



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

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, October 15, 2008, 7:00 PM
South Dade Regional Library
10750 SW 211th Street, 1st Floor
Cutler Bay, Florida 33189

1. CALL TO ORDER, ROLL CALL, PLEDGE OF ALLEGIANCE, MOMENT OF SILENCE

2. PROCLAMATIONS, AWARDS, PRESENTATIONS

A. Proclamation presentation to Ed Alencikas

3. APPROVAL OF MINUTES

A. Council Meeting – September 17, 2008

TAB 1

B. Second Budget Hearing – September 24, 2008

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, APPROVING THE APPLICANT

TAB 2

FUNDING AGREEMENT WITH THE STATE OF FLORIDA, DIVISION OF EMERGENCY MANAGEMENT ALLOWING THE TOWN TO APPLY FOR REIMBURSEMENT OF ELIGIBLE COSTS INCURRED DURING TROPICAL STORM FAY; AUTHORIZING THE TOWN MANAGER TO EXECUTE SAID AGREEMENT AND TAKE STEPS NECESSARY TO SEEK REIMBURSEMENT; PROVIDING FOR CONFLICTS AND PROVIDING FOR AN EFFECTIVE DATE.

B. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA URGING THE MEMBERS OF THE FLORIDA LEGISLATURE TO SUPPORT FLORIDA LEAGUE OF CITIES PRIORITY ISSUES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

TAB 3

C. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING THE "INTERLOCAL AGREEMENT" BETWEEN MIAMI-DADE COUNTY AND THE TOWN OF CUTLER BAY RELATING TO THE PARKING FINES REIMBURSEMENT PROGRAM; APPROVING THE ANNUAL "GENERAL AFFIDAVIT" TO BE SUBMITTED IN ORDER TO OBTAIN THOSE FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE AFFIDAVIT AND THE INTERLOCAL AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 4

D. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING THE AGREEMENT WITH GOMEZ BARKER ASSOCIATES ("GBA"), THE APPROPRIATIONS AND INTERGOVERNMENTAL CONSULTING SERVICE THAT REPRESENTS THE TOWN BEFORE THE EXECUTIVE AND LEGISLATIVE BRANCHES OF THE STATE GOVERNMENT, AND APPROVING AN INCREASE IN COMPENSATION TO GBA; AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 5

E. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING THE AGREEMENT WITH SPILLIS CANDELA DMJM FOR GREEN BUILDING INITIATIVES; AUTHORIZING THE TOWN MANAGER TO ENTER INTO THIS AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 6

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 A WAIVER FROM THE PROVISIONS OF ORDINANCE 07-01 RELATING TO THE OLD CUTLER ROAD OVERLAY ZONING DISTRICT FOR PROPERTIES LOCATED AT 8420 S.W. 197 STREET AND 19781 S.W. 84 COURT; AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 7

B. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, GRANTING SITE PLAN APPROVAL FOR TWENTY (20) SINGLE FAMILY HOMES GENERALLY LOCATED SOUTH OF S.W. 197TH STREET, WEST OF OLD CUTLER ROAD, EAST OF S.W. 84TH PLACE, AND NORTH OF SW 198TH STREET; AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 8

C. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, GRANTING THE REQUEST OF CITY FURNITURE FOR A REZONING FROM IU-1 (INDUSTRIAL, LIGHT MANUFACTURING DISTRICT) TO BU-1A (LIMITED BUSINESS DISTRICT) FOR PROPERTY LOCATED AT 18750 S. DIXIE HIGHWAY, AS LEGALLY DESCRIBED IN EXHIBIT "A," CONSISTING OF APPROXIMATELY 56,413 SQ. FT.; AND PROVIDING FOR AN EFFECTIVE DATE. **(FIRST READING NO PUBLIC HEARING REQUIRED)**

TAB 9

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

A. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING ORDINANCE NO. 2007-24 WHICH ORDINANCE ADOPTED A BUDGET FOR THE 2007/2008 FISCAL YEAR BY REVISING THE 2007/2008 FISCAL YEAR OPERATING AND CAPITAL BUDGET AS OUTLINED IN EXHIBIT "A" ATTACHED HERETO; AUTHORIZING THE TOWN MANAGER TO DO ALL THINGS NECESSARY TO CARRY OUT THE AIMS OF THIS ORDINANCE; PROVIDING FOR AN EFFECTIVE DATE.

TAB 10

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, AMENDING ORDINANCE 07-07 RELATING TO NONRESIDENTIAL DESIGN STANDARDS AND REGULATIONS; PROVIDING FOR THE DELETION OF LOCATION REQUIREMENTS; PROVIDING FOR AMENDMENTS TO PERMITTED SQUARE FOOTAGE; PROVIDING FOR GREEN BUILDING INCENTIVES; AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 11

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. Code Compliance Hearing
Friday, October 17th at 10:00 a.m.
Town Hall, 10720 Caribbean Blvd., Suite 105

- B. Communications Committee Meeting
Monday, October 20th at 6:00 p.m.
Town Hall, 10720 Caribbean Blvd., Suite 105

- C. WiFi Committee Meeting
Monday, October 20th at 7:00 p.m.
Town Hall, 10720 Caribbean Blvd., Suite 105

- D. Communications Committee Meeting
Monday, October 27th at 6:00 p.m.
Town Hall, 10720 Caribbean Blvd., Suite 105

- E. Town Hall Closed
Tuesday, November 11, 2008
In observance of the Veterans' Day holiday.

- F. Regular Council Meeting
Wednesday, November 19, 2008 at 7:00 p.m.
South Dade Regional Library
10750 SW 211th ST, 1st Floor

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, September 17, 2008, 7:00 PM
South Dade Regional Library
10710 SW 211th Street, 1st Floor
Cutler Bay, Florida 33189

1. CALL TO ORDER/ROLL CALL OF MEMBERS: The meeting was called to order by the mayor at 7:10 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 Attorney Mitchell Bierman
Town Attorney Chad Friedman
Town Clerk Erika Santamaria
Town Manager Steven J. Alexander

2. PROCLAMATIONS, AWARDS, PRESENTATIONS:

3. APPROVAL OF MINUTES:

A. Councilmember Meerbott made a motion approving the minutes of the meeting on August 20, 2008. The motion was seconded by Councilmember Sochin and adopted by a unanimous voice vote. The vote was as follows: Councilmembers Bell, Sochin, Meerbott, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

4. REPORTS

A. TOWN MANAGER'S REPORT

The town manager reported that he is discussing with the village manager of Palmetto Bay the possibility of sharing a few routes of the Palmetto Bay IBUS, the public transportation available for their residents. He discussed that there was an attempt to establish one zip code for the Town and the request was not supported by Congressman Mario Diaz-Balart this was the last avenue to pursue one zip code. He mentioned that Executive Assistant to the Manager Yani Ramos attended purchasing conferences that will benefit the Town. He also reported that the Ford Hybrids have come in for the Code Enforcement department and that there is one on display outside the library.

B. TOWN ATTORNEY'S REPORT

The town attorney provided an update on the bus routes, an item on the Consent Agenda. He also gave a brief explanation on the resolution in the Consent Agenda requiring a public hearing and requested that Item C be pulled from Consent Agenda for further discussion.

C. BOARD AND COMMITTEE REPORTS, COUNCIL ANNOUNCEMENTS

Councilmember Bell made a nomination for the following committee; Florence Parodi appointed as the At-Large Committee Member for the Parks Advisory Committee.

Councilmember Bell made a motion approving Florence Parodi to the Parks Advisory Committee. The motion was seconded by Vice Mayor MacDougall and adopted by a unanimous voice vote. The vote was as follows: Councilmembers Bell, Sochin, Meerbott, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

Councilmember Bell Paul Czekanski appointed as Committee Member to the Communications Committee. Mr. Czekanski was not able to attend the meeting. Member Bell made a motion to waive the requirement of the appointee attending the council meeting. The motion was seconded by Councilmember Meerbott and adopted by a unanimous voice vote. The vote was as follows: Councilmembers Bell, Sochin, Meerbott, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

Councilmember Bell made a motion approving Paul Czekanski to the Communications committee. The motion was seconded by Vice Mayor MacDougall and adopted by a unanimous voice vote. The vote was as follows: Councilmembers Bell, Sochin, Meerbott, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

Councilmember Bell requested that Louise Lockwood, Chair to the Parks Advisory Committee share some words with the Council on the progress of the committee. Chair Lockwood gave a brief report on the upcoming improvements at Cutler Ridge Park.

Mayor Vrooman reported that the Communications committee is doing great progress and will have some reports to Council soon.

Councilmember Sochin reported on the WiFi Committee. He said there is much progress and that the next meeting will be October 20th.

5. CONSENT AGENDA:

- B.** 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 ENGINEERING SERVICES FOR SAGA BAY SECTION 1.3 SUB-BASIN PAVING AND DRAINAGE IMPROVEMENTS; AND PROVIDING AN EFFECTIVE DATE.

Councilmember Bell pulled Item A. Town Attorney pulled Item C.

Councilmember Meerbott made a motion to approve the Consent Agenda as amended with pulled Items A and C. The motion was seconded by Councilmember Bell and Resolution 08-54 was adopted by unanimous voice vote. The vote was as follows: Councilmembers Bell, Sochin, Meerbott, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

The town clerk read the following resolution by title:

- A.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, URGING THE MIAMI-DADE COUNTY COMMISSION TO CONTINUE FUNDING PUBLIC TRANSPORTATION'S BUS ROUTE 1 AND 287 OF THE MIAMI-DADE COUNTY TRANSIT AGENCY AND PROVIDING FOR AN EFFECTIVE DATE. **(BELL)**

Councilmember Bell made a motion to approve the resolution. The motion was seconded by Councilmember Meerbott and Resolution 08-53 was approved by unanimous voice vote. The vote was as follows: Councilmembers Bell, Sochin, Meerbott, 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, APPROVING A STIPULATED SETTLEMENT AGREEMENT WITH THE DEPARTMENT OF COMMUNITY AFFAIRS (DCA) RELATING TO THE COMPREHENSIVE PLAN (GROWTH MANAGEMENT PLAN); PROVIDING FOR THE AUTHORIZATION OF THE TOWN MANAGER TO ENTER INTO THIS AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE. **(PUBLIC HEARING REQUIRED)**

The town attorney provided a brief oral presentation on the resolution.

The mayor opened the public hearing. There were no speakers.

After brief discussion, Councilmember Sochin made a motion to approve the resolution. The motion was seconded by Vice Mayor MacDougall and Resolution 08-47 was approved by unanimous voice vote. The vote was as follows: Councilmembers Bell, Sochin, Meerbott, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

6. QUASI-JUDICIAL HEARINGS (PUBLIC HEARING REQUIRED)

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

All witnesses giving testimony were sworn-in by the clerk. The clerk read the following resolution, by title:

- A.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, GRANTING SITE PLAN APPROVAL FOR A 3,268 SQUARE FOOT CREDIT UNION LOCATED AT 18690 SOUTH DIXIE HIGHWAY (36-6005-052-0050) ON AN APPROXIMATELY .59 ACRE SITE; AND PROVIDING FOR AN EFFECTIVE DATE.

Interim Planning Director Kathryn Lyon gave an oral report recommending approval of the applicant's request for site plan approval.

Steve Tewes, 2 South Biscayne Boulevard, representing the applicant, addressed the Council.

The mayor opened the public hearing. There were no speakers.

Councilmember Bell made a motion to approve the resolution. The motion was seconded by Councilmember Sochin and the resolution was approved by unanimous 5-0 roll call vote. The vote was as follows: Councilmembers Bell, Sochin, Meerbott, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

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

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

- A.** AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING ORDINANCE 07-07 RELATING TO NONRESIDENTIAL DESIGN STANDARDS AND REGULATIONS; PROVIDING FOR THE DELETION OF LOCATION REQUIREMENTS; PROVIDING FOR AMENDMENTS TO PERMITTED SQUARE FOOTAGE; PROVIDING FOR GREEN BUILDING INCENTIVES; AND PROVIDING FOR AN EFFECTIVE DATE.

The town attorney gave a brief overview of the ordinance.

Councilmember Sochin made a motion to approve the ordinance. The motion was seconded by Vice Mayor MacDougall and the ordinance was approved by unanimous 5-0 roll call vote. The vote was as follows: Councilmembers Bell, Sochin, Meerbott, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

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 MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING THE TAX SCHEDULE FOR BUSINESS TAX RECEIPTS; AMENDING THE PENALTIES RELATED TO BUSINESS TAX RECEIPTS TO REFLECT STATUTORY PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS AND PROVIDING FOR AN EFFECTIVE DATE.

The town manager provided a brief report on the ordinance.

Bill Thiel, 20351 Old Cutler Road, Chairperson of the Business Tax Advisory Committee, addressed the Council.

The mayor opened the public hearing. There were no speakers.

Vice Mayor MacDougall made a motion to approve the ordinance. The motion was seconded by Councilmember Sochin and Ordinance 08-15 was approved by unanimous 5-0 roll call vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, and Mayor Vrooman voting Yes.

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

- B. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING CHAPTER 19 "RESPONSIBLE PROPERTY OWNER AND MERCHANT ACT" TO INCLUDE PROVISIONS RELATING TO THE REGISTRATION, MAINTENANCE AND SECURITY OF ABANDONED REAL PROPERTY; PROVIDING FOR AN EFFECTIVE DATE. (MEERBOTT)**

Councilmember Meerbott gave a brief report on the ordinance.

The mayor opened the public hearing. Brian Shaw, 19012 Southwest 95 Avenue and Tom Condon, 19641 Holiday Road, addressed the Council.

Councilmember Sochin made a motion to approve the ordinance. The motion was seconded by Councilmember Bell and Ordinance 08-16 was approved by unanimous 5-0 roll call vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

It was the general consensus of the Council to conduct a workshop on this item at a later date to be determined.

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

- C. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ADOPTING REMEDIAL COMPREHENSIVE PLAN AMENDMENTS RELATING TO THE COASTAL HIGH HAZARD AREA IN ACCORDANCE WITH A COMPLIANCE AGREEMENT WITH THE DEPARTMENT OF COMMUNITY AFFAIRS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

The town attorney gave a brief report on the ordinance.

The mayor opened the public hearing. Steve Zarzecki, 9640 Martinique Drive, addressed the Council.

Councilmember Bell made a motion to approve the ordinance. The motion was seconded by Councilmember Meerbott and Ordinance 08-17 was approved by unanimous 5-0 roll call vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

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

- D.** AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING REGULATIONS RELATED TO MALLS AND BUSINESSES WITH PARKING LOTS CONTAINING 25 OR MORE PARKING SPACES; PROVIDING FOR INSTALLATION OF SECURITY CAMERA SYSTEMS FOR PARKING LOT SURVEILLANCE; PROVIDING FOR A PROCEDURE FOR MALLS AND BUSINESSES TO KEEP RECORDINGS FOR 72 HOURS; PROVIDING FOR AN EXEMPTION FOR CONVENIENCE BUSINESSES ALREADY GOVERNED BY SIMILAR FLORIDA STATUTES; PROVIDING TECHNICAL SPECIFICATIONS FOR A SECURITY CAMERA SYSTEM; CREATING A GRACE PERIOD FOR COMPLIANCE FOR EXISTING MALLS AND BUSINESSES; 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.

The town manager introduced Commander Julie Miller of the Cutler Bay Policing Unit, who then proceeded to give an oral presentation on the ordinance.

The mayor opened the public hearing. Bill Meiklejohn, 9311 Sterling Drive, Kevin Corns of Intervid, Baltimore, Maryland, John Breeder, 9300 Southwest 181 Terrace, Samantha Hunter Padgett, 338 South Adams Street, Hector Fuente, 20305 Old Cutler Road, Chris Oferdahl of Weinberg Realty for South Dade Shopping Center, John Herin, 150 West Flagler Street, Arthur Nanni, 18843 Southwest 92 Avenue, Rosi Alvarez, 7740 Southwest 184 Terrace, Dave Segal, 20505 South Dixie Highway, Kristine Formoso, 20425 Old Cutler Road, addressed the Council.

The town attorney provided an amended ordinance that reflected certain changes such as in Section 2 (5)a the following:

of the license plate of each vehicle in the parking lot, as well as coverage of the entrance and exit to the parking lot. The minimum technical specifications of the security camera system which have been created with input from experts in this field, are contained within Attachment "A". The Town Manager, in consultation with the Town Chief of Police, may allow a business or Mall to utilize an alternative technology for surveillance other than that which is specifically described herein if that alternative will accomplish the goals of this ordinance and circumstances prevent the business or Mall from complying with the specific requirements of this ordinance.

and amendment in Section 2 (7)a as follows:

(1) Signage Requirement

(a) Businesses and Malls that are subject to the provisions of this ordinance shall also post signs, that are clearly visible from the parking lot that state as follows: "This parking lot is being monitored by surveillance cameras by order of the Town of Cutler Bay and any criminal acts committed herein will be punished to the fullest extent of the law." There shall be a

minimum of one sign for every 250 parking spaces which signs shall be evenly placed throughout the parking lot, provided that no parking lot that is subject to this ordinance shall have less than one sign.

Councilmember Meerbott made a motion to approve the amended ordinance. The motion was seconded by Councilmember Bell and was approved by unanimous 5-0 roll call vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

Councilmember Bell made a motion to carryover the ordinance to a date certain of November 19, 2008. The motion was seconded by Councilmember Meerbott and was approved by unanimous 5-0 roll call vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

It was the general consensus of the Council to conduct a workshop before the November 19th meeting.

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: Steve Zarzecki, 9640 Martinique Drive, Barbara Condon, 19641 Holiday Road, Tom Condon, 19641 Holiday Road, Joy Cooper, 9365 Nassau Drive, Iris Sturtz, 20505 South Dixie Highway, Craig (inaudible).

11. MAYOR AND COUNCIL COMMENTS

Mayor Vrooman addressed the New Times article which refers to the Glenn Fried case. He expressed that he was upset with the reporting of the story and dismissed the story as a fabrication.

Councilmember Sochin thanked the public for their attendance and continuous support.

Councilmember Bell reminded staff that the prior year, funds were set aside in developing transportation service for the elderly. She encouraged staff to work on something for the upcoming holidays.

Councilmember Meerbott spoke of the general perception and reputation of Cutler Bay. He encouraged the Council to be their own public relations firm and base discussion on the facts not on perceptions.

12. OTHER BUSINESS:

13. ADJOURNMENT

The next council meeting will be held on October 15, 2008 at South Dade Regional Library.

The meeting was officially adjourned at 10:40 P.M.

Respectfully submitted:

*Erika Gonzalez-Santamaria, CMC
Town Clerk*

*Adopted by the Town Council on
this 15th day of October, 2008.*

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.

**TOWN OF CUTLER BAY
SECOND BUDGET HEARING
MINUTES**

Wednesday, September 24, 2008, 7:00 p.m.
South Dade Regional Library
10750 SW 211 Street, 2nd Floor
Cutler Bay, Florida 33189

1. CALL TO ORDER/ROLL CALL OF MEMBERS/PLEDGE OF ALLEGIANCE: The meeting was called to order by the mayor at 7:00 p.m. 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 Clerk Erika Santamaria

The mayor then led the pledge of allegiance.

The clerk announced that this was the second budget hearing.

2. APPROVAL OF MINUTES:

- A. Councilmember Sochin made a motion approving the minutes of the first budget hearing on September 9, 2008. The motion was seconded by Vice Mayor MacDougall 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.

3. BUDGET HEARING:

The clerk read the following resolution by title:

- A. A RESOLUTION OF THE MAYOR AND THE TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ADOPTING THE FINAL MILLAGE RATE OF THE TOWN OF CUTLER BAY FOR THE FISCAL YEAR COMMENCING OCTOBER 1, 2008 THROUGH SEPTEMBER 30, 2009 PURSANT TO FLORIDA STATUTE 200.065 (TRIM BILL); PROVIDING FOR AN EFFECTIVE DATE.

The Finance Director announced that the millage rate of \$2.4470 mills per \$1,000.00 of assessed property value within the Town of Cutler Bay which is 3.94 % less than the roll-back rate of \$2.5473 per \$1,000.00 of assessed property value. The Finance Director requested that the statement be included in the resolution as part of the "Whereas" clause. He then participated in discussions with the Council.

The mayor opened the public hearing. The following addressed Council: Bill Meiklejohn, 9311 Sterling Drive, Barbara Condon, 19641 Holiday Road, Tom Condon, 19641 Holiday Road, and Jaime Reyes, 9750 Southwest 215 Lane.

Councilmember Sochin made a motion approving the resolution. The motion was seconded by Vice Mayor MacDougall and adopted by unanimous 5-0 roll call vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

The clerk read the following ordinance by title:

- B.** AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ADOPTING AN OPERATING AND CAPITAL OUTLAY BUDGET WITH TOTAL EXPENDITURES IN THE AMOUNT OF \$27,399,740 FOR THE FISCAL YEAR COMMENCING OCTOBER 1, 2008 THROUGH SEPTEMBER 30, 2009 PURSUANT TO FLORIDA STATUTE 200.065 (TRIM BILL); AND AUTHORIZING THE TOWN MANAGER TO MAKE EXPENDITURES CONSISTENT THEREWITH AND AUTHORIZING THE TOWN MANAGER TO MAKE CERTAIN BUDGET AMENDMENTS WITHIN A DEPARTMENT PROVIDED THAT THE TOTAL OF THE APPROPRIATIONS IS NOT CHANGED; AND PROVIDING FOR AN EFFECTIVE DATE.

The Finance Director announced that the amount of expenditures now reflect a total of \$27,566,053.00. He requested that the new amount be reflected in the ordinance.

The mayor opened the public hearing. The following addressed Council: Bill Meiklejohn, 9311 Sterling Drive, Barbara Condon, 19641 Holiday Road, Tom Condon, 19641 Holiday Road, and Jaime Reyes, 9750 Southwest 215 Lane.

Councilmember Meerbott made a motion approving the amended ordinance. The motion was seconded by Councilmember Bell and adopted by unanimous 5-0 roll call vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

XIII. PUBLIC COMMENTS:

The following addressed Council: Jaime Reyes, 9750 Southwest 215 Lane and Joy Cooper, 9365 Nassau Drive.

XIV. MAYOR AND COUNCIL MEMBER COMMENTS: None at this time.

XV. OTHER BUSINESS: None at this time.

XVI. NEXT MEETING ANNOUNCEMENT AND ADJOURNMENT:

The meeting was officially adjourned at 8:20 p.m.

Respectfully submitted:

*Erika Gonzalez-Santamaria, CMC
Town Clerk*

*Adopted by the Town Council on
this 15th day of October, 2008*

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 Councilmembers

From: Steven J. Alexander, Town Manager

Date: October 7, 2008

Re: **Funding Agreement with the State of Florida, Division of Emergency Management to allow the Town to apply for reimbursement of eligible costs incurred during Tropical Storm Fay.**

REQUEST

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING THE APPLICANT FUNDING AGREEMENT WITH THE STATE OF FLORIDA, DIVISION OF EMERGENCY MANAGEMENT ALLOWING THE TOWN TO APPLY FOR REIMBURSEMENT OF ELIGIBLE COSTS INCURRED DURING TROPICAL STORM FAY; AUTHORIZING THE TOWN MANAGER TO EXECUTE SAID AGREEMENT AND TAKE STEPS NECESSARY TO SEEK REIMBURSEMENT; PROVIDING FOR CONFLICTS AND PROVIDING FOR AN EFFECTIVE DATE.

BACKGROUND AND ANALYSIS

On August 21, 2008, Miami-Dade County was included in a Tropical Storm Fay emergency declaration (item number FEMA-3288-EM-FL). As a result, certain costs incurred by the Town of Cutler Bay are eligible for reimbursement under FEMA guidelines. The Town of Cutler Bay has submitted an initial "Request for Public Assistance". In order to continue the process and file a claim for reimbursement, the State of Florida, Division of Emergency Management, requires the completion of an applicant "Funding Agreement" in the form attached hereto.

RECOMMENDATION

Staff recommends adoption of the resolution and execution of the Funding Agreement with the State of Florida, Division of Emergency Management, to participate in this program.

RESOLUTION NO. 08-___

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING THE APPLICANT FUNDING AGREEMENT WITH THE STATE OF FLORIDA, DIVISION OF EMERGENCY MANAGEMENT, ALLOWING THE TOWN TO APPLY FOR REIMBURSEMENT OF ELIGIBLE COSTS INCURRED DURING TROPICAL STORM FAY; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE AGREEMENT; PROVIDING FOR CONFLICTS AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay (hereinafter referred to as the “Town”) incurred certain costs during the 2008 hurricane season in the course of protecting the community and the residents, particularly as a result of Tropical Storm Fay; and

WHEREAS, the Town would like to seek reimbursement for eligible costs incurred by the Town during its relief efforts from the FEMA/State Public Assistance Program administered by the State of Florida Division of Emergency Management; and

WHEREAS, the Town Council deems it to be in the best interests of the citizens and residents of the Town for the Town to enter into an Applicant Funding Agreement for the FEMA/State Public Assistance Program administered by the State of Florida Division of Emergency Management.

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. Relief Reimbursement Agreement Approved. The Town Council hereby approves the “Applicant Funding Agreement” relating to the reimbursement of funds expended by the Town during the 2008 hurricane season in substantially the form attached hereto as Exhibit “A”.

Section 3. Manager Authorized. The Town Manager is authorized to execute the “Applicant Funding Agreement” relating to the reimbursement of funds expended by the Town during the 2008 hurricane season in substantially the form attached hereto as Exhibit “A,” on behalf of the Town.

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 _____

Contract Number: N/A

CFDA No: 97.036

For Disaster Declaration No.: **FEMA-3288-EM (TS Fay)**

**FEMA/State Public Assistance Program
Applicant Funding Agreement**

THIS AGREEMENT is entered into by the State of Florida, Division of Emergency Management, ("Division"), and Cutler Bay, Town of, ("Recipient").
086-UXXTX-00

THIS AGREEMENT IS ENTERED INTO BASED ON THE FOLLOWING REPRESENTATIONS:

- A. The Recipient represents that it is fully qualified and eligible to receive these grant funds to provide the services identified herein; and
- B. The Division has received these grant funds from the state of Florida, and has the authority to sub grant these funds to the Recipient upon the terms and conditions below; and
- C. The Division has statutory authority to disburse the funds under this Agreement.

THEREFORE, the Division and the Recipient agree to the following:

(1) SCOPE OF WORK

The recipient shall perform the work in accordance with the FEMA/State Public Assistance Program grant funding requirements as further described in Attachment A of this Agreement.

(2) INCORPORATION OF LAWS, RULES, REGULATIONS AND POLICIES

The Recipient and the Division shall be governed by applicable state and federal laws, rules and regulations, including those identified in Attachment B.

(3) PERIOD OF AGREEMENT

This Agreement shall begin upon execution by both parties and shall end upon approval of closeout by the Federal Emergency Management Agency ("FEMA") but in any event no later than eight (8) years from the date of execution, unless terminated earlier in accordance with the provisions of Paragraph (12) of this Agreement.

(4) MODIFICATION OF CONTRACT

Either party may request modification of the provisions of this Agreement. Changes which are agreed upon shall be valid only when in writing, signed by each of the parties, and attached to the original of this Agreement.

(5) RECORDKEEPING

(a) As applicable, Recipient's performance under this Agreement shall be subject to the federal Common Rule: Uniform Administrative Requirements for and Local Governments" (53 Federal Register 8034) or OMB Circular No. A-110, "Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations," and either OMB Circular No. A-87, "Cost Principles for State and Local Governments," OMB Circular No. A-21, "Cost Principles for Educational Institutions," or OMB Circular No. A-122, "Cost Principles for Nonprofit Organizations." If this Agreement is made with a commercial (for-profit) organization on a cost-reimbursement basis, the Recipient shall be subject to Federal Acquisition Regulations 31.2 and 931.2.

(b) The Recipient shall retain sufficient records to show its compliance with the terms of this Agreement, and the compliance of all subcontractors or consultants paid from funds under this Agreement, for a period of five years from the date the audit report is issued, and shall allow the Division or its designee, the State Chief Financial Officer or the State Auditor General access to the records upon request. The Recipient shall ensure that audit working papers are available to them upon request for a period of five years from the date the audit report is issued, unless extended in writing by the Division. The five year period may be extended for the following exceptions:

1. If any litigation, claim or audit is started before the five year period expires, and extends beyond the five year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

2. Records for the disposition of non-expendable personal property valued at \$5,000 or more at the time it is acquired shall be retained for five years after final disposition.

3. Records relating to real property acquired shall be retained for five years after the closing on the transfer of title.

(c) The Recipient shall maintain all records for the Recipient and for all subcontractors or consultants to be paid from funds provided under this Agreement, including documentation of all program costs, in a form sufficient to determine compliance with the requirements and objectives of the Budget and Scope of Work - Attachment B - and all other applicable laws and regulations.

(d) The Recipient, its employees or agents, including all subcontractors or consultants to be paid from funds provided under this Agreement, shall allow access to its records at reasonable times to the Division, its employees, and agents. "Reasonable" shall ordinarily mean during normal business hours of 8:00 a.m. to 5:00 p.m., local time, on Monday through Friday. "Agents" shall include, but not be limited to, auditors retained by the Division.

(6) AUDIT REQUIREMENTS

(a) The Recipient agrees to maintain financial procedures and support documents, in accordance with generally accepted accounting principles, to account for the receipt and expenditure of funds under this Agreement.

(b) These records shall be available at reasonable times for inspection, review, or audit by state personnel and other personnel authorized by the Department or the Division. "Reasonable" shall ordinarily mean normal business hours of 8:00 a.m. to 5:00 p.m., local time, Monday through Friday.

(c) The Recipient shall provide the Department with the records, reports or financial statements upon request for the purposes of auditing and monitoring the funds awarded under this Agreement.

(d) If the Recipient is a or local government or a non-profit organization as defined in OMB Circular A-133, as revised, and in the event that the Recipient expends \$500,000 or more in Federal awards in its fiscal year, the Recipient must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised. Attachment A to this Agreement shows the Federal resources awarded through the Division by this Agreement. In determining the Federal awards expended in its fiscal year, the Recipient shall consider all sources of federal awards, including Federal resources received from the Division. The determination of amounts of federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit of the Recipient conducted by the Auditor General in accordance with the provisions of OMB Circular A-133, as revised, will meet the requirements of this paragraph.

In connection with the audit requirements addressed in this Paragraph 6 (d) above, the Recipient shall fulfill the requirements for auditee responsibilities as provided in Subpart C of OMB Circular A-133, as revised.

If the Recipient expends less than \$500,000 in federal awards in its fiscal year, an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, is not required. In the event that the Recipient expends less than \$500,000 in federal awards in its fiscal year and chooses to have an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, the cost of the audit must be paid from non-federal funds.

(e) Send copies of reporting packages for audits conducted in accordance with OMB Circular A-133, as revised, and required by subparagraph (d) above, when required by Section .320 (d), OMB Circular A-133, as revised, by or on behalf of the Recipient to each of the following addresses:

Division of Emergency Management
Office of Audit Services
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

and

Division of Emergency Management
Bureau of Recovery
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

The Federal Audit Clearinghouse designated in OMB Circular A-133, as revised (submit the number of copies required by Sections 320(d)(1) and (2), OMB Circular A-133, as revised), at the following address:

Federal Audit Clearinghouse
Bureau of the Census
1201 East 10th Street
Jeffersonville, IN 47132

Other federal agencies and pass-through entities in accordance with Sections 320 (e) and (f), OMB Circular A-133, as revised.

(f) Pursuant to Section .320 (f), OMB Circular A-133, as revised, the Recipient shall send a copy of the reporting package described in Section .320 (c), OMB Circular A-133, as revised, and any management letter issued by the auditor, to the Division at the following addresses:

Division of Emergency Management

Office of Audit Services
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

and

Bureau of Recovery
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

(g) If the Recipient is a non-state entity as defined by Section 215.97, Fla. Stat., it shall comply with the following:

If the Recipient expends a total amount of state financial assistance equal to or more than \$500,000 in any fiscal year of such Recipient, the Recipient must have a state single or project-specific audit for such fiscal year in accordance with Section 215.97, Fla. Stat.; applicable rules of the Executive Office of the Governor and the Chief Financial Officer; and Chapters 10.550 (local government entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this Agreement shows the state financial assistance awarded by this Agreement. In determining the financial assistance expended in its fiscal year, the Recipient shall include all sources of state financial assistance, including state funds received from the Division, other state agencies, and other non-state entities. State financial assistance does not include federal direct or pass-through awards and resources received by a non-state entity for federal program matching requirements.

In connection with the audit requirements addressed in this Paragraph 6(g) above, the Recipient shall ensure that the audit complies with the requirements of Section 215.97(8), Fla. Stat. This includes submission of a reporting package as defined by Section 215.97(2)(e), Fla. Stat. and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.

If the Recipient expends less than \$500,000 in state financial assistance in its fiscal year, an audit conducted in accordance with the provisions of Section 215.97, Fla. Stat, is not required. In the event that the Recipient expends less than \$500,000 in state financial assistance in its fiscal year and elects to have an audit conducted in accordance with the provisions of Section 215.97, Fla. Stat, the cost of the audit must be paid from the non-state entity's resources (i.e., the cost of such an audit must be paid from the Recipient's resources obtained from other than state entities). Additional information on the Florida Single Audit Act may be found at the following website: <http://www.state.fl.us/fsaa/statutes.html>.

(h) Report Submission

1. The annual financial audit report shall include all management letters and the Recipient's response to all findings, including corrective actions to be taken.
2. The annual financial audit report shall include a schedule of financial assistance specifically identifying all Agreement and other revenue by sponsoring agency and Agreement number.
3. Copies of financial reporting packages required under this Paragraph 6 shall be submitted by or on behalf of the Recipient directly to each of the following offices:

Division of Emergency Management
Office of Audit Services
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

Division of Emergency Management
Bureau of Recovery
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

Auditor General's Office
Room 401, Claude Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1450

4. Any reports, management letter, or other information required to be submitted to the Division pursuant to this Agreement shall be submitted on time as required under OMB Circular A-133, Laws of Florida, and §§ 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Fla. Stat., Rules of the Auditor General, as applicable.
5. Recipients, when submitting financial reporting packages to the Division for audits done in accordance with OMB Circular A-133 or §§ 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Fla. Stat., Rules of the Auditor General, should indicate the date that the reporting package was delivered to the Recipient in correspondence accompanying the reporting package.

(i) By the date due, send any reports, management letter, or other information required to be submitted to the Division pursuant to this Agreement in accordance with OMB Circular A-133, Florida Statutes, and §§ 10.550

(local governmental entities) or 10.650 (nonprofit and for-profit organizations), Fla. Stat., Rules of the Auditor General, as applicable.

(j) Recipients should state the date that the reporting package was delivered to the Recipient when submitting financial reporting packages to the Division for audits done in accordance with OMB Circular A-133 or §§ 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Fla. Stat., Rules of the Auditor General,

(k) If the audit shows that all or any portion of the funds disbursed were not spent in accordance with the conditions of this Agreement, the Recipient shall be held liable for reimbursement to the Division of all funds not spent in accordance with these applicable regulations and Agreement provisions within thirty days after the Division has notified the Recipient of such non-compliance.

(l) The Recipient shall have all audits completed by an independent certified public accountant (IPA), either a certified public accountant or a public accountant licensed under Chapter 473, Fla. Stat. The IPA shall state that the audit complied with the applicable provisions noted above. The audit must be received by the Division no later than nine months from the end of the Recipient's fiscal year.

(7) REPORTS

(a) The Recipient shall provide the Division with quarterly reports and a close-out report. These reports shall include the current status and progress by the Recipient and all sub recipients and subcontractors in completing the work described in the Attachment B (Scope of Work) and the expenditure of funds under this Agreement, in addition to any other information requested by the Division.

(b) Quarterly reports are due to the Division no later than 30 days after the end of each quarter of the program year and shall be sent each quarter until submission of the administrative close-out report. The ending dates for each quarter of the program year are March 31, June 30, September 30 and December 31.

(c) The close-out report is due 60 days after termination of this Agreement or 60 days after completion of the activities contained in this Agreement, whichever first occurs.

(d) If all required reports and copies are not sent to the Division or are not completed in a manner acceptable to the Division, the Division may withhold further payments until they are completed or may take other action as stated in Paragraph (11) REMEDIES. "Acceptable to the Division" means that the work product was completed in accordance with the Budget and Scope of Work.

(e) The Recipient shall provide additional program updates or information that may be required by the Division.

(f) The Recipient shall provide additional reports and information identified in Attachment D.

(8) MONITORING

The Recipient shall monitor its performance under this Agreement, as well as that of its subcontractors and/or consultants who are paid from funds provided under this Agreement, to ensure that time schedules are being

met, the Schedule of Deliverables and Scope of Work are being accomplished within the specified time periods, and other performance goals are being achieved. A review shall be done for each function or activity in Attachment B to this Agreement, and reported in the quarterly report.

In addition to reviews of audits conducted in accordance with paragraph (6) above, monitoring procedures may include, but not be limited to, on-site visits by Division staff, limited scope audits, and/or other procedures. The Recipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Division. In the event that the Division or the Department determines that a limited scope audit of the Recipient is appropriate, the Recipient agrees to comply with any additional instructions provided by the Division or the Department to the Recipient regarding such audit. The Recipient further agrees to comply and cooperate with any inspections, reviews, investigations or audits deemed necessary by the Florida Chief Financial Officer or Auditor General. In addition, the Division will monitor the performance and financial management by the Recipient throughout the contract term to ensure timely completion of all tasks.

(9) LIABILITY

(a) Unless Recipient is a state agency or subdivision, as defined in Section 768.28, Fla. Stat., the recipient is solely responsible to parties it deals with in carrying out the terms of this Agreement, and shall hold the Division harmless against all claims of whatever nature by third parties arising from the work performance under this Agreement. For purposes of this Agreement, Recipient agrees that it is not an employee or agent of the Division, but is an independent contractor.

(b) Any Recipient which is a state agency or subdivision, as defined in Section 768.28, Fla. Stat., agrees to be fully responsible for its negligent or tortious acts or omissions which result in claims or suits against the Division, and agrees to be liable for any damages proximately caused by the acts or omissions to the extent set forth in Section 768.28, Fla. Stat. Nothing herein is intended to serve as a waiver of sovereign immunity by any Recipient to which sovereign immunity applies. Nothing herein shall be construed as consent by a state agency or subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

(10) DEFAULT

If any of the following events occur ("Events of Default"), all obligations on the part of the Division to make further payment of funds shall, if the Division elects, terminate and the Division has the option to exercise any of its remedies set forth in Paragraph (11). However, the Division may make payments or partial payments after any Events of Default without waiving the right to exercise such remedies, and without becoming liable to make any further payment:

(a) If any warranty or representation made by the Recipient in this Agreement or any previous agreement with the Division is or becomes false or misleading in any respect, or if the Recipient fails to keep or perform any of

the obligations, terms or covenants in this Agreement or any previous agreement with the Division and has not cured them in timely fashion, or is unable or unwilling to meet its obligations under this Agreement;

(b) If material adverse changes occur in the financial condition of the Recipient at any time during the term of this Agreement and the Recipient fails to cure this adverse change within thirty (30) days from the date written notice is sent by the Division.

(c) If any reports required by this Agreement have not been submitted to the Division or have been submitted with incorrect, incomplete or insufficient information;

(d) If the Recipient has failed to perform and complete on time any of its obligations under this Agreement.

(11) REMEDIES

If an Event of Default occurs, then the Division may, after thirty calendar days written notice to the Recipient and upon the Recipient's failure to cure within those thirty days, exercise any one or more of the following remedies, either concurrently or consecutively:

(a) Terminate this Agreement, provided that the Recipient is given at least thirty (30) days prior written notice of the termination. The notice shall be effective when placed in the United States, first class mail, postage prepaid, by registered or certified mail-return receipt requested, to the address in paragraph (13) herein;

(b) Begin an appropriate legal or equitable action to enforce performance of this Agreement;

(c) Withhold or suspend payment of all or any part of a request for payment;

(d) Require that the Recipient refund to the Division any monies used for ineligible purposes under the laws, rules and regulations governing the use of these funds.

(e) Exercise any corrective or remedial actions, to include but not be limited to:

1. request additional information from the Recipient to determine the reasons for or the extent of non-compliance or lack of performance;

2. issue a written warning to advise that more serious measures may be taken if the situation is not corrected;

3. advise the Recipient to suspend, discontinue or refrain from incurring costs for any activities in question; or

4. require the Recipient to reimburse the Division for the amount of costs incurred for any items determined to be ineligible.

(f) Exercise any other rights or remedies which may be available under law.

(g) Pursuing any of the above remedies will not stop the Division from pursuing any other remedies in this Agreement or provided at law or in equity. If the Division waives any right or remedy in this Agreement or fails to insist on strict performance by the Recipient, it will not affect, extend or waive any other right or remedy of the Division, or affect the later exercise of the same right or remedy by the Division for any other default by the Recipient.

(12) TERMINATION

(a) The Division may terminate this Agreement for cause after thirty (30) days written notice. Cause can include misuse of funds, fraud, lack of compliance with applicable rules, laws and regulations, failure to perform on time, and refusal by the Recipient to permit public access to any document, paper, letter, or other material subject to disclosure under Chapter 119, Fla. Stat., as amended.

(b) The Division may terminate this Agreement for convenience or when it determines, in its sole discretion, that continuing the Agreement would not produce beneficial results in line with the further expenditure of funds, by providing the Recipient with thirty (30) calendar days prior written notice.

(c) The parties may agree to terminate this Agreement for their mutual convenience through a written amendment of this Agreement. The amendment will state the effective date of the termination and the procedures for proper closeout of the Agreement.

(d) In the event that this Agreement is terminated, the Recipient will not incur new obligations for the terminated portion of the Agreement after the Recipient has received the notification of termination. The Recipient will cancel as many outstanding obligations as possible. Costs incurred after receipt of the termination notice will be disallowed. The Recipient shall not be relieved of liability to the Division because of any breach of Agreement by the Recipient. The Division may, to the extent authorized by law, withhold payments to the Recipient for the purpose of set-off until the exact amount of damages due the Division from the Recipient is determined.

(13) NOTICE AND CONTACT

(a) All notices provided under or pursuant to this Agreement shall be in writing, either by hand delivery, or first class, certified mail, return receipt requested, to the representative named below, at the address below, and this notification attached to the original of this Agreement.

(b) The Division contract manager for this Agreement is:

Bureau Chief of Recovery
Florida Division of Emergency Management
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399
Telephone: 850.413.9969
Fax: 850.488.1016

(c) The name and address of the Representatives of the Recipient responsible for the administration of this Agreement are:

Primary Agent:

Secondary Agent:

Telephone: _____
Fax: _____
Email: _____

Telephone: _____
FAX: _____
Email: _____

(d) In the event that different representatives or addresses are designated by either party after execution of this Agreement, notice of the name, title and address of the new representative will be provided as outlined in (13)(a) above.

(14) SUBCONTRACTS

If the Recipient subcontracts any of the work required under this Agreement, a copy of the unsigned subcontract must be forwarded to the Division for review and approval before it is executed by the Recipient. The Recipient agrees to include in the subcontract that (i) the subcontractor is bound by the terms of this Agreement, (ii) the subcontractor is bound by all applicable state and federal laws and regulations, and (iii) the subcontractor shall hold the Division and Recipient harmless against all claims of whatever nature arising out of the subcontractor's performance of work under this Agreement, to the extent allowed and required by law. The Recipient shall document in the quarterly report the subcontractor's progress in performing its work under this Agreement.

For each subcontract, the Recipient shall provide a written statement to the Division as to whether that subcontractor is a minority vendor, as defined in Section 288.703, Fla. Stat.

(15) TERMS AND CONDITIONS

This Agreement contains all the terms and conditions agreed upon by the parties.

(16) ATTACHMENTS

- (a) All attachments to this Agreement are incorporated as if set out fully.
- (b) In the event of any inconsistencies or conflict between the language of this Agreement and the attachments, the language of the attachments shall control, but only to the extent of the conflict or inconsistency.
- (c) This Agreement has the following attachments:
 - Attachment A - Funding Sources
 - Attachment B – Budget and Scope of Work
 - Attachment C – Program Statutes and Regulations
 - Attachment D – Statement of Assurances
 - Attachment E – Warranties and Representations
 - Attachment F – Certification Regarding Debarment

(17) FUNDING/CONSIDERATION

(a) This is a cost-reimbursement Agreement. The Recipient shall be reimbursed for costs incurred in the satisfactory performance of work hereunder, subject to the availability of funds. The total amount of funds available under this Agreement may be increased or decreased through a Project Worksheet, a copy of which shall be attached to this Agreement.

(b) Any advance payment is also subject to federal OMB Circulars A-87, A-110, A-122 and the Cash Management Improvement Act of 1990.

(c) After the initial advance, if any, payment shall be made on a reimbursement basis as needed. The Recipient agrees to expend funds in accordance with the Project Worksheets and the Scope of Work (Attachment B) of this Agreement.

If the necessary funds are not available to fund this Agreement as a result of action by the United States Congress, the federal Office of Management and Budgeting, the State Chief Financial Officer or under subparagraph (20)(h) of this Agreement, all obligations on the part of the Division to make any further payment of funds shall terminate, and the Recipient shall submit its closeout report within thirty days of receiving notice from the Division.

(18) REPAYMENTS

All refunds or repayments due to the Division under this Agreement are to be made payable to the order of "Division" and mailed directly to the following address:

Division of Emergency Management
Cashier
Finance and Accounting
2555 Shumard Oak Boulevard
Tallahassee FL 32399-2100

In accordance with Section 215.34(2), Fla. Stat., if a check or other draft is returned to the Division for collection, Recipient shall pay the Division a service fee of \$15.00 or 5% of the face amount of the returned check or draft, whichever is greater.

(19) MANDATED CONDITIONS

(a) The validity of this Agreement is subject to the truth and accuracy of all the information, representations, and materials submitted or provided by the Recipient in this Agreement, in any later submission or response to a Division request, or in any submission or response to fulfill the requirements of this Agreement. All of said information, representations, and materials is incorporated by reference. The inaccuracy of the submissions or

any material changes shall, at the option of the Division and with thirty days written notice to the Recipient, cause the termination of this Agreement and the release of the Division from all its obligations to the Recipient.

(b) This Agreement shall be construed under the laws of the State of Florida, and venue for any actions arising out of this Agreement shall be in the Circuit Court of Leon County. If any provision of this Agreement is in conflict with any applicable statute or rule, or is unenforceable, then the provision shall be null and void to the extent of the conflict, and shall be severable, but shall not invalidate any other provision of this Agreement.

(c) Any power of approval or disapproval granted to the Division under the terms of this Agreement shall survive the term of this Agreement.

(d) This Agreement may be executed in any number of counterparts, any one of which may be taken as an original.

(e) The Recipient agrees to comply with the Americans With Disabilities Act (Public Law 101-336, 42 U.S.C. Section 12101 et seq.), which prohibits discrimination by public and private entities on the basis of disability in employment, public accommodations, transportation, State and local government services, and telecommunications.

(f) Those who have been placed on the convicted vendor list following a conviction for a public entity crime or on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with a public entity, and may not transact business with any public entity in excess of \$25,000.00 for a period of 36 months from the date of being placed on the convicted vendor list or on the discriminatory vendor list.

(g) Any Recipient which is not a local government or state agency, and which receives funds under this Agreement from the federal government, certifies, to the best of its knowledge and belief, that it and its principals:

1. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a federal department or agency;

2. have not, within a five-year period preceding this proposal been convicted of or had a civil judgment rendered against them for fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

3. are not presently indicted or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any offenses enumerated in paragraph 19(g)2. of this certification; and

4. have not within a five-year period preceding this Agreement had one or more public transactions (federal, state or local) terminated for cause or default.

If the Recipient is unable to certify to any of the statements in this certification, then the Recipient shall attach an explanation to this Agreement.

In addition, the Recipient shall send to the Division (by email or by facsimile transmission) the completed "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion" (Attachment G) for each intended subcontractor which Recipient plans to fund under this Agreement. The form must be received by the Division before the Recipient enters into a contract with any subcontractor.

(h) The State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature, and subject to any modification in accordance with Chapter 216, Fla. Stat. or the Florida Constitution.

(i) All bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper pre- and post-audit thereof.

(j) Any bills for travel expenses shall be submitted in accordance with Section 112.061, Fla. Stat.

(k) The Division reserves the right to unilaterally cancel this Agreement if the Recipient refuses to allow public access to all documents, papers, letters or other material subject to the provisions of Chapter 119, Fla. Stat., which the Recipient created or received under this Agreement.

(l) If the Recipient is allowed to temporarily invest any advances of funds under this Agreement, any interest income shall either be returned to the Division or be applied against the Division's obligation to pay the contract amount.

(m) The State of Florida will not intentionally award publicly-funded contracts to any contractor who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. § 1324a(e) (§ 274A(e) of the Immigration and Nationality Act ("INA")). The Division shall consider the employment by any contractor of unauthorized aliens a violation of § 274A(e) of the INA. Such violation by the Recipient of the employment provisions contained in § 274A(e) of the INA shall be grounds for unilateral cancellation of this Agreement by the Division.

(n) The Recipient is subject to Florida's Government in the Sunshine Law (§ 286.011, Fla. Stat.) with respect to the meetings of the Recipient's governing board or the meetings of any subcommittee making recommendations to the governing board. All of these meetings shall be publicly noticed, open to the public, and the minutes of all the meetings shall be public records, available to the public in accordance with Chapter 119, Fla. Stat.

(o) All nonmanufactured and manufactured articles, materials and supplies which are acquired for public use under this Agreement must have been produced in the United States as required under 41 U.S.C. 10a, unless it would not be in the public interest or unreasonable in cost.

(20) LOBBYING PROHIBITION

(a) No funds or other resources received from the Division under this Agreement may be used directly or indirectly to influence legislation or any other official action by the Florida Legislature or any state agency.

(b) The Recipient certifies, by its signature to this Agreement, that to the best of his or her knowledge and belief:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Recipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.

2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the Recipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying."

3. The Recipient shall require that this certification be included in the award documents for all sub awards (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by § 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

(21) COPYRIGHT, PATENT AND TRADEMARK

ANY AND ALL PATENT RIGHTS ACCRUING UNDER OR IN CONNECTION WITH THE PERFORMANCE OF THIS AGREEMENT ARE HEREBY RESERVED TO THE STATE OF FLORIDA. ANY AND ALL COPYRIGHTS ACCRUING UNDER OR IN CONNECTION WITH THE PERFORMANCE OF THIS AGREEMENT ARE HEREBY TRANSFERRED BY THE RECIPIENT TO THE STATE OF FLORIDA.

(a) If the Recipient has a pre-existing patent or copyright, the Recipient shall retain all rights and entitlements to that pre-existing patent or copyright unless the Agreement provides otherwise.

(b) If any discovery or invention is developed in the course of or as a result of work or services performed under this Agreement, or in any way connected with it, the Recipient shall refer the discovery or invention to the Division for a determination whether the State of Florida will seek patent protection in its name. Any patent rights accruing under or in connection with the performance of this Agreement are reserved to the State of Florida. If any books, manuals, films, or other copyrightable material are produced, the Recipient shall notify the Division. Any copyrights accruing under or in connection with the performance under this Agreement are transferred by the Recipient to the State of Florida.

(c) Within thirty days of execution of this Agreement, the Recipient shall disclose all intellectual properties relating to the performance of this Agreement which he or she knows or should know could give rise to a patent or copyright. The Recipient shall retain all rights and entitlements to any pre-existing intellectual property which is disclosed. Failure to disclose will indicate that no such property exists. The Division shall then, under Paragraph (b), have the right to all patents and copyrights which accrue during performance of the Agreement.

(22) LEGAL AUTHORIZATION

The Recipient certifies that it has the legal authority to receive the funds under this Agreement and that its governing body has authorized the execution and acceptance of this Agreement. The Recipient also certifies that the undersigned person has the authority to legally execute and bind Recipient to the terms of this Agreement.

(23) ASSURANCES

The Recipient shall comply with any Statement of Assurances incorporated as Attachment D.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

RECIPIENT:

_____ Disaster #: FEMA-3288-EM

By: _____

Name and title: _____

Date: _____

FID# _____

STATE OF FLORIDA

DIVISION OF EMERGENCY MANGEMENT

By: _____

Name and Title: _____

Date: _____

Attachment A

THE FOLLOWING FEDERAL RESOURCES ARE AWARDED TO THE RECIPIENT UNDER THIS AGREEMENT:

NOTE: If the resources awarded to the Recipient are from more than one federal program, provide the same information shown below for each federal program and show total federal resources awarded.

Federal Program

Federal agency: Federal Emergency Management Agency, Public Assistance Program
Catalog of Federal Domestic Assistance title and number: 97.036

THE FOLLOWING COMPLIANCE REQUIREMENTS APPLY TO THE FEDERAL RESOURCES AWARDED UNDER THIS AGREEMENT:

NOTE: If the resources awarded to the Recipient represent more than one Federal program, list applicable compliance requirements for each Federal program in the same manner as shown below.

Federal Program:

List applicable compliance requirements as follows:

1. Recipient will use funding to restore damaged or destroyed public facilities as authorized in the FEMA/State Agreement, the Robert T. Stafford Act, Public Law 93-288, as amended by Public Law 100.707; 44 CFR, Part 206.35 and applicable FEMA policies.
2. Recipient must be a local government and is subject to all administrative and financial requirements as set forth in this Agreement.

NOTE: Instead of listing the specific compliance requirements as shown above, the State awarding agency may elect to use language that requires the Recipient to comply with the requirements of applicable provisions of specific laws, rules, regulations, etc. For example, for Federal Program 1, the language may state that the Recipient must comply with specific laws, rules, or regulations that pertain to how the awarded resources must be used or how eligibility determinations are to be made. The state awarding agency, if practical, may want to attach a copy of the specific law, rule, or regulation referred to.

NOTE: Section 400(d) of OMB Circular A-133, as revised, and § 215.97(5)(a), Fla. Stat., require that the information about Federal Programs and State Projects included in Exhibit I be provided to the Recipient.

Attachment B
Scope of Work

Article I. Required Documentation, Reviews, and Inspections. Sub grantee shall create and maintain documentation of work performed and costs incurred on each project identified in a Project Worksheet sufficient to permit a formal audit comporting with ordinary, customary and public accounting requirements. Upon the failure of Sub grantee to create and maintain such documentation, Grantee may terminate further funding under this Agreement, and Sub grantee shall reimburse to Grantee all payments disbursed earlier to Sub grantee, together with any and all accrued interest.

All forms may be obtained on the internet at www.floridapa.org.

A. Subgrantee shall submit the following documentation for Large Projects which can be found at www.floridapa.org:

1. Large Project threshold for this declaration is \$60,900.
2. Request for Reimbursement.
3. A Summary of Documentation, which shall be supported by original documents such as contract documents, invoices, purchase orders, and change orders.
4. A request for final inspection.
5. A signed Project Completion and Certification Report upon the completion of all projects; and,
6. The Project Completion and Certification Report specified by Paragraph B of this Article.

B. For all projects, Sub grantee shall state on the "Project Completion and Certification Report" that all work was performed in accordance with this Agreement and the requirements in each Project Worksheet, and shall state the date of completion;

Article II. Payment of Costs. Grantee shall disburse the eligible costs to Sub grantee in accordance with the following procedures.

A. Grantee shall disburse the federal and nonfederal shares of the eligible costs for Small Projects to Sub grantee as soon as practicable after execution of this Agreement and formal notification by the Federal Emergency Management Agency of its approval of the pertinent Project Worksheet;

B. Grantee shall reimburse Sub grantee for the federal and nonfederal shares of the eligible costs for Large Projects as soon as practicable after Sub grantee has delivered the following documents to Grantee:

1. A Request for Reimbursement found at www.floridapa.org;
2. A Summary of Documentation shall be supported by original documents such as contract documents, invoices, purchase orders, and change orders and is also available at www.floridapa.org; and
3. A letter or notification certifying that the reported costs were incurred in the performance of eligible work.

C. If extenuating circumstances or unusual project conditions exist, a time extension may be requested through the Grantee. Time extensions for emergency work must be submitted prior to the sixth (6th) month from the date of the Presidential Declaration for each project worksheet. Time extensions for permanent work must be submitted prior to the eighteenth (18th) month from the date of the Presidential Declaration for each project worksheet. For Large Projects the Summary of Documentation and the supporting documents identified in Article VI of this Agreement shall be submitted to the Grantee not later than sixty (60) days after the extension date of the last modification extending the Agreement. Sub grantee shall submit the completed Project Listing to Grantee not later than thirty (30) days from the completion of all work, or the approval of the Final Inspection by the Federal Emergency Management Agency, whichever is later. The time for the performance of this Agreement may be extended for cause by Grantee. Extensions shall not be approved for delays caused by lack of cost-share funding. If

any extension request is denied, Sub grantee shall be reimbursed for eligible project costs incurred up to the latest approved date for timely completion. Failure to complete any project will be adequate cause for the termination of funding for that project.

D. Sub grantee represents that to the best of its knowledge any hazardous substances at its project site or sites are present in quantities within statutory and regulatory limitations, and do not require remedial action under any federal, state or local legal requirements concerning such substances. Sub grantee further represents that the presence of any such substance or any condition at the site caused by the presence of any such substance shall be addressed in accordance with all applicable legal requirements.

Attachment C

Program Statutes, Regulations and Guidelines

Article I. Funding and Insurance. Grantee shall provide funds to the Sub grantee for eligible activities for the projects approved by the Grantee and the Federal Emergency Management Agency ("FEMA"), as specified in the approved Project Worksheets. Allowable costs shall be determined as per 44 Code of Federal Regulations Parts 13 and 206, which shall be seventy-five (75) percent of all eligible costs unless a higher percentage is approved.

A. The approved Project Worksheets shall be transmitted to Sub grantee, and shall state the cumulative funding allowed, the scope of the eligible project, and the costs eligible under this Agreement. Project Worksheets may obligate or deobligate funding, thereby amending the total funding for the project. The approved Project Worksheets shall document the total eligible costs and the total federal share of those costs, which shall be seventy-five (75) percent of all eligible costs, unless a higher percentage is approved. Contingent upon an appropriation by the Florida State Legislature, the Grantee may provide some portion of any nonfederal share for some Sub grantees. As a condition of receipt of the federal funding, the Sub grantee agrees to provide any nonfederal share not paid by the Grantee;

B. As a condition of the funding under this Agreement, the Sub grantee agrees that the Grantee may withhold funds otherwise payable to Sub grantee from any disbursement to Grantee upon a determination by Grantee or Federal Emergency Management Agency that funds exceeding the eligible costs have been disbursed to Sub grantee pursuant to this Agreement or any other funding agreement administered by Grantee;

C. As a further condition to funding under this Agreement, the Sub grantee agrees to procure insurance sufficient for the type or types of hazards for which the disaster was declared to cover any and all projects to be funded under this Agreement where insurance is available and reasonable. Sub grantee shall provide Grantee with a certificate of such insurance as a condition to funding under this Agreement.

Article II. Duplication of Benefits Prohibition. Sub grantee may not receive funding under this Agreement to pay for damage covered by insurance, nor may Sub grantee receive any other duplicate benefits under this Agreement.

A. Sub grantee shall without delay advise Grantee of any insurance coverage for the damage identified on the applicable Project Worksheets and of any entitlement to compensation or indemnification from such insurance. Sub grantee shall reimburse Grantee without delay for any duplicate benefits Sub grantee may receive from any other source for any damage identified on the applicable Project Worksheets for which Sub grantee has received payment from Grantee, to the extent of any such duplication;

B. In the event that Grantee should determine that Sub grantee has received duplicate benefits, by its execution of this Agreement the Sub grantee gives Grantee or the Chief Financial Officer of the Department of Financial Services of the State of Florida the authority to set off the sum of any such duplicate benefits by withholding it from any other funds otherwise due and owing to Sub grantee.

Article III. Compliance with Environmental, Planning and Permitting Laws. Sub grantee shall be responsible for the implementation and completion of the approved projects described in the Project Worksheets in a manner acceptable to Grantee, and in accordance with applicable legal requirements. The contract documents for any project undertaken by Sub grantee, and any land use permitted by or engaged in by Sub grantee, shall be consistent with the local government Comprehensive Plan. Sub grantee shall ensure that any development or development order complies with all applicable planning, permitting and building requirements. Sub grantee shall engage such competent engineering, building, and other technical and professional assistance at all project sites as may be needed to ensure that the project complies with the contract documents.

A. Grantee will inspect Small Projects by random selection, and will conduct the final inspections on Large

Projects, to ensure that all work has been performed within the scope of work specified on the Project Worksheets. Costs not within the approved scope of work shall not be reimbursed.

B. Sub grantee may make improvements to the project facility in conjunction with its restoration of the facility to its pre-disaster condition in accordance with 44 Code of Federal Regulations Section 206.226 with the prior written approval of Grantee.

C. In any case in which Sub grantee certifies to Grantee in writing that the restoration of a damaged public facility to its predisaster condition is not in the best interest of the public, Sub grantee may request Grantee and FEMA to approve an alternate project in accordance with 44 Code of Federal Regulations Section 206.203 before the commencement of any work.

D. Grantee may, in its discretion, withhold its portion of the nonfederal share of funding under this Agreement from Sub grantee if Grantee has reason to expect a subsequent unfavorable determination by the FEMA that a previous disbursement of funds under this Agreement was improper.

E. In the case of Large Projects, the Grantee shall have performed the final inspection.

F. In the case of Small Projects, the Project Listing and Certification shall have been reviewed by Grantee, or Grantee shall have performed a final inspection.

Article IV. Cost Sharing. The federal share of the eligible costs specified in the Project Worksheets under this Agreement shall be seventy-five (75) percent of such costs, unless a higher percentage is approved, and the nonfederal share shall be the remaining amount. Payment of all or a specified portion of the nonfederal share of such costs is contingent upon a potential future State appropriation defining the apportionment of the nonfederal share. Administrative costs in addition to the Project Worksheets that are otherwise eligible under 44 Code of Federal Regulations Section 206.228 and do not require matching funds may also be funded by FEMA.

Article V. Modifications. Modifications to any Project Worksheet to be funded under this Agreement may be requested by Sub grantee through Grantee, but the approval of any such modifications shall reside in the sole discretion of FEMA.

The recipient assures that it will comply with the following statutes and regulations to the extent applicable:

Chapter 216, Florida Statutes
Chapter 119, Florida Statutes
Chapter 252, Florida Statutes
Chapter 219, Florida Statutes
Chapter 286.011, Florida Statutes
Chapter 112.061, Florida Statutes
44 CFR, Parts 13 and 206
OMB Circulars A-21, A-87, A-110, A-122, A-133
Cash Management Improvement Act of 1990
Section 215.34(2), Florida Statutes
Americans with Disabilities Act
Immigration and Nationality Act
Robert T. Stafford Disaster Relief and Emergency Assistance Act
Public Law 93-288

Attachment D
Statement of Assurances

To the extent the following provisions apply to this Agreement, the Recipient certifies that:

- (a) It possesses legal authority to enter into this Agreement, and to carry out the proposed program.
- (b) Its governing body has duly adopted or passed as an official act a resolution, motion or similar action authorizing the execution of the hazard mitigation agreement with the Division, including all understandings and assurances contained in it, and directing and authorizing the Recipient's chief administrative officer or designee to act in connection with the application and to provide such additional information as may be required.
- (c) No member of or delegate to the Congress of the United States, and no Resident Commissioner, shall receive any share or part of this Agreement or any benefit. No member, officer, or employee of the Recipient or its designees or agents, no member of the governing body of the locality in which the program is situated, and no other public official of the locality or localities who exercises any functions or responsibilities with respect to the program during his tenure or for one year after, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds, for work to be performed in connection with the program assisted under this Agreement. The Recipient shall incorporate, in all contracts or subcontracts a provision prohibiting any interest pursuant to the purpose state above.
- (d) All Recipient contracts for which the state legislature is in any part a funding source, shall contain language to provide for termination with reasonable costs to be paid by the Recipient for eligible contract work completed prior to the date the notice of suspension or termination is received by the Recipient. Any cost incurred after a notice of suspension or termination is received by the Recipient may not be funded with funds provided under this Agreement unless previously approved in writing by the Division. All Recipient contracts shall contain provisions for termination for cause or convenience and shall provide for the method of payment in such event.
- (e) It will comply with:
 - (1) Contract Work Hours and Safety Standards Act of 1962, 40 U.S.C. 327 et seq., requiring that mechanics and laborers (including watchmen and guards) employed on federally assisted contracts be paid wages of not less than one and one-half times their basic wage rates for all hours worked in excess of forty hours in a work week; and
 - (2) Federal Fair Labor Standards Act, 29 U.S.C. Section 201 et seq., requiring that covered employees be paid at least the minimum prescribed wage, and also that they be paid one and one-half times their basic wage rates for all hours worked in excess of the prescribed work-week.
- (f) It will comply with:
 - (1) Title VI of the Civil Rights Act of 1964 (P.L. 88-352), and the regulations issued pursuant thereto, which provides that no person in the United States shall on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives Federal financial assistance and will immediately take any measures necessary to effectuate this assurance. If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Recipient, this assurance shall obligate the Recipient, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits.
 - (2) Any prohibition against discrimination on the basis of age under the Age Discrimination Act of

1975, as amended (42 U.S.C.: 6101-6107) which prohibits discrimination on the basis of age or with respect to otherwise qualified handicapped individuals as provided in Section 504 of the Rehabilitation Act of 1973.

- (3) Executive Order 11246 as amended by Executive Orders 11375 and 12086, and the regulations issued pursuant thereto, which provide that no person shall be discriminated against on the basis of race, color, religion, sex or national origin in all phases of employment during the performance of federal or federally assisted construction contracts; affirmative action to insure fair treatment in employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff/termination, rates of pay or other forms of compensation; and election for training and apprenticeship.
- (g) It will establish safeguards to prohibit employees from using positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties pursuant to Section 112.313 and Section 112.3135, FS.
- (h) It will comply with the Anti-Kickback Act of 1986, 41 U.S.C. Section 51 which outlaws and prescribes penalties for "kickbacks" of wages in federally financed or assisted construction activities.
- (i) It will comply with the provisions of 18 USC 594, 598, 600-605 (further known as the Hatch Act) which limits the political activities of employees.
- (j) It will comply with the flood insurance purchase and other requirements of the Flood Disaster Protection Act of 1973 as amended, 42 USC 4002-4107, including requirements regarding the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes for use in any area having special flood hazards. The phrase "Federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance.
- (k) It will require every building or facility (other than a privately owned residential structure) designed, constructed, or altered with funds provided under this Agreement to comply with the "Uniform Federal Accessibility Standards," (AS) which is Appendix A to 41 CFR Section 101-19.6 for general type buildings and Appendix A to 24 CFR Part 40 for residential structures. The Recipient will be responsible for conducting inspections to ensure compliance with these specifications by the contractor.
- (l) It will, in connection with its performance of environmental assessments under the National Environmental Policy Act of 1969, comply with Section 106 of the National Historic Preservation Act of 1966 (U.S.C. 470), Executive Order 11593, 24 CFR Part 800, and the Preservation of Archaeological and Historical Data Act of 1966 (16 U.S.C. 469a-1, et seq.) by:
 - (1) Consulting with the State Historic Preservation Office to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to adverse effects (see 36 CFR Section 800.8) by the proposed activity.
 - (2) Complying with all requirements established by the state to avoid or mitigate adverse effects upon such properties.
 - (3) Abiding by the terms and conditions of the "**Programmatic Agreement Among the Federal Emergency Management Agency, the Florida State Historic Preservation Office, the Florida Division of Emergency Management and the Advisory Council on Historic Preservation, (PA)**" which addresses roles and responsibilities of federal and state entities in implementing Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. 470f, and implementing regulations in 36 CFR part 800.

- (4) When any of Recipient's projects funded under this Agreement may affect a historic property, as defined in 36 CFR 800. (2)(e), the FEMA may require Recipient to review the eligible scope of work in consultation with the State Historic Preservation Office (SHPO) and suggest methods of repair or construction that will conform with the recommended approaches set out in the **Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings 1992 (Standards)**, the **Secretary of the Interior's Guidelines for Archeological Documentation (Guidelines)** (48 Federal Register 44734-37), or any other applicable Secretary of Interior standards. If FEMA determines that the eligible scope of work will not conform with the **Standards**, Recipient agrees to participate in consultations to develop, and, after execution by all parties, to abide by, a written agreement that establishes mitigation and recondition measures, including but not limited to, impacts to archeological sites, and the salvage, storage, and reuse of any significant architectural features that may otherwise be demolished.
- (5) Recipient agrees to notify FEMA and the Division if any project funded under this Agreement will involve ground disturbing activities, including, but not limited to: subsurface disturbance; removal of trees; excavation for footings and foundations; and installation of utilities (such as water, sewer, storm drains, electrical, gas, leach lines and septic tanks) except where these activities are restricted solely to areas previously disturbed by the installation, replacement or maintenance of such utilities. FEMA will request the SHPO's opinion on the potential that archeological properties may be present and be affected by such activities. The SHPO will advise Recipient on any feasible steps to be accomplished to avoid any National Register eligible archeological property or will make recommendations for the development of a treatment plan for the recovery of archeological data from the property.

If Recipient is unable to avoid the archeological property, develop, in consultation with the SHPO, a treatment plan consistent with the **Guidelines** and take into account the Advisory Council on Historic Preservation (Council) publication "Treatment of Archeological Properties". Recipient shall forward information regarding the treatment plan to FEMA, the SHPO and the Council for review. If the SHPO and the Council do not object within 15 calendar days of receipt of the treatment plan, FEMA may direct Recipient to implement the treatment plan. If either the Council or the SHPO object, Recipient shall not proceed with the project until the objection is resolved.

- (6) Recipient shall notify the Division and FEMA as soon as practicable: (a) of any changes in the approved scope of work for a National Register eligible or listed property; (b) of all changes to a project that may result in a supplemental DSR or modify an HMGP project for a National Register eligible or listed property; (c) if it appears that a project funded under this Agreement will affect a previously unidentified property that may be eligible for inclusion in the National Register or affect a known historic property in an unanticipated manner. Recipient acknowledges that FEMA may require Recipient to stop construction in the vicinity of the discovery of a previously unidentified property that may be eligible for inclusion in the National Register or upon learning that construction may affect a known historic property in an unanticipated manner. Recipient further acknowledges that FEMA may require Recipient to take all reasonable measures to avoid or minimize harm to such property until FEMA concludes consultation with the SHPO. Recipient also acknowledges that FEMA will require, and Recipient shall comply with, modifications to the project scope of work necessary to implement recommendations to address the project and the property.
- (7) Recipient acknowledges that, unless FEMA specifically stipulates otherwise, it shall not receive funding for projects when, with intent to avoid the requirements of the PA or the NHPA, Recipient intentionally and significantly adversely affects a historic property, or

having the legal power to prevent it, allowed such significant adverse affect to occur.

- (m) It will comply with Title IX of the Education Amendments of 1972, as amended (20 U.S.C.: 1681-1683 and 1685 - 1686) which prohibits discrimination on the basis of sex.
- (n) It will comply with the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, (42 U.S.C. 4521-45-94) relating to nondiscrimination on the basis of alcohol abuse or alcoholism.
- (o) It will comply with 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records.
- (p) It will comply with Lead-Based Paint Poison Prevention Act (42 U.S.C.: 4821 et seq.) which prohibits the use of lead based paint in construction of rehabilitation or residential structures.
- (q) It will comply with the Energy Policy and Conservation Act (P.L. 94-163; 42 U.S.C. 6201-6422), and the provisions of the state Energy Conservation Plan adopted pursuant thereto.
- (r) It will comply with the Laboratory Animal Welfare Act of 1966, 7 U.S.C. 2131-2159, pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by an award of assistance under this agreement.
- (s) It will comply with Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 2000c and 42 3601-3619, as amended, relating to non-discrimination in the sale, rental, or financing of housing, and Title VI of the Civil Rights Act of 1964 (P.L. 88-352), which prohibits discrimination on the basis of race, color or nation origin.
- (t) It will comply with the Clean Air Act of 1955, as amended, 42 U.S.C. 7401-7642.
- (u) It will comply with the Clean Water Act of 1977, as amended, 42 U.S.C. 7419-7626.
- (v) It will comply with the Endangered Species Act of 1973, 16 U.S.C. 1531-1544.
- (w) It will comply with the Intergovernmental Personnel Act of 1970, 42 U.S.C. 4728-4763.
- (x) It will assist the awarding agency in assuring compliance with the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 270.
- (y) It will comply with environmental standards which may be prescribed pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4321-4347.
- (z) It will assist the awarding agency in assuring compliance with the Preservation of Archeological and Historical Preservation Act of 1966, 16 U.S.C. 469a, et seq.
- (aa) It will comply with the Rehabilitation Act of 1973, Section 504, 29 U.S.C. 794, regarding non-discrimination.
- (bb) It will comply with the environmental standards which may be prescribed pursuant to the Safe Drinking Water Act of 1974, 42 U.S.C. 300f-300j, regarding the protection of underground water sources.
- (cc) It will comply with the requirements of Titles II and III of the Uniform Relocation Assistance and Property Acquisition Policies Act of 1970, 42 U.S.C. 4621-4638, which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs.
- (dd) It will comply with the Wild and Scenic Rivers Act of 1968, 16 U.S.C. 1271-1287, related to protecting

components or potential components of the national wild and scenic rivers system.

- (ee) It will comply with the following Executive Orders: EO 11514 (NEPA); EO 11738 (violating facilities); EO 11988 (Floodplain Management); EO 11990 (Wetlands); and EO 12898 (Environmental Justice).
- (ff) It will comply with the Coastal Barrier Resources Act of 1977, 16 U.S.C. 3510.
- (gg) It will assure project consistency with the approved state program developed under the Coastal Zone Management Act of 1972, 16 U.S.C. 1451-1464.
- (hh) It will comply with the Fish and Wildlife Coordination Act of 1958; 16 U.S.C. 661-666.
- (ii) With respect to demolition activities, it will:
 - 1. Create and make available documentation sufficient to demonstrate that the Recipient and its demolition contractor have sufficient manpower and equipment to comply with the obligations as outlined in this Agreement.
 - 2. Return the property to its natural state as though no improvements had ever been contained thereon.
 - 3. Furnish documentation of all qualified personnel, licenses and all equipment necessary to inspect buildings located in Recipient's jurisdiction to detect the presence of asbestos and lead in accordance with requirements of the U.S. Environmental Protection Agency, the Florida Department of Environmental Protection and the county health department.
 - 4. Provide documentation of the inspection results for each structure to indicate:
 - a. Safety Hazards Present
 - b. Health Hazards Present
 - c. Hazardous Materials Present
 - 5. Provide supervision over contractors or employees employed by Recipient to remove asbestos and lead from demolished or otherwise applicable structures.
 - 6. Leave the demolished site clean, level and free of debris.
 - 7. Notify the Division promptly of any unusual existing condition which hampers the contractors work.
 - 8. Obtain all required permits.
 - 9. Provide addresses and marked maps for each site where water wells and septic tanks are to be closed along with the number of wells and septic tanks located on each site. Provide documentation of closures.
 - 10. Comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163).
 - 11. Comply with all applicable standards, orders, or requirements issued under Section 112 and 306 of the Clean Air Act (42 U.S.C. 1857 (h), Section 508 of the Clean Water Act (33 U.S. 1368), Executive Order 11738, and the U.S. Environmental Protection Agency regulations (40 CFR Part 15 and 61). This clause shall be added to any subcontracts.
 - 12. Provide documentation of public notices for demolition activities.

Attachment D

Warranties and Representations

Financial Management

Recipient's financial management system must include the following:

- (1) Accurate, current and complete disclosure of the financial results of this project or program.
- (2) Records that identify the source and use of funds for all activities. These records shall contain information pertaining to grant awards, authorizations, obligations, unobligated balances, assets, outlays, income and interest.
- (3) Effective control over and accountability for all funds, property and other assets. Recipient shall safeguard all assets and assure that they are used solely for authorized purposes.
- (4) Comparison of expenditures with budget amounts for each "Request for Payment." Whenever appropriate, financial information should be related to performance and unit cost data.
- (5) Written procedures to determine whether costs are allowed and reasonable under the provisions of the applicable OMB cost principles and the terms and conditions of this Agreement.
- (6) Cost accounting records that are supported by backup documentation.

Competition

All procurement transactions shall be done in a manner to provide open and free competition. The Recipient shall be alert to conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure excellent contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, and invitations for bids and/or requests for proposals shall be excluded from competing for such procurements. Awards shall be made to the bidder or offeror whose bid or offer is responsive to the solicitation and is most advantageous to the Recipient, considering the price, quality and other factors. Solicitations shall clearly set forth all requirements that the bidder or offeror must fulfill in order for the bid or offer to be evaluated by the Recipient. Any and all bids or offers may be rejected when it is in the Recipient's interest to do so.

Codes of conduct.

The Recipient shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by public grant funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated, has a financial or other interest in the firm selected for an award. The officers, employees, and agents of the Recipient shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. The standards of conduct shall provide for disciplinary actions to be applied for violations of the standards by officers, employees, or agents of the Recipient.

Business Hours

The Recipient shall have its offices open for business, with the entrance door open to the public, and at least one employee on site, from 8 a.m – 5 p.m EST.

Licensing and Permitting

All subcontractors or employees hired by the Recipient shall have all current licenses and permits required for all of the particular work for which they are hired by the Recipient.

Attachment E



Subcontractor Covered Transactions

- (1) The prospective subcontractor of the Recipient, _____, certifies, by submission of this document, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
- (2) Where the Recipient's subcontractor is unable to certify to the above statement, the prospective subcontractor shall attach an explanation to this form.

SUBCONTRACTOR:

By: _____

Signature

Recipient's Name

Name and Title

Division Contract Number

Street Address

City, State, Zip

Date

TAB 3

RESOLUTION NO. 08-_____

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA URGING THE MEMBERS OF THE FLORIDA LEGISLATURE TO SUPPORT FLORIDA LEAGUE OF CITIES PRIORITY ISSUES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay (hereinafter referred to as the “Town”) is a member of the Florida League of Cities (hereinafter referred to as the “League”) and the Town Council supports the League’s legislative priorities; and

WHEREAS, Governor Charlie Crist and Florida’s House and Senate leaders have an opportunity to address the unique concerns of municipalities.

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. Requests. The Town Council of the Town of Cutler Bay, Florida, hereby urges Governor Charlie Crist and members of the Florida Legislature to support legislation that:

- 1) REQUIRES THE FLORIDA LEGISLATURE TO ELIMINATE UNFUNDED STATE MANDATES ON LOCAL GOVERNMENTS;
- 2) SUPPORTS AN AMENDMENT TO FLORIDA’S CONSTITUTION TO REQUIRE THE FLORIDA LEGISLATURE TO OPERATE UNDER THE FLORIDA SUNSHINE LAWS;
- 3) OPPOSES AN AMENDMENT TO THE FLORIDA CONSTITUTION REQUIRING THAT EVERY AMENDMENT TO A CITY’S OR COUNTY’S COMPREHENSIVE PLAN BE SUBJECT TO A VOTE OF THE RESPECTIVE CITY’S OR COUNTY’S ELECTORATE;
- 4) ENCOURAGES CITIES, OTHER PUBLIC AGENCIES AND BUSINESSES TO CREATE SUMMER EMPLOYMENT OPPORTUNITIES FOR OUR CITIES’ YOUTH.

Section 3. Authorization. The Town Clerk is hereby authorized and directed to transmit a copy of this resolution to Governor Charlie Crist, Senate President Ken Pruitt, House of Representatives Speaker Marco Rubio, members of the Florida Legislature, members of the Miami-

Dade Delegation, and the Florida League of Cities.

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 4



MEMORANDUM

To: Honorable Mayor and Councilmembers

From: Steven J. Alexander, Town Manager

Date: October 1, 2008

Re: **Execution of an Affidavit and Interlocal Agreement with Miami-Dade County for the Town to participate in the parking fines reimbursement program**

REQUEST

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING THE INTERLOCAL AGREEMENT WITH MIAMI-DADE COUNTY ALLOWING THE TOWN TO PARTICIPATE IN THE COUNTY'S MUNICIPAL PARKING FINES REIMBURSEMENT PROGRAM; AUTHORIZING THE TOWN MANAGER TO EXECUTE SAID AGREEMENT AND THE RELATED AFFIDAVIT AND TAKE STEPS NECESSARY TO IMPLEMENT THE PROGRAM; PROVIDING FOR CONFLICTS AND PROVIDING FOR AN EFFECTIVE DATE.

BACKGROUND AND ANALYSIS

Section 316.008 Florida Statutes and Miami-Dade County (the "County") Code Section 30-447 authorize the charging of fines for misuse of specially marked parking spaces for people with disabilities. The County has established a program to distribute said fines to municipalities within the County based on an established formula. Based on this formula, the County estimates \$3,277 may be available to the Town under this program.

To obtain these funds from the County, a "General Affidavit" and "Interlocal Agreement", each in the form attached hereto, need to be executed and delivered to the County. Once obtained, use of these funds would be restricted to provide funds to improve accessibility and equal opportunity to qualified physically disabled persons and to provide funds to conduct public awareness programs concerning physically disabled persons.

RECOMMENDATION

Staff recommends adoption of the resolution and execution of the "General Affidavit" and "Interlocal Agreement" with the County to participate in this program.

RESOLUTION NO. 08-____

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING THE “INTERLOCAL AGREEMENT” BETWEEN MIAMI-DADE COUNTY AND THE TOWN OF CUTLER BAY RELATING TO THE PARKING FINES REIMBURSEMENT PROGRAM; APPROVING THE ANNUAL “GENERAL AFFIDAVIT” TO BE SUBMITTED IN ORDER TO OBTAIN THOSE FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE AFFIDAVIT AND THE INTERLOCAL AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 316.1955 and Section 316.008(4) Florida Statutes, and Section 30-447 of the Code of Miami-Dade County authorize the charging of fines for misuse of specially marked parking spaces for people with disabilities; and

WHEREAS, under Miami-Dade County’s (the “County”) parking fine reimbursement program, the Town of Cutler Bay (the “Town”) may receive an annual payment from the County that consists of a percentage of the fines collected for illegally parking in handicapped spaces, and unspent funds from other municipalities; and

WHEREAS, in accordance with Section 30-447 of the Code of Miami-Dade County, two-thirds of the money collected for fines is to be used to improve accessibility and equal opportunity to physically disabled persons, as well as conduct public awareness initiatives for those with disabilities; and

WHEREAS, the County has recently streamlined their system for disbursing funds under their parking fines reimbursement program, and in order to participate in the streamlined parking fines reimbursement program the Town desires to utilize the agreements attached as Exhibit “A” and Exhibit “B” ; and

WHEREAS, the Town and the County desire to enter into an agreement that disperses the proceeds of parking fines upon the terms of the interlocal agreement, in substantially the form attached hereto as Exhibit “A”; and

WHEREAS, the Town and the County desire to utilize the general affidavit provided by the County in order to provide for the annual transfer of the funds, in substantially the form attached hereto as Exhibit “B”; and

WHEREAS, the Town Council finds this Resolution to be in the best interest and welfare of the residents of the Town.

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

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

Section 2. Interlocal Agreement Approved. The Town Council hereby approves the “Interlocal Agreement” between Miami-Dade County and the Town of Cutler Bay relating to the County parking fine reimbursement program in substantially the form attached hereto as Exhibit “A.”

Section 3. General Affidavit Approved. The Town Council hereby approves the “General Affidavit” to be submitted annually by the Town of Cutler Bay to Miami-Dade County relating to the County parking fine reimbursement program in substantially the form attached hereto as Exhibit “B.”

Section 4. Manager Authorized Regarding Interlocal Agreement. The Town Manager is hereby authorized to execute the “Interlocal Agreement” between Miami-Dade County and the Town of Cutler Bay in substantially the form attached hereto as Exhibit “A,” on behalf of the Town.

Section 5. Manager Authorized Regarding General Affidavit. The Town Manager is hereby authorized to annually execute the “General Affidavit” between Miami-Dade County and the Town of Cutler Bay in substantially the form attached hereto as Exhibit “B,” on behalf of the Town.

Section 6. 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 _____

EXHIBIT "A"

INTERLOCAL AGREEMENT

This agreement is entered into this _____ day of _____ year, by and between Miami-Dade County, Florida, a political subdivision of the State of Florida (the "County") and _____(the "municipality"), a municipal corporation organized and existing under the laws of the State of Florida.

WITNESSETH

WHEREAS, Section 316.008 Florida Statutes, and Section 30-447. Code of Miami-Dade County, authorizes the charging of fines for misuse of specially marked parking spaces for people with disabilities, and

WHEREAS, Miami-Dade County proposes to distribute said fines under the provisions of Section 30-447 of the Code of Miami-Dade County, Florida.

NOW THEREFORE in consideration of the covenants contain herein, the parties agree as follows

1. This agreement shall become effective upon its execution by the authorized officers of the parties and will continue annually upon agreement by both parties.
2. The allocation of the disabled parking fine monies shall be used to provide funds to improve accessibility and equal opportunity to qualified physically disabled persons and to provide funds to conduct public awareness programs concerning physically disabled persons.

3. The parties shall annually submit an affidavit sworn by the chief administrative official of the municipality to the Miami-Dade County Office of Americans with Disabilities Act Coordination, hereinafter known as the “ADA Office”.

4. The affiant will affirm that expenditures meet the following criteria:
 - a. The funds reimbursed shall be used to improve accessibility and equal opportunity to qualified persons who have disabilities in the municipality and to conduct public awareness programs in the municipality concerning persons who have disabilities.

 - b. If only a portion of the project or program is being promoted to benefit people with disabilities, then only that portion of the project or program may be funded with these monies.

5. The parties agree to follow the terms and conclusions regarding payment as follows:
 - a. The percentage for distribution shall be calculated by the County annually. Each year the County shall notify all municipalities of the percentages of distribution of the disabled permit parking fine money for the upcoming annual period. The percentage for distribution to the County and to the municipalities is based on a percentage of total revenue which is determined by calculating the total number of fines paid county-wide. Funding estimates include a percentage of the monies which were not distributed to any municipalities in the previous year.

- b. The County agrees to pay the municipality under this agreement based on a payment schedule agreed upon by the Office of ADA Coordination, accompanied by such documentation as requested.
- c. In no event shall County funds be advanced to any subcontractor hereunder.
- d. The parties shall return funds to the Clerk of the Board if the project is not successfully completed and shall allow the Office of ADA Coordination to audit projects and conduct site visits. Any such audits or inspections shall be conducted in such manner and at such times so as not to unreasonably interfere with the day-to-day operation of the parties.
- e. The County may amend the terms of this agreement from time to time, as it may deem necessary.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed by their respective and duly authorized officers on the date hereinabove first mentioned.

ATTEST:

MIAMI-DADE COUNTY, FLORIDA

Harvey Ruvin, Clerk

By: _____
Carlos Alvarez, Mayor

ATTEST:

CITY OF _____, FLORIDA

City Clerk

(Official Seal)

By: _____
City Manager (Date)

EXHIBIT "B"

GENERAL AFFIDAVIT

State of Florida
County of _____

BEFORE **ME,** the undersigned Notary,

[name of Notary before whom affidavit is sworn], on this _____ *[day of month]* day of
_____ *[month]*, 20____, personally appeared

[name of affiant],
known to me to be a credible person and of lawful age, who being by me first duly
sworn, on _____ *[his or her]* oath, deposes and says:

The municipal parking fines funds reimbursed shall be used to improve accessibility and equal opportunity to qualified persons who have disabilities in the municipality and to conduct public awareness programs in the municipality concerning persons who have disabilities.

If only a portion of the project or program is being promoted to benefit people with disabilities, then only that portion of the project or program will be funded with these monies.

The municipality shall return funds to the Clerk of the Board if the project is not successfully completed and shall allow the Miami-Dade County Office of ADA Coordination to audit projects and conduct site visits. Any such audits or inspections shall be conducted in such manner and at such times so as not to unreasonably interfere with the day-to-day operation of the parties.

[set forth affiant's statement of facts]

[signature of affiant]

[typed name of affiant]

[address of affiant, line 1]

[address of affiant, line 2]

State of Florida

County of _____

Sworn to (or affirmed) and subscribed before me this _____ day of _____,
_____ (year), by _____ (name of person making
statement).

(Signature of Notary Public - State of Florida)

(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known _____ OR Produced Identification _____

Type of Identification Produced _____

TAB 5

RESOLUTION NO. 08-_____

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING THE AGREEMENT WITH GOMEZ BARKER ASSOCIATES (“GBA”), THE APPROPRIATIONS AND INTERGOVERNMENTAL CONSULTING SERVICE THAT REPRESENTS THE TOWN BEFORE THE EXECUTIVE AND LEGISLATIVE BRANCHES OF THE STATE GOVERNMENT, AND APPROVING AN INCREASE IN COMPENSATION TO GBA; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Cutler Bay (the “Town”) was very pleased with the outcome of the 2008 State of Florida Legislative Session (the “Session”) as it relates to the Town’s specific needs and interests; and

WHEREAS, the Town Council recognizes that the hard work and determination of the appropriations and intergovernmental consulting service that represents the Town, Gomez Barker Associates, was in large part responsible for successful outcome of the Session; and

WHEREAS, the Town of Cutler Bay has been awarded a total of \$621,221.68 in legislatively appropriated funds including the Stormwater Project at \$250,000; the Recycling Initiative at \$100,000; Saga Bay Park at \$135,199; and Gateway Park at \$135,199; and

WHEREAS, Gomez Barker Associates secured local park funding for both Saga Bay Park and Gateway Park at an additional amount of \$200,000 each in addition to the parks funding in the FRDAP program; and

WHEREAS, in actuality the total amount approved by the Governor to the Town of Cutler Bay in the 2008 Appropriations Bill is \$1,021,221.68; and

WHEREAS, the Town Council also wishes to amend the “Agreement for Professional Services” with Gomez Barker Associates (Exhibit “A”) to reflect the revised compensation approved by the Town to be \$ 5,000 /per month; 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 the Consulting Service Compensation Increase.** The Town Council hereby approves a revision in the Gomez Barker Associates’ compensation to \$ 5,000 /per month.

Section 3. Amendment of the Agreement for Professional Services. The “Agreement for Professional Services” with Gomez Barker Associates (Exhibit “A”) is amended to reflect the increase in compensation approved by the Town Council.

Section 4. Authorization. That the attached "Agreement for Professional Services” with Gomez Barker Associates (Exhibit “A”) is hereby approved as amended by Section 3 of this resolution, and the Town Manager is hereby authorized to execute the attached “Agreement for Professional Services” for the provision of work and services described in the Agreement, in substantially the form attached hereto, once approved by the Town Attorney as to form and legal sufficiency.

Section 5. Effective Date. This Resolution shall be effective immediately upon adoption. However, the compensation increase provided for in section two and three of this Resolution shall become effective on October 1, 2008.

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 _____

AGREEMENT FOR PROFESSIONAL SERVICES

Agreement is made this 1st day of September, 2007 between the Town of Cutler Bay (hereinafter referred to as the "Cutler Bay") and Gomez Barker Associates, Inc., (hereinafter referred to as "Gomez Barker").

WHEREAS, Cutler Bay desires that Gomez Barker make available its services as specified in this document, in support of it's government relations and public affairs efforts; and

WHEREAS, Gomez Barker has special professional qualifications in said services and is willing and able to provide same under the terms and conditions set forth in this document;

NOW, THEREFORE, the parties do mutually agree as follows:

1. The period of this agreement shall be from September 1st, 2007 until August 31st, 2008 inclusive. This Agreement will renew automatically for additional year(s) on the anniversary date(s) unless terminated by either party with thirty (30) day written notice prior to the expiration date.
2. For the performance of the services described in the attached Schedule A (Scope of Work), Cutler Bay shall pay Gomez Barker the compensation provided for in the attached Schedule B (Compensation).
2. Gomez Barker agrees to perform its services with that standard of care, skill, and diligence normally provided by a professional organization in the performance of similar services. It is understood that Cutler Bay and Gomez Barker shall be entitled to rely on such information. Gomez Barker agrees that any such information provided to it shall only be used for the performance of this engagement and shall not be divulged to a third-party.
3. It is understood and agreed that Gomez Barker is acting as an independent contractor and not as an employee of Cutler Bay.
4. Gomez Barker agrees that all acts to be performed by it in connection with this Agreement must be performed in strict conformity with all applicable laws and regulations of federal, state, and local jurisdictions.
5. Either party may terminate this Agreement without penalty by giving thirty (30) days notice of termination to the other party. In the event the Town terminates the agreement it shall pay Gomez Barker all fees earned up to the date of termination on a per diem basis at the rate of \$117 per day for any partial month. In the event of termination, Gomez Barker shall provide Cutler Bay with a status report descriing all

actions taken by the firm in furtherance of Cutler Bay's legislative goals up through the date of termination and all files and other documents in Gomez Barker's possession relating to Cutler Bay or its legislative goals. Cutler Bay shall reimburse all costs incurred through the date of termination as provided in Schedule B, section 2 hereof upon presentation of appropriate documentation.

6. A waiver by either party of any of the terms and conditions, provisions, or covenants of this Agreement in any instance shall not be deemed or construed to be a waiver of any such term, condition, provision, or covenant for the future, or of any subsequent breach of same.
7. This Agreement constitutes the entire agreement between the parties and supersedes all other agreements or understandings, written or oral, prior to the signing of this document.
8. The laws of the State of Florida govern all questions with respect to this Agreement, and the rights and liabilities of the parties.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed the day and year first above written

signed version

SCHEDULE A

This sets forth the objectives to be reached by this effort and the planned work content in accordance with the term and provisions of this Agreement. Gomez Barker believes that effective lobbying is based on a series of interrelated elements and these constitute its approach. In order to secure the state policy objectives of Cutler Bay, Gomez Barker will undertake the tasks outlined below:

1. **Intelligence and Communication** – Fundamental to the ability to impact state policy is a basic comprehension of the law and administrative rules and the ability to learn of the existence and content of proposals to modify them. By knowing how government works, and having access to information and the competency to evaluate it, Gomez Barker is able to identify opportunities or anticipate problems and thus gauge their impact on the interests of Cutler Bay.

The staff of Gomez Barker regularly reviews interim legislative reports and meet with legislators, legislative staff, and agency personnel in order to determine what issues are on the agenda, which are being informally discussed, and which have the potential to become state policy. This is in order to develop an appreciation of the opportunities for securing favorable changes to law or resources and is crucial for helping understand the policy and budgetary context in which decisions are likely. Information is a key element in formulating a successful legislative strategy. Prior to the beginning of the legislative calendar, Gomez Barker would “trail balloon” Cutler Bay’s legislative plan in order to learn how decision-makers would view and receive it and what modifications, if any, may need to be made.

2. **Preparation** – The legislative requirements of Cutler Bay should be reflective of its public policy goals and the information obtained by Gomez Barker through the process described above. In order for it to be viable, the program must have concise and defined goals and every item must be specific, measurable, achievable, and reasonable. Gomez Barker will prepare a legislative program, including substantive changes to law and budget requests, draft legislation and presentation materials, and develop a legislative strategy and a focused political message.
3. **Presentation** - Gomez Barker will present the legislative program of Cutler Bay to the appropriate committees in both the House and Senate as well as meet individually with key legislators. The firm will testify and articulate the Town’s interests during the drafting and deliberation process and monitor

legislative sessions and committee meetings. Monitoring occurs through day-to-day participation in legislative sessions, pertinent committee meetings, and discussions with individual legislators and staff, and through a subscription to a legislative data service that provides the most comprehensive monitoring capability currently available.

4. **Involvement and Coordination** – Cutler Bay officials will be encouraged to communicate with policy-makers and to visit Tallahassee during the legislative session. These communications and meetings will be planned and coordinated by Gomez Barker who will schedule meetings, review materials and correspondence, and brief the participants prior to any meetings.
5. **Collateral Support** - Gomez Barker will identify other organizations that share common legislative goals and, as appropriate, coordinate lobbying strategy with them. This is intended to broaden the reach and legislative base of support for Cutler Bay. These will include the Miami-Dade League of Cities, the Florida League of Cities, and the Florida Association of Counties. Gomez Barker will also review the legislative goals of other entities and, when necessary, work to stop any legislation or initiative that may have a negative impact on Cutler Bay's interests.
6. **Lobbying and Monitoring** - Gomez Barker will provide year-round, full-time, lobbying and representation at both the legislative and executive agency level. It maintains fully staffed offices in Miami and Tallahassee from which lobbying, review of agency action, monitoring, and follow-up occurs.
7. **Reporting** – Focused and accurate communication with Cutler Bay about the status of legislation, budget requests, or any other important issue will be through written progress reports, meetings, and/or telephone contact.
8. **Public Affairs** – Gomez Barker will promote Cutler Bay's agenda to legislators, legislative staff, and executive officials so that a full understanding of the Town will facilitate legislative requests.

SCHEDULE B

This sets forth the compensation payable by Cutler Bay to Gomez Barker in accordance with the terms set forth in the Agreement.

1. Total professional compensation is \$42,000 per annum. This shall be paid on the basis of a monthly retainer of \$3,500 per month, the first payment due on September 1st, 2007 and continuing on the 1st day of each month until the conclusion of this Agreement.
2. Cutler Bay agrees to reimburse Gomez Barker for any reasonable and appropriate expense, extraordinary in nature and incurred with the prior approval of the Town in the course of performing the services specified in this document. Gomez Barker will provide any and all documentation in connection with any reimbursable expenses incurred, not to exceed \$ 3,000 during the course of any annual period.

TAB 6



MEMORANDUM

To: Honorable Mayor and Town Council

From: Steven J. Alexander, Town Manager

Date: October 7, 2008

Re: Approval of contract for Green or Sustainability Consulting Services

REQUEST

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, RELATING TO CONSULTING SERVICES, AUTHORIZING THE TOWN MANAGER TO EXECUTE AN AGREEMENT WITH THE FIRM, SPILLIS CANDELA DMJM, FOR GREEN OR SUSTAINABILITY CONSULTING SERVICES AS SPECIFIED IN RFQ #08-01; AND PROVIDING FOR AN EFFECTIVE DATE.

BACKGROUND AND ANALYSIS

Town of Cutler Bay Resolution No. 08-10, authorized the Town Manager to issue a Request for Qualifications for Green or Sustainability Consulting Services (RFQ #08-01). The primary purpose of this RFQ was to find a consulting firm to provide professional services to assist with the implementation of various Town goals and objectives, such as achieve certification to the Florida Green Building Coalition's Florida Green Local Government Standard.

Five firms submitted responses to the RFQ. The selection committee unanimously selected Spillis, Candela DMJM for the firm's experience, qualifications, assigned team of professionals and approach.

RECOMMENDATION

We recommend that the resolution be adopted.

RESOLUTION NO. 08-____

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING THE AGREEMENT WITH SPILLIS CANDELA DMJM FOR GREEN BUILDING INITIATIVES; AUTHORIZING THE TOWN MANAGER TO ENTER INTO THIS AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Cutler Bay (“Town”) finds that it is both necessary and appropriate to retain a firm to provide green building initiatives, which include but are not limited to, the creation of a Green Plan; and

WHEREAS, the Town Council authorized the issuance of a Request for Proposals (RFP) for the creation of a Green Plan; and

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

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

WHEREAS, in accordance with Section 3.10 of the Town Charter, the Town Manager has made a written recommendation to the Council for its approval; and

WHEREAS, the Town Attorney’s Office has reviewed the terms of the agreement with Candela & Partners, Inc., d/b/a Spillis Candela DMJM, attached as Exhibit A, and has determined that it is legally sufficient; and

WHEREAS, the Town Council finds this Resolution to be 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, THAT:

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

Section 2. **Approval of the Agreement.** The Town Council hereby approves the agreement with Spillis Candela DMJM for green building initiatives, in substantially the form attached hereto as Exhibit A (the “Agreement”).

Section 3. **Town Manager Authorized.** The Town Manager is authorized, on behalf of the Town, to execute the green building initiatives contract with Spillis Candela DMJM for the green building initiatives, in substantially the form attached hereto as Exhibit A. The Town Manager is authorized to execute, without further Town Council action and once approved by the Town Attorney as to form and legal sufficiency, an amendment to the Agreement expanding its

scope to include additional services so long as those additional services were part of RFQ #08-01 issued by the Town.

Section 4. **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 7



Planning & Zoning Department

Kathryn Lyon
Interim Community Development Director

MEMORANDUM

DATE: October 1, 2008

TO: Steven J. Alexander, Town Manager

FROM: Kathryn Lyon, Acting Community Development Director

RE: Application #W 2008-014
Costa Brava Estates
8420 SW 197 St & 19781 SW 84 Ct
(Folio#36-6003-037-0070 and 36-6003-037-0040)

APPLICANT REQUEST:

Costa Brava Estates, LLC., requests a waiver from the Old Cutler Road Overlay Zoning District Regulations for 20 Single Family Homes at 19691 SW 84 Court.

LOCATION:

The property is generally located south of SW 197th Street, west of Old Cutler Road, east of SW 84th Place and north of SW 198th Street.

A portion of the SW1/4 of Section 3, Township 56 South Range 40 East, Miami-Dade County, Florida.

BACKGROUND AND ANALYSIS:

Costa Brava Estates, LLC., is requesting a waiver from the provisions of Ordinance 07-01 for the construction of 20 Single Family Homes. Unit model size ranges from 3,000 to 5,000, and consists of between three to six bedrooms, three and a half to five bathrooms.

These parcels are zoned RU-1 (Single Family Residential) and EU-M (Estate Modified District).

Background

The property is located in the Old Cutler Overlay Zone. The surrounding properties are zoned RU-1 to the east and west, except to the north and south which is zoned

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Planning & Zoning Department

EU-M and AU. Single family homes have been developed on surrounding properties.

* * *

Analysis

Ordinance 07-01 Old Cutler Road Overlay Zoning District

Permitted Use: Attached single family home with a maximum density as permitted by the property's underlying Land Use Designation.

The Old Cutler Road Overlay Zoning Designation requires front facades be oriented towards Old Cutler Road.

7. Front Façade

a. Definition. For purposes of this section the term "Front Façade" shall be defined as that portion of the building facing Old Cutler Road and aligning with the property line adjoining the right-of-way of Old Cutler Road.

b. Properties with an underlying Residential zoning designation. At least 50% of the residential units along a block face shall provide a forecourt.

The two single family homes on Old Cutler Road are proposed to be oriented toward side streets.

1. Properties with an underlying zoning designation- The minimum lot requirement shall be 6,000 square feet and the minimum frontage requirement shall be 35 feet.
2. Setback: Properties with underlying residential zoning have a zero foot setback.

This request is consistent with the current zoning of the surrounding properties with the exception of the zero foot setback required by Ordinance 07-01. The applicant was requested to examine re-orienting the lots adjacent to Old Cutler road at the Zoning Workshop. After examining this option, the applicants have retained the orientation as was platted prior to adoption of Ordinance 07-01.

The code provides that a property owner with an underlying Residential zoning designation may apply for a waiver from the provisions of this Ordinance as follows:

2. Approval after a public hearing. If less than 50% of the block frontage where the property is located has: (a) received a development permit authorizing construction of a new building or (b) been developed prior to the effective date of this Ordinance, a waiver from the provisions of this Ordinance may be granted after a public hearing. The Town

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Planning & Zoning Department

Council, after a public hearing, may grant a waiver from the provisions of this Ordinance, where the Town Council determines, based upon substantial competent evidence, that the specific use or activity requested by the waiver application will be compatible with the surrounding land uses and development, and will not impair the public health, safety, or welfare.

TOWN STAFF RECOMMENDATION:

Approval

The waiver application will be compatible with the surrounding land uses and development, and will not impair the public health, safety, or welfare.

RESOLUTION NO. 08-_____

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, GRANTING A WAIVER FROM THE PROVISIONS OF ORDINANCE 07-01 RELATING TO THE OLD CUTLER ROAD OVERLAY ZONING DISTRICT FOR PROPERTIES LOCATED AT 8420 S.W. 197 STREET AND 19781 S.W. 84 COURT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Costa Brava Estates, LLC (the “Applicant”) has applied to the Town of Cutler Bay (the “Town”) for a waiver from the provisions of Ordinance 07-01 relating to the Old Cutler Road Overlay Zoning District; and

WHEREAS, the Applicant proposes to construct two (2) single family homes as a part of a larger twenty (20) single family home development on a vacant block fronting Old Cutler Road; and

WHEREAS, the proposed two (2) single family homes do not comply with the provisions of Ordinance 07-01 because they are not oriented toward Old Cutler Road; and

WHEREAS, pursuant to Ordinance 07-01, if less than 50% of the block frontage where the property is located has: (a) received a development permit authorizing construction of a new building or (b) been developed prior to the effective date of Ordinance 07-01, a waiver from the provisions of Ordinance 07-01 may be granted by the Town Council, after a public hearing; and

WHEREAS, staff recommended approval of the requested waiver, attached as Exhibit “A,” in its report dated October 1, 2008; and

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

WHEREAS, the Town Council finds that in granting this waiver the single family homes will be compatible with the surrounding land uses and development, and will not impair the public health, safety, or welfare 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 the Waiver.** The Town Council hereby approves the requested waiver from the provisions of Ordinance 07-01 relating to the Old Cutler Road Overlay Zoning District for properties located at 8420 S.W. 197 Street and 19781 S.W. 84 Court.

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.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 _____



WAIVER APPLICATION
COMMUNITY DEVELOPMENT
DEPARTMENT OF PLANNING and ZONING

LIST ALL FOLIO #S: SEE ATTACHED Paper DATE RECEIVED: _____

1. NAME OF APPLICANT (Provide complete name of applicant, exactly as recorded on deed, if applicable. If applicant is a lessee, an executed 'Owner's Sworn-to-Consent' and copy of a valid lease for 1 year or more is required. If the applicant is a corporation, trust, partnership, or like entity, a 'Disclosure of Interest' is required).

COSTA BRAVA, L.L.C. & CUTLER'S EDGE L.L.C.
" COSTA BRAVA ESTATES

2. APPLICANT'S MAILING ADDRESS, TELEPHONE NUMBER:

Mailing Address: P.O. Box 40-3730

City: Miami Beach, FL State: FL Zip: 33140 Phone#: (305) 257-3360

3. OWNER'S NAME, MAILING ADDRESS, TELEPHONE NUMBER:

Owner's Name (Provide name of ALL owners): Alejandro & MARIA Valiente

Mailing Address: 13691 SW 260 Lane

City: Miami State: FL Zip: 33032 Phone#: (305) 257-3360

4. CONTACT PERSON'S INFORMATION:

Name: MARIA Valiente Company: COSTA BRAVA, L.L.C.

Mailing Address: 13691 SW 260 Lane

City: Miami State: FL Zip: 33032

Phone# (305) 257-3360 Fax# (305) 257-3324 E-mail: MARIAVALIE@bellsouth.net

5. LEGAL DESCRIPTION OF ALL PROPERTY COVERED BY THE APPLICATION

(Provide complete legal description, i.e., lot, block, subdivision name, plat book & page number, or metes and bounds. Include section, township, range. If the application contains multiple rezoning requests, then a legal description for each sub-area must be provided. Attach separate sheets, as needed).

SEE ATTACHED PAPER

6. ADDRESS OR LOCATION OF PROPERTY (For location, use description such as NE corner of, etc).

SEE ATTACHED PAPER

7. SIZE OF PROPERTY (in acres): 8.90 (divide total sq. ft. by 43,560 to obtain acreage)

8. DATE property acquired leased: 1/2006 9. LEASE TERM: _____ Years
(Month & year)

10. IF CONTIGUOUS PROPERTY IS OWNED BY THE SUBJECT PROPERTY OWNER(S), provide Complete legal description of said contiguous property.

SEE ATTACHED PAPER

11. Is there an option to purchase or lease the subject property or property contiguous thereto?
 no yes (if yes, identify potential purchaser or lessee and complete 'Disclosure of Interest' form)

NO

12. PRESENT ZONING CLASSIFICATION: B-U 1

13. APPLICATION REQUESTS (check all that apply and describe nature of the request in space provided) (DBC's require special exception to permit site plan approval unless rezoning 3 acres or less to residential categories)

District Boundary Changes (DBC) (Zone class requested): _____

Unusual Use: _____

Variance: _____

Alternative Site Development (PUD): _____

Special Exception: _____

Administrative Waiver: _____

Modification of previous resolution/plan: _____

Modification of Declaration or Covenant: _____

Other: _____

14. Has a public hearing been held on this property within the last year & a half? No yes.
If yes, provide applicant's name, and date, purpose and results of hearing, and resolution number:

15. Is this hearing is as a result of a violation notice? No yes. If yes, give name to whom the
Violation notice was served: _____ and describe the violation:

16. Describe structures on the property: VACANT LAND

17. Is there any existing use on the property? No yes. If yes, what use and when established?

Use: R-U-1 Year: _____

18. Submitted Materials Required:

Please check all that Apply:

- Letter of intent
- Justifications for change
- Statement of hardship
- Proof of ownership or letter from owner
- Power of attorney
- Contract to purchase
- Current survey (1 original sealed and signed/ 1 reduced copy @ 11" x 17")
- (12) Copies of Site Plan and Floor Plans
(1) Reduced copy @ 11"x 17"
- 20% Property owner signatures (If required)
- Mailing Labels (3 sets) and map (If required)
- Required Fee(s)

APPLICANT'S AFFIDAVIT

The Undersigned, first being duly sworn depose that all answers to the questions in this application, and all supplementary documents made a part of the application are honest and true to the best of (my) (our) knowledge and belief. (I) (We) understand this application must be complete and accurate before the application can be submitted and the hearing advertised.

OWNER OR TENANT AFFIDAVIT

(I) (WE), _____, being first duly sworn, depose and say that (I am) (We are) the owner tenant of the property described and which is the subject matter of the proposed hearing.

Signature

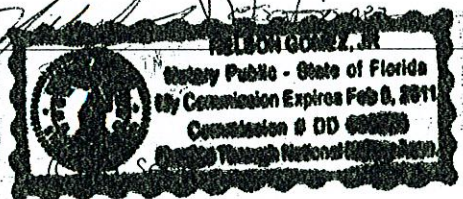
Signature

Sworn to and subscribed to before me
This ____ day of _____, _____

Notary Public: _____
Commission Expires: _____

CORPORATION AFFIDAVIT

(I) (WE), ARBA VALENTE, being first duly sworn, depose and say that (I am) (We are) the President Vice-President Secretary Asst. Secretary of the aforesaid corporation, and as such, have been authorized by the corporation to file this application for public hearing; and that said corporation is the owner tenant of the property described herein and which is the subject matter of the proposed hearing.

Attest: Nelson Gomez, Jr.


Arba Valente
Authorized Signature
OWNER
Office Held

Sworn to and subscribed to before me
This 15th day of Sept, 2008

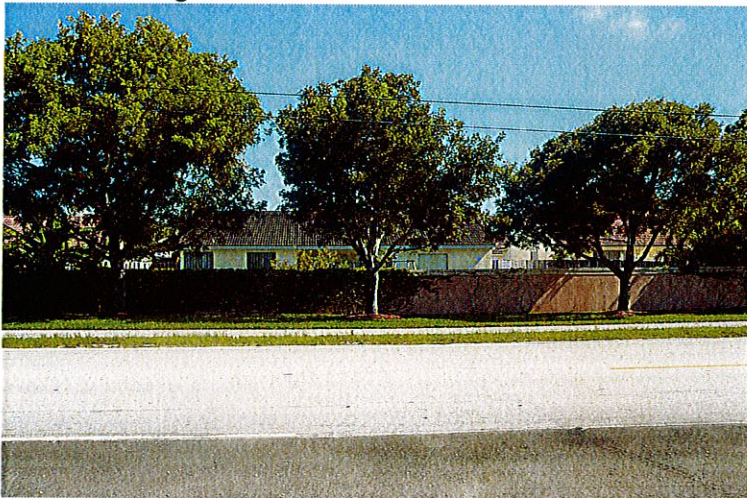
Notary Public: Nelson Gomez, Jr.
Commission Expires: 2/5/11

Surrounding Properties

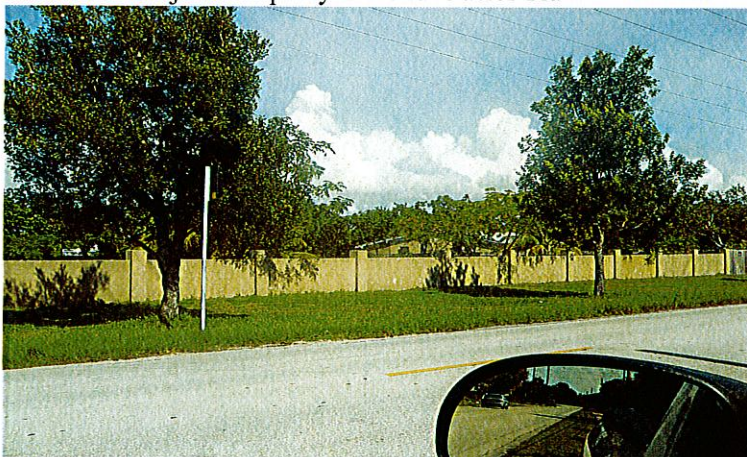
Intersection of Old Cutler Rd and SW 198 St Facing NE



On Site facing East



North of Subject Property on Old Cutler Rd

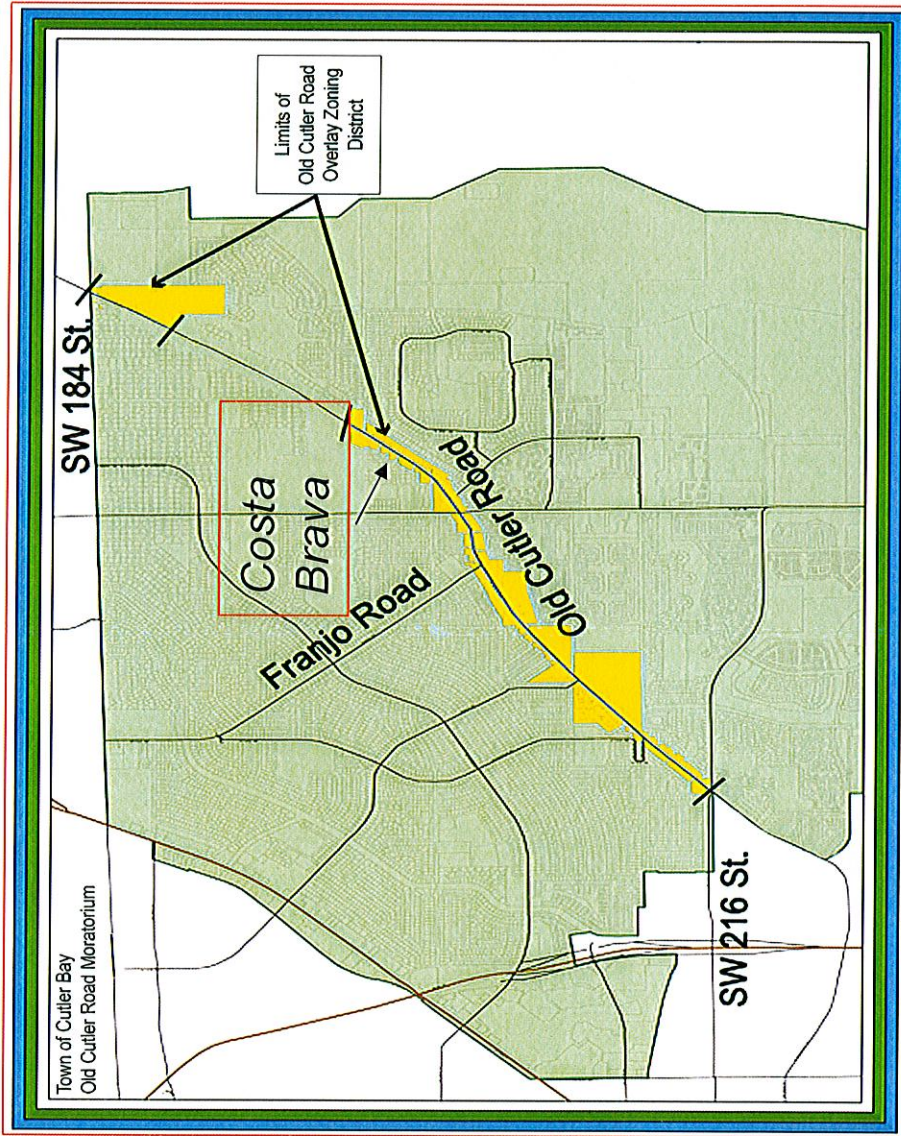


Vacant Lot South of Subject Property



South of Vacant Lot to the South (Homes face North (SW 199 Street))





TAB 8



Planning & Zoning Department

Kathryn Lyon
Interim Community Development Director

MEMORANDUM

DATE: October 7, 2008

TO: Steven J. Alexander, Town Manager

FROM: Kathryn Lyon, Acting Community Development Director

RE: Application #SP-2008-006
Costa Brava Estates - 20 Single Family Homes generally located south of SW 197th St, west of Old Cutler Road, east of SW 84th Place and north of SW 198th Street (Folio#36-6003-037-0020 through 0100 and 36-6003-038-0010 through 0100)

This application is scheduled to be presented in tandem with application (W2008-014); a request for a waiver from the Old Cutler Road Overlay Zoning District Regulations.

APPLICANT REQUEST:

Costa Brava Estates, LLC., requests Final Site Plan approval for 20 Single Family Homes at 19691 SW 84 Court.

LOCATION:

The property is generally located south of SW 197th Street, west of Old Cutler Road, east of SW 84th Place and north of SW 198th Street.

A portion of the SW1/4 of Section 3, Township 56 South Range 40 East, Miami-Dade County, Florida.

BACKGROUND AND ANALYSIS:

Costa Brava Estates, LLC., is requesting Final Site Plan Approval for the construction of 20 Single Family Homes. Unit model size ranges from 3,000 to 5,000, and consists of between three to six bedrooms, three and a half to five bathrooms. The applicant has worked with staff to enhance the design of building and to eliminate the need for any variances.

These parcels are zoned RU-1 (Single Family Residential) and EU-M (Estate Modified District).

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Cutler Bay, FL 33189
(305) 234-4262 Office
(305) 234-4251 Fax
www.cutlerbay-fl.gov



Planning & Zoning Department

Background

The property is located in the Old Cutler Road Overlay Zoning District. The surrounding properties are zoned RU-1 to the east and west, except to the north and south which is zoned EU-M and AU. Single family homes have been developed on surrounding properties.

* * *

Analysis

I. 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.

The request is consistent with the RU-1 Single-Family Zoning District.

Article XX. EU-M, Estate Modified District

Sec. 33-224. 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, reconstructed, moved or structurally altered or maintained for any purpose in an EU-M District, unless otherwise provided for, except for (1) or more of the following uses:

- (1) Every use as a one-family residence, including every customary use not inconsistent therewith, and including a guest house, private garage or garages and apartment designed for servants' quarters only, not over one (1) story in height.

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The request is consistent with the EU-M Estate Modified District.

Ordinance 07-01 Old Cutler Road Overlay Zoning District

Permitted Use: Attached single family home with a maximum density as permitted by the property's underlying Land Use Designation.

The Old Cutler Road Overlay Zoning Designation requires front facades be oriented towards Old Cutler Road. Prior plat approval exempts the development from orienting towards Old Cutler Road. The two single family homes on Old Cutler Road will be oriented toward side streets.

1. Properties with an underlying zoning designation- The minimum lot requirement shall be 6,000 square feet and the minimum frontage requirement shall be 35 feet.
2. Setback: Properties with underlying residential zoning have a zero foot setback.

This request is consistent with the current zoning of the surrounding properties with the exception of the zero foot setback required by Ordinance 07-01. The applicant was requested to examine re-orienting the lots adjacent to Old Cutler road at the Zoning Workshop. After examining this option, the applicants have retained the orientation as was platted prior to adoption of Ordinance 07-01.

II. Consistency with the Growth Management Plan

The County Future Land Use Map 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 5.0 dwelling units per gross acre. The Town of Cutler Bay Growth Management Plan (GMP) also designated this property as Low Density Residential with a maximum density of five (5) units to the acre permitted within that category.

This application is **consistent** with the Town's Growth Management Plan and the Land Use designation of the surrounding properties.

The Town Council shall take into consideration, among other things, the extent to which:

- (1) The development permitted by the application, if granted, conforms to the GMP for the Town of Cutler Bay, Florida; is consistent with applicable area or



Planning & Zoning Department

neighborhood studies or plans, and would serve a public benefit warranting the granting of the application at the time it is considered;

(1a) *The application is consistent with the GMP.*

(2) The development permitted by the application, if granted, will have a favorable or unfavorable impact on the environmental and natural resources of the Town of Cutler Bay, including consideration of the means and estimated cost necessary to minimize the adverse impacts; the extent to which alternatives to alleviate adverse impacts may have a substantial impact on the natural and human environment; and whether any irreversible or irretrievable commitment of natural resources will occur as a result of the proposed development;

(2a) *The approval of this request will not have an adverse impact on the environment of the Town.*

(3) The development permitted by the application, if granted, will efficiently use or unduly burden water, sewer, solid waste disposal, recreation, education or other necessary public facilities which have been constructed or planned and budgeted for construction;

(3a) *The approval of this request will not have an adverse impact on the necessary public facilities. The applicant will construct public streets to serve the proposed lots.*

(4) The development permitted by the application, if granted, will efficiently use or unduly burden or affect public transportation facilities, including mass transit, roads, streets and highways which have been constructed or planned and budgeted for construction, and if the development is or will be accessible by public or private roads, streets or highways.

(4a) *The approval of this request will not have an adverse impact on the necessary public transportation facilities.*

III. Environmental Resources Management

Potable Water Supply and Wastewater Disposal:

Public water and sanitary sewers can be made available to the subject property. Therefore, connection of the proposed development to said systems shall be required in accordance with Code requirements.

Existing public water and sewer facilities and services meet the Level of Service (LOS) standards set forth in the Comprehensive Development Master Plan.

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Planning & Zoning Department

Furthermore, the proposed development order, if approved, will not result in a reduction in the LOS standards subject to compliance with the conditions required by DERM for this proposed development order.

Notwithstanding the foregoing, in light of the fact that the County's sanitary sewer system has limited sewer collection, transmission, and treatment capacity, no new sewer service connections can be permitted, unless there is adequate capacity to handle additional flows. Consequently, final development orders for this site may not be granted if adequate capacity in the system is not available.

Stormwater Management:

A Surface Water Management Individual Permit from DERM shall be required for the construction and operation of the required surface water management system. This permit shall be obtained prior to site development, final plat or public works approval of paving and drainage plans. The applicant shall contact DERM (305-372-6789) for further information regarding permitting procedures and requirements.

Site grading and development shall comply with the requirements of Chapter 11C of the Code.

In summary, the application meets the minimum requirements of Chapter 24 of the Code.

IV. Public Works

Public Works has no objection to this application. The applicant will need final approval from Public Works of the proposed streets prior to issuing any building permit.

V. Schools

In accordance with the Review Criteria established by the Board, the School District would request that the applicant meet to mitigate the impacts of the proposed development.

Recommendation: Approval, subject to the impact requirements of the Miami-Dade County School Board.

* * *

TOWN STAFF RECOMMENDATION:

Approval with conditions.

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(305) 234-4262 Office
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www.cutlerbay-fl.gov



Planning & Zoning Department

CONDITIONS:

- 1) That information regarding access area for construction be submitted and reviewed prior to issuance of final development order.
- 2) Applicant provide construction runoff plan prior to issuance of final development order.
- 3) Submittal of completed Streets Plan showing engineering, proposed improvements, street lighting, curbs and gutters.
- 4) The development shall be consistent with plans as revised and all other building plans and elevations on file in the Town Planning Department dated September 16, 2008

RESOLUTION NO. 08-_____

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, GRANTING SITE PLAN APPROVAL FOR TWENTY (20) SINGLE FAMILY HOMES GENERALLY LOCATED SOUTH OF S.W. 197TH STREET, WEST OF OLD CUTLER ROAD, EAST OF S.W. 84TH PLACE, AND NORTH OF SW 198TH STREET; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Costa Brava Estates, LLC (the “Applicant”) has applied to the Town of Cutler Bay (the “Town”) for site plan approval; and

WHEREAS, on June 11, 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 October 1, 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) That information regarding access area for construction be submitted and reviewed prior to issuance of final development order.
- 2) Applicant provide construction runoff plan prior to issuance of final development order.
- 3) Submittal of completed Streets Plan showing engineering, proposed improvements, street lighting, curbs and gutters.

- 4) The development shall be consistent with plans as revised and all other building plans and elevations on file in the Town Planning Department dated September 16, 2008.

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:

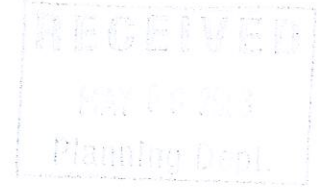
FINAL VOTE AT ADOPTION:

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



Town of Cutler Bay
 10720 Caribbean Drive
 Suite 105
 Cutler Bay, FL 33189

www.cutlerbay-fl.com



APPLICATION FOR SITE PLAN APPROVAL
 OR
 MODIFICATION OF A SITE PLAN APPROVAL

DATE: 5/6/08
 PROPOSED PROJECT NAME: COSTA BRAVA ESTATES
 LOCATION: 19691 S.W. 84 St.
 FOLIO NUMBER(S): 36-6003-037-0010
 CURRENT ZONING: _____ CURRENT FUTURE LAND USE: NEW HOMES
 PROPOSED USE OF PROPERTY: (Attach additional sheets if necessary)
TO BUILD 20 SINGLE FAMILY HOMES.

Name of Applicant or Contact Person: MARIA VALIENTE Phone No.: 305-970-8305

Address of Applicant:
P.O. BOX 40-3730
MIAMI BEACH, FLORIDA 33140

Name of Property Owner (if other than Applicant): COSTA BRAVA ESTATES L.L.C. Phone No.: 305-257-3360

1. The following documents are required to be submitted with and deemed to be incorporated into this application, as applicable.

ALL APPLICATIONS MUST BE ACCOMPANIED BY A LETTER OF INTENT.
 Please describe in detail, whether and to what extent the requested development action serves a public benefit which would warrant the granting of the request and specific justification for approval of the Application, nature of the requests and any other pertinent information. Insufficient justification may result in the denial of your Application.

_____ One (1) original Application, signed and notarized by the Applicant, Owner and/or Attorney and, if necessary, authorization to another individual to represent the Applicant.

One (1) original, current (within 30 days) Opinion of Title Report for the subject property and copies of all documents referenced in that report.

Twelve (12) copies (folded) of a registered, current (within 30 days), signed and sealed survey of subject property, based upon the Opinion of Title Report. Surveys must delineate existing natural features, easements, existing structures and uses, and existing utility lines.

Twelve (12) sets (folded) of supporting, signed and sealed, architectural plans, which clearly indicate the development action request. Plans must include site plan showing all improvements and setbacks, fully dimensioned; roof plan; all exterior elevations (including air conditioning, compressors, signs); exterior surface treatments, including roofs; and exterior color samples, including that of signs. Site plans submitted for multi-family or commercial projects must indicate location of dumpsters and dumpster enclosures.

Four (4) copies (folded) of landscape plan showing all plant material, as to location, name, size and quality. Landscape plan must be drawn, signed and sealed by a Florida Registered Landscape Architect.

~~N/A~~ Twelve (12) copies (folded) liquor survey, prepared and sealed by a registered land surveyor, with 1,500 ft. radius. (Required for approval of lounge, bar or package store only.)

Lot/Parcel Analysis required, including, but not limited to, the following information relative to lots and parcels in each zoning district: number of lots, smallest lot size, average lot size, number of parcels, and acreage in each parcel.

Letters from all utilities franchised to operate in the City (Florida Power & Light, Bell South, WASA, Cable) relative to adequacy of proposed easements shown in the plat/site plan, including approval of shared easements.

Twelve (12) sets of photographs of existing structures on site and/or 8" x 10" color photographs or color rendering of proposed construction.

~~N/A~~ Properties which are requesting a new or additional curb cut into the State Highway System, enlargement of an existing cut, or a change in land use or intensification of development require Florida Department of Transportation approval for said access to the Highway System prior to the Town of Cutler Bay approval. (See attached FDOT notice.)

Disclosure of Interest Form

Applicant Representative Affidavit and Business Relationship Affidavit(s).

Letter from Applicant providing evidence of compliance with Level of Service requirements.

Is this hearing being requested as a result of a violation notice or summons? Yes _____ No
If Yes, in whose name was the violation or summons notice served?

Nature of Violation _____

Does property owner own contiguous property to the subject property? Yes _____ No _____
If Yes, give complete legal description of entire contiguous property.

Is there an option to purchase or lease subject property or property contiguous thereto, predicated on approval of this Application? Yes _____ No

If Yes, who are the affected parties? _____
(Copy of Purchase contract must be submitted with this Application.)

Do these plans represent new construction? Yes No _____
Has construction started? Yes _____ No
Has construction been completed? Yes _____ No
Are there any existing structures on the property? Yes _____ No
Will the existing structures be demolished? *N/A* Yes _____ No _____

2. Procedure for Site Plan Review

1. Owner or Applicant will provide twelve (12) signed and sealed sets of folded and collated plans for preliminary staff review. Plans must include:
 - _____ Dimensional Site Plan including, but not limited to: (Scale to be 1" = 20' unless approval is received otherwise.)
 - _____ Signage locations and type
 - _____ Land use and zoning information matrix to include required and provided setbacks, separations, heights, parking, etc.
 - _____ Location sketch
 - _____ Legal description of the subject property
 - _____ Details of dumpster, including, but not limited to, location; size; materials; type of doors; and access to.
 - _____ Information as to all perimeter buffer requirements for adjacent properties
 - _____ Floor Plans
 - _____ Elevations
 - _____ On-site Survey (current within 30 days) based upon the Opinion of Title Report.
 - _____ Off-site sketch including, but not limited to, locations of structures; utilities; rights-of-way; and curb cuts within 300' of the subject property.
 - _____ A Master Site Plan is required for all phased development.
2. Staff will provide written comments addressing the Preliminary Site Plan.
3. Owner or Applicant will provide four (4) sets of revised plans, folded and collated, for final Staff review. Plans must include the same items as required for Preliminary Staff review plus:
 - _____ Details of all types of parking spaces provided.
 - _____ All signage locations, types and details.
 - _____ Complete Landscape Plan (signed and sealed by a Florida Registered Landscape Architect). Plans shall include required and provided quantities of plant materials.
 - _____ Engineering Plan (scale to be 1" = 20' unless prior approval is received otherwise).
 - _____ Water, sewer, paving and drainage plans.
 - _____ Utility locations.
 - _____ Locations and details of all entry features (if applicable).
4. Upon approval or receipt of comments from final Staff review, the Town Manager (or designee) will make a determination that the Site Plan has met all the requirements of the Town's development regulations. If any variances or other zoning hearings are required for approval of the development, the Owner or Applicant will provide an Application for such approval and twelve (12) sets of revised plans, folded and collated, for the Town Council approval. Plans must include the same items as required for final Staff review and shall address all comments made at that stage.
5. A zoning workshop will be held prior to the Town Council hearing the application. At the workshop, the Town Council and the public will have the ability to ask questions and to provide feedback about the proposed developments in an open forum, and the applicant will have the opportunity to respond to such input prior to the public hearing. A zoning workshop shall be held no fewer than 30 days prior to the application first being heard by the Town Council.
6. Prior to the issuance of a Building Permit, the Applicant shall provide a copy of the approved Site Plan on reproducible mylar.
7. Prior to the issuance of a Building Permit, the Applicant shall provide a copy of the approved Site Plan on disc, in a format compatible with the Town's Engineering Specifications.

DEVELOPMENT APPLICATION OWNER CERTIFICATION

(Please complete all that apply)

For use when the applicant is the Owner of subject property:

This is to certify that I am the Owner of the subject lands described in the above Application. I understand that I am responsible for complying with all Application requirements prior to this petition being scheduled for any public hearings. I also understand that it is my responsibility to comply with the Town's requirements regarding quasi-judicial proceedings. This further certifies that I have read this petition and the statements contained herein are true and correct.

MARIA Valiente
Print Name of Applicant

[Signature]
Signature of Applicant

State of Florida
County of Miami Dade

The foregoing instrument was Sworn to and Subscribed before me this 7 day of May, 2008

by Maria Valiente who is personally known to me or who has produced Florida License as identification.

Annette Blanco
Printed Name of Notary Public

[Signature]
Signature of Notary Public

My Commission Expires:



ANNETTE BLANCO
MY COMMISSION # DD 768318
EXPIRES: March 12, 2012
Bonded Thru Budget Notary Services

For use when the applicant is NOT the Owner of the Subject Property:

This is to certify that I am the Owner of subject lands described in the above petition. I have authorized [] to make and file the aforesaid petition. This further certifies that I have read this petition and the statements contained herein are true and correct.

Print Name of Applicant

Signature of Applicant

State of
County of

The foregoing instrument was Sworn to and Subscribed before me this ___ day of ___, 20__

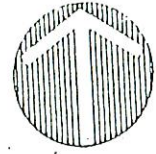
by ___ who is personally known to me or who has produced ___ as identification.

Printed Name of Notary Public

Signature of Notary Public

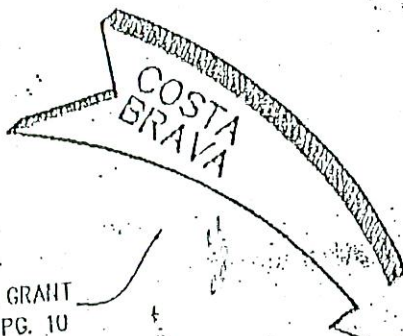
My Commission Expires:

LOCATION SKETCH

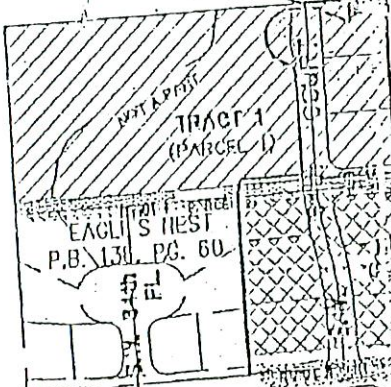


NOT TO SCALE

(S.W. 192nd STREET)



PERRINE GRANT
P.B. 4, PG. 10



PERRINE GRANT
P.B. 4, PG. 10

EAGLE'S NEST
P.B. 130, PG. 60

SILVER PINES
P.B. 45, PG. 45

MORNING ROYAL HOMES
P.B. 139, PG. 78

(INGRAHAM HIGHWAY)

82nd AVENUE

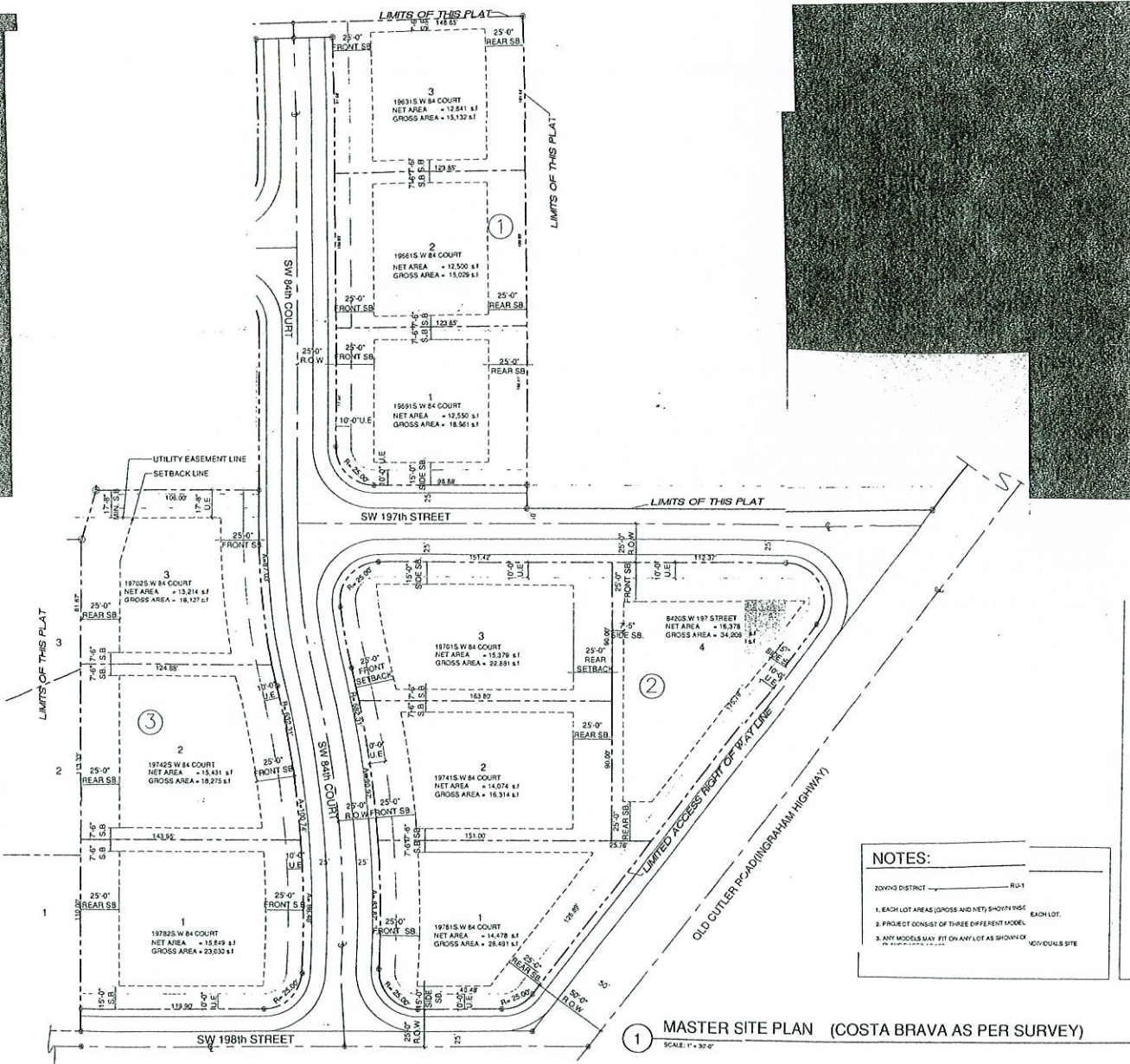
82nd

(S.W.)

(S.W. 200th STREET)

PLANNING DEPARTMENT

(P.25, 104-PC, SD)



NOTES:

ZONING DISTRICT: RU-1

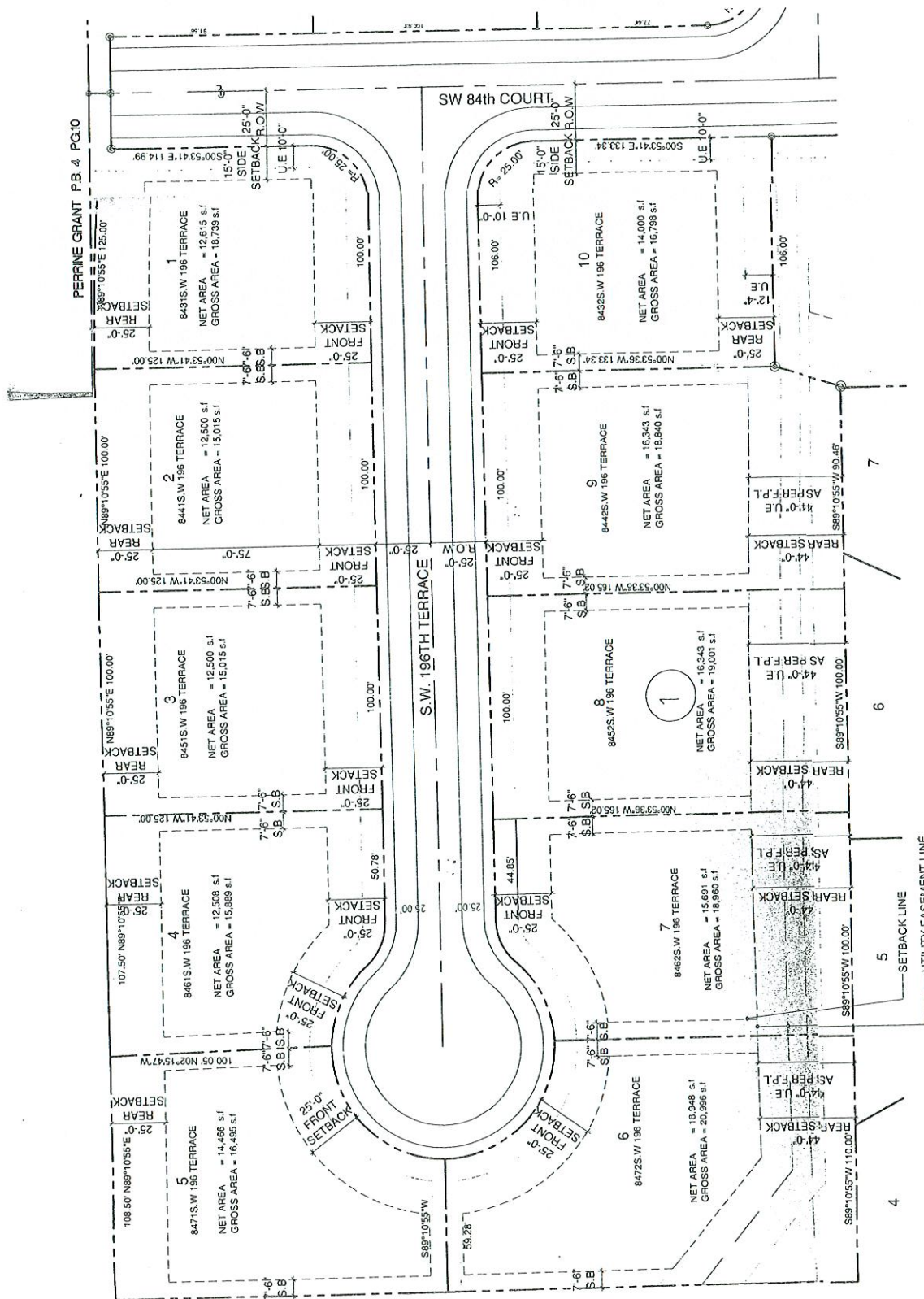
1. EACH LOT AREAS (GROSS AND NET) SHOWN THIS EACH LOT.

2. PROJECT CONSIST OF THREE DIFFERENT MODEL.

3. ANY MODELS MAY FIT ON ANY LOT AS SHOWN OF 10% DUALS SITE

1 MASTER SITE PLAN (COSTA BRAVA AS PER SURVEY)
SCALE: 1" = 30'

A PORTION OF THE S
 COUNTY, FLORIDA, B
 LINE OF THE SOUTH
 10°55'E FOR A DISTA
 19874 STREET WITH
 THEREOF AS RECO
 COUNTY, FLORIDA IT
 ALSO BEING PART O
 HEREBY N89°10'55
 THE O R BOOK 164 F



1 MASTER SITE PLAN (CUTLER'S EDGE AS PER SURVEY)
 SCALE: 1" = 30'-0"



MODEL "DYNASTY"
FRONT ELEVATION

COLOR SCHEME I

PALETTE CODE	DESCRIPTION
6100	WALLS
6101	TRIM
6102	ROOFING
6103	LANDSCAPE
6104	PAINTS
6105	WOOD
6106	IRON
6107	GLASS
6108	CEILING
6109	FLOORING
6110	LANDSCAPE
6111	IRON

NOTE: ALL MATERIALS SHALL BE IN ACCORDANCE WITH THE LATEST VERSIONS OF THE INTERNATIONAL BUILDING CODES.

COSTA BRAVA ESTATES

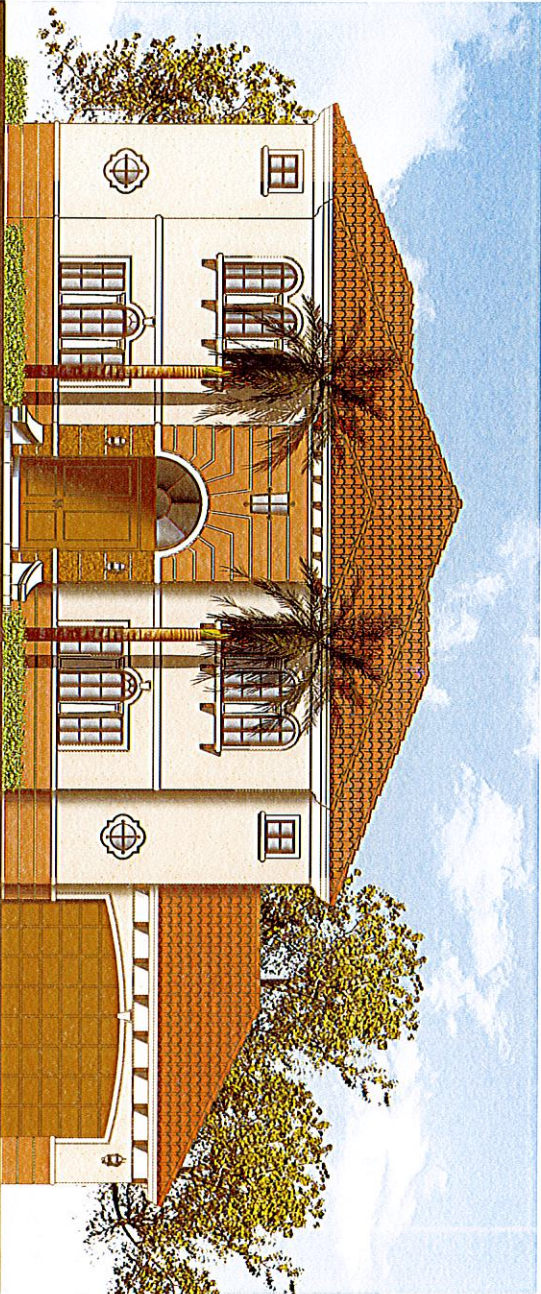
FOR
AT
OLD CUTLER ROAD & SW 180TH STREET
CITY OF CUTLER BAY FLORIDA



12001 SW 32nd Ave.
Suite 100
Miami, FL 33155
Tel: (305) 228-2728
Fax: (305) 228-2423
www.beltonmilanes.com

ARCHITECTS
LAND PLANNING
CONSTRUCTION MANAGEMENT
GENERAL CONTRACTORS

MODEL "DYNASTY"
RESIDENTIAL ELEVATION
AE-110
SHEET 01



MODEL "PALACE"
FRONT ELEVATION

COLOR SCHEME III

NO.	DESCRIPTION	NO.	DESCRIPTION
0001	WALLS	0002	ROOF
0003	TRIM	0004	SCREEN DOOR
0005	SCREEN DOOR	0006	SCREEN DOOR
0007	SCREEN DOOR	0008	SCREEN DOOR
0009	SCREEN DOOR	0010	SCREEN DOOR
0011	SCREEN DOOR	0012	SCREEN DOOR
0013	SCREEN DOOR	0014	SCREEN DOOR
0015	SCREEN DOOR	0016	SCREEN DOOR
0017	SCREEN DOOR	0018	SCREEN DOOR
0019	SCREEN DOOR	0020	SCREEN DOOR
0021	SCREEN DOOR	0022	SCREEN DOOR
0023	SCREEN DOOR	0024	SCREEN DOOR
0025	SCREEN DOOR	0026	SCREEN DOOR
0027	SCREEN DOOR	0028	SCREEN DOOR
0029	SCREEN DOOR	0030	SCREEN DOOR
0031	SCREEN DOOR	0032	SCREEN DOOR
0033	SCREEN DOOR	0034	SCREEN DOOR
0035	SCREEN DOOR	0036	SCREEN DOOR
0037	SCREEN DOOR	0038	SCREEN DOOR
0039	SCREEN DOOR	0040	SCREEN DOOR
0041	SCREEN DOOR	0042	SCREEN DOOR
0043	SCREEN DOOR	0044	SCREEN DOOR
0045	SCREEN DOOR	0046	SCREEN DOOR
0047	SCREEN DOOR	0048	SCREEN DOOR
0049	SCREEN DOOR	0050	SCREEN DOOR
0051	SCREEN DOOR	0052	SCREEN DOOR
0053	SCREEN DOOR	0054	SCREEN DOOR
0055	SCREEN DOOR	0056	SCREEN DOOR
0057	SCREEN DOOR	0058	SCREEN DOOR
0059	SCREEN DOOR	0060	SCREEN DOOR
0061	SCREEN DOOR	0062	SCREEN DOOR
0063	SCREEN DOOR	0064	SCREEN DOOR
0065	SCREEN DOOR	0066	SCREEN DOOR
0067	SCREEN DOOR	0068	SCREEN DOOR
0069	SCREEN DOOR	0070	SCREEN DOOR
0071	SCREEN DOOR	0072	SCREEN DOOR
0073	SCREEN DOOR	0074	SCREEN DOOR
0075	SCREEN DOOR	0076	SCREEN DOOR
0077	SCREEN DOOR	0078	SCREEN DOOR
0079	SCREEN DOOR	0080	SCREEN DOOR
0081	SCREEN DOOR	0082	SCREEN DOOR
0083	SCREEN DOOR	0084	SCREEN DOOR
0085	SCREEN DOOR	0086	SCREEN DOOR
0087	SCREEN DOOR	0088	SCREEN DOOR
0089	SCREEN DOOR	0090	SCREEN DOOR
0091	SCREEN DOOR	0092	SCREEN DOOR
0093	SCREEN DOOR	0094	SCREEN DOOR
0095	SCREEN DOOR	0096	SCREEN DOOR
0097	SCREEN DOOR	0098	SCREEN DOOR
0099	SCREEN DOOR	0100	SCREEN DOOR

NOTE: ALL OTHERS TO BE DETERMINED BY THE ARCHITECT.

Belton Milanes
architects
planners

1701 S.W. 134 AVE.
SUITE 200
MIAMI, FL 33135
TEL: (305) 276-7776
FAX: (305) 276-7413
WWW.BELTONMILANES.COM
407-920-0200

ARCHITECT
LAND PLANNING
CONSTRUCTION MANAGEMENT
GENERAL CONTRACTOR

COSTA BRAVA ESTATES
FOR
AT
OLD CUTLER ROAD & SW 183TH STREET
CITY OF CUTLER BAY, FLORIDA

MODEL "PALACE"
ARCHITECTURAL ELEVATION
AE-130
SHEET 01

TAB 9



Planning & Zoning Department

Kathryn Lyon
Interim Community Development Director

MEMORANDUM

DATE: October 7, 2008

TO: Steven J. Alexander, Town Manager

FROM: Kathryn Lyon, Acting Community Development Director

SUBJECT: Application # Z2008-018
City Furniture - 18750 S Dixie Highway
(Folio # 36-6005-052-0060)

APPLICANT'S REQUEST: Change of zoning district from Industrial, Light Manufacturing District (IU-1) to Limited Business District (BU-1A) to allow for the expansion of an existing commercial building.

STAFF'S RECOMMENDATION: Staff finds the proposed zoning change of Light Manufacturing District to Limited Business District consistent with the Miami-Dade County Comprehensive Plan. Staff recommends approval of # Z2008-018.

SUBJECT:

Presently the area has a zoning designation of Industrial, Light Manufacturing (IU-1). The proposed zoning for this property is BU-1A (Limited Business District).

The applicant, City Furniture, requests a change of zoning which would provide consistency with the adjacent lot to the south. The zoning change would allow the expansion of the existing City Furniture building on to the adjacent lot.

BACKGROUND AND ANALYSIS:

The applicant is seeking a district boundary change from IU-1 to BU-1A to permit a retail furniture store on the property. These two parcels owned by City Furniture are currently zoned IU-1 and BU-1A. The applicant is seeking to rezone the IU-1 parcel to the north to BU-1A.

Background

The property is located along South Dixie Highway with more than 522 feet of street frontage. To the south, the property is bordered by the C-1N canal and to the west; the

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Cutler Bay, FL 33189
(305) 234-4262 Office
(305) 234-4251 Fax
www.cutlerbay-fl.gov



Planning & Zoning Department

property abuts the FDOT corridor. To the north, the property abuts the soon to be Tropical Financial Credit Union.

The applicant is proposing to be LEED certified at the Silver Level.

The applicant, who is proposing an expansion into the adjacent property, owns the existing City Furniture located at 18760 S. Dixie Highway. The rezoning of this parcel from the less desirable IU-1 to the more restrictive BU-1A will provide consistency between the two parcels. The US1 corridor, a main thoroughfare, is an ideal location for the expansion of such commercial activity.

Applicant:	City Furniture
Property Owners:	City Furniture
Address/Location:	18750 S Dixie Highway
Size of Property:	56,413 sq. ft.
Legal Description:	POINT WEST 4TH ADDN PB 107-67 LOT 6 BLK 6 LOT SIZE 56413 SQ FT F/A/U 30-6005-052- 0060 COC 26284-1624 03 2008 1
Existing Zoning:	Industrial, Light Manufacturing (IU-1)
Requested Zoning:	Limited Business District (BU-1A)
Existing Future Land Use:	Business, Office

ADJACENT ZONING:

North:	Limited Business District (BU-1A)
South:	Limited Business District (BU-1A)
East:	South Dixie Highway and Special Business District (BU-2)
West:	Busway

Analysis

Rezoning

The applicant is requesting to rezone the northern parcel, previously IDEA furniture), from IU-1 to BU-1A to make consistent with the existing City Furniture parcel, which is zoned BU-1A.

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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 XXIX. BU-1A, LIMITED BUSINESS 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 erected, constructed, moved, reconstructed, structurally altered or maintained which is designed, arranged or intended to be used or occupied for any purpose other than the following, unless otherwise specifically provided herein:

- (21) Furniture stores, retail of new merchandise only.

The request is consistent with the BU-1A, Limited Business District.

Analysis

The Town Council shall take into consideration, among other things, the extent to which:

- (1) The development permitted by the application, if granted, conforms to the Comprehensive Development Master Plan; is consistent with applicable area or neighborhood studies or plans, and would serve a public benefit warranting the granting of the application at the time it is considered;

The proposed application submittal was prior to the adoption of the Town's Growth Management Plan. Therefore, the evaluation of this project was based on the Miami-Dade County Comprehensive Plan. In addition the proposed application was presented before Town Council at a Zoning Workshop before adoption of the Town's Growth Management Plan. Therefore given that it is not permissible to permit planning in progress, the evaluation of this project was based on the Miami-Dade Comprehensive Plan.

The County Future Land Use Map designates the subject property as **Business and Office**. This category accommodates the full range of sales and services activities. Included are retail, wholesale, personal and professional services, call centers, commercial and professional offices, hotels, motels, hospitals, medical buildings, nursing homes, entertainment and cultural facilities, amusements and commercial recreation establishments. The Miami-Dade County Comprehensive Plan states, in

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Cutler Bay, FL 33189
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Planning & Zoning Department

reviewing zoning requests or site plans, the specific intensity and range of uses, and dimensions, configuration and design considered to be appropriate will depend on locational factors, particularly compatibility with both adjacent and adjoining uses, and availability of highway capacity, ease of access and availability of other public services and facilities.

This application is **consistent** with the Miami-Dade County Comprehensive Plan and the Land Use designation of the surrounding properties.

The application is consistent with the Miami-Dade County Comprehensive Plan.

(2) The development permitted by the application, if granted, will have a favorable impact on the environmental and natural resources of the Town of Cutler Bay, including consideration of the means and estimated cost necessary to minimize the adverse impacts; the extent to which alternatives to alleviate adverse impacts may have a substantial impact on the natural and human environment; and whether any irreversible or irretrievable commitment of natural resources will occur as a result of the proposed development;

The approval of this request will not have an adverse impact on the environment of the Town.

(3) The development permitted by the application, if granted, will have a favorable or unfavorable impact on the economy of the Town of Cutler Bay;

The approval of this request will not have an adverse impact on the economy of the Town.

(4) The development permitted by the application, if granted, will efficiently use or not unduly burden water, sewer, solid waste disposal, recreation, education or other necessary public facilities which have been constructed or planned and budgeted for construction;

The approval of this request will not have an adverse impact on the necessary public facilities.

(5) The development permitted by the application, if granted, will efficiently use or not unduly burden or affect public transportation facilities, including mass transit, roads, streets and highways which have been constructed or planned and budgeted for construction, and if the development is or will be accessible by public or private roads, streets or highways.

The approval of this request will not have an adverse impact on the necessary public transportation facilities.



Planning & Zoning Department

This request is **consistent** with the current zoning of the surrounding properties.

Environmental Resources Management

Potable Water Supply and Wastewater Disposal:

Public water and sanitary sewers can be made available to the subject property. Therefore, connection of the proposed development to said systems shall be required in accordance with Code requirements.

Existing public water and sewer facilities and services meet the Level of Service (LOS) standards set forth in the Growth Management Plan. Furthermore, the proposed development order, if approved, will not result in a reduction in the LOS standards subject to compliance with the conditions required by DERM for this proposed development order.

Notwithstanding the foregoing, in light of the fact that the County's sanitary sewer system has limited sewer collection, transmission, and treatment capacity, no new sewer service connections can be permitted, unless there is adequate capacity to handle additional flows. Consequently, final development orders for this site may not be granted if adequate capacity in the system is not available.

Stormwater Management:

A Surface Water Management Individual Permit from DERM shall be required for the construction and operation of the required surface water management system. This permit shall be obtained prior to site development, final plat or public works approval of paving and drainage plans. The applicant shall contact DERM (305-372-6789) for further information regarding permitting procedures and requirements.

Public Works

Public Works has no objection to this application.

TOWN STAFF RECOMMENDATION:

Town of Cutler Bay staff recommends **approval** of application # Z2008-018 Rezoning (From IU-1 to BU-1A)

ORDINANCE NO. 08-_____

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, GRANTING THE REQUEST OF CITY FURNITURE FOR A REZONING FROM IU-1 (INDUSTRIAL, LIGHT MANUFACTURING DISTRICT) TO BU-1A (LIMITED BUSINESS DISTRICT) FOR PROPERTY LOCATED AT 18750 S. DIXIE HIGHWAY, AS LEGALLY DESCRIBED IN EXHIBIT "A," CONSISTING OF APPROXIMATELY 56,413 SQ. FT.; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Chapter 33 "Zoning," of the Town Code of Ordinances (the "Town Code"), City Furniture (the "Applicant") has applied to the Town of Cutler Bay (the "Town"), for approval of a rezoning from IU-1 (Industrial, Light Manufacturing District) to BU-1A (Limited Business District), for property located at 18750 S Dixie Highway, as legally described in Exhibit "A," consisting of approximately 56,413 sq. ft. (the "Property"); and

WHEREAS, Town staff has recommended approval of the requested rezoning in its report, dated October 3, 2008; and

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

WHEREAS, this Ordinance was heard and recommended by the Town Council, in its capacity as the Town's Local Planning Agency; and

WHEREAS, after due notice and hearing, the Town Council finds this Ordinance to be consistent with the Town Code and the Town's Comprehensive Plan (Growth Management Plan).

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

Section 1. Findings. The foregoing Whereas clauses are hereby ratified and incorporated as the legislative intent of this Ordinance.

Section 2. Approval of Rezoning. Pursuant to Chapter 33 "Zoning" of the Town Code, the Property, legally described in Exhibit "A," is hereby rezoned from IU-1 (Industrial, Light Manufacturing District) to BU-1A (Limited Business District).

Section 3. Recording. The Town, or the Applicant if so requested by the Town Clerk, shall record this Ordinance at the Applicant's sole expense in the Public Records of Miami-Dade County, Florida.

Section 4. Effective Date. 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 LEGALITY
FOR THE USE AND BENEFIT OF THE
TOWN OF CUTLER BAY ONLY:

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

Moved By:
Seconded By:

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman _____

Vice Mayor Edward P. MacDougall _____

Councilmember Peggy R. Bell _____

Councilmember Timothy J. Meerbott _____

Councilmember Ernest N. Sochin _____

CUTLER BAY, FLORIDA

ZONING, VARIANCE, SPECIAL EXCEPTION, ADMINISTRATIVE WAIVER
OTHER APPLICATIONS
DEPARTMENT OF PLANNING, ZONING

LIST ALL FOLIO #S: 36-6005-052-0071 & 36-6005-052-0060 DATE RECEIVED: _____

1. **NAME OF APPLICANT** (Provide complete name of applicant, exactly as recorded on deed, if applicable. If applicant is a lessee, an executed 'Owner's Sworn-to-Consent' and copy of a valid lease for 1 year or more is required. If the applicant is a corporation, trust, partnership, or like entity, a 'Disclosure of Interest' is required).

Advance Business Associates, LLP, a Florida limited liability partnership and
City Furniture, Inc., a Florida corporation

2. **APPLICANT'S MAILING ADDRESS, TELEPHONE NUMBER:**

Mailing Address: 6000 Cypress Road

City: Plantation State: Florida Zip: 33317 Phone#: _____

3. **OWNER'S NAME, MAILING ADDRESS, TELEPHONE NUMBER:**

Owner's Name (Provide name of ALL owners): Same as above.

Mailing Address: _____

City: _____ State: _____ Zip: _____ Phone#: _____

4. **CONTACT PERSON'S INFORMATION:**

Name: William W. Riley Company: Bilzin Sumberg

Mailing Address: 200 S. Biscayne Blvd., Suite 2500

City: Miami State: Florida Zip: 33131

Phone#: 305.375.6139 Fax#: 305.351.2285 E-mail: WRiley@bilzin.com

5. **LEGAL DESCRIPTION OF ALL PROPERTY COVERED BY THE APPLICATION**

(Provide complete legal description, i.e., lot, block, subdivision name, plat book and page number, or metes and bounds. Include section, township, range. If the application contains multiple rezoning requests, then a legal description for each sub-area must be provided. Attach separate sheets, as needed).

See Exhibit "A" attached hereto and incorporated herein.

6. **ADDRESS OR LOCATION OF PROPERTY** (For location, use description such as NE corner of, etc).
18750 & 18760-80 S Dixie Highway
7. **SIZE OF PROPERTY** (in acres): 3.26± (divide total sq. ft. by 43,560 to obtain acreage)
8. **DATE** property acquired leased: December 1986 & March 2008
(month and year)
9. **LEASE TERM:** Not applicable. Years
10. **IF CONTIGUOUS PROPERTY IS OWNED BY THE SUBJECT PROPERTY OWNER(S)**, provide complete legal description of said contiguous property.
Not applicable.
11. **Is there an option to purchase** or lease the subject property or property contiguous thereto? no yes (if yes, identify potential purchaser or lessee and complete 'Disclosure of Interest' form)
12. **PRESENT ZONING CLASSIFICATION:** BU-1A and IU-1
13. **APPLICATION REQUESTS** (check all that apply and describe nature of the request in space provided) {DBC's require special exception to permit site plan approval unless rezoning 3 acres or less to residential categories)
 .District Boundary Changes (DBC) (Zone class requested): BU-1A & IU-1 to BU-1A
 Unusual Use: _____
 Non-use Variance: Appearing on site plan.
 Alternative Site Development (PUD): _____
 Special Exception: _____
 Administrative Waiver: _____
 Modification of previous resolution/plan: _____
 Modification of Declaration or Covenant: _____
 Other: _____
14. **Has a public hearing been held on this property within the last year and a half?**
 No Yes. If yes, provide applicant's name, and date, purpose and results of hearing, and resolution number:
15. **Is this hearing as a result of a violation notice?** No Yes. If yes, give name to whom the Violation notice was served: _____ and describe the violation:

16. Describe structures on the property: Retail furniture stores and accessory structures

17. Is there any existing use on the property? No yes. If yes, what use and when established?

Use: Retail Commercial

Year: 1978 & 1981

18. Submitted Materials Required:

Please check all that Apply:

- Letter of intent
- Justifications for change
- Statement of hardship
- Proof of ownership or letter from owner
- Power of attorney
- Contract to purchase.
- Current survey (1 original sealed and signed / 1 reduced copy @ 11" x17")
- (12) Copies of Site Plan and Floor Plans
- (1) Reduced copy @ 11"x 17"
- 20% Property owner signatures (If required)
- Mailing Labels (3 sets) and map (If required)
- Required Fee(s)

EXHIBIT "A"

Lot 6, Block 6, POINT WEST FOURTH ADDITION, according to the plat thereof, as recorded in Plat Book 107, Page 6, of the Public Records of Miami-Dade County, Florida.

AND

Lots 7, 8, and 9, Block 6, POINT WEST FOURTH ADDITION, according to the plat thereof, as recorded in Plat Book 107, Page 67, of the Public Records of Miami-Dade County, Florida.

William W. Riley, Jr., Esquire
Direct Dial: (305) 375-6139
Direct Facsimile: (305) 351-2285
E-mail: wriley@bilzin.com

April 14, 2008

VIA HAND DELIVERY

R. Don O'Donniley, AICP
Planning Director
Town of Cutler Bay
10720 Caribbean Blvd
Suite 110
Cutler Bay, Florida 33189

Re: *City Furniture & Ashley Furniture Homestore*
Property Location: 18750 & 18760-80 S Dixie Highway
Folio Numbers: 36-6005-052-0071 & 36-6005-052-0060

LETTER OF INTENT

Dear Mr. O'Donniley:

Please accept this correspondence as our Letter of Intent to the attached public hearing application. This law firm represents Advance Business Associates, LLP and City Furniture, Inc. (collectively referred to hereinafter as the "Applicant"), the owners of 3.26± contiguous acres of land located at 18760-80 and 18750 South Dixie Highway (the "Property").

The Applicant is seeking a district boundary change from BU-1A and IU-1 to BU-1A, site plan approval and associated non-use variances to permit a retail furniture center on the Property (the "Application"). As depicted on the development plans attached to this Application, the Applicant is proposing a comprehensive improvement program for the Property that will include the following: (1) a partial redevelopment of the existing City Furniture building that will result in a conversion of said building to an Ashley Furniture Homestore, a reduction of gross floor area, enhancements to the sites' aesthetic qualities with a new building facade and enhanced landscaping; and (2) a redevelopment of the existing IDEA Home Design furniture store that will result in a new City Furniture showroom designed in accordance with New Urbanism planning principles and in accordance with conservation principles promoted by the US Green Building Council Leadership in Energy and Environmental Design (LEED). Based on the following analysis, we submit that this request is consistent with the goals, objectives, and policies of the Comprehensive Development Master Plan and compatible with the surrounding area.

R. Don O'Donniley, AICP, Planning Director
Town of Cutler Bay
April 14, 2008
Page 2

A. **THE PROPERTY, EXISTING CONDITIONS & THE DEVELOPMENT PROGRAM**

The Property is located along US Highway No. 1 ("U.S. 1") with more than 522 feet of street frontage. To the south, the Property is bordered by the Belle Aire (C-1N) Canal and, to the west, the Property abuts the State of Florida Transportation Corridor, which is the previous location of the Florida East Coast Railway. To the north, the Property abuts the Tropical Financial Credit Union.

The Property comprises the southern most end of an existing commercial strip located along the west side of U.S. 1, extending from Quail Roost Drive to the C-1N Canal. The commercial strip is developed with a wide array of commercial and retail uses, including specialty stores, a restaurant, a commercial bank and a gasoline station. The Property is currently developed with two detached retail furniture stores, which are independently owned and operated, and a free-standing billboard. The Applicant's proposal seeks to create a unified retail furniture center with cross-access and cross-parking benefits and to remove the billboard. The development program, if approved, will serve to provide an enhanced terminus to the existing commercial strip.

As depicted on the development plans attached hereto, which were prepared by Architecture 6400, Inc., the City Furniture and Ashley Furniture Homestore buildings will be connected by a party wall located along northern facade of the existing City Furniture building. The new City Furniture building, which will be located along the northern portion of the Property, will create an offset at the point of connection with the proposed Ashley Furniture Homestore. This offset will provide a visual transition between the proposed stores and promote the architectural expression encouraged in Town Ordinance No. 07-07. In addition, also in accordance with Ordinance No. 07-07, the proposed City Furniture building will be positioned along the street-front to further New Urbanism planning principles and to provide an enhanced architectural expression along the U.S. 1 corridor.

The existing City Furniture building, which is proposed for conversion into an Ashley Furniture Homestore, will be reduced in size from 45,295± to 33,588 square feet of gross floor area and will undergo substantial exterior renovations. The building facade and roofline will be improved with architectural features and decorative moldings that follow the design standards set forth in Town Ordinance No. 07-07, including reveals and projecting ribs. In addition, the Property will be enhanced by increased landscaping areas and streetscape.



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Town of Cutler Bay
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B. THE COMPREHENSIVE DEVELOPMENT MASTER PLAN

The Property is designated Business and Office, which is a land use category described in the Comprehensive Development Master Plan (CDMP) as one that "accommodates the full range of sales and service activities." Among the activities permitted within this category are retail commercial centers, including retail furniture stores.

The Property is located both on a major roadway (U.S. 1) and along a rapid transit corridor (the "Busway"). The CDMP provides that infill and redevelopment of underutilized property shall be given priority in such areas. In addition to permitting the use proposed for the Property, the CDMP encourages the design standards incorporated within the development plans. Land Use Policy LU-7A, for example, reads in part as follows:

Through its various planning, regulatory and development activities, [the Town of Cutler Bay] shall encourage development of a wide variety of residential and non-residential land uses and activities in nodes around rapid transit stations to produce short trips, minimize transfers, attract transit ridership, and promote travel patterns on the transit line that are balanced directionally and temporally to promote transit operational and financial efficiencies. Land uses that may be approved around transit stations shall include housing, shopping and offices in moderate to high densities and intensities...

Land Use Policy LU-7B reads:

It is the policy of Miami-Dade County that both the County and its municipalities shall accommodate new development and redevelopment around rapid transit stations that is well designed, conducive to both pedestrian and transit use, and architecturally attractive. In recognition that many transit riders begin and end their trips as pedestrians, pedestrian accommodations shall include, as appropriate, continuous sidewalks to the transit station, small blocks and closely intersecting streets, buildings oriented to the street or pedestrian paths, parking lots predominantly to the rear and sides of buildings...



R. Don O'Donniley, AICP, Planning Director
Town of Cutler Bay
April 14, 2008
Page 4

The development plans incorporate the street frontage building orientations and architecturally enhanced visual experience encouraged by the CDMP. The site's positioning between two rapid transit stations, one at Quail Roost Drive and another at Marlin Road, will also further the pedestrian accessibility promoted in the CDMP.

C. THE ZONING DISTRICT AND DEVELOPMENT REGULATIONS

The Property has two separate and distinct zoning districts. The southern portion of the Property is situated within the Town's Limited Business (BU-1A) Zoning District and northern portion of the Property is located within the Town's Light Manufacturing Industrial (IU-1) Zoning District. The Applicant respectfully requests a district boundary change from BU-1A and IU-1 to BU-1A to create zoning uniformity on the Property, to bring the Property into conformance with the existing Business and Office land use designation and to permit the institution of the development program.

Retail furniture centers are permitted within the BU-1A zoning classification. Site development regulations applicable within the district, however, generally constrain the implementation of New Urbanism planning principles and the design standards promoted in Town Ordinance No. 07-07. Applicant respectfully requests non-use variances from those provisions.

Among the non-variances being requested is a setback variance to permit the proposed City Furniture building to be positioned along the street front with side and rear off-street parking in accordance with the policies of the CDMP, the New Urbanism planning principles and Ordinance No. 07-07. In addition, the Applicant is requesting a minimal variance of the landscaping requirements to permit a total open space of 14.5% of the total lot area where 16% is generally required.

Additional non-use variances are necessary to align the development program with industry standards for retail furniture centers. Unlike other retail uses, the size of a retail furniture center does not have a direct correlation to the development impacts addressed by site development regulations. Industry standards require that customers be provided with multiple showroom areas that replicate residential living areas. Due to the size of individual products offered for sale at such centers, each showroom space requires expansive floor areas (i.e., the amount of space that would be comparable to a small living room, bedroom or dining room). To accommodate for these industrial standards, the Applicant respectfully requests a non-use variance of lot coverage to permit 46.2% where 40% is generally permitted and a non-use variance to permit more FAR than generally permitted.



R. Don O'Donniley, AICP, Planning Director
Town of Cutler Bay
April 14, 2008
Page 5

Lastly, the Applicant respectfully requests a non-use variance of off-street parking regulations. Generally, franchised furniture stores, like City Furniture and Ashley Furniture Homestore, draw its customer base from one of two sources: (1) visits from neighborhood residents and (2) passerby visits (*i.e.*, captured trips). Such stores which are not coupled with other modifications, like the addition of furniture clearance centers, do not draw in an expanded customer base increasing the number of visitors and placing burdens on off-street parking counts but rather simply serve to provide its existing customer base with a wider selection of merchandise. As a result, the Applicant is requesting a non-use variance of off-street parking regulations to permit 127 parking spaces on site.

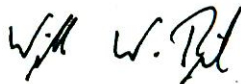
D. THE PROFFERED DECLARATION OF RESTRICTIONS

In order to assure the Town that the representations made by the Applicant during consideration of the Application will be abided by the Applicant, its successors and assigns, the Applicant is proffering a Declaration of Restrictions to be recorded in the Public Records of Miami-Dade County, Florida, which will run with the title to the Property for a period of 30 years; after which time said declaration shall be extended automatically for successive periods of 10 years unless and instrument signed by the then owners of the Property is recorded amending, modifying or releasing said declaration following approval at a public hearing by the Town Council. The Declaration, among other things, ties the Applicant's requests for approval to the development plans made a part of the Application and expressly provide that, in the event the Property ceases to be operated as a retail furniture store and showroom, the same will be converted and/or improved to comply with all applicable zoning laws including the Town's minimum parking requirements.

E. CONCLUSION

Based on the forgoing, we submit that the proposed development is consistent with the CDMP and compatible with the surrounding community. We thank you for your consideration and respectfully request your support of the application.

Very truly yours,



William W. Riley, Jr.

cc: Keith Koenig, President
City Furniture, Inc.



My Home

miamidade.gov

ACTIVE TOOL: SELECT



Show Me:

Property Information

Search By:

Select Item

Text only

Property Appraiser Tax Estimator

Summary Details:

Folio No.:	36-6005-052-0060
Property:	18750 S DIXIE HWY
Mailing Address:	CITY FURNITURE INC 6701 N HIATUS RD TAMARAC FL 33321-

Property Information:

Primary Zone:	7100 INDUSTRIAL
CLUC:	0011 RETAIL
Beds/Baths:	0/0
Floors:	1
Living Units:	0
Adj Sq Footage:	5,621
Lot Size:	56,413 SQ FT
Year Built:	1978
Legal Description:	POINT WEST 4TH ADDN PB 107-67 LOT 6 BLK 6 LOT SIZE 56413 SQ FT F/A/U 30-6005- 052-0060 COC 26284- 1624 03 2008 1

Sale Information:

Sale O/R:	26284-1624
Sale Date:	3/2008
Sale Amount:	\$3,700,000

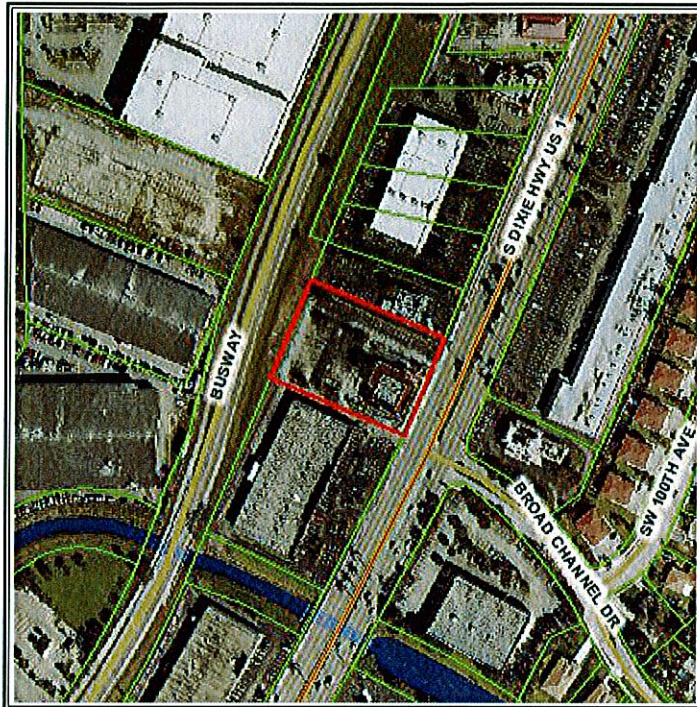
Assessment Information:*

Year:	2008	2007
Land Value:	\$2,256,520	\$1,692,390
Building Value:	\$525,739	\$505,215
Market Value:	\$2,782,259	\$2,197,605
Assessed Value:	\$2,782,259	\$2,197,605
Total Exemptions:	\$0	\$0
Taxable Value:	\$2,782,259	\$2,197,605

* The market and assessed values are accurately reflected. Information related to this property's exemptions and taxable values are being updated as a result of the recent passage of Amendment One and will be available shortly.

Additional Information:

Community Development District:	NONE
Community Redevelopment Area:	NONE
Empowerment Zone:	NONE
Enterprise Zone:	SOUTH
Land Use:	SHOPPING CENTERS, COMMERCIAL, STADIUMS, TRACKS
Urban Development:	INSIDE URBAN DEVELOPMENT



Digital Orthophotography - 2007

0 — 134 ft

Legend

- Property Boundary
- Selected Property
- Street
- Highway
- Miami-Dade County
- Water



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| [My Neighborhood](#) | [Property Appraiser](#)

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If you experience technical difficulties with the Property Information application, or wish to send us your comments, questions or suggestions please email us at [Webmaster](#).

Web Site
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Development:	BOUNDARY (UDB)
Zoning:	U-1
Non-Ad Valorem Assessments:	Get Info

TAB 10

ORDINANCE NO. 08-__

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING ORDINANCE NO. 2007-24 WHICH ORDINANCE ADOPTED A BUDGET FOR THE 2007/2008 FISCAL YEAR BY REVISING THE 2007/2008 FISCAL YEAR OPERATING AND CAPITAL BUDGET AS OUTLINED IN EXHIBIT "A" ATTACHED HERETO; AUTHORIZING THE TOWN MANAGER TO DO ALL THINGS NECESSARY TO CARRY OUT THE AIMS OF THIS ORDINANCE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, upon the periodic review and analysis of current budgetary commitments and obligations, and based upon the projected needs and requirements of the Town of Cutler Bay ("Town") and upon the recommendations of the Town Manager (and the concurrence of the Finance Director as to Accounting Principles), it is deemed necessary to adjust, amend and implement the 2007/2008 Operating and Capital Budget as set forth in Exhibit "A" attached hereto and made a part hereof.

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

Section 1. Findings. The foregoing "Whereas" clause is hereby ratified and incorporated as the legislative intent of this Ordinance.

Section 2. Amendment to the Budget. The Town Council hereby authorizes the amendment of Ordinance No. 2007-24, which Ordinance adopted a budget for the 2007/2008 fiscal year, by revising the 2007/2008 budget as set forth on the attached Exhibit "A" which exhibits are deemed incorporated by reference as though set forth in full herein.

Section 3. Authorization. The Town Manager is hereby authorized to do all things necessary to carry out the aims of this Ordinance.

Section 4. Effective Date. This Ordinance shall be effective immediately upon adoption on second reading and shall be applicable retroactively from and after October 1, 2007.

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 LEGALITY
FOR THE USE AND BENEFIT OF THE
TOWN OF CUTLER BAY ONLY:

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

Moved By:

Seconded By:

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman _____

Vice Mayor Edward P. MacDougall _____

Councilmember Peggy R. Bell _____

Councilmember Timothy J. Meerbott _____

Councilmember Ernest N. Sochin _____

TOWN OF CUTLER BAY
2007/2008 Budget Amendment
General Fund

EXHIBIT A

Account #	Description	2007/2008 Adopted Budget	2007/2008 Budget Amendment	2007/2008 Revised Budget
001-514000-3100	Town Attorney - Professional Services	360,000	160,000	520,000
001-521000-3100	Law Enforcement - Professional Services	<u>7,549,847</u>	<u>(160,000)</u>	<u>7,389,847</u>

TAB 11



Planning & Zoning Department

Kathryn Lyon
Interim Community Development Director

MEMORANDUM

To: Steve Alexander, Town Manager

From: Kathryn Lyon, Interim Planning Director

Date: October 8, 2008

Re: Approval of an Ordinance Amending Definition of "Non-Residential Design Standards and Regulations"

BACKGROUND

The Town adopted the Non-Residential Design Standards and Regulations Ordinance No. 07-07 on March 21st, 2007. These development standards were intended to encourage high quality aesthetically pleasing developments.

The Town Council understands the importance of environmental stewardship and desires to incorporate green building incentives into these standards in order to help reduce the carbon foot print of such establishments within the Town.

The Town also has recognized a duty to include environmentally sound regulations in its management of development.

REQUEST

Staff requests that the Town Council amend Ordinance 07-07, Definitions, to amend a definition of large nonresidential establishments to occupying between forty thousand and one (40,001) and fifty thousand (50,000) gross square feet of floor area.

Staff requests that the Town Council amend Ordinance 07-07, Definitions, to amend a definition of medium nonresidential establishments to occupying between twenty-five thousand and one (25,001) and fifty thousand (40,000) gross square feet of floor area.

Staff requests that the Town Council amend Ordinance 07-07, Maximum size of Large nonresidential establishments, to permit nonresidential establishments with the Town to exceed 50,000 gross square feet limitation by a maximum of twenty percent (20%), if such an establishment obtains a Leadership In Energy and Environmental Design (LEED) Certification of Silver. This is to encourage developers within the Town to build green and offers an incentive to build greater than 50,000 square feet. This Ordinance is the first step

in implementing Ordinance 08-11 and 08-12 Moratoriums on Development within the Town (Green Moratorium).

Staff requests that the Town Council amend Ordinance 07-07, Regulations for Medium and Large Nonresidential Establishments Location, to remove All Medium and Large nonresidential establishments shall be located in shopping centers. The majority of the parcels located on US 1 are platted and developed. The sixteen (16) foot Utility easement and busway along US 1 reduces the buildable area per lot. The parcels are not large enough to allow a building that exceeds 50,000 square feet and four (4) additional stores as the existing Ordinance states. Eliminating this requirement will allow the Town to focus on the form and shape of the building rather than amount of uses.

RECOMMENDATION

Staff recommends the Council approve the attached amendments to Ordinance 07-07.

ORDINANCE NO. 08- _____

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING ORDINANCE 07-07 RELATING TO NONRESIDENTIAL DESIGN STANDARDS AND REGULATIONS; PROVIDING FOR THE DELETION OF LOCATION REQUIREMENTS; PROVIDING FOR AMENDMENTS TO PERMITTED SQUARE FOOTAGE; PROVIDING FOR GREEN BUILDING INCENTIVES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay (the “Town”) adopted development standards applicable to nonresidential establishments within the Town; and

WHEREAS, these development standards are intended to encourage high quality aesthetically pleasing developments that produce a desirable relationship between buildings and the pedestrian; and

WHEREAS, the Town Council understands the importance of environmental stewardship and desires to incorporate green building incentives into these standards in order to help reduce the carbon foot print of such establishments within the Town; and

WHEREAS, this Ordinance was heard and recommended by the Town Council, in its capacity as the Town’s Local Planning Agency; and

WHEREAS, after due notice and hearing, the Town Council finds this Ordinance to be consistent with the Town’s Comprehensive Plan; and

WHEREAS, the Town Council finds these changes to be in the best interest and welfare of the Town.

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

Section 1. Findings. The foregoing “Whereas” clauses are hereby ratified and incorporated as the legislative intent of this Ordinance.

Section 2. Amendment to Ordinance 07-07. Ordinance 07-07 is hereby amended to read as follows:

A. Definitions.

For purposes of this Ordinance, the following words and phrases shall have the meanings herein set forth:

Balcony or Balconies: shall mean a platform projecting from a wall of a building and surrounded by a railing or parapet.

Large nonresidential establishment: A nonresidential establishment, or any combination of nonresidential establishments in a single building or in separate but abutting buildings, occupying between forty thousand (40,0010) and fifty thousand (50,000) gross square feet of floor area.

Medium nonresidential establishment: A nonresidential establishment, or any combination of nonresidential establishments in a single building or in separate but abutting buildings, occupying between twenty-five thousand (25,0010) and forty thousand (40,000) gross square feet of floor area.

B. Purpose.

C. Nonresidential Establishment Regulations Generally.

All Small, Medium, and Large nonresidential establishments shall be subject to the following regulations:

1. **Façades and Exterior Walls.**

9. **Maximum Square Footage Permitted.**

Nonresidential establishments within the Town shall not exceed fifty thousand (50,000) gross square feet, except as provided in Subsection G below.

D. Regulations for Small Nonresidential Establishments.

E. Regulations for Medium and Large Nonresidential Establishments.

1. ~~Location.~~

~~All Medium and Large nonresidential establishments shall be located in shopping centers.~~

2. **1. Entryways.**

3. **2. Maximum number of parking spaces.**

4. 3. Off-street parking.

5. 4. Central features and community space.

6. 5. Outdoor seating/dining areas.

7. 6. Public transit.

8. 7. Internal Pedestrian walkways.

9. 8. Expansions.

F. Regulations for Medium Nonresidential Establishments.

G. Regulations for Large Nonresidential Establishments.

1. Location.

~~Large nonresidential buildings shall be located in a group of more than four (4) nonresidential establishments located in a complex which is planned, developed, owned, or managed as a single unit with off-street parking provided on the property.~~

2. 1. Maximum Size of Large Nonresidential Establishments.

Large nonresidential establishments shall not exceed fifty thousand (50,000) gross square feet. However, the total structure may exceed this size so long as no single nonresidential tenant exceeds this size. To determine whether an establishment has reached this maximum, the area of shared check stands, management, controlling ownership interest, and storage areas shall also be included. Notwithstanding the foregoing, a Large nonresidential establishment may exceed the fifty thousand (50,000) square foot limitation by a maximum of twenty percent (20%), if such an establishment obtains a Leadership In Energy and Environmental Design (LEED) Certification of Silver. A LEED Certified Silver development shall mean a development that obtains at least 33-38 points of the maximum points on the LEED project checklist. Prior to the issuance of the first principal building permit the applicant shall post a performance bond of 3 percent of the total cost of the building in order to secure performance and fulfillment of the applicant's obligation to obtain a LEED Silver Certification. In lieu of the bond required by this section the Town may accept an irrevocable letter of credit from a financial institution authorized to do business in Florida or provide evidence of cash deposited in an escrow account in a financial institution in the State of Florida in the name of the applicant and the Town. The letter of credit

or escrow shall be in the same amount of the bond if it were posted. If the project fails to meet the criteria required for Silver Certification by the United States Green Building Council (USGBC) within two (2) years after receiving the Town's certificate of occupancy, the applicant shall forfeit one hundred percent (100%) of the bond. Funds that become available to the Town from the forfeiture of the performance bonds shall be deposited in a Green Building Fund established by the Town. These funds shall be utilized for improvements such as landscape, open space improvements, traffic calming, pollution mitigation, drainage and sanitary sewer improvements, sustainability improvements to public facilities, or similar improvements as deemed appropriate by the Town Council.

3. 2. Façade.

4. 3. Exterior Customer Entrance.

Section 3. Severability. If any section, clause, sentence, or phrase of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this Ordinance.

Section 4. Conflict. All Sections or parts of Sections of the Code of Ordinances, all ordinances or parts of ordinances, and all Resolutions, or parts of Resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

Section 5. Effective Date. This Ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading this 17th day of September, 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	_____