



## 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, February 20, 2008, 7:00 PM  
South Dade Regional Library  
10750 SW 211<sup>th</sup> Street, 2<sup>nd</sup> 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 – January 16, 2008

**TAB 1**

**4. REPORTS**

A. TOWN MANAGER'S REPORT

B. TOWN ATTORNEY'S REPORT

C. BOARD/COMMITTEE REPORTS AND COUNCIL ANNOUNCEMENTS

**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 CONTRACTS; AUTHORIZING THE TOWN MANAGER TO ENTER INTO AN AGREEMENT FOR PUBLIC INFORMATION OFFICER SERVICES WITH

**TAB 2**

THE WEINBACH GROUP; WAIVING THE REQUIREMENT FOR BIDDING OF THE CONTRACT IN ACCORDANCE WITH SECTION 3.10 OF THE TOWN CHARTER; AND PROVIDING FOR AN EFFECTIVE DATE.

**B.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING THE TOWN MANAGER TO EXECUTE AND ENTER INTO AN AGREEMENT WITH GROUNDKEEPERS, INC. FOR THE PURCHASE AND INSTALLATION OF LIVE OAK TREES WITHIN THE TOWN'S DESIGNATED RIGHT-OF-WAYS FOR AN AMOUNT NOT TO EXCEED \$150,000; AND PROVIDING FOR AN EFFECTIVE DATE.

**TAB 3**

**C.** 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 WITH SHADE SYSTEMS, INC. FOR THE INSTALLATION OF A SHADE STRUCTURE OVER THE PLAYGROUND AT CUTLER RIDGE PARK; AND PROVIDING AN EFFECTIVE DATE.

**TAB 4**

**D.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, RELATING TO PROFESSIONAL SERVICES, AUTHORIZING THE TOWN MANAGER TO EXECUTE AN AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INC. FOR THE COMPLETION OF A COMPREHENSIVE PARKS MASTER PLAN; AND PROVIDING AN EFFECTIVE DATE.

**TAB 5**

**E.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING RESOLUTION 07-65 RELATING TO THE CHARTER REVIEW COMMISSION; PROVIDING FOR AN EFFECTIVE DATE.

**TAB 6**

**F.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING THE ENTRY AND TESTING AGREEMENT BETWEEN THE TOWN AND WIALAN TECHNOLOGIES, INC., TO CONDUCT TESTS TO DETERMINE FEASIBILITY OF PROVIDING WIRELESS BROADBAND INTERNET AND SURVEILLANCE SERVICES; WAIVING THE REQUIREMENT FOR BIDDING OF THE AGREEMENT IN ACCORDANCE WITH ARTICLE 3.10 OF THE TOWN CHARTER; PROVIDING FOR THE AUTHORIZATION OF THE TOWN MANAGER TO ENTER INTO THIS AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

**TAB 7**

- G.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING THE ISSUANCE OF A REQUEST FOR QUALIFICATIONS (RFQ) FOR A GREEN BUILDING AND SUSTAINABILITY CONSULTANT; AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 8

**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 3,276.2 SQUARE FOOT RESTAURANT WITH A DRIVE THRU, ON APPROXIMATELY A .5 ACRE PARCEL, LOCATED AT 18660 SOUTH DIXIE HIGHWAY (36-6005-001-0460); AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 9

- B.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, GRANTING A VARIANCE FROM SECTION 33-49 OF THE TOWN CODE OF ORDINANCES RELATING TO LOT COVERAGE, FOR PROPERTY LOCATED AT 9930 MARLIN ROAD (36-6005-011-0080); AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 10

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

- A.** AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, REPEALING SECTIONS 8A-76 & 8A-76.1 OF THE CODE OF MIAMI-DADE COUNTY AS ADOPTED BY SECTION 8.3 OF THE CHARTER OF THE TOWN OF CUTLER BAY, ENTITLED "NOTICE OF PENALTIES FOR REMOVAL OF SHOPPING CARTS" & "SHOPPING CARTS" RESPECTIVELY; CREATING REGULATIONS RELATED TO SHOPPING CARTS, PROVIDING FOR DEFINITIONS, PROVIDING FOR POSTING OF NOTICE OF PENALTIES FOR REMOVAL OF SHOPPING CARTS, REQUIRING IDENTIFICATION OF SHOPPING CARTS, PROVIDING FOR A PROCEDURE FOR HANDLING IDENTIFIABLE SHOPPING CARTS FOUND ON PUBLIC PROPERTY, PROVIDING FOR A PROCEDURE FOR HANDLING UNIDENTIFIABLE SHOPPING CARTS FOUND ON PUBLIC PROPERTY, PROVIDING FOR REGULATIONS RELATED TO SHOPPING CARTS ON PRIVATE PROPERTY, PROVIDING FOR GENERAL PENALTIES FOR VIOLATIONS; AMENDING THE SCHEDULE OF VIOLATIONS AND CIVIL PENALTIES SECTION OF THE CODE TO INCLUDE PENALTIES FOR VIOLATION OF THESE SECTIONS; REPEALING ALL ORDINANCES IN CONFLICT;

TAB 11

PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING AN EFFECTIVE DATE.

**8. ORDINANCES FOR FIRST READING (PUBLIC HEARING REQUIRED)**

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

- A.** AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ESTABLISHING THE CUTLER BAY BUSINESS TAX EQUITY STUDY ADVISORY BOARD, WHICH SHALL SERVE AS THE EQUITY STUDY COMMISSION, AND ESTABLISHING PROCEDURES FOR APPOINTMENT OF MEMBERS, A TIMETABLE AND RULES OF PROCEDURE; PROVIDING FOR SUNSET PROVISION , AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 12

**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, March 19, 2008, 7:00 P.M.  
South Dade Regional Library, 2<sup>nd</sup> Floor  
10750 SW 211<sup>th</sup> 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, January 16, 2008, 7:00 PM  
South Dade Government Center  
10720 SW 211<sup>th</sup> 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 7:00 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.** Evan Skornick of the South Florida Water Management District addressed the Council on the new water restriction, Modified Phase III, which took effect on January 15<sup>th</sup>.

**3. APPROVAL OF MINUTES:**

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

**4. REPORTS**

**A. TOWN MANAGER'S REPORT**

The Town Manager reported that a Safety Committee has been established and will be working on safety procedures for the Town office and any Town incidents and/or emergencies. The manager discussed certain County billing issues that are in dispute which include some park services that were charged before the take over of the parks by the Town. Another issue mentioned is the police overhead charges, which has been turned over to the County Budget Office which has been charged with to re-calculate and determine a better formula to determine the overhead charge. The manager also discussed that he is working on a possible leasing agreement for the Lakes by the Bay park and the property located at 184th Street and Old Cutler Toad, so that the Town may manage both of those properties for Town use. The manager briefed the Council on certain legislative issues that includes acquisition funding and stormwater funding is a top priority.

**B. TOWN ATTORNEY'S REPORT**

**C. BOARD AND COMMITTEE REPORTS, COUNCIL ANNOUNCEMENTS**

Mayor Vrooman thanked the Town Manger, Public Works Director Ralph Casals, and Commissioner Katy Sorenson for their diligent work to get the PTP funds approved in the amount of \$20 million to be allocated for the road improvements within the Town.

Councilmember Sochin spoke of the Council's recent tour of Key Biscayne's parks and recreation facilities. He mentioned that he will be meeting with School Board Member Evelyn Greer for a possible new High School for the Town.

Meerbott also thanked the Manager and everyone for their hard work to receiving the entire funding for improvements within Town limits. He also requested that the Manager report back with specific details as to where the improvements will be.

Councilmember Bell also thanked the Manger and all members involved in the PTP funding achievement. Member Bell then reported on the progress of the Town Events Committee and then introduced Chairperson Padraig Brousseau who briefed the Council on the Committee's progress.

Vice Mayor also thanked the Manager and his staff for their meticulous work on achieving a great goal for the Town. The Vice Mayor spoke of certain concerns that residents have on the County dump located outside of Town limits. He introduced Aldo Rodriguez who expressed major concerns on the maintenance of the dump and how it is adversely affecting surrounding communities. The Vice Mayor later introduced Mr. John Breder who then discussed of Hearts United that will be hosting a Las Vegas style charity event for a special cause.

**5. CONSENT AGENDA:**

- A. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING THE TOWN MANAGER TO REJECT ALL PROPOSALS FOR RFP # 07-05 FOR BUILDING AND PERMITTING SERVICES AND AUTHORIZING THE RE-ADVERTISEMENT OF THE REQUEST FOR PROPOSALS; AND PROVIDING FOR AN EFFECTIVE DATE**

Councilmember Sochin pulled Item B and Vice Mayor MacDougall pulled Item C.

Councilmember Meerbott made a motion to approve the Consent Agenda as amended with pulled Items B and C. The motion was seconded by Vice Mayor MacDougall and Resolutions 08-02 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:

- B. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING THE TOWN MANAGER TO NEGOTIATE AND ENTER INTO VEHICLE LEASE-PURCHASE AGREEMENTS FOR MOTOR VEHICLES AND RELATED EQUIPMENT WITH DUVAL FORD IN THE AMOUNT OF \$74,900;**

AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE.

Councilmember Sochin made a motion to approve the resolution. The motion was seconded by Councilmember Meerbott and Resolution 08-01 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.

The town clerk read the following resolution by title:

- C. 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 CONSULTING SERVICES IN SUPPORT OF THE ACQUISITION OF LANDS FROM THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT; WAIVING THE REQUIREMENT FOR BIDDING OF THE CONTRACT ON ACCORDANCE WITH SECTION 3.10 OF THE TOWN CHARTER; AND PROVIDING FOR AN EFFECTIVE DATE.

Councilmember Bell made a motion to approve the resolution. The motion was seconded by Councilmember Sochin and Resolution 08-03 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.

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

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

- A. A ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ESTABLISHING THE CUTLER BAY BUSINESS TAX EQUITY STUDY ADVISORY BOARD, WHICH SHALL SERVE AS THE EQUITY STUDY COMMISSION, AND ESTABLISHING PROCEDURES FOR APPOINTMENT OF MEMBERS, A TIMETABLE AND RULES OF PROCEDURE; PROVIDING FOR SUNSET PROVISION , AND PROVIDING FOR AN EFFECTIVE DATE.

Councilmember Sochin made a motion to approve the ordinance on first reading. The motion was seconded by Councilmember Meerbott and approved 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 February 20, 2008.



**8. ORDINANCES FOR FIRST READING (PUBLIC HEARING REQUIRED)**

**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 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 ; AWARDING 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.

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 Vice Mayor MacDougall and Ordinance 08-01 was adopted by unanimous roll call vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

- 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.

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

Councilmember Sochin made a motion to approve the ordinance on second reading. The motion was seconded by Councilmember Bell and Ordinance 08-02 was adopted by unanimous roll call vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

- 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. **(VROOMAN)**

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

Councilmember Sochin made a motion to approve the ordinance on second reading. The motion was seconded by Councilmember Meerbott and Ordinance 08-03 was 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: Joy Cooper, 9365 Nassau Drive, Bill Meiklejohn, 9311 Sterling Drive, Barbara Condon, 19641 Holiday Road, Louise Lockwood, 9071 Ridgeland Drive, Ernest Hitchcock, 10370 Southwest 200 Street.

**11. MAYOR AND COUNCIL COMMENTS**

Councilmember Meerbott mentioned that if there is anything that the Manager needs from Council to get the Lake by the Bay Park rolling to please request it at anytime for any type of support for making any type of agreement. Member Meerbott requested that the manager contact FP&L to arrange a community-wide discussion on the new nuclear power plant reactor. He then discussed that there should be a traffic study for the intersection on US1 and 184<sup>th</sup> Street.

Councilmember Bell requested that the Council and the public support the Hearts United charity which represents a wonderful cause.

Vice Mayor MacDougall made a request from Miami-Dade County for lands owned by the County for possible Town use. He said that there is not much response from the County. The manager mentioned that he is also working on the same thing.

**12. OTHER BUSINESS:** None at this time.

**13. ADJOURNMENT**

The next council meeting will be held on February 20, 2008 at South Dade Government Center.

The meeting was officially adjourned at 8:30 P.M.

*Respectfully submitted:*

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*Erika Gonzalez-Santamaria, CMC  
Town Clerk*

*Adopted by the Town Council on  
this 20<sup>th</sup> day of February, 2008.*

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*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



## MEMORANDUM

To: Honorable Mayor and Town Council

From: Steven J. Alexander, Town Manager

Date: February 15, 2008

Re: PUBLIC INFORMATION OFFICER – THE WEINBACH GROUP, INC.

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### REQUEST

**A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, RELATING TO CONTRACTS; AUTHORIZING THE TOWN MANAGER TO ENTER INTO AN AGREEMENT FOR PUBLIC INFORMATION OFFICER SERVICES WITH THE WEINBACH GROUP; WAIVING THE REQUIREMENT FOR BIDDING OF THE CONTRACT IN ACCORDANCE WITH SECTION 3.10 OF THE TOWN CHARTER; AND PROVIDING FOR AN EFFECTIVE DATE.**

### BACKGROUND AND ANALYSIS

The current public information consulting firm, Media Relations Group, ended their agreement with the Town prior to the end of their one-year term due to an increasing workload for the company due to other clients. A representative from Media Relations Group informed town staff at the last Council Meeting, on January 16<sup>th</sup>, which it was the last meeting they would be attending.

Town staff interviewed three public relations firms. Staff requested that each firm submit a quote based on cursory services, creation of newsletters and public relations efforts to push forward positive stories about the Town to the local media. The top two firms that submitted proposals were The Weinbach Group and Adkins & Associates. Both companies are experienced, reputable and produce high quality work. Both proposal amounts came in within the allotted budget of \$4,500.00 per month. However, The Weinbach Group's scope of services was significantly more comprehensive. It would provide the Town with essentially the same level of media production such as the newsletters but also more public information services or public relations efforts.

Therefore, due to the urgent need to retain a public relations firm, and pursuant to my authority under the Town's purchasing ordinance to enter into agreements for services not to exceed \$25,000 after receiving quotes from at least 3 qualified vendors, the Town has entered into an interim agreement with The Weinbach Group for a one-month term with an option to extend for one additional month. It is necessary to obtain the services of a public relations firm on a more long term basis prior to the expiration of Weinbach's interim contract. Because of the relatively small dollar amount of the contract and based on the



market research we have performed already, I believe it is not advantageous nor in the Town's best interest to use the normal competitive bidding process for this contract and I recommend waiving said requirements in accord with section 3.10 of the Town Charter and the Town's purchasing ordinance.

**RECOMMENDATION**

It is recommended that the Town Council approve the proposed resolution, which, waives the competitive bidding process and authorizes the Town Manager to negotiate a consultant agreement in the amount of \$54,000.00 per year with The Weinbach Group, Inc. for public information services.

**RESOLUTION NO. 08-\_\_\_\_**

**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 PUBLIC INFORMATION OFFICER SERVICES WITH THE WEINBACH GROUP; WAIVING THE REQUIREMENT FOR BIDDING OF THE CONTRACT IN ACCORDANCE WITH SECTION 3.10 OF THE TOWN CHARTER; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Cutler Bay (the “Town”) is in need of a public relation firm to provide services and to create newsletters and public relations efforts to enhance the Town’s image and accurately portray the Town to the local and national media; and

**WHEREAS**, pursuant to Section 3.10 of the Town Charter the Town Manager has specifically determined in the attached memorandum that it is not advantageous for the Town to competitively bid a contract for such services at this time since the Town urgently needs to retain a public relations firm as its current firm ended their agreement with the Town prior to the end of their one-year term; and

**WHEREAS**, the Town received proposals from and interviewed three public relations firms. Because of the relatively small dollar amount of the contract and based on the market research already performed, a full RFP process would not be cost-effective, and The Weinbach Group, Inc. (the “Consultant”) has somewhat unique capabilities and service to comply with the Town’s needs.

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

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

**Section 2. Town Manager Authorized.** The Town Manager is authorized, on behalf of the Town, to execute a contract with the Consultant to provide for such services at a cost of \$4,500.00 per month, in substantially the form attached hereto.

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

PASSED and ADOPTED 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 3



## MEMORANDUM

To: Honorable Mayor and Town Council  
From: Steven J. Alexander, Town Manager  
Date: February 15, 2008  
Re: PURCHASE AND INSTALLATION OF LIVE OAK TREES

### REQUEST

**A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING THE TOWN MANAGER TO EXECUTE AND ENTER INTO AN AGREEMENT WITH GROUNDKEEPERS, INC. FOR THE PURCHASE AND INSTALLATION OF LIVE OAK TREES WITHIN THE TOWN'S DESIGNATED RIGHT-OF-WAYS FOR AN AMOUNT NOT TO EXCEED \$150,000.00; AND PROVIDING FOR AN EFFECTIVE DATE.**

### BACKGROUND AND ANALYSIS

Town Staff has carefully reviewed existing contracts for the purchase and installation of oak trees, from other surrounding municipalities. Based on the review, costs, and warranties, staff has determined that active "tree replacement" contract awarded by the Town of Miami Lakes, will expedite the purchase and installation of much need street tree canopy.

The **live oak tree** "Quercus Virginia" is an ideal native tree for shade, open spaces, parks and where there are generous right-of-ways. The live oaks, in time, will form an archway over the paving creating a pedestrian friendly environment. Additional, tree increased canopy will reduce the levels of carbon monoxide and enhance the air quality throughout the surrounding neighborhoods.

The selected live oaks will have the following specifications:

Live Oak, Florida No. 1, Container Grown, **14'-16' Height**, 5"-5½" Caliper, 5'-6' Clear Trunk, 8'-10' Spread. Additionally, the live oaks will be warranted for one (1) year from the time of initial planting.

Town Staff will coordinate the planting with a certified landscape architect which, was selected through the Professional Services Request for Qualifications.

All of the necessary tree planting permits will be obtained from the appropriate agencies: Miami-Dade County and/or Florida Department of Transportation.



## Office of the Town Manager

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The selected contractor (Groundkeepers, Inc.) has provided three (3) separate reference letters from City of North Bay Village, City of Hialeah Gardens, and Town of Miami Lakes. Each of the municipalities consider GroundKeepers, Inc. a responsive contractor. The recommendation letters are attached for your review.

### **RECOMMENDATION**

It is recommended that the Town Council approve the "Piggy Back" Resolution.

RESOLUTION NO. 08-\_\_\_\_\_

**A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING THE TOWN MANAGER TO EXECUTE AND ENTER INTO AN AGREEMENT WITH GROUNDKEEPERS, INC. FOR THE PURCHASE AND INSTALLATION OF LIVE OAK TREES WITHIN THE TOWN'S DESIGNATED RIGHT-OF-WAYS FOR AN AMOUNT NOT TO EXCEED \$150,000; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Cutler Bay ("Town"), as a result of past hurricanes, tropical storms, and other conditions has lost a great deal of tree canopy; and

**WHEREAS**, the Town of Cutler Bay recognizes the importance of enhanced tree canopy; and

**WHEREAS**, the fiscal year 2007-08 budget include funding for a new tree plantings throughout the Town's right-of ways; and

**WHEREAS**, the Town Council deems purchases from contracts of other municipal or governmental entities in which said contracts were awarded pursuant to competitive bids based on clearly drawn specifications to comply with the requirements of the Town Charter; and

**WHEREAS**, the purchase and installation of live oak (*quercus virginiana*) trees will be accomplished by "piggybacking" on a current Town Of Miami Lakes (Tree Replacement Program) contract.

**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 correct and are incorporated herein by this reference.

**Section 2. Town Manager Authorized.** The Town Manager is authorized, on behalf of the Town, to issue a purchase order in an amount not to exceed \$150,000.00 to GroundKeepers, Inc. for the purchase and installation of live Oak Trees with the same terms, conditions, and warranties as defined in attached hereto as Exhibit "A."

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

PASSED AND ADOPTED 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 \_\_\_\_\_



# City of Hialeah Gardens

10001 N.W. 87th Avenue Hialeah Gardens, FL 33016  
Tel: 305-558-4114 • Fax: 305-819-5315  
[www.cityofhialeahgardens.com](http://www.cityofhialeahgardens.com)

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January 28, 2008

To Whom It May Concern:

In 2003, the City of Hialeah Gardens set out to improve the overall appearance and perception by increasing the quality of the landscape and maintenance of all common areas. The City selected Ground Keepers, Inc. to help guide us through the challenges of accomplishing this goal. Within the first year, the City began receiving positive feedback from the residents. After five years, the City has witnessed a transformation that is attributed to the hard work and guidance provided by Ground Keepers, Inc.

I would not hesitate to recommend Ground Keepers, Inc. for landscaping and maintenance services. If you require any further information, I can be reached at 305-558-4114 Ext. 213.

Sincerely,

A handwritten signature in cursive script that reads "Marcos Piloto".

Marcos Piloto  
Office of Management & Budget  
Director



## **City of North Bay Village**

### **Administrative Offices**

1666 Kennedy Causeway Suite 700 North Bay Village FL 33141-4190  
(305) 756-7171 Fax (305) 756-7722 Website - [www.nbvillage.com](http://www.nbvillage.com)

January 28, 2007

To Whom It May Concern:

It is with great pleasure that I recommended Mr. Andy Gonzalez & his company Groundkeepers, Inc. Over the past few years, his company has been providing lawn maintenance work for our City. In his time with us, his company has worked efficiently and innovatively in maintaining and beautifying our City's green areas.

This past winter, his company undertook the task of decorating our City for the holidays. We are truly pleased with optimal aesthetic results he provided our City with. Mr. Gonzalez, time and again, has proven to be very dependable and always willing to work with you to achieve the best results possible.

I'm sure that his company's services will be an asset to any organization.

Sincerely,

Jorge Forte  
City Manager



# Town Of Miami Lakes

15700 NW 67 Avenue, Suite 302 • Miami Lakes, Florida 33014  
(305) 364-6100/Fax (305) 558-8511  
[www.townofmiamilakes.com](http://www.townofmiamilakes.com)

January 25, 2008

Mr. Andrew Gonzalez  
Groundkeepers, Inc.  
8004 N.W. 154 Street, Suite# 330  
Miami Lakes, FL 33016

Dear Mr. Gonzalez:

Please accept this letter as a reference from the Town of Miami Lakes for the outstanding services currently being provided in the following areas: Tree Replacement Program, NW 87 Avenue Landscape Enhancement Project and Miscellaneous Right-of-Way Maintenance.

Additional services provided that have been performed to meet the Town's standards as part of the regular miscellaneous right-of-way maintenance includes tree trimming and landscape improvements. The response time has been excellent for both routine and special services requested by the Town, especially after weather related incidents and Town sponsored events.

The Town looks forward to maintaining the level of service that our residents expect and appreciate your receptiveness when there has been room for improvement.

Sincerely,

A handwritten signature in black ink, appearing to read "Osdel F. Larrea".

Osdel F. Larrea  
Public Works and Code Compliance Director



RESOLUTION NO. 06-~~401~~

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA APPROVING THE AGREEMENT BETWEEN GROUNDKEEPERS, INC. AND THE TOWN OF MIAMI LAKES FOR THE TREE REPLACEMENT PROGRAM; AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY TO IMPLEMENT THE TERMS AND CONDITIONS OF THE AGREEMENT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, on December 12, 2005 the Town issued an Advertisement for Bids (the "Bid") entitled "Tree Replacement Program" to provide and install new live oak trees and hedges throughout the Town; and

WHEREAS, the Bid provided that the award of contract would be to the lowest Responsive and Responsible Bidder and it was determined that Salman Maintenance Services, Inc. ("Salman") was the lowest Responsive and Responsible Bidder; and

WHEREAS, on January 10, 2006, the Town Council approved an Agreement between Salman and the Town of Miami Lakes (the "Town") to provide and install new live oaks trees and hedges throughout the Town; and

WHEREAS, on April 24, 2006, Salman submitted to the Town a written notice of termination of the Agreement; and

WHEREAS, the Town Engineer has determined that the next lowest Responsive and Responsible Bidder is Groundkeepers, Inc. and the Town Manager accepts the determination; and

**WHEREAS**, the Town desires to employ Groundkeepers, Inc. to provide and install new live oak trees and hedges throughout the Town; and

**WHEREAS**, the Town Council finds that approval of the Agreement between Groundkeepers, Inc. and the Town is in the best interest of the Town.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals.** The above recitals are true and correct and incorporated into this Resolution by this reference.

**Section 2. Approval of Agreement.** The Agreement between Groundkeepers, Inc. and the Town to provide and install new live oak trees and hedges throughout the Town, a copy of which is attached as Exhibit "A," together with such non-material changes as may be acceptable to the Town Manager and approved as to form and legality by the Town Attorney, is approved. The Town Manager is authorized to negotiate the final compensation to Groundkeepers, Inc. provided that the compensation shall not exceed the amount specified in their proposal.

**Section 3. Authorization of Town Officials.** The Town Manager and/or his designee and the Town Attorney are authorized to take all actions necessary to implement the terms and conditions of the Agreement.

**Section 4. Authorization of Fund Expenditure.** Notwithstanding the limitations imposed upon the Town Manager pursuant to the Town's Purchasing Procedures Ordinance, the Town Manager is authorized to expend budgeted funds to implement the terms and conditions of the Agreement.

**Section 5. Execution of Agreement.** The Town Manager is authorized to execute the Agreement on behalf of the Town, to execute any required agreements and/or documents to implement the terms and conditions of the Agreement and to execute any extensions and/or amendments to the Agreement, subject to the approval as to form and legality by the Town Attorney.


**Section 6. Effective Date.** This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this 9th day of May, 2006.

Motion to adopt by Vice Mayor Robert Meador, second by Roberto Alonso.

**FINAL VOTE AT ADOPTION**

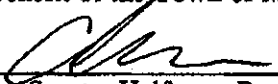
|                              |     |
|------------------------------|-----|
| Mayor Wayne Slaton           | yes |
| Vice Mayor Robert Meador     | yes |
| Councilmember Roberto Alonso | yes |
| Councilmember Mary Collins   | yes |
| Councilmember Dorothy Cook   | yes |
| Councilmember Michael Pizzi  | yes |
| Councilmember Nancy Simon    | yes |

  
\_\_\_\_\_  
Wayne Slaton  
MAYOR

ATTEST:

  
\_\_\_\_\_  
Debra Eastman, MMC  
TOWN CLERK

Approved as to form and legality for the use  
and benefit of the Town of Miami Lakes only:

A handwritten signature in black ink, appearing to be 'J. Serota', written over a horizontal line.

Weiss, Serota, Helfman, Pastoriza, Cole & Boniske, P.A.  
TOWN ATTORNEY

# **Executed Contract Documents**

## ***Tree Replacement Program***



**The Town of Miami Lakes  
Alex Rey, Town Manager  
15700 NW 67th Avenue  
Miami Lakes, FL 33014**

*Date Issued: December 12, 2005*

*Closing Date: January 3, 2006*

January 2006  
044533074

**TOWN OF MIAMI LAKES**

**SECTION 1**

**ADVERTISEMENT FOR BIDS**

**TOWN OF MIAMI LAKES**

The Town of Miami Lakes (the "Town") will be accepting bids for Tree Replacement Program (the "Project"). Sealed Bids **must** be received by the Town of Miami Lakes at 15700 NW 67th Avenue, Miami Lakes, Florida by 2:00 P.M. on January 3, 2006, at which time bids will be publicly opened and read aloud for the furnishing of all materials, labor, equipment and supplies necessary for:

**TOWN OF MIAMI LAKES**

**TREE REPLACEMENT PROGRAM**

The nature and scope of this Project is:

Provide labor and equipment required to provide and install trees throughout the Town of Miami Lakes. Work shall include but not be limited to installing trees, hedges, planting soil, and mulch as specified in the Contract Documents.

Bid Documents may be examined during regular business hours at Town Hall, 15700 NW 67th Avenue Miami Lakes, FL 33014 (305-364-6100) at a cost of \$25.00. Any further inquiries regarding the Project may be directed to Gary R. Ratay at Kimley Horn and Associates, at (954) 739-2233.

*Pursuant to subsection (t) "Cone of Silence" of Section 2-11.1 "Conflict of Interest and Code of Ethics Ordinance" of Miami Dade County, public notice is hereby given that a "Cone of Silence" is imposed concerning this purchase. The "Cone of Silence" prohibits communications concerning RFP's, RFQ's or Bids, until such time as the Town Manager makes a written recommendation to the Town Council concerning the transaction. Procedures regarding the cone of Silence can be found in the Request for Proposal, or Request for Qualifications.*

The Town reserves the right to waive any irregularities and to reject any and all bids.

Debra E. Eastman, MMC  
Town Clerk

**END OF SECTION**

**TOWN OF MIAMI LAKES**

**SECTION 2**

**INSTRUCTIONS TO BIDDERS**

1.01. **SEALED PROPOSALS**- Sealed proposals for furnishing all goods and services necessary to complete the Work specified in these documents will be received at:

**Date: January 3, 2006**

**Time: 2:00 P.M.**

**Place: Town Hall**

1.02. **DEFINITION OF TERMS**- Certain terms used in these documents are defined as follows:

|                           |   |
|---------------------------|---|
| <b>Bid/Proposal</b>       | The bid documents submitted by the Bidder.  |
| <b>Bidder</b>             | Any person, firm or corporation submitting a proposal for the Work covered by these specifications, or his duly authorized representative.  |
| <b>Town</b>               | The Town Council of the Town of Miami Lakes or the Town Manager, if applicable.   |
| <b>Contractor</b>         | The person, firm or corporation with whom the Town has executed a contract for the Work.  |
| <b>Days</b>               | Days shall mean calendar days.  |
| <b>Responsible Bidder</b> | In order to be considered a "responsible" bidder, the Bidder must have adequate equipment and personnel to do the Work within the time limits that are established, has adequate financial status to meet the obligations to perform the Work and has not defaulted on a prior contract.      |
| <b>Responsive Bidder</b>  | Any person, firm or corporation submitting a Bid for the Work whose Bid form is complete and includes all required attachments and enclosures, free from exclusions or special conditions and has no alternative Bids for any items, unless alternatives are requested in the specifications. |

Work The services required by the Contract Documents, including labor and materials.

Town Engineer The Town's general engineering consultant and project manager for this contract: presently Kimley-Horn and Associates

- 1.03. **DELIVERY OF PROPOSALS**- All Bids, whether mailed or delivered in person, shall be submitted in a **SEALED ENVELOPE** bearing on the outside the name of the Bidder and his address clearly marked:

**TREE REPLACEMENT PROGRAM**

and addressed to:

Town of Miami Lakes  
15700 NW 67th Avenue  
Miami Lakes, FL 33014  
Attention: Town Clerk

Three copies of all Bids must be received by the Town no later than 2:00 p.m. on January 3, 2006.

- 1.04. **BID GUARANTY**- A certified or cashiers check drawn on a national or state bank, or bid bond, in a sum of \$5,000.00, shall accompany each Proposal as a guarantee that the Bidder will, if award is made, execute an Agreement to do the Work for the amount proposed and furnish any required certificates of insurance and bond documents. The bid bond shall be from a surety with an A-rating or better under Best's Guidelines, made payable to: The Town of Miami Lakes.
- 1.05. **PROPOSAL FORMS**- The Bidder shall submit an original Proposal. The Bidder shall fill in all the blank spaces completely for each and every unit item for which a Bid is tendered. The Bidder shall state the price, typewritten or in ink, for which he proposes to do each item of Work. The Proposal shall include: 1) Proposal Form; 2) Certificate or Evidence of Insurance; 3) Bid Guarantee; 4) Qualifications Statement; 5) Public Entity Crime Form 6) any addenda; and 7) a Corporate Resolution evidencing Authorization to Submit Bid, if applicable.
- 1.06. **SIGNATURE ON PROPOSAL**- The Bidder shall sign the Proposal as follows: If the proposal is made by an individual, the Bidder's name and address shall be shown. If made by a firm or partnership, the name and address of each member of the firm or partnership shall be shown. If made by a corporation, the person signing the proposal shall show the name of the state under the laws of which the corporation is chartered, also the names and business addresses of its corporate officers. The proposal shall bear the seal of the corporation attested by the secretary. Anyone signing the proposal as agent shall include in the proposal legal evidence of his/her authority to do so.
- 1.07. **COST OF PROPOSALS** - All expenses involved with the preparation and submission of Proposals to the Town or any work performed in connection therewith, shall be borne by the



Bidder(s). No payment shall be made for any responses received, nor for any other effort required of or made by the Bidder(s) prior to commencement of work as defined by a contract duly approved by the Town Council.

- 1.08. **QUALIFICATION OF BIDDERS-** Each Bidder shall submit a completed Qualification Statement utilizing the form attached.
- 1.09. **RIGHT TO REJECT PROPOSALS-** The Town reserves the right to reject any and all Bids, with or without cause, and to waive technical errors and informalities.
- 1.10. **AWARD OF CONTRACT-**
- 1.10.1. The Award of the contract will be to the lowest Responsive and Responsible Bidder, whose qualifications indicate the Award will be in the best interest of the Town and whose Proposal complies with the requirements of these specifications. In no case will the Award be made until all necessary investigations have been made into the responsibility of the Bidder(s) and the Town Manager is satisfied that the Bidders are qualified to do the Work and have the necessary organization, capital and equipment to carry out the Work in the specified timeframes. Additional consideration shall be given with regard to previous engagements with the Town, past performance and experience with other contracts, comfort level with the project team and any other criteria deemed relevant by the Town.
- 1.10.2. If the Town accepts a Bid, the Town will provide a written notice of award to the lowest Responsive and Responsible Bidder, who meets the requirements of Section 1.10.1.
- 1.10.3. If the successful Bidder to whom a contract is awarded forfeits the Award by failing to meet the conditions of subsection 1.12, the Town may, at the Town's sole option, award the contract to the next lowest Responsive and Responsible Bidder or reject all Bids or re-advertise the Work.
- 1.10.4 The Town, at its sole discretion, may consider the lowest bidder as the bidder who has the lowest base bid or the lowest base bid plus alternate bid if an alternate bid is included in the documents.
- 1.11. **RETURN OF THE BID GUARANTY-** All Bid Guarantees of unsuccessful Bidders will be returned after the contracts are awarded and executed.
- 1.12. **EXECUTION OF CONTRACT-** The successful Bidder(s) shall, within ten (10) days of receipt of a written notice of the Award of the contract, deliver to the Town a fully executed contract and all requested certificates of insurance and bonds.
- 1.13. **FAILURE TO EXECUTE THE CONTRACT-** The failure of the successful Bidder(s) to execute a contract and submit required insurance certificates and bonds as specified in subsection 1.12 will result in forfeit of the Award. Each Bidder agrees in advance that the Town will sustain certain damages too difficult to accurately ascertain. Accordingly, if the Award is forfeited under this Section, the amount of the Bid Guaranty of the forfeiting Bidder will be retained by the Town, not as forfeiture or a penalty, but as liquidated damages.

- 1.14. **TIME AND AWARD-** The Bidder agrees to abide by the unit prices quoted in the Bid for up to 90 days from the date of bid opening to allow for the Town review, award and execute the contract.
- 1.15. **INTERPRETATION AND CLARIFICATION-** All questions about the meaning or intent of the Bid Documents and specifications shall be directed in writing to the Town Manager at 15700 NW 67th Avenue; Miami Lakes, FL 33014. Interpretation or Clarifications considered necessary by the Town in response to such questions will be issued by means of addenda mailed or delivered to all parties recorded by Town as having received the Bid Documents. Written questions must be received no less than seven (7) days prior to bid opening. Only questions answered by written addenda shall be binding. Oral and other interpretation or clarifications shall be without legal effect.
- 1.16. **BID MODIFICATIONS-** No modifications shall be submitted by Bidder or accepted by the Town.
- 1.17. **WITHDRAWAL OF A BID-** A Bidder may withdraw his Bid at any date and time prior to the time the Bids are scheduled to be opened.
- 1.18. **OPENING OF BIDS-** Bids will be publicly opened and read aloud at the appointed time and place stated in the Invitation to Bid/Request for Proposals. Late Bids will not be considered. No responsibility will be attached to any Town Staff for the premature opening of a Bid not properly addressed and identified. Bidders or their authorized agents are invited to be present at the bid opening.
- 1.19. **PUBLIC ENTITY CRIMES ACT-** In accordance with the Public Entity Crimes Act, (Section 287.133, Florida Statutes) a person or affiliate who is a contractor, who had been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to the Town, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases or real property to the Town, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with the Town in excess of the threshold amount provided in Section 287.917, Florida Statutes, for Category Two for a period of 36 months from the date of being placed on the convicted vendor list. Violation of this section by the Contractor shall result in rejection of the Bid, termination of the contract, and may cause Contractor debarment.
- 1.20. **TOWN LICENSES, PERMITS AND FEES-** In accordance with the Public Bid Disclosure Act, 218.80, Florida Statutes, each license, permit, or fee a contractor will have to pay the Town before or during the Work or the percentage method or unit method of all licenses, permits and fees required by the Town and payable to the Town by virtue of the Work as part of the contract are as follows:
- 1) Contractor shall have and maintain during the term of this contract all appropriate Town licenses. Fees for which shall be paid in full in accordance with the Town's Fee structure

for such licenses. THERE WILL NOT BE ANY PERCENTAGE REDUCTION OR WAIVING OF TOWN LICENSE FEES.

2) During the performance of this contract there may be times when the Contractor will be required to obtain a Town permit for such work. It is the responsibility of the Contractor to insure that he has the appropriate Town permits to perform such work as may become necessary during the performance of this contract. Any fees related to Town required permits in connection with this contract will be the responsibility of the Contractor and will be reimbursed by the town.

Licenses, permits, and fees that may be required by County, State or Federal entities are not included in the above list.

- 1.21. **INSURANCE.** The Bidder shall be required to provide and maintain insurance coverage of such types and amounts as specified in Section 1.9 of the Contract. The Bidder shall include with his/her Proposal either Certificates of Insurance evidencing same or documentation from his insurer evidencing the insurability of the Bidder to meet the Insurance requirements.
- 1.22. **BONDS.** A Performance Bond for the entire base bid amount shall be required in connection with this contract.
- 1.23. **FAMILIARITY WITH LAWS-** The Bidder is assumed to be familiar with all applicable Federal, State, and local laws, ordinances, rules, and regulations that may in any manner affect the Work.
- 1.24. **EXAMINATION OF BIDDER'S FACILITIES** - The Town as part of their evaluation may perform an examination of the Bidder's facilities. The Town Manager or a delegate of his appointment, as part of the evaluation, may perform this examination.

The term facilities as used in this Solicitation shall include, but shall not be limited to, all properties operated by the Bidder, all equipment used in the performance of business by the Bidder, and/or any other evidence, tangible or intangible, that the Town may deem necessary to substantiate the technical and other qualifications, and the abilities of the Bidder to perform the Services.

The examination shall include, but shall not be limited to, appearance and cleanliness of facilities, appearance and cleanliness of equipment, "road worthiness" of vehicles, appearance and visibility of all signage on vehicles, and possession and distribution of mandatory equipment. Vehicles shall be examined for compliance with State of Florida Statutes, as well as applicable County and Town Ordinances. Additionally, examination may include verification of some of the (physical) minimum requirements for Bidders. Additionally, the Town reserves the right to perform such examinations on the Successful Bidder as often as it deems necessary, to ensure proper performance of the proposed Contract.

**END OF SECTION**

TOWN OF MIAMI LAKES

SECTION 3

TREE REPLACEMENT PROGRAM  
AGREEMENT/CONTRACT

THIS CONTRACT is made this 23 day of oct, 2006 by and between the Town of Miami Lakes, Florida (the "Town") and GROUNDKEEPERS, INC. (the "Contractor").

The parties, for the consideration provided for below, mutually agree as follows:

1. **SCOPE OF WORK-** The Contractor shall furnish all labor, materials, supervision, equipment, supplies, and incidentals required to perform the Scope of Work for Public Works Miscellaneous Labor, as outlined in the Specifications in Section 5 to this Agreement, attached and incorporated herein as Section 5 (the "Work").
2. **COMPENSATION/PAYMENT-**
  - 2.1. Contractor shall provide the Town with an invoice on a monthly basis within ten (10) days of the end of each month stating the services provided in the preceding month.
  - 2.2. The Town shall make payment on said invoices of approved amounts due, as required under the Florida Prompt Payment Act. No payments shall be due or payable for Work not performed or materials not furnished. If there is a dispute with regard to an invoice, the Town may withhold payment until all requested supporting materials are received from Contractor and the dispute is resolved.
  - 2.3. The Contractor shall be compensated at the unit prices specified in the Proposal/Bid Form attached and incorporated herein as Section 4 based upon the actual Work completed for the month. The total compensation under this Agreement shall not exceed \$ 134,350.00 per year.
  - 2.4. The Contractor shall be compensated for approved Allowance Work based upon the Actual Work completed for the month, as specified in Specification 01020, Allowances, attached and incorporated herein as part of Section 5. The total compensation for Allowances shall not exceed \$5,000.00 per year.
3. **TERM-** This Agreement shall be effective upon execution by both parties and shall continue for a term of three (3) years. At its sole discretion, the Town shall have an option to renew this Agreement upon the same terms and conditions for up to two (2) additional one (1) year extensions (the "Options"). The Options may be exercised at the sole discretion of the Town Manager. Any extension shall be effective upon receipt of a written notice from the Town Manager to the Contractor dated no later than 30 days prior to the date of termination.

4. **NON-WAIVER**- The approval, and/or acceptance of any part of the Work by the Town shall not operate as a waiver by Town of any other terms and conditions of the Agreement.

5. **PROTECTION OF PROPERTY AND THE PUBLIC**- The Contractor shall continuously maintain adequate protection of all his Work from damage and shall protect public and private property from injury or loss arising in connection with this contract as follows:

5.1. The Contractor shall take all necessary precautions for the safety of employees in the performance of the Work on, about or adjacent to the premises, and shall comply with all applicable provisions of Federal, State, and local laws, including, but not limited to the requirements of the Occupational Safety and Health Act of 1970, and amendments thereto, the Construction safety Act of 1969, and amendments thereto, and building codes to prevent accidents or injury to persons on, about or adjacent to the premises where the Work is being performed.

5.2. The Contractor shall erect and properly maintain at all times, all necessary safeguards, including sufficient lights and danger signals on or near the Work, from sunset to sunrise, suitable railings, barricades, or other hazards or other protective devices about unfinished work, open trenches, embankments, or other hazards and obstructions to traffic; provide all necessary security staff on the Work by day or by night for the safety of the public; and take all necessary precautions to prevent accidents and injuries to persons or property on or near the Work.

5.3. The Contractor shall be completely responsible for, and shall replace and make good all loss, injury, or damage to any property (including landscaping, walks, drives, or structures of the Town and of any land adjoining the work site, which may be caused by Contractor. The Contractor shall, at all times while the Work is in progress, use extraordinary care to see that adjacent property, whether real or personal, is not endangered in any way by reason of fire, water, or construction operations, and shall take all necessary or directed steps, to protect the property. The same care shall be exercised by all Contractor's and subcontractor's employees.

5.4. Buildings, sidewalks, fences, shade trees, lawns and all other improvements shall be duly protected from damage by Contractor. Property obstructions, such as sewers, drains, water or gas lines, conduits, railroads, poles, walls, posts, galleries, bridges, manholes, valve boxes, meter boxes, street monuments, etc., shall be carefully protected from injury and shall not be displaced. The Contractor shall give due notice to any department or public service corporation controlling such items as manholes, valve boxes, meter boxes, street monuments, etc., prior to adjusting them to grade and shall be held strictly liable to the affected utility if any such appliances are disturbed, damaged or covered up during the course of the Work.

6. **INDEMNIFICATION**-

6.1. The Contractor shall indemnify and hold harmless the Town, its officers, agents and

employees from and against all liability, claims, damages, losses and expenses, including reasonable attorney's fees and costs at both trial and appellate levels arising out of or resulting from the performance of the Work under this Agreement, caused by any act or omission of the Contractor or anyone directly or indirectly employed by Contractor or anyone for whose acts Contractor may be liable.

- 6.2. This indemnification obligation shall survive the termination of this Agreement.
- 6.3. The Contractor shall defend the Town or provide for such defense, at the Town's option.
- 6.4. The Town has provided specific consideration for the indemnification of \$100.00 from the sums due to the Contractor under this Agreement.
- 6.5. The Contractor shall be held responsible for any violation of laws, rules, regulations or ordinances affecting in any way the conduct of all persons engaged in or the materials or methods used by him, on the Work. Contractor shall give all notices and comply with all laws, ordinances, rules, regulations and orders of any public authority bearing on the performance of the Work under this contract. Contractor shall secure all permits, fees, licenses, and inspections necessary for the execution of the Work, and upon termination of this contract for any reason, Contractor shall transfer such permits, if any, and if allowed by law, to the Town.

7. **CONTRACT DOCUMENTS/CONTRACTOR'S EMPLOYEES -**

- 7.1. Contract Documents - The following documents shall, by this reference, be considered incorporated into and a part of this Agreement:

Instructions to Bidders;  
Agreement/Contract;  
Proposal/Bid Form;  
Specifications;  
Cone of Silence;  
Addendum Acknowledgement Form;  
Anti Kickback Affidavit;  
Non-Collusive Affidavit;  
Sworn Statement on Public Entity Crimes;  
Supplement to Bid/Tender Form;  
Performance Bond;  
Notice of Intent to Award;  
Notice to Proceed;  
Planting Details;

7.2. Contractor's Employees -

7.2.1. The Contractor shall at all times have a competent supervisor on site who thoroughly understands the Work, who shall, as the Contractor's agent, supervise, direct and otherwise conduct the Work. Contractor's employees shall serve the public in a courteous, helpful, and impartial manner. Contractor's employees shall be subject to a criminal background check, performed by the Town's police department.

7.2.2. Contractor's employees shall wear a clean uniform that provides identification of both the Contractor's company and the name of the employee.

7.2.3. Contractor shall, upon receipt of a written request from the Town, immediately exclude any employee of Contractor from providing Work under this Agreement.

7.2.4. The Work contemplated in this Agreement is on public property, accordingly no alcoholic beverages shall be allowed.

7.2.5. All references in this Agreement to the Contractor shall include Contractor's employees or subcontractors, wherever applicable.

8. **VEHICLES AND EQUIPMENT**- Contractor shall have on hand at all times clean and in good working order such vehicles, machinery, tools, accessories, and other items necessary to perform the Work under this Agreement. All vehicles used by Contractor to provide services under this agreement shall be painted uniformly with the name of Contractor, business telephone number, and the number of the vehicle in letters legible by the public. The Town may require the repair or replacement of equipment as reasonably necessary. No other advertising shall be permitted on the vehicles.

9. **INSURANCE/BONDS** - The Contractor shall secure and maintain throughout the duration of this Agreement, insurance of such type and in such amounts necessary to protect its interest and the interest of the Town against hazards or risks of loss as specified below. The underwriter of such insurance shall be qualified to do business in Florida, be rated AB or better, and have agents upon whom service of process may be made in the State of Florida. The insurance coverage shall be primary insurance with respect to the Town, its officials, employees, agents and volunteers. Any insurance maintained by the Town shall be in excess of the Contractor's insurance and shall not contribute to the Contractor's insurance. The insurance coverages shall include a minimum of:

9.1. **Worker's Compensation and Employer's Liability Insurance:** Coverage to apply for all employees for statutory limits as required by applicable State and Federal laws. The policy(ies) must include Employer's Liability with minimum limits of \$1,000,000.00 each accident.

9.2. **Comprehensive Automobile and Vehicle Liability Insurance:** This insurance shall be written in comprehensive form and shall protect the Contractor and the Town against claims for injuries to members of the public and/or damages to property of others arising

from the Contractor's use of motor vehicles or any other equipment and shall cover operation with respect to onsite and offsite operations and insurance coverage shall extend to any motor vehicles or other equipment irrespective of whether the same is owned, non-owned, or hired. The limit of liability shall not be less than \$2,000,000.00 per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability Policy, without restrictive endorsement, as filed by the Insurance Services Office.

- 9.3. **Commercial General Liability.** This insurance shall be written in comprehensive form and shall protect the Contractor and the Town against claims arising from injuries to members of the public or damage to property of others arising out of any act or omission to act of the Contractor or any of its agents, employees, or subcontractors. The limit of liability shall not be less than \$2,000,000.00 per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Commercial General Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include: (1) Premises and/or Operations; (2) Independent contractors and Products and/or completed Operations; (3) Broad Form Property Damage, Personal Injury and a Contractual Liability Endorsement, including any hold harmless and/or indemnification agreement.
- 9.4. **Certificate of Insurance:** Contractor shall provide the Town Manager with Certificates of Insurance for all required policies. The Certificates of Insurance shall not only name the types of policy(ies) provided, but also shall refer specifically to this Agreement and shall state that such insurance is as required by this Agreement. The Town reserves the right to require the Contractor to provide a certified copy of such policies, upon written request by the Town. If a policy is due to expire prior to the completion of the services, renewal Certificates of Insurance or policies shall be furnished thirty (30) calendar days prior to the date of their policy expiration. Each policy certificate shall be endorsed with a provision that not less than thirty (30) calendar days' written notice shall be provided to the Town before any policy or coverage is cancelled or restricted. Acceptance of the Certificate(s) is subject to approval of the Town Manager.
- 9.5. **Additional Insured** - The Town is to be specifically included as an Additional Insured for the liability of the Town resulting from operations performed by or on behalf of Contractor in performance of this Agreement. Contractor's insurance, including that applicable to the Town as an Additional Insured, shall apply on a primary basis and any other insurance maintained by the Town shall be in excess of and shall not contribute to Contractor's insurance. Contractor's insurance shall contain a severability of interest provision providing that, except with respect to the total limits of liability, the insurance shall apply to each Insured or Additional Insured in the same manner as if separate policies had been issued to each.
- 9.6. All deductibles or self-insured retentions must be declared to and be approved by the Town Manager. The Contractor shall be responsible for the payment of any deductible or self-



insured retentions in the event of any claim.

*Letter of Credit*

9.7. The Contractor has provided a Performance Bond to the Town attached and incorporated herein as Section 12. The Town shall have the right to utilize the bond should the Contractor default in the performance of the Work.

10. **ASSIGNMENT AND AMENDMENT**- No assignment by the Contractor of this Agreement or any part of it, or any monies due or to become due, shall be made, nor shall the Contractor hire a subcontractor to perform its duties under this Agreement without prior written approval of the Town. This Agreement may only be amended, by the parties, with the same formalities as this Agreement.

11. **TERMINATION**-

11.1. Either party may terminate this Agreement without cause upon 30 days written notice to the other party.

11.2. Upon notice of such termination, the Town shall determine the amounts due to the Contractor for services performed up to the date of termination. The Contractor shall not be entitled to payment of any lost profits or for Work performed after the date of termination.

11.3. After receipt of a notice of termination, and except as otherwise directed, the Contractor shall stop all Work under this Agreement, and shall do so on the date specified in the notice of termination.

11.4. The Town may terminate this Agreement upon five (5) days written notice if the Contractor defaults on any material term of this Agreement.

12. **CHOICE OF LAW**- This Agreement shall be governed by the laws of the State of Florida. Venue shall lie in Miami-Dade County.

13. **ATTORNEY'S FEES**- In the event either party to this Agreement is required to retain legal counsel to enforce any of its rights under this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees and costs from the non-prevailing party together with court costs incurred in any litigation at any trial and appellate proceedings.

14. **ACCESS TO PUBLIC RECORDS**- The Contractor shall comply with the applicable provisions of Chapter 119, Florida Statutes. The Town shall have the right to immediately terminate this Agreement for the refusal by the Contractor to comply with Chapter 119, Florida Statutes. The Contractor shall retain all records associated with this Agreement for a period of three (3) years from the date of Termination.

15. **INSPECTION AND AUDIT**- During the term of this Agreement and for three (3) years from the date of Termination the Contractor shall allow Town representatives access during reasonable business hours to Contractor's and Subcontractor's records related to this Agreement for the



Cable Address: Telephone No. : Fax: Telex No.: S.W.I.F.T. :  
 TRANSATBK (305) 377-0200 (305) 377-0117 WU 514085 TABKUS3M  
 (305) 347-5224

Place: 48 East Flagler St., 2nd Floor  
 Letters of Credit Department  
 Miami, FL 33131 U.S.A.

**IRREVOCABLE STAND BY LETTER OF CREDIT**

Date of Issue: October 16, 2006

|  |  |  |  |
|--|--|--|--|
| 134,350.00   |  | Credit number of issuing bank<br>SBP-508   | Date of Issue: October 16, 2006<br>advising number |
| Issuing Bank<br>TransAtlantic Bank<br>48 East Flagler Street<br>Miami, Fl. 33131                 |  | Applicant<br>Groundkeepers, Inc.<br>8004 NW 154TH Street, #330<br>Miami Lakes, FL 33016          |  |
| Beneficiary<br>Town of Miami Lakes<br>12240 SW 53rd Street<br>Suite 511<br>Cooper City, FL 33330 |  | Amount<br>USD134,350.00(One hundred thirty four thousand three hundred fifty dollars and 00/100) | Expiry<br>October 16, 2007                         |

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Project Title: Tree Replacement Program (the "Project")  
 Contractor: Groundkeepers, Inc.  
 Contract No. 044533074 dated October 13, 2006  
 State of Florida  
 County of Miami, Dade

Know all men by these presents: That by this Bond, we, Transatlantic Bank, of the City of Miami, County of Dade, and State of Florida, as Principal, and Groundkeepers, Inc., authorized, licensed and admitted to do business under the laws of the State of Florida to act, as Surety on bonds, as Surety, are held and firmly bound unto The Town of Miami Lakes, as Oblige, in the penal sum of One hundred thirty four thousand three hundred fifty dollars and 00/100 (\$134,350.00) for the payment whereof, the said Principal and Surety Bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, by these presents.

Whereas, the Principal has entered into a certain written Agreement with Oblige, dated the 13th date of October, 2006, for the construction of the Public Works Improvements (the "Contract") which Agreement is by reference made a part of this Bond.

Now, therefore, the condition of this obligation, is such that, if the said Principal shall faithfully perform said Agreement and shall in all respects fully and faithfully observe and perform all and singular the covenants, conditions, warranties and agreements in and by said Agreement agreed and covenanted by the Principal to be observed and performed, and according to the true intent and meaning of said Agreement, then this obligation shall be void; otherwise it shall remain in full force and effect.

Whenever Principal shall be declared by Oblige to be in default under the Agreement, Oblige having performed Oblige's obligations thereunder, the Surety shall promptly remedy the default, or shall promptly:

- 1) Complete the Agreement in accordance with its terms and conditions; or
- 2) Obtain a bid or bids for completion of the Agreement in accordance with its terms and conditions and upon determination by Surety of the lowest responsive, responsible bidder, or, if Oblige elects, upon determination by Oblige and the Surety jointly of the lowest responsive, responsible bidder, arrange for a contract between such bidder and Surety for completion of the Agreement in accordance with its terms and conditions, and make available as work progresses (even though there should be a default or a succession of defaults under the contract or contracts

**Except so far as otherwise expressly stated, this Credit is subject to the Uniform Customs and Practice Documentary Credits (1993 Revision) International Chamber of Commerce Publication No. 500.**

TransAtlantic Bank  
 Authorized Signer

TransAtlantic Bank  
 Authorized Signer



Cable Address: Telephone No. : Fax:  
TRANSATBK (305) 377-0200 (305) 377-0117  
(305) 347-5224

Telex No.:  
WU 514085

S.W.I.F.T. :  
TABKUS3M

Place: 48 East Flagler St., 2nd Floor  
Letters of Credit Department  
Miami, FL 33131 U.S.A.

**IRREVOCABLE STAND BY LETTER OF CREDIT**

Date of Issue: October 16, 2006

|  |  |  |                 |
|--|--|--|-----------------|
| 134,350.00   |  | Credit number of issuing bank<br>SBP-508   | advising number |
| Issuing Bank<br>TransAtlantic Bank<br>48 East Flagler Street<br>Miami, Fl. 33131                 |  | Applicant<br>Groundkeepers, Inc.<br>8004 NW 154TH Street, #330<br>Miami Lakes, FL 33016          |                 |
| Beneficiary<br>Town of Miami Lakes<br>12240 SW 53rd Street<br>Suite 511<br>Cooper City, FL 33330 |  | Amount<br>USD134,350.00(One hundred thirty four thousand three hundred fifty dollars and 00/100) |                 |
|  |  | Expiry<br>October 16, 2007   |                 |

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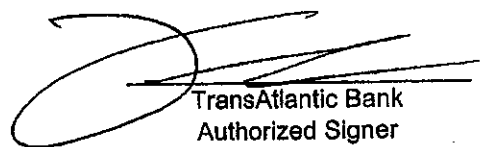
of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the Contract price; but not exceeding the amounts set forth in the first paragraph hereof.

The term "balance of the Contract price" as used in this Bond, shall mean the total amount payable by Oblige to Principal under the Agreement and amendments thereto, less the amount paid by Oblige to Principal and less amounts withheld by Oblige pursuant to its rights under the Contract.

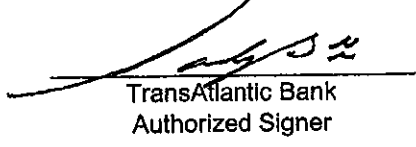
Surety, for value received, stipulates and agrees that no change, extension of time, alteration of addition to the terms of the Agreement, or to the work performed thereunder, or the plans, specifications, or drawings accompanying the same, shall in any way affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Agreement, or to the work to be performed thereunder and further agrees to all of the terms contained in the Agreement.

No right of action shall accrue on this Bond to or for the use of any person or corporation other than the Oblige named herein or the heirs, successors, executors or administrators of the Oblige.

Except so far as otherwise expressly stated, this Credit is subject to the Uniform Customs and Practice Documentary Credits (1993 Revision) International Chamber of Commerce Publication No. 500.



TransAtlantic Bank  
Authorized Signer



TransAtlantic Bank  
Authorized Signer

purposes of inspection or audit of such records. If upon audit of such records, the Town determines the Contractor was paid for services not performed, upon receipt of written demand by the Town, the Contractor shall remit such payments to the Town.

16. **SEVERABILITY**- If a term, provision, covenant, or condition of this Agreement is held to be void, invalid, or unenforceable, the same shall not affect any other portion of this Agreement and the remainder shall be effective as though every term, provision, covenant, contract or condition had not been contained herein.
17. **WAIVER OF JURY TRIAL**. The parties knowingly, voluntarily, intentionally and irrevocably, waive their rights to a trial by jury in any action to enforce the terms or conditions of this Agreement.
18. **COUNTERPARTS**- This Agreement may be signed in one or more counterparts, each of which when executed shall be deemed an original and together shall constitute one and the same instrument.
19. **INDEPENDENT CONTRACTOR** – It is expressly agreed and understood that the Contractor shall be in all respects an independent contractor as to the Work, and that Contractor is in no respect an agent, servant or employee of the Town. Accordingly, Contractor shall not attain, nor be entitled to, any rights or benefits of the Town, nor any rights generally afforded Town employees. Contractor further understands that Florida Worker's Compensation benefits available to employees of the Town are not available to Contractor, and agrees to provide worker's compensation insurance for any employee or agent of Contractor rendering services to the Town under this Agreement. All employees and subcontractors of the Contractor shall be considered to be, at all times, the sole employees or contractors of Contractor, under its sole discretion and not an employee, contractor or agent of the Town.
20. **ACCIDENT PREVENTION AND REGULATIONS** – Precautions shall be exercised at all times for the protection of persons and property. The Contractor and subcontractors shall conform to all OSHA, Federal, State, County and Town regulations while performing under the terms and conditions of this Agreement. Any fines levied by the above-mentioned authorities, because of inadequacies to comply with these requirements, shall be borne solely by Contractor responsible for same.
21. **BACKGROUND CHECKS** - The Contractor will be responsible for maintaining current background checks on all employees and subcontractor's employees involved in the performance of this Agreement. Background checks must be performed prior to the performance of any Work by the employee under the Agreement. Written verification of any background checks must be provided to the Town at the request of the Town Manager.
22. **CODE OF ETHICS** - Contractor warrants and represents that its employees will abide by any applicable provisions of the State of Florida Code of Ethics in Chapter 112, Florida Statutes, and the Conflict of Interest and Code of Ethics Ordinances in Section 2-11.1 of the Miami-Dade County Code, as these codes may be amended from time to time.

23. **LAWS, RULES & REGULATIONS** - Contractor shall be held responsible for any violation of laws, rules, regulations or ordinances affecting in any way the conduct of all persons engaged in or the materials or methods used by him, on the Work. Contractor shall give all notices and comply with all laws, ordinances, rules, regulations and orders of any public authority bearing on the performance of the Work under this Agreement. Contractor shall secure all permits, fees, licenses, and inspections necessary for the execution of the Work, and upon termination of this Agreement for any reason, Contractor shall transfer such permits, if any, and if allowed by law, to the Town.
24. **POLICY OF NON-DISCRIMINATION** - The Contractor shall comply with all federal, state and local laws and ordinances applicable to the Work or payment for Work and shall not discriminate on the grounds of race, color, religion, sex, age, marital status, national origin, physical or mental disability in the performance of Work under this Agreement.
- 2.26 **NOTICES**- Whenever any party is required to give or deliver any notice to any other party, or desires to do so, such notices shall be sent via certified mail or hand delivery to:

**Town:**

Town of Miami Lakes  
15700 NW 67th Avenue  
Miami Lakes, FL 33014  
Attention: Town Clerk

**Contractor:**

Contractor: GROUNDKEEPERS, INC.  
Address: 12323 SW 55<sup>TH</sup> STREET, SUITE 1007  
COOPER CITY, FL 33330  
Name and Title Andy Gonzalez, President  
Telephone: 954-252-1488

IN WITNESS WHEREOF the parties hereto have executed this Agreement on the day and date first above written.

Attest:

TOWN OF MIAMI LAKES

By: Debra Castro  
Town Clerk

By: Wayne Slaton  
Wayne Slaton, Mayor

By: [Signature]  
Weiss Seyota Helfman Pastoriza Cole & Boniske, P.A.  
Town Attorney

Signed, sealed and witnessed in the presence of:

As to Contractor:  
Groundkeepers, Inc.

By: [Signature]

By: [Signature]

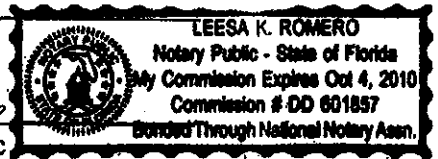
STATE OF FLORIDA )  
  )  
COUNTY OF MIAMI-DADE )

The foregoing instrument was acknowledged before me this 3rd day of October, 2006, by Andy Gonzalez, President of Groundkeepers, Inc., who is (check one) [  ] personally known to me or [  ] has produced \_\_\_\_\_ as identification.

[Signature]  
Notary Public, State of Florida

My commission expires: Oct. 4, 2010

Leesa K. Romero  
Print or Type Name of Notary Public



(\*) In the event that the Contractor is a corporation, there shall be attached to each counterpart a certified copy of a resolution of the board of the corporation, authorizing the officer who signs the contract to do so in its behalf.

END OF SECTION

**TOWN OF MIAMI LAKES**

**SECTION 4**

**TREE REPLACEMENT PROGRAM**  
**PROPOSAL/BID FORM**


Proposal of GROUNDKEEPERS, INC.  
(name)  
12323 SW 55<sup>TH</sup> STREET, SUITE 1007, COOPER CITY, FL 33330  
(address)

to furnish all materials, equipment, and labor and to perform all work in accordance with the Contract Documents for:

**"Tree Replacement Program"**

TO: Town of Miami Lakes  
15700 NW 67th Avenue  
Miami Lakes, Florida 33014  
Attention: Town Clerk

The undersigned, as Bidder, hereby declares that the only person or persons interested in the proposal, as principal or principals, is or are named herein and that no other person than herein mentioned has any interests in the Proposal of the contract to which the Work pertains; that this Proposal is made without connection or arrangement with any other person, company, or parties making Bids or Proposals and that the Proposal is in all respects fair and made in good faith without collusion or fraud.

The Bidder further declares that he has examined the geographic location and sites of the Work; that he has made sufficient investigations to fully satisfy himself that such sites are suitable for this Work; and he assumes full responsibility therefore; that he has examined the specifications for the Work and from his own experience or from professional advice that the specifications are sufficient for the Work to be done and he has examined the other Contract Documents relating thereto, including the Instructions to Bidders, Agreement/Contract, Proposal/Bid Form, Specifications, Cone of Silence, Addendum Acknowledgement Form, Anti Kickback Affidavit, Non-Collusive Affidavit, Public Entity Crime Form, Supplement to Bid/Tender Form, Performance Bond, Notice of Intent to Award, Notice to Proceed, and Insurance requirements and he has read all addenda prior to the opening of Bids, and that he has satisfied himself fully, relative to all matters and conditions with respect to the Work to which this proposal pertains.

The Bidder proposes and agrees, if this Proposal is accepted, to timely execute a contract with the Town in the form attached and to furnish all necessary materials, all equipment, all necessary machinery, tools,

apparatus, means of transportation, and labor necessary to complete the Work specified in the Proposal and Contract, and called for by the specifications and in the manner specified and to timely submit all required bonds and insurance certificates.

**NOTE: THIS SCHEDULE OF BID ITEMS IS MERELY ILLUSTRATIVE OF THE MINIMUM AMOUNT/QUANTITY OF WORK TO BE PERFORMED UNDER THE CONTRACT. IN THE CASE OF ANY CONFLICT BETWEEN THIS SCHEDULE OF BID ITEMS AND THE DETAILED SPECIFICATIONS, THE DETAILED SPECIFICATIONS WILL PREVAIL.**

The Bidder further proposes and agrees to comply in all respects with the time limits for commencement and completion of the Work as stated in the contract form.

The Bidder agrees to execute a contract and furnish the executed contract, all required bonds, insurance certificates, and other required information to Town within ten (10) ten calendar days after written notice of the award of contract. Failure on the part of the Bidder to timely comply with this provision shall give Town all rights and remedies set forth in the Instructions to Bidders.

The undersigned agrees to accept as full compensation therefore the total of the lump sum prices and extended unit prices items named in the following schedule. It is understood that the unit prices quoted or established for a particular item are to be used for computing the amount to be paid to the Contractor, based on the Work actually performed as determined by the contract and the Town. However, in utilizing the schedule, the Bidder agrees that in no event shall compensation paid to the Bidder under the contract exceed the dollar amount of the Bidder's proposal amount, as set forth in the attached proposal form.

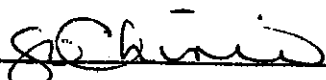
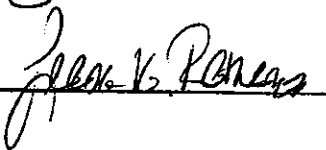
It is intended that all Work to be performed under this Proposal shall commence approximately 30 days after contract execution.

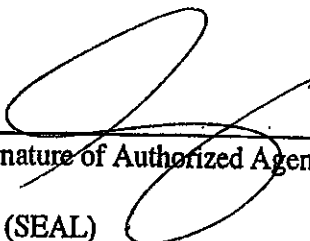
In no event shall Town be obligated to pay for work not performed or materials not furnished.

Bidder's Certificate of Competency No. \_\_\_\_\_

Bidder's Occupational License No. 324-0008416

WITNESS

By:   
Signature of Authorized Agent  
(SEAL)



**PROPOSAL/BID FORM**

The following Bid Proposal is presented to assist the Town in evaluating the Bid. The Total Bid Amount will include all items and quantities per the bid form and as described in the Section 5 of the Bid Documents (Specifications). Payment shall be made on the basis of Work actually performed and completed on an annual basis. This program shall continue for a term of three (3) years. At its sole discretion, the Town shall have an option to renew this program upon the same terms and conditions for up to two (2) additional one (1) year extensions. All annual and unit pricing must reflect costs to the Town that are valid for the full three (3) year period and the optional (2) additional one (1) year extensions. Price increases will not be authorized by the Town.

**TOTAL BASE AMOUNT** \$ 134,350.00 (per year) / \$403,050.00 (complete 3 yr period)

**TOTAL BASE BID AMOUNT (IN WORDS)** ONE <sup>all</sup> Four Hundred Thirty Four Thousand,

Three Hundred Fifty Dollars (per yr) / Four Hundred Three Thousand, Fifty Dollars (3 yr period)

**Taxpayer Identification Number:** 74-3055634

**BIDDER:** GROUNDKEEPERS, INC.

(Signature of Authorized Representative)

Andy Gonzalez, President

**PROPOSAL/BID FORM (ADDENDUM 1)**

The following Bid Form is presented to assist the Town in evaluating the Bid. After award, the Town reserves the right to modify estimated quantities subject to the unit price, and eliminate line items if necessary. In the event of discrepancy or approved quantity change, the Unit Price for each item will govern. Payment shall be made for the items listed on the Bid Form on the basis of the Work actually performed and completed on an annual basis.

| <u>Bid Item No.</u> | <u>DESCRIPTION</u>  | <u>Estimated Quantity Per Year</u> | <u>UNIT</u> | <u>Unit Price</u> | <u>Annual Value</u> |
|---------------------|---|------------------------------------|-------------|-------------------|---------------------|
| P-1                 | Live Oak, Florida No. 1 Container Grown Tree, 10'-12' Height, 2"-2½" Caliper, 5'-6' Clear Trunk, 4'-5' Spread   | 50                                 | EA          | 159.00            | \$7,950.00          |
| P-2                 | Live Oak, Florida No. 1 Container Grown Tree, 12'-14' Height, 3" Caliper, 5'-6' Clear Trunk, 4'-5' Spread       | 50                                 | EA          | 200.00            | \$10,000.00         |
| P-3                 | Live Oak, Florida No. 1 Container Grown Tree, 14'-16' Height, 4"-4½" Caliper", 5'-6' Clear Trunk, 8'-10' Spread | 50                                 | EA          | 350.00            | \$17,500.00         |
| P-4                 | Live Oak, Florida No. 1 Container Grown Tree, 14'-16' Height, 5"-5½" Caliper, 5'-6' Clear Trunk, 8'-10' Spread  | 50                                 | EA          | 650.00            | \$32,500.00         |
| P-5                 | Ficus Hedge, 2½' Height, 3 Gallon, Full 24"   | 3,500                              | EA          | 6.00              | \$21,000.00         |
| P-6                 | Podocarpus, 2' Height, 3 Gallon, Full, 24" O.C.   | 3,500                              | EA          | 7.00              | \$24,500.00         |
| P-7                 | Live Oak, Florida No. 1 Container Grown Tree, 10'-12' Height, 2"-2½" Caliper, 5'-6' Clear Trunk, 4'-5' Spread   | 100                                | EA          | 159.00            | \$15,900.00         |
| A-1                 | Allowance   | 1                                  | LS          | 5000.00           | \$5,000.00          |

**TOTAL ANNUAL BID AMOUNT**

**\$ 134,350.00**

**TOTAL ANNUAL BID AMOUNT**

**(IN WORDS) ONE HUNDRED-THIRTY FOUR THOUSAND, THREE HUNDRED-FIFTY**

**Pay Item Foot Note:**

Pay Item P-6 – The Majority of the Podocarpus hedge will be planted the fence Line of the Royal Oaks Park located in the Town of Miami Lakes.

Pay Item P-7 – The Town of Miami Lakes will be providing these trees to their Residents in the containers. The contractor shall deliver these trees to The Town in their containers for the Town to distribute to the residents. The contractor shall be prepared to deliver these trees to one of the

Town's parks in two separate deliveries and these two deliveries may be on two separate days.

**Note:** This program shall continue for a term of three (3) years. At its sole discretion, the Town shall have an option to renew this program upon the same terms and conditions for up to two (2) additional one (1) year extensions. All annual and unit pricing must reflect costs to the Town that are valid for the full three (3) year period and the optional two (2) additional one (1) year extensions. Price increases will not be authorized by the Town.

**END OF SECTION**

**TOWN OF MIAMI LAKES**

**SECTION 5**

**TREE REPLACEMENT PROGRAM**  
**SPECIFICATIONS INDEX**

| <b><u>DESCRIPTION</u></b> | <b><u>PAGE</u></b> |
|---------------------------|--------------------|
| Allowances                | 21                 |
| Tree Planting             | 24                 |

## ALLOWANCES

### PART 1 SCOPE OF WORK

#### 1.01 DEFINITION

- A. Included in the contract sum is an allocation account for unforeseen conditions, quantity adjustments, and additional work that the Town may deem necessary if ordered and authorized by the Town in accordance with the contract documents.

#### 1.02 ALLOWANCE ACCOUNT

- A. Monies in the allocation account will be used on issuance of change orders, over run of unit bid items provided such over runs are pre-approved in writing by the Town, and off duty police officers.
- B. At the closeout of the contract, monies remaining in the allowance account will be credited to the Town by change order.

#### 1.03 SELECTION OF PRODUCTS UNDER ALLOWANCES

##### A. Engineer's Duties:

- 1 Consult with the Contractor in consideration of products and supplier or installers or changes in quantities of bid items.
- 2 Make selection in consultation with the Owner. Obtain Owner's written decision, designating:
  - a. Product, model and/or class of materials.
  - b. Accessories and attachments.
  - c. Supplier and installer as applicable.
  - d. Cost to Contractor, delivered to the site or installed, as applicable.
  - e. Warranties
  - f. Quantities
- 3 Transmit Owner's decision to the Contractor.
- 4 Prepare change orders.

##### B. Contractor's Duties:

- 1 Assist Engineer and Owner in determining qualified suppliers, quantities or subcontractor.

2. Obtain proposals from a minimum of three (3) suppliers and/or subcontractors when requested by Engineer.
3. Make appropriate recommendations for consideration of the Engineer.
4. Notify Engineer promptly of:
  - a. Any reasonable objections Contractor may have against any supplier, or party under consideration for installation.
  - b. Any effect on the construction schedule anticipated by selection under consideration.

**1.04**

**CONTRACTOR RESPONSIBILITY FOR PURCHASE,  
DELIVERY AND INSTALLATION**

- A. On notification of selection, execute purchase agreement with designated suppliers and/or subcontractors.
- B. Arrange for and process shop drawings, product data and samples, as required.
- C. Make all arrangements for delivery.
- D. Upon delivery, promptly inspect products for damage or defects.
- E. Submit claims for transportation damage.
- F. Install and finish products in compliance with requirements of referenced specification sections, including restoration.

**1.05**

**ADJUSTMENT OF COSTS**

- A. Should the net cost be more or less than the specified amount of the allowance, the contract sum will be adjusted accordingly by change order. Should work be changed by change order:
  1. The amount of the change order will recognize any changes in handling costs at the site, equipment, labor, installation costs, overhead, profit, and other expenses caused by the change order.
  2. For products specified under a unit cost in the change order schedule of values, the unit cost shall apply to the additional quantities actually used.
- B. Submit any claims for anticipated additional costs at the site, or other expenses caused by the selection under the allowance, prior to execution of the work.

- C. Failure to submit claims within the designated time will constitute a waiver of claims for additional costs.
- D. At contract closeout, reflect all approved changes in contract amounts in the final statement of accounting.

**PART 2 PRODUCTS**

Not Used

**PART 3 EXECUTION**

**3.01 MEASURE AND PAYMENT**

- A. The cost shall include a fixed amount per the Bid Form.
- B. Use of the allocation account shall be for unforeseeable conditions, additional services, and for availability adjustments, if ordered and authorized by the Town. At the closeout of contract, monies remaining in the contingency allowance will be credited to the Owner by change order. For payments for off-duty police officers, The Town will reimburse the direct cost for off-duty police officers if the off-duty police officer is required by Town ordinance or is requested by the Town.
- C. The fixed amount is indicted as a lump sum under Allowance pay item A-1.

**END OF SECTION**

## **TREE PLANTING**

### **PART 1 GENERAL**

#### **1.01 SCOPE OF WORK**

- A. The work to be done under this section of the specifications consists of furnishing all labor, machinery, tools, apparatus, means of transportation, supplies, equipment, materials, services and incidentals necessary to install trees throughout the Town of Miami Lakes. The bid form indicates an anticipated amount of trees required. Tree locations will be provided by the Town on an as needed basis. Construct and complete all work as indicated on the plans and in the specifications, as well as all other related responsibilities, including all changes and repairs incident thereto.
- B. The work shall include, but not be limited to, furnishing material, root pruning and tree/palm relocations where required, layout, protection to the public, maintenance of traffic, excavation, installation, backfilling, fertilizing, mulching, staking and guying where required, watering, pruning, weeding, mowing, cleanup, maintenance and guarantee.
- C. Quantities and Locations: The Owner reserves the right to adjust the number and locations of the designated types and species to be used at any of the locations shown in order to provide for any modifications which might become desirable to the Town.
- D. Investigation of Subsurface Conditions: The Contractor shall be responsible for making on site surface and subsurface investigations and examinations as he or she chooses in order to become familiar with the character of the existing material and the construction conditions under which he or she will work. These investigations and examinations shall be included in the bid. The Contractor shall not receive separate, additional compensation for this work.
- E. Excavation Related to Inadequate Drainage: Some or all work areas may contain existing materials such as, but not limited to, concrete, peat layer, limerock, and it may even be compacted. This material and any compacted material may interfere with adequate vertical drainage and/or proper plant survival and growth. Removal of this material, in order to have adequate vertical drainage, is part of the scope of work for the project. Therefore, the subsurface investigations and examinations are necessary in order to determine the extent of removal and excavation required above and beyond the minimum requirements indicated in these specifications, under the heading of "Excavation of Plant Holes", which is in PART 3. Compensation for any removal and excavation required above and beyond the minimum requirements indicated, including any additional planting soil needed in order to fill the larger excavated area, shall be included in the bid. The Contractor shall not receive separate, additional compensation for this work.
- F. No separate, additional compensation will be granted because of any unusual difficulties which may be encountered in the execution of any portion of the work, including traffic control and maintenance of traffic.
- G. The plans are not complete unless accompanied by the specifications.



## 1.02 QUALITY ASSURANCE

A. The Owner shall have the right, during any phase of the work operations, to reject any and all work and materials which do not meet the requirements of the plans and specifications. Rejected work and materials shall be immediately removed from the project area and replaced with acceptable work and material within seven (7) calendar days or as approved by the Owner.

### B. Standards:

#### 1. Authority for Nomenclature, Species, Etc.:

a. All plant material shall conform to the names given in "Standardized Plant Names," 1942 edition, prepared by the American Joint Committee on Horticultural Nomenclature. Names of varieties not included therein conform generally with names accepted in the South Florida nursery trade.

#### 2. Grade Standards:

- a. All plant material shall be nursery grown and shall comply with all required inspections, grading standards and plant regulations as set forth in the latest edition of the Florida Department of Agriculture's "Grades and Standards for Nursery Plants, Part 1 and Part 2", or with any superseding specifications that may be called for on the plans or in the specifications and as established by the Turfgrass Producers Association of Florida, Inc. All plants not listed in the "Grades and Standards for Nursery Plants," shall conform to a Florida No. 1 as to: (1) health and vitality, (2) condition of foliage, (3) root system, (4) freedom from pest or mechanical damage, and (5) heavily branched and densely foliated according to the accepted normal shape of the species or sport.
- b. Exception to "Grades and Standards": Any section of Florida Department of Agriculture's "Grades and Standards" which allows nails or spikes in the trunks of trees or palms shall be excluded from these specifications. These specifications prohibit nails and spikes in trunks.
- c. All plant material shall be free of noxious weeds both above and below ground, including nut grass.

### C. Requirements for Various Plant Designations:

#### 1. Balled and Burlapped (B&B) and Wire Balled and Burlapped (WB&B) Plants:

- a. Only burlap and other wrapping materials made of natural, biodegradable materials shall be used.
- b. These plants shall be properly protected until they are planted. The plant shall be handled only by both the trunk and rootball at the same time and not by the trunk only. Any B&B

or WB&B plant which shows evidence of having been handled by a method other than the method outlined above, and resulting in damage to the plant such as a cracked or broken rootball or the roots that have been loosened within the ball, shall be rejected.

- c. For plants grown in soil of a loose texture, which does not readily adhere to the root system, especially in the case of large plant material, wired B&B plants shall be used. For WB&B plants, before the plant is removed from the hole, hog wire with approximately 1- to 1½-inch openings or a Kerr's wire basket (Vermeer standard, caretree standard, caretree truncated or clegg) shall be placed around the burlapped ball and looped and tensioned until the burlapped ball is substantially packaged by the tightened wire netting, such as to prevent disturbing of the loose soil around the roots during handling.

**2. Container-Grown Plants (CG):**

- a. Any Container-Grown (CG) plants which have become "pot bound" or "root bound" for which the top system is out of proportion (larger) to the size of the container, will not be accepted.
- b. CG plants shall not be removed from the can until immediately before planting, and with all due care to prevent damage to the root system.

**3. Specimen Plants (Florida Fancy):**

- a. When specimen or Florida Fancy plants are called for, they will be labeled as such on the plans.

**D. Inspections:**

1. Inspection at the growing site does not preclude the right of rejection at the project site.
2. Inspections shall be requested in writing 48 hours in advance by the Contractor.
3. The fact that the Owner has not made an early inspection and discovery of faulty work or of work omitted, or of work performed which is not in accordance with the contract requirements, shall not bar the Owner from subsequently rejecting such work.
4. The Owner's on-site observations or inspections shall be only for the purpose of verifying that plans and specifications are being implemented properly. The Owner's on-site observations or inspections are not for safety on or off the job site. Also, these on-site observations or inspections are not intended to take charge, direct, run, or manage the implementation of the plans and specifications or take charge, direct, run or manage the implementation of the plans and specifications or take charge, organize or manage the Contractor while performing the scope of work indicated in the plans and specifications.

**1.03 DELIVERY, HANDLING, STORAGE AND SUBMITTALS**

A. Delivery and Handling:

1. Movement of nursery stock shall comply with all Federal, State, and local laws, regulations, ordinances, codes, etc.
2. The Contractor shall be responsible for protecting plant material from adverse environmental conditions during all phases of delivery and storage. Further, the Contractor shall be responsible for protecting plant material from any and all damage, theft, or deterioration of health or appearance during all phases of delivery and storage.
3. Transport materials on vehicles large enough to allow plants to not be crowded and damaged. Plants shall be covered to prevent wind damage during transit.

B. Submittals:

1. Written request for approval to substitute a material's plant designation (B&B, WB&B, CG, etc.), type, grade, quality, size quantity, etc., due to the non-availability of the material specified shall be submitted within 14 calendar days after the pre-construction conference. Approval shall be given by the Owner before the material is delivered and installed on the project.
2. Any request for the approval of "or equal" shall be in writing. Requests shall be submitted within 14 calendar days after the pre-construction conference. Approval shall be given by the Owner before the material is delivered and installed on the project.
3. Submit prints of shop drawings for any special conditions not covered in the details indicated. This shall be for approval by the Owner before they are installed on the project.
4. If requested by the Owner, submit a written schedule of sources or suppliers of all materials for inspection and approval by the Owner before they are delivered and installed on the project.
5. Submit a letter from the approved sources or suppliers guaranteeing and certifying that all *Cocos nucifera* "Green Maypan" or *Phoenix dactylifera* "Medjool" are true to their species.
6. Submit a sample and analysis of all planting soil types for approval by the Owner before the material is delivered and installed on the project.
7. Submit a sample certification and analysis of mulch for approval by the Owner before the material is delivered and installed on the project.
8. Submit copies of the manufacturer's specifications or analysis for all fertilizer including data substantiating that proposed materials comply with specified requirements. This shall be for approval by the Owner before the material is delivered and installed on the project.

9. Submit prints of shop drawings for all staking and guying methods to be used if the ones indicated in the plans, specifications or other referenced documents are not to be implemented. The Owner's approval will be required on all shop drawings of staking and guying methods before they are implemented in the project.
10. Submit on an as needed basis, a schedule of spraying and dusting materials to be used to control pests and disease infestation, the reason for their use and the method to be used to apply the materials and the method of application before it is delivered and used on the project. Also, if requested by the Town or Owner, the Contractor shall furnish documentation that the implementation of these control measures for pests and disease infestation is in strict compliance with all Federal and local regulations, and manufacturer's labeling.

#### **1.04 SUBSTITUTIONS**

- A. When the specified type, grade, quality, size, quantity, etc., of a material is not available, the Contractor shall submit a written request, to the Owner, of a substitution along with written, documented proof that the specified (B&B, WB&B, CG, etc.) type, grade, quality, size, quantity, etc. of a material is not available. The Owner shall approve all substitutions before they are delivered and installed. Do not deliver and install any material which is anticipated to be a substitute before it has been submitted in writing and approved as a substitute by the Owner. Also, any changes, if any, to the contract amount because of an approved substitute, shall be established in writing between the Town and the Contractor before the material substitute is delivered and installed on the project.

#### **1.05 GUARANTEE**

- A. The guarantee shall not begin until the day final acceptance of installation is given.
- B. All landscape elements and plant material, shall be guaranteed for 365 days from the time of final acceptance.
- C. The guarantee shall be null and void for plant material which is damaged or dies as a result of "Acts of God" limited to hail, freeze, lightning, sustained winds that reach hurricane force (75 MPH) measured ten feet above the ground, and lethal yellowing, providing the plant was in a healthy growing condition prior to these "Acts of God".
- D. An inspection may be made at the end of, but prior to the last day of the guarantee period.
- E. Florimulch: If Florimulch is used in the installation, a written statement must be submitted prior to the installation of the mulch, that guarantees there will not be any germination of Melaleuca seed which may be present in the mulch.

#### **1.06 REPLACEMENT**

- A. The guaranteeing of plant material shall be construed to mean the complete and immediate

replacement of plant material within 10 calendar days if it is:

1. Not in a healthy growing condition and thus renders it below the minimum quality indicated in the specifications.
  2. There are questions to its ability to survive after the end of the guarantee period that would render it below the minimum quality indicated in the specifications.
  3. It is dead.
  4. The contractor shall be responsible to replace all material stolen from site until final acceptance of installation, unless acceptance in stages is agreed upon by owner in advance at time of contract signing.
- B. The 10 calendar days may be extended due to seasonal conditions, availability, preparation time such as root pruning, etc., only if approved by the Owner in advance. The extended time shall be negotiated between all parties concerned, but must receive final approval by the Owner.
- C. Size, Quality and Grade:
1. Replacement plant material shall be of the same species, quality and grade as that of the original specifications of the plant to be replaced. The size of the replacement shall not be necessarily be the same size as the original specified plant at its initial planting. If the plants of like species, size, grade are larger than originally planted, then the replacement shall match this larger size. In no case shall replacements be smaller than the original size.
  2. Replacements shall be guaranteed for a period equal to the originally specified guarantee. This guarantee period shall begin at time of acceptable replacement.
  3. The Contractor shall be responsible for watering the replacement for 42 calendar days after planting.
  4. A sum sufficient to cover estimated costs of possible replacements, including material and labor, traffic control and protection, will be retained by the Town and paid to the Contractor after all replacements have been made and approved by the Owner, though final payment to the Contractor shall not relieve he or she of the guarantee obligations.

#### **1.07 PLAN AND SPECIFICATION INTERPRETATION**

- A. On the plans, figured dimensions shall govern over scaled dimensions. If any error or discrepancy is found in the plans and specifications, the Contractor shall refer the same to the Owner for review.

#### **1.08 UNIT PRICES**

- A. Bidder shall furnish to the Town and the Owner a unit price breakdown for all materials as

itemized in the bid sheets. The Owner or the Town may, at their discretion, add to or delete from the materials utilizing the unit price breakdown submitted to and accepted by the Town. Unit prices shall be valid for one year from approval of contract or for the duration of the project, whichever is greater.

**PART 2 MATERIALS**

**2.01 PLANT MATERIAL**

- A. All plant material shall be no less than Florida No. 1, or better, at the time of installation and final acceptance.
- B. Habit of Growth: All plant material shall have a habit of growth that is normal for that species and shall be sound, healthy, vigorous and free from insects, plant diseases and injuries.
- C. Measurement of Trees, Palms, Shrubs & Ground Cover:

1. Trees, Shrubs and Ground Cover:

- a. Rootball: Requirements for the measurement of rootball diameter and depth shall comply with requirements as set forth in the latest edition of the Florida Department of Agriculture's "Grades and Standards for Nursery Plants, Part 1 and Part 2" and as listed herein.

| CALIPER      | MINIMUM BALL DIAMETER  | MINIMUM ROOTBALL DEPTH  |
|--------------|------------------------|---|
| 1" - 1.5"    | 16"                    | 75% of diameter   |
| 1.5" - 1.75" | 20"                    | 65% of diameter   |
| 1.75" - 2"   | 22"                    | 65% of diameter   |
| 2" - 2.5"    | 24"                    | 65% of diameter   |
| 2.5" - 3.5"  | 26"                    | 65% of diameter   |
| 3.5" - 4"    | 28"                    | 65% of diameter   |
| 4" - 4.5"    | 30"                    | 60% of diameter   |
| 4.5" - 5"    | 32"                    | 60% of diameter   |
| 5" - 5.5"    | 34"                    | 60% of diameter   |
| 5.5" or more | Increase in proportion | Up to 48", then decrease in proportion for larger size diameter |

- b. Height: The height of plant material shall be measured from finish grade and continue up to where the main mass of the plant uniformly ends. The height shall not include any singular or isolated parts of the plant, such as leaves, shoots, branches, limbs or fronds, which extend out beyond the main mass of the plant.
- c. Width: The width of plant material shall be measured from one side of where the main

mass uniformly ends and continue to the other side of where the main mass of the plant uniformly ends. The width shall not include any singular or isolated parts of the plant, such as leaves, shoots, branches, limbs or fronds, which extend out beyond the main mass of the plant.

- d. Caliper: The caliper of tree trunks shall be measured three feet (3') above the ground unless another method of measurement is indicated otherwise on the plans.
2. Palms: Requirements for the measurement of clear trunk, clear wood, gray wood, rootball diameter and depth shall comply with requirements as set forth in Palm Measurement Detail in the Contract Documents
- D. All sizes shown for plant material on the plans are to be considered as minimums. All plant material must meet or exceed these minimum requirements for height, spread, etc. as indicated on the plans. When plant sizes are specified as a range of size, installed material shall average the mean of the range specified.
- E. Die-Back and Leaf-Drop: Plant material showing signs of die-back or leaf-drop will not be accepted and must be removed from the project immediately if so directed by the Owner. Therefore, any plant material with tendencies toward leaf-drop or die-back must be root pruned early enough to provide a sound network of hair roots prior to relocation.
- F. Mechanical Destruction of Foliage: Mechanical destruction of foliage resulting from root pruning shall not effect more than 10% of the total foliage prior to planting on the project. Loss of foliage caused by seasonal change will be accepted.
- G. Spanish Moss: If Spanish Moss (*Tillandsia useoides*) exists on plant material, it shall be completely removed prior to planting on the project.

#### H. Palms:

1. Before Transporting: See "Delivery and Handling" for requirements related to wrapping of root balls.
2. Remove a minimum of fronds from the crown of the palms to facilitate transporting and handling. Tying of palms shall be at the option of the Contractor.
3. To reduce head volume, Palm fronds may be taper-trimmed by not more than one-third (1/3).
4. Palms with burn marks and frond boots on trunk will not be accepted. Frond boots shall be removed unless specified to remain.
5. Palms showing cable or chain marks and equipment scars shall be rejected.

- I. Plant material shall not be accepted when the ball of earth surrounding its roots has been cracked, broken or otherwise damaged.
- J. Root pruning of plant material, when required by the Owner, shall be done a minimum of four (4) weeks or for a period as determined by the Owner, prior to planting at the project. Prior to root pruning, the Contractor shall give 48-hour advance notice to the Owner advising of the date to root prune any plant material. This shall allow for any inspections during or after the root pruning, if necessary.

## **2.02 TOPSOIL AND SAND**

- A. Topsoil for use in preparing soil for backfilling plant pits shall be twenty percent (20% muck and eighty percent (80%) sand and be fertile, friable, and of a loamy character, without mixture of subsoil materials, and obtained from a well-drained, arable site. It shall contain three (3) to five (5) percent decomposed organic matter and shall be free from heavy clay, coarse sand, stones, lime, lumps, plants, roots or other foreign materials, or noxious weeds. It shall not contain toxic substances, which may be harmful to plant growth. PH range shall be 5.0 to 7.0 inclusive.
- B. Sand shall be coarse, clean, well draining native sand. Contractor shall submit results of soil tests for topsoil and sand proposed for use under this contract for approval by the Owner.

## **2.03 WATER**

- A. The Contractor is responsible to ascertain the location and accessibility of a potable water source. The Contractor is responsible for distribution of water to the areas of planting. If there is no source of potable water available at the job site approved for use, then the Contractor shall be responsible for bringing in a water truck or tank for hand watering. If during the planting, water availability previously agreed to, is curtailed, the Contractor shall notify, in writing within 24 hours, the Town of the condition and, if the Contractor deems necessary, his or her intent to cease work until water is restored. For plants already installed prior to cut-off of water availability, the Contractor shall continue to be responsible for providing water as required by specifications.

## **2.04 WEED BARRIER CLOTH**

- A. Weed barrier cloth shall be a woven, needle-punched polypropylene, 28 mil thickness, 22 x 11 substrate, with combined substrate and fiber weight of 4.8 ounces per square yard, 25 gallons per square foot per minute permeability, 2500 carbon arc hours UV protection, Pro 5 Weed Barrier by DeWitt or equal (1-800-888-9669).

## **2.05 FERTILIZER**

- A. Submit copies of the manufacturer's specifications or analysis of all fertilizer for approval, and/or the labeling required by the Florida Department of Agriculture.
- B. Type of Fertilizer:



1. Palms: LESCO 13-3-13 Palm Special or equal.
2. Trees, Shrubs, Groundcover & Sod: Shall be a granular fertilizer having an analysis of 6-6-6 derived from the following sources:

|                                  |       |       |
|----------------------------------|-------|-------|
| Total Nitrogen                   |       | 6.0%  |
| Derived from activated sludge    | 0.75% |       |
| urea-form, sulfur-coated urea    |       |       |
| and potassium nitrate            |       |       |
| Ammoniac                         | 0.00% |       |
| Water soluble                    | 5.00% |       |
| Water insoluble                  | 0.25% |       |
| Phosphoric Acid                  |       | 6.0%  |
| Derived from triple super        |       |       |
| phosphate                        |       |       |
| Water soluble potash             |       | 6.0%  |
| Derived from Sulfate of Potash   |       |       |
| Magnesium, Potassium Nitrate,    |       |       |
| Sulfate of Potash, and activated |       |       |
| sludge                           |       |       |
| Total Magnesium                  |       | 2.41% |
| Water soluble: Derived from      | 2.41% |       |
| Sulfate of Potash Magnesium      |       |       |
| Total Manganese                  |       | 0.77% |
| Derived from Manganous           |       |       |
| Oxide                            |       |       |
| Total Boron                      |       | 0.02% |
| Derived from Sodium Borate       |       |       |
| Total Copper                     |       | 0.07% |
| Derived from Copper Oxide        |       |       |
| Total Zinc                       |       | 0.08% |
| Derived from Zinc Oxide          |       |       |
| Total Iron                       |       | 1.00% |
| Derived from Iron Oxide and      |       |       |
| Ferrous Sulfate                  |       |       |
| Total Chlorine                   |       | 2.00% |

- C. **Composition and Quality:** All fertilizer shall be uniform in composition and dry. Granular fertilizer shall be free flowing and delivered in unopened bags. All bags, containers or boxes shall be fully labeled with the manufacturer's analysis.
- D. All shall comply with the State of Florida fertilizer laws.

## **2.06 STAKING AND GUYING**

- A. Staking and guying shall not be attached to the plant material with nails. Any method of staking and guying, other than those indicated in the details, shall receive approval from the Owner prior to their installation. Refer to the heading "Setting of Plants", which is in PART 3 of these specifications, for additional information.
- B. The Contractor is responsible for performing all staking and guying in accordance with all applicable regulation, ordinances and code requirements from the appropriate local jurisdiction the project is located in.

## **2.07 TREE ROOT BARRIERS**

- A. 18" and 24" tree root barriers shall be black, injection molded panels with a minimum of 0.080" wall thickness in modules 24" long; manufactured with a minimum 50% post consumer recycled polypropylene plastic with added ultraviolet inhibitors. Each panel shall have: not less than 4 molded integral vertical root deflecting ribs, a double top edge, a minimum of 9 anti-lift ground lock tabs and an integrated zipper joining system. 18" and 24" deep tree root barriers shall be #UB 18-2 and #UB 24-2 by Deep Root Partners, LP or approved equal (1-800-458-7668).
- B. 36" and 48" tree root barriers shall be black polyethylene extruded panels with added ultraviolet inhibitors and a minimum of 0.080" wall thickness in modules 24" long. Each panel shall have: not less than 4 molded integral vertical root deflecting ribs, a double top edge, a minimum of 9 anti-lift ground lock tabs and a self-joining system. 36" and 48" deep tree root barriers shall be #UB 36-2 and #UB 48-2 by Deep Root Partners, LP or approved equal (1-800-458-7668).
- C. The Contractor is responsible for installing all tree root barriers in accordance with the manufacturer installation standards.

## **2.08 MULCH**

- A. Mulch shall be 100% Double Shredded Cypress Mulch, Grade A.

## **2.09 COMPOST**

- A. Compost shall be composed primarily of thoroughly decomposed vegetative matter with no more than 40% by volume or weight of non-vegetative materials such as glass or plastic. Particle size of 3/8" or less, bulk density of 20 - 30 lbs.; moisture content 25% - 35%.

- B. The Contractor shall submit a sample of the material and as analysis of the composition of the materials (percent of each) for review and approval of the owner.

## **PART 3 EXECUTION**

### **3.01 INSPECTION**

- A. Prior to the work, carefully inspect the site conditions and verify that all such work and site conditions are suitable for this installation to properly commence.
- B. Start of work shall imply acceptance of the site conditions.
- C. Utilities (overhead and underground)
  - 1. The work area may have existing utilities, such as, but not limited to, irrigation, phone, water and sewer, CATV, traffic signals, electrical, and storm sewer. The location of some of these existing utilities have been indicated on the plans. However, no guarantee is implied that the plans are accurate or complete. It shall be the responsibility of the Contractor to verify the location of all such utilities, structures, etc., by hand excavation or other appropriate measures before performing any work that could result in damage or injury to persons, utilities, structures or property. The Contractor shall call Sunshine State One Call and other appropriate agencies to determine the locations of existing utilities. The Contractor shall make a thorough search of the site for utilities, structures, etc., before work is commenced in any particular location. The Contractor is responsible for any and all claims resulting from the damage caused by him.
  - 2. Should utilities, structures, etc., be encountered which interfere with the work, the Owner shall be consulted immediately in order for a decision to be made on the relocation of the work so it will clear the obstruction.
  - 3. The Contractor shall not purposefully disrupt or disconnect any type of utility whatsoever without first obtaining the written permission of the Owner. Requests for disconnection must be in writing and received by the Owner at least 72 hours prior to the time of the requested interruption.

### **3.02 GRADES**

- A. It shall be the responsibility of the Contractor to provide the final grading so the final level for planting areas conforms to surrounding grades and is at the proper elevation with relation to walks, paving, drain structures and other site conditions, unless indicated otherwise on the plans.
- B. Plant Areas Next to Pavement: All planting areas next to or in pavement areas, such as, but not limited to, curbs, roads drives, walks, terraces, decks and slabs shall be set so that the top of the mulch is one-inch (1") below the top of the pavement area or as indicated otherwise on the plans,

and the top of sod is one-inch (1") below top of pavement area, measured from the top of pavement to the top of grass blades after mowing.

### **3.03 HERBICIDE TREATMENT**

- A. In all areas infected with weed and/or grass growth, a systemic herbicide, such as "Roundup", shall be applied per manufacturer's rates. When it has been established where work will be done, the systemic herbicide shall be applied in accordance with manufacturer's labeling to kill all noxious growth. Contractor shall schedule his work to allow more than one application to obtain at least 98% kill of undesirable growth. Once the existing vegetation is dead, excavate and haul to a legal dumpsite the vegetation and the top two-inches (2") of existing soil/sand. The Contractor shall exercise extreme care to prevent damage to desirable existing growth. If necessary, the Contractor shall conduct a test to establish suitability of product and applicator to be used on this project, prior to execution of the full application.

### **3.04 PREPARATION**

- A. **Staking Plant Locations:** Stake or mark plant material locations prior to plant hole excavation, based on information from the plans.
- B. **Spacing of Ground Cover and Shrubs:** The location of a planting bed (shrub or groundcover) next to another bed, walkway, structure, etc., shall have the plants along the perimeter spaced so that the plants can mature properly without growing into the other bed, walkway, structure, etc.
- C. **Sub-surface Conditions:** Some or all work areas may be compacted and/or contain existing material such as limerock which may interfere with adequate vertical drainage and/or proper plant survival and growth and therefore removal of this material is part of the scope of work for the project. The Contractor shall be responsible for insuring adequate drainage in these areas and shall remove this existing material, as required, by such means as augering, drilling or rototilling. Therefore, the Contractor shall be required to perform additional excavation on the holes for all palms and trees. This additional excavation shall be to a depth beyond the required excavation depth indicated below for the holes, in order to insure proper vertical drainage necessary for plant survival and growth. For this required additional excavation, refer to the detail on the plans entitled "Drainage Hole Detail for All Palms and Trees".
- D. The Contractor shall remove all existing concrete, asphalt concrete and rocks over four inches in diameter, above and below grade in planting pits, from areas to be landscaped.
- E. **Excavation of Plant Holes:**
  - 1. **General:**
    - a. Excavation of plant holes shall be roughly cylindrical in shape with the sides approximately vertical. The Owner reserves the right to adjust the size and shape of the plant hole and the location of the plant in the hole to compensate for unanticipated structures or unanticipated factors which are a conflict.

- b. The excess excavated material from the plant holes shall not be used to backfill around the plant material. Such material shall be disposed of off site at the expense of the Contractor.

2. Trees and Palms:

- a. Depth of hole shall be equal to the rootball depth plus eight (8") inches, unless further depth is required to provide adequate drainage as per 3.04C.
- b. Diameter of hole shall be as following:

| ROOTBALL DIAMETER | HOLE DIAMETER       |
|-------------------|---------------------|
| 12" or less       | Ball diameter + 12" |
| 13" – 24"         | Ball diameter + 18" |
| 25" – 60"         | Ball diameter + 24" |
| 61" or greater    | Ball diameter + 35" |

3. Shrubs:

a. Singular Plants:

- 1) Depth of hole shall be equal to the rootball depth plus eight (8") inches.
- 2) Diameter of hole shall be as following equal to the rootball plus 12" inches.

b. Mass Planting (two or more together) Planted 24 Inches on Center or Less:

- 1) Depth shall be equal to the rootball depth plus eight (8") inches.
- 2) Diameter: Shrub material in mass shall not be planted in individual holes but rather in one continuous hole or excavation for the entire mass.

c. Mass Planting (two or more together) Planted 30 Inches on Center or More:

- 1) Depth and diameter of hole shall be same as for singular plants as indicated in item a., above

**3.05 INSTALLATION**

A. Setting of Plants:

- 1. Plant material shall be planted at their natural and original planting level prior to their placement on this project. When lowered into the hole, the plants shall rest on the prepared hole bottom such that the surface roots at the top of the rootball are level or slightly below the level of the surrounding final grade after settlement. The practice of plunging, burying or planting any plant material such that the surface roots at the top of the rootball are below the level of the surrounding final grade, will not be permitted unless it is indicated otherwise in

these specifications, details or it is approved in writing by the Owner prior to such action being taken. The plants shall be set straight or plumb or normal to the relationship of their growth prior to transplanting. The Owner reserves the right to realign any plant material after it has been set.

2. *Roystonea sp.* and *Cocos sp.*, if approved by the Owner, may be set deeper than the depth of their original growing condition in order to lessen the necessity for support or bracing. For such deeper planting, however, it will be required that the underlying soil be friable. The clear trunk requirements set forth in the plant list shall be maintained from the finished grade and not from the previous grade of the palm tree before it was planted.
  3. Plant material too large for hand handling, if moved by winch or crane, must be thoroughly protected from chain, rope or cable marks, girdling, bark slippage, limb breakage and any other damage that might occur by improper handling or negligence.
- B. Backfilling: Use soil prepared as described in section 2.04. Backfill the bottom two-thirds (2/3) of the planting hole and firmly tamp and settle by watering as backfilling progresses. After having tamped and settled the bottom two-thirds (2/3) of the hole, thoroughly puddle with water and fill remaining one third of the hole with planting soil, tamping and watering to eliminate air pockets.
- C. Application of Fertilizer:
1. Royal Palms: 10 pounds per palm
  2. Medjool Date Palms: 5 pounds per palm
  3. Coconut Palms: 10 pounds per palm
  4. Existing trees and Palms to be transplanted: Root-prune trees prior to transplanting. Drench root ball once per week with a soluble fertilizer having a 20-20-20 analysis at manufacturer's recommended rate. One month after transplanting, add one (1) pound of 6-6-6 fertilizer per inch of trunk caliper to trees, and one (1) pound of LESCO 13-3-13 fertilizer per inch of trunk for palms.
- D. Apply fertilizer palms and trees three (3) weeks after planting.
- E. Fertilizer for large trees and palms that require five (5) pounds or more of fertilizer shall have the fertilizer placed as follows:
1. Place fertilizer evenly spaced at the edge of the root ball into holes poked in the soil to a depth that allows the fertilizer to be poured below the root zone of adjacent shrubs and grass, to avoid burning of these plants.
- F. Water plants and sod thoroughly two days prior to applying fertilizer, and wash fertilizer off plant leaves immediately after fertilizing.

G. **Mulch:** Within 24 hours after planting, planted areas must be mulched as called for in these specifications. The mulch shall be uniformly applied to a depth of approximately one inch, or other depth as indicated otherwise, over all shrub and ground cover areas, (except *Wedelia*) and in three-foot (3') diameter circles around trees and palms in sod areas and any other areas indicated on the plans. Keep mulch back one (1") inch from trunks or stems.

H. **Staking and Guying:**

1. As indicated on the details.
2. The contractor shall remove and dispose of materials when it is determined that sufficient time has elapsed for the plants roots to stabilize the plant, and as approved by the Owner.

J. **Watering After Planting:**

1. Initially, water the plant material to develop uniform coverage and deep water penetration of at least six inches. Avoid erosion, puddling, and washing soil away from plant roots.
2. Provide continuous watering of plant material and sod after planting in order to achieve optimum growth conditions to establish plants. Water shall be applied as necessary and the amount of water and frequency of watering shall be based on the specific needs of each plant type, the time of year, amount of rainfall and other environmental conditions it is exposed to. This watering shall begin after the plant is planted and continue until final acceptance or for a minimum of sixty (60) consecutive calendar days, whichever is greater in time. All trees and palms shall be hand-watered during this period. Do not rely on the irrigation system to achieve this task. It cannot deliver the volume of water required, without flooding areas beyond where water is needed and/or over-watering other landscape material. Shrubs and ground cover may be watered by using the irrigation system. Supplemental watering of shrubs by hand may be required during the establishment period, at no additional cost. *New* sod shall be hand-watered on top immediately after placing and rolling, and once daily for one (1) week afterwards.
3. If there is no source for water available at the project, then the Contractor shall be responsible for supplying water for hand watering by means of a truck or tank.
4. Canopy watering of existing, transplanted trees may be required at the discretion of the Owner, using misting heads on PVC risers to cover entire canopy. Operate by hand or on a time clock to spray as required to keep soil at root ball from getting too wet.

K. **Pruning and Thinning:**

1. The amount of general pruning and thinning shall be limited to the minimum necessary to remove dead or injured twigs and branches and to compensate for the loss of roots as a result of transplanting operations. Pruning and thinning shall be done in such a manner as not to change the natural habit or shape of a plant. The Owner shall be contacted prior to performing any major pruning and thinning. The Owner may elect to be present during any pruning and

thinning.

2. All broken or damaged roots shall be cut off smoothly.
3. "Hat racking" shall only be allowed at the written approval and direction of the Owner.

**L. Weeding:**

1. In the event that weeds or other undesirable vegetation becomes prevalent to such an extent that they threaten plant material, they shall be removed. This condition shall apply during the construction, maintenance and guarantee periods.
2. If necessary, the plant material, mulch, sand and/or planting soil shall be replaced as needed to eliminate weeds or undesirable vegetation at the expense of the Contractor.

**M. Removal of Plant Material:** All plant material to be removed shall be removed completely, including the rootball, from the job or as directed by the Owner. The remaining hole shall be filled with suitable material or planting soil as directed by the Owner.

**3.06 CLEANUP**

- A. **Disposal of Waste:** All waste and other objectionable material created through planting operations and landscape construction shall be removed completely on a daily basis from the job or as directed by the Owner. Any paved areas including curbs and sidewalks which have been strewn with soil, sod waste, fertilizer or other waste shall be thoroughly swept. The Town is not required to supply areas or facilities for storage or removal of waste on-site.
- B. **Excess Fill:** All excess fill shall be removed and disposed of from the project at no additional cost to the Town. Excess fill shall be disposed of as directed.

**3.07 COMPLETION AND FINAL ACCEPTANCE OF PLANTING**

- A. Upon written notice from the Contractor of the presumptive completion, as defined below, of the entire project, the Owner, along with other appropriate parties, will make an inspection within 48 hours after the written notice. If all construction provided for and contemplated by the plans and specifications, is found to be completed in accordance with the plans and specifications, such inspection shall constitute the final inspection. The Contractor shall be notified in writing of final acceptance as of the date of the final inspection.
- B. If, however, the inspection mentioned in paragraph A, above discloses any work, in whole or in part, as being unsatisfactory, final acceptance shall not be given the Contractor. The Town and/or the Owner will give to the Contractor the necessary instructions or "punch lists" for correction of same, and the Contractor shall have up to 10 calendar days from the date such instructions or "punch lists" to correct the work are received.
- C. Upon correction of work, another inspection will be made which shall constitute the final



inspection, provided the work has been satisfactorily completed. In such event, the Town or their representative shall make the final acceptance and notify the contractor in writing of this final acceptance as of the date of this final inspection. At completion of the punch list, contractor shall certify that all work above and below ground has been completed in accordance with the plans, addenda and specifications and that the Owner can rely on this document as being a true and accurate statement to the best of the contractor's knowledge.

- D. Completion of the work shall mean the full and exact compliance and conformity with the provisions expressed or implied in the plans and specifications including any and all "punch lists" which may be issued outlining certain items of work which were found unsatisfactory or require completion or corrective action.
- E. Final acceptance shall not be given until all construction provided for and indicated in the plans and specifications is inspected by the Town and Owner and found to be completed in accordance with the plans and specifications.
- F. Final acceptance shall not be official until acknowledged in writing by the Town or their representative.
- G. The guarantee shall not begin until the day final acceptance is given.

### **3.08 RESPONSIBILITY PRIOR TO FINAL ACCEPTANCE**

- A. Certain responsibilities prior to final acceptance: The following is a partial list of certain responsibilities. There are other responsibilities indicated elsewhere in the plans and specifications.
  - 1. The Contractor is responsible for the entire project prior to final acceptance.
  - 2. The Contractor is responsible for safety on and off the job site.
  - 3. The Contractor is responsible for maintenance of traffic to be accomplished in accordance with the Manual of Uniform Traffic Control Devices for Street and Highways, U.S. Department of Transportation Federal Highway Administration, and the 600 series of design indexes found in the State of Florida Department of Transportation Roadway and Traffic Design Standards for Design Construction, Maintenance, and Utilities Operations on the State Highway System".
- B. Maintenance Prior to Final Acceptance:
  - 1. Maintenance shall begin immediately after each plant is planted and continue until final acceptance except for the watering indicated in the paragraph below. This watering shall begin as indicated and shall continue until completed, even if the indicated period goes beyond the time of final acceptance.
  - 2. Plant maintenance shall include watering, pruning, weeding, cultivating, repair of erosion, mulching, tightening and repairing of guys, stakes, braces, etc., replacement of sick or dead

plants, resetting plants to proper grades or upright position, maintenance of the watering saucer, litter removal, and all other care needed for proper growth of the plants. Mowing and edging shall be done at least every fourteen (14) days and the irrigation system shall be checked at each mowing cycle and report and repairs required to responsible Contractor or the Town.

3. Immediately after planting, each plant shall be watered and the watering period shall continue until final acceptance or for a minimum of 42 consecutive calendar days, whichever is greater in time. Refer to the section entitled "Watering" for additional requirements.
4. All plant material shall be weeded once a week. In the event that weeds or other undesirable vegetation becomes prevalent to such an extent that they threaten plant material, the weeds shall be removed as directed by the Owner. If necessary, the plant material, mulch, sand and/or planting soil shall be replaced as needed to eliminate weeds or undesirable vegetation at the expense of the Contractor.
5. Insecticides and Fungicides:
  - a. Contractor shall apply all insecticides and fungicides as needed, for complete control of pests and diseases. The materials and methods shall be in accordance with highest standard horticultural practices and as recommended by the County Agent, and approved by the Owner, prior to implementation.
  - b. When a chemical is being applied, the person using it shall have in their possession, a specimen label and the Material Safety Data Sheet. Also, the chemical shall be applied as indicated on the said labeling. Only products approved by the Federal Environmental Protection Agency shall be used. No products containing 2-4D shall be used.
  - c. The spraying of insecticides and other such chemicals are to be confined to the individual plant. Spraying techniques which may introduce the material being sprayed beyond the immediate area of the individual plant, is strictly prohibited.
  - d. The implementation of control measures for pests and disease infestations shall be in strict compliance with all federal and local regulations. Upon request, the Contractor shall furnish documentation of such compliance.
  - e. All insecticides shall be applied by an operator licensed pursuant to Chapter 487 of the Florida Statutes. The operator shall have the license/certification in their possession when insecticides are being applied.
6. Protection: Planted trees and plants shall be protected against trespassing and damage. If any plants become damaged or injured, they shall be treated or replaced as directed and in compliance with the specifications at no additional cost to the Town. No work shall be done within or over planting areas or adjacent to plants without proper safeguards and protection.
7. Keep sidewalks, curbs and gutters, drainage structures, driveways, parking areas, streets,

terraces, decks and pavers free of plant cuttings, debris and stains.

8. Material rejected during the course of construction shall be removed with ten (10) working days and replaced before an inspection for completion will be scheduled.
  9. If the Contractor fails to perform maintenance consistent with these specifications, as determined by Town then Town may perform any necessary maintenance and backcharge the Contractor for labor and materials.
- C. **Survival and Conditions:** The Contractor shall be responsible for the proper maintenance and the survival and condition of all landscape items from the time a landscape item is installed until final acceptance.
- D. **Replacement:** Replacement of plant material shall be the responsibility of the Contractor including the possible replacement of plant material resulting from removal by theft or vandalism or acts of negligence on the part of others. All plant material shall be alive and in good growing condition for each specific kind of plant at the time of final acceptance.
- E. **Rating:** The rating of plant material according to Florida Grades and Standards shall be equal to or better than that called for on the plans and in these specifications at the time of final acceptance.

### **3.10 MEASURE AND PAYMENT**

- A. The quantities to be paid for under this section shall be the actual quantities installed complete, measured in place by the units shown per the Bid Form and accepted.
- B. Payment under this Section shall be at the contract Unit Price and consists of furnishing all labor, machinery, tools, apparatus, means of transportation, supplies, equipment, materials, layout, protection to the public, maintenance of traffic, excavation, installation, backfilling, fertilizing, mulching, and incidentals necessary to construct and complete the work as indicated in the Contract Documents, as well as all other related responsibilities, including all changes and repairs incident thereto. No extra payment shall be made if muck, debris, or other materials are encountered in the excavation as specified.
- C. Payment shall be made under Bid Form pay item P-1 through P-7.

END OF SECTION

# TOWN OF MIAMI LAKES

## SECTION 6

### CONE OF SILENCE

- I. Notwithstanding any other provision in the specifications, the provisions of Section 2-11.1 Conflict of Interest and Code of Ethics Ordinance, as set forth in subsection (t) "Cone of Silence," of the Miami-Dade County Code are applicable to this transaction. The "Cone of Silence" prohibits the following activities:
- A. Any communication regarding this RFP, RFQ or Bid between a potential vendor, service provider, bidder, lobbyist or consultant and the Town's professional staff, including, but not limited to, the Town Manager and his or her staff;
  - B. Any communication regarding this RFP, RFQ or Bid between the Mayor, Town Council members and any member of the Town's professional staff, including but not limited to, the Town Manager and his or her staff;
  - C. Any communication regarding this RFP, RFQ or Bid between potential vendor, service provider, bidder, lobbyist or consultant and any member of a selection committee;
  - D. Any communication regarding this RFP, RFQ or Bid between the Mayor, Town Council members and any member of the selection committee therefore;
  - E. Any communication regarding a particular RFP, RFQ or bid between any member of the Town's professional staff and any member of the selection committee; and
  - F. Any communication regarding a particular RFP, RFQ or bid between a potential vendor, service provider, bidder, lobbyist or consultant and the Mayor or Town Council.
- II. These prohibitions do not apply to communications with the Town Attorney and his or her staff.
- III. The "Cone of Silence" is imposed upon this RFP, RFQ or Bid after advertisement of said RFP, RFQ or Bid. The "Cone of Silence" shall terminate at the time that the Town Manager makes his or her recommendation to the Town Council, unless the Council refers the Manager's recommendation back to the Manager or staff for further review.
- IV. The "Cone of Silence" shall NOT apply to:
- A. Oral communications at pre-bid conferences;
  - B. Oral presentations before publicly noticed selection committee meetings;
  - C. Contract negotiations during any duly noticed public meeting;
  - D. Duly noticed site visits to determine the competency of bidders regarding a particular bid during the time period between the opening of bids and the time the Town Manager makes his or her written recommendation;
  - E. Emergency procurement of goods or services;
  - F. Communications regarding a particular RFP, RFQ or bid between any person and the Town's procurement agent or contracting officer responsible for administering the procurement process for such RFP, RFQ or bid, provided the communication is limited

- strictly to matters of process or procedure already contained in the corresponding solicitation document; or
- G. Communications regarding a particular RFP, RFQ or bid between the Town's procurement agent or contracting officer responsible for administering the procurement process for such RFP, RFQ or bid and a member of the selection committee provided the communication is limited strictly to matters of process or procedure already contained in the corresponding solicitation document.
  - H. Communications in writing at any time with any Town employee, official or member of the Town Council unless specifically prohibited by the RFP, RFQ or Bid.
  - I. Communications between the Town Manager and the Chairperson of the selection committee about a particular selection committee recommendation, only after the selection committee has submitted an award recommendation to the Town Manager and provided that should any change occur in the committee recommendation, the content of the communication and of the corresponding change shall be described in writing and filed by the Town Manager with the Town Clerk and be included in any recommendation memorandum submitted by the Town Manager to the Town Council.
- V. Any questions, explanations or other requests desired by a bidder regarding this RFP, RFQ or Bid must be requested in writing to the Town Clerk: Debra Eastman, Town Clerk, 6853 Main Street, Miami Lakes, Florida, 33014 or via facsimile at 305-558-8511 or e-mail at [eastmand@townofmiamilakes.com](mailto:eastmand@townofmiamilakes.com) Bidders must file copies of all written communications with the Town Clerk.
- VI. Please contact the Town Attorney with any questions concerning the "Cone of Silence" compliance.
- VII. Upon imposition of the Cone of Silence for a particular RFP, RFQ or Bid, the Town Manager shall:
- A. issue a written notice to affected Town departments;
  - B. file a copy of the Notice required by subsection (1) with the Town Clerk with a copy to the Mayor and Town Council; and
  - C. include in the public solicitation for goods and services a statement disclosing the requirements of the Cone of Silence as follows:

*Pursuant to subsection (t) "Cone of Silence" of Section 2-11.1 "Conflict of Interest and Code of Ethics Ordinance" of Miami-Dade County, public notice is hereby given that a "Cone of Silence" is imposed concerning this purchase. The "Cone of Silence" prohibits communications concerning RFP's , RFQ's or Bids, until such time as the Town Manager makes a written recommendation to the Town Council concerning the transaction. Procedures regarding the Cone of Silence can be found in the Request for Proposal, or Request for Qualifications.*

**END OF SECTION**

TOWN OF MIAMI LAKES

SECTION 7

ADDENDUM ACKNOWLEDGEMENT FORM

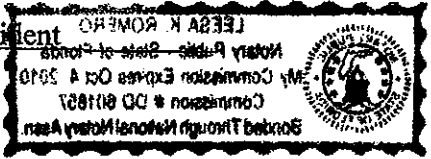
| Addendum #          | Date Received   |
|---------------------|-----------------|
| <u>Addendum # 1</u> | <u>12/21/05</u> |
| _____               | _____           |
| _____               | _____           |
| _____               | _____           |
| _____               | _____           |
| _____               | _____           |
| _____               | _____           |
| _____               | _____           |
| _____               | _____           |
| _____               | _____           |
| _____               | _____           |

BIDDER:

GROUNDKEEPERS, INC.  
(Company Name)

[Signature]  
(Signature)

Andy Gonzalez, President  
(Printed Name & Title)



END OF SECTION

TOWN OF MIAMI LAKES

SECTION 8

ANTI-KICKBACK AFFIDAVIT

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

I, the undersigned, hereby duly sworn, depose and say that no portion of the sum herein bid will be paid to any employees of the Town of Miami Lakes, its elected officials, and \_\_\_\_\_ or its design consultants, as a commission, kickback, reward or gift, directly or indirectly by me or any member of my firm or by an officer of the corporation.

By: \_\_\_\_\_  
Title: President

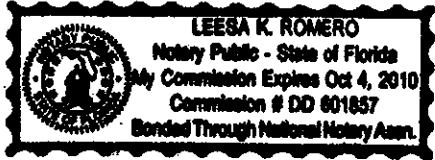
Sworn and subscribed before this

23rd day of October, 2006

Leesa K. Romero  
Notary Public, State of Florida

Leesa K. Romero  
(Printed Name)

My commission expires: Oct. 4, 2010



END OF SECTION

TOWN OF MIAMI LAKES

SECTION 9

NON-COLLUSIVE AFFIDAVIT

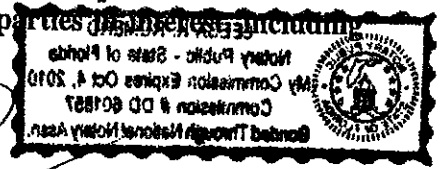
State of Florida )  
 ) SS:  
County of Dade )

Andrew Gonzalez being first duly sworn, deposes and says that:

- a) He/she is the Owner, (Owner, Partner, Officer, Representative or Agent) of Groundkeepers, Inc. the Bidder that has submitted the attached Proposal;
- b) He/she is fully informed respecting the preparation and contents of the attached Proposal and of all pertinent circumstances respecting such Proposal;
- c) Such Proposal is genuine and is not collusive or a sham Proposal;
- d) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, have in any way colluded, conspired, connived or agreed, directly or indirectly, with any other Bidder, firm, or person to submit a collusive or sham Proposal in connection with the Work for which the attached Proposal has been submitted; or to refrain from proposing in connection with such work; or have in any manner, directly or indirectly, sought by person to fix the price or prices in the attached Proposal or of any other Bidder, or to fix any overhead, profit, or cost elements of the Proposal price or the Proposal price of any other Bidder, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against (Recipient), or any person interested in the proposed work;

The price or prices quoted in the attached Proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Bidder or any other of its agents, representatives, owners, employees or parties in interest, including this affiant.

Signed, sealed and delivered in the presence of:



[Signature]  
Witness

[Signature]  
Witness

By: [Signature]

Andrew Gonzalez  
(Printed Name)

President  
(Title)



TOWN OF MIAMI LAKES

SECTION 9

NON-COLLUSIVE AFFIDAVIT (CONTINUED)

ACKNOWLEDGMENT

State of Florida )  
 ) SS:  
County of Dade )

BEFORE ME, the undersigned authority, personally appeared to me well known and known by me to be the person described herein and who executed the foregoing Affidavit and acknowledged to and before me that Andy Gonzalez executed said Affidavit for the purpose therein expressed.

WITNESS, my hand and official seal this 29<sup>th</sup> day of October 2006.

My Commission Expires: Oct. 4, 2010

Leesa K. Romero  
Notary Public State of Florida at Large



END OF SECTION

**TOWN OF MIAMI LAKES**

**SECTION 10**

**SWORN STATEMENT ON PUBLIC ENTITY CRIMES**  
**SECTION 287.133(3)(a), FLORIDA STATUTES**

**THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS.**

1. This sworn statement is submitted to the Town of Miami Lakes

By Andy Gonzalez, President  
[print individual's name and title]

for GROUNDKEEPERS, INC.

whose business address is

12323 SW 55<sup>TH</sup> STREET, SUITE 1007

Cooper City FL 33330

and (if applicable) its Federal Employer Identification Number (FEIN) is 74-3055634

(If the entity has no FEIN, include the Social Security Number of the individual signing this sworn statement: \_\_\_\_\_ )

2. I understand that a "public entity crime" as defined in Paragraph 287.133(1)9g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or the United States, including, but not limited to, any bid or contract for goods and services to be provided to any public entity or an agency or political subdivision of any other state or of the United States involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.
3. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), Florida Statutes, means a finding of guilt or a conviction or a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.

4. I understand than an "affiliate" as defined in Paragraph 287.133(1)(a), Florida Statutes, means:
- a. A predecessor or successor of a person convicted of a public entity crime; or
  - b. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among person when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted.

5. I understand that a "person" as defined in Paragraph 287.133(1)(e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an entity.

6. Based on information and belief, the statement that I have marked below is true in relation to the entity submitting this sworn statement. [Indicate which statement applies.]

Neither the entity submitting this sworn statement, nor any officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, not any affiliate of the entity, has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

This entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list. [attach a copy of the final order]

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRATING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND, THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND HAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES, FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

[Signature]  
Signature of Entity Submitting Sworn Statement

Sworn to and subscribed before me this 30th day of December, 2005.

Personally known Andy Gonzalez

OR produced identification \_\_\_\_\_

Notary Public - State of Florida

\_\_\_\_\_  
(type of identification)

My commission expires Sept. 3, 2006

[Signature]  
(Printed, typed or stamped commissioned name notary public)

END OF SECTION



Leesa K. Romero  
Commission #DD147128  
Expires: Sep 03, 2006  
Bonded Thru  
Atlantic Bonding Co., Inc.

**TOWN OF MIAMI LAKES**

**SECTION 11**

**SUPPLEMENT TO BID/TENDER FORM**

**THIS FORM MUST BE SUBMITTED WITH BID FOR BID TO BE DEEMED RESPONSIVE**

**QUALIFICATION STATEMENT**

The undersigned guarantees the truth and accuracy of all statements and the answers contained herein.

1. Please describe your company in detail.

While Groundkeepers, Inc. has been in operation since 2002, it's management and principles have over 20 years experience in the industry. We are full service lawn and landscape maintenance company, specializing in many areas including field reconstruction, lawn and ornamental fumigation, Irrigation installation, arborist services, and property management. Groundkeepers have the necessary resources, including financial strength, experienced personnel, and the latest equipment necessary to handle and perform this type at the highest level of client satisfaction.

2. The address of the principal place of business is:

12323 SW 55<sup>th</sup> Street, Suite 1007  
Cooper City, FL 33330

3. Company telephone number:

(954) 252-1488

4. Number of employees:

30

5. Number of employees assigned to this project:

4

6. Company Identification numbers for the Internal Revenue Service:

74-3055634

7. Miami-Dade County and Town of Miami Lakes Occupational License Number, if applicable, and expiration date.

509285-3

September 30, 2006

8. How many years has your organization been in business?

3 Years

9. What similar engagements is your company presently working on?

Archdiocese of Miami, Weston Properties, City of Hialeah and  
City of Hialeah Gardens, Town of Miami Lakes

10. Have you ever failed to complete any work awarded to you? If so, where and why?

No

11. Give names, addresses and telephone numbers of three individuals, corporations, agencies, or Institutions for which you have performed work:

|       |  |   |                                    |
|-------|--|---|------------------------------------|
| 11.1. | <u>City of Hialeah Gardens</u><br>(name) | <u>10001 NW 87<sup>th</sup> Ave, Hialeah, FL</u><br>(address) | <u>(305) 558-4114</u><br>(phone #) |
| 11.2. | <u>Archdiocese of Miami</u><br>(name)    | <u>125 W 45<sup>th</sup> St, Hialeah, FL</u><br>(address)     | <u>(305) 822-2015</u><br>(phone #) |
| 11.3. | <u>City of Hialeah</u><br>(name)         | <u>5601 E 8<sup>th</sup> Ave, Hialeah, FL</u><br>(address)    | <u>(305) 687-2650</u><br>(phone #) |

12. List the following information concerning all contracts in progress as of the date of submission of this bid. (In case of co-venture, list the information for all co-ventures.)

| <u>NAME OF PROJECT</u> | <u>OWNER</u> | <u>TOTAL CONTRACT VALUE</u> | <u>CONTRACTED DATE OF COMPLETION</u> | <u>% OF COMPLETION TO DATE</u> |
|------------------------|--------------|-----------------------------|--------------------------------------|--------------------------------|
|------------------------|--------------|-----------------------------|--------------------------------------|--------------------------------|

(Continue list on insert sheet, if necessary.)

13. Has the Bidder or his or her representative inspected the proposed project and does the Bidder Have a complete plan for its performance?

Yes

14. Will you subcontract any part of this work? If so, give details including a list of each subcontractor(s) that will perform work in excess of ten percent (10%) of the contract amount and the work that will be performed by each such subcontractor(s).

No

The foregoing list of subcontractors(s) may not be amended after award of the contract without the prior written approval of the Contractor Administrator, whose approval shall not be unreasonably withheld.

| Name of Project          | Owner               | Total Contract Value | Contracted Date of Completion | % of Completion |
|--------------------------|---------------------|----------------------|-------------------------------|-----------------|
| A.G. Estate Builders     | Same                | \$1,000,000.00       | Oct-05                        | 95%             |
| 87th Avenue Enhancement  | Town of Miami Lakes | 389,754.00           | Nov-05                        | 90%             |
| (2) Man Crew             | Town of Miami Lakes | \$278,400.00         | Jul-07                        | 30%             |
| Hurricane Wilma Recovery | Town of Miami Lakes |                      | Dec-05                        | 90%             |
| Tri-C Construction       | CVS                 | 44,700.00            | Jan-06                        | 25%             |



15. What equipment do you own that is available for the work?

Any and all equipment necessary to perform contracted work.

16. What equipment will you purchase for the proposed work?

N/A

17. What equipment will you rent for the proposed work?

N/A

18. State the name of your proposed project manager and give details of his or her qualifications and experience in managing similar work.

Andrew Gonzalez: 14 years experience as nursery owner; general manager at a corporate level with all mass merchandising chain stores in the state of Florida; currently President of Groundkeepers, Inc. and now managing such projects as stated above.

19. State the true, exact, correct and complete name of the partnership, corporation, or trade name under which you do business and the address of the place of business. (If a corporation, state the name of the president and secretary. If a partnership, state the names of all partners. If a trade name, state the names of the individuals who do business under the trade name.)

Groundkeepers, Inc., 10081 Pines Blvd., Suite A, Pembroke Pines, FL 33024  
Andrew Gonzalez, President; Lissette M. Hassun Gonzalez, Secretary

19.1. The correct name of the Bidder is:

Groundkeepers, Inc.

19.2. The business is a (Sole Proprietorship) (Partnership) (Corporation).

Corporation

19.3. The names of the corporate officers, or partners, or individuals doing business under a trade name, are as follows:

Andrew Gonzalez, Lissette M. Hassun Gonzalez  
Alexander Fernandez, Lourdes Fernandez

19.4. List all organizations which were predecessors to Bidder or in which the principals or officers of the Bidder were principals or officers.

N/A

19.5. List and describe all bankruptcy petitions (voluntary or involuntary) which have been filed by or against the Bidder, it's parent or subsidiaries or predecessor organizations during the past (5) years. Include in the description the disposition of each such petition.

N/A

19.6. List and describe all successful Bid, Performance or Payment Bond claims made to your surety(ies) during the last five (5) years. The list and descriptions should include claims against the bond of the Bidder and its predecessor organization(s).

N/A

19.7. List all claims, arbitrations, administrative hearings and lawsuits brought by or against the Bidder or its predecessor organization(s) during the last five (5) years. The list shall include all case names; case, arbitration or hearing identification numbers; the name of the project over which the dispute arose; and a description of the subject matter of the dispute.

N/A

NAME

RELATIONSHIPS

  
Signature of Entity Submitting Supplement Form


Sworn to and subscribed before me this 30<sup>th</sup> day of December, 2005

Personally Known Andy Gonzalez

OR produced identification \_\_\_\_\_

Notary Public – State of Florida

My commission expires Sept. 3, 2006

  
(Printed, typed or stamped commissioned name notary public)



Leesa K. Romero  
Commission #DD147128  
Expires: Sep 03, 2006  
Bonded Thru  
Atlantic Bonding Co., Inc.

END OF SECTION

TOWN OF MIAMI LAKES

SECTION 12  
PERFORMANCE BOND

**PROJECT TITLE:** Tree Replacement Program (the "Project")  
**CONTRACTOR:** GROUNDKEEPERS, INC.  
**CONTRACT NO:** \_\_\_\_\_ **CONTRACT DATED:** \_\_\_\_\_

STATE OF \_\_\_\_\_ § \_\_\_\_\_  
\_\_\_\_\_ § \_\_\_\_\_  
COUNTY OF \_\_\_\_\_ § \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS: That by this Bond, we, \_\_\_\_\_ of the City of \_\_\_\_\_, County of \_\_\_\_\_, and State of \_\_\_\_\_, as Principal, and \_\_\_\_\_, authorized, licensed and admitted to do business under the laws of the State of Florida to act as Surety on bonds, as Surety, are held and firmly bound unto The Town of Miami Lakes, as Obligee, in the penal sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, by these presents:

WHEREAS, the Principal has entered into a certain written Agreement with Obligee, dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, for the construction of the Public Works Improvements (the "Contract"), which Agreement is by reference made a part of this Bond.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION, IS SUCH THAT, if the said Principal shall faithfully perform said Agreement and shall in all respects fully and faithfully observe and perform all and singular the covenants, conditions, warranties and agreements in and by said Agreement agreed and covenanted by the Principal to be observed and performed, and according to the true intent and meaning of said Agreement, then this obligation shall be void; otherwise it shall remain in full force and effect.

Whenever Principal shall be declared by Obligee to be in default under the Agreement, Obligee having performed Obligee's obligations thereunder, the Surety shall promptly remedy the default, or shall promptly:

- (1) Complete the Agreement in accordance with its terms and conditions; or
- (2) Obtain a bid or bids for completion of the Agreement in accordance with its terms and conditions and upon determination by Surety of the lowest responsive, responsible bidder, or, if Obligee elects, upon determination by Obligee and the Surety jointly of the lowest responsive, responsible bidder, arrange for a contract between such bidder and Surety for completion of the Agreement in accordance with its terms and conditions, and make available as work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph)

sufficient funds to pay the cost of completion less the balance of the Contract price; but not exceeding the amounts set forth in the first paragraph hereof.

The term "balance of the Contract price" as used in this Bond, shall mean the total amount payable by Oblige to Principal under the Agreement and amendments thereto, less the amount paid by Oblige to Principal and less amounts withheld by Oblige pursuant to its rights under the Contract.

Surety, for value received, stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Agreement, or to the work performed thereunder, or the plans, specifications, or drawings accompanying the same, shall in any way affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Agreement, or to the work to be performed thereunder and further agrees to all of the terms contained in the Agreement.

No right of action shall accrue on this Bond to or for the use of any person or corporation other than the Oblige named herein or the heirs, successors, executors or administrators of the Oblige.

IN WITNESS WHEREOF, the said Principal and Surety have signed and sealed this instrument this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Witness: \_\_\_\_\_

Witness: \_\_\_\_\_

Principal

Surety

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

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

Name: \_\_\_\_\_  
(Print)

Name: \_\_\_\_\_  
(Print)

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Address: \_\_\_\_\_

The name and address of the Resident Agent for service of process on Surety is:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

**END OF SECTION**

TOWN OF MIAMI LAKES

SECTION 13

NOTICE OF INTENT TO AWARD

TO: GROUNDKEEPERS, INC.  
Contractor

12323 SW 55<sup>TH</sup> STREET, SUITE 1007, COOPER CITY, FL 33330  
Address

ATTN: Andy Gonzalez, President  
Name and Title

PROJECT: Tree Replacement Program (the "Project")  
Town of Miami Lakes

Gentlemen:

This is to advise that the Town of Miami Lakes intends to award the Contract for the above referenced Project as a result of your Bid of: One Hundred Thirty Four Thousand, Three Hundred Fifty Dollars (per year) (\$134,350.00) submitted to the Town of Miami Lakes (Owner) on January 3, 2006 (Date).

Four (4) sets of the Contract Documents for this Project are attached. Each set contains an unexecuted Contract and the requirement for providing the Performance Bond for the Project. Please execute all copies of the Contract and attach a copy of the Performance Bond to each Contract and return to our office within ten (10) consecutive days for final execution by the Owner.

Your attention is invited to the provision whereby your Bid Security shall be forfeited in the event the Contract with satisfactory Performance Bond attached is not executed and delivered to the Owner and all other requirements of the Instructions to Bidders met within ten (10) consecutive calendar days from May 11, 2006 (Date).

Sincerely yours,

By: Gary R. Ratay

Gary R. Ratay, P.E.

**TOWN OF MIAMI LAKES**

**SECTION 14**

**NOTICE TO PROCEED**

TO: GROUNDKEEPERS, INC.  
Contractor

12323 SW 55<sup>TH</sup> STREET, SUITE 1007  
Street Address

COOPER CITY, FL 33330  
City, State, Zip

ATTN: Andy Gonzalez, President  
Name and Title

PROJECT: Tree Replacement Program (the "Project")  
Town of Miami Lakes

Gentlemen:

One executed copy of your Contract for the above Project has been forwarded to you through the Engineer. The Commencement date is \_\_\_\_\_, 2006. Completion date shall be \_\_\_\_\_, 2006.

Your attention is invited to the provision whereby you shall start to perform your obligations under the Contract Documents on the Commencement date. Said date shall begin the Contract Time.

The Engineer in charge of the Work for the Town of Miami Lakes will be:

R. Russell Barnes, III, P.E.

Kimley-Horn and Associates, Inc.  
5100 N.W. 33<sup>rd</sup> Avenue, Suite 157  
Fort Lauderdale, FL 33309  
954-739-2233

Sincerely yours,

Gary R. Ratay, P.E.

**TOWN OF MIAMI LAKES**

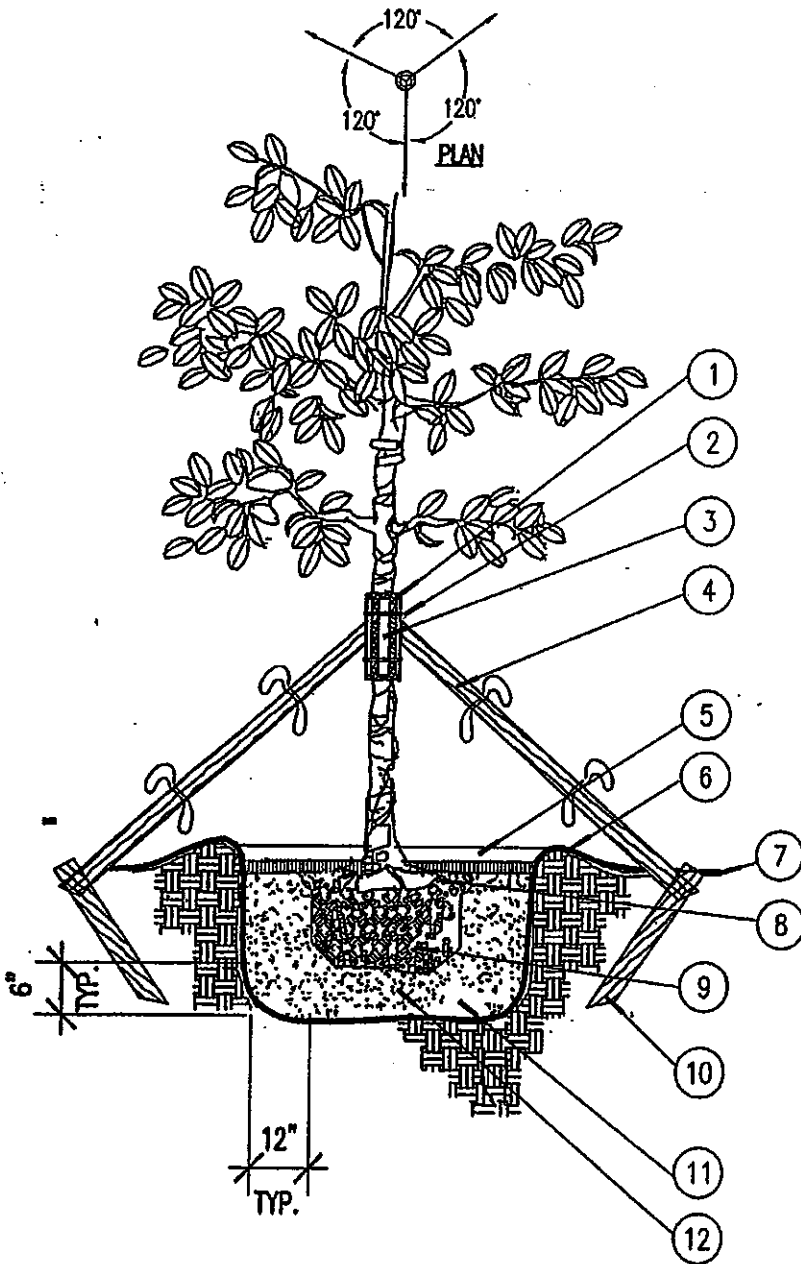
**SECTION 15**

**PLANTING DETAILS**



TOWN OF MIAMI LAKES

PLANTING DETAILS



1. 5 LAYERS OF BURLAP TO PROTECT TRUNK
2. TWO STEEL BANDS TO SECURE BATTONS
3. FIVE 2" X 4" X 18" WOOD BATTONS
4. 3-2" X 8' LODGE POLES. NAIL (DRILL AND NAIL IF NECESSARY) TO BATTONS 2" X 4" STAKES. FLAG AT MIDPOINT AND AT BASE.
5. 3" MINIMUM OF EUCALYPTUS MULCH COMPACTED OR AS SPECIFIED.
6. SOIL BERM TO HOLD WATER.
7. FINISHED GRADE (SEE GRADING PLAN)
8. TOP OF ROOTBALL MIN. 1" ABOVE FINISHED GRADE
9. B&B OR CONTAINERIZED (SEE SPECIFICATIONS FOR ROOT BALL REQUIREMENTS).
10. 2" x 4" x 3' (MIN), P.T. WOOD STAKES BURIED 3" BELOW FINISHED GRADE.
11. PREPARED PLANTING SOIL AS SPECIFIED.
12. ROOTBALLS GREATER THAN 24" DIAMETER SHALL BE PLACED ON MOUND OF UNDISTURBED SOIL TO PREVENT SETTLING.

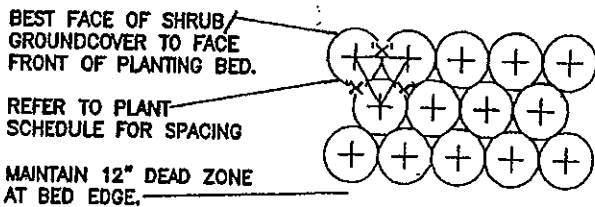
NOTES:

- A. CONTRACTOR SHALL ASSURE PERCOLATION OF ALL PLANTING PITS PRIOR TO INSTALLATION.
- B. FINAL TREE STAKING DETAILS AND PLACEMENT TO BE APPROVED BY OWNER.
- C. "TREE SAVER" ANCHORING SYSTEM MAY BE SUBSTITUTED FOR WOOD STAKING SYSTEM UPON APPROVAL BY OWNER OR LANDSCAPE ARCHITECT.

Large Tree Planting Detail  
SECTION

NTS

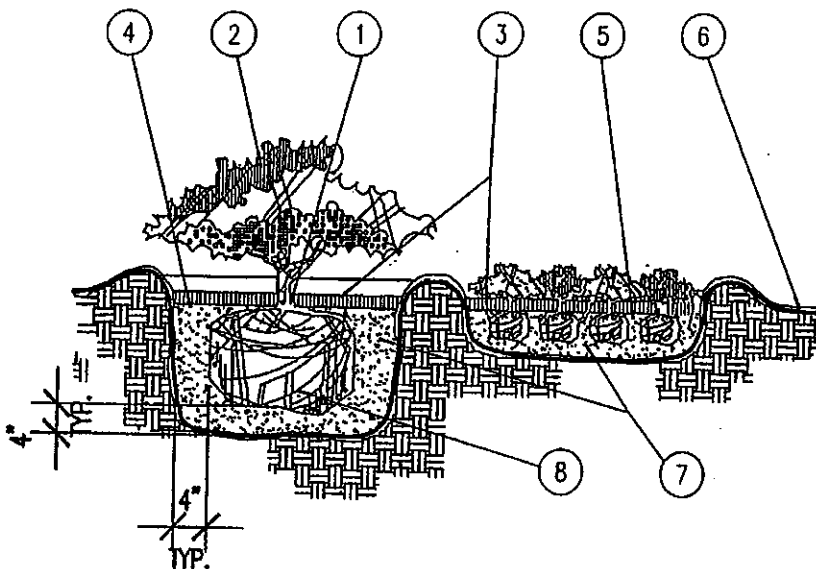
PLANTING DETAILS



PLAN VIEW

NOTES:

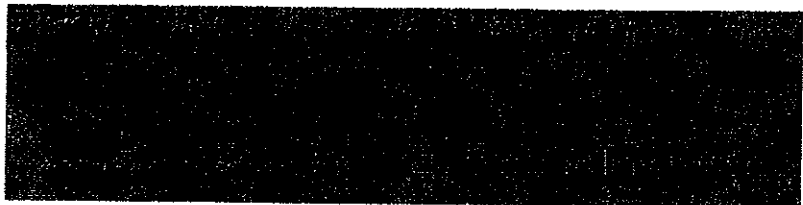
1. TOP OF SHRUB ROOTBALLS TO BE PLANTED 1" - 2" HIGH WITH SOIL MOUNDING UP TO THE TOP OF ROOTBALL.
2. PRUNE ALL SHRUBS TO ACHIEVE A UNIFORM MASS/HEIGHT
3. 3" MINIMUM OF EUCALYPTUS MULCH COMPACTED OR AS SPECIFIED
4. WEED BARRIER CLOTH (AS SPECIFIED) APPLY OVER ENTIRE BED AND CUT INDIVIDUAL OPENINGS TO INSTALL PLANTS.
5. EXCAVATE ENTIRE BED SPECIFIED FOR GROUNDCOVER A MINIMUM OF 6" & FOR MASS SHRUB PLANTINGS A MINIMUM OF 12" REPLACE EXCAVATED SOIL WITH NEW SPECIFIED MIX.
6. FINISHED GRADE (SEE GRADING PLAN).
7. PREPARED PLANTING SOIL AS SPECIFIED. NOTE: WHEN GROUNDCOVERS AND SHRUBS USED IN MASSES ENTIRE BED TO BE AMENDED WITH PLANTING SOIL MIX AS SPECIFIED.
8. SCARIFY ROOTBALL SIDES AND BOTTOM.



**Shrub/Groundcover Planting Detail**

SECTION

NTS



**Florida Profit**

**GROUNDKEEPERS, INC.**

**PRINCIPAL ADDRESS**

8004 NW 154 ST;  
 SUITE #330  
 MIAMI LAKES FL 33016  
 Changed 05/16/2003

**MAILING ADDRESS**

8004 NW 154 ST.  
 SUITE #330  
 MIAMI LAKES FL 33016  
 Changed 05/16/2003

**Document Number**  
 P02000084462

**FEI Number**  
 743055634

**Date Filed**  
 08/05/2002

**State**  
 FL

**Status**  
 ACTIVE

**Effective Date**  
 NONE

**Last Event**  
 AMENDMENT

**Event Date Filed**  
 12/16/2004

**Event Effective Date**  
 NONE

**Registered Agent**

| Name & Address   |
|--|
| DIAZ, RENE ESQ<br>2 ALHAMBRA PLAZA<br>SUITE 860<br>CORAL GABLES FL 33134 |
| Name Changed: 03/25/2005   |
| Address Changed: 03/25/2005  |

**Officer/Director Detail**

| Name & Address  | Title |
|---|-------|
| HASSUN GONZALEZ, LISSETTE M<br>8004 NW 154 STREET, #330 | S     |

|  |   |
|--|---|
| MIAMI LAKES FL 33016                   |   |
| FERNANDEZ, LOURDES<br>8004 NW 154 ST   | T |
| MIAMI LAKES FL 33016                   |   |
| FERNANDEZ, ALEXANDER<br>8004 NW 154 ST | V |
| MIAMI LAKES FL 33016                   |   |
| GONZALEZ, ANDREW<br>8004 NW 154 ST     | P |
| MIAMI LAKES FL 33016                   |   |

### Annual Reports

| Report Year | Filed Date |
|-------------|------------|
| 2003        | 05/16/2003 |
| 2004        | 07/07/2004 |
| 2005        | 03/25/2005 |

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No Name History Information

### Document Images

Listed below are the images available for this filing.

|   |
|---|
| <a href="#">03/25/2005 -- ANN REP/UNIFORM BUS REP</a> |
| <a href="#">12/16/2004 -- Amendment</a>               |
| <a href="#">10/20/2004 -- Amendment</a>               |
| <a href="#">07/07/2004 -- ANNUAL REPORT</a>           |
| <a href="#">05/16/2003 -- ANN REP/UNIFORM BUS REP</a> |
| <a href="#">08/05/2002 -- Domestic Profit</a>         |

**THIS IS NOT OFFICIAL RECORD; SEE DOCUMENTS IF QUESTION OR CONFLICT**



TAB 4



## MEMORANDUM

To: Honorable Mayor and Town Council

From: Steven J. Alexander, Town Manager

Date: February 15, 2008

Re: INSTALLATION OF SHADE STRUCTURE OVER PLAYGROUND AT CUTLER RIDGE PARK

### REQUEST

**A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, RELATING TO CONTRACTS, AUTHORIZING THE TOWN MANAGER TO ENTER INTO AN AGREEMENT WITH SHADE SYSTEMS, INC. FOR THE INSTALLATION OF A SHADE STRUCTURE OVER THE PLAYGROUND AT CUTLER RIDGE PARK; AND PROVIDING AN EFFECTIVE DATE.**

### BACKGROUND AND ANALYSIS

At the May 21, 2007 Town Council meeting, Resolution No. 07-25 was adopted authorizing the Town Manager to apply for grant funding for the installation of a playground shade structure at Cutler Ridge Park. On December 4, 2007 the Miami-Dade County Commission adopted a resolution authorizing the allocation of Safe Neighborhood Parks funding for projects that included the installation of a playground shade structure at Cutler Ridge Park.

The Parks and Recreation Department has received a quotation from Shade Systems, Inc., who was awarded a contract through Miami-Dade County bid # 4907-1/08 to furnish and install park and playground equipment (see attached contract award sheet). The Town will be saving time and resources by accessing the Miami-Dade County bid awarded to Shade Systems, Inc. as provided for in the Town's purchasing ordinance.

Shade Systems, Inc. has installed playground shade structures in a number of parks in Miami-Dade County in recent years including Country Village Park in the Country Club of Miami area (see attached photo). The total cost for the installation will be \$54,838.00 (see attached sales order) and will be funded through a combination of Safe Neighborhood Parks grant funds and a required cash match that has been budgeted in the Capital Improvements Budget for improvements at Cutler Ridge Park.



**RECOMMENDATION**

We recommend that the attached resolution be adopted, authorizing the Town Manager to enter into an agreement with Shade Systems, Inc. for the installation of a shade structure over the playground at Cutler Ridge Park.

**RESOLUTION NO. 08-\_\_\_\_\_**

**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 WITH SHADE SYSTEMS, INC. FOR THE INSTALLATION OF A SHADE STRUCTURE OVER THE PLAYGROUND AT CUTLER RIDGE PARK; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, on May 21, 2007 the Town of Cutler Bay (the "Town") adopted Resolution No. 07-25 authorizing the Town Manager to apply for grant funding from the Safe Neighborhood Parks (SNP) bond fund for park improvement projects including the installation of a playground shade structure at Cutler Ridge Park; and

**WHEREAS**, on December 4, 2007, the Miami-Dade County Commission adopted a resolution authorizing the allocation of Safe Neighborhood Parks funding for projects that included the installation of a playground shade structure at Cutler Ridge Park; and

**WHEREAS**, the Town's 2007-08 Capital Improvements Budget includes funds to be used as a cash match to the SNP funds awarded for the playground shade structure; and

**WHEREAS**, in accordance with the Town's purchasing ordinance, the Town will be accessing Miami-Dade County Bid No. 4907-1/08 for the installation of the shade structure through that bid's approved vendor, Shade Systems, Inc.

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

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

**Section 2. Authorization.** The Town Manager is authorized to enter into an agreement with Shade Systems, Inc. in the amount of \$54,838.00 for the installation of a shade structure over the playground at Cutler Ridge Park.

**Section 3. Effective Date.** This resolution shall take effect immediately upon adoption.

PASSED and ADOPTED 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.A.  
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 \_\_\_\_\_



VENDOR NAME: AMERICAN PARK & PLAY INC  
 STREET: 12298 WILES ROAD CITY: CORAL SPRINGS ST: FL ZIP: 33076  
 FOB\_TERMS: DEST-P DELIVERY:  
 PAYMENT TERMS: NET30 TOLL PHONE: 800-550-8238

**VENDOR INFORMATION:**

|               | <i>CERTIFIED VENDOR</i> | <i>ASSIGNED MEASURES</i> |
|---------------|-------------------------|--------------------------|
| Local Vendor: | SBE                     | Set Aside Bid Pref.      |
|               | Micro Ent.              | Selection Factor Goal    |
|               | Other:                  | Vendor Record Verified?  |

\*\*\*\*\*

**Vendor Contacts:**

| Name            | Phone1       | Phone2       | Fax          | Email Address              |
|-----------------|--------------|--------------|--------------|----------------------------|
| WAYNE CULBERSON | 954-345-8238 | 800-550-8238 | 954-345-7322 | wayne@americanparkplay.com |

VENDOR NAME: SHADE SYSTEMS INC  
 STREET: 4350 NW 19TH AVENUE UNIT # G CITY: POMPANO BEACH ST: FL ZIP: 33064  
 FOB\_TERMS: DEST-P DELIVERY:  
 PAYMENT TERMS: NET30 TOLL PHONE: 800-609-6066

**VENDOR INFORMATION:**

|               | <i>CERTIFIED VENDOR</i> | <i>ASSIGNED MEASURES</i> |
|---------------|-------------------------|--------------------------|
| Local Vendor: | SBE                     | Set Aside Bid Pref.      |
|               | Micro Ent.              | Selection Factor Goal    |
|               | Other:                  | Vendor Record Verified?  |

\*\*\*\*\*

**Vendor Contacts:**

| Name        | Phone1       | Phone2       | Fax          | Email Address            |
|-------------|--------------|--------------|--------------|--------------------------|
| ALAN BAYMAN | 352-237-0135 | 800-609-6066 | 954-971-1208 | shadesystems@comcast.net |



Similar structure at Country Village Park (Miami-Dade County Park)



4150 S.W. 19 St. • Ocala, FL 34474  
 1-800-609-6066 • FAX: 352-237-2256  
 E-mail: info@shadesystemsinc.com  
 Web: www.shadesystemsinc.com

**SALES  
ORDER**

**TO:** Mr. Alan Ricke  
 City of Cutler Bay  
 10100 S.W. 200 St., Cutler Bay, FL 33189  
 Email: aricke@cutlerbay-fl.gov  
 Tel.: 305-238-4166 /FAX: 305-233-5457

**FROM:** Alan Bayman  
 Cell: 954-260-5339  
**DATE:** February 5, 2008  
**PAGE:** 1 of 1

*Thank you for your interest in Shade Systems. We are happy to quote the following product(s):*

| QTY | DESCRIPTION  | EACH        | TOTAL        |
|-----|--|-------------|--------------|
| 1   | Model No. R546010 – 54’ x 60’ x 10’ high Mega Span   | \$26,556.00 | \$ 26,556.00 |
| 1   | Installation, including delivery and permitting with professional engineer-sealed drawings | 28,282.00   | 28,282.00    |
|     | COLORS: Fabric: _____ Metals: _____  |             |              |

IMPORTANT TERMS & CONDITIONS:

**TOTAL** **\$ 54,838.00**

- All products quoted are per standard Shade Systems specifications per our brochure with in ground bury posts and **including our easy-to-use Turn-N-Slide™ fabric removal and re-attachment fastening system factory-installed at each corner.**
- Includes polyester powder-coat finish on metal components in choice of standard colors shown on page 33 of our brochure.
- No site work, landscaping, or replacement of resilient playground surfacing or retaining borders is included. We are not responsible for any damages to underground utilities or irrigation lines, nor for replenishment of any damaged sod. City is responsible for identifying any underground utilities, and capping or re-routing same. City must provide clear access to site for heavy machinery. City may need to trim existing tree branches which conflict with canopy, if necessary.
- City to provide a current survey of the site for permitting purposes. Permitting submittals to include our standard professional engineer-sealed drawings and calculations only. Any additional building department requests which require the services of a professional engineer will be charged at said engineer’s normal hourly rates.
- Prices quoted are valid until March 31, 2008. Current shipping schedule is estimated at 5-6 weeks after issuance of permit. Terms are net 30 days with municipal purchase order.

**ABOVE APPROVED AND ACCEPTED:**

By signing below, Buyer accepts the terms and conditions of this Sales Order and directs Shade Systems to provide the products listed for the amounts shown. Buyer agrees to pay to the seller interest on accounts past due at a rate of 1.50% per month or the maximum allowed interest rate by applicable law, whichever is lower, all collection costs including attorney’s fees, and other costs involved in the collection of any accounts past due. Buyer agrees this order is not cancelable.

BY: \_\_\_\_\_ TITLE: \_\_\_\_\_ DATE: \_\_\_\_\_



## LIMITED WARRANTY

Effective 9/1/07

Shade Systems, Inc. warrants that the equipment sold will conform in kind and quality to the specifications listed in the Order Acknowledgment and will be free of defects in workmanship or materials. Shade Systems further warrants:

- LIMITED 20 YEAR WARRANTY on all upright posts and support structure frames against failure due to rust-through corrosion. This warranty excludes any cosmetic issues.
- LIMITED 10 YEAR WARRANTY on all CoolNet™ fabrics, threads, and cables against degradation, cracking or material breakdown resulting from ultra-violet exposure, mold, and mildew, as well as on Turn-N-Slide™ fastening device. This warranty excludes failure of fabric due to chemical erosion or flying or falling objects.
- LIMITED 3 YEAR WARRANTY on all WeatherNet™ fabrics and threads against degradation, cracking or material breakdown resulting from ultra-violet exposure, mold, and mildew. This warranty excludes failure of fabric due to chemical erosion or flying or falling objects.
- LIMITED 1 YEAR WARRANTY for structural failure of moving parts, powder-coated finish, or any other product or part not covered by one of the above warranties.

All above warranties commence on the date of the Seller's invoice.

Should any failure to conform to the above express warranties appear within the applicable warranty period, Seller shall, upon being notified in writing promptly after discovery of the defect and within the applicable warranty period, correct such non-conformity either by repairing any defective part or parts, or by making available a replacement part within 60 days of written notification. Seller shall deliver the repaired or replacement part or parts to the site free of charge, but will not be responsible for providing labor or the cost of labor for the removal of the defective part or parts and the installation of any replacement part or parts. Replacement parts will be warranted for remainder of original warranty.

This Warranty is exclusive and in lieu of all other warranties, whether express or implied, including but not limited to any warranty of merchantability or of fitness for a particular purpose.

The remedies hereby provided shall be the exclusive and sole remedies of the purchaser. Seller shall not be liable for any direct, indirect, special, incidental or consequential damages.

Seller neither assumes nor authorizes any employee, representative or any other person to assume for Seller any other liability in connection with the sale or use of the structures sold, and there are no oral agreements or warranties collateral to or affecting the agreement.

The warranty stated above is valid only if the structures are erected in conformity with the layout plan and/or installation instructions furnished by the Seller; have been maintained and inspected in accordance with the Seller's instructions and other normal and prudent practices; have been subjected to normal use for the purpose for which the goods were designed; have not been subjected to misuse, negligence, vandalism, or accident; have not been subjected to additional or substitution of parts; and have not been modified, altered, or repaired by persons other than the Seller's designees in any respect which, in the judgment of Seller, affects the condition or operation of structures.

To make a claim, send your written statement of claim, along with the original invoice number to:

Shade Systems, Inc. • 4150 S.W. 19 Street • Ocala, FL 34474



*the coolest solutions under the sun™*

February 6, 2008

City of Cutler Bay  
ATTN: Mr. Alan Ricke  
10100 S.W. 200 Street  
Cutler Bay, FL 33189

Dear Mr. Ricke:

I am pleased to provide the following answers to your questions in connection with our recent proposal to supply and install a Shade Systems Mega Span product:

1. The Miami-Dade County contract pricing document I provided you shows our old Pompano Beach address due to a clerical error on the county's part. We moved to our newly constructed factory in Ocala in August of 2006, and provided notice to the county of our address change; unfortunately, they never changed their records. We have since informed them of the oversight and they are making the change. We were not aware of their error until recently, since they make their payments to us via ACH bank transfer, and the pricing contract has been renewed at their option until recently.
2. As shown on the revised quotation emailed to you yesterday, our pricing is valid through March 31, 2008. As long as you issue a P.O. or notice to proceed to us by that date, the quoted pricing is valid.
3. Once we receive your order, we will commence preparation of the engineer-sealed drawings and calculations for submittal with our permit application to the building department. We will also need a current site survey from you. It will take approximately 3-4 weeks to apply for the permit, and then we will schedule installation on site within 4 weeks of permit issuance. Our on-site work will take approximately a week, during which time the playground will have to be shut down.
4. Our comprehensive warranties as shown on our Limited Warranty are available right on line at our web site. A copy of our Limited Warranty is attached for your convenience.
5. All Shade Systems Mega Span structures such as the proposed one are engineered in compliance with Miami-Dade County hurricane code: the frame is engineered for 155 mph winds, and the structure is engineered for 90 mph winds with the canopy on. We recommend you remove the canopy when a hurricane warning is issued. Please refer to the Technical Specifications section of our web site for more details, as well as the Turn-N-Slide video for information on canopy removal.

Thank you for the opportunity to be of service, and please do not hesitate to call if we can provide any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Alan Bayman", is written over a horizontal line.

Alan Bayman  
President

TAB 5





**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: February 15, 2008

Re: EXECUTION OF AGREEMENT FOR COMPREHENSIVE PARKS MASTER PLAN

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### **REQUEST**

**A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, RELATING TO PROFESSIONAL SERVICES, AUTHORIZING THE TOWN MANAGER TO EXECUTE AN AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INC. FOR THE COMPLETION OF A COMPREHENSIVE PARKS MASTER PLAN; AND PROVIDING AN EFFECTIVE DATE.**

### **BACKGROUND AND ANALYSIS**

At the November 14, 2007 Town Council meeting, Resolution No. 07-52 was adopted approving the execution of non-exclusive professional services agreements with firms to provide various engineering and architectural services for the Town, including Landscape Architectural Services. The Parks and Recreation Department has solicited proposals for the completion of a Comprehensive Parks Master Plan from the two firms that have executed a professional services agreement with the Town – Marlin Engineering and Kimley-Horn and Associates, Inc.

Following a thorough evaluation of each proposal, including previous experience with similar projects, the proposed scope of services, project deliverables and over-all cost, the Department has selected Kimley-Horn and Associates, Inc. to complete the Parks Master Plan. The Master Plan is expected to take approximately 4 months to complete at a cost of \$56,500.00 which is budgeted in the Parks and Recreation Department's 2007-08 fiscal year budget.

### **RECOMMENDATION**

We recommend that the attached resolution be adopted, authorizing the Town Manager to execute an agreement with Kimley-Horn and Associates, Inc. for the completion of the Comprehensive Parks Master Plan.

**RESOLUTION NO. 08-\_\_\_\_\_**

**A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, RELATING TO PROFESSIONAL SERVICES, AUTHORIZING THE TOWN MANAGER TO EXECUTE AN AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INC. FOR THE COMPLETION OF A COMPREHENSIVE PARKS MASTER PLAN; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, on November 14, 2007 the Town of Cutler Bay (the “Town”) adopted Resolution No. 07-52 approving the execution of non-exclusive professional services agreements to provide various engineering and architectural services for the Town; and

**WHEREAS**, the Town’s Parks and Recreation Department has budgeted funds in the 2007-08 fiscal year budget for the completion of a Comprehensive Parks Master Plan to guide the future development and use of the Town’s parks; and

**WHEREAS**, in accordance with the stipulations of the professional services agreements, the Parks and Recreation Department solicited proposals from both firms that have executed an agreement with the Town – Marlin Engineering and Kimley-Horn and Associates, Inc.; and

**WHEREAS**, a thorough review of both proposals has resulted in the selection of Kimley-Horn and Associates, Inc. to complete the Town’s Comprehensive Parks Master Plan.

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

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

**Section 2. Authorization.** The Town Manager is authorized to execute an agreement with Kimley-Horn and Associates, Inc. in the amount of \$56,500.00 for the completion of a Comprehensive Parks Master Plan.

**Section 3. Effective Date.** This resolution shall take effect immediately upon adoption.

PASSED and ADOPTED 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.A.  
Town Attorney

Moved By:  
Seconded By:

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman \_\_\_\_\_

Vice Mayor Edward P. MacDougall \_\_\_\_\_

Councilmember Peggy R. Bell \_\_\_\_\_

Councilmember Timothy J. Meerbott \_\_\_\_\_

Councilmember Ernest N. Sochin \_\_\_\_\_

**Town of Cutler Bay Comprehensive Parks Master Plan Proposal  
Kimley-Horn and Associates, Inc.**

**Exhibit "1"**

**Project Description**

This proposal is to assist the TOWN in creating a comprehensive master plan document for Town of Cutler Bay parks. The scope will include all seven (7) named TOWN parks and at least one (1) park owned and operated by Miami Dade County but within the TOWN limits. The master plan document will include a comprehensive master plan improvements map and opportunities and constraints map for all parks as a cohesive park system unit, an individual master plan improvements map and opportunities and constraints map for each of the seven (7) TOWN owned and operated parks, supportive text and documentation, opinion of probable costs for planned improvements, history and supportive text about the TOWN, partnership and funding opportunities.

## **Exhibit “2”**

### **Scope of Services and Project Schedule**

The professional services for this project will include the following:

#### **Task 1- Project Initiation**

As part of this task, the CONSULTANT shall attend one project kick-off meeting with TOWN and provide written meeting minutes. CONSULTANT will provide a written, bar graph style project schedule, mutually agreed between TOWN and CONSULTANT, including critical milestones.

##### ***Deliverables:***

- **One (1) hard copy and one (1) PDF electronic copy of kickoff meeting minutes**
- **One (1) hard copy and one (1) PDF electronic copy of project schedule**

#### **Task 2 – Data Collection**

##### **2.1 General Park Data**

The CONSULTANT will gather data necessary to evaluate existing park conditions and uses including general use, general user and activity types, and general park needs with assistance from TOWN’s existing information and staff data/observations.

##### **2.2 Miami Dade County Parks Data**

The CONSULTANT will gather data regarding Miami Dade County park improvements for Lakes By The Bay Park including planned improvements, schedule, and funding information.

##### **2.3 Historical Data**

The CONSULTANT will research and gather potentially significant historic data that may be used for master plan design and/or grant eligibility, and identify historical resources within the TOWN parks as well as general TOWN history.

## **2.4 Grant and Partnership Data Collection**

The CONSULTANT will gather and analyze current improvement funding per park, research opportunities and eligibility for grants and alternative sources of supplemental funding for planned improvements. CONSULTANT will also research and assemble information regarding potential partnerships as possible funding, maintenance, or programming resources.

## **2.5 Existing Conditions Inventory and Assessment**

Within the seven (7) parks under TOWN ownership/operation, the CONSULTANT will take basic inventory of existing above ground amenities and assess their general condition including existing recreational structures, maintenance structures, invasive-exotic vegetation stands, play equipment, dedicated parking, general tree canopy stands, existing walkways and other existing features that may be appropriate to include and remain in the parks master plan design.

## **2.6 Interconnected Non-Motorized Park Routes Data**

To explore feasibility of general recreational interconnectivity between parks, CONSULTANT will assess general condition of potential planned routes and gather basic right-of-way information to formulate suitability of planned routes.

## **2.7 Community Input Meetings**

The CONSULTANT will attend up to two (2) community input meetings for the purpose of gathering community input regarding parks design features, amenities, and other programming needs that may guide the master plan design process. Additionally, the CONSULTANT will attend one (1) Parks Advisory Board meeting for the purpose of gathering input from Board members regarding parks design features, amenities, and other programming needs that may guide the master plan design process.

### ***Deliverables:***

**One (1) hard copy and one (1) PDF electronic copy each of meeting minutes for Community input meetings**

**One (1) hard copy and one (1) PDF electronic copy of meeting minutes for Parks Advisory Board meeting as related to Parks Master Plan discussion**

### ***Non-Deliverables:***

**One (1) color mounted aerial photo board of each Town park with potential improvements, either graphically conveyed, written text, or both, for use in community input meetings and Parks Advisory Board meeting.**

### **Task 3 – Data Analysis/Opportunities and Constraints**

#### **3.1 Data Analysis**

CONSULTANT will assemble and assess collected data with community/parks needs and analyze data for use in below tasks. This comprehensive data will be used directly to produce opportunities and constraints maps in guiding the master plan design for the parks system.

#### **3.2 Opportunities and Constraints Map For Overall Parks**

Based on sub-task 3.1, CONSULTANT will produce an overall Opportunities and Constraints map based on aerial photographs with superimposed graphics as deemed necessary for clarity of intent, including seven (7) TOWN parks, one (1) County park, and additional undeveloped open space that may be a potential for preservation, passive recreation open space, educational purposes, or an otherwise beneficial and integral use to the master parks plan.

#### **3.3 Opportunities and Constraints Map For Individual Parks**

Based on sub-task 3.1, CONSULTANT will produce an Opportunities and Constraints map for each of the seven (7) named TOWN parks identifying opportunities for improvements as set forth in the data collection task and as identified by the TOWN/Community in Task 2, and delineating existing and potential areas of conflict or constraint that may limit the ability to design appropriate solutions for community needs or adverse existing conditions.

### **Task 4 – Master Plan Production**

#### **4.1 Comprehensive Master Plan Map (Draft)**

Based on the opportunities and constraints analysis and data collection, CONSULTANT will produce up to one (1) overall Parks Master Plan Map to graphically convey proposed general improvements needed to help meet the needs of the community and efficiently use available, or potentially available, open recreation space. Included for each area of study will be a summary of recommended improvements and suggested interconnectivity routes including suggested overall treatments for routes such as recommendations for typical streetscape sections along routes.

#### **4.2 Individual Master Plan Maps Per Park (Draft)**

The CONSULTANT shall prepare up to one (1) Master Plan map for each of the seven (7) named TOWN Parks, showing proposed design in a more detailed and legible scale, including pedestrian and vehicular circulation routes within the parks (vehicular where applicable), proposed on site amenities, general details where appropriate such as aesthetic treatments of surfaces and color/style/material of site furnishings including benches, bicycle racks, lighting, etc.

#### **4.3 Review Comments**

CONSULTANT will submit draft master plan maps in sub tasks 4.1 and 4.2 for review by TOWN. Due to boundary surveys not included in scope, master plan maps may be at a general scale but still true in relation to intent of the plan.

#### **4.4 Opinion of Probable Cost**

Following any revisions to draft master plan maps as a result of sub-task 4.3, CONSULTANT will develop a line item opinion of probable cost to implement those improvements set forth in the master plan document. Each of the seven (7) parks will have its own section for line item breakdown (some areas may be grouped where appropriate or given as an allowance if not feasible to derive a cost opinion without additional development in a Construction Drawing phase) and the seven (7) sections will form, potentially with other items outside of the parks improvements, a cohesive probable cost section of the master plan document. The expected costs will be based on a master plan design, and it may not be feasible to develop a detailed, itemized cost for all items, in which case line item allowances may be used.

#### **4.5 Final Master Plan Document Production**

Following review by the TOWN, CONSULTANT will then make appropriate changes to maps and prepare the final Master Plan Document. Master Plan Document will be presented in cohesive textual and graphic format that will include Opportunities and Constraints Maps, Master Plan Maps, right-of-way Street Section Typicals along proposed Interconnectivity Routes, Historical Significance where applicable and General TOWN History, Opinion of Probable Cost, and Funding and Partnership Opportunities. The document will be produced in 11"x17" bound booklet format in full color with clear acetate cover and vinyl back. Additionally, up to one (1) each of individual Opportunities and Constraints Maps and Master Plan Maps will be produced on 24"x36" glossy photo mounted format (but will be reduced in size when incorporated into the document) as a supplement to the Master Plan document.



***Deliverables:***

**One (1) hard copy draft each of Parks Master Plan Maps for review and comment**

**Three (3) hard copies and one (1) PDF electronic copy of Final Parks Master Plan Document, full color 11"x17" spiral bound with clear acetate cover and vinyl back.**

**One (1) hard copy and one PDF electronic copy each of Park Opportunities and Constraints maps, Parks Master Plan Maps, full color 24"x36" format on glossy photo paper, mounted to foam core board.**

**EXHIBIT "3"**

**Payment Schedule**

The CONSULTANT will complete this scope of services for the lump sum amount of **\$56,500.00**.

| <b>Task</b>               | <b>Description</b>                                  | <b>Labor Fee</b>   |
|---------------------------|---|--------------------|
| 1                         | Project Initiation .....                            | \$1,010.00         |
| 2                         | Data Collection .....                               | \$16,745.00        |
| 3                         | Data Analysis and Oppotunities and Constraints..... | \$14,905.00        |
| 4                         | Master Plan Production.....                         | \$23,840.00        |
| <b>LUMP SUM FEE .....</b> |   | <b>\$56,500.00</b> |



TAB 6

**RESOLUTION NO. 08-\_\_\_**

**A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING RESOLUTION 07-65 RELATING TO THE CHARTER REVIEW COMMISSION; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, on December 19, 2007, the Town of Cutler Bay (the "Town") Town Council adopted Resolution 07-65, which created the Charter Review Commission (the "Commission") in accordance with Section 6.2 of the Town Charter; and

**WHEREAS**, the Town Council finds it necessary to amend Section 2 of Resolution 07-65 relating to when the Commission was required to submit proposed amendments or revisions of the Town Charter to the Town Council; 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.** **Amendment to Resolution 07-65.** Section 2 of Resolution 07-65 is hereby amended as follows:

**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 March 7, 2008, ~~sixty days from the effective date of this resolution.~~

**Section 3.** **Conflict.** All Resolutions, or parts of Resolutions, in conflict with this Resolution are repealed to the extent of such conflict.

**Section 4.** **Effective Date.** This Resolution shall become effective immediately upon its adoption.

PASSED and ADOPTED 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 7

**RESOLUTION NO. 08-\_\_\_\_**

**A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING THE ENTRY AND TESTING AGREEMENT BETWEEN THE TOWN AND WIALAN TECHNOLOGIES, INC., TO CONDUCT TESTS TO DETERMINE FEASIBILITY OF PROVIDING WIRELESS BROADBAND INTERNET AND SURVEILLANCE SERVICES; WAIVING THE REQUIREMENT FOR BIDDING OF THE AGREEMENT IN ACCORDANCE WITH ARTICLE 3.10 OF THE TOWN CHARTER; PROVIDING FOR THE AUTHORIZATION OF THE TOWN MANAGER TO ENTER INTO THIS AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Congress of the United States adopted the Telecommunications Act of 1996, providing federal regulation of wireless communications, a technology of wireless voice, video and data communications systems rapidly becoming available throughout the United States; and

**WHEREAS**, the Town of Cutler Bay (the “Town”) finds that it is in the public interest to determine whether wireless broadband internet and surveillance services (“Services”) may be available at certain Town-owned properties; and

**WHEREAS**, the Town and Wialan Technologies, Inc., a Florida Corporation authorized to do business in the State of Florida (“Wialan”), are seeking authorization to enter into the proposed Entry and Testing Agreement (“Agreement”), attached herein as Exhibit “A”, which authorizes Wialan to enter onto Cutler Ridge Park, located at 10100 SW 200 ST, to perform radio frequency and on-site feasibility tests to determine the feasibility of providing Services by placing, maintaining and operating antennas, cameras, support structures, equipment, and other facilities on the property; and

**WHEREAS**, pursuant to Article 3.10 of the Town Charter, the Town Manager has specifically determined in the attached memorandum that it is not advantageous for the Town to competitively bid a contract for such Services at this time because this Agreement is for an initial pilot term of thirty (30) days, and

**WHEREAS**, the Town Council finds that entering into this 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. Entry and Testing Agreement.** The Town Council hereby approves the Entry and Testing Agreement 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 Entry and Testing Agreement in substantially the form attached hereto as Exhibit "A," for the Town, and the competitive bidding requirements of Article 3.10 of the Town Charter are hereby waived to the extent they are applicable to this Agreement.

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

PASSED and ADOPTED 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 \_\_\_\_\_

## ENTRY AND TESTING AGREEMENT

THIS ENTRY AND TESTING AGREEMENT (“Agreement”) is made this \_\_\_\_ day of \_\_\_\_\_, 2008 (“Effective Date”), by and between the **TOWN OF CUTLER BAY, FLORIDA**, a Florida municipal corporation, with a principal place of business located at 10720 Caribbean Blvd., Cutler Bay, Florida 33189 (the “Town” or “Landlord”), and **WIALAN TECHNOLOGIES, INC.**, a Florida Corporation authorized to do business in the State of Florida, its affiliates, successors and assigns, with an office at 5401 NW 102<sup>nd</sup> Avenue, Suite 101-102, Sunrise, FL 33351 (the “Applicant”).

WHEREAS, Town is the owner of certain real property located at 10100 SW 200 ST (which is also known as the Cutler Ridge Park) in Cutler Bay, Florida in Miami-Dade County, State of Florida, (the “Property”) and Applicant desires to enter upon the Property, together with non-exclusive access to right-of-ways thereto for the purpose of conducting tests to determine the feasibility of providing wireless broadband internet and surveillance services (hereinafter referred to as the “Services”) by placing, maintaining, and operating antennas, cameras, support structures, equipment, and other facilities (hereinafter referred to as the “System”) and uses incidental thereto.

**NOW, THEREFORE**, for consideration of ten dollars (\$10.00), the Town and Applicant agree as follows:

1. Town hereby grants Applicant and its agents a revocable right from the Effective Date for a period of thirty (30) days, unless extended by mutual agreement of the parties, from 8:00 am until 5:00 pm, to enter the Property to perform radio frequency and on-site feasibility tests to determine the feasibility of providing Services by placing, maintaining and operating its System upon the Properties (the “Access Right”). Upon approval of the Town, Applicant may conduct and perform the following testing activities: surveys, geotechnical soil borings and analyses, phase I environmental audits, boundary surveys, radio propagation studies, and such other tests and inspections of the Property that Applicant may deem necessary or advisable to make its determination of the feasibility of the Property for its intended uses (“Permitted Activities”). Upon request, the Town shall provide “as is” engineering plans and drawings of the sites showing the location of electrical and other conduits and structures. In addition, upon request, the Town shall provide Applicant access to the Town’s existing high internet sufficient to test the Services.

2. Applicant’s Access Right is specifically limited to the Permitted Activities and to the Property and shall not include any other activities or any other real property surrounding the Property. Applicant shall be responsible for any and all costs related to the Permitted Activities, including installation, operation, and removal of its System. In the event Applicant desires to perform any tests or activities on a Town-owned structure on the Property, Applicant shall coordinate such access to the structure with Town and shall obtain Town’s prior approval. In the

event Applicant intends to perform a balloon test on the Property to determine the height of any proposed equipment support structures, the Town may require that Applicant at its expense advertise or notify adjacent property owners of such balloon test in a manner subject to the Town's review and approval.

3. Town may revoke the Access Right at any time and the Applicant may terminate its tests at any time, by sending written notice to the other party by certified mail, return receipt requested, at the address above, however, Applicant may enter the Property to remove any equipment it has placed there pursuant to the Access Right, as provided in Paragraph 4 below.

4. Upon receipt of notice of the revocation of the Access Right, or the expiration of this Agreement, Applicant shall remove any and all of its System from the Property within a reasonable period of time, but in no case later than ten (10) business days, and reasonably restore the Property to the condition in which they existed immediately prior to Applicant's entry, reasonable wear and tear excepted. In the event that Applicant fails to remove its System within the time period above, any remaining equipment shall be deemed abandoned and shall become the property of the Town. The Town, at its discretion, may dispose of such items in any manner it deems fit and charge Applicant for the costs associated with the removal of said items. Within fifteen (15) days after the expiration of this Agreement, the Applicant shall provide the Town with a report outlining Applicant's findings on the residential, commercial, and governmental applications and uses of the Services.

5. Applicant agrees to comply with all local, state and federal laws, rules and ordinances applicable to the Permitted Activities. Applicant further agrees to exercise due care in the performance of all Permitted Activities on the Property, and shall not interfere with Town's activities including, but not limited to, police, fire, rescue of other emergency services, park operations or community programs, or any other party's activities on the Property, or any other property or rights-of-way within the Town, except as permitted by the Town.

6. Indemnification. Each party shall, at its sole cost and expense, indemnify, hold harmless and defend the other party, its executives, directors, officials, agents and employees, against any and all claims, suits, causes of action, proceedings, judgments for damages or equitable relief, and costs and expenses incurred by the innocent party arising out of Applicant's use of the Access Right, except if the act or omission complained of is authorized, allowed or prohibited by this Agreement. This provision includes, but is not limited to, the reasonable attorneys' fees incurred in defending against any such claim, suit or proceedings. Each party agrees to notify the other party, in writing, within a reasonable time of receiving notice, of any issue it determines may require indemnification. Nothing in this Agreement shall prohibit a party from participating in the defense of any litigation by its own counsel and at its own cost if in that party's reasonable belief there exists or may exist a conflict, potential conflict or appearance of a conflict. Nothing contained in this Agreement shall be construed or interpreted: (1) as denying to either party any remedy or defense available to such party under the laws of the State of Florida; (2) as consent by the Town to be sued; or (3) as a waiver of sovereign immunity

beyond the waiver provided in §768.28, F.S., as it may be amended. The indemnification obligation shall survive the expiration or termination of this Agreement by six (6) months or until the applicable statute of limitations elapses, whichever occurs earlier.

7. Upon execution of this Agreement, Applicant shall provide, pay for and maintain the customary insurance coverage satisfactory to the Town as described herein. All insurance shall be from responsible companies duly authorized to do business in the State of Florida and having a rating in Best's Insurance Guide of A or better or having a rating acceptable to the Town. The required coverages must be evidenced by properly executed Certificates of Insurance forms. The insurance requirements may be satisfied by evidence of self-insurance or other types of insurance acceptable to the Town. The limits of coverage of insurance required shall be not less than the following:

- (a) Worker's compensation and employer's liability insurance as required by Florida Statutes; and
- (b) Comprehensive general liability bodily injury and property damage of \$2,000,000 combined single limit each occurrence.

8. Assignment and Subleasing. This Agreement shall not be sold, assigned, licensed, or transferred at any time, without the Landlord's written consent. Notwithstanding the foregoing, Applicant shall not be permitted to sublet any of the support structures or ground area of the Property to any other party. If Applicant sells, assigns, licenses or transfers this Agreement without Landlord's consent as required herein, Applicant shall not be released from its obligations accruing subsequent to any such sale, assignment, licensure or transfer hereunder.

9. During the term of this Agreement, Applicant agrees not to charge any fees for the transmission of Services.

10. This Agreement constitutes the entire understanding between the parties with respect to the activities contemplated by this Agreement. All prior agreements or understandings, whether oral or written, are superseded. This Agreement may be amended only by a written document duly executed by the parties. This Agreement shall be governed by the laws of Florida.

EACH PARTY ACKNOWLEDGES THAT THE OTHER HAS MADE NO REPRESENTATIONS OR COMMITMENTS THAT A LEASE AGREEMENT CONCERNING THE PROPERTY WILL BE ENTERED INTO IN THE FUTURE.

THE UNDERSIGNED ON BEHALF OF THE APPLICANT HEREBY CERTIFIES THAT HE/SHE IS AUTHORIZED TO EXECUTE SAID AGREEMENT ON BEHALF OF THE APPLICANT.

[Signatures and Notary Acknowledgment on Following Page]

**IN WITNESS WHEREOF**, the parties hereto have made and executed this Agreement as of the Effective Date above and have set their hands and affixed their respective seals.

Signed, sealed and delivered in the presence of:

**LANDLORD:**

**TOWN OF CUTLER BAY, FLORIDA,**  
a Florida municipal corporation

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

By: \_\_\_\_\_  
Name: Steven Alexander  
Title: Town Manager

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

**(Seal)**

STATE OF FLORIDA :  
:ss  
COUNTY OF \_\_\_\_\_ :

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2008, by Steven Alexander, as Town Manager of Town of Cutler Bay, Florida, a Florida municipal corporation, on behalf of the Town who is ( ) personally known to me OR ( ) has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
(Signature of Notary Public)

\_\_\_\_\_  
(Print/Type Name of Notary Public)  
State of Florida

(Seal)

My Commission Expires \_\_\_\_\_

[Signatures and Notary Acknowledgment continued on Following Page]

Signed, sealed and delivered in the presence of:

**APPLICANT:**

**WIALAN TECHNOLOGIES, INC.**, a Florida corporation, authorized to do business in the State of Florida

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

By: \_\_\_\_\_  
Name: Victor Tapia  
Title: Executive Vice President – Sales

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

**(Seal)**

STATE OF FLORIDA

:ss

COUNTY OF \_\_\_\_\_

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify this \_\_\_\_\_ day of \_\_\_\_\_, 2008, that Victor Tapia, as Executive Vice President of Sales, Wialan Technologies, a Florida corporation authorized to do business in the State of Florida, has signed the foregoing instrument and, acknowledged before me on this date that, being informed of the contents of the foregoing instrument, he, with full authority, executed the same voluntarily for and as the act of said entity. He is ( ) personally known to me **OR** ( ) has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
(Signature of Notary Public)

\_\_\_\_\_  
(Print/Type Name of Notary Public)

State of Florida

My Commission Expires: \_\_\_\_\_

TAB 8

**RESOLUTION NO. 08-\_\_\_\_\_**

**A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING THE ISSUANCE OF A REQUEST FOR QUALIFICATIONS (RFQ) FOR A GREEN BUILDING AND SUSTAINABILITY CONSULTANT; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Cutler Bay, (the “Town”) desires to contract for the services of a Green Building and Sustainability Consultant who can draw upon numerous professional disciplines including but not limited to architecture and urban planning, under such terms, conditions and compensation as may be established by the Council; and

**WHEREAS**, a Request For Qualifications has been prepared to identify and select the best available individuals or firms to perform such services for the Town Attorney; and

**WHEREAS**, Town Ordinance Number 06-22 requires the Town Manager to obtain authorization from the Town Council to advertise such solicitations and RFQ’s prior to advertising the solicitation.

**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. Request For Proposals Advertising Approved.** The Town Manager is hereby authorized to advertise and issue a Request For Qualifications for a Green Building and Sustainability Consultant in substantially the form attached hereto as Exhibit “A.”

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

PASSED and ADOPTED 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 \_\_\_\_\_



**REQUEST FOR QUALIFICATIONS  
for  
GREEN OR SUSTAINABILITY CONSULTING  
SERVICES**

**RFQ #08-01**

Town of Cutler Bay  
10720 Caribbean Blvd  
Cutler Bay, Florida 33189

Issued February 28, 2008

Sealed proposals will be received by the Town Clerk, Town Hall,  
10720 Caribbean Blvd, Cutler Bay, FL 33189, on or before  
**Tuesday, April 8, 2008, no later than 3:00 pm.**

**TOWN OF CUTLER BAY  
REQUEST FOR QUALIFICATIONS  
“GREEN” OR SUSTAINABILITY CONSULTING SERVICES  
RFQ #08-01**

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**TOWN OF CUTLER BAY**  
**NOTICE OF REQUEST FOR QUALIFICATIONS**  
**“GREEN” OR SUSTAINABILITY CONSULTING SERVICES**  
**RFQ #08-01**

Pursuant to Chapter V of the Town of Cutler Bay Code of Ordinances and the Consultants Competitive Negotiation Act, Section 287.055, Florida Statutes (“CCNA”), the Town of Cutler Bay is currently soliciting Proposals from qualified firms and individuals to provide “Green” or Sustainability Consulting Services to the Town.

Sealed Proposals will be received by the Town Clerk, 10720 Caribbean Blvd, Suite 105, Cutler Bay, FL 33189, on or before **Tuesday, April 8, 2008, no later than 3:00 PM**, at which time they will be publicly opened and announced. To be considered, all interested parties must request a copy of the Request for Qualifications (“RFQ”) and submit one (1) original and nine (9) copies of the required information and documents in one (1) sealed envelope, entitled “RFQ #08-01 “Green” or “sustainability Consulting Services.” Late submittals and facsimile submissions will not be considered. The respondent shall bear all costs associated with the preparation and submission of the response to the RFQ.

The “Cone of Silence” specifically prohibits communication in regard to this RFQ with the Town of Cutler Bay except by written means with the Town Clerk. Certain exceptions are made such as oral communications during the **Pre-Submission Conference scheduled on Thursday, March 20, 2008, at 2:00 P.M. at Town Hall.** This Cone of Silence takes effect upon advertisement of the RFQ and terminates when the Town Manager makes a recommendation for award to the Town Council. In addition to any other penalties provided by law, violation of the Cone of Silence shall render any submission disqualified.

The Town reserves the right to reject any or all Proposals, to terminate the process at any time, to waive any informalities or irregularities in any submittal, to award in whole or in part to one or more respondents or take any other such actions that may be deemed in the best interest of the Town.

Interested, qualified firms or individuals can obtain information by contacting at the Town Clerk, Erika Santamaria at (305) 234-4262 or at [esantamaria@cutlerbay-fl.gov](mailto:esantamaria@cutlerbay-fl.gov).

**TOWN OF CUTLER BAY  
REQUEST FOR QUALIFICATIONS  
“GREEN” OR SUSTAINABILITY CONSULTING SERVICES  
RFQ #08-01**

**SECTION 1. INTRODUCTION**

**1.01 Purpose**

The Town of Cutler Bay (“Town”) is seeking Proposals from qualified firms or individuals (“Respondent”) to provide “Green” or Sustainability Consulting Services to the Town. The Respondent will work under the supervision of the Town Manager or his designee. The Town Manager is an employee of the Town. The Respondent shall have specialized experience in the field of sustainable building design and a demonstrated ability to comprehensively integrate the concept of sustainability into the Town’s structure, operations and its regulations.

The Respondent is expected to provide specialized knowledge and expertise to the Town so that the Town of Cutler Bay can excel in sustainability and “green” policies and practice as feasible in as many of the following areas of sustainable design as possible: environmentally sound site design and planning, sustainability performance standards for the building, energy efficiency, water efficiency, indoor air quality, environmentally sound materials, construction waste management and prevention, low maintenance design and materials, water efficient landscape/xeriscape design.

The Respondent is expected to develop a green building program including the development of all application materials and permit processes, program implementation strategy and program educational and promotional materials.

**1.02 Requests for Information/Clarification of Requirements**

To facilitate answering requests for information or clarification of requirements and to make the information available to all potential Respondents, Respondents must submit questions in writing, at least five (5) business days prior to the due date of submissions. Email communication is allowed and encouraged. Please address written requests to:

Don O’Donniley, Director  
Department of Community Development  
10720 Caribbean Blvd  
Cutler Bay, FL 33189  
Fax: 305-234-4251  
[dodonniley@cutlerbay-fl.gov](mailto:dodonniley@cutlerbay-fl.gov)

### **1.03 Pre-Submission Conference**

Potential Respondent's to this RFQ are invited to attend a conference prior to the submittal of a response. The pre-submission conference shall be held at Town Hall, 10720 Caribbean Blvd, Suite 105, Cutler Bay on **Thursday, March 20, 2008 at 2:00 P.M.** While attendance is not mandatory, all interested parties are encouraged to attend. All questions received at the pre-submission conference will be responded to in writing. In accordance with Section 1.02, the Town will not respond to questions received less than five (5) business days prior to the due date of submissions.

### **1.04. Amendments to the RFQ**

All pertinent information relative to this RFQ developed by the Town, subsequent to its issuance and prior to the established date for receipt of submissions, will be issued to all prospective Respondents on record in the form of a written amendment hereto.

### **1.05 Eligibility**

To be eligible to respond to this RFQ, the Respondent should have successfully completed engagements of similar nature contained in this RFQ within the past three (3) years. This experience shall be reflected in the response along with contact names and phone numbers. Each Respondent shall meet all legal, technical and professional requirements for providing such services.

The Respondent shall provide documentation that demonstrates experience relevant to the specifications of this RFQ, including specialized knowledge and expertise in as many of the following areas of sustainable design as possible: environmentally sound site design and planning, sustainability performance standards for the building, energy efficiency, water efficiency, indoor air quality, environmentally sound materials, construction waste management and prevention, low maintenance design and materials, and water efficient landscape/xeriscape design. The Respondent should have a thorough and working understanding of the United States Green Building Council's Leadership in Energy and Environmental Design (LEED) Green Building Rating Systems and/or the Florida Green Building Coalition Green Standards. Preference will be given to a Respondent who is a LEED Accredited Professional or FBGC Certifying Agent.

### **1.06 Presentation Costs**

The Town shall not be liable for any costs, fees, or expenses incurred by any Respondent in completing this RFQ, subsequent inquiries or presentations relating to a response.

### **1.07 Certification**

The signer of the response to this RFQ must declare that the only person(s), company or parties interested in the project as principals, are named therein; that the submittal is made without collusion with any other person(s), company or parties submitting Proposals; that the submittal of Proposal is in all respects fair and in good faith without fraud or collusion; and that the signer of the submittal has full authority to bind the principals.

### **1.08 Public Records**

Florida law provides that municipal records should be open for inspection by any person under Section 119, F.S. Public Records Law. All information and materials received by the Town in connection with responses shall become property of the Town and shall be deemed to be public records subject to public inspection.

### **1.09 Retention of Submissions**

The Town reserves the right to retain all submittals and to use any ideas contained in a response to this request, regardless of whether that Respondent is selected.

### **1.10 Submission of Responses to this RFQ**

All submittals of Proposals and other documents comprising a full and complete response must be received by the Town Clerk, Town of Cutler Bay, 10720 Caribbean Blvd, Suite 105 Cutler Bay, FL 33189 by **3:00 p.m. on Tuesday, April 8, 2008**. Within one week of submittal of the RFQ the Town Manager or his designee(s) shall initiate evaluation of the proposals with a decision being made on the proposals on or before **Tuesday, April 29, 2008**.

The submittal of Proposals shall be signed by a representative who is authorized to contractually bind the Respondent.

Each submittal shall be prepared simply and economically, providing straightforward, concise delineation of the Respondent's capabilities to satisfy the requirements of the RFQ. The emphasis must be on completeness and clarity of content. In order to expedite the evaluation of submittal in response to the issuance of this RFQ, it is essential that Respondents follow the format and instructions contained herein.

If the Respondent so wishes, Proposals may be accompanied by brochures, promotional materials or colorful displays properly identified. However, submission requirements must be followed as listed above.

One (1) original and nine (9) copies of your response shall be submitted in one sealed package, clearly marked on the outside **"RFQ #08-01, "GREEN" OR SUSTAINABILITY CONSULTING SERVICES."** Further information concerning

submission format, evaluation procedures and selection is provided in Section 4 of this RFQ.

### **1.11 Submission Content**

The content of the RFQ and the successful Respondent's submission will become an integral part of the negotiated agreement, but may be modified by provisions of the agreement. Respondents must agree to include any information in an agreement provided either in response to this RFQ or received subsequently during the selection process. The information received will be considered contractual in nature and will be used in evaluation of submissions and in subsequent contractual action.

### **1.12 Imposition of "Cone of Silence"**

- a) Definitions: "Cone of Silence," as used herein, means a prohibition on any communication regarding a particular Request for Proposal ("RFQ") between: a potential vendor, service provider, Contractor, Responder, lobbyist, or consultant, the Town Councilmember's, Town's professional staff including, but not limited to, the Town Manager and his staff, any member of the Town's selection or evaluation committee.
- b) Restriction; Notice: A Cone of Silence shall be imposed after the advertisement of said RFQ. At the time of imposition of the Cone of Silence, the Town Manager or his or her designee shall provide for public notice of the Cone of Silence by posting a notice at the Town Hall. The Town Manager shall issue a written notice thereof to the affected departments, file a copy of such notice with the Town Clerk, with a copy thereof to each Town Councilmember, and shall include in any public solicitation for goods or services a statement disclosing the requirements of this section.
- c) Termination of Cone of Silence: The Cone of Silence shall terminate at the beginning of the Town Council meeting (whether regular or special) at which the Town Manager makes his or her recommendation to the Town Council. However, if the Town Council refers to the Manager's recommendation back to the Manager or staff for further review, the Cone of Silence shall be re-imposed until such time as the Manager makes a subsequent written recommendation.
- d) Exceptions to Applicability: The provisions of this section shall not apply to:
  - 1. oral communications at pre-submittal conferences;
  - 2. oral presentations before selection or evaluation committees;
  - 3. public presentations made to the Town Council members during any duly noticed public meeting;



4. communications in writing at any time with any Town employee, unless specifically prohibited by the applicable RFQ documents. The Responder shall file a copy of any written communication with the Town Clerk. The Town Clerk shall make copies available to any person upon request;
  5. communications regarding the RFQ between a potential vendor, service provider, Contractor, Responder, lobbyist or consultant and the Town's Purchasing Agent or Town employee designated responsible for administering the procurement process for such RFQ, provided the communication is limited strictly to matters of process or procedure already contained in the corresponding solicitation document;
  6. communications with the Town Attorney and his or her staff;
  7. duly noticed site visits to determine the competency of the responders regarding a particular submittal during the time period between the submittal of the proposal and the time the Town Manager or designee makes his or her decision;
  8. any emergency procurement of goods or services pursuant to Town Code;
  9. responses to the Town's request for clarification or additional information;
  10. contract negotiations during any duly noticed public meeting;
  11. communications to enable Town staff to seek and obtain industry comment or perform market research, provided all communications related thereto between a potential vendor, service provider, contractor, respondent, lobbyist, or consultant and any member of the Town's professional staff including, but not limited to, the Town Manager and his or her staff are in writing or are made at a duly noticed public meeting.
- e) Penalties: Violation of this section by a particular respondent or contractor shall render any RFQ award to said respondent or contractor voidable by the Town Council or Town Manager. Any person who violates a provision of this section may be prohibited from serving on a Town selection or evaluation committee. In addition to any other penalty provided herein, violation of any provision of this section by a Town employee may subject said employee to disciplinary action.

Please contact the Town Attorney, Mitchell Bierman, (305) 854-0800, [mbierman@wsh-law.com](mailto:mbierman@wsh-law.com), for any questions concerning "Cone of Silence" compliance.

## **SECTION 2. PROJECT DESCRIPTION**

### **2.01 Background Information**

The Town of Cutler Bay was incorporated in November, 2005, and is the newest municipality in Miami-Dade County. The current population is approximately 40,000. The Town is located within Miami-Dade County with the Village of Palmetto Bay to the north and Miami-Dade County to the west and to the south.

### **2.02 Scope of Work to be Performed**

Create a plan and criteria and assist with the implementation of various Town goals and objectives including:

1. Becoming certified to the Florida Green Building Coalition's Florida Green Local Government Standard
2. Creating Land Development Regulations which promote and possibly reward those who achieve certain "green" standards or goals
3. Developing green program application materials and program implementation processes.
4. Developing a Comprehensive Sustainability Plan
5. The plan's basic components may include the following: (Management, structure, policies, processes, and personnel).
6. Assisting with the completion of a Sustainability Inventory
7. Create presentations on the importance and relevance of sustainability initiatives
8. Formulation of procurement, transportation, and development policies that integrate sustainability criteria
9. Development of master/general plan elements that reflect sustainability criteria
10. Developing & integrating indicators of sustainability in decision-making
11. Strategies for engaging the private sector to work towards a sustainable local economy
12. Sustainability should be integrated into all aspects of the Town using an approach which balances social, economic, and environmental factors.
13. Sustainable building code enhancements should be developed. Sustainable building code enhancements are those which integrate building materials and methods that promote environmental quality, economic vitality, and social benefit through design, construction and operation of the built environment. Sustainable design, construction, and operations merge sound, environmental, economic and social effects of building or built project as a whole.
14. Provide meaningful opportunities for citizen input and participation throughout the process.

## **SECTION 3. SPECIAL CONDITIONS**

### **3.01 Term of Agreement**

The agreement is contemplated for a one (1) year period, with one option to extend the contract for a one (1) year term. The agreement may be terminated by the Town with as little as a thirty (30) day notice or by the Respondent; with at least ninety (90) days notice.

### **3.02 Compensation for Services**

Compensation will be a negotiated price for services. No pricing information should be included in the submission.

### **3.03 Permits, Taxes, Licenses**

The Respondent shall, at its own expense obtain all necessary permits, pay all licenses, fees and taxes required to comply with all local ordinances, state and federal laws, rules, regulations and professional standards that would apply to this contract.

### **3.04 Laws, Ordinances**

The Respondent shall observe and comply with all federal, state and local laws, ordinances, rules, regulations and professional standards that would apply to this contract. Employees and contract employees or any paid party to this agreement shall not smoke, drink alcohol or use any illegal substance when on the job.

### **3.05 Insurance**

1. Prior to execution of an agreement with the Town, the successful Respondent shall provide certificates evidencing insurance coverage as follows:
  - a) Professional Liability Insurance in the minimum amount of \$1,000,000.
  - b) Comprehensive general liability insurance with broad form endorsement, including automobile liability, completed operations and products liability, contractual liability, severability of interest with cross liability provision, and personal injury and property damage liability with limits of \$1,000,000.00 combined single limit per occurrence for bodily injury and property damage. Coverage must be afforded on a form no more restrictive than the latest edition of the Commercial General Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include: (1) Premises and/or Operations; (2) Independent contractors and Products and/or completed Operations; (3) Broad Form Property Damage, Personal Injury and a Contractual Liability Endorsement.
  - c) Workers' Compensation Insurance in compliance with Chapter 440, Florida Statutes, as presently written or hereafter amended, and applicable federal law. The policies must include Employer's Liability with minimum limits of \$500,000 per accident.

2. The underwriter of such insurance shall be qualified to do business in Florida, be Best rated A-8 or better, and have agents upon whom service of process may be made in the State of Florida.
3. Policies shall contain waiver of subrogation against the Town, where applicable, and shall expressly provide that the policy or policies are primary over any other insurance the Town may have. All policies shall contain a “severability of interest” or “cross-liability” clause without obligation for premium payment by the Town.
4. All deductibles or self-insured retentions must be declared to and be approved by the Town Manager. The successful Respondent shall be responsible for the payment of any deductible or self-insured retention in the event of any claim.
5. The Certificates shall clearly indicate that the successful Respondent has obtained insurance of the type, amount, and classification as required and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the Town’s representative, and shall include the Town of Cutler Bay as an additional insured.
6. The successful Respondent shall require its consultants and subconsultants, if any, to procure and maintain insurance coverage in the required amounts or alternatively insure the activities provided by any consultants or subconsultants in the Respondent’s own policies. In the instance that several independent contractors are selected, the selected contractors may obtain insurance coverage collectively. Compliance with the foregoing requirements shall not relieve the successful Respondent of its liability and obligations under the agreement.

### **3.06 Background Screenings**

The successful Respondent shall certify that he or each of its staff persons has undergone a criminal background investigation, and shall ensure that no staff person has been convicted of a felony, crime of moral turpitude or violent crime. No staff person that has been convicted of a felony or a misdemeanor, which misdemeanor concerns allegations of assault, sexual offender, theft or violence shall be assigned to staff the successful Respondent’s contract with the Town. Failure to do the background screening or failure to provide the background screening information to the Town shall be cause for immediate, termination of services. The knowing or negligent use of staff convicted of a felony, crime of moral turpitude, or violent crime shall be cause for immediate termination of an awarded contract.

Periodic drug testing of staff shall be conducted to ensure a drug free workplace.

### **3.07 Terms and Conditions**

1. The Town reserves the right to accept or reject any submission in the best interest of the Town. In making such a determination, the Town reserves the right to investigate the financial capability, integrity, experience and quality of performance of each Respondent, including officers, principals and senior management and supervising personnel assigned to the project. The Town also reserves the right to waive minor variations or irregularities.
2. The Town reserves the right to award the contract to the next most qualified firm or individual independent contractor if the successful firm does not begin the contracted services within a prescribed number of days or if an acceptable fee cannot be negotiated.
3. The Respondent shall report to the Town Manager, or assigned designee.
4. The Respondent shall be an independent contractor under this Agreement.
5. The Respondent shall not represent other clients in matters adverse to the Town, and shall make promptly known any conflicts or potential conflicts. If said conflicts cannot be satisfactorily resolved to the Town's satisfaction, the Town reserves the right to suspend and/or terminate the services of the Respondent and procure same from other Respondents.
6. The Respondent acknowledges that he/she has not been convicted of public entity crime or placed on the convicted vendor list.
7. The Town reserves the right to delete or modify the services and scope of work under this agreement at any time with or without cause. If such scope of work is reduced, the payment to the Respondent shall be reduced by a commensurate amount.
8. The Respondent may not change the principal person(s) working on this agreement without the express permission of the Town.

## **SECTION 4. SUBMISSION FORMAT, EVALUATION PROCESS & SELECTION**

### **4.01 Selection**

All responsive Proposals submitted in response to this RFQ may be evaluated by a selection committee, appointed by the Town Manager, based upon the criteria specified in Section 4.03. Respondents may be requested to make a presentation to the selection committee for the purpose of reviewing the submittal and further evaluation of the response. Additional information may be requested. The selection committee shall recommend a firm or independent contractor to be selected to the Town Manager. The Town Manager will enter into final negotiations with the firm or independent contractors selected. The Town reserves the right to 1) reject any and all Proposals, 2) waive informalities or irregularities, or 3) re-advertise. The Town by choosing to exercise its right of rejection, does so without the imposition of any liability against the Department by any and all Respondents.

### **4.02 Submission Format**

Each Respondent shall submit one (1) original and nine (9) copies of the following:

1. A cover letter indicating an interest in providing the services described in this RFQ to the Town.
2. Documentation of business structure (corporation, joint venture, partnership, independent contractor). In the case where the Respondent is incorporated, documentation of incorporation from the Secretary of State of Florida, and contact name, address and telephone number(s). If a joint venture, identify Respondent that is to serve as the principal and able to commit on behalf of the joint venture.
3. Affirmative statement and documentation that Respondent shall be an independent contractor of the Town.
4. Respondent's Qualifications, Related Experience and References. Describe the qualifications, expertise and experience of the firm or the independent contractor in performing building permitting services in local governments over the past three (3) years. The response shall state the size of the Respondent's firm locally and the number and level of professional and administrative staff to be employed in this engagement on a full-time basis and the number and level of the staff to be employed on a part-time basis; if applicable. Include a list of municipal clients served, description of services of a similar nature provided, length of time service was provided, contact names and telephone numbers.

If the Respondent is a joint venture or consortium, the qualifications

and experience of each Respondent comprising the entity shall be separately described.

Describe the capability and experience of professional personnel to be assigned to the Town and the quality of the management support personnel to be available for technical consultation. List professional personnel to be assigned to the Town and provide experience statements and qualifications. List management support personnel available and provide experience statements and qualifications.

Attach company brochures and/or informational materials.

If the Respondent is an independent contractor, the qualifications and experience of the independent contractor and a precise indication of which services are offered.

5. Approach.

Describe the approach to delivery of the scope of work to be performed per Section 2.02, including adequacy of proposed staffing plan to carry out the work. Firms and joint ventures shall provide a project staffing plan and organizational chart.

6. Attach certificates of general and professional liability insurance indicating extent of coverage.

7. Provide information of the circumstances and status of any disciplinary action taken or pending against the Respondent during the past three (3) years with any state regulatory bodies or professional organizations.

8. Provide an explanation of all pending litigation, major disputes, contract defaults and liens over the last five (5) years.

9. Include signed response signature page and executed applicable RFQ addenda wherein the Respondent acknowledges and warrants that he/she has read and agrees with all of the terms and conditions contained herein.

### 4.03 Evaluation Criteria

The following represent the principal selection criteria which will be considered during the evaluation process upon submission of a complete response to this RFQ:

|  | <u>Points</u> |
|--|---------------|
| 1. Qualifications and related experience of Respondent | 20            |
| 2. Assigned personnel capability and experience        | 20            |
| 3. Approach to delivery of services                    | 40            |
| 4. Methodology   | <u>40</u>     |
| TOTAL:   | 100           |



**APPENDIX A**

**RESPONDENT WARRANTIES**

- A. Respondent warrants that it is willing and able to comply with State of Florida laws with respect to foreign (non-State of Florida) corporations.
- B. Respondent warrants that it is willing and able to obtain an errors and omissions insurance policy providing a prudent amount of coverage for the willful or negligent acts, or omissions of any officers, employees or agents thereof.
- C. Respondent warrants that it will not delegate or subcontract its responsibilities under an agreement without the prior written permission of the Town Council.
- D. Respondent warrants that all information provided by it in connection with this submission is true and accurate.
- E. **CONTINGENCY FEE AND CODE OF ETHICS WARRANTY:**

Respondent warrants that neither it, nor any principal, employee, agent, representative or family member has promised to pay, and Respondent has not, and will not pay a fee, the amount of which is contingent upon the Town awarding this contract. Respondent warrants that neither it, nor any principal, employee, agent, representative has procured, or attempted to procure, this contract in violation of any of the provisions of the Miami-Dade County and the Town of Cutler Bay conflict of interest and code of ethics ordinances. Further, Respondent acknowledges that a violation of this warranty will result in the termination of the agreement and forfeiture of funds paid, or to be paid, to the Respondent, if the Respondent is chosen for performance of the contract.

Signature of Official: \_\_\_\_\_

Name (typed): \_\_\_\_\_

Title: \_\_\_\_\_

Respondent: \_\_\_\_\_

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

**APPENDIX B**

**SWORN STATEMENT PURSUANT TO SECTION 287.133 (3)(a),  
FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES**

THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS.

1. This sworn statement is submitted to the Town of Cutler Bay by:

\_\_\_\_\_

[print individual's name and title]

for \_\_\_\_\_

[print name of entity submitting sworn statement]

whose business address is \_\_\_\_\_

\_\_\_\_\_

and (if applicable) its Federal Employer Identification Number (FEIN) is \_\_\_\_\_ (If the entity has no FEIN, include the Social Security Number of the individual signing this sworn statement: \_\_\_\_\_).

2. I understand that a “public entity crime” as defined in Paragraph 287.133 (1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or of the United States, including, but not limited to , any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.
3. I understand that “convicted” or “conviction” as defined in Paragraph 287.133 (1)(b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.
4. I understand that an “affiliate” as defined in Paragraph 287.133 (1)(a), Florida Statutes, means:
- a. A predecessor or successor of a person convicted of a public entity crime; or
  - b. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term “affiliate” includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in any person, or a pooling of equipment or income among persons when not for fair market value under an arm’s

length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.

5. I understand that a "person" as defined in Paragraph 287.133 (1)(e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.

Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. [Indicate which statement applies.]

\_\_\_\_\_ Neither the entity submitting this sworn statement, nor any of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

\_\_\_\_\_ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

\_\_\_\_\_ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent of July 1, 1989. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list. {attach a copy of the final order.}

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 (ONE) ABOVE IS FOR THAT PUBLIC ENTITY ONLY, AND THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES, FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

\_\_\_\_\_  
Signature

STATE OF FLORIDA )

COUNTY OF MIAMI-DADE )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_, before me, the undersigned Notary Public of the State of Florida, personally appeared (Name(s) of individual(s) who appeared before notary), \_\_\_\_\_ and whose name(s) is/are subscribed to the within instrument, and he/she/they acknowledge that he/she/they executed it.

WITNESS my hand and official seal.

\_\_\_\_\_

Notary Public, State of Florida

NOTARY PUBLIC:  
SEAL OF OFFICE:

\_\_\_\_\_  
(Name of Notary Public: print, stamp or type as commissioned.)

- \_\_\_\_\_ Personally known to me, or
- \_\_\_\_\_ Personal identification:  
\_\_\_\_\_  
(Type of Identification Produced)
- \_\_\_\_\_ Did take an oath, or
- \_\_\_\_\_ Did Not take an oath

**APPENDIX C**

**NON-COLLUSION AFFIDAVIT**

STATE OF FLORIDA )

COUNTY OF MIAMI-DADE )

\_\_\_\_\_ being first duly sworn, deposes and says that:

(1) He/She/They is/are the \_\_\_\_\_(Owner, Partner, Officer, Representative or Agent) of

\_\_\_\_\_ the Respondent that has submitted the attached submission;

- (2) He/She/They is/are fully informed respecting the preparation and contents of the attached Response and of all pertinent circumstances respecting such Response;
- (3) Such Response is genuine and is not a collusive or sham Response
- (4) Neither the said Responder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, have in any way colluded, conspired, connived or agreed, directly or indirectly, with any other Responder, firm, or person to submit a collusive or sham Response in connection with the Work for which the attached Response has been submitted; or to refrain from Responding in connection with such Work; or have in any manner, directly or indirectly, sought by agreement or collusion, or communication, or conference with any Responder, firm, or person to fix any overhead, profit, or cost elements of the Response or of any other Response, or to fix any overhead, profit, or cost elements of the Response Price or the Response Price of any other Responder, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against (Recipient), or any person interested in the proposed Work;
- (5) The price or prices quoted in the attached Response are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Responder or any other of its agents, representatives, owners, employees or parties of interest, including this affiant.

Signed, sealed and delivered in the presence of:

\_\_\_\_\_  
Witness

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

\_\_\_\_\_  
Witness  
STATE OF FLORIDA )

\_\_\_\_\_  
Print Name and Title



**APPENDIX D**

**ACKNOWLEDGEMENT**

State of Florida  
County of \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_, before me, the undersigned Notary Public of the State of Florida personally appeared \_\_\_\_\_ and whose name(s) is/are subscribed to the within instrument, and he/she/they acknowledge that he/she/they executed it.

WITNESS my hand  
and official seal

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF FLORIDA

NOTARY PUBLIC  
SEAL OF OFFICE:

\_\_\_\_\_  
(Name of Notary Public: Print, Stamp or as commissioned.)

- Personally known to me, or
- Produced identification:

\_\_\_\_\_  
(Type of Identification Produced)

- Did take an oath, or
- Did not take an oath.

TAB 9





## Planning & Zoning Department

R. Don O'Donniley, AICP  
Planning Director

# MEMORANDUM

To: Steven J. Alexander, Town Manager

From: Don O'Donniley, AICP, Planning Director

Date: February 15, 2008

Re: Application No. 07-10-01-SP  
Pollo Campero (Koning Restaurants International)  
(Folio No. 36-6005-001-0460)

---

### **APPLICANT REQUEST:**

The applicant, Pollo Campero, is requesting site plan approval for a restaurant with drive-thru on a 20,924 square foot property.

### **LOCATION:**

The property is generally located southwest of SW 186<sup>th</sup> Street, and South Dixie Highway.

Legal: Plat book 1-4, a portion of Lots 12 & 13 beginning 237.48 feet southwesterly of X of the west line of US1 & the centerline of Southwest 186 Street continuing southwesterly 100 feet then west 232.47 feet then northeasterly 99.99 feet then east 232.5 feet to the point of beginning.

Section 5, Township 56 Range 40, Miami-Dade County, Florida.

### **BACKGROUND:**

This parcel abuts US-1 and is zoned IU-1 (Industrial, Light Manufacturing) and has a current land use designation of Business and Office. The former use of the structure was a Pizza Hut. The proposal is to re-use the existing non-conforming restaurant site as a restaurant. The purpose of the IU-1 District is to allow such uses as auto and truck sales, banks, hotels and

motels, office buildings, radio stations, restaurants, storage buildings and warehouses. The proposal is for a 3,276.2 square foot restaurant with a drive-thru on a 21,708 square foot lot. Typically, the zoning along this corridor is BU-1A or BU-2. This parcel along with two others are zoned Industrial.

The Town has proposed designating this site for "Mixed Use" in the draft Growth Management Plan.

Surrounding uses are a gas station to the north, a Pollo Tropical to the south, US-1 to the east and an easement (Pollo Tropical) and the Busway to the west.

Town staff has reviewed this application, which was submitted to the Town on October 1, 2007, and met with the applicant on numerous occasions.

Additionally, a zoning workshop was held for this project on January 9, 2008 where the public and Council reviewed and commented on this application.

A review of the proposal was completed by Town staff for conformance with the Town's Land Development Regulations. This application was found to be consistent with the Code with respect to landscaping, open space (Sec. 33-261), parking requirements (Sec. 33-124) and signage and has agreed to certain conditions as listed below. The applicant has also complied with the non-residential design standards which govern the US1 corridor.

**RECOMMENDATION:**

Approval with conditions as listed below.

**CONDITIONS:**

1. Prior to this issuance of a Certificate of Occupancy, the Applicant shall provide documentation from FDOT that the required drainage improvements along the parcel frontage (US-1) have been completed.
2. 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, construction and building elevation plans for "Pollo Campero Restaurant" (Sheets SD-1, C-1 and A-1, 2 and 3), prepared by CKE Group, and signed, dated and sealed 01/31/08.
  - b. Landscape Plans for "Pollo Campero Restaurant" (Sheets L-1, 2 and 3), prepared by CKE Group and R. Bartlett Landscape; dated revised 1/25/08.
  - c. Signage Plans for "Pollo Campero Restaurant" (SG-1 and 2), as revised pursuant to Town comments.

d. Lighting Plan, sheet CE-1

3. Prior to the issuance of the Certificate of Occupancy, the Applicant shall resurface the easement serving the site from the rear, subject to permission from the underlying fee simple property owner.

4. Site Plan approval shall become final approval by Miami-Dade Fire and Rescue Department.

5. Provision of a mountable island directing and limiting egress to the rear easement to north bound (right turn) only and provision of an appropriate traffic control sign.

6. Two final plan sets shall be submitted to the Town as revised to become part of the Town record.

## **Attachments**

**RESOLUTION NO. 08-\_\_\_\_\_**

**A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, GRANTING SITE PLAN APPROVAL FOR A 3,276.2 SQUARE FOOT RESTAURANT WITH A DRIVE THRU, ON APPROXIMATELY A .5 ACRE PARCEL, LOCATED AT 18660 SOUTH DIXIE HIGHWAY (36-6005-001-0460); AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Pollo Campero (Koning Restaurants International) (the “Applicant”) has applied to the Town of Cutler Bay (the “Town”) for site plan approval; and

**WHEREAS**, on January 9, 2008, 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 February 12, 2008, 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. Prior to this issuance of a Certificate of Occupancy, the Applicant shall provide documentation from FDOT that the required drainage improvements along the parcel frontage (US-1) have been completed.
2. 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, construction, and building elevation plans for “Pollo Campero Restaurant” (Sheets SD-1, C-1 through C-1, CE-1 and A-1, A-2 and A-3), prepared by CKE Group, and signed, dated and sealed 01/31/08;
  - b. Landscape Plans for “Pollo Campero Restaurant” (Sheets L-1, L-2, and L-3), prepared by CKE Group and R. Bartlett Landscape; dated revised 1/25/08; and
  - c. Signage Plans for “Pollo Campero Restaurant” (SG-1 and SG-2), as revised pursuant to Town comments.
  - d. Lighting Plan, Sheet CE-1
3. Prior to the issuance of the Certificate of Occupancy, the Applicant shall resurface the easement serving the site from the rear, subject to permission from the underlying fee simple property owner.
  4. Prior to the final site plan being submitted to the Town, the Applicant shall provide written approval by Miami-Dade County Fire and Rescue Department.
  5. Prior to the final site plan being submitted to the Town, the Applicant shall provide for a mountable island directing and limiting egress to the rear easement to north bound (right turn) only and provision of an appropriate traffic control sign.
  6. Two final site plan sets shall be submitted to the Town as revised to become part of the Town record.

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

PASSED and ADOPTED 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 10



## MEMORANDUM

To: Steven J. Alexander, Town Manager

From: Don O'Donniley, AICP, Planning Director

Date: February 15, 2008

Re: Application No. 07-11-02-V  
Katherine L. & Samantha Kugler  
Variance of Lot Coverage  
Located at Marlin Road  
(Folio: 36-6005-011-0080)

---

### REQUEST

Variance of Lot Coverage to allow a lot coverage of 51% where 35% is permitted.

### **Parcel Information and Legal Description:**

The property is located at 9930 Marlin Road

Bel Aire Section 4 Plat book 82-61 Lot 8, Block 33, Section 5 Township 56 Range 40

### **BACKGROUND AND ANALYSIS:**

#### **Background**

The Kuglers filed a request for a Variance of Lot Coverage for the referenced parcel on November 14, 2007.



All the surrounding properties are zoned RU-1, and have been developed with single-family residences.

## **Analysis**

### **1. Consistency with the Comprehensive Development Master Plan**

The Adopted 2005 and 2015 Land Use Plan designates the subject properties as **Low Density Residential**. This density range is typically characterized by detached single family residential units. Clustering, and a variety of housing types may, however, be authorized. The residential densities allowed in this category shall range from a minimum of 2.5 to a maximum of 6.0 dwelling units per gross acre.

This application is **consistent** with the Town Comprehensive Development Master Plan and the Land Use designation of the surrounding properties.

### **2. Zoning**

The following Sections of the Town Zoning Code are relevant to this request.

#### **Chapter 33 Zoning Code of the Town of Cutler Bay**

##### **Article XIV. RU-1, SINGLE-FAMILY RESIDENTIAL DISTRICT**

##### **Section 199. Uses permitted.**

No land, body of water and/or structure shall be used or permitted to be used and no structure shall be hereafter erected, constructed, moved, reconstructed, structurally altered or maintained for any purpose in a RU-1 District which is designed, arranged or intended to be used or occupied for any purpose other than the following, unless otherwise specifically provided herein:

- (1) Every use as a one-family residence, including every customary use not inconsistent therewith, including a private garage.

\* \* \*

Note: Other provisions of this zoning district would not change but the request is consistent with the RU-1 Single-Family District

**Section 41.** Setbacks--Application of tables.

The minimum lot area and dimensions of sites and setbacks shown by tables in this article shall apply to the districts indicated.

Front building lines for all structures shall be set back from the nearest highway right-of-way according to sections on official right-of-way plan and minimum widths and tables in this article. The setback from all side and rear property lines shall be not less than ten (10) percent of the average width of the lot, provided such setback is not less than five (5) feet, but in no case shall such setback requirements exceed seven and one-half (7 1/2) feet, except where greater distance is required for a specified district by tables in this article and for corner lots.

***The requirements of this Code Section continue to be met.***

**Section 49.** Table of minimum widths, area of lots; maximum lot coverage, and minimum building sizes.

The minimum width and area of lots, the maximum lot coverage, and minimum building sizes shall be in effect for the districts enumerated in the following table:

TABLE INSET:

| <i>District</i> | <i>Families</i> | <i>Min. Width</i> | <i>Min. Lot Area (Sq. Ft.)</i> | <i>Max. Lot Coverage (% of Lot Area)</i>  | <i>Min. Bldg. Size (Cu. Ft.)</i> |
|-----------------|-----------------|-------------------|--------------------------------|---|----------------------------------|
| RU-1            | 1               | New sub.-<br>75'  | 7,500                          | 35% for subdivisions platted on or before March 8, 2002; 40% for subdivisions platted after March 8, 2002 | 8,500                            |

***The requirements of this Code Section are the subject of the Variance request.***

The applicants are requesting a Variance of Lot Coverage to allow a lot coverage of 51% where 35% is permitted. The current lot coverage is 45.1% without this request. This lot, which is 8,551 square feet in size, would be allowed maximum lot coverage of 2,992.9 square feet (35%). Currently, the pervious lot coverage is 3,860.53 square feet (**45.1%**). This is based on the total square footage of the residence, asphalt driveway and the rear concrete slab. Although the proposed driveway expansion area has not been dimensioned by the applicant, it appears to be approximately 500 square feet. If this application is approved the lot coverage would increase to **51%**.

The Town Code allows variances as provided in **Section 33-311.**

\* \* \*

(4)(b) *Non-use variances from other than airport regulations.* Upon appeal or direct application in specific cases to hear and grant applications for non-use variances from the terms of the zoning and subdivision regulations, the Board (following a public hearing) **may grant a non-use variance upon a showing by the applicant that the non-use variance maintains the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community and provided that the non-use variance will be otherwise compatible with the surrounding land uses and would not be detrimental to the community.** No showing of unnecessary hardship to the land is required. For the purpose of this subsection, the term "non-use variances" involves matters such as setback lines, frontage requirements, subdivision regulations, height limitations, lot size restrictions, yard requirements and other variances which have no relation to change of use of the property in question.

### **RECOMMENDATION:**

Staff has significant concerns regarding the water shortages and each property in the area has a duty to assure that enough green space and water recharge is available to feed our critical aquifer. Additionally as we go toward being a "green" Town we must be mindful of the necessity of preserving as much green areas as possible, especially in areas such as this which have reported to have flooding at this time without this projects variance.

This variance poses a significant policy choice for the Council, as it will set a precedent for all other requested variances for excessive expansion of developed surfaces. Although the applicants have expressed concern with using a driveway surface other than asphalt they also stated that there is a large amount of flooding/water runoff in the area.

Based on the lot coverage requested and the statement regarding current flooding by the applicants, at a minimum staff cannot support the use of asphalt or concrete.

**If Approval is approved by the Council, it should be subject to the following minimal condition.**

### **CONDITIONS:**

1. The applicants shall mitigate the impacts of the expansion to the driveway by utilizing either pervious concrete, "Grass Crete" or "Turf Block" in said area. Grass Crete does not need pesticides to maintain its self as the scuffing over the hard surface essentially trims the vegetation.

### **Attachments**

**RESOLUTION NO. 08-\_\_\_\_\_**

**A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, GRANTING A VARIANCE FROM SECTION 33-49 OF THE TOWN CODE OF ORDINANCES RELATING TO LOT COVERAGE, FOR PROPERTY LOCATED AT 9930 MARLIN ROAD (36-6005-011-0080); AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Katherine L. & Samantha Kugler (the “Applicant”) has submitted an application, pursuant to Section 33-311(4)(b) of the Town of Cutler Bay (the “Town”) Code of Ordinances (the “Town Code”), to vary Section 33-49 of the Town Code relating to lot coverage, to permit a lot coverage of 51% where 35% is permitted on property located at 9930 Marlin Road; and

**WHEREAS**, on January 9, 2008, the Applicant presented the proposed variance 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 variance, in its report dated February 12, 2008, 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 Variance.** The Town Council hereby approves the request by the Applicant, subject to the conditions below, to vary the provisions of Section 33-49 of the Town Code to permit a lot coverage of 51% for property located at 9930 Marlin Road (Folio# 36-6005-011-0080).

**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 Applicant shall mitigate the impacts of the expansion to the driveway by utilizing either pervious concrete, grasscrete, or turf block in said area.

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

PASSED and ADOPTED 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 11

ORDINANCE NO. 08-\_\_\_\_\_

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, REPEALING SECTIONS 8A-76 & 8A-76.1 OF THE CODE OF MIAMI-DADE COUNTY AS ADOPTED BY SECTION 8.3 OF THE CHARTER OF THE TOWN OF CUTLER BAY, ENTITLED “NOTICE OF PENALTIES FOR REMOVAL OF SHOPPING CARTS” & “SHOPPING CARTS” RESPECTIVELY; CREATING REGULATIONS RELATED TO SHOPPING CARTS, PROVIDING FOR DEFINITIONS, PROVIDING FOR POSTING OF NOTICE OF PENALTIES FOR REMOVAL OF SHOPPING CARTS, REQUIRING IDENTIFICATION OF SHOPPING CARTS, PROVIDING FOR A PROCEDURE FOR HANDLING IDENTIFIABLE SHOPPING CARTS FOUND ON PUBLIC PROPERTY, PROVIDING FOR A PROCEDURE FOR HANDLING UNIDENTIFIABLE SHOPPING CARTS FOUND ON PUBLIC PROPERTY, PROVIDING FOR REGULATIONS RELATED TO SHOPPING CARTS ON PRIVATE PROPERTY, PROVIDING FOR GENERAL PENALTIES FOR VIOLATIONS; AMENDING THE SCHEDULE OF VIOLATIONS AND CIVIL PENALTIES SECTION OF THE CODE TO INCLUDE PENALTIES FOR VIOLATION OF THESE SECTIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay (“Town”) deems it to be in the best interest of the health, safety, and welfare of its citizens to provide for regulations of shopping carts to enhance the aesthetic appearance of the Town, prevent any potential traffic and/or pedestrian hazards; and

WHEREAS, local retail establishments need to be held more accountable for the retrieval and maintenance of their shopping carts.

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

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

**Section 2. Shopping Carts.** Sections 8A-76 and 8A-76.1 of the Miami-Dade County Code of Ordinances, as made applicable to the Town of Cutler Bay, are hereby repealed and replaced with the following regulations:

Section 1. Definitions.

*Shopping Carts* shall be defined as found in section 506.502 of the Florida Statutes, as may be amended from time to time.

Section 2. Notice penalties for removal of shopping carts and required preventative measures.

(a) Every business and/or entity that utilizes shopping carts in its operation shall affix the following notice to all such carts, and such notice shall be clearly legible in the English, Spanish, and Creole languages and shall state:

WARNING

Any person who removes a shopping cart from premises without the written consent of the owner of the shopping cart or the retailer, shall be presumed to be in possession of stolen property and is guilty of a misdemeanor of the first degree, punishable by a term of imprisonment of up to one (1) year as provided by Sections 506.509 and 506.513 of the Florida Statutes.

(b) Failure to abide by the provisions of subsection (a) above shall constitute a violation and result in a civil penalty as set forth in this code.

(c) Additionally, any business and/or entity providing shopping carts for the use of their patrons or employees shall:

- (1) Construct barriers to prevent the removal of shopping carts from the business premise; or
- (2) Attach alarm mechanisms to shopping carts to prevent their removal; or
- (3) Implement a policy of not allowing the customer to exit the store with shopping carts; and/or
- (4) Provide an employee to carry or wheel the customers' merchandise to the customers' vehicle; and
- (5) Implement a program of collection (three times per week) of their carts that are illegally removed. An affidavit from the affected business owner detailing the specific days of collection shall be submitted to the Town.



(d) Failure to abide by the provisions of subsection (c) above shall constitute a violation and result in a civil penalty in the amount of proscribed by this code.

Section 3. Identification of shopping carts required.

Any establishment that utilizes shopping carts shall place readily identifiable markings on the carts which include the address or location of the particular store.

Section 4. Procedure for handling identifiable shopping carts found on public property.

- (1) Employees and officers of the Town of Cutler Bay shall be deemed agents of the Town and any shopping carts found by them on public property during the course of their official duties shall be reported to the Town Code Enforcement Department.
- (2) The owner's failure to retrieve any shopping carts from the Town right-of-way shall cause the shopping carts to be removed by the Town. The Town Public Works Department shall remove the shopping cart(s) from the public right-of-way.
- (3) The Town Public Works Department shall collect the shopping carts and secure the shopping carts.
- (4) The Planning and Zoning Director or his/her designee shall notify the owner of the shopping cart(s), in writing, that the Town has secured the shopping carts and the fees, costs and fines associated with the collection and storage of the carts.
- (5) If the shopping carts are not picked up by the owner within seven days the carts shall be disposed of in accordance with state law.
- (6) Fees, costs and fines shall be assessed and paid by the owner prior to the return of carts. The owner shall consider the receipt of a special notice from the Town of such a violation as proper notice of such potential Fees, costs and fines. No fees, costs or fines shall be assessed which would violate Section 506.5131 of the Florida Statutes, as may be amended, or any other Law.

Section 5. Procedure for handling unidentifiable shopping carts found on public property.

All unidentifiable shopping carts found on public property shall be considered abandoned and shall be disposed of in accordance with state law.

Section 6. Shopping Carts on Private Property.

- (1) No shopping cart shall be placed on any property where it can be readily seen from the right of way unless the shopping cart is located on a commercially zoned property and is owned by the business legally operating on the same property.
- (2) Upon a finding of a violation of this section the Town may impose a fine as providing for by this code of ordinances.
- (3) In addition to any other remedies the Special Master, may upon finding a violation, authorize the City to remove the shopping cart.
- (4) Upon removal the shopping cart shall be disposed of in accordance with the provisions set forth in Section 4 for shopping carts found on public property.
- (5) The fees and costs for removal may be imposed upon the owner of the property. In addition fees and costs may be imposed on the owner pursuant to and within the limitations set forth in Section 4 above.

Section 7. General Penalties for Violation.

Any person who violates any section of this code shall be subject to the issuance of a civil penalty in the amount provided for in this code.

**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:<sup>1</sup>

Sec. 10. Schedule of civil penalties.

TABLE INSET:

| <i>Code Section</i> | <i>Description of Violation</i>                                   | <i>Civil Penalty</i>            |
|---------------------|---|---------------------------------|
| ***                 | ***   | ***                             |
|                     | <u>Failure to affix removal warning notice on a shopping cart</u> | \$25.00 per cart per occurrence |
|                     | <u>Violation of the Shopping Cart Ordinance</u>                   | \$250.00 per occurrence         |
| ***                 | ****  | ***                             |

**Section 4. Conflicts.** All ordinances or Code provisions in conflict herewith are hereby repealed.

<sup>1</sup> / Proposed additions to text of TOWN Code are indicated by underline; proposed deletions from text of TOWN Code are indicated by ~~strikethrough~~.

**Section 5. 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 6. 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 re-numbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

**Section 7. Effective Date.** That this Ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading this \_\_\_\_ day of \_\_\_\_\_, 2008.

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 12

**ORDINANCE NO. 08-\_\_\_\_\_**

**A ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ESTABLISHING THE CUTLER BAY BUSINESS TAX EQUITY STUDY ADVISORY BOARD, WHICH SHALL SERVE AS THE EQUITY STUDY COMMISSION, AND ESTABLISHING PROCEDURES FOR APPOINTMENT OF MEMBERS, A TIMETABLE AND RULES OF PROCEDURE; PROVIDING FOR SUNSET PROVISION , AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Senate Bill 1178 amends Section 205.053 and Section 205.0535, Florida Statutes to provide that by October 1, 2008, any municipality that has adopted a local business tax after October 1, 1995 may by ordinance reclassify businesses, professions, and occupations and may establish new rate structures; and

**WHEREAS**, state law provides that prior to the adoption of a reclassification and revision ordinance, the municipality must establish an equity study commission and appoint its members; and

**WHEREAS**, the Town Council desires to establish the Cutler Bay Business Tax Equity Study Advisory Board (the "Equity Study Board"), which shall serve as the Equity Study Commission, and to establish procedures for appointment of members; and

**WHEREAS**, Section 205.0535, Florida Statutes, provides that each member of the Equity Study Board must be a representative of the business community within the Town; and

**WHEREAS**, the Town Council believes it is in the best interest of the Town to establish the Equity Study Board, provide procedures for appointment of members, and provide a timetable and rules of procedure.

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

**Section 1:    Recitals Adopted.** The foregoing recitals contained in the preamble to this Ordinance are incorporated by reference herein.

**Section 2:    Board Established.** The Equity Study Board is hereby established to serve as the Equity Study Commission pursuant to Section 205.0535, Florida Statutes. The Board shall consist of five (5) members.

**Section 3:    Authority.** The powers and duties of the Equity Study Board (the "Board") shall be solely of an advisory nature to the Town Council and Town Manager. Accordingly, although Board members shall comply with the applicable requirements of the Code of Ethics for Public Officers and Employees as provided in Part III of Chapter 112, F.S.,

Board members shall be exempt from the provisions of the Miami- Dade County Ethics Code, which is provided by Sec. 2-11.1 of the County Code, pursuant to the advisory board exemption which is authorized by Sec. 2-11.39-2 of the County Code.

**Section 4: Qualifications.** Each member of the Board shall be a representative of the business community within the Town, and shall own or be employed by a business entity that possesses a valid Business Tax Receipt from the Town of Cutler Bay at the time of the appointment and throughout the term of service on the Board.

**Section 5: Appointments.** The Mayor and each Councilmember shall each appoint one (1) member with all appointments subject to approval by a majority of the Town Council.

**Section 6: Chair of Board.** The Mayor shall designate his appointee to serve as the Chairperson for the Board and the Board shall elect the Vice-Chairperson.

**Section 7: Timetable.** The timetable for the Board process, attached as Exhibit “A”, is hereby adopted.

**Section 8: Rules of Procedure.** The Rules of Procedure for the Board, attached as Exhibit “B”, are hereby adopted.

**Section 9: Implementation.** The appropriate Town officials are authorized to execute all necessary documents to effectuate the intent of this Ordinance.

**Section 10: Sunset Provision.** Upon the Town Manager certifying that the duties of the Board have been finally and fully completed and that the new Ordinance adopting the reclassification and rate structure has become effective, the work of the Board and the term of office of Board members shall immediately conclude and terminate.

**Section 11: Effective Date.** This Ordinance shall take effect immediately upon adoption on second reading.

PASSED on first reading this 16<sup>th</sup> day of January, 2008.

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 \_\_\_\_\_

**EXHIBIT "A"**



**PROPOSED TIMETABLE FOR EQUITY STUDY COMMISSION**

- |   |                                |
|---|--------------------------------|
| (1) Establish Board via Ordinance.  | January 30, 2008               |
| (2) Appoint members of the Board  | January 30, 2008               |
| (3) Board holds necessary meetings and performs its statutory tasks                             | February 7 –<br>April 25, 2008 |
| (4) Town Council reviews recommendations of the Board   | May, 2008                      |
| (5) Town Council adopts Business Tax Ordinance including new rate structure and classifications | June, 2008                     |
| (6) Business Tax Ordinance in effect in time for Sale of Local Business Tax Receipts            | July 1, 2008                   |

ORDINANCE NO. 2008-

**EXHIBIT “B”**

**RULES OF PROCEDURE FOR CUTLER BAY BUSINESS TAX EQUITY STUDY  
ADVISORY BOARD**

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## **Section 1.     GENERALLY**

These Rules of Procedure, as amended from time to time, shall govern the Cutler Bay Business Tax Equity Study Advisory Board (the “Board”) in the conduct of its business.

## **Section 2.     MEETINGS**

Section 2.1.   Generally. The business of the Board shall be conducted at regular meetings only. All meetings shall be scheduled to provide sufficient notice to the public, and shall be open to the public. At a meeting, (3) three members in attendance shall constitute a quorum. Failure to obtain a quorum shall result in cancellation of the meeting. Prior to each meeting, the Town Manager will determine the agenda of the order of business, showing in the exact order what is to come before the Board.

Section 2.2.   Meeting Time and Location. Regular meetings of the Board shall be held on the \_\_\_\_\_ days of each calendar month in the Cutler Bay Town Hall at 6:00 p.m., or later, or on an alternate day, location and time as designated by the Town Manager. The Town Manager may cancel a meeting if there is no business to conduct.

Section 2.3.   Board Member Attendance. All Board members shall attend all meetings and remain until the meetings are adjourned or the member is excused by the Chairperson. A request to be excused and notice of a member’s intention to be absent shall be communicated to the Chairperson or the Town Manager or designee.

## **Section 3.     OFFICERS**

Section 3.1.   Selection. The Chairperson shall be designated by the Mayor, and the Vice Chairperson shall be selected by a majority vote of the Board. In the event neither the Chairperson nor the Vice Chairperson attends a meeting, the Board shall select from its members a Chairperson Pro-Tempore for that meeting.

Section 3.2.   Duties and Responsibilities. It shall be the duty and responsibility of all officers to be thoroughly familiar with the applicable Town of Cutler Bay Code of Ordinances and Chapter 205, Florida Statutes, as they apply to the Board and these Rules of Procedure.

1. Chairperson. The Chairperson is the presiding officer, when present and eligible, at all meetings of the Board. As presiding officer, the Chairperson’s duties are generally as follows:

- (A) To open all meetings at the time at which the Board is to meet, by taking the chair, calling the members to order and calling the roll.
- (B) To announce the business before the Board in the order in which it is to be acted upon.
- (C) To recognize members entitled to the floor; to state and put to vote all questions which are regularly moved or necessarily arise in the course of business, and to announce the result of the vote. When a motion has been seconded it is the duty of the Chairperson, unless he or she rules it out of order, immediately to state the question that is before the Board for its consideration and action. If the question is debatable or amendable, the Chairperson shall immediately ask, "Is there any discussion?" If no one then responds, he or she shall put the question. If the question cannot be debated or amended, he or she shall immediately put the question after stating it. The responsibility of announcing the vote lies with the Chairperson, and he or she, therefore, shall have the right to have the vote taken again if he or she is in doubt as to the result. In announcing the vote the Chairperson shall state first whether the motion is carried or lost; second, what is the effect or result of the vote; third, what is the immediately pending question or business before the Board. If there is none he or she shall ask, "What is the pleasure of the Board?"
- (D) To protect the Board from annoyance from evidently frivolous or dilatory motions by refusing to recognize them. Whenever the Chairperson is satisfied that members are using procedures merely to obstruct business, he or she shall either not recognize them or rule them out of order. While the Chairperson shall always be courteous and fair, he or she shall be firm in protecting the Board from imposition, even though it is done in strict conformity with procedural rules.

- (E) To assist in expediting the business in every way compatible with the rights of the members, as by allowing brief comments when undebatable motions are pending, if he or she thinks it advisable; to restrain the members when engaged in debate, within the rules of order; to enforce on all occasions the observance of order and decorum among the members, deciding all questions of order. To authenticate, by his or her signature, when necessary, all the proceedings of the Board, declaring its will and in all things obeying its commands.
2. Vice Chairperson. The Vice Chairperson shall become the Chairperson Pro-tempore upon the absence of the Chairperson at any meeting of the Board.

#### **Section 4. CONDUCT OF BUSINESS**

The business of the Board shall be conducted as follows:

Section 4.1. Motions. Actions by or decisions of the Board shall be determined by motions duly moved and seconded and carried by a majority of the members present.

Section 4.2. Voting. It is a rule that all members shall vote on all questions. No one can vote or participate in debate or discussion on an item at public hearing or a question or a proposal in which he or she has a conflict of interest, as provided by the Code of Ordinances and state law.

The method of taking a vote shall be by roll call (yeas and nays). A quorum must be present in order to vote. On a tie vote the motion is lost.

When a vote is to be taken the Chairperson puts the question in a form similar to this “As many as are in favor of the question will, as their names are called, answer yes (or yea); those opposed will answer no (or nay).” The Chairperson shall then direct the clerk to call the roll. The clerk calls the roll, and each member as his or her name is called answers yes or no.

A motion to approve, when defeated by a vote, shall be considered as a motion to deny which was approved by vote.

A motion to deny, when defeated by a vote, shall not be considered as a motion to approve. In this instance there must be placed before the Board a motion to approve.

Section 4.3. Minutes. Minutes of the Board shall contain a concise and accurate summary of actions taken at meetings, but shall not include verbatim comments from Board members or of persons making presentations to the Board.

Section 4.4. Town Attorney. The Town Attorney shall rule on all legal questions and the Board shall rely only on the advice of the Town Attorney for such questions.

Section 4.5. Town Manager. The Town Manager shall be an ex-officio member of the Board, with the right to participate in the discussions; however, he or she shall not have the right to vote on Board business nor be counted toward a quorum.

Section 4.6. Public Comment. The Board may hear Public Comment, as it deems appropriate, and may limit the comments to three (3) minutes.

## **Section 5. ETHICAL CONDUCT**

The Board is an instrument of the Town providing an important function with imposed obligations, responsibilities and duties. In accepting an appointment to serve as a member of the Board, one also accepts and adopts the requirements of state law and the requirements of Town of Cutler Bay Code of Ordinances as his or her standard of conduct.

In addition, Board appointees shall not subvert the integrity of the Board as a whole or of any member of the Board, or any Town official.

## **Section 6. AMENDMENTS**

These Rules of Procedure may be amended by the Town Council by resolution.

An amendment, having been adopted, goes into effect immediately upon its adoption, unless the motion to adopt specifies a time for its going into effect.

END OF DOCUMENT