statute whereby the TOWN shall not be held liable to pay a personal injury or property damage claim or judgment by any one person which exceeds the sum of \$100,000, or any claim or judgment or portions thereof, which when totaled with all other claims or judgment paid by the TOWN arising out of the same incident or occurrence, exceed the sum of \$200,000 from any and all personal injury or property damage claims, liabilities, losses or causes of action which may arise as a result of the negligence of the TOWN.

The COUNTY shall indemnify and hold harmless the TOWN and its officers, employees, agents, and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the TOWN or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the COUNTY or its employees, agents, servants, partners, principals, subconsultants or subcontractors. The COUNTY shall pay all claims, suits or actions of any kind or nature in the name of the TOWN, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. Provided, however, this indemnification shall only be to the extent and within the limitations of Section 768.28 Fla. Stat., subject to the provisions of that statute whereby the COUNTY shall not be held liable to pay a personal injury or property damage claim or judgment by any one person which exceeds the sum of \$100,000, or any claim of judgment or portions thereof, which when totaled with all other claims or judgment paid by the COUNTY arising out of the same incident or occurrence, exceed the sum of \$200,000 from any and all personal injury or property damage claims, liabilities, losses or causes of action which may arise as a result of the negligence of the COUNTY.

IN WITNESS WHEREOF, the parties hereto have executed these presents as of the day and year first above written.

MIAMI-DADE COUNTY

ATTEST:

BY: _____
Clerk

BY: _____
County Mayor

ATTEST:

TOWN OF CUTLER BAY

BY: _____
Town Clerk

BY: _____
Mayor

Approved as to form and legal
sufficiency:

Approved as to form and legal
sufficiency:

Assistant County Attorney

Attorney for Town of Cutler Bay

EXHIBIT A
Town of Cutler Bay
Bond Debt Service
1999 and 2004, by ERU

	2007 ERU
SWU SvcArea only	775,739
Cutler Bay	20,281
SWU SvcArea + Cutler	796,020
Cutler Bay %	2.55%

Stormwater Utility Bond Debt Service

Fiscal Year Ending Sept	1999 BOND MDC P&I	1999 Cutler 2.55%	2004 BOND MDC P&I	2004 Cutler 2.55%	Cutler Annual Total	Cutler Monthly Total
2004	\$2,899,313	-	-	-	-	-
2005	\$2,897,318	-	\$4,723,713	-	-	-
2006	\$2,897,668	-	\$4,719,055	-	-	-
2007	\$2,900,088	-	\$4,721,305	-	-	-
2008	\$2,899,288	\$73,932	\$4,722,205	\$120,416	\$194,348	\$16,196
2009	\$2,900,828	\$73,971	\$4,716,755	\$120,277	\$194,248	\$16,187
2010	\$2,898,765	\$73,919	\$4,720,105	\$120,363	\$194,281	\$16,190
2011	\$2,902,275	\$74,008	\$4,716,955	\$120,282	\$194,290	\$16,191
2012	\$2,901,495	\$73,988	\$4,719,155	\$120,338	\$194,327	\$16,194
2013	\$2,901,295	\$73,983	\$4,717,890	\$120,306	\$194,289	\$16,191
2014	\$2,901,315	\$73,984	\$4,721,290	\$120,393	\$194,376	\$16,198
2015	\$2,901,180	\$73,980	\$4,718,200	\$120,314	\$194,294	\$16,191
2016	\$2,900,500	\$73,963	\$4,716,450	\$120,269	\$194,232	\$16,186
2017	\$2,902,000	\$74,001	\$4,716,950	\$120,282	\$194,283	\$16,190
2018	\$2,898,750	\$73,918	\$4,722,450	\$120,422	\$194,341	\$16,195
2019	\$2,900,750	\$73,969	\$4,717,450	\$120,295	\$194,264	\$16,189
2020	\$2,897,500	\$73,886	\$4,722,200	\$120,416	\$194,302	\$16,192
2021	\$2,899,000	\$73,925	\$4,720,950	\$120,384	\$194,309	\$16,192
2022	\$2,899,750	\$73,944	\$4,718,700	\$120,327	\$194,270	\$16,189
2023	\$2,899,500	\$73,937	\$4,720,200	\$120,365	\$194,302	\$16,192
2024	\$2,898,000	\$73,899	\$4,719,950	\$120,359	\$194,258	\$16,188
2025			\$7,617,700	\$194,251	\$194,251	\$16,188
2026			\$7,618,200	\$194,264	\$194,264	\$16,189
2027			\$7,618,700	\$194,277	\$194,277	\$16,190
2028			\$7,618,450	\$194,270	\$194,270	\$16,189
2029			\$7,616,700	\$194,226	\$194,226	\$16,185

TAB 8



Planning & Zoning Department

R. Don O'Donniley, AICP
Planning Director

MEMORANDUM

To: Steve Alexander, Town Manager

From: R. Don O'Donniley

Date: December 19, 2007

Re: Authorization to "Execute" the Interlocal Agreement between Miami-Dade School Board and the Town of Cutler Bay

BACKGROUND

The Town of Cutler Bay (the "Town") executed an Interlocal Agreement with the Miami-Dade School Board to assure adequate school capacity is planned for in response to new development. This system is referred to as concurrency management, with the intent stated in the State Growth management Act being to assure an adequate level of service. The Legislature has amended the Growth management Act to require a closer coordination between when new development is approved and the actual expansion of school facilities to serve the development. Under this revision, the School Board, Miami Dade County and all non-exempt local jurisdictions are required to execute a new Interlocal Agreement prior to January 2008. The Town has school facilities located within it's jurisdiction and is not exempt. Jurisdictions that fail to execute the Interlocal Agreement may be subject to sanctions that include withholding state funding.

REQUEST

The Town Council is asked to approve the "Interlocal Agreement". In addition the Town Council is asked to authorize the Town Manager to enter into and execute the "Interlocal Agreement" between the Miami-Dade School Board, the Town of Cutler Bay, and other non-exempt local jurisdictions.

ANALYSIS

The amendment to the Growth Management Act requires local jurisdictions to accomplish two tasks. The first is to amend or adopt a "School Element" in their Growth Management Plan (GMP). The second requirement is that the local jurisdiction enter into an "Interlocal

Agreement” that assures it will cooperate with the School Board and assure the level of service adopted in the GMP is maintained.

The School Board and Miami Dade County have taken the lead in preparing a County wide “school element’ and concurrency “Interlocal Agreement”. Both efforts will require execution by forty one (41) jurisdictions to comply with the State mandate. In order to elicit input from the jurisdictions, the School Board and the County turned to the planners in the various jurisdictions; acting through their informal professional organization, the Planners Technical Committee (TCP). Representation on the TPC for Cutler Bay included Susan Trevarthen, Chad Friedman, Don O’Donniley and Alex David.

The resulting “Interlocal Agreement” has been adopted by the School Board. As the “Agreement” moved forward for consideration by the County, it was recommended for deferral by the Government Operations and Environmental Committee of the County Commission. The major issue under consideration by the County is whether concurrency will be determined within the effected school service area or on a county wide basis. The Committees Chair asked the County Attorney to draft an amendment to the School Boards preferred version to allow developers to be able to access available class space on a county wide basis. For example, if a newly planned development in Florida City needed to provide classroom space for 10 pupils and no such classroom space existed in the local school service area (feeder area) then the developer could satisfy this need with space available in (for example) Aventura.

Town staff is not recommending the amendment as proposed in the GOE Committee at this time.

Execution of the Interlocal Agreement as drafted by the School Board will place the Town in compliance with the Growth Management Act and the requirement a jurisdiction executes an Agreement prior to 2008. Any remaining issue can be resolved by further amending the Interlocal Agreement following resolution of the current issues.

The latest draft of the “School Element” of our Comprehensive Plan was adopted by the Town and authorized to be transmitted to Department of Community Affairs. The School Element will be revised to respond to the Department of Community Affairs review and will be further considered by the Town Council with final adoption of the Growth Management Plan.

RECOMMENDATION

Staff recommends that the Council approve the Interlocal Agreement and authorize the Manager to execute the School Interlocal Agreement on behalf of the Town of Cutler Bay.

RESOLUTION NO. 07-_____

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING THE “AMENDED AND RESTATED INTERLOCAL AGREEMENT FOR PUBLIC SCHOOL FACILITY PLANNING IN MIAMI-DADE COUNTY;” PROVIDING FOR THE AUTHORIZATION OF THE TOWN MANAGER TO ENTER INTO THIS AMENDED AND RESTATED INTERLOCAL AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay (the “Town”), Miami-Dade County, and the Miami-Dade County School Board recognize their mutual obligation and responsibility for the education, nurturing, and general well-being of the children within the Town; and

WHEREAS, Section 163.3177(6)(h)2, Florida Statutes, requires each county, all the non-exempt municipalities within that county, and the district school board to establish, by interlocal or other formal agreement executed by all affected entities, joint processes for comprehensive land use and school facilities planning programs; and

WHEREAS, in 2006, the Town entered into the “Interlocal Agreement for Public School Facility Planning in Miami-Dade County” establishing joint processes for comprehensive land use and school facilities planning programs; and

WHEREAS, in 2005, the Florida Legislature adopted Senate Bill 360, which, in relevant part, required all non-exempt local governments and school boards to enter into a revised a interlocal or other formal agreement to establish public school concurrency by 2008; and

WHEREAS, in order to meet this new state mandate, the Town Council hereby approves the “Amended and Restated Interlocal Agreement for Public School Facility Planning in Miami-Dade County,”(the “Interlocal Agreement”) in substantially the form attached hereto as Exhibit “A,” and authorizes the Town Manager to enter into this Interlocal Agreement for the Town; and

WHEREAS, public notice was provided in accordance with law; and

WHEREAS, the Town Council finds that entering into this Interlocal Agreement 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. Interlocal Agreement. The Town Council hereby approves the “Amended and Restated Interlocal Agreement for Public School Facility Planning in Miami-Dade County,” in substantially the form attached hereto as Exhibit “A.”

Section 3. Town Manager Authorized. The Town Manager is authorized to take all action necessary to enter into the “Amended and Restated Interlocal Agreement for Public School Facility Planning in Miami-Dade County,” in substantially the form attached hereto as Exhibit “A,” for the Town.

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

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 _____

Council Member Peggy Bell _____

AMENDED AND RESTATED¹
INTERLOCAL AGREEMENT
FOR
PUBLIC SCHOOL FACILITY PLANNING
IN MIAMI-DADE COUNTY

This Amended and Restated Agreement is entered into between Miami-Dade County, a political subdivision of the State of Florida (hereinafter referred to as "County"), the Municipalities ~~Cities~~ of City of Aventura, Town of Bay Harbor Islands, City of Coral Gables, Town of Cutler Bay, City of Doral, Village of El Portal, City of Florida City, City of Hialeah, City of Hialeah Gardens, City of Homestead, Village of Indian Creek, Village of Key Biscayne, City of Miami, City of Miami Beach, Town of Miami Lakes, Village of Miami Shores, City of Miami Springs, City of North Bay Village, City of North Miami, City of North Miami Beach, City of Miami Gardens, City of Opa-Locka, Village of Palmetto Bay, Village of Pinecrest, City of South Miami, City of Sunny Isles Beach, City of Sweetwater, and the City of West Miami (hereinafter collectively referred to as "Cities"), and The School Board of Miami-Dade County, Florida, a political subdivision of the State of Florida (hereinafter referred to as "School Board").

RECITALS

WHEREAS, the County, Cities and the School Board recognize their mutual obligation and responsibility for the education, nurturing and general well-being of the children within their respective communities; and,

WHEREAS, the School Board has the statutory and constitutional responsibility to provide a uniform system of free and adequate public schools on a countywide basis; and,

WHEREAS, the County, Cities, and School Board recognize the benefits that will flow to the citizens and students of their communities by more closely coordinating their comprehensive land use and school facilities planning programs namely: (1) better coordination of new schools in time and place with land development, (2) greater efficiency for the school board and local governments by placing schools to take advantage of existing and planned roads, water, sewer, and parks, (3) improved student

¹ The base document includes the Agreement, 1st Supplemental Agreement, and 2nd Supplemental Agreement, all originally adopted in 2003, combined into one restated interlocal agreement. ~~Strikethrough~~ and Underline shows changes for the 2007 Amendment to the Agreement.

access and safety by coordinating the construction of new and expanded schools with the road and sidewalk construction programs of the local governments, (4) better defined urban form by locating and designing schools to serve as community focal points, (5) greater efficiency and convenience by co-locating schools with parks, ball fields, libraries, and other community facilities to take advantage of joint use opportunities, (6) reduction of pressures contributing to urban sprawl and support of existing neighborhoods by appropriately locating new schools and expanding and renovating existing schools, and (7) improving the quality of education in existing, renovated and proposed schools; and,

WHEREAS, Section 1013.33, Florida Statutes, requires that the location of public educational facilities must be consistent with the comprehensive plan and implementing land development regulations of the appropriate local governing body; and,

WHEREAS, the County has jurisdiction over land use and growth management decisions within its unincorporated boundaries, including the authority to approve or deny comprehensive plan amendments and rezonings, or other development orders that generate students and impact the school system, and the Cities have similar jurisdiction within their boundaries; and,

WHEREAS, Sections 163.3177(6)(h) 1 and 2, Florida Statutes, require each local government to adopt an intergovernmental coordination element as part of their comprehensive plan that states principles and guidelines to be used in the accomplishment of coordination of the adopted comprehensive plan with the plans of the school boards, and describes the processes for collaborative planning and decision-making on population projections and public school siting; and,

WHEREAS, Sections 163.31777 and 1013.33, Florida Statutes, further require each county and the non-exempt municipalities within that county to enter into an interlocal agreement with the district school board to establish jointly the specific ways in which the plans and processes of the district school board and the local governments are to be coordinated; and,

WHEREAS, the 2005 Florida Legislature adopted Chapter 2005-98, Laws of Florida, codified at Sections 163.31777, 163.3180(13) and 1013.33, Florida Statutes, which, in relevant part, required that all school interlocal agreements be updated to reflect a new statutory mandate to implement public school concurrency; and

WHEREAS, the School Board, County and Cities have further determined that it is necessary and appropriate to cooperate with each other to coordinate the approval of residential development with the provision of adequate public school facilities in a timely manner and at appropriate locations, to eliminate any deficit of capacity and provide capacity for projected new growth, as further specified herein; and

WHEREAS, the County and Cities are entering into this Amended and Restated Agreement in reliance on the School Board's obligation to prepare, adopt and implement a financially feasible capital facilities program that will result in public schools operating at the adopted Level of Service Standard consistent with the timing specified

in the School Board's adopted five-year district educational facilities plan (hereinafter referred to as the "District Facilities Work Program"); and

WHEREAS, the School Board has further committed to update and adopt the District Facilities Work Program yearly to add enough capacity in the new fifth year to address projected growth and to adjust the District Facilities Work Program in order to maintain the adopted Level of Service Standard and to demonstrate that the utilization of school capacity is maximized to the greatest extent possible pursuant to Sections 163.3180(13)(d)2 and 1013.35, Florida Statutes; and

WHEREAS, ~~b~~By entering into this Amended and Restated Agreement, the School Board, County, and the Cities are fulfilling their statutory obligations and requirements recognizing the benefits that will accrue to their citizens and students described above.;

AGREEMENT

NOW THEREFORE, be it mutually agreed between the School Board, the County and the Cities that the following procedures will be followed in coordinating land use and public school facilities planning:

Section 1. Joint Meetings

1.1 Staff Working Group: A Staff Working Group comprised of the County Mayor/Manager and/or designee, School Board Superintendent and/or designee, and City Mayor/Manager and/or their designees will meet at least on a semi-annual basis to discuss issues and formulate recommendations regarding public education in the School District, and coordination of land use and school facilities planning, including such issues as population and student projections, development trends, a work program for five (5), ten (10) and twenty (20) year intervals and its relationship to the local government comprehensive plans, particularly as it relates to identification of potential school sites in the comprehensive plan's future land use map series, school needs (school capacity and school funding), the implementation of public school concurrency, collocation and joint use opportunities, and ancillary infrastructure improvements needed to support the school and ensure safe student access. Representatives from the South Florida Regional Planning Council, the Latin Builders Association and the Builders Association of South Florida will also be invited to attend and participate. ~~The initial m~~Meetings of the working group shall be held ~~within 60 days of the date of execution of the interlocal agreement,~~ upon at least thirty (30) days written advance notice, and shall be coordinated by the School Board Superintendent, or designee, ~~provided however, that the School Board staff shall use its best efforts to schedule the initial meeting to occur in a timely manner to provide meaningful participation by local governments in the School Board's 2003-04 planning process.~~ The Staff Working Group shall meet no later than March 31 each year to address student enrollment projections, and by April 30 and October 31 of each year to address the public school concurrency management system, and any proposed amendments to the school-related

comprehensive plan provisions. The April 30 deadline shall apply where changes are proposed for the County's first comprehensive plan amendment cycle of the following year, and the October 31 deadline shall apply for changes proposed in the second cycle of the following year.

1.2 *Elected Officials Forum:* The School Board Superintendent and/or designee shall coordinate an ~~bi-annual~~ joint workshop sessions at least annually and invite one or more representatives of the County Commission or their designee(s), the governing body of each City or their designee(s), and the School Board or their designee(s). A representative of the South Florida Regional Planning Council will also be invited to attend. The School Board shall provide the meeting invitations with at least thirty (30) days advance written notice of such meeting to the person designated as a contact in this Amended and Restated Agreement. ~~The initial joint workshop session shall be held within six (6) months of the date of the execution of the Interlocal Agreement by all parties, but no later than March 1, 2004 to present, discuss, consider and negotiate modifications or amendments to the Agreement; provided however, that any such modifications and amendments shall be consistent with the statutes governing the Agreement.~~ Modifications and amendments shall be considered by each party to this Amended and Restated Agreement in accordance with Section 1-4 5, and may be discussed at the joint workshop sessions. The joint workshop sessions provide opportunities for the County Commission, the City Commissions or Councils, and the School Board to hear reports, discuss policy, set direction, and reach understandings concerning issues of mutual concern regarding public education, and coordination of land use and school facilities planning, including population and student growth, development trends, school needs, off-site improvements, public school concurrency, school capacity, school funding, options to reduce the need for additional permanent student stations, and joint use opportunities.

Section 2. Student Enrollment and Population Projections

2.1 In fulfillment of their respective planning duties, the County, Cities, and School Board agree to coordinate their plans upon consistent projections of the amount, type, and distribution of population growth and student enrollment. Countywide five (5)-year population projections shall be updated at least once every two (2) years by the County. The School Board may enter into a separate agreement with the County for the preparation of student enrollment projections. Updated County and School District data shall be provided at least once every two (2) years for review at the Staff Working Group meeting described at Subsection 1.1.

2.2 The School Board shall 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 and the Office of Educational Facilities and 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.

2.3 The School Board, working with the County and Cities via the Staff Working Group, will use the information described in subsection 3.4 and any other relevant information provided as part of the requirements of this Amended and Restated Interlocal Agreement, to allocate projected student enrollment by Minor Statistical Areas. ~~The allocation of projected student enrollment will be determined at the first staff meeting described in subsection 1.1.~~

Section 3. Coordinating and Sharing of Information

3.1 ~~Tentative District Educational Facilities Work Program Plan~~: By May 31 ~~June 30th~~ of each year, the School Board shall submit to the County and ~~each City~~ the tentative district educational facilities prior to adoption by the Board. The tentative plan will be consistent with the requirements of Section 1013.35, Florida Statutes, and include projected student populations geographically, an inventory of existing school facilities, projections of facility space needs, information on relocatables, general locations of new schools for the five (5)-, ten (10)-, and twenty (20)-year time periods, and options to reduce the need for additional permanent student stations. The tentative plan will also include a financially feasible district facilities work program for a five (5)-year period. The Cities and County shall review and evaluate the tentative plan and comment to the School Board by June 30 ~~within 60 days~~ on the consistency of the tentative plan with the local comprehensive plan, including its compatibility with the comprehensive plan's future land use map series, and whether a comprehensive

plan amendment will be necessary for any proposed educational facility. The School Board shall provide the District's adopted Facilities Work Program to the County and Cities no later than October 20, and it shall be adopted into the County's and Cities' comprehensive plans each year no later than December 1.

3.2 *Educational Plant Survey:* The School Board will remain responsible for reporting and submission of updates. The Educational Plant Survey shall be consistent with the requirements of Section 1013.31, Florida Statutes, and include at least an inventory of existing educational facilities, recommendations for new and existing facilities, and the general location of each in coordination with existing land use plans. The Staff Working Group, in accordance with the procedure outlined in Section 3.5, will evaluate and make recommendations regarding the location and need for new, significant renovation or expansion, closures of educational facilities, and the consistency of such plans with the local government comprehensive plans and relevant issues including, but not limited to, those listed in subsections 4.3, 7.6, 7.7 and 8.1 of this Amended and Restated Agreement.

3.3 *Educational Facilities Impact Fee Ordinance:* The County and the School Board shall ~~annually~~ perform a review at least every three (3) years of the Educational Facilities Impact Fee Ordinance, its formula, and the Educational Facilities Impact Fee Methodology and Technical Report, and if appropriate, make recommendations for revisions to the Board of County Commissioners. The first review shall be performed within three (3) years after the effective date of the impact fee ordinance, as amended. Among the goals of this review will be the adjustment of impact fee structure to ensure the full eligible capital costs, as allowed by the governing ordinances, associated with development of public school capacity is included. In reviewing the Educational Facilities Impact Fee Ordinance, ~~(EFIFO)~~ the County and School Board shall employ their best efforts to evaluate a more equitable distribution of impact fee assessments, ~~including redistricting to create east/west alignments of benefit districts throughout the County. Such benefit districts should combine urban infill and emerging development areas within the County.~~ The School Board and County will ~~are encouraged to~~ provide for local government, industry and citizen participation and input, prior to submitting recommendations to the Board of County Commissioners for substantive revisions to the Educational Facilities Impact Fee Ordinance, its formula, and/or the Educational Facilities Impact Fee Methodology and Technical Report, including the adjustment of impact fee structure or benefit district boundaries.

3.4 *Growth and Development Trends:* By September 30 ~~January 31~~st of each year, local governments will provide the School Board with a report on growth and development trends within their jurisdiction, based on the most current available data ~~the previous calendar year~~. This report will be in tabular, graphic, and/or textual formats and will include the following:

- (a) The type, number, and location of residential units, which have

received zoning approval, plat approval or site plan approval;

(b) Information regarding adopted future land use map amendments , which may have an impact on school facilities;

(c) The County shall report to the School Board the school impact fees collected annually on building permit applications. ~~This, said~~ report shall include the amount of the fee collected and location of the proposed residential development. The School Board shall report to the County and to each City how the impact fee revenue and all other school contributions have been spent within the Benefit District in which it was collected. All data shall include source information for verification and be provided in a format consistent with other capital expenditures;

(d) Information, if available, regarding the conversion or redevelopment of non-residential structures into residential units that are likely to generate new students, and, conversely, information on the number of residential units converted to non-residential uses; and

(e) The identification of any development orders issued that contains a requirement for the provision of a public school site as a condition of development approval.

If at all possible, data required to be submitted in this section should also be sent in a format that can be loaded into the Geographic Information Systems (GIS) database maintained by the School Board.

3.5 *New, Expanded and Renovated School Facilities:* The Staff Working Group shall provide recommendations on the planning of new facilities, additions or renovations for consideration by School Board staff and the School Site Planning and Construction Committee (“SSPCC”) in formulating the tentative district educational facilities plan. Likewise, the Staff Working Group shall also provide input and comments, recommendations on the update of the Five-Year Educational Plant Survey and any revisions thereto.

CALENDAR OF KEY ANNUAL DATES

March 31 Staff Working Group meeting re enrollment projections

April 30 Staff Working Group Meeting re any proposed amendments to the school-related comprehensive plan provisions proposed for the first County transmittal cycle

May 31 Planning Forum to review Tentative Capital Plan including but not limited to, new schools, additions, closures, and significant renovations, at a Joint Meeting of the Staff Working Group and the School Site Planning and Construction Committee (SSPCC)

June 30 Cities and County provide School Board with written comments on Tentative Educational Facilities Plan introduced at Planning Forum

August 31 School Board provides final proposed Tentative Educational Facilities Plan to County and Cities

September 30 Cities' and County's Growth Reports to School Board

September 30 School Board adoption of District's updated Five Year Plan as a part of the Tentative Educational Facilities Plan

October 20 School Board's provision of copy of adopted version District's updated Five Year Plan to County and Cities

October 31 Staff Working Group meeting re any proposed amendments to the school-related comprehensive plan provisions proposed for the second County transmittal cycle

December 1 District's Updated Five Year Plan adopted into Cities' and County's comprehensive plans, and provision of adopted versions to School Board

3.6 Public School Facilities Element.

(a) Initial comprehensive plan amendments related to the Public Schools Facilities Element to satisfy the requirements of Chapter 2005-98, Laws of Florida: The amendments to the Public School Facilities Element and related amendments to the Capital Improvements Element and the Intergovernmental Coordination Element in the County's and Cities' comprehensive plans ("school-related element amendments" or "school-related element provisions") required to satisfy Chapter 2005-98, Laws of Florida are being adopted into the comprehensive plans of the County and Cities concurrently with the execution of this Amended and Restated Agreement by the County and Cities. Some provisions relevant to public schools may remain in the Future Land Use Element or other elements as may be appropriate.

(b) Subsequent school-related element amendments: Thereafter, the experience with implementing the revised comprehensive plans and the School Board's District Facilities Work Program shall be reviewed by the County and Cities each year, at a Staff Working Group meeting to be held no later than April 30 (County's first comprehensive plan amendment cycle) or October 31 (County's second comprehensive plan amendment cycle), to determine whether updates to the comprehensive plans are required. At a minimum, the District Facilities Work Program shall be updated annually by the addition of a new fifth year as provided in Section 9.3. Any other amendments to the comprehensive plans shall be transmitted in time to allow their adoption concurrently with the update to the District Facilities Work Program, where feasible. Amendments to the comprehensive plans shall be considered in accordance with the County's comprehensive planning cycle.

(c) School Board review of school-related element amendments: All school-related element amendments shall be provided to the School Board at least ninety (90) days prior to transmittal (or adoption if no transmittal is required). The School Board shall review the school-related element amendments and provide comments, if any, to the relevant local government either (i) in writing at least thirty (30) days prior to the local planning agency meeting on the school-related element amendment, or (ii) by attending and providing comments at the local planning agency meeting.

(d) Countywide consistency of school-related element amendments: The County's and Cities' school-related element provisions must be consistent with the uniform district-wide public school concurrency system, with each other, and with the School Board's facilities, plans and policies. Each City may choose to adopt all or a portion of the County's school-related element provisions into its comprehensive plan by reference, or it may adopt its own school-related element provisions. If a City adopts its own school-related element provisions, any goal, objective, policy or other provision relevant to the establishment and maintenance of a uniform district-wide public school concurrency system shall be

substantially the same as its counterpart in the County comprehensive plan and other Cities' comprehensive plans. If any school-related element amendment is proposed that deviates from the uniform district-wide public school concurrency system, it shall not become effective until the last party adopts it into its comprehensive plan. Such proposals shall be forwarded to the Staff Working Group for review, and the adoption of any such changes shall be timed to coincide with the County's comprehensive plan amendment cycle. Once each City and the County have adopted such a plan amendment and these amendments have all become effective, then the new requirement shall apply countywide. Each City and the County may adopt the District Facilities Work Program into its comprehensive plan either by reference or by restatement of the relevant portions of that Facilities Work Program, but in no event shall a City or the County attempt to modify that Facilities Work Program. The County and Cities agree to coordinate the timing of approval of school-related element amendments, to the extent that it is feasible to do so. To the extent that a proposed school-related element amendment is inconsistent with this Amended and Restated Agreement, an amendment to this Agreement shall also be required before the amended element becomes effective.

(d) Evaluation and Appraisal Report. In addition to the other coordination procedures provided for in this Amended and Restated Agreement, at the time of the Evaluation and Appraisal Report, the County and Cities shall schedule at least one Staff Working Group meeting with the School Board to address needed updates to the school-related comprehensive plan provisions.

Section 4. School Site Selection, Significant Renovations, and Potential School Closures

4.1 ~~The School Board staff has amended shall endeavor to ensure rule making proceedings are completed by the May 14, 2003 meeting, so that final reading is given to the amendment to r~~Rule 6Gx13-2C-1.083, Section II.D. Membership, to expand the membership of its standing School Site Planning and Construction Committee (SSPCC) by four voting members as follows: "a floating member" designated by the City Manager of the most impacted municipality to which the agenda item relates whenever an agenda item concerns any incorporated area of Miami-Dade County, or if it concerns an unincorporated area, this "floating member" shall be from the geographically nearest municipality most impacted by the agenda item; a representative selected by the Miami-Dade County League of Cities; a Miami-Dade County representative selected by the County Manager or designee;" and "a member of the residential construction industry." For purposes of this Section, a floating member from the most impacted local government shall be defined as the local government jurisdiction in which the proposed project is located. ~~Based upon a projected completion of rule making proceedings by the School Board's May 14, 2003 meeting, the School Board staff shall endeavor to ensure the SSPCC is operational and holds its initial meeting by June 2003, to provide meaningful participation to local~~

~~governments in the School Board's 2003-04 planning process. In the event that this rule change is not accomplished as required herein, the School Board shall approach the Cities and County and negotiate an amendment to this Agreement with a mutually acceptable alternative means of coordination on all issues herein allocated to the SSPCC. The SSPCC shall review potential sites for new schools and proposals for significant renovation, the location of relocatables or additions to existing buildings, and potential closure of existing schools, and make recommendations on these and all other issues within its purview under the Rule for consideration by School Board staff. The SSPCC shall also:~~

(a) Host a planning forum, by May 31, as a joint meeting of the Staff Working Group and School Site Planning and Construction Committee on an annual basis or more often as may be needed. For purposes of this forum, the SSPCC shall invite a representative from each of the impacted units of government to participate in the proceedings and to provide input and comments, for consideration by the SSPCC in its deliberations. The forum will review the School Board's acquisition schedule and all other relevant issues addressed in this Amended and Restated Agreement and required by statute, and will include appropriate staff members of the School Board, at least one staff member of the County and a representative from each of the affected Cities. Based on information gathered during the review, the SSPCC will submit recommendations to the Superintendent or designee for the upcoming year.

(b) Invite a staff representative from each unit of local government affected by an agenda item at any SSPCC meeting throughout the year to attend that meeting. It shall provide a full opportunity for such local government representatives to provide comments, and shall consider those comments in its deliberations. Based on information gathered during the review, the SSPCC will submit recommendations to the Superintendent or designee on these items.

For purposes of this Sub Section, an affected local government shall be defined as follows:

- a. Any jurisdiction within fifteen hundred (1,500) feet of the property or improvement; and
- b. Any jurisdiction whose utilities are utilized by the School Board property or improvement.

The School Board Superintendent and/or designee shall provide the invitations referenced in this Section 4.1, with at least thirty (30) days advance written notice of such meeting to the person designated as a contact in this Amended and Restated Agreement. The Superintendent or designee shall forward the SSPCC recommendations referenced in this Amended and Restated Agreement to the School Board so that they may be considered by the Board at the time that it deals with the issues to which the recommendations relate.

4.2 When the need for a new school is identified and funded in the District

~~governments in the School Board's 2003-04 planning process. In the event that this rule change is not accomplished as required herein, the School Board shall approach the Cities and County and negotiate an amendment to this Agreement with a mutually acceptable alternative means of coordination on all issues herein allocated to the SSPCC. The SSPCC shall review potential sites for new schools and proposals for significant renovation, the location of relocatables or additions to existing buildings, and potential closure of existing schools, and make recommendations on these and all other issues within its purview under the Rule for consideration by School Board staff. The SSPCC shall also:~~

(a) Host a planning forum, by May 31, as a joint meeting of the Staff Working Group and School Site Planning and Construction Committee on an annual basis or more often as may be needed. For purposes of this forum, the SSPCC shall invite a representative from each of the impacted units of government to participate in the proceedings and to provide input and comments, for consideration by the SSPCC in its deliberations. The forum will review the School Board's acquisition schedule and all other relevant issues addressed in this Amended and Restated Agreement and required by statute, and will include appropriate staff members of the School Board, at least one staff member of the County and a representative from each of the affected Cities. Based on information gathered during the review, the SSPCC will submit recommendations to the Superintendent or designee for the upcoming year.

(b) Invite a staff representative from each unit of local government affected by an agenda item at any SSPCC meeting throughout the year to attend that meeting. It shall provide a full opportunity for such local government representatives to provide comments, and shall consider those comments in its deliberations. Based on information gathered during the review, the SSPCC will submit recommendations to the Superintendent or designee on these items.

For purposes of this Sub Section, an affected local government shall be defined as follows:

- a. Any jurisdiction within fifteen hundred (1,500) feet of the property or improvement; and
- b. Any jurisdiction whose utilities are utilized by the School Board property or improvement.

The School Board Superintendent and/or designee shall provide the invitations referenced in this Section 4.1, with at least thirty (30) days advance written notice of such meeting to the person designated as a contact in this Amended and Restated Agreement. The Superintendent or designee shall forward the SSPCC recommendations referenced in this Amended and Restated Agreement to the School Board so that they may be considered by the Board at the time that it deals with the issues to which the recommendations relate.

4.2 When the need for a new school is identified and funded in the District

~~Facilities Work Program district educational facilities plan~~, the SSPCC will ~~develop~~review a list of potential sites in the area of need. The list of potential sites for new schools and the list of schools identified and funded in the District Facilities Work Program district educational facilities plan for significant renovation, the location of relocatables, or additions to existing buildings and potential closure and opportunities for collocation will be submitted to the local government with jurisdiction over the use of the land for an informal assessment regarding consistency with the local government comprehensive plan.

4.3 The evaluation of new school sites or significant expansion of student stations at existing schools shall be in accordance with School Board Rule 6Gx13-2C-1.083, as may be amended from time to time and attached hereto as Exhibit 1^A. Any proposed amendments to this rule, which may impact upon the terms of this Amended and Restated Interlocal Agreement, shall be submitted to the affected local units of government prior to submission to the SSPCC and to the School Board.

4.4 Pursuant to Section 1013.33(11), Florida Statutes, at least sixty (60) days prior to acquiring or leasing property that may be used for a new public educational facility, the School Board shall provide written notice to the local government with jurisdiction over the use of the land. The local government, upon receipt of this notice, shall notify the School Board within forty-five (45) days if the proposed new school site is consistent with the land use categories as depicted in the future land use map series, as well as the policies of the local government's comprehensive plan. If the site is not consistent, it shall not be used as a school site until and unless otherwise approved by the local government. This preliminary notice does not constitute the local government's determination of consistency pursuant to ~~§~~Section 1013.33(12), Florida Statutes.

Section 5. Supporting Infrastructure

5.1 In conjunction with the preliminary consistency determination described at subsection 4.4 of this Amended and Restated Agreement, the School Board and affected local governments will jointly determine the need for, and timing of, on-site and off-site improvements necessary to support each new school or the proposed significant expansion renovation of an existing school, in those instances where capacity is being added to accommodate new student populations. Significant expansion renovation shall include construction improvements that result in a greater than five (5) percent increase in student capacity, the location of relocatables portables, or additions to existing buildings for high schools with a capacity of more than 2,000 students. For significant expansions to high schools with a capacity of less than 2,000 and for middle schools, the applicable percentage shall be ten (10) percent, and for significant expansions to elementary schools (including K-8 centers), the applicable percentage shall be fifteen (15) percent. The School Board and affected local government will enter into a letter of agreement as to the timing, location, and the party or parties responsible for constructing, operating and maintaining the

required on-site and off-site improvements related to the expansions and new schools referenced above, respectively.

This section shall not be construed to require the affected local unit of government to bear any costs of infrastructure improvements related to school improvements.

Section 6. Public Education Facilities Site Plan Review

6.1 The School Board and the County will continue to coordinate any and all proposed construction or expansion of public educational facilities, including the general location of new schools in unincorporated Miami-Dade County, with the County's Comprehensive Development Master Plan (CDMP) and local land development regulations in accordance with the review procedures outlined in Miami-Dade County Resolution R-678-06R-535-92, as adopted on June May 65, 20061992.

6.2 The School Board will coordinate any and all proposed construction or expansion of public educational facilities, including the location of new schools or relocatables, within any City's jurisdiction with that City's adopted comprehensive plan and land development regulations. This coordination shall be accomplished in accordance with the provisions of Sections 1013.33(12) through (15), Florida Statutes. The affected City shall provide all of its comments to the School Board as expeditiously as feasible, and not later than sixty (60) days after receipt of the complete site plan.

Section 7. Local Planning Agency, Comprehensive Plan Amendments, Rezonings, and Developments of Regional Impact development Approvals

7.1 In accordance with the requirements of and to the extent required by Section 163.3174(1), Florida Statutes, the County and Cities will invite a staff representative appointed by the School Board, ~~as a non-voting member~~, to attend meetings, on an as needed basis, of their local planning agencies or equivalent agencies that first consider comprehensive plan amendments and rezonings at which comprehensive plan amendments, ~~and rezonings~~, or Development of Regional Impact proposals or amendments are considered that would, if approved, increase residential density. The County and Cities may, ~~at their sole discretion~~, appoint such School Board representative to the planning agency, and, at their sole discretion, may grant voting status to the School Board representative member.

7.2 The School Board will designate a staff representative to serve in an advisory support capacity on the County's staff development review committee, or equivalent body. In addition, the School Board representative will be invited to participate at the meetings of the Cities' staff development review committees, or equivalent body, as appropriate, when comprehensive plan amendments, rezonings or Development of Regional Impact proposals or amendments ~~development and redevelopment proposals~~ are proposed that would

create an increase in the number of residential units. It shall be the responsibility of School Board staff to review the potential impact of a proposed (re) development based on current Florida Inventory of School Houses (FISH) capacity (both permanent and relocatables) and be prepared to comment convey this information in writing to the local staff development review committees at least five (5) days prior to the meeting or development review committee review, for their consideration. These comments shall include a statement that the application will be subject to public school concurrency review at the plat, site plan or functional equivalent stage, consistent with Section 9 of this Amended and Restated Agreement. The School Board shall only be required to provide such review where the proposed (re) development will result in an increase in FISH capacity (permanent and relocatables) in excess of 115%, except when such review is requested by the local staff development review committee. This figure shall be considered only as a review threshold and shall not be construed to obligate the County or a City to deny a development should the School Board fail to identify options to meet anticipated demand or should the collaborative process described in this Section fail to yield a means to ensure sufficient capacity. A copy of the application plans shall be delivered to the School Board representative at least fifteen (15) working days prior to the proposed meeting date, or on the date the agenda is distributed. The School Board's review shall be conducted in accordance with agreed upon procedures to be developed through a collaborative process with the Staff Working Group. The School Board's review shall be conducted in accordance with the methods set forth in the pProcedures mManual to be adopted in accordance with the provisions set forth in this Amended and Restated Agreement, the current version of which is attached hereto as Exhibit 2 (which shall be revised to be consistent with this Amended and Restated Agreement). The pProcedures mManual was developed and may be amended shall be developed through a collaborative process with the Staff Working Group, and the School Board staff shall use its best efforts to facilitate development of the manual in a timely manner.

7.3 The County and the Cities agree to transmit to the School Board copies of proposed comprehensive plan amendments, rezonings, and Development of Regional Impact proposals or amendments land use applications and development proposals that may affect student enrollment, enrollment projections, or school facilities. This requirement applies to amendments to the comprehensive plan future land use map, rezonings, developments of regional impact, and other major residential or mixed-use development projects with a residential component.

7.4 Within thirty (30) days after receipt of notification by the local government, which notification shall include development plans, the School Board will advise the local government of the school enrollment impacts anticipated to result from the proposed comprehensive plan amendment, land use application rezoning, or dDevelopment of Regional Impact proposals or amendments and whether sufficient capacity exists or is planned to accommodate the impacts. School capacity will be reported consistent with State Requirements for Educational

~~Facilities, and shall be based on current FISH capacity at impacted schools (including permanent and relocatable satisfactory student stations), as well as any proposed student station additions in the area of impact. The School Board will also include capacity information on approved charter schools that provide relief in the area of impact. The School Board may charge a non-refundable application fee payable to the School Board to reimburse the cost to review comprehensive plans, rezonings and Development of Regional Impact proposals or amendments pursuant to this Section. In that event, payment may be required prior to the commencement of review.~~

7.5 ~~If sufficient capacity is not available or planned to serve the development at the time of impact, the School Board will determine and specify the options available to it to meet the anticipated student enrollment demand. Alternatively, the School Board, local government, and developer will use their best efforts to collaboratively develop options that aim to provide the capacity to accommodate new students generated from the new residential development. The School Board shall be responsible to review and consider funding options for the incremental increase in the projected number of students which include, but are not limited to, creation of new community development districts pursuant to Chapter 190, Florida Statutes, creation of educational facilities benefit districts as described in Section 1013.355, Florida Statutes, other available broad-based funding mechanisms to fund school capital construction, developer contributions in the form of land donation set asides, monetary contributions, or developer provided facility improvements in lieu of impact fees and other School Board approved measures such as public charter schools, public-private partnerships, or a combination of any of these. In its analysis of need, School Board staff shall also include information on the estimated educational facilities impact fee revenues to be generated by the development, as well as on any other available funding for capital projects specifically intended to mitigate the area of impact. This Section shall not be construed to obligate a City to impose, assess or collect a school impact fee, unless provided by general law. As it relates to the collection of impact fees, this provision shall not be subject to dispute resolution under Section 9 of this Agreement. The review by the School Board staff regarding comprehensive plan amendments, rezonings and Development of Regional Impact proposals or amendments containing residential units shall be classified as "Public Schools Planning Level Review (Schools Planning Level Review)". The Schools Planning Level Review does not constitute public school concurrency review. This Section shall not be construed to obligate a City or County to deny or approve (or to preclude a City or County from approving or denying) an application development should the School Board fail to identify options to meet anticipated demand or should the collaborative process described in this Section fail to yield a means to ensure sufficient capacity.~~

7.6 In the review and consideration of comprehensive plan amendments, rezonings, and ~~d~~Development of Regional Impact proposals or amendments, and their respective potential school impacts, the County and Cities should consider the following issues:

- a. School Board comments, which may include available school capacity or planned improvements to increase school capacity, including School Board approved charter schools and operational constraints (e.g., establishment of or modifications to attendance boundaries and controlled choice zones), if any, that may impact school capacity within an area, including public-private partnerships. Failure of the School Board to provide comments to the County or Cities within thirty (30) days as specified in Section 7.4 may be considered by the parties as a response of “no comment.” In such a scenario, the County and Cities shall not be obligated to delay final action by the County Commission or City Council;
- b. The provision of school sites and facilities within planned neighborhoods;
- c. Compatibility of land uses adjacent to existing schools and reserved or proposed school sites;
- d. The potential for collocation of parks, recreation and neighborhood facilities with school sites;
- e. The potential for linkage of schools, parks, libraries and other public facilities with bikeways, trails, and sidewalks for safe access;
- f. Traffic circulation plans that serve schools and the surrounding neighborhood, including off-site signalization, signage, and access improvements; and
- g. The general location of public schools proposed in the District Facilities Work Program ~~five-year work plan~~ as well as other available information over a ten (10) and twenty (20)-year time frame.

7.7 In formulating community development plans and programs, the County and Cities should consider the following issues:

- a. Giving priority to scheduling capital improvements that are coordinated with and meet the capital needs identified in the District Facilities Work Program ~~School Board District Educational Facilities Plan~~;
- b. Providing incentives that promote collaborative efforts between the School Board and the private sector to develop adequate school facilities in residential developments;
- c. Targeting community development improvements in older and distressed neighborhoods near existing or proposed School Board owned and operated public schools and School Board approved charter schools; ~~and~~
- d. Coordination with neighboring jurisdictions to address public school issues of mutual concern; and.

- e. Approval and funding of community development districts (CDD'S) and other available funding mechanisms created by state law.

Section 8. Collocation and Shared Use

8.1 Collocation and shared use of facilities are important to both the School Board and local governments. The School Board, ~~and~~ Cities and County will work together, via the Staff Working Group, ~~and~~ the SSPCC, and the Citizens Oversight Committee to look for opportunities to collocate and share use of school facilities and civic facilities when preparing the District Facilities Work Program ~~District Educational Facilities Plan~~. Likewise, collocation and shared use opportunities will be considered by the local governments when preparing the annual update to the comprehensive plan's schedule of capital improvements and when planning and designing new, or renovating existing, community facilities. For example, potential opportunities for collocation and shared use with public schools will be considered where compatible for existing or planned libraries, parks, recreation facilities, community centers, auditoriums, learning centers, museums, performing arts centers, and stadiums. In addition, the potential for collocation and shared use of school and governmental facilities for joint use by the community will also be considered.

8.2 A separate agreement or an amendment to a master agreement between the School Board and the appropriate local government will be developed for each instance of collocation and shared use, which addresses legal liability, operating and maintenance costs, scheduling of use, and facility supervision or any other issues that may arise from collocation and shared use.

8.3 Collocation and shared use as provided for in this Amended and Restated Agreement may include the sharing of county and municipal facilities for student use, such as use of a park for park purposes by students from a neighboring public school, and similarly may include the use of public school facilities by the community.

8.4 In order to maximize the efficient utilization of public funding and to further the collocation and shared use of county and municipal facilities with School Board-owned and operated public schools, local governments are strongly encouraged not to require the provision or enhancement of charter school facilities as a condition of local development approval.

Section 9. Implementation of Public School Concurrency

9.1 This section establishes the mechanisms for coordinating the development, adoption, and amendment of the District Facilities Work Program, as well as the Public School Facilities Elements and the Intergovernmental Coordination and Capital Improvements Elements of the County and Cities' comprehensive plans, in order to implement a uniform districtwide public school concurrency system as required by law.

9.2 The School Board, County and Cities agree to the following principles for public school concurrency in Miami-Dade County:

(a) *Capacity Methodology and Formula for Availability.* The uniform methodology for determining if a particular school is overcapacity shall be determined by the School Board and adopted into the County's and Cities' comprehensive plans. The School Board hereby selects Florida Inventory of School Houses (FISH) capacity as the uniform methodology to determine the capacity of each school. The capacity and enrollment numbers for a school shall be determined once a year, in October.

The School Board will issue an evaluation report determining whether adequate school capacity exists for a proposed development, based on the adopted Level of Service Standards, concurrency service areas, and other standards set forth in this Amended and Restated Agreement, as follows:

1. Calculate **total school facility capacity** by adding the capacity provided by an existing school facility to the capacity of any planned school facilities programmed to provide relief to that school facility, listed in the first three (3) years of the District Facilities Work Program.

2. Calculate **available school facility capacity** by subtracting from the total school facility capacity the sum of:

a. Current student enrollment (school facility capacity consumed by preexisting development);

b. The portion of reserved capacity having a valid unexpired certificate of concurrency from the School Board; and

c. The portion of previously approved development (vested from concurrency) projected to be developed within three (3) years.

3. Calculate the **proposed development's demand for school facility capacity** by:

a. Applying the student generation rate to the proposed development to determine its total demand; and

b. Subtracting a credit for the total district-wide enrollment of magnet and charter school facilities.

4. Subtract the **proposed development's demand for school facility capacity** from the **available school facility capacity** to determine if there is a deficit. If so, repeat the process to determine if school facility

capacity is available in any contiguous Concurrency Service Area (“CSA”) in the same Geographic Area (Northwest, Northeast, Southwest, or Southeast), which map is attached hereto as Exhibit 2.

The School Board may charge a non-refundable application fee payable to the School Board to reimburse the cost to review matters related to public school concurrency. In that event, payment may be required prior to the commencement of review.

In evaluating a final subdivision, site plan, or functional equivalent for concurrency, any relevant programmed improvements in the current year, or Years 2 or 3 of the District Facilities Work Program shall be considered available capacity for the project and factored into the Level of Service analysis. Any relevant programmed improvements in Years 4 or 5 of the District Facilities Work Program shall not be considered available capacity for the project unless funding to accelerate the improvement is assured through the School Board, through proportionate share mitigation or some other means of assuring adequate capacity will be available within three (3) years. Relocatable classrooms may be used by the Miami-Dade County Public School System as an operational solution during replacement, renovation, remodeling or expansion of a public school facility; and in the event of a disaster or emergency which prevents the School Board from using a portion of the affected school facility.

(b) *Level of Service Standards:* Public school concurrency shall be applied on a less than district-wide basis, to concurrency service areas as described in subsection (c), except for Magnet Schools where public school concurrency shall be applied on a district wide basis. 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 charter schools. However, the actual enrollment (October Full Time Equivalent (FTE)) of both magnet and charter schools as a percentage of the total district enrollment will be credited against the impact of development.

The uniform, district-wide Level of Service Standards for Public School Facilities are initially set as follows, and shall be adopted in the County’s and Cities’ Public School Facilities Elements and Capital Improvements Elements:

1. The adopted Level of Service (LOS) Standard for all Miami-Dade County Public School facilities is 100% FISH Capacity (With Relocatable Classrooms). This LOS Standard, except for Magnet Schools, 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.

2. The adopted LOS standard for Magnet Schools is 100% of FISH (With Relocatable Classrooms) which shall be calculated on a district-wide basis.

3. It is the goal of Miami-Dade County Public Schools and Miami-Dade County for all public school facilities to achieve 100% utilization of Permanent FISH (No Relocatable Classrooms) by January 1, 2018. To help achieve the desired 100% of permanent FISH utilization by 2018, Miami-Dade County Public Schools should continue to decrease the number of relocatable classrooms over time. Public school facilities that achieve 100% utilization of Permanent FISH capacity (No Relocatable Classrooms) should, to the extent possible, no longer utilize relocatable classrooms, except as an operational solution. Beginning January 1, 2013, the Miami-Dade County Public Schools will implement a schedule to eliminate all remaining relocatable classrooms by January 1, 2018.

By December 2010, Miami-Dade County in cooperation with Miami-Dade County Public Schools will assess the viability of modifying the adopted LOS standard to 100% utilization of Permanent FISH (No Relocatable Classrooms) for all CSAs.

4. Relocatable classrooms may be used by the Miami-Dade County Public School System as an operational solution during replacement, renovation, remodeling or expansion of a public school facility; and in the event of a disaster or emergency which prevents the School Board from using a portion of the affected school facility.

Potential amendments to these LOS Standards shall be considered at least annually at the Staff Working Group meeting to take place no later than April 30 or October 31 of each year. If there is a consensus to amend any LOS Standard, it shall be accomplished by the execution of an amendment to this Amended and Restated Agreement by all parties and the adoption of amendments to the County's and each City's comprehensive plan. The amended LOS Standard shall not be effective until all plan amendments are effective and the amendment to this Amended and Restated Agreement is fully executed. No LOS Standard shall be amended without a showing that the amended LOS Standard is financially feasible and can be achieved and maintained over the five years of the District Facilities Work Program.

After adoption of the District's first Facilities Work Program which was relied on for public school concurrency requirements, capacity shall be maintained within each year of the District's subsequent Facilities Work Program. If the impact of the project will not be felt until Years 2 or 3 of the District Facilities Work Program, then any relevant programmed improvements in those years shall be considered available capacity for the project and factored into the Level of

Service analysis. If the impact of the project will not be felt until Years 4 or 5 of the District Facilities Work Program, then any relevant programmed improvements shall not be considered available capacity for the project unless funding of the improvement is assured, through School Board funding, the proportionate share mitigation process, or some other means, and the project is accelerated into the first three (3) years of the District Facilities Work Program.

(c) *Concurrency Service Areas:* The Concurrency Service Area (CSA) shall be the student attendance boundaries for elementary, middle and high schools. The concurrency service area boundaries shall be part of the data and analysis in support of the County's and Cities' comprehensive plans. Concurrency service areas shall maximize capacity utilization, taking into account transportation costs, limiting maximum student travel times, the effect of court-approved desegregation plans, achieving socio-economic, racial, cultural and diversity objectives, and other relevant factors as determined by the School Board's policy on maximization of capacity.

The School Board shall address how capacity has been maximized in the affected concurrency service area. For purposes of this Amended and Restated Agreement, maximization of capacity shall mean any operational or physical adjustment that increases the available capacity of a school or a concurrency service area. Maximization may take into account several factors, including transportation costs, student travel times, socio-economic objectives, and recognition of the timing of capacity commitments. These adjustments may include, but are not limited to, physical changes to the school facility such as expansions or renovations, and operational changes such as staggered schedules, floating teachers, or reassignment of students. The types of physical and operational adjustments to school capacity that will be used in Miami-Dade County, and the circumstances under which they are appropriate, will be determined by the School Board's policy on maximization of capacity, as set forth in the Public School Facilities Element.

Potential amendments to the concurrency service areas, other than periodic adjustments to student attendance boundaries, or to redefine the concurrency service area as a different type of boundary or area shall be considered annually at the Staff Working Group meeting to take place each year no later than April 30 or October 31, and shall take into account the issue of maximization of capacity. Other considerations for amending the concurrency service areas may include safe access (including factors such as the presence of sidewalks, bicycle paths, turn lanes and signalization, general walkability), diversity, and geographic or manmade constraints to travel. If there is a consensus to change the concurrency service area to a different type of service area or geographic configuration, it shall be accomplished by the execution of an amendment to this Amended and Restated Agreement. The changed concurrency service area shall not be effective until the amendment to this Amended and Restated

Agreement is fully executed and related amendments to the County and Cities' comprehensive plans are adopted. Proposed amendments to the concurrency service areas shall be presented to the Staff Working Group and incorporated as updated data and analysis in support of the County's and Cities' comprehensive plans. No concurrency service area shall be amended or redefined without a showing that the amended or redefined concurrency service area boundaries are financially feasible and can be achieved and that the adopted LOS Standard can be maintained over the five years of the District Facilities Work Program.

If maximization of capacity has not resulted in sufficient capacity, so that the adoption of the development proposal would result in a failure to meet the Level of Service Standard, and if capacity is available in one or more contiguous concurrency service areas within the first three years of the District Facilities Work Program in the same Geographic Area (Northwest, Northeast, Southwest, Southeast) as the development, the School Board, at its discretion, shall determine the contiguous concurrency service area to which the development impacts will be shifted. If there is still not enough capacity to absorb the impacts of the development proposal after maximization of capacity and shifting of impacts, then the School Board will notify the local government in writing of the finding, and the local government shall then notify the applicant of the finding.

(d) *Student Generation Multipliers:* The School Board staff, working with the County staff and Cities' staffs, have developed and applied student generation multipliers for residential units by type and Minor Statistical Area for schools of each type, considering past trends in student enrollment in order to project school enrollment. The student generation rates shall be determined by the School Board in accordance with professionally accepted methodologies, shall be updated at least every three (3) years inasmuch as possible, and shall be adopted into the County's and Cities' comprehensive plans. The school enrollment projections will be included in the tentative district educational facilities plan provided to the County and Cities each year as specified in Subsection 3.1 of this Amended and Restated Agreement.

(e) *Concurrency Management System:* The County and Cities shall amend the concurrency management systems in their land development regulations to require that all non-exempt new residential units be reviewed for public school concurrency at the time of final plat or site plan (or functional equivalent), using the coordination processes specified in Section 7 above, within one hundred and twenty (120) days of the effective date of the Comprehensive Plan amendment(s) implementing public school concurrency. In the event that the Comprehensive Plan amendment(s) or amendment(s) to this Amended and Restated Agreement, which are necessary to implement public school concurrency are challenged, the land development regulations shall be adopted within one hundred and twenty (120) days after the resolution of such challenge. The County or any City may choose to request from the School Board's staff and provide an informational assessment of public school concurrency at the time of

preliminary plat or subdivision, but the test of concurrency shall be at final subdivision, site plan (or functional equivalent). The assessment of available capacity by the School Board shall consider maximization of capacity and shifting of impacts as further detailed above. The County and Cities shall not deny a final subdivision or site plan (or functional equivalent) for the failure to achieve and maintain the adopted Level of Service Standard for public school capacity where:

- (i) adequate school facilities will be in place or under actual construction within three (3) years after the issuance of the final subdivision or site plan (or functional equivalent); or
- (ii) 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 (or functional equivalent) as provided in Section 9.2(g) below.

However, this Amended and Restated Agreement shall not be construed to limit the authority of any City or the County to deny the final plat or site plan (or functional equivalent) for reasons other than failure to achieve and maintain the adopted Level of Service Standard for public school capacity. The County and Cities, in consultation with the School Board, shall also amend their concurrency management systems in their land development regulations to address public school facilities, so that the annual monitoring reports provided to their governing bodies shall cover schools as well as the other concurrency facilities within one hundred and twenty (120) days of the effective date of this Amended and Restated Agreement.

Upon final action by the City or County regarding the application for final plat, site plan or functional equivalent, the City or County shall send written notice to the School Board indicating that the application was granted final approval or denied. If the application received final approval, the school concurrency approval for the development and anticipated students shall be valid for up to two (2) years, beginning from the date the application received final approval from the City or County, except as may be provided by federal law and as further specified in the applicable concurrency management system regulations, unless otherwise released by the appropriate governing body in which case, within ten (10) business days of the release the appropriate governing body shall notify the School Board of such and request the capacity reservation be cancelled. An extension of the reservation period may be granted when the applicant demonstrates that development has commenced on a timely basis and is continuing in good faith, provided that the total reservation period does not exceed six (6) years, as further specified in the applicable concurrency management system regulations. If the application was denied, the School Board's staff shall deduct from its database the students associated with the application.

(f) *Proportionate Share Mitigation*: The School Board shall establish within the District Facilities Work Program the following standards for the application of proportionate share mitigation:

1. *Student Generation Multipliers* for single family, multi family and mobile home housing types for elementary, middle and high schools. Student Generation Multipliers shall be based upon the best available district-specific data and derived by a professionally acceptable methodology acceptable to the School Board;

2. *Cost per Student Station estimates* for elementary, middle and high schools. Such estimates shall include all cost of providing instructional and core capacity including, without limitation, land, design, buildings, equipment and furniture, and site improvements. The cost of ancillary facilities that generally support the School Board and the capital costs associated with the transportation of students shall not be included in the Cost per Student Station estimate used for proportionate share mitigation;

3. *The capacity* of each school; and

4. *The current and reserved enrollment* of each school.

The above factors shall be reviewed annually and certified for application for proportionate share mitigation purposes during the period that the District Facilities Work Program is in effect.

In the event that there is not sufficient capacity in the affected or contiguous concurrency service area to address the impacts of a proposed development, the following steps shall apply. Either (i) the project must provide capacity enhancement sufficient to meet its impacts through proportionate share mitigation; or (ii) a condition of approval of the site plan or final plat (or functional equivalent) shall be that the project's impacts shall be phased and building permits shall be delayed to a date when capacity enhancement and Level of Service can be assured; or (iii) the project must not be approved. The school board and the affected local government shall coordinate on the possibility of mitigation.

Options for providing proportionate share mitigation for any approval of additional residential dwelling units that triggers a failure to meet the Level of Service Standard for public school capacity will be specified in the County's and Cities' Public School Facilities Elements. Options shall include the following:

1. *Money* – Contribute full capital cost of a planned project, or project proposed to be added to the first three (3) years of the District Facilities Work Program,

in the affected concurrency service areas, providing sufficient capacity to absorb the excess impacts of the development, on land owned by the School Board or donated by another development.

2. Land - Donate land to and/or capital dollars equal to the cost of impact to the School Board needed for construction of a planned project, or project proposed to be added to the first three (3) years of the District Facilities Work Program in the affected concurrency service areas, and the School Board or some other entity funds the construction of or constructs the project.
3. Construction - Build a planned project, or project proposed to be added to the first three (3) years of the District Facilities Work Program, on land owned by the School Board or donated by another development, with sufficient capacity to absorb the excess impact of the development in the affected concurrency service area. (Usually, projects are more than one classroom).
4. Mix and Match - Combine two or more of these options to provide sufficient capacity to mitigate the estimated impact of the residential development on the affected concurrency service areas.
5. Mitigation banking - Mitigation banking within designated areas based on the construction of a public school facility in exchange for the right to sell capacity credits. Capacity credits shall only be transferred to developments within the same concurrency service area or a contiguous concurrency service area. Mitigation banking shall be administered by the School Board in accordance with the requirements of the concurrency mitigation system.

Proportionate-share mitigation must be acceptable to the School Board. Mitigation shall be directed to projects in the first three (3) years of the District Facilities Work Program that the School Board agrees will satisfy the demand created by that development approval.

The amount of mitigation required shall be calculated based on the cost per student station, as defined above, and for each school type (elementary, middle and high) for which there is not sufficient capacity. The Proportionate Share for a development shall be determined by the following formulas:

*Number Of New Student Stations Required For Mitigation (By School Type) =
[Number Of Dwelling Units Generated By Development Proposal, By Housing
Type x
Student Generation Multiplier (By Housing Type And School Type)] – Credit
for Districtwide Capacity of Magnet Schools and Charter Schools –
Number of Available Student Stations*

*Cost of Proportionate Share Mitigation =
Number Of New Student Stations Required For Mitigation (By School Type) x
Cost Per Student Station (By School Type).*

The full cost of proportionate share mitigation shall be required from the proposed development.

The local government and the School Board shall consider the evaluation report and the options that may be available for proportionate share mitigation including the amendment of the District Facilities Work Program. If the local government and the School Board find that options exist for proportionate share mitigation, they shall authorize the preparation of a development agreement and other documentation appropriate to implement the proportionate share mitigation option(s). A legally binding development agreement shall be entered into between the School Board, the relevant local government, and the applicant and executed prior to issuance of the final plat, site plan or functional equivalent. In that agreement, if the School Board accepts the mitigation, the School Board must commit to place the improvement required for mitigation on the first three (3) years of the Five Year Plan. This development agreement shall include the landowner's commitment to continuing renewal of the development agreement until the mitigation is completed as determined by the School Board. This agreement shall also address the amount of the impact fee credit that may be due for the mitigation, and the manner in which it will be credited.

Upon execution of a development agreement among the applicant, the local government and the School Board, the local government may issue a development order for the development. The development order shall condition approval upon compliance with the development agreement.

9.3 Updates to Public School Concurrency: The School Board, County and Cities shall use the processes and information sharing mechanisms outlined in this Amended and Restated Agreement to ensure that the uniform district-wide public school concurrency system is updated, the District Facilities Work Program remains financially feasible in the future, and any desired modifications are made. The District's updated Five-Year Plan will be adopted into the County's and Cities' capital improvement elements no later than December 1 of each year.

The School Board shall not amend the District Facilities Work Program as to modify, delay or delete any project that affects student capacity in the first three (3) years of the Five Year Plan unless the School District staff, with the concurrence of a majority of the School Board members, provides written confirmation that:

1. The modification, delay or deletion of a project is required in order to meet the School Board's constitutional obligation to provide a county-

wide uniform system of free public schools or other legal obligations imposed by state or federal law; or

2. The modification, delay or deletion of a project is occasioned by unanticipated change in population projections or growth patterns or is required in order to provide needed capacity in a location that has a current greater need than the originally planned location and does not cause the adopted LOS standard to be exceeded in the Concurrency Service Area from which the originally planned project is modified, delayed or deleted; or

3. The project schedule or scope has been modified to address local government concerns, and the modification does not cause the adopted LOS standard to be exceeded in the Concurrency Service Area from which the originally planned project is modified, delayed or deleted; and

4. The Staff Working Group has had the opportunity to review the proposed amendment and has submitted its recommendation to the Superintendent or designee.

The School Board may amend the District Facilities Work Program at any time to add necessary capacity projects to satisfy the provisions of this Agreement. For additions to the District Facilities Work Program, the School Board must demonstrate its ability to maintain its financial feasibility.

9.4 Exemptions and Vested Development. The following types of developments shall be exempt from the requirements of public school concurrency:

a. Developments that result in a total impact of less than one (1) student in any level or type of school; and

b. Development with covenants restricting occupancy to exclude school age children (e.g., 55 and over).

The following types of developments shall be considered vested from the requirements of public school concurrency:

a. Developments with a valid, unexpired site plan or final plat or functional equivalent, as of December 31, 2007;

b. Developments that have executed and recorded covenants or have provided monetary mitigation payments, as of December 31, 2007, under the School Board's current voluntary mitigation procedures;

c. Any Development of Regional Impact for which a development order was issued, pursuant to Chapter 380, Florida Statutes, prior to July 1, 2005. Also, any Development of Regional Impact for which an application was submitted prior to May 1, 2005.

Section 109. Resolution of Disputes

109.1 If the parties to this Amended and Restated Agreement are unable to resolve any issue in which they may be in disagreement covered in this Amended and Restated Agreement, the applicable parties to the dispute will employ dispute resolution procedures pursuant to Chapter 164 or Chapter 186, Florida Statutes, as amended from time to time, or any other mutually acceptable means of alternative dispute resolution. Each party shall bear their own attorney's fees and costs.

Section 110. Oversight Process

110.1 The School Board shall appoint up to nine (9) citizen members, the County and the Miami-Dade County League of Cities shall each appoint up to five (5) citizen members to serve on a committee to monitor implementation of this Amended and Restated ~~interlocal~~ Agreement. The School Board shall organize and staff the meetings of this Citizens Oversight Committee, calling on the Staff Working Group for assistance as needed. It shall provide ~~thirty (30)~~ no less than seven (7) days written notice of any meeting to the members of the Citizens Oversight Committee, the Staff Working Group, the SSPCC, County, Cities and to the public. Citizens Oversight Committee members shall be invited by the School Board to attend all meetings referenced in Sections 1 and 4 and shall receive copies of all reports and documents produced pursuant to this Amended and Restated Agreement. The Citizens Oversight Committee shall appoint a chairperson, meet at least annually, and report to participating local governments, the School Board and the general public on the effectiveness with which the interlocal agreement is being implemented. At least sixty (60) days prior to the annual meeting of the Citizens Oversight Committee, the Staff Working Group and the SSPCC shall each submit an annual report regarding the status of the implementation and effectiveness of the Agreement. These annual reports shall additionally be distributed to all parties to this Amended and Restated Agreement. Meetings of the Citizens Oversight Committee shall be conducted as public meetings, and provide opportunities for public participation. The Citizens Oversight Committee shall adopt bylaws that shall govern its operation.

Section 121. Effective Date and Term

This Amended and Restated Agreement shall take effect upon the date of publication of a Notice of Intent to find it consistent with the requirements of Section 163.31777(2), Florida Statutes. This Amended and Restated may be

~~executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument and be the agreement between the parties. This Agreement shall become effective upon the signatures of the School Board and County, and shall remain in full force and effect for a period of five (5) years from the effective date. The execution of the Agreement by each City shall make it effective as to that City. The failure of any party to execute the Agreement by January 1, 2008 ~~March 1, 2003~~ may subject that party to penalties as provided by statute. This Amended and Restated Agreement may be amended by mutual adoption by all parties, at the yearly joint meeting or as the situation warrants. This Amended and Restated Agreement may be earlier cancelled by mutual agreement of individual Cities or County and the School Board, unless otherwise cancelled as provided or allowed by law. In such a case, the withdrawing party/ies and the School Board may be subject to sanctions from the Administration Commission and the Florida Department of Education, unless they enter into a separate agreement within 30 days that satisfies all of the relevant requirements of Florida Statutes. Any separate agreement must be consistent with the uniform district-wide public school concurrency system. This Agreement may be extended upon the mutual consent of the parties to this Agreement for an additional five (5) years, on the same terms and conditions as provided herein, provided that the party seeking an extension gives written notice to the other parties of such intent to extend no later than one (1) year prior to the expiration of the then current term, and the other parties agree in writing to such extension. Extensions shall be valid as to those parties consenting in writing thereto, even if not all parties hereto so consent.~~

Section 132. Severability

If any item or provision of this Amended and Restated Agreement is held invalid or unenforceable, the remainder of the Agreement shall not be affected and every other term and provision of this Amended and Restated Agreement shall be deemed valid and enforceable to the extent permitted by law.

Section 143. Notice and General Conditions

- A. All notices which may be given pursuant to this Amended and Restated Agreement, except notices for meetings provided for elsewhere herein this Agreement, shall be in writing and shall be delivered by personal service or by certified mail return receipt requested addressed to the parties at their respective addresses indicated below or as the same may be changed in writing from time to time. Such notice shall be deemed given on the day on which personally served, or if by mail, on the fifth day after being posted or the date of actual receipt, whichever is earlier.

City Manager

City of Aventura
19200 West Country Club Drive
Aventura, Florida 33180
~~Phone: (305) 446-8910~~
~~Fax: (305) 466-8919~~

Town Manager
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, Florida 33154

City Manager
City of Coral Gables
P.O. Box 141549
Coral Gables, Florida 33114-1549

Town Manager
Town of Cutler Bay
10720 Caribbean Blvd., Suite 105
Cutler Bay, FL 33189

City Manager
City of Doral
8300 NW 53rd Street, Suite 100
Doral, FL 33166

Mayor
Village of El Portal
500 N.E. 87 Street
El Portal, Florida 33138-3517

Mayor
City of Florida City
P.O. Box 343570
Florida City, Florida 33034-0570

Mayor
City of Hialeah
P.O. Box 110040
Hialeah, Florida 33011-0040

Chief Zoning Officer
City of Hialeah Gardens
10001 N.W. 87 Avenue
Hialeah, Gardens, Florida 33016

City Manager
City of Homestead
790 North Homestead Boulevard
Homestead, Florida 33030

Village Manager
Village of Indian Creek
9080 Bay Drive
Indian Creek Village, Florida 33154

Village Manager
Village of Key Biscayne
85 West McIntyre Street
Key Biscayne, Florida 33149

City Manager
City of Miami
3500 Pan American Drive
Miami, Florida 33133

City Manager
City of Miami Beach
City Hall
1700 Convention Center Drive
Miami Beach, Florida 33139

City Manager
City of Miami Gardens
1515 NW 167th Street, Suite 200
Miami Gardens, FL 33169

Town Manager
Town of Miami Lakes
6853 Main Street
Miami Lakes, Florida 33014

Village Manager
Village of Miami Shores
10050 N.E. Second Avenue
Miami Shores, Florida 33138

City of Miami Springs
201 Westward Drive
Miami Springs, Florida 33166-5259

City Manager
City of North Bay Village
7903 East Drive
North Bay Village, Florida 33141

City Manager
City of North Miami
776 N.E. 125 Street
North Miami, Florida 33161

City Manager
City of North Miami Beach
17011 N.E. 19 Avenue
North Miami Beach, Florida 33162

Director of Community Development and Planning
City of Opa-Locka
777 Sharazad Boulevard
Opa-Locka, Florida 33054

Village Attorney
The Village of Palmetto Bay
3225 Aviation Avenue, Suite 301
Miami, Florida 33133

Planning Director
Village of Pinecrest
~~12645 Pinecrest Parkway~~ 11551 S. Dixie Highway
Pinecrest, Florida 33156

City Manager
City of South Miami
6130 Sunset Drive
South Miami, Florida 33143

Deputy City Attorney
City of Sunny Isles Beach
17070 Collins Avenue
Sunny Isles Beach, Florida 33160

Mayor
City of Sweetwater
500 S.W. 109 Avenue
Sweetwater, Florida 33174-1398

City Manager
City of West Miami
901 S.W. 62 Avenue
West Miami, Florida 33144

Miami-Dade County
Director Department of Planning & Zoning
111 N.W. First Street
Miami, Florida 33128

Superintendent
The School Board of Miami-Dade County, Florida
1450 N. E. 2 Avenue, Room 912
Miami, Florida 33132

- B. Title and Paragraph headings are for convenient reference and are not intended to confer any rights or obligations upon the parties to this Amended and Restated Agreement.

Section 154- Merger Clause

This Amended and Restated ~~Interlocal~~ Agreement, together with the Exhibits hereto, sets forth the entire agreement between the parties and there are no promises or understandings other than those stated therein. It is further agreed that no modification, amendment or alteration of this Amended and Restated Agreement shall be effective unless contained in a written document executed with the same formality and of equal dignity herein. The Exhibits to this Amended and Restated Agreement will be deemed to be incorporated by reference as though set forth in full herein. In the event of a conflict or inconsistency between this Amended and Restated Agreement and the provisions in the incorporated Exhibits, then Amended and Restated Agreement will prevail.

Any amendment to this Amended and Restated Agreement requested by a local legislative body of the County or a participating municipality will be placed on a School Board Agenda for consideration within sixty (60) days of the School Board's receipt of such request. Likewise, any amendments to this Amended and Restated Agreement requested by the School Board will be placed on the agenda of the local legislative body of the County and participating municipalities for consideration, within sixty (60) days of receipt of the request.

Section 165 Counterparts Clause

This Amended and Restated ~~Interlocal~~ Agreement may be executed in counterparts and facsimiles shall constitute best evidence for all purposes.

Section 176. Supplementary Agreements

All parties to this Amended and Restated ~~Interlocal~~ Agreement stipulate that the School Board may enter into Supplementary Agreements with individual municipalities to address individual circumstances. Any such Supplementary Agreement shall be consistent with the statutes governing this Amended and Restated ~~Interlocal~~ Agreement.

Section 187. Favored Nations

Should the School Board enter into an agreement with another municipality or County, separate or otherwise, which provides more beneficial terms than those agreed to herein, the School Board shall offer the same terms to all other parties to this Amended and Restated Interlocal Agreement.

Section 198. Exempt or Waived Municipalities

198.1. In cases where a municipality or other unit of local government (that is not a party to this Amended and Restated Agreement by virtue of statutory exemption or waiver) and whose decisions and/or actions with respect to development within the municipality's or unit of local government's jurisdiction, may impact on municipalities or units of local government which are parties to this Amended and Restated Agreement, the School Board agrees to contact, through its representatives or appropriate designees, these non-parties and invite them to become signatories to this Amended and Restated Agreement. Failure to secure a response or to have non-signatories become signatories to this Amended and Restated Agreement shall neither constitute, nor be considered, a breach of this Amended and Restated Agreement.

198.2 This section shall not be interpreted to prevent exempt or waived municipalities from participating in the processes under this Amended and Restated Agreement ~~and the First Supplemental Agreement~~ as they may relate to any public school facilities located in unincorporated Miami-Dade County.

Section 20. No Third Party Beneficiaries.

The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Amended and Restated Agreement. None of the parties intend to directly or substantially benefit a third party by this Amended and Restated Agreement. The parties agree that there are no third party beneficiaries to this Amended and Restated Agreement, and that no third party shall be entitled to assert a claim against any of the parties based upon this Amended and Restated Agreement. Nothing herein shall be construed as consent by any agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

IN WITNESS WHEREOF, this Amended and Restated Interlocal Agreement has been executed by and on behalf of Miami-Dade County, the Cities of City of Aventura, Town of Bay Harbor Islands, City of Coral Gables, Town of Cutler Bay, City of Doral, Village of El Portal, City of Florida City, City of Hialeah, City of Hialeah Gardens, City of Homestead, ~~Village of Indian Creek~~, Village of Key Biscayne, City of Miami, City of Miami Beach, City of Miami Gardens, Town of Miami Lakes, Village of Miami Shores, City of Miami Springs, City of North Bay Village, City of North Miami, City of North Miami Beach, City of Opa-Locka, Village of Palmetto Bay, Village of Pinecrest, City of South

Miami, City of Sunny Isles Beach, City of Sweetwater, and the City of West Miami, and the School Board of Miami-Dade County, Florida, on this _____ day of _____, 20037.

The School Board of Miami Dade County, Florida

Attest: _____ (print)

By: _____

_____, Chair

Attest: _____ (print)

By: _____

_____, Secretary

Approved as to form:

School Board Attorney

Signature page to be provided by each municipality.

GLOSSARY

Contiguous Concurrency Service Areas: Concurrency Service Areas which are contiguous and touch along one side of their outside geographic boundary.

Affected Local Government: Any jurisdiction within 1,500 feet of, or whose utilities are utilized by the property or improvement under consideration by the School Board.

Ancillary Facilities: The building, site and site improvements necessary to provide support services to the School Board's educational program including, but not limited to vehicle storage and maintenance, warehouses or administrative buildings.

Applicant: For the purposes of school concurrency, any person or entity undertaking a residential development.

Attendance Boundary: The geographic area which is established to identify the public school assignment of students residing within that area.

Available Capacity: Existing school capacity which is available within a Concurrency Service Area including any new school capacity that will be in place or under actual construction, as identified in the first three years of the School District's Five Year Capital Plan.

Cities: The municipalities within Miami-Dade County, except those that are exempt from the Public School Facilities Element, pursuant to Section 163.3177(12), F.S.

Comprehensive Plan: As provided by Section 163.3164(4), F.S., as amended, a plan that meets the requirements of 163.3177 and 163.3178, F.S.

Concurrency: As provided for in Florida Administrative Code Rule 9J-5.003, the necessary public facilities and services to maintain the adopted level of service standards are available when the impacts of development occur.

Concurrency Service Area (CSA): A geographic area in which the level of service for schools is measured when an application for residential development is reviewed for school concurrency purposes.

Consistency: See Section 163.3194, F.S.

Development Order: As provided by Section 163.3164(7), F.S., as amended, any order granting, or granting with conditions, an application for a development permit.

Educational Facility: The buildings and equipment, structures and special educational use areas that are built, installed or established to serve educational purposes only.

Educational Plant Survey: a systematic study of schools conducted at least every five years and submitted to the DOE for review and validation. The survey includes an inventory of existing educational and ancillary plants, and recommendations for future needs.

Evaluation Report: A report prepared by the School District, identifying if school capacity is available to serve a residential project, and if capacity exists, whether the proposed development is conceptually approved or vested.

Exempt Local Government: A municipality which is not required to participate in school concurrency when meeting all the requirements for having no significant impact on school enrollment, per Section 163.3177(12)(b), F.S., or because it has received a waiver from the Department of Community Affairs per Section 163.3177(1)(c), F.S.

Financial Feasibility: As provided in Section 163.3164(32), F.S., as amended, sufficient revenues are currently available or will be available from committed funding sources for the first 3 years, or will be available from committed or planned funding sources for years 4 and 5, of a 5-year capital improvement schedule for financing capital improvements, such as ad valorem taxes, bonds, state and federal funds, tax revenues, impact fees, and Applicant contributions, which are adequate to fund the projected costs of the capital improvements identified in the comprehensive plan necessary to ensure that adopted level of service standards are achieved and maintained within the period covered by the 5-year schedule of capital improvements.

Five Year Plan: School District's annual comprehensive capital planning document, that includes long range planning for facility needs over a five-year, ten-year and twenty-year planning horizon. The adopted School District's Five-Year Work Program and Capital Budget as authorized by Section 1013.35, F.S.

Florida Inventory of School Houses (FISH) – Permanent Capacity: The report of the permanent capacity of existing public school facilities. The FISH capacity is the number of students that may be housed in a facility (school) at any given time based on a percentage of the total number of existing student stations and a designated size for each program.

Geographic Area: One of four quadrants (Northwest, Northeast, Southwest, Southeast) of Miami-Dade County as depicted in Exhibit 3 (attached).

Level of Service (LOS) Standard: As provided for in the Florida Administrative Code Rule 9J-5.003, an indicator of the extent or degree of service provided by, or proposed to be provided by, a facility based on and related to the operational characteristics of the facility.

Local Governments: Miami-Dade County and/or the Cities located within its boundary.

Maximize Capacity Utilization: The use of student capacity in each CSA to the greatest extent possible, based on the adopted level of service and the total number of permanent student stations according to the FISH inventory, taking into account special considerations such as, core capacity, special programs, transportation costs, geographic impediments, court-ordered desegregation, and class size reduction requirements to prevent disparate enrollment levels between schools of the same type (elementary, middle, high) and provide an equitable distribution of student enrollment district-wide.

Permanent School District Facilities: An area within a school that provides instructional space for the maximum number of students in core-curricula courses which are assigned to a teacher based on the constitutional amendment for class size reduction and is not moveable.

Permanent Student Station: The floor area in a permanent classroom required to house a student in an instructional program, as determined by the FDOE.

Proportionate Share Mitigation: An Applicant improvement or contribution identified in a binding and enforceable agreement between the Applicant, the School Board and the Local Government with jurisdiction over the approval of the plat, site plan or functional equivalent provide compensation for the additional demand on public school facilities caused by the residential development of the property, as set forth in Section 163.3180(13)(e), F.S.

Public School Facilities: Facilities for the education of children from pre-kindergarten through twelfth grade operated by the School District.

School Board: The governing body of the School District, a political subdivision of the State of Florida and a body corporate pursuant to Section 1001.40, F.S.

School District of Miami-Dade County: The School District created and existing pursuant to Section 4, Article IX of the State of Florida Constitution.

Student Generation Multiplier (SGM): A rate used to calculate the number of students by school type (elementary, middle, high) and housing type (single-family, multifamily, etc.) that can be anticipated from a new residential development.

Type of School: Schools providing the same level of education, i.e. elementary, middle, high school, or other combination of grade levels.

Utilization: A ratio showing the comparison of the total number of students enrolled to the overall capacity of a public school facility within a Concurrency Service Area (CSA).

Exhibit 1

Miami-Dade County School Board Rule 6Gx13- 2C-1.083

Exhibit 2

Map of Geographic Areas

TAB 9

RESOLUTION NO. 07-_____

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, RESPECTIVELY REQUESTING MIAMI-DADE COUNTY TO DEFER APPLICATION NUMBER Z07-207 RELATING TO FLORIDA POWER AND LIGHT'S (FPL) NUCLEAR POWER PLANT (TURKEY POINT) EXPANSION UNTIL SUCH TIME THAT FPL REPRESENTATIVES HOLD PUBLIC INFORMATIONAL FORUMS WITHIN THE TOWN TO INFORM THE RESIDENTS OF THE TOWN ABOUT THE PROPOSED EXPANSION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Florida Power and Light (FPL) has filed an application with Miami-Dade County (the "County") (Application # Z07-207) seeking an unusual use permit and a waving of the zoning and subdivision regulations in order to construct two new nuclear reactors at the Turkey Point facility (the "Nuclear Facility"); and

WHEREAS, the Town of Cutler Bay (the "Town") is located within close proximity to this Nuclear Facility; and

WHEREAS, given the Town's close proximity, the proposed expansion to the Nuclear Facility could negatively impact the Town's potable as well as non potable water supplies, coastal wetlands and conservation areas, and the marine life within the adjacent Biscayne National Park; and

WHEREAS, the Town agrees with Miami-Dade County Department of Environmental and Resource Management's refusal of FPL's initial request, which has been withdrawn, for mining the site for fill as such mining could potentially negatively impact surrounding wetlands and worsen salt water intrusion; and

WHEREAS, although requested by the Town, FPL has failed to inform the residents of the Town through outreach programs or others public forums about the impacts that this proposed expansion to the Nuclear Facility could have on the Town; and

WHEREAS, given the potential negative impacts on the Town's water supply, environmentally sensitive lands, the timing of this public hearing which is at a time when many residents are on holiday vacation, and the lack of FPL's dissemination of information within the Town about the expansion of the Nuclear Facility, the Town Council respectfully requests that the Board of County Commissioners defer this proposed application until such time that FPL representatives hold public informational forums within the Town to inform the residents of the Town about the proposed expansion to the Nuclear Facility; and

WHEREAS, the Town Council finds that approving 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. Deferral Requested. The Town Council respectively requests that the Board of Miami-Dade County Commissioners defer Application number Z07-207 relating to Florida Power and Light's (FPL) Turkey Point nuclear reactor expansion until such time that FPL representatives hold public informational forums within the Town to inform the residents of the Town about the proposed expansion to the facility.

Section 3. Transmittal to the Miami-Dade County. The Town Council hereby authorizes the Town Clerk to transmit this Resolution to the Board of Miami-Dade County Commissioners.

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

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 10

RESOLUTION NO. 07-___

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING A CHARTER REVISION COMMISSION; PROVIDING FOR AN APPOINTMENT PROCEDURE FOR MEMBERS OF A CHARTER REVISION COMMISSION; PROVIDING FOR DISSOLUTION OF THE COMMISSION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay (the "Town") is required by Section 6.2 of the Town Charter to appoint and fund a Charter Revision Commission (the "Commission") at the first regular meeting in December of 2007; and

WHEREAS, the Town wishes to appoint and fund the Commission.

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. Charter Revision Commission. The Town Council hereby creates the Commission. The Commission shall commence its proceedings within 45 days of appointment by the Council. The Commission is charged with reviewing each and every section of the Charter and make recommendations for change. If the Commission determines that an amendment or revision is needed, it shall submit the same to the Council no later than sixty days from the effective date of this resolution.

Section 3. Appointments and Funding. Pursuant to Charter Section 6.2 the Commission shall consist of five persons including one from each of the three residential areas. One appointment shall be made by the Mayor, Vice-Mayor and each Council member. In addition, the Mayor shall appoint one person to the Commission who is the Vice-Mayor or Council member who is serving a second consecutive term, who shall serve as a non-voting Commission member. The Mayor shall not be eligible for appointment to the commission. The attached list of persons are hereby appointed to the Commission in compliance with Section 6.2 of the Town Charter. The Town Manager is hereby authorized to expend necessary funds so that the Commission may accomplish its duties.

Section 4. Dissolution. The Commission shall be dissolved upon fulfillment of its duties as required by Section 6.2 of the Town Charter.

Section 5. Effective Date. This Resolution shall become 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.
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 11



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: August 15, 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 3,960 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 3,960 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.



Planning & Zoning Department

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 3,960 square foot 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 functions 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, strengthens 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 a strip 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.



Planning & Zoning Department

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 Design" 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 19 parking spaces, which exceeds the parking requirements by 5 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.



Planning & Zoning Department

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

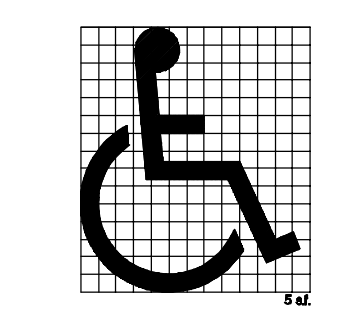
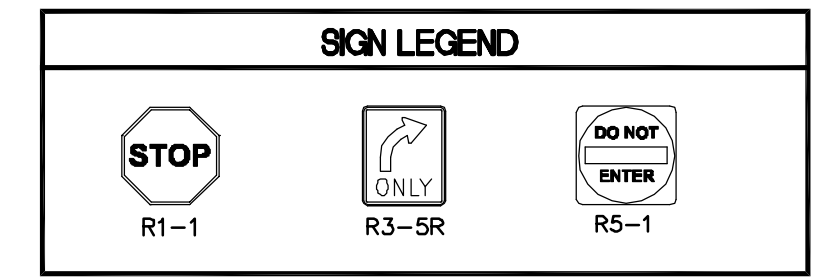
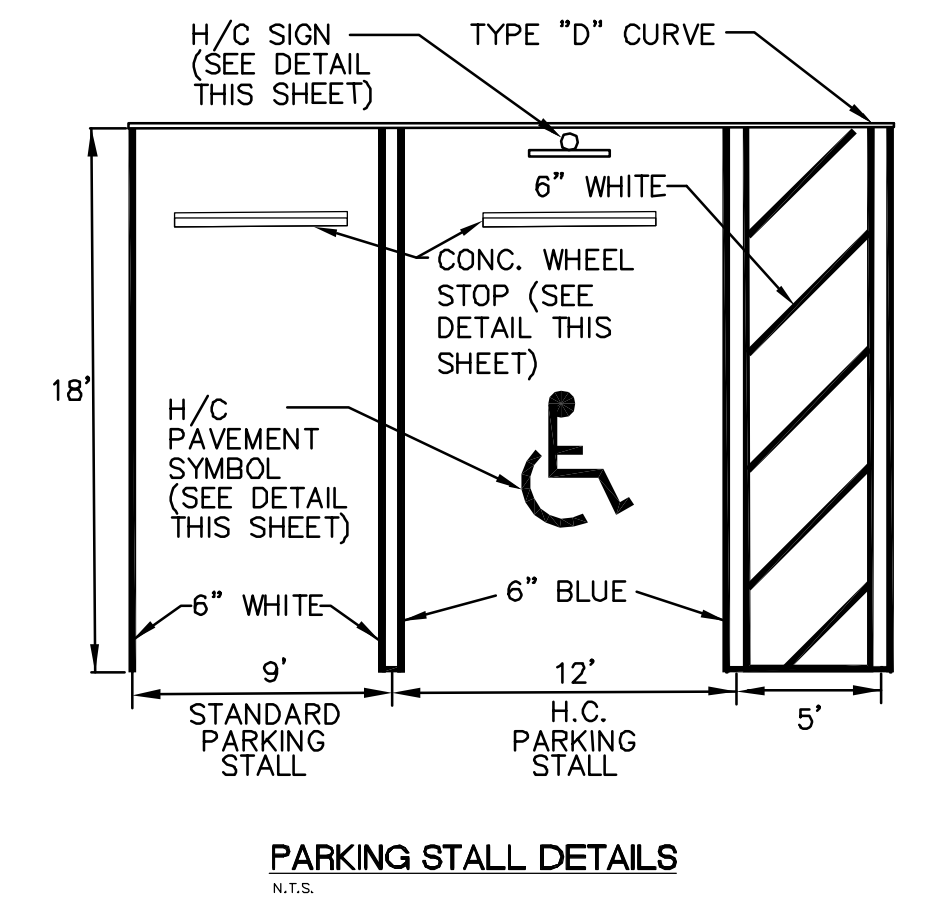
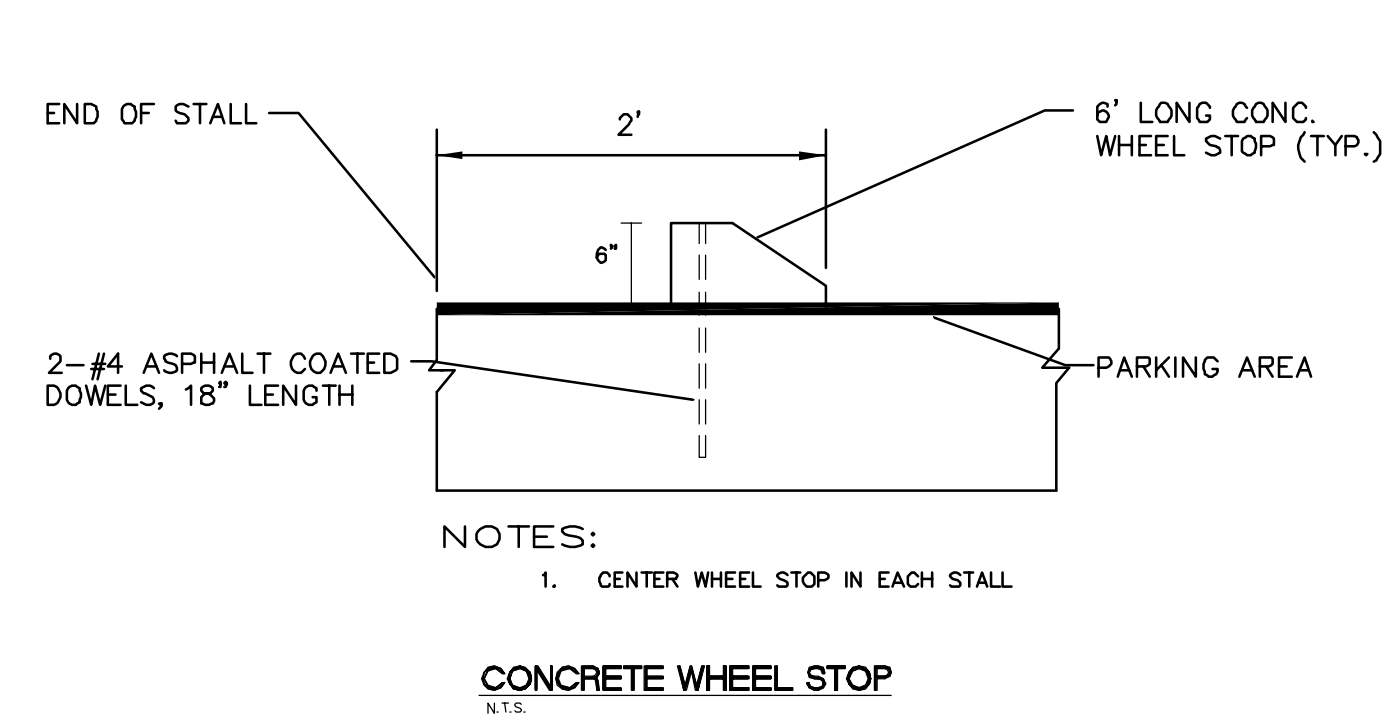
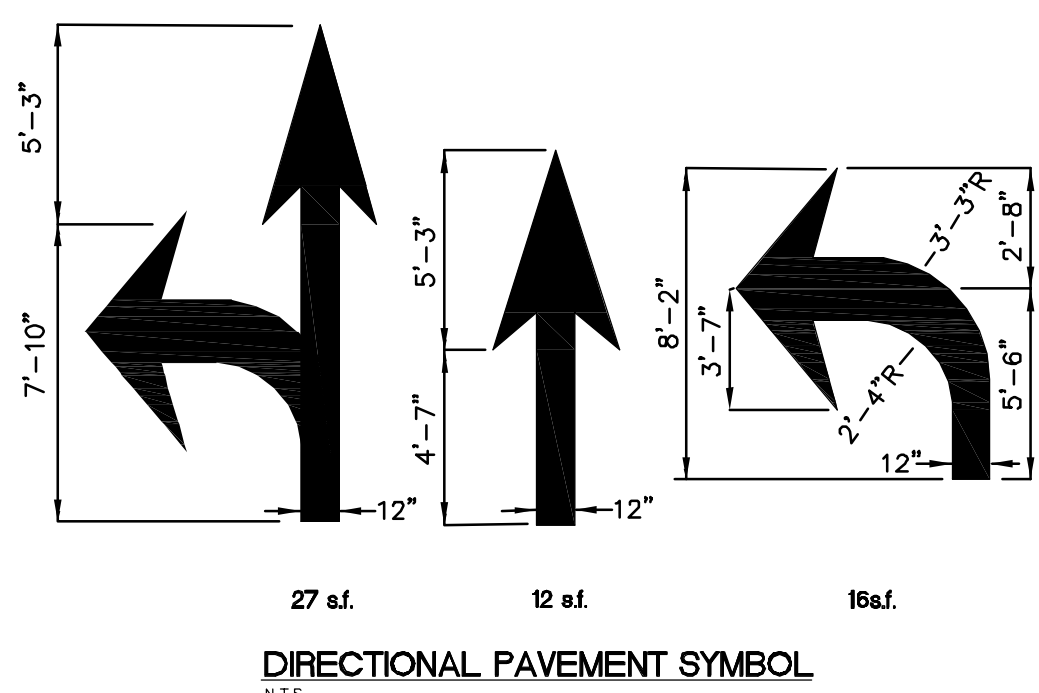
Moved By:
Seconded By:

FINAL VOTE AT ADOPTION:

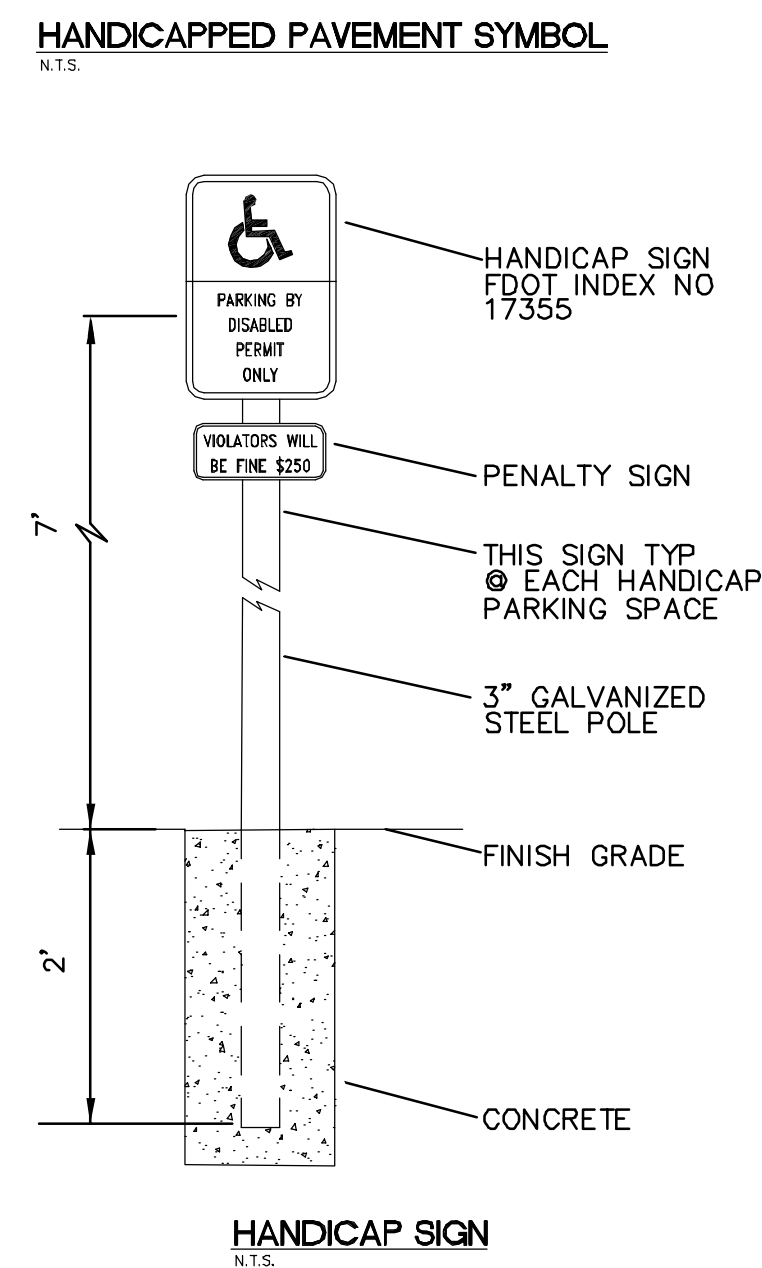
Mayor Paul S. Vrooman	_____
Vice Mayor Edward P. MacDougall	_____
Councilmember Peggy R. Bell	_____
Councilmember Timothy J. Meerbott	_____
Councilmember Ernest N. Sochin	_____

This document, together with the concepts and designs presented herein, is intended only for the specific purpose and client for which it was prepared. Reuse of and improper reliance on this document without written authorization and adaptation by Kimley-Horn and Associates, Inc. shall be without liability to Kimley-Horn and Associates, Inc.

LEGEND



USE OF PAVEMENT SYMBOL IN HANDICAPPED PARKING SPACES IS REQUIRED. THE SYMBOL SHALL BE 5 FT. HIGH AND WHITE IN COLOR.



LEGAL DESCRIPTION

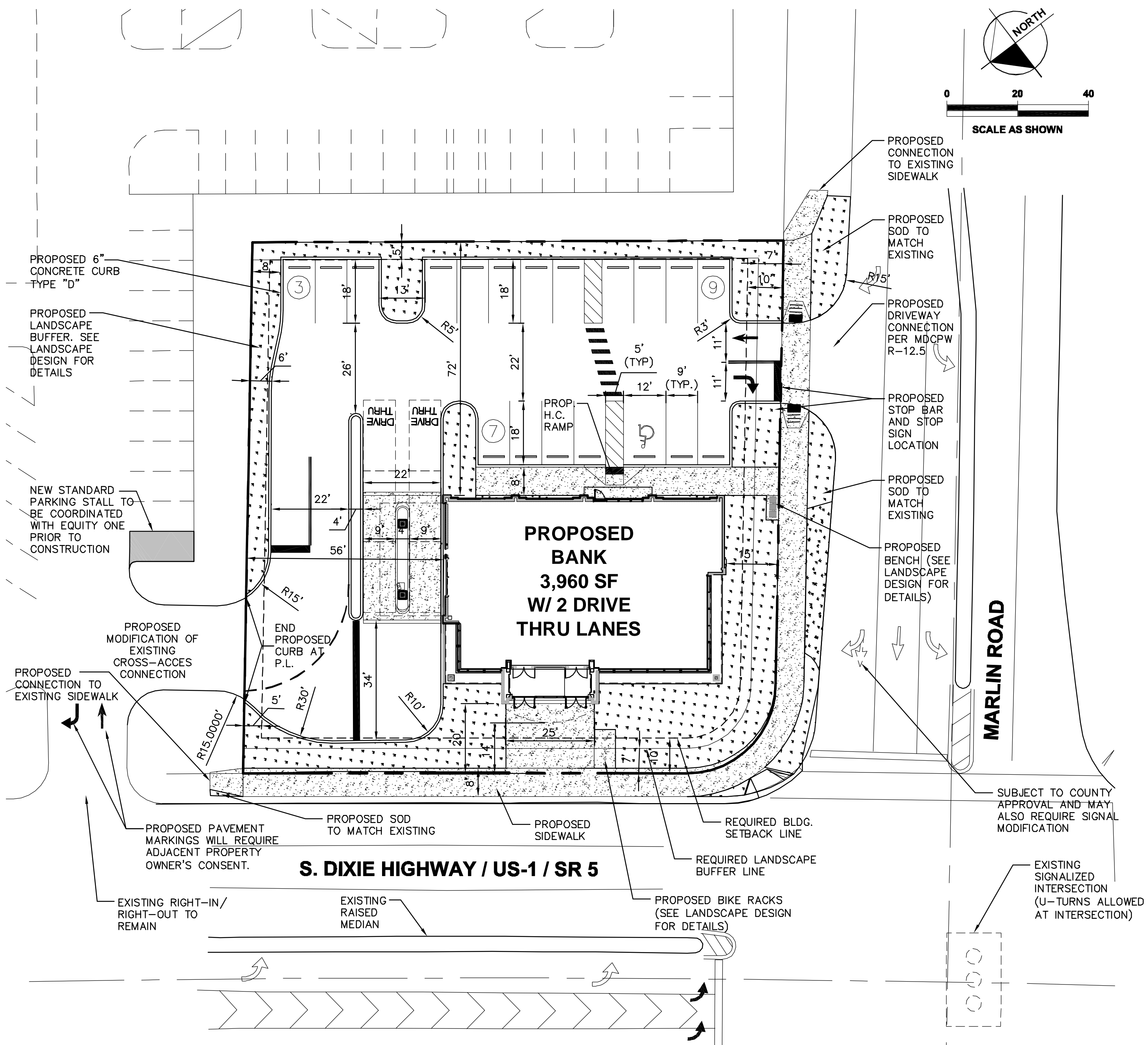
A PORTION OF PERRINE GRANT SUBDIVISION IN SECTION 5, TOWNSHIP 56 SOUTH, RANGE 40 EAST, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 1 AT PAGES 4 AND 5 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE CENTERLINE OF MARLIN ROAD WITH THE SOUTHWESTERLY RIGHT OF WAY LINE OF U.S. RTE. No. 1 (STATE ROAD No. 5) AS SHOWN ON THAT CERTAIN PLAT OF SECTION TWO BEL-AIRE AS RECORDED IN PLAT BOOK 65 AT PAGE 132 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, AND RUN NORTHEASTERLY ALONG A CIRCULAR CURVE TO THE LEFT HAVING A RADIUS OF 7722.49 FEET AND A CENTRAL ANGLE OF 0 DEGREES 33 MINUTES 17 SECONDS FOR AN ARC DISTANCE OF 74.77 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREINAFTER DESCRIBED; THENCE CONTINUE NORTHEASTERLY ALONG THE LAST DESCRIBED CURVE THRU A CENTRAL ANGLE OF 0 DEGREES 55 MINUTES 44.8 SECONDS FOR AN ARC DISTANCE OF 125.23 FEET; THENCE SOUTH 50 DEGREES 27 MINUTES 05 SECONDS EAST ALONG A LINE NORTHEASTERLY OF AND PARALLEL WITH THE AFOREMENTIONED CENTERLINE OF MARLIN ROAD FOR 150.00 FEET; THENCE SOUTH 38 DEGREES 20 MINUTES 00 SECONDS WEST FOR 150.00 FEET; THENCE NORTH 50 DEGREES 27 MINUTES 05 SECONDS WEST ALONG THE NORTHEASTERLY RIGHT OF WAY LINE OF SAID MARLIN ROAD FOR 125.95 FEET TO A POINT OF CURVATURE; THENCE NORTHWESTERLY, NORTHERLY, AND NORTHEASTERLY ALONG A CIRCULAR CURVE TO THE RIGHT HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 89 DEGREES 26 MINUTES 43 SECONDS FOR AN ARC DISTANCE OF 39.03 FEET TO THE POINT OF BEGINNING, LYING AND BEING IN DADE COUNTY, FLORIDA.

ALSO KNOWN AS TRACT F, BEL AIRE CENTER, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 90, AT PAGE 8, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

ZONING LEGEND			
CURRENT ZONING DISTRICT	BU-2		
PROPOSED ZONING DISTRICT	BU-2		
PROPERTY AREA	0.514 ACRES	22,383 SQ. FT.	
IMPERVIOUS AREA	0.399 ACRES	17,402 SQ. FT.	77.7 %
LANDSCAPED OPEN SPACE			
	REQUIRED*	PROVIDED	
RETAIL (BANK):	4,219 SQ. FT.	4,981 SQ. FT.	22.3 %
*18 % OF NET LAND AREA + 10 SF/PARKING SPACE			
PARKING SPACES			
	REQUIRED	PROVIDED	BUILDING AREA
RETAIL (BANK):	16 SPACES	19	3,960 SQ. FT.
			PARKING RATIOS
			1 SPACE/250 S.F.

MISC. SITE INFORMATION	
LANDSCAPE BUFFER	REQUIRED PROVIDED
NORTH WEST	7' 7'
SOUTH EAST	5' 5'
NORTH EAST	0' 5'
SOUTH WEST	7' 7'
BUILDING SETBACKS	
	REQUIRED PROVIDED
FRONT (NW)	0' OR 10' 20'
SIDE STREET (NE)	5' 5'
SIDE STREET (SW)	0' OR 10' 15'
REAR (SE)	5' 5'



Call 48 Hours before you dig
It's the Law!
1-800-432-4770
Sunshine State One Call of Florida, Inc.

FOR PERMITTING ONLY
NOT FOR CONSTRUCTION

<p>Kimley-Horn and Associates, Inc. 9130 S. DADELAND BOULEVARD, SUITE 102, MIAMI, FL 33156 PHONE (305) 670-9120 FAX (305) 670-9360 WWW.KIMLEY-HORN.COM CA 00000696</p>		<p>DATE 11/06/07</p> <p>PROJECT NO. 042701081</p>	<p>DESIGN ENGINEER: OSCAR TAZOE, P.E.</p> <p>FLORIDA REGISTRATION NUMBER: 60742</p>	<p>MIAMI-DADE COUNTY FLORIDA</p>	<p>SHEET NUMBER SP-1</p>
<p>SCALE AS NOTED</p> <p>DESIGNED BY DC</p> <p>DRAWN BY JPB</p> <p>CHECKED BY J.E.J.</p>					
<p>No. REVISIONS DATE BY</p>					

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 12

ORDINANCE NO. 07-_____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, PROVIDING FOR THE ISSUANCE OF A SOLID WASTE FRANCHISE FOR COMMERCIAL AND MULTI-FAMILY RESIDENTIAL SOLID WASTE COLLECTION; PROVIDING FOR DEFINITIONS; REQUIRING A FRANCHISE FEE FOR COMMERCIAL, MULTI-FAMILY RESIDENTIAL, AND RESIDENTIAL CONSTRUCTION SITE SOLID WASTE COLLECTION ACTIVITIES; PROVIDING FOR AN APPLICATION PROCESS; PROVIDING FOR DENIAL, TERM, TRANSFER, AND RENEWAL OF FRANCHISES; PROVIDING FOR FRANCHISEE REPORTING REQUIREMENTS; PROVIDING FOR REVOCATION OF FRANCHISE; PROVIDING FOR FRANCHISE AND PERMIT FEES; CREATING FRANCHISE FEE SERVICE STANDARDS; REQUIRING INSURANCE; IMPOSING FINES; PROVIDING FOR MUNICIPAL COLLECTION SERVICE; PROVIDING FOR RESTORATION; PROVIDING FOR CONTROL OF SPILLAGE AND LITTER; PROVIDING FOR INCLUSION IN THE CODE;; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay has the authority to require that persons and entities engaging in the business of solid waste collection in the Town obtain a franchise from the Town and pay solid waste collection franchise fees imposed by the Town; and

WHEREAS, the Town Council desires to issue such franchises and to impose such franchise fees, as a percentage of gross receipts, as set forth in this Ordinance.

NOW, THEREFORE BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AS FOLLOWS:

SOLID WASTE FRANCHISE ORDINANCE

Section 1. Designation. This Ordinance shall be designated and known as the Town of Cutler Bay Solid Waste Franchise Ordinance. This Ordinance shall be applicable to all private haulers of solid waste that seek to do business within commercial properties, multi-family residential properties, and residential construction site solid waste operations in the Town.

Section 2. Definitions. The following words and phrases, when used in this Ordinance, shall have the meanings ascribed to them:

(a) *Biohazardous waste:* Any solid or liquid waste which may present a threat of infections to humans. The term includes, but is not limited to, non-liquid human tissue and body parts; laboratory and veterinary waste which contains human-disease causing agents; used disposable sharp medical equipment; human blood, blood products and body fluids; and other materials which in the opinion of the Department of Health and Rehabilitative Services represent a significant risk of infection to persons outside the generating facility.

(b) *Biological waste:* Any solid or liquid waste that causes or has the capability of causing disease or infection and includes, but is not limited to, biohazard wastes, diseased or dead animals, and other waste capable of transmitting pathogens to humans or animals.

(c) *Commercial establishment:* Any structure used or constructed for use as a business which is not also a residential unit. For purposes of this Ordinance, hotels and motels are commercial establishments.

(d) *Customer:* A person who uses the solid waste or recycling services of a private hauler.

(e) *Franchise:* The named person who obtains a franchise from the Town of Cutler Bay pursuant to this Ordinance to provide private hauling services.

(f) *Garbage:* Every refuse accumulation of animal, fruit, vegetable, or organic matter that attends the preparation, use, cooking, and detailing in, or storage of, meat, fish, fowl, fruit, flowers, plants, or vegetables, and decay, putrefaction and the generation of noxious or offensive gases or odors, or, which, during or after decay, may serve as breeding or feeding material for flies or other germ carrying insects.

(g) *Garbage can or container:* Any container made of galvanized metal, durable plastic or other suitable material of a capacity not less than ten gallons and not to exceed thirty gallons approved for use by the Town Manager or his designee. The container shall have two handles upon its sides, or a bail by which dirt may be lifted, and shall have a tight fitting solid top.

(h) *Gross receipts:* Gross receipts shall mean the entire amount of fees collected by a franchisee, exclusive of state sales taxes provided by law from any person within the Town for garbage, hazardous, industrial, biomedical, biological, or solid waste; construction and demolition, debris, trash, litter refuse, and/or rubbish collection, removal and disposal. The invoices resulting from the collection of solid waste from multi-family residential, commercial and residential construction customers within the Town.

(i) *Hazardous waste:* Any solid waste, or a combination of solid wastes, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitation reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated, or otherwise managed.

(j) *Industrial waste:* Any and all debris and waste products generated by manufacturing, food processing (except restaurant), land clearing, any commercial shrubbery or tree cutting, building construction or alteration (except do-it-yourself home projects) and public works type construction projects whether performed by a government unit or by contract.

(k) *Infectious waste:* Those wastes which may cause disease or may reasonably be suspected or harboring pathogenic organisms. Included are wastes resulting from the operation of medical clinics, hospitals, and other facilities producing wastes which may consist of, but are not limited to diseased human and animal parts, contaminated bandages, pathological specimens, hypodermic needles, contaminated clothing, and surgical gloves.

(l) *Multi-family residential establishment:* Any structure other than a residential unit which is used, or constructed for use, as a multiple dwelling facility. Multi-family residential establishments shall include, without limitations, rooming houses, tourist courts, trailer parks, apartment buildings with rental or cooperative apartments, or multiple story condominiums with common means of ingress or egress.

(m) *Performance or Payment bond:* The form of security approved by the Town and furnished by the franchisee as required as a guarantee that the franchisee will execute the work in accordance the work in accordance with the terms of this chapter and will pay all franchise fee payments due to the Town.

(n) *Person:* Any natural person, individual, public or private corporation, firm, partnership, association, joint venture, municipality, or any combination of such, jointly or severally.

(o) *Private hauler:* Any person, entity, corporation or partnership for hire that removes, collects and transports for disposal any solid waste over the streets or public rights-of-way within the Town. The qualified and approved private hauler must have the following: a minimum two years of incorporation; operation facility in Miami-Dade County; proven experience servicing a municipal and governmental contract in Miami-Dade County; possess a Miami-Dade County Waste Haulers Permit, Miami-Dade County Occupational License.

(p) *Recyclable materials:* Those materials which are capable of being recycled and which would otherwise be processed or disposed of as a solid waste.

(q) *Residential construction:* Any construction or renovation requiring a permit from the Town.

(r) *Residential construction site:* A location where residential construction is taking place.

(s) *Residential unit:* Any structure which is used, or constructed for use, as a single-family dwelling, duplex, cluster house or townhouse, and which is located on a single lot, parcel or tract of land. For the purposes of this Ordinance, any condominium structure composed of privately-owned, single family housing units with separate means of ingress or egress and containing no more than two stories shall be considered a residential unit. The term “residential unit” shall not include any multi-family residential establishment, as identified at subsection (e), above.

(t) *Solid waste:* Garbage, trash, litter, yard trash, hazardous waste, construction and demolition debris, industrial waste, or other disregard materials, including solid or contained gaseous materials resulting from domestic, industrial, commercial, mining, agricultural or governmental operations. Solid waste includes, but is not limited to: biohazardous waste, biological waste, garbage, hazardous waste, industrial waste, infectious waste, and recyclable materials.

(u) *Solid waste disposal:* Disposition of solid waste by means of combustion, land filling or other final method of discard.

Section 3. Franchise required by the Town for solid waste collection.

(a) No private hauler shall remove, collect or transport for disposal from any commercial establishment, multi-family residential establishment, or residential construction site in the Town, solid waste over the streets or public right-of-way located within the Town without first applying for and receiving the appropriate solid waste franchise from the Town to carry on such business.

(b) The franchise required by this section shall be in addition to Miami-Dade County Waste Haulers Permit, Miami-Dade County Occupational License. Any other permits, registration or occupational license which may be required by federal, state or local law.

(c) Granting of a franchise shall be limited to private haulers holding a valid Miami-Dade county permit.

Section 4. Application for non-exclusive franchise.

(a) Applications for a franchise shall be made to the Town upon a form prescribed by the Town manager and shall be accompanied by supporting documents and such other information (collectively “the application”) as may be required by the Town manager. The application shall, at a minimum,, include the following information:

- (1) The applicant's name, address, and telephone number. In the case of an applicant having more than one office within Miami-Dade County, the applicant shall designate a primary office from which accounts in the Town will be serviced, and the address and telephone number of all offices within Miami-Dade County, which are supervisory to the offices serving the Town. The franchisee shall provide, at its own expense, a suitable office located within a close proximity to Miami-Dade County where telephone complaints shall be received, recorded, and handled during normal working hours of each week, and shall provide for prompt handling of emergency complaints along with the special emergency complaints or calls.
- (2) Evidence of insurance meeting the minimum requirements set forth in this chapter.
- (3) A complete list of the vehicles which will be used to service accounts in the Town. This list shall include the year, make, model number, and license plate number of each vehicle.
- (4) Evidence that proposed franchisee has obtained all required county, state, and federal licenses or permits required to engage in the business of garbage or solid waste collection.
- (5) Evidence that the proposed franchisee has made arrangements to dispose all garbage and solid waste collected by it outside the Town limits, in a facility designed and licensed for the disposal of garbage and solid waste and which meets all requirements of law.
- (6) The name, address, business telephone and after regular operation business hours telephone number of one or more responsible managerial employees who may be contacted by the appropriate Town officials in the event of an emergency.
- (7) If the applicant is other than a natural person, sufficient information to identify the shareholders, partners, or other persons holding any legal or beneficial interest in the applicant in excess of ten percent.
- (8) During the initial year of the franchise applicant is required to provide the Town with a payment bond in amount not less than \$10,000. After the initial year of the franchise, a payment bond or an acceptable alternative in an amount equal to the applicant's previous 12-month franchise fees paid to the Town or a minimum of & \$15,000.00, whichever is greater, as security for any fee(s)

due to the town under the franchise agreement(s) with good and sufficient sureties conditioned upon the compliance of the terms of this chapter and such form as the town attorney may require.

(9) The applicant for a new franchise or the applicant for renewal of a franchise shall provide a list of existing customers in the Town and the service levels.

(b) The application shall include submission of an application fee of \$750.00.

(c) Each franchisee shall pay, in addition to the fees imposed by this article, an annual vehicle registration fee which shall be in the amount of \$25.00 for each vehicle shown on the list required to be submitted as part of the application.

(d) After receipt of the application and all required fees and documents, the Town manager shall review the application and shall either deny the application or request additional information from the applicant.

(e) Any and all solid waste collected by a franchisee within the Town shall be disposed of only at the solid waste disposal facilities approved by the Miami-Dade County Department of Solid Waste Management, the Florida Department of Environmental Regulation, or other governmental regulatory authority.

(f) Each private hauler who currently holds a license in good standing from Miami-Dade County pursuant to section 15-17, of the Miami-Dade county Code of Ordinances, shall be allowed to continue to provide service in the Town, provided, however, that the private hauler shall submit an application for a Town franchise within 45 days of the effective date of this Ordinance.

(g) Any franchise granted by this Ordinance is non-exclusive, and the Town reserves the right to award additional franchises or utilize other collection programs for commercial and multi-family residential solid waste.

(h) Nothing in this Ordinance shall authorize collection of solid waste from residential units in the Town.

Section 5. Denial, term, transfer and renewal of franchise.

(a) Should the Town manager deny an application for a franchise, the applicant shall be notified by certified mail no later than 14 days from the date of the denial of the application. The denial or revocation of a franchise by the Town manager may be appealed to the Town Council. The notice of appeal shall be filed in writing with the Town manager no later than fourteen (14) days after the receipt of the certified letter advising applicant of the denial or revocation.

(b) A franchise approved pursuant to this Ordinance shall be valid for a one-year period, coinciding with the Town's fiscal year. If a franchise is applied for within the midst of the Town's fiscal year, the franchise, if obtained, will be valid for the remainder of that fiscal year, provided, however, no discount of the application fee will be provided to the applicant.

(c) A franchise may be renewed from year to year by the Town manager. Any renewal shall be subject to the same terms and conditions applicable to the issuance of the original franchise. The Town manager shall charge and collect renewal permit fees at the rates established by the Town Council by resolution.

(d) No franchise for the collection of solid waste issued under the provisions of this Ordinance may be assigned or transferred. In the event of any change in ownership, or a change of the name of the corporation or partnership, formal notification shall be given to the Town manager and a new franchise must be applied for and obtained from the Town, within 30-days of providing notice.

Section 6. Franchisee reporting requirements.

(a) At least annually or more frequently determined by the Town manager, each franchisee shall supply the following information to the Town on a form and in a manner prescribed by the Town manager:

- (1) A listing annually or more frequently if determined by the Town manager, each franchisee shall supply the following information to the Town on a form and in the manner prescribed by the Town manager.
- (2) A listing, as of the reporting date, of the names and addresses of customers, and the addresses of each location served. For each customer on the list, the private hauler shall provide the following:
 - i. Whether the customer served is a multi-family residential, commercial establishment, or residential construction site; and
 - ii. Whether the service provided is solid waste collection, recycling, or a combination of both; and
 - iii. A listing of those materials being recycled at each customer location; and
 - iv. The name of a customer contact person who can provide additional information regarding the recycling program.

- (3) A summary of the number of tons and cubic yards of solid waste collected quarterly from the customer based on scheduled service, as of the reporting date.
- (4) A summary of the number of tons and cubic yards recyclable material collected and marketed quarterly.
- (5) On or before September 1st, the franchisee shall deliver to the Town manager a statement of the franchisee's annual gross receipts generated from accounts within the Town prepared by an independent certified public accountant reflecting the franchisee's gross receipts within the Town for the franchisee's preceding fiscal year. The statement should indicate the beginning and end date for the franchisee's fiscal year.

(b) Each private hauler is required to establish and maintain appropriate records, showing in such detail as the Town manager may prescribe the amount of monthly solid waste collection and disposal service fee receipts for each of its accounts located in the Town. All records shall be open to inspection or audit by the Town manager, or his designee, during regular business hours, after reasonable notice, to audit, inspect and examine the franchisee's fiscal books and records and tax returns, insofar as they relate to Town accounts, to confirm the franchisee's compliance with this chapter. The Town manager is authorized to promulgate additional rules and regulations with respect to the establishment and maintenance of records as the Town manager deems necessary.

Section 7. Revocation of franchise.

(a) In addition to its other powers pertaining to any franchise, the Town reserves the power to terminate the franchise upon a finding of the Town manager that a franchisee has failed to comply with one or more of the requirements of this Ordinance.

(b) Prior to making a finding of a violation of this Ordinance, the Town manager shall notify the franchisee in writing of the deficiency and provide the franchisee an opportunity to dispute the Town manager's findings.

(c) Franchisee non-payment of the franchisee fees or failing to file reports shall be grounds for termination of the franchise, after 30-days prior written notice, without hearing.

(d) Any decision of the Town manager under this section, with the exception of paragraph (c), may be reviewed upon written request for an appeal by the aggrieved franchisee to the Town special master.

(e) The special master shall set the date and time for hearing the appeal. The hearing shall be held not less than 14 days, and no more than 60 days after receipt of the

notice of appeal. The special master shall either affirm the decision of the Town manager or direct the Town manager to issue or reinstate the franchise, with or without conditions.

Section 8. Franchise fee and Permit Fees.

(a) All private haulers operation in the Town shall pay the following franchise fees to the Town for the privilege of collection, removing or disposing of solid waste from commercial or multi-family residential establishments over the streets or public rights-of-way located within the Town:

- (1) The franchisee shall pay a franchisee fee to the Town equal to 17% percent of its monthly total gross receipts for all of its accounts which are located in the Town.
- (2) The franchise fee shall be in addition to any occupational license taxes levied by the Town upon the franchisee's business activities.
- (3) The franchise fee shall be paid to the Town by the private hauler on a monthly basis. The franchise fee is due on the 15th day of the month succeeding the month for which the franchise fee is being paid.
- (4) The franchise fee shall be accompanied by a report to the Town manager designation the names and addresses of each account of the private hauler located in the Town that was provided solid waste collection and disposal service for the preceding month. The report shall include the monthly total gross receipts of all such accounts. The report shall be in a format approved by the Town manager.

(b) If the franchise fee is not paid by the 15th of the month by the private hauler, an additional monthly surcharge, equal to 17% of monthly total gross receipts for the preceding month, shall be payable to the Town for each month the payment franchise fee is delinquent. Additionally, the franchisee shall pay all the Town's collection expenses, including court costs and reasonable attorney's fees.

(c) If any audit or examination discloses an underpayment to the Town greater than 17% of the required payment, in addition to payment of the underpayment, the franchisee shall pay for the expenses of the audit and a penalty equal to three times the underpayment.

(d) Each and every franchisee shall pay a permit per account fee annually of \$100.00 for each account with whom they contract for the provision of commercial solid waste services. The Town shall provide one color-coded sticker for each dumpster in each account to identify the dumpster. Franchise shall inform the Town as to the number of dumpsters associated with each account and shall ensure that a sticker is attached to each dumpster. The franchisee may only pass on an amount not to exceed \$48.00 of said permit per account fee to each contracted customers. Said permit per account fee shall

not be transferable. The annual period will begin October 1st and end September 30th. Permit per account applications submitted before the 15th of the month will be charged the full amount for the applicable month; those submitted after the 15th will be invoiced in the next month.

(e) Each franchisee utilizing large containers and/or roll-offs shall pay a temporary roll-off/container permit fee, per account, for each container/roll-off utilized to provide solid waste services requiring such containers. The \$50.00 fee shall be for a 90 day period and will be assessed each 90 days the container remains on site.

Section 9. Franchisee service standards.

(a) The franchisee agrees to repair all property, public or private, altered or damaged by it, its agents or employees in the performance of its services in as good or better condition as it was before being damaged or altered.

(b) All solid waste shall begin no earlier than 6:00 a.m. Collection shall cease no later than 8:00 p.m. In case of an emergency, collection may be permitted at other times provided that the contractor has received prior approval from the Town manager, to be later evidenced by a written memorandum confirming the approval. Should the franchisee not confirm and obtain in writing the approval to operate on an emergency basis it shall be presumed that the franchisee did not obtain such approval.

(c) All solid waste collected within the Town shall be transported to an appropriate license dump or transfer or receiving station located outside the Town limits. No transfer station or the facility for the temporary storage of garbage or solid waste other than the receptacles at the premises serviced shall be permitted within the Town.

(d) No vehicle used for the collection of solid waste shall be permitted to be parked, stopped, or stored within the Town except for the time reasonably required to empty garbage or solid waste containers at the premises being served or to comply with traffic laws. The franchisee shall be responsible for the maintenance of all garbage or trash containers or dumpsters in a clean and sanitary manner. All containers used for the storage of solid waste shall be sanitized and otherwise maintained on a regular basis. Each garbage can, dumpster, or other container for the storage of solid waste shall be of such design as to prevent the infestation of the container by insects or vermin.

(e) Equipment shall be kept clean, sanitary, neat in appearance and in good repair at all times. The franchisee shall have on hand at all times sufficient equipment in good working order to permit franchisee to perform its solid waste collection duties fully, adequately, and efficiently. The franchisee shall have available reserve equipment that can be put into service within two hours of any breakdown. The reserve equipment shall be adequate size and capacity in order for franchisee to perform its contractual duties.

(f) Equipment is to be painted uniformly with the name of the franchisee, business telephone number, and number of the vehicle in letters not less than two inches

high on each side of the vehicle. All vehicles shall be numbered and a record shall be kept of the vehicle to which each number is assigned. No advertising shall be permitted on vehicles, except of events sponsored by the Town.

(g) All containers used for the purpose of storing garbage shall be emptied not less often than two times weekly, or more often as the Town manager determines that the public health, safety and welfare requires additional pick-ups. Pick-ups shall be as evenly spaced as possible.

(h) The franchisee shall not litter in the process of making collections. During hauling, all solid waste shall be contained, tied, or enclosed so that leaking, spilling, or blowing is prevented. In the event of spillage by the franchisee, the franchisee shall promptly clean up the litter.

(i) Each franchisee shall be responsible for determining the type of garbage or solid waste generated by its customers and assuring the proper disposal of the solid waste. By way of example, franchisees servicing medical offices or building containing medical offices shall be responsible for assuring that the used bandages, dressing, needles, and the like are disposed in a manner appropriate for such items.

(j) Each franchisee's solid waste collection employee shall wear a uniform shirt bearing the company's name. The franchisee shall furnish to the employee an identifying badge not less than two and a half inches in diameter with numbers and letters at least one inch high, uniform, and type. Employees shall be required to wear the badges while on duty. The franchisee shall keep a record of employee names and numbers assigned.

(k) Each vehicle operator shall, at all times, carry a valid driver's license for the type of vehicle that is being driven.

(l) The franchisee shall assure that its employees serve the public in a courteous, helpful and impartial manner. The franchisee's collection employees will be required to follow the regular walk for pedestrians while on private property. No trespassing by employees will be allowed, nor crossing the property of neighboring premises unless residents or owners of both properties shall have given permission. Care shall be taken to prevent damage to property including, but not limited to, garbage cans, carts, racks, trees, shrubs, flowers and other plants.

(m) Franchisee shall notify all customers in writing about complaint procedures, rates and regulations. A copy of the procedures and any amendments or updates shall be provided to the Town clerk.

(n) Except for servicing of dumpsters and servicing construction sites, a franchisee that contracts for servicing of a property shall provide garbage collection services and all related services required by the property.

(o) Storms and other emergencies. In the event of a storm or emergency requiring mass cleanup operations, franchisee, shall, upon direction of and to the extent indicated by the Town manager, participate in the clean up of the Town, and to the extent the franchisee requires a reasonable variance from regular schedules and routes due to the storm.

(p) Franchisee shall provide the Town with a copy of its proposed street routing. The Town manager may redirect the franchisee's route due to the Town's interest to protect the public's health, safety and welfare, and may do so because of the condition of the streets. A franchisee shall not interrupt the regular schedule or quality of service because of street closures of longer duration and arrangements for service will be made in a manner satisfactory to both franchisee and the Town. Customers shall receive reasonable notification of the schedules provided by the franchisee prior to commencement of service. Notification, material, methods and frequency of delivery shall be approved by the Town manager. Only local truck routes shall be used in transit, unless specifically for the purpose of collection.

(q) The performance of any act by the Town or franchisee may be delayed or suspended at any time while, but only so long as, either party is hindered in, or prevented from, performance by acts of nature, war, rebellion, strikes, lockouts, terrorism or any other cause beyond the reasonable control of the affected person.

Section 10. Insurance.

(a) Each franchisee shall maintain not less than the following types and amounts of insurance:

(1) comprehensive general liability	\$1,000,000
(2) property damage	\$1,000,000
(3) automotive liability	\$1,000,000
(4) worker's compensation	statutory requirement
(5) completed operations	\$1,000,000

(b) Each policy shall name the Town as an additional insured and each franchisee shall deliver to the Town a copy of the certificates of insurance evidencing the existence of the policies. Each certificate shall provide that the Town will be afforded 30-day prior written notice of cancellation of any of the policies for any reason. The insurance shall only be written by companies rated B+ or higher, according to the most recent issue of Best Insurance Rating Guide. The certificate shall be submitted with a cover letter addressed to the Town from the franchisee's insurance agent or agents stating that they have read the provisions of this section and that the insurance provided meets the minimum requirements of this section.

(c) The insurance shall contain the following endorsement:

In addition to the coverage stated in the body of the policy, the policy shall indemnify and hold harmless the Town, its officers, agents and employees from all claims for bodily injuries to the public in and up to the amount of \$1,000,000.00 for each occurrence and for all damages to the property of others in and up to the amount of \$1,000,000.00 for each, including costs of investigation, all expenses of litigation, including reasonable attorney's fees and the cost of appeals arising out of any claims or suits because of any and all acts or omission or commission by the franchisee, his agents, servants, or employees, or through the mere existence of the project under contract.

(d) All policies shall be on an occurrence basis rather than a claims-made basis.

(e) The franchisee shall secure and maintain policies of its subcontractors. All policies shall be made available to the Town upon demand. The franchisee shall be responsible to the Town for the acts and omissions of any subcontractor or persons employed by them.

Section 11. Town's right to regulate streets not abrogated. Nothing in this Ordinance shall be construed as a surrender by the Town of its right or power to pass ordinances regulating the use of its streets in accordance with the Town's police powers or property rights.

Section 12. Enforcement and administrative fines.

(a) Any person who has not strictly complied with the provisions of this Ordinance shall be subject to the enforcement procedures provided in this Ordinance.

(b) Administrative fines shall be imposed in accordance with the following schedule:

- (1) Obstructing the code enforcement officer from performing its duties: \$500.00;
- (2) The placement of containers, garbage, trash, bulky, and/or industrial waste on public rights-of-way: \$75.00;
- (3) Dumpsters not kept in approved garbage facility: \$150.00;
- (4) Failure of commercial establishment to have in effect an agreement with a franchised waste hauler for the collection and removal of solid waste/garbage from the premise: \$250.00;
- (5) Failure to screen container: \$50.00;
- (6) Insufficient number of approved garbage receptacles: \$50.00;
- (7) Un-containerized garbage or miscellaneous trash in receptacle area: \$75.00;
- (8) Unauthorized disposal of garbage or trash or other waste materials consisting of industrial and bulky waste or other waste materials: \$500.00;

- (9) Disposal of trash or other waste materials placed in right-of-way at other than authorized time: \$75.00;
- (10) Illegal dumping from a non-motorized vehicle or unknown entity (i.e.: dolly, wagon or wheel barrow): \$75.00;
- (11) Failure of a refuse collection firm to obtain or maintain a franchise while providing waste collection services: \$500.00;
- (12) Illegal dumping from an automobile: \$75.00;
- (13) Illegal dumping from a noncommercial vehicle: \$250.00;
- (14) Illegal dumping from a commercial vehicle: \$500.00;
- (15) Garbage deposited at mini-dump site for bulky waste: \$250.00;
- (16) Use of neighborhood bulky waste transfer station by commercial establishment; \$500.00;
- (17) Impeding, salvaging, and vandalism of bulky waste mini-dump site: \$250.00;
- (18) Trash not containerized or bundled: \$75.00;
- (19) Unauthorized bulky waste on right of way: \$75.00;
- (20) Garbage not containerized: \$75.00;
- (21) Litter on premises: \$75.00;
- (22) Sunken containers \$100.00; and
- (23) All other violations \$75.00

(c) Fines are due and payable by the violator within 10 days of receipt of the decision of the special master, if appealed. Fines imposed by the Town, and the cost of any corrective work by the Town, shall constitute a lien with equal rank and dignity as a special assessment lien.

Section 13. Municipal Collection Service. Each franchised collection firm shall provide containers and waste collection service to the Town at the locations and in conformance with the criteria established in this section. The waste collection services for the Town locations shall be performed at no cost to the Town and shall be borne equally by the franchised collection firms.

Section 14. Restoration. The Franchisee agrees to repair all property, public or private, altered or damaged by it, its agents or employees in the performance of its services herein in as good or better condition as it was before being damaged or altered.

Section 15. Spillage and Litter. The Franchisee shall not litter premises in the process of making collection, but shall not be required to collect any waste material that has not been placed in approved containers or in a manner herein provided. During hauling, all solid waste shall be contained, tied or enclosed so that leaking, spilling or blowing are prevented. In the event of spillage by the Franchisee, the Franchisee shall promptly clean up the litter.

Section 16. 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 17. 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 18. 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 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 19. Effective Date. 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 _____, 2008.

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 13

ORDINANCE NO. 07-_____

AN ORDINANCE OF THE TOWN OF CUTLER BAY, FLORIDA; AMENDING SECTION 21-276 “BURGLAR ALARMS” OF THE TOWN CODE BY PRO RATING THE FEE FOR NEW BURGLAR ALARM REGISTRATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, burglar alarms operate in the Town of Cutler Bay (the “Town”) and the Town requires registration of these burglar alarms; and

WHEREAS, the Town wishes to reduce the burglar alarm fee for new registrations by pro rating the fee.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AS FOLLOWS: ¹

Section 1. Recitals Adopted. That the recitals set forth above are true and correct and incorporated herein by this reference.

Section 2. Burglar Alarms. That Section 21-276, “Burglar Alarms”, of the Town Code of the Town of Cutler Bay is hereby amended, as follows:

Sec. 21-276. Burglar alarms.

(4) *Registration of alarm system and fee.*

(a) *Registration of burglar alarm systems.* All burglar alarm systems which operate at locations within the Town shall be registered with the Police Department by the user. The user shall complete and submit to the PD an initial registration or an annual registration renewal with the appropriate fee. Initial registration shall be necessary to register any system which is not currently registered with the Department or upon a change in the user of an alarm.

(b) *Annual registration fee.* ~~Effective with registrations for registration periods beginning on or after January 1, 2002,~~ There shall be an annual registration fee of twenty-five dollars (\$25.00) for all alarm registrations. Separate alarm systems require separate registrations. The registration period will be for one year. Initial alarm registrations which are submitted after November may pay a reduced initial alarm registration fee for the first year. The fee shall be reduced by two dollars for each month after November. By way of example a registration submitted in December would pay a fee of twenty three dollars and a registration submitted in September would pay a fee of five dollars. Upon renewal for registration periods ~~beginning on or after January 1, 2003,~~ the fee will be waived if the burglar alarm system has had no false burglar alarms requiring

^{1/} Proposed additions to existing Town Code text are indicated by underline; proposed deletions from existing Town Code text are indicated by ~~strikethrough~~.

police dispatch during the prior registration period. Renewal registration fees, if required, shall be paid by November 1st of each year.

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 14

ORDINANCE NO. 07-_____

AN ORDINANCE OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING ORDINANCE 07-24 WHICH ORDINANCE ADOPTED AN OPERATING AND CAPITAL OUTLAY BUDGET FOR THE FISCAL YEAR COMMENCING OCTOBER 1, 2007 THROUGH SEPTEMBER 30, 2008 BY REVISING SAID BUDGET TO APPROPRIATE \$200,000 DESIGNATED AS CONTINGENCY RESERVES AND PROVIDE SUCH FUNDS BE ALLOCATED TO THE COMMUNITY DEVELOPMENT DEPARTMENT FOR GREEN BUILDING INITIATIVE EXPENDITURES 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 to appropriate \$200,000 designated as contingency reserves and allocate such funds to the General Government Department for use on "Green Building" initiatives related to assessing the feasibility of, initiating and maintaining green building standards in the Town.

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 to appropriate \$200,000 from contingency reserves and allocate such funds to the General Government Department budget to be used on "Green Building" initiative activities, including, but not limited to, consultant fees, planning activities, and public meetings.

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

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



MEMORANDUM

To: Honorable Mayor and Town Council

From: Steven J. Alexander, Town Manager

Date: December 14, 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 14th day of November, 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 16



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: December 14, 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 14th day of November, 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 17

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 14th day of November, 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 18

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 14th day of November, 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 19

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 14th day of November, 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



Office of the Town Manager

Steven J. Alexander
Town Manager

MEMORANDUM

To: Honorable Mayor and Town Council

From: Steven J. Alexander, Town Manager

Date: December 14, 2007

Re: Parks & Recreation Fees

Pursuant to Ordinance 07-11 adopted April 11, 2007, this memorandum is intended to update the Council on the Parks & Recreation fees currently in effect in the Town of Cutler Bay. The enabling ordinance provides that the Council review said fees every three months.

Attached hereto is a listing of the fees as approved by Council pursuant to the aforementioned ordinance. These fees have not been changed since original adoption. After review of the fees and consultation with the Parks Director, I recommend that such fees remain in place at the rates indicated.

Town of Cutler Bay			
Parks and Recreation Department			
Fee Schedule			
	Description		Current Fee
01	After School Program - Daily		7.00
02	After School Program - Weekly		20.00
03	Camp - Daily		16.00
04	Camp - Weekly		50.00
05	Camp - Weekly 2nd Child		45.00
06	Pool Admission (Adult)		2.00
07	Pool Admission (Child)		1.50
08	Pool Admission (Sr. Citizen)		1.25
09	Pool - D.C.P.S (hourly)		20.00
10	Pool - Rentals per hour (min. 3 hrs.)		75.00
11	Pool - Scuba Diving (hourly)		40.00
12	Pool - Swim Meets (hourly)		50.00
13	Pool - Swim Team practice (hourly)		20.00
14	Pool - Water Polo games (hourly)		50.00
15	Pool - Water Polo practice (hourly)		20.00
16	Program Registration		10.00
17	Rental - Building (3 hr. minimum)		120.00
18	Rental - Building ea. Add'l. hour		50.00
19	Rental - Outside Picnic Area (hourly)		25.00
20	Rental - Security/Clean-up deposit		100.00
21	Rental Cancellation Fee (w/in 30 days of rental)		25.00
22	Rental - Football/Soccer Field (w/ lights) hourly		50.00
23	Rental - Football/Soccer Field (w/o lights) hourly		35.00
24	Rental - Whispering Pines Pavillion (hourly)		30.00
25	Rental - Softball Field (w/ lights) hourly		35.00
26	Rental - Softball Field (w/o lights) hourly		25.00
27	Swim Lesson - Group (10 lessons)		50.00
28	Swim Lesson - Private		120.00
29	Swim Lesson - Semi Private (10 lessons)		60.00
30	Swim Lesson - Lifeguard Certification		125.00
31	Teacher's Workday Program		16.00
32	Teacher's Workday Program (current ASP participant)		10.00
33	Transportation (ASP) - Weekly		15.00

SUPPLEMENT



Planning & Zoning Department

R. Don O'Donniley, AICP
Planning Director

MEMORANDUM

To: Steve Alexander, Town Manager

From: R. Don O'Donniley

Date: December 19, 2007

Re: Tentative Schedule of Zoning Workshops for 2008

BACKGROUND

The Town of Cutler Bay adopted an ordinance in 2006 establishing a "Zoning Workshop" procedure to encourage public involvement in the development process. Recently the Town Council has strengthened this process by requiring notice be mailed to adjoining property owners for larger scale projects. The staff is preparing a tentative list of zoning workshop dates for 2008 to enable the Town Council, applicants and citizens to schedule for zoning workshops.

ANALYSIS

Staff is striving to improve access to the development approval process. As part of this effort, an unofficial schedule will help assure all parties have advance knowledge of likely "Workshop" dates. The schedule is not recommended for adoption to leave the flexibility to adjust the schedule as needed.

RECOMMENDATION

Staff recommends the Council receive the tentative schedule. No further action is required.



Planning & Zoning Department

R. Don O'Donniley, AICP
Planning Director

Tentative Zoning Workshop Dates for 2008

Zoning Workshop Date

January 9, 2008

February 15, 2008

March 12, 2008

April 9, 2008

May 14, 2008

June 11, 2008

July 9, 2008

August 13, 2008

September 10, 2008

October 15, 2008

November 12, 2008