



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, February 17, 2010, 7:00 p.m.
South Dade Regional Library
10750 SW 211th Street,
Cutler Bay, Florida 33189

1. CALL TO ORDER, ROLL CALL, and PLEDGE OF ALLEGIANCE

A. Pledge of Allegiance led by Cub Scout Pack 654 from Whispering Pines Elementary

2. PROCLAMATIONS, AWARDS, PRESENTATIONS

A. Tree City USA Designation

3. APPROVAL OF MINUTES

A. Regular Council Meeting – January 20, 2010

TAB 1

4. REPORTS

A. TOWN MANAGER'S REPORT

B. TOWN ATTORNEY'S REPORT

C. BOARD/COMMITTEE REPORTS AND COUNCIL ANNOUNCEMENTS

1. Charter School Committee Appointments

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 URGING MIAMI-DADE COUNTY'S METROPOLITAN PLANNING ORGANIZATION TO APPROVE THE TOWN'S SUBMISSION FOR THE 2010 MUNICIPAL GRANT PROGRAM FOR A BICYCLE AND PEDESTRIAN MASTER PLAN; AND PROVIDING FOR AN EFFECTIVE DATE. **(SOCHIN)**

TAB 2

B. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING THE ISSUANCE OF AN INVITATION TO BID (ITB) FOR SW 208 STREET ROADWAY IMPROVEMENTS; AUTHORIZING THE TOWN MANAGER TO NEGOTIATE AND ENTER INTO AN AGREEMENT WITH THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER; AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 3

6. QUASI-JUDICIAL HEARINGS (PUBLIC HEARING REQUIRED)

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

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

A. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING SECTION 2-93 ENTITLED "RECOVERY OF COSTS FOR FAILURE OF THE RESPONSIBLE PERSON TO APPEAR ON BEHALF OF THE BUSINESS" RELATING TO ALLEGED SHOPLIFTING CRIMES; AND PROVIDING FOR AN EFFECTIVE DATE. **(MACDOUGALL)**

TAB 4

B. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING ARTICLE 5, SECTION B OF ORDINANCE 09-06 ENTITLED, "FLOODPLAIN MANAGEMENT REGULATIONS"; REVISING TOWN STANDARDS TO CONFORM TO FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) GUIDELINES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 5

8. ORDINANCES FOR FIRST READING OR RESOLUTIONS REQUIRING A PUBLIC HEARING

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 CHAPTER 30 "TRAFFIC AND MOTOR VEHICLES" TO PROVIDE COMPREHENSIVE REGULATIONS RELATING TO THE USE OF GOLF CARTS ON DESIGNATED STREETS WITHIN THE TOWN; AMENDING CHAPTER 8CC "CODE ENFORCEMENT" TO INCLUDE CIVIL PENALTIES RELATED TO GOLF CART USE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE. **(MEERBOTT)**

TAB 6

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. Cutler Bay's 4th Annual Founder's Day Celebration

Saturday, February 20th from 11:00 am to 3:00 pm, Cutler Ridge Park, 10100 SW 200th ST

B. Code Compliance Hearing

Monday, February 22nd at 2:00 p.m., Town Hall, 10720 Caribbean Blvd., Suite 105

C. Council Meeting

Wednesday, March 17, 2010, at 7:00 p.m. at South Dade Regional Library, 10750 SW 211th ST

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

TAB 1

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

Wednesday, January 20, 2010, 7:00 p.m.
South Dade Regional Library
10710 SW 211th Street, 2nd 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 Clerk Erika Santamaria
Town Manager Steven J. Alexander

The mayor led the Pledge of Allegiance.

2. PROCLAMATIONS, AWARDS, PRESENTATIONS:

A. Devesh Nirmul representative of the Florida Green Building Coalition gave a presentation on the FGBC organization and how the Town was able to achieve a silver certification. He then presented the Town Council with the Green City Silver certificate and flag.

3. APPROVAL OF MINUTES:

A. Vice Mayor MacDougall made a motion approving the minutes of the regular council meeting on November 18, 2009 and two special meetings on November 23, 2009 and December 8, 2009. The motion was seconded by Councilmember Sochin and adopted by a unanimous voice vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

4. REPORTS

A. TOWN MANAGER'S REPORT

The town manager thanked Sandra Cuervo for her hard work on the silver certification application and achievement with the FGBC. He announced that there will be a ground breaking ceremony for the first of several stimulus project supported by the Federal American Recovery and Reinvestment Act of 2009. He elaborated on the fact that as part of the Town's capital improvements there will

be construction to improve the Caribbean Boulevard bridge, and he stressed that it is funded and the construction will be managed by Miami-Dade County.

B. TOWN ATTORNEY'S REPORT:

The town attorney stated that there were several add-on resolutions to be considered by the Council during the Consent Agenda, in reference to Haiti relief efforts.

C. BOARD AND COMMITTEE REPORTS, COUNCIL ANNOUNCEMENTS

Councilmember Bell stated that one of the committee members resigned from the Parks Committee and stated that a new appointment has been made. She introduced Keith Newcomb to the Council, who briefly made a statement and Member Bell gave also provided a brief background on her appointment. Councilmember Bell made a motion to approve Keith Newcomb as the new appointed member to the Parks Committee. The motion was seconded by Vice Mayor MacDougall and all members were in favor.

Mayor Vrooman stated that he needed to make his appointment to the Charter School Committee. He recognized Rosi Alvarez who was seated in the public. He provided a brief statement on Ms. Alvarez's interest in the committee. Councilmember Meerbott made a motion to approve Ms. Alvarez to the committee. The motion was seconded by Councilmember Bell and members were in favor.

Member Bell reported that the next Parks committee meeting would be January 25th at 7:00 p.m. at Cutler Ridge Park. She also that the Lake by the bay Park conveyance will be heard at the County tomorrow at 2:00 p.m. and encouraged members of the public to attend and show support.

Mayor Vrooman thanked the town manager for his hard work on the Lakes by the Bay Park agreement with the County. He stated that even though it was a long and difficult process the manager was able to steer the entire negotiation process to where the Town would be in the best position.

5. CONSENT AGENDA:

- F. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, WAIVING COMPETITIVE BIDDING BASED ON THE MANAGER'S FINDING OF IMPRACTICABILITY FOR THE PROVISION OF CONTRACTING SERVICES FOR THE TOWN; APPROVING THE SELECTION OF TESCO PLUMBING TO PROVIDE ADDITIONAL CONTRACTING SERVICES; AUTHORIZING THE TOWN MANAGER TO ENTER INTO AN AMENDMENT TO THE EXISTING AGREEMENT WITH TESCO PLUMBING FOR THE ADDITIONAL WORK; AND PROVIDING AN EFFECTIVE DATE.**

Mayor Vrooman pulled item E, Vice Mayor MacDougall pulled Item A, B, C, and D, from the Consent Agenda for discussion. Town Manager reminded the Council of the two add-on items be consider for adoption, which referred to Haiti relief efforts, Items G and H.

Councilmember Meerbott made a motion to approve the Consent Agenda as amended with Items A, B, C, D and E pulled for discussion and add-on Items G and H. The motion was seconded by Councilmember Bell and Resolution 10-05 was adopted by unanimous voice vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

The town clerk read the following resolution by title:

- A.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING THE TOWN MANAGER TO EXECUTE AN AGREEMENT WITH CORZO CASTELLA CARBALLO THOMPSON SALMAN P.A. TO PROVIDE DESIGN AND ENGINEERING SERVICES FOR THE OLD CUTLER ROADWAY IMPROVEMENTS PROJECT; AND PROVIDING AN EFFECTIVE DATE.

Rafael Casals, Public Works Director, provided a brief explanation on the resolution.

Councilmember Meerbott made a motion to approve the resolution. The motion was seconded by Councilmember Sochin and Resolutions 10-01 was adopted by unanimous voice vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

The town clerk read the following resolution by title:

- B.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA URGING THE SECRETARY OF THE ARMY TO GRANT A RE- TRIAL FOR LT. MICHAEL BEHENNA; TRANSMITTING THIS RESOLUTION TO CERTAIN PUBLIC OFFICIALS; AND PROVIDING AN EFFECTIVE DATE. **(MACDOUGALL)**

Vice Mayor MacDougall provided a detailed explanation of the resolution. He further explained that the resolution was only supporting a re-trial for Lt. Behenna. Mayor Vrooman asked Marlayne Behenna, the soldiers grandmother, to address the Town Council.

Councilmember Meerbott made a motion to approve the Resolution. The motion was seconded by Councilmember Bell and Resolutions 10-02 was adopted by unanimous voice vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

The town clerk read the following resolution by title:

- C.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, RELATING TO PROFESSIONAL SERVICES, AUTHORIZING THE ISSUANCE OF A REQUEST FOR QUALIFICATIONS (RFQ) FOR DESIGN-BUILD SERVICES; AUTHORIZING THE TOWN MANAGER TO NEGOTIATE AN AGREEMENT WITH THE TOP RANKED FIRMS; AND PROVIDING FOR AN EFFECTIVE DATE.

Town manager provided a brief explanation on the Resolution. He explained that the RFQ was to fill-in the Lakes by the Bay park property so that it is at park quality and playing field level.

Councilmember Bell made a motion to approve the resolution. The motion was seconded by Councilmember Meerbott and Resolutions 10-03 was adopted by unanimous voice vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

The town clerk read the following resolution by title:

- D. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, REPEALING RESOLUTION 07-41 RELATING TO THE CREATION OF THE CHARTER HIGH SCHOOL COMMITTEE; CREATING A NEW CHARTER SCHOOL COMMITTEE; APPOINTING A COUNCIL LIAISON AND PROVIDING FOR THE SELECTION OF COMMITTEE MEMBERS; AND PROVIDING FOR AN EFFECTIVE DATE. (MACDOUGALL)**

Vice Mayor MacDougall addressed his proposed resolution. He stated that the Town is in great need of schools and that there are some residents that would love to participate in such a committee. He acknowledged that Member Sochin was already liaison to an existing similar committee, but expressed concerned that the committee has not convened. Member Sochin discussed that he has been speaking with local schools and is determined to get the committee of the ground. After a brief discussion, Mayor Vrooman recommended that a workshop may be a good idea to give the committee some direction and inviting school board members and principals to a workshop would be key in determining the needs of local schools. There was no further action on the proposed workshop. Councilmember Bell suggested that perhaps two committees may be needed to complete such a large task, she said one could look into the creation of new schools and the other committee would be able to look into improving the current needs of local schools. There was no further action taken on this suggestions.

Vice Mayor MacDougall withdrew his resolution from consideration.

The town clerk read the following resolution by title:

- E. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, SUPPORTING THE PROPOSED GREEN CORRIDOR LEGISLATION; TRANSMITTING THIS RESOLUTION TO CERTAIN PUBLIC OFFICIALS; AND PROVIDING FOR AN EFFECTIVE DATE. (VROOMAN)**

Mayor Vrooman provided a brief explanation on the Resolution. He expressed that this resolution was to transmit the legislation to State legislature and local governments to support the program. He further provided an explanation on the program.

Councilmember Meerbott made a motion to approve the resolution. The motion was seconded by Councilmember Bell and Resolutions 10-04 was adopted by unanimous voice vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

The town clerk read the following resolution by title:

- G.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING THE TOWN MANAGER TO DONATE \$5,000.00 TO THE AMERICAN RED CROSS FROM THE 2009/2010 FISCAL YEAR BUDGET, INCLUDING, BUT NOT LIMITED TO, CONTINGENCY FUNDS, IN SUPPORT OF THE RELIEF EFFORTS IN HAITI FOLLOWING THE JANUARY 12, 2010 EARTHQUAKE; AND PROVIDING AN EFFECTIVE DATE. **(BELL)**

Councilmember Meerbott made a motion to approve the resolution. The motion was seconded by Councilmember Bell and Resolution 10-06 was approved by unanimous voice vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

The town clerk read the following resolutions by title:

- H.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA APPROVING CERTAIN STEPS TO ASSIST HAITI IN THE JANUARY 12, 2010 EARTHQUAKE RECOVERY EFFORTS; AUTHORIZING THE TOWN MANAGER TO EXPEND FUNDS FOR HAITI EARTHQUAKE RELIEF EFFORTS; PROVIDING FOR AN EFFECTIVE DATE. **(VROOMAN)**

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, DECLARING CERTAIN PROPERTY TO BE SURPLUS IN ACCORDANCE WITH ORDINANCE 06-22; DIRECTING THE TOWN MANAGER TO DONATE SURPLUS PROPERTY TO THE HAITI EARTHQUAKE RELIEF EFFORTS; AND PROVIDING FOR AN EFFECTIVE DATE. **(MEERBOTT)**

The town manager explained that each of the resolutions represent a separate request one was to provide surplus property and certain staff to be deployed to Haiti for relief efforts. He stated that there is another resolution that contains both of the requests in one resolution. The mayor asked the town clerk to read the resolution.

The town clerk read the following resolution by title:

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA APPROVING CERTAIN STEPS TO ASSIST HAITI IN THE JANUARY 12, 2010 EARTHQUAKE RECOVERY EFFORTS; AUTHORIZING THE TOWN MANAGER TO EXPEND FUNDS FOR HAITI EARTHQUAKE RELIEF EFFORTS; DECLARING CERTAIN PROPERTY TO BE SURPLUS IN ACCORDANCE WITH ORDINANCE 06-22;

DIRECTING THE TOWN MANAGER TO DONATE SURPLUS PROPERTY TO THE HAITI EARTHQUAKE RELIEF EFFORTS; AND PROVIDING FOR AN EFFECTIVE DATE.

The town manager explained donation of the surplus property to Haiti for recovery efforts. He explained that a few members of Town staff possess special skills that may help citizens in Haiti.

The Town Council agreed that the combined resolution represented the intent of the Council. Councilmember Bell made a motion to approve the resolution. The motion was seconded by Councilmember Sochin and Resolution 10-07 was approved by unanimous voice vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

6. QUASI-JUDICIAL HEARINGS (PUBLIC HEARING REQUIRED)

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

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

The town clerk read the following ordinance by title:

- A. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA AMENDING CHAPTER 30 "TRAFFIC AND MOTOR VEHICLES" TO PROVIDE COMPREHENSIVE REGULATIONS RELATING TO THE USE OF GOLF CARTS ON DESIGNATED STREETS WITHIN THE TOWN; AMENDING CHAPTER 8CC "CODE ENFORCEMENT" TO INCLUDE CIVIL PENALTIES RELATED TO GOLF CART USE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE. **(MEERBOTT)**

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

8. ORDINANCES FOR FIRST READING OR RESOLUTIONS REQUIRING A PUBLIC HEARING

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

The town clerk read the following ordinance by title:

- A. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ADOPTING THE ANNUAL UPDATE TO THE CAPITAL IMPROVEMENTS ELEMENT WITHIN THE TOWN'S COMPREHENSIVE PLAN; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

The mayor opened the public hearing. Jaime Reyes, 9750 Southwest 215 Lane, addressed the Council.

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

The town clerk read the following ordinance by title:

- B. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING SECTION 2 OF ORDINANCE 07-19 RELATING TO COMMUNITY-WIDE GARAGE SALES; AND PROVIDING FOR AN EFFECTIVE DATE. (BELL)**

Councilmember Bell provided an explanation on the ordinance. She explained it would be beneficial to the residents of the Town.

The mayor opened the public hearing. Barbara Condon, 19641 Holiday Road, Tack Leamy, Whispering Pines Road, addressed the Council.

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

10. PUBLIC COMMENTS

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

The following individuals spoke: Marlayne Behenna, 9451 Toni Drive, Bill Meiklejohn, 9320 Sterling Drive, David Siegel, Southland Mall 20505 South Dixie Highway, Freddie Ambrose, 19310 Bel Aire Drive, Louise Lockwood, 1101 East Ridge Village Drive, Jaime Reyes, 9750 Southwest 215 Lane, Kevin Voitke, 19001 Southwest 91 Avenue.

11. MAYOR AND COUNCIL COMMENTS:

Vice Mayor MacDougall reported that he recently went on a police ride-along assignment with a Cutler Bay officer. He mentioned that a lot of the school zones do not have flashing caution lights during school hours and asked how can the Town support the installation of such important signals around schools. He inquired on how code enforcement log the anonymous complaints that are received.

12. OTHER BUSINESS:

13. ADJOURNMENT

The next council meeting will be held on February 17, 2010 at South Dade Regional Library.

The meeting was officially adjourned at 10:35 P.M.

Respectfully submitted:

*Erika Gonzalez-Santamaria, CMC
Town Clerk*

*Adopted by the Town Council on
this 17th day of February, 2010.*

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

RESOLUTION NO. 10-___

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA URGING MIAMI-DADE COUNTY'S METROPOLITAN PLANNING ORGANIZATION TO APPROVE THE TOWN'S SUBMISSION FOR THE 2010 MUNICIPAL GRANT PROGRAM FOR A BICYCLE AND PEDESTRIAN MASTER PLAN; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay (the "Town") realizes that each year vehicle crashes involving bicyclists and pedestrians account for 40% of the traffic fatalities in Miami-Dade County; and

WHEREAS, the Town has submitted a proposal to the Miami-Dade County Metropolitan Planning Organization (the "MPO") for a Town-wide Bicycle and Pedestrian Master Plan (the "Master Plan") to encourage safe mobility options for residents and commuters alike; and

WHEREAS, the Town would like to encourage sharing the road and creating alternative transportation methods Town-wide; and

WHEREAS, the support of the MPO is critical to the creation of a strong, viable Master Plan to better accommodate today's residents of, and visitors to, the Town, as well as create a framework for future improvements; and

WHEREAS, the Town finds that this Resolution will promote the health, safety and welfare of the Town.

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

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

Section 2. Support. The Town Council hereby supports the creation of a Town-wide Bicycle and Pedestrian Master Plan (the "Master Plan") and urges the Miami-Dade County Metropolitan Planning Organization (the "MPO") to approve the Town's proposed use of the grant funds toward the creation of a strong, viable Master Plan.

Section 3. Transmittal. The Town Council hereby directs the Town Clerk to furnish a copy of the Resolution to members of the MPO Governing Board, the Director of MPO, the Financial/Grant Manager of MPO, the Mayor of Miami-Dade County, and the Board of Miami-

Dade County Commissioners immediately upon its adoption.

Section 4. Effective Date. That this Resolution shall become effective immediately upon adoption hereof.

PASSED and ADOPTED this _____ day of _____, 2010.

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ-SANTAMARIA, CMC
Town Clerk

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

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

Moved By:
Seconded By:

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman _____

Vice Mayor Edward P. MacDougall _____

Councilmember Peggy R. Bell _____

Councilmember Timothy J. Meerbott _____

Councilmember Ernest N. Sochin _____

TAB 3



MEMORANDUM

To: Honorable Mayor, Vice Mayor and Town Council

From: Steven J. Alexander, Town Manager

Date: February 17, 2010

Re: **INVITATION TO BID – SW 208 STREET ROADWAY IMPROVEMENTS**

REQUEST

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING THE ISSUANCE OF AN INVITATION TO BID (ITB) FOR SW 208 STREET ROADWAY IMPROVEMENTS; AUTHORIZING THE TOWN MANAGER TO NEGOTIATE AND ENTER INTO AN AGREEMENT WITH THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER; AND PROVIDING FOR AN EFFECTIVE DATE.

BACKGROUND AND ANALYSIS

During the early days of the Town's incorporation, Town staff was contacted by the Cantamar Homeowner's Association ("Association") regarding the existing roadway conditions along SW 208 Street (between SW 87 Ave and Old Cutler Road). The Association was concerned with the amount of speeding, lack of a center median, and need for possible traffic calming devices. The Town's initial response was that the roadways are not currently owned by the Town and the process for the transfer of the roadways was moving forward.

On June 19, 2008, the Town executed the Roadway Transfer Agreement with Miami-Dade County's Public Works Department. The Agreement transferred the ownership of SW 208 Street corridor in question and Town staff proceeded to study the corridor.

The following is a timeline of events which have taken place, since the Town received ownership of SW 208 Street Roadway segment:

- On April 2008 Marlin Engineering was given NTP to commence the roadway analysis for the roadway modifications for SW 208th Street. The preliminary analysis consisted of developing different alternatives in order to achieve the following goals:
 - Incorporate bicycle paths between SW 87th Avenue and Old Cutler Road.
 - Eliminate the existing at-grade median Two Way Left Turn Lane, and provide a median landscape.





- Reduce the number of lanes from five (5) lanes to four or other variant.
- By implementing all those features, Traffic Calming could be achieved.
- May 29, 2008 the Preliminary concept was submitted to Town of Cutler Bay for review. This proposal included the landscaped median in lieu of ~~grate~~ median, a bike path on the north side, and four (4) 10-ft lanes.
- The Town provided comments and design changes were implemented by early July and August.
- September 3rd, 2008 a workshop and presentation was provided to Cantamar HOA with the proposed improvements. Resulting from that meeting the following modifications were implemented:
 - The typical section was reduced from four (4) lanes to two lanes
 - Bike lanes were on both directions were implemented
 - Parking (parallel Parking) was accommodated where it was feasible.Marlin Engineering visited the Miami-Dade County Public Works Traffic Division to present the modifications as well as with MiamiDade County Public Works – Highway Division.
- A traffic analysis was conducted to satisfy the requirements of ~~Miami~~ County Public works Traffic Division and a report will be delivery on November 20, 2008 for approval
- March 17, 2009 the MiamiDade Public Works Department – Highway Division approved the concept on the basis that all roads have been turned over to the Town.
- Upon approval of the Traffic Report. The second phase of the project will begin with the preparation of design documents for the construction of the project. Anticipated approval of the Traffic Report was December 2008.
- A second Cantamar HOA publicly noticed meeting was held in March 25, 2009, where the revised concept was presented and accepted by the Cantamar HOA.
- Marlin Engineering then proceeded to develop a proposal which incorporated both the resident's (HOA) and Town Staff's comments.
- Town Council on July 15, 2009, adopted Resolution # 09-54, authorizing the issuance of a purchase order to Marlin Engineering Inc. to proceed with the development of construction plans.

RECOMMENDATION

We recommend that the attached "Invitation to Bid" resolution be adopted.



RESOLUTION NO. 10-_____

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING THE ISSUANCE OF AN INVITATION TO BID (ITB) FOR SW 208 STREET ROADWAY IMPROVEMENTS; AUTHORIZING THE TOWN MANAGER TO NEGOTIATE AND ENTER INTO AN AGREEMENT WITH THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay's (the "Town") was transferred ownership of all local roads and sidewalks, as per the Road Transfer Agreement dated June 19, 2008; and

WHEREAS, the Road Transfer Agreement transferred the responsibility to the Town for any future roadway improvements on locally owned roadway segments; and

WHEREAS, SW 208 Street between Old Cutler Road and SW 87 Avenue is a "Town" owned roadway section; and

WHEREAS, the "Town" Council wishes to improve the existing roadway configuration of a urban multi-lane undivided roadway section to a two lane pedestrian and cyclist friendly roadway section with a landscaped center median; and

WHEREAS, as a result of "Town" staff meetings with adjacent Homeowner's Associations a conceptual design reducing the existing roadway section from four lane to two lane with a landscape center median was accepted by the adjacent residents; and

WHEREAS, "Town" staff has developed the attached (Exhibit "A") Invitation to Bid in order to obtained sealed competitive bids from potential contractors; and

WHEREAS, Town Ordinance Number 06-22 requires the Town Manager to obtain authorization from the Town Council to advertise solicitations for bids and proposals prior to advertising the solicitation.

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

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

Section 2. Authorization. The Town Manager is authorized to advertise and issue of an Invitation to Bid for SW 208 Street Roadway Improvements, and to negotiate and enter into an agreement with the top-ranked bidder.

Section 4. Effective Date. This Resolution shall be effective immediately upon adoption.

PASSED and ADOPTED this _____ day of _____ 2010.

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
INVITATION TO BID
10-02**



SW 208 STREET ROADWAY IMPROVEMENTS

**SUBMITTAL DATE: TBA
TIME: TBA**

SW 208 Street Roadway Improvements

FOR

THE TOWN OF CUTLER BAY

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INVITATION TO BID
10-02
SW 208 STREET ROADWAY IMPROVEMENTS
TOWN OF CUTLER BAY

The Town of Cutler Bay is requesting bids from qualified firms to provide Roadway Improvements for the Town of Cutler Bay. **Interested firms should visit the Town’s website at www.cutlerbay-fl.gov to obtain the Invitation to Bid package. Packages may also be picked up during normal business hours at the office of the Town Clerk, Erika Gonzalez-Santamaria, located at:**

**TOWN OF CUTLER BAY
10720 CARIBBEAN BLVD., SUITE 105
Cutler Bay, FL 33189**

Sealed submittals including one (1) original and four (4) copies of the submittals must be received no later than **TBA** and be clearly marked on the outside, **“ITB 10-02 SW 208 Street Roadway Improvements”**, by **Erika Gonzalez-Santamaria, Town Clerk, Town of Cutler Bay, 10720 Caribbean Blvd., Suite 105, Cutler Bay, Florida, 33189**. Late submittals and electronic submittals will **not** be accepted.

Pursuant to Town Code, public notice is hereby given that a “Cone of Silence” is imposed concerning the Town’s competitive purchasing process, which generally prohibits communications concerning the ITB from the time of advertisement of the ITB until the Town Council meeting at which the Council considers the Town Manager’s recommendation to the Town Council concerning the competitive purchase transaction. Please see the detailed specifications for the public solicitation for services for a statement fully disclosing the requirements of the “Cone of Silence”.

Pursuant to Ordinance 06-11; Town Code Chapter 8A; Section 7.6 of the Town Charter, vendors of the Town are required to disclose any campaign contributions to the Town Clerk, and each vendor must do so prior to and as a condition of the award of any Town contract to the vendor. Please see the detailed specifications of this solicitation for further details.

The Town of Cutler Bay reserves the right to accept or reject any and/or all bids or parts of bids, to workshop or negotiate any and all bids, to waive irregularities, and to request re-bids on the required materials or services.

Steven J. Alexander
Town Manager



TOWN OF CUTLER BAY

SECTION 2

INSTRUCTIONS TO BIDDERS

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

Date: TBA

Time: TBA

**Place: Town Hall
10720 Caribbean Blvd., Suite 105
Cutler Bay, Florida 33189**

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

Bid\Proposal	The bid documents submitted by the Bidder.
Bidder	Any person, firm or corporation submitting a proposal for the Work covered by these specifications or his duly authorized representative.
Town	The Town Council of the Town of Cutler Bay or the Town Manager, if applicable.
Contractor	The person, firm or corporation with whom the Town has executed a contract for the Work.
Days	Days shall mean calendar days.
Responsible Bidder	In order to be considered a “responsible” bidder, the Bidder must possess integrity as well as adequate equipment and personnel to do the Work within the time limits that are established and adequate financial status to meet the obligations to perform the Work. The firm must not have defaulted on a prior contract or been disbarred by any agency.

Responsive Bidder	Any person, firm or corporation submitting a Bid for the Work whose Bid form is complete and includes all required attachments and enclosures, free from exclusions or special conditions and has no alternative Bids for any items, unless alternatives are requested in the specifications.
Work	The services required by the Contract Documents, including labor and materials.
Town Engineer	The Town's general engineering consultant and project manager for this contract: presently Marlin Engineering Inc.

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

SW 208 STREET ROADWAY IMPROVEMENTS

and addressed to:

Town of Cutler Bay
10720 Caribbean Boulevard
Suite 105
Cutler Bay, Florida 33189
Attention: Town Clerk

All Bids must be received by the Town no later than **TBA**.

- 1.04. **BID GUARANTY**- A certified or cashiers check drawn on a national or state bank, or bid bond, in the amount of five percent (5%) of the bid, shall accompany each bid as a guarantee that the Bidder will, if award is made, execute an Agreement to do the Work for the amount proposed and furnish any required certificates of insurance and bond documents. The bid bond shall be from a surety with an A-rating or better under Best's Guidelines, made payable to: The Town of Cutler Bay.
- 1.05. **BID FORMS**- The Bidder shall submit an original Bid on the bid forms attached to this ITB. The Bidder shall fill in all the blank spaces completely for each and every unit item for which a Bid is tendered. The Bidder shall state the price, typewritten or in ink, for which he proposes to do each item of Work. The Bid shall include: 1) Agreement/Contract; 2) Bid Forms; 3) Certificate or

Evidence of Insurance; 4) Bid Guarantee; 5) Qualifications Statement; 6) Sworn Statement on Public Entity Crime Form; 7) Addenda acknowledgement, if applicable; 8) Anti-Kickback Affidavit; 9) Non-Collusive Affidavit; 10) Drug Free Workplace form; and 11) a Corporate Resolution evidencing authorization to submit Bid, if applicable.

- 1.06. **SIGNATURE ON BID**- The Bidder shall sign the Bid as follows: If the Bid is made by an individual, the Bidder's name and address shall be shown. If made by a firm or partnership, the name and address of each member of the firm or partnership shall be shown. If made by a corporation, the person signing the Bid shall show the name of the state under the laws of which the corporation is chartered, also the names and business addresses of its corporate officers. The Bid shall bear the seal of the corporation attested by the secretary. Anyone signing the Bid as agent shall include in the Bid legal evidence of his/her authority to do so.
- 1.07. **COST OF BIDS** – All expenses involved with the preparation and submission of Bids to the Town or any work performed in connection therewith, shall be borne by the Bidder(s). No payment shall be made for any responses received, nor for any other effort required of or made by the Bidder(s) prior to commencement of work as defined by the Agreement duly approved by the Town Council.
- 1.08. **QUALIFICATION OF BIDDERS**- Each Bidder shall submit a completed Qualification Statement utilizing the form attached.
- 1.09. **RIGHT TO REJECT BIDS**- The Town of Cutler Bay reserves the right to accept or reject any and/or all Bids or parts of Bids, to workshop or negotiate any and all Bids, to waive irregularities, and to request re-Bids on the required materials or services.
- 1.10. **AWARD OF CONTRACT**-
 - 1.10.1. The Award of the Agreement will be to the lowest Responsive and Responsible Bidder, whose qualifications indicate the Award will be in the best interest of the Town and whose Bid complies with the requirements of these specifications. In no case will the Award be made until all necessary investigations have been made into the responsibility of the Bidder(s) and the Town Manager is satisfied that the Bidder is qualified to do the Work and have the necessary organization, capital and equipment to carry out the Work in the specified timeframes. In evaluating responsibility, the Town may also consider previous contracts with the Town, past performance and experience with other contracts, compatibility of the project team with Town personnel, and any other criteria deemed relevant by the Town.
 - 1.10.2. If the Town accepts a Bid, the Town will provide a written notice of Award to the lowest Responsive and Responsible Bidder, who meets the requirements of Section 1.10.1.

1.10.3. If the successful Bidder to whom an Agreement is awarded forfeits the Award by failing to meet the conditions of subsection 1.12, the Town may, at the Town's sole option, award the Agreement to the next lowest Responsive and Responsible Bidder or reject all Bids or re-advertise the Work.

1.10.4. The Town, at its sole discretion, may consider the lowest bidder as the bidder who has the lowest bid Amount for: SW 208 Street Roadway Improvements.

- 1.11. **RETURN OF THE BID GUARANTY**- All Bid Guarantees of unsuccessful Bidders will be returned after the Agreement is awarded and executed.
- 1.12. **EXECUTION OF CONTRACT**- The successful Bidder(s) shall, within ten (10) days of receipt of a written notice of the Award of the Agreement, deliver to the Town a fully executed Agreement and all requested certificates of insurance and bonds.
- 1.13. **FORFEITURE OF BID GUARANTY FOR FAILURE TO EXECUTE CONTRACT**- The failure of the successful Bidder(s) to execute an Agreement and submit required insurance certificates and bonds as specified in subsection 1.12 will result in forfeit of the Award. Each Bidder agrees in advance that the Town will sustain certain damages too difficult to accurately ascertain. Accordingly, if the Award is forfeited under this Section, the amount of the Bid Guaranty of the forfeiting Bidder will be retained by the Town, not as forfeiture or a penalty, but as liquidated damages.
- 1.14. **TIME AND AWARD**- The Bidder agrees to abide by the overall and unit prices quoted in the Bid for up to ninety (90) days from the date of bid opening to allow for the Town review, award, and execute the Agreement.
- 1.15. **INTERPRETATION AND CLARIFICATION**- All questions about the meaning or intent of the Bid Documents and specifications shall be directed in writing to the Town Clerk's Office, Erika Gonzalez-Santamaria at 10720 Caribbean Blvd., Suite # 105, Cutler Bay, Florida 33189. Interpretation or Clarifications considered necessary by the Town in response to such questions will be issued by means of addenda electronically mailed or delivered to all parties that are on record with the Town Clerk as having requested and received the Bid Documents. Provided however that it is each Bidder's sole responsibility to be informed of any changes to the ITB in the form of written addenda and the Town shall not be responsible for any Bidder's failure to receive same. The Town has the right to rely on all Bids received and the submittal of a Bid shall represent the Bidder's acknowledgement that he has read and understood the ITB and any addenda thereto. Written questions must be received no less than seven (7) business days prior to bid opening. Only questions answered by written addenda shall be binding. Oral and other interpretation or clarifications shall be without legal effect.
- 1.16. **BID MODIFICATIONS**- No modifications shall be submitted by Bidder or accepted by the Town.

- 1.17. **WITHDRAWAL OF A BID**- A Bidder may withdraw his Bid at any date and time prior to the time the Bids are scheduled to be opened. Notice of withdrawal should be made in writing to the Town Clerk's Office, Erika Gonzalez-Santamaria, at 10720 Caribbean Blvd., Suite # 105, Cutler Bay, Florida 33189.
- 1.18. **OPENING OF BIDS**- Bids will be publicly opened and read aloud at the appointed time and place stated in the Invitation to Bid/Request for Proposals. Late Bids will not be considered. No responsibility will be attached to any Town Staff for the premature opening of a Bid not properly addressed and identified. Bidders or their authorized agents are invited to be present at the bid opening.
- 1.19. **PUBLIC ENTITY CRIMES ACT**- In accordance with the Public Entity Crimes Act, (Section 287.133, Florida Statutes) a person or affiliate who is a contractor, who had been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to the Town, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases or real property to the Town, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with the Town in excess of the threshold amount provided in Section 287.917, Florida Statutes, for Category Two for a period of 36 months from the date of being placed on the convicted vendor list. Violation of this section by the Contractor shall result in rejection of the Bid, termination of the contract, and may cause Contractor debarment.
- 1.20. **TOWN LICENSES, PERMITS AND FEES**- In accordance with the Public Bid Disclosure Act, 218.80, Florida Statutes, each license, permit, or fee a Contractor will have to pay the Town before or during the Work or the percentage method or unit method of all licenses, permits and fees required by the Town and payable to the Town by virtue of the Work as part of the Agreement are as follows:
- 1) Contractor shall have and maintain during the term of the Agreement all appropriate Town licenses, and fees for which shall be paid in full in accordance with the Town's Fee structure for such licenses. **THERE WILL NOT BE ANY PERCENTAGE REDUCTION OR WAIVING OF TOWN LICENSE FEES.**
 - 2) During the performance of the Agreement there may be times when the Contractor will be required to obtain a Town permit for the Work. It is the responsibility of the Contractor to insure that he or she has the appropriate Town permits to perform such Work as may become necessary during the performance of the Agreement. Any fees related to Town required permits in connection with the Agreement will be the responsibility of the Contractor and will not be reimbursed by the Town.

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

- 1.21. **INSURANCE.** The Bidder shall be required to provide and maintain insurance coverage of such types and amounts as specified in Section 2.10 of the Agreement. The Bidder shall include with his or her Bid either Certificates of Insurance evidencing same or documentation from his or her insurer evidencing the insurability of the Bidder to meet the insurance requirements.
- 1.22. **BONDS.** A Performance and a Payment Bond for the entire base bid amount shall be required in connection with this contract.
- 1.23. **FAMILIARITY WITH LAWS-** The Bidder is assumed to be familiar with all applicable Federal, State, and local laws, ordinances, rules, and regulations that may in any manner affect the Work.
- 1.24. **EXAMINATION OF BIDDER'S FACILITIES** - The Town, as part of its evaluation may perform an examination of the Bidder's facilities. The Town Manager or designee, as part of the evaluation, may perform this examination.

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

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

- 1.25. **ALLOWANCES** – Included in the contract sum is an allocation account for unforeseen conditions, potential construction changes and quantity adjustments, and additional work or materials that the Town may deem necessary if ordered and authorized by the Town in accordance with the Contract Documents.
- 1.26. **CAMPAIGN FINANCE RESTRICTIONS ON VENDORS-** Ordinance 06-11; Town Code Chapter 8A. Pursuant to Ordinance 06-11; Town Code Chapter 8A; Section 7.6 of the Town Charter, vendors of the Town are required to disclose any campaign contributions to the Town Clerk, and each vendor must do so prior to and as a condition of the award of any Town contract to the vendor.

Vendors' Campaign Contribution Disclosure:

1. General requirements:

(A) Any vendor required to disclose campaign contributions pursuant to the Charter of the Town of Cutler Bay, as may be amended, shall file a written disclosure with the Town Clerk, stating all contributions made that were accepted by an elected official of the Town, the official to whom they were made and the date they were made. The Town Clerk may develop a form to be used by vendors for such disclosure.

(B) The disclosure shall be filed prior to and as a condition of the award of any Town contract to the Vendor.

(C) The Town Clerk shall inform the Council of any disclosures which were made in relation to any items before the Council prior to the hearing on the item or prior to the award of the contract.

(D) If an existing vendor makes a contribution the vendor must report the same to the clerk within ten days of its acceptance or prior to being awarded any additional contract or renewal, whichever occurs first.

(E) The Town Clerk shall file a quarterly report with the Council, which lists all the vendor disclosures in the quarter.

2. Disqualification

(A) As per Section 7.6 of the Town Charter, if a Vendor of products or services who directly or through a member of the person's immediate family or through a political action committee or through any other person makes a campaign contribution to a Town candidate and fails to disclose it then he/she/it shall be barred from selling any product or service to the town for a period of two years following the swearing in of the subject elected official.

1.27 **CONE OF SILENCE**- Notwithstanding any other provision of these specifications, the provisions of Town "Cone of Silence" are applicable to this transaction. The entirety of these provisions can be found in the Town's Purchasing Ordinance, Town Ordinance 06-22. The "Cone of Silence," as used herein, means a prohibition on any communication regarding a particular Request for Proposal ("RFP"), Request for Qualification ("RFQ") or bid, between:

A potential vendor, service provider, proposer, bidder, lobbyist, or consultant; and

The Town Council, Town's professional staff including, but not limited to, the Town Manager and his or her staff, any member of the Town's selection or evaluation committee.

The Cone of Silence shall be imposed upon each RFQ, RFP and bid after the advertisement of said RFQ, RFP, or bid. The Cone of Silence shall terminate at the beginning of the Town Council meeting at which time the Town Manager makes his or her written recommendation to the Town Council. However, if the Town Council refers the Manager's recommendation back to the Manager or staff for further review, the Cone of Silence shall be re-imposed until such time as the Manager makes a subsequent written recommendation.

The Cone of Silence shall not apply to:

- (1) oral communications at pre-bid conferences;
- (2) oral presentations before selection or evaluation committees;
- (3) public presentations made to the Town Council during any duly noticed public meeting;
- (4) communication in writing at any time with any Town employee, unless specifically prohibited by the applicable RFQ, RFP or bid documents. The bidder or proposer shall file a copy of any written communication with the Town Clerk. The Town Clerk shall make copies available to any person upon request;
- (5) communications regarding a particular RFQ, RFP or bid between a potential vendor, service provider, proposer, bidder, lobbyist or consultant and the Town's Purchasing Agent or Town employee designated responsible for administering the procurement process for such RFQ, RFP or bid, provided the communication is limited strictly to matters of process or procedure already contained in the corresponding solicitation document;
- (6) communications with the Town Attorney and his or her staff;
- (7) duly noticed site visits to determine the competency of bidders regarding a particular bid during the time period between the opening of bids and the time the Town Manager makes his or her written recommendation;
- (8) any emergency procurement of goods or services pursuant to Town Code;
- (9) responses to the Town's request for clarification or additional information;
- (10) contract negotiations during any duly noticed public meeting;
- (11) communications to enable Town staff to seek and obtain industry comment or perform market research, provided all communications related thereto between a potential vendor, service provider, proposer, bidder, lobbyist, or consultant and any member of the Town's professional staff including, but not limited to, the Town Manager and his or her staff are in writing or are made at a duly noticed public meeting.

Please contact the Town Attorney for any questions concerning Cone of Silence compliance. Violation of the Cone of Silence by a particular bidder or proposer shall render any RFQ award, RFP award or bid award to said bidder or proposer voidable by the Town Council and/or Town Manager.

1.28 **LOBBYIST REGISTRATION**- Proposers must also comply with all Town Charter sections and Code provisions that pertain to lobbyists, including Section 7.6 of the Town Charter and implementing ordinance(s), including Sec. 2-11(s) of the Town Code and Ordinance 07-02. Please contact the Town Clerk at (305) 234-4262 for additional information.

1.28.1 **PROTEST PROCEDURES**- With respect to a protest of the terms, conditions, and specifications contained in a solicitation (RFP, RFQ, or Bid), including any provisions governing the methods for ranking bids, proposals, or replies, awarding contracts, reserving rights of further negotiation,

or modifying or amending any contract, the notice of protest shall be filed in accordance with Town Ordinance 06-22.

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TOWN OF CUTLER BAY

SECTION 3

CONTRACT BETWEEN OWNER AND CONTRACTOR

THIS CONTRACT is dated as of the _____ day of _____ in the year 2010 (which shall be the Effective Date of the Contract) by and between the Town of Cutler Bay (hereinafter called "OWNER" or "TOWN") and _____ (hereinafter called "CONTRACTOR").

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1. WORK. CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

The SW 208 Street improvements project is located between SW 87th Avenue to the East and Old Cutler Road at it's Western Terminus. The existing roadway configuration is a five lane undivided facility with residential dwellings abutting the project to the north and south. The proposed configuration calls for a typical section reconfiguration by converting the roadway into a two lane divided facility with landscape components. Below please see the roadway features characteristic of the exiting and proposed conditions.

The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

TOWN OF CUTLER BAY

SW 208 STREET ROAWAY IMPROVEMENTS

("THE PROJECT")

Article 2. ENGINEER. The Project has been designed by the following:

ENGINEER:

Marlin Engineering, Inc.
2191 NW 97 Avenue
Miami, FL 33172-2313

who is hereinafter called “ENGINEER” and who will assume all duties and responsibilities and will have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

Article 3. CONTRACT TIME.

- 3.1 If awarded the Base Bid Work, the contractor may not mobilize prior to **TBA**. The Work will be substantially completed by **TBA** and within 90 calendar days after the date when the Contract Time commences to run as provided in paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with paragraph 14.07 of the General Conditions within 120 calendar days after the date when the Contract Time commences to run.
- 3.2 If awarded the Base Bid and Additive Bid Work, the contractor may not mobilize for the Base Bid Work prior to **TBA**. The Base Bid Work will be substantially completed by **TBA**, and the Base Bid and Additive Bid Work will be substantially completed within 150 calendar days after the date when the Contract Time commences to run as provided in paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with paragraph 14.07 of the General Conditions within 180 calendar days after the date when the Contract Time commences to run.
- 3.3 Liquidated Damages. OWNER and CONTRACTOR recognize that time is of the essence of this Contract and that OWNER will suffer financial loss and other damages if the Work is not substantially or finally complete within the time specified in paragraph 3.1 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the expense and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by OWNER if the Work is not substantially or finally complete on time. CONTRACTOR acknowledges and agrees that the actual delay damages which OWNER will suffer in the event of delay in achieving Substantial Completion or Final Completion of the Work are difficult, if not impossible, to determine and that the liquidated damages described herein are a fair and reasonable estimate of the delay damages which the OWNER is expected to suffer in the event of such delay. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree, that as liquidated damages for delay (but not as a penalty), CONTRACTOR shall pay OWNER One Thousand and 00/100 dollars (\$1,000.00) for each day that expires after the time specified in Paragraph 3.1 for Substantial Completion until the Work is substantially complete. Liquidated damages shall be deducted from the CONTRACTOR’s Applications for Payment. However, if at the time of the CONTRACTOR’s Final Application for Payment, CONTRACTOR is owed insufficient amounts to fully cover the deduction for liquidated damages, then CONTRACTOR shall pay any amount due within 10 days of written demand by OWNER.

Article 4. CONTRACT PRICE.

- 4.1 OWNER shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents and the Schedule of Values provided for payment request purposes in current funds as follows:

Contract Price \$ _____

Contract Price (in words) _____

- 4.2 Included in the Agreement Sum is an allowance account of \$15,000.00 for the Base Bid Form for unforeseen conditions, potential construction changes and quantity adjustments, and additional work or materials that the Town may deem necessary if ordered and authorized by the Town Manager in accordance with the Contract Documents. Money may only be taken from this account at the prior approval of the Engineer and pursuant to any procedures outlined by the Town Manager.

Article 5. PAYMENT PROCEDURES.

CONTRACTOR shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by ENGINEER as provided in the General Conditions.

- 5.1. Progress Payments. OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR'S Applications for Payment as recommended by ENGINEER, on or before the 28th day of each month during construction as provided below. The Application for Payment shall be in AIA format. All progress payments will be on the basis of the progress of the Work measured by the Schedule of Values provided in paragraph 14.01 of the General Conditions and the requirements of the Contract Documents.

- 5.1.1 Prior to Substantial Completion, progress payments will be in an amount equal to: 90% of the Work completed and 90% of materials and equipment not incorporated

in the Work but delivered and suitably stored, less in each case the aggregate of payments previously made.

- 5.1.2 Upon Substantial Completion, OWNER shall pay an amount sufficient to increase total payments to CONTRACTOR to 95% of the Contract Price, less such amounts as ENGINEER shall determine in accordance with paragraph 14.02.B.5 of the General Conditions.

- 5.2. Final Payment. Upon Final Completion and acceptance of the Work in accordance with paragraph 14.07.B.1 of the General Conditions, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER as provided in said paragraph 14.07.B.1.

Article 6. INTEREST. Not Applicable

Article 7. CONTRACTOR'S REPRESENTATIONS.

In order to induce OWNER to enter into the Contract, CONTRACTOR makes the following representations:

- 7.1. CONTRACTOR has thoroughly and to its full satisfaction familiarized himself with the nature and extent of the Contract Documents, Work, locality, and with all local conditions and federal, state and local laws, ordinances, rules and regulations that in any manner may affect cost, progress or performance of the Work. CONTRACTOR has: (a) examined the Contract Documents, Project Specifications and Drawings thoroughly to its full satisfaction and has undertaken the responsibility to determine, within the scope of CONTRACTOR's competence as a licensed General Contractor, that the Project Specifications and Drawings are fit and proper for the performance of the Work and to the best of CONTRACTOR's knowledge are: (i) free from material errors, omissions, and/or inconsistencies; and (ii) are in compliance with applicable laws, statutes, building codes, ordinances, rules and regulations, recognizing however, that CONTRACTOR is not responsible for the design of the Project; (b) visited the site to familiarize himself with local conditions that may in any manner affect cost, progress or performance of the Work; (c) examined the Project Site to its full satisfaction, including any existing work or improvements in place, and has determined that the same are fit and proper to receive the Work in their present condition and CONTRACTOR waives all claims that same are not in accordance with all data and information with respect to the Project as specified in the Drawings and Project Specifications and/or as provided by OWNER and Engineer; (d) familiarized himself with federal, state and local laws, ordinances, rules, policies, and regulations that may in any manner affect cost, progress or performance of the Work; (e) studied and

carefully correlated CONTRACTOR's observations with the Contract Documents; and (f) at CONTRACTOR's own expense, made or obtained any additional examinations, investigations, explorations, tests and studies, and obtained any additional information and data which pertain to the physical conditions (surface, sub-surface and underground facilities) at or contiguous to the Project or otherwise which may affect cost, progress, performance or furnishing of the Work and which CONTRACTOR deems necessary to determine its Contract Price for performing and furnishing the Work in accordance with the time, price and other terms and conditions of the Contract Documents.

- 7.2. CONTRACTOR has studied carefully all reports of investigations and tests of subsurface and latent physical conditions at the site or otherwise affecting cost, progress or performance of the Work which were relied upon by ENGINEER in the preparation of the Drawings and Specifications and which have been identified in the Supplementary Conditions.
- 7.3. CONTRACTOR has made or caused to be made examinations, investigations and tests and studies of such reports and related data in addition to those referred to in paragraph 7.2 as he deems necessary for the performance of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents; and no additional examinations, investigations, tests, reports or similar data are or will be required by CONTRACTOR for such purposes.
- 7.4. CONTRACTOR has correlated and considered the results of all such observations, examinations, investigations, tests, reports and data with the terms and conditions of the Contract Documents and in reaching the Contract Price and Contract Time.
- 7.5. CONTRACTOR has given ENGINEER written notice of all conflicts, errors or discrepancies that he has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR. CONTRACTOR shall not rely on any conflicts, errors or discrepancies that CONTRACTOR knew or should have known exist in the Contract Documents as a basis for a claim for an extra to the Contract Price or Contract Time.

Article 8. CONTRACT DOCUMENTS.

The Contract Documents that comprise the entire Contract between OWNER and CONTRACTOR are attached to this Contract, made a part hereof and consist of the items listed in the general conditions and the following:

- 8.1. This Contract

- 8.2. Invitation to Bid
- 8.3. Bid Form
- 8.4. Standard General Conditions
- 8.5. Supplementary Conditions
- 8.6. Detailed Specifications as included in this package and as referenced
- 8.7. Code of Silence/Campaign Contribution Ordinance/Lobbyist Registration Requirements
- 8.8. Addendum Acknowledgement
- 8.9. Anti-Kickback Affidavit
- 8.10. Non-Collusive Affidavit
- 8.11. Sworn Statement
- 8.12. Qualification Statement
- 8.13. Performance Bond
- 8.14. Payment Bond
- 8.15. Drug-Free Work Place Form
- 8.16. Construction Plans titled – “SW 208 Street Roadway Improvements”
- 8.17. Any Modifications, including Work Authorizations, duly delivered after execution of the Contract.

There are no Contract Documents other than those listed above in this Article 8. The Contract Documents may only be altered, amended or repealed by a Modification (as defined in Section 1 of the General Conditions).

Article 9. MISCELLANEOUS

- 9.1. Terms used in this Contract which are defined in Article 1 of the General Conditions shall have the meanings indicated in the General Conditions.
- 9.2. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no

assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

- 9.3. OWNER and CONTRACTOR each binds himself, his partners, successors, assigns and legal representatives to the other party hereto, his partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.
- 9.4. This Contract may be executed in counterparts.
- 9.5. The OWNER shall retain the ownership of all shop drawings and design drawings once payment therefore is made.
- 9.7. OWNER and CONTRACTOR hereby knowingly, irrevocably, voluntarily and intentionally waive any right either may have to a trial by jury in respect to any action or proceeding based upon the Contract Documents or arising out of, under, or in connection with the Work or the Project.
- 9.8. The law of the State of Florida shall govern the contract between the Town of Cutler Bay and the successful bidder and any action shall be brought in Miami-Dade County, Florida. In the event of litigation to settle issues arising hereunder, the prevailing party in such litigation shall be entitled to recover against the other party its costs and expenses, including reasonable attorney fees, which shall include any fees and costs attributable to appellate proceedings arising on and of such litigation.
- 9.9. INDEMNIFICATION- The parties agree that 1% of the total compensation paid to the Contractor for the performance of this agreement shall represent the specific consideration for the Contractor's indemnification of the Town as set forth in this Section and in the Terms and Conditions.

To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless the Town and their consultants, agents and employees from and against all claims, damages, losses and expenses, direct, indirect or consequential (including but not limited to fees and charges of attorneys and other professionals and court costs) arising out of or resulting from the performance of the work, provided that any such claim, damage, loss or expense (a) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the work itself) including the loss of use resulting there from and (b) is caused in whole or in part by any willful and wanton or negligent or gross negligent acts or omission of Contractor, any subcontractor, any person or organization directly or indirectly employed by any of them to perform or furnish any of the work or anyone for whose acts any of them may be liable, regardless of whether or not it is caused

in part by a party indemnified hereunder or arises by or is imposed by Law and Regulations regardless of the negligence of any such party.

In any and all claims against the Town or any of their consultants, agents or employees by any employee of Contractor, any Subcontractor, any person or organization directly or indirectly employed by any of them to perform or furnish any of the work or anyone for whose acts any of them may be liable, the indemnification obligation under the above paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Contractor or any such Subcontractor or other person or organization under workers or workman's compensation acts, disability benefit acts or other employee benefit acts.

It is the specific intent of the parties hereto that the foregoing indemnification complies with Florida Statute 725.06 (Chapter 725). It is further the specific intent and agreement of the parties that all of the Contract Documents on this project are hereby amended to include the foregoing indemnification and the "Specific Consideration" therefore.

The official title of the Town is "Town of Cutler Bay". This official title shall be used in all insurance, or other legal documentation. Town of Cutler Bay is to be included as "Additional Insured" with respect to liability arising out of operations performed for Town of Cutler Bay by or on behalf of Contractor or acts or omissions of Contractor in connection with such operation.

- 9.10 WARRANTIES OF CONTRACTOR- The CONTRACTOR hereby warrants and represents that at all times during the term of this Agreement it shall maintain in good standing all required licenses, certifications and permits required under Federal, State and local laws necessary to perform the Specified Services.
- 9.11 DEFAULT/FAILURE TO PERFORM- The Town shall be the sole judge of nonperformance, which shall include any failure on the part of the successful bidder to accept the award, to furnish required documents, and/or to fulfill any portion of this contract within the time stipulated.

Upon default by the successful bidder to meet any terms of this agreement, the Town will notify the bidder three (3) days (weekends and holidays excluded) to remedy the default. Failure on the contractor's part to correct the default within the required three (3) days shall result in the contract being terminated and upon the Town notifying in writing the contractor of its intentions and the effective date of the termination. The following shall constitute default:

- A) Failure to perform the work required under the contract and/or within the time required or failing to use the subcontractors, entities and personnel as identified and set forth, and to the degree specified in the contract.
- B) Failure to begin the work under this contract within the time specified.
- C) Failure to perform the work with sufficient workers and equipment or with sufficient materials to ensure timely completion.
- D) Neglecting or refusing to remove materials or perform new work where prior work has been rejected as non conforming with the terms of the contract.
- E) Becoming insolvent, being declared bankrupt, or committing act of bankruptcy or insolvency, or making an assignment renders the successful bidder incapable of performing the work in accordance with and as required by the contract.
- F) Failure to comply with any of the terms of the contract in any material respect.

In the event of litigation or arbitration arising from a default by the contractor, the contractor shall also be liable for all damages caused by its default which damages may include but not be limited to any and all costs incurred by the Town in completing the project, and damages arising out of the contractor's failure to adhere to the contract requirements and all attorney's fees and costs incurred by the Town in seeking legal relief for the default.

- 9.12 OTHER CAUSES FOR TERMINATION- The Town of Cutler Bay reserves the right to cancel this contract by written notice to the contractor effective the date specified in the notice should any of the following apply:
- A) The Town has determined that such cancellation will be in the best interest of the Town to cancel the contract for its own convenience. In the event the contract is terminated for the Town's convenience the contractor will be paid for all labor and materials provided as of the termination date. No consideration will be given for anticipated lost revenue, overhead, mobilization or demobilization or the canceled portions of the contract.
 - B) Funds are not available to cover the cost of the services. The Town's obligation is contingent upon the availability of appropriate funds.
- 9.13 ANTI-DISCRIMINATION- The bidder certifies compliance with the non-discrimination clause contained in Section 202, Executive Order 11246, as amended by Executive Order 11375, relative to equal employment opportunity for all persons without regard to race, color, religion, sex or national origin. Furthermore the bidder shall comply with all other State and local laws and policies that prohibit discrimination.
- 9.14 If any provision of this Contract or any Authorization under this Contract or the

application thereof to any person or situation shall to any extent, be held invalid or unenforceable, the remainder of the is Contract, and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable shall not be affected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law.

- 9.15 Whenever either party desires to give notice to the other, it must be given by hand delivery or written notice, sent by certified United States mail, with return receipt requested or a nationally recognized private mail delivery service, addressed to the party for whom it is intended, at the place last specified.
- 9.16 Contractor shall abide by the applicable provisions of Chapter 119, Florida Statutes (Public Records).

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IN WITNESS WHEREOF, the parties hereto have signed 6 copies of this Contract. At least one counterpart each has been delivered to OWNER, CONTRACTOR, and ENGINEER. All portions of the Contract Documents have been signed or identified by OWNER and CONTRACTOR or by ENGINEER on OWNER'S behalf.

OWNER
Town of Cutler Bay

ADDRESS
10720 Caribbean Blvd., Suite 105
Cutler Bay, FL 33189

BY

CONTRACTOR

ADDRESS

BY

Steven J. Alexander

Town Manager

Print Name

Title

WITNESS _____

WITNESS _____

(CORPORATE SEAL)

(CORPORATE SEAL)

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TOWN OF CUTLER BAY

SECTION 4

BIDDER'S REPRESENTATION

SW 208 STREET ROADWAY IMPROVEMENTS

Proposal of _____
(name)

(address)

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

SW 208 STREET ROADWAY IMPROVEMENTS

(“THE PROJECT”)

TO: Town of Cutler Bay
Attention: Town Clerk
10720 Caribbean Blvd., Suite # 105
Cutler Bay, Florida 33189

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

The Bidder further declares that he or she has examined the geographic location and sites of the Work; that he has made sufficient investigations to fully satisfy himself that such sites are suitable for this Work; and he assumes full responsibility therefore; that he has examined the specifications for the Work and from his own experience or from professional advice that the specifications are sufficient for the Work to be done and he has examined the other Contract Documents relating thereto, including the Instructions to Bidders, the Agreement, Bid, Detailed Scope of Work/Specifications, Qualification Statement, Public Entity Crime Form, and Insurance requirements and he has read all addenda prior to the opening of Bids, and that he has satisfied himself fully, relative to all matters and conditions with respect to the Work to which this Bid pertains.

The Bidder proposes and agrees, if this Bid is accepted, to timely execute the Agreement with the Town in the form attached and to furnish all necessary materials, all equipment, all necessary machinery, tools, apparatus, means of transportation, and labor necessary to complete the Work specified in the Bid and the Agreement, and called for by the specifications and in the manner specified and to timely submit all required bonds and insurance certificates.

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

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

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

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

It is intended that all Work to be performed under this Bid shall commence approximately thirty (30) days after Agreement execution.

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

Bidder's Certificate of Competency No. _____

Bidder's Occupational License No. _____

WITNESS

By: _____

Signature of Authorized Agent

(SEAL)

BID FORM

The following Bid Proposal is presented to assist the Town in evaluating the Bid. The Bid Amounts will include all items described in the Bid Documents (Detailed Specifications). Payment shall be made on the basis of Work actually performed and completed.

The Base Bid Amount includes all work on SW 208 Street (from: Old Cutler Road to: SW 87 Ave):

BASE BID AMOUNT \$ _____

BASE BID AMOUNT (IN WORDS) _____

Taxpayer Identification Number: _____

BIDDER: _____

(Company Name)

(Signature of Authorized Representative)

(Printed Name and Title)

(Company Address)

(Company Phone Number)

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BASE BID FORM

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

<u>Bid Item No.</u>	<u>DESCRIPTION</u>	<u>Estimated Quantity</u>	<u>UNIT</u>	<u>Unit Price</u>	<u>Value</u>
101-1	Mobilization	1	EA		
102-1	Maintenance of Traffic	1	EA		
104-10	Baled Hay or Straw or Filter Fabric Inlet Protection – Per Inlet	XX	EA		
	Clearing and Grubbing	4	LS		
331-72	Type S-3 Asphaltic Concrete Surface Course (1” FC-12.5)	1,606	TN		
	Milling Existing Pavement (1”)	19,464	SY		
	Concrete Curb and Gutter “Type E”	2,000	LF		
	Sidewalk Replacement Concrete (4”)	111	SY		
425-6	Adjusting Valve Boxes/ Manholes	XX	EA		
	New Sod Installation	869	LB		
	6” Solid Yellow Thermoplastic	6,394	LF		
	6” Solid White Thermoplastic	11,451	LF		
	White Arrows Thermoplastic	20	EA		
A-1	Allowances	1	LS		

BASE BID AMOUNT \$ _____

BASE BID AMOUNT (IN WORDS) _____

Bid Item Notes:

1. Bid Item 101-1 is a lump sum pay item for all mobilization costs and also includes the construction of two (2) project signs that shall be displayed at approaches to the project area. The intent is that the signs will be freestanding. The sign shall display on both sides the project name, Town Logo, elected officials, engineer, and contact information. A detail of the sign is included in the plans. Shop drawings must be submitted for approval prior to ordering the projects signs. Photos of the actual project signs must be submitted for approval prior to installation of the project signs.
2. Bid Item 102-1 is a lump sum pay item for a Maintenance of Traffic and includes all pedestrian access maintenance. All crosswalks and sidewalks shall remain open and free of obstructions. Temporary painting for roadways and crosswalks shall be maintained throughout the project.
3. Bid Item 110-1 is a lump sum pay item that includes the removal and disposal of all existing asphalt/concrete pavement and soil/planting as required for the project.
4. Bid Item 331-72 includes all costs associated with resurfacing the entire project area upon completion of the entire trench/pavement restoration phase. All asphalt costs associated with the trench/pavement restoration phase shall be included in Bid Items 443-70 and 430-99.
5. All asphalt costs associated with the trench/pavement restoration phase shall be included in Bid Items 443-70 and 430-99.
6. Bid Items 443-70 and 430-99 includes all costs associated with the trench excavation, protection of trench, management of excavated material, trench backfill and compaction, testing, and asphalt restoration per the plans and details.

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TOWN OF CUTLER BAY

SECTION 5

SUPPLEMENTARY CONDITIONS

1.01 GENERAL:

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract (No. 1910-8, 1996 edit.) and other provisions of the Contract Documents as indicated below. All provisions that are not so amended or supplemented remain in full force and effect. If there is a conflict between the Contract, General Conditions (No. 1910-8, 1996 edit.) and these Supplementary Conditions, the terms of the Supplementary Conditions shall control.

The Contractor shall note physically by cross out or cross reference notations all changes in the General Conditions called for in the Supplementary Conditions before submitting his Bid.

ARTICLE 1 - DEFINITIONS - Page 6

SC-1.01.A

The terms used in these Supplementary Conditions which are defined in the Standard General Conditions of the Construction Contract (No. 1910-8, 1996 edit.) have the meanings assigned to them in the General Conditions, unless otherwise indicated.

Amend paragraph SC-1.01.A.28 by replacing the terminology Notice of Award with Notice of Intent to Award.

Amend paragraph SC-1.01.A.29 by replacing it with the following paragraph:

Notice to Proceed-A written notice given by OWNER to CONTRACTOR fixing the date on which the Contract Times will commence to run and on which CONTRACTOR shall start to perform a particular specified portion of the Work under the Contract Documents. It is anticipated that multiple Notices to Proceed will be issued by OWNER on an as-needed basis. OWNER is not limited in the number of separate Notices to Proceed it may issue other than by the total Contract Time and total Contract Price. Each portion of the Work shall be separately described in an applicable Notice to Proceed which shall govern that portion of the required Work and indicate substantial completion and final completion requirements. Failure to comply with such dates will be subject to liquidated damages.

Amend paragraph SC-1.01.A.42 by replacing it with the following paragraph:

Subcontractor – An individual or entity having a direct contract with CONTRACTOR. Sub-Subcontractor is an individual or entity having a direct contract with any Subcontractor for the performance of a part of Work at the Project.

Amend paragraph SC-1.01.A.30 by replacing it with the following paragraph:

OWNER – The individual, entity, public body, Town Manager, or authority with whom CONTRACTOR has entered into the Agreement and for whom the Work is to be performed.

Add SC-1.01.A.51 as the following paragraph:

Promptly – The period of time not exceeding five business days.

ARTICLE 2 - PRELIMINARY MATTERS - Page 9

SC-2.03

Amend paragraph 2.03.A by replacing it with the following paragraph:

The Contract Times will commence to run on the thirtieth day after the Effective Date of the Agreement or, if one or more Notices to Proceed are given, on the day indicated in a particular Notice to Proceed. Multiple Notices to Proceed may be given at any time during the term of this Agreement. Each Notice to Proceed shall govern Contract Times for that portion of the Work covered in the applicable Notice to Proceed.

ARTICLE 4 - AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; REFERENCE POINTS - Page 13

SC-4.04

Amend paragraph 4.04.B.2 by replacing the last sentence with the following:

If OWNER or CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment in Contract Price or Contract Times, a Claim may be made as provided in paragraph 10.05.

ARTICLE 5 - BONDS AND INSURANCE - Page 15

SC-5.01

Amend paragraph 5.01.C by adding the following language at the end of the paragraph:

Any additional costs shall be borne by the Contractor.

SC-5.04

Add the new paragraphs immediately after paragraph 5.04 of the General Conditions.

The limits of liability for the insurance required by paragraph 5.04 of the General Conditions shall provide coverage for not less than the following amounts or greater where required by law:

5.04.A.1 and 5.04.A.2 Workers' Compensation, etc. under paragraphs 5.04.A.1 and 5.04.A.2 of the General Conditions:

1. Comprehensive General Liability:
 - (a) Coverage to include Premise/Operations, Broad Form Property Damage, Contractual and Personal Injury, and XCU (where applicable).
2. Limits:
 - (a) General Aggregate \$1,000,000
 - (b) Each Occurrence \$1,000,000
 - (c) Personal Injury \$1,000,000
3. Coverage is to be written on an "occurrence" basis.
4. Owners and Contractors Protection:
 - (a) Bodily Injury:

Annual Aggregate	\$1,000,000
Each Occurrence	\$1,000,000
 - (b) Property Damage:

Annual Aggregate	\$1,000,000
Each Occurrence	\$1,000,000
5. Worker's Compensation shall be in accordance with the provisions of the laws of the State of Florida.

5.04.A.6 Comprehensive Automobile Liability:

- (a) Coverage to include all owned, hired, non-owned vehicles, and/or trailers and other equipment required to be licensed.
- (b) Limits:
 - Combined Single Limit \$1,000,000
- 5.04.B.1 Umbrella:
 - (a) Limits:
 - Aggregate \$1,000,000
 - (b) Cover all claims arising out of the contractor's operations or premises, anyone directly or indirectly employed by the Contractor or Subcontractor, and the Contractor's obligations under indemnification under this Contract.
- 5.04.B.8 The Town of Cutler Bay, shall be included as a named insured party under the Contractors Liability Insurance. The following paragraph is required to appear unaltered on the Certificate of Insurance.

"The Town of Cutler Bay, Florida is hereby named Additional Insured under the terms of this policy."
- 5.04.B.9 A thirty (30) day Notice of Cancellation is required and must be stated on the Certificate of Insurance.
- 5.04.B10 The Certificate of Insurance shall be issued to the Town of Cutler Bay, Florida at the following address:

Town of Cutler Bay
10720 Caribbean Blvd., Suite 105
Cutler Bay, FL 33189
- 5.06 Delete this section in its entirety.
- 5.07 Delete this section in its entirety.

ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES - INDEMNIFICATION - Page 18

SC-6.01

Add the new paragraphs immediately after paragraph 6.01.B of the General Conditions.

The Contractor shall perform all work in compliance with all applicable safety codes. A competent English speaking superintendent will be on the job at all times during working hours, and will be subject to call during off-duty hours for emergency situations. The superintendent shall have overall charge of the work with complete authority regarding the

Contractor's workmen, equipment and material purchases. The superintendent shall have complete authority to act on behalf of the Contractor. This person must be sufficiently qualified and have read and understood the Drawings, Specifications and all Contract Documents.

SC-6.02

Modify paragraph 6.02.B to allow work on Saturday per the following new paragraph added immediately after paragraph 6.02.B of the General Conditions.

The Project sites being located in a single-family residential area, there shall be no undue noise created, whether by workers arriving at the sites or by actual construction work, before 9:00 a.m. or after 6:00 p.m. Monday through Saturday. No work shall be performed on Sunday or legal holidays as defined by the Town. There are no public sanitary facilities nearby the work sites, and the Contractor must therefore make arrangements for portable sanitary facilities as authorized by the Town.

SC-6.06

Amend paragraph 6.06.A by replacing the last sentence of the paragraph with the following sentence:

CONTRACTOR shall not be required to employ any Subcontractor, supplier, or other individual or entity to furnish or perform any of the Work against whom CONTRACTOR has reasonable objection, except as required by 6.06.B and the Instruction to Bidders.

Amend paragraph 6.06.B by adding the words "Instructions to Bidders" before Supplementary Conditions where ever it appears.

Amend paragraph 6.06.B by deleting the following sentence from the paragraph:

CONTRACTOR shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity, and the Contract Price will be adjusted by the difference in the cost occasioned by such replacement, and an appropriate Change Order will be issued or Written Amendment signed.

Amend paragraph 6.06.B by adding the following language at the end of the last sentence of the paragraph:

nor does such acceptance create a contractual relationship between the OWNER and any subcontractor, supplier, individual or entity.

SC-6.09

Amend paragraph 6.09.C by replacing the first sentence of the paragraph with the following sentence:

Changes in Laws or Regulations which become effective after the time of opening of Bids (or, on the Effective Date of the Contract if there were no Bids) having an effect on the cost or time of performance of the Work may be the subject of an adjustment in Contract Price or Contract Times.

Add the new paragraphs immediately after paragraph 6.09.C. of the General Conditions:

All vehicles used in connection with the Contractor's operations will be required to have identification signs.

SC-6.11

Amend paragraph 6.11.A.2 by adding the following language at the end of the last sentence:

, as set forth on the Resident Complaint Resolution Protocol attached hereto and made a part of the Contract Documents.

Add the new paragraphs immediately after paragraph 6.11.B. of the General Conditions:

Adjacent residents must have access to their driveways at all times. All barricades and warning signs for any traffic lane closures will be provided and maintained by the Contractor. Cost of all barricades and signs shall be the responsibility of the Contractor. Any off-duty officers as may be required in the maintenance of traffic shall be provided by the Contractor at the Contractor's expense.

SC-6.12

Amend paragraph 6.12.A by replacing the first sentence of the paragraph with the following sentence:

CONTRACTOR shall maintain in a safe place at the Project one record copy of all Drawings, Project Specifications, Addenda, Written Amendments, Change Orders, Work Change Directives, Field Orders, As Builts, and written interpretations and clarifications in good order and annotated to show changes made during construction.

SC-6.13

Amend paragraph 6.13.A.3 by replacing it with the following paragraph:

other property at the Project or adjacent thereto, including, but not limited, to trees, shrubs, lawns, walks, pavements, roadways, structures, utilities, and underground facilities not designated for removal, relocation, or replacement in course of construction.

SC-6.20

Amend the paragraphs 6.20.A.1 and 6.20.A.2 by replacing them with the following paragraph.

To the fullest extent permitted by Laws and Regulations, the Parties agree that in consideration of the first \$1,000.00 dollars to be paid by Owner to Contractor hereunder and other specific consideration, the receipt and sufficiency of which is hereby acknowledged, the Contractor shall indemnify, defend and hold harmless the OWNER and ENGINEER and their consultants, agents, officers and employees, and the elected officials of the Owner, from and against all claims, damages, losses and expenses, direct, indirect or consequential (including but not limited to fees and charges of engineers, architects, attorneys and other professional and court and arbitration costs) arising out of or resulting from the performance of the Work, provided that any such claim, damage, loss or expense (a) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting therefrom and (b) is caused in whole or in part by any negligent act or omission of CONTRACTOR, any Subcontractor, any person or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder or arises by or is implied by Law and Regulations regardless of the negligence of any such party.

Amend paragraphs 6.20.B by replacing it with the following paragraph:

In any and all claims against OWNER and ENGINEER and their consultants, agents, officers and employees, and the elected officials of the Owner by any CONTRACTOR, any Subcontractor, any person or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be

liable, the indemnification obligation under paragraph 6.20 shall not be limited in any way, by any limitation on the amount or type of damages, compensation or benefits payable by or for CONTRACTOR or any such Subcontractor or other person or organization under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

ARTICLE 8 - OWNER'S RESPONSIBILITIES - Page 26

SC-8.02

Amend paragraph 8.02.A by replacing it with the following paragraph:

In case of termination of the employment of ENGINEER, OWNER shall appoint an engineer whose status under the Contract Documents shall be that of the former ENGINEER.

ARTICLE 9 - ENGINEER'S STATUS DURING CONSTRUCTION - Page 27

SC-9.03

Amend paragraph 9.03.A by adding the following language at the end of the paragraph:

The ENGINEER will provide a Resident Project Representative for this Project with duties, responsibilities and limitations of authority as outlined in Exhibit "B" attached at the end of these Supplementary Conditions. The Resident Project Representative will not be a full time Representative, but will work such periods of time so as to cover the project in accordance with Exhibit "B".

SC-9.05

Amend paragraph 9.05.A by deleting the following sentence from the end of the paragraph:

If OWNER and CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, as a result of a Field Order, a Claim may be made therefore as provided in paragraph 10.05.

SC-9.08

Amend paragraph 9.08.A by replacing the word “decision” in the second sentence with the word “recommendation” and adding the words “recommendation will be submitted to the Town Manager whose” into the third sentence between the words “written” and “decision”.

SC-9.09

Amend paragraph 9.09.B by replacing the word “decision” with “recommendation” in the second paragraph and deleting the words “OWNER or” from the last sentence.

ARTICLE 10 - CHANGES IN THE WORK; CLAIMS - Page 29

SC-10.01

Amend paragraph 10.01.A by replacing the first sentence of the paragraph with the following sentence:

Without invalidating the Contract and without notice to any Surety, OWNER may, at any time or from time to time, order additions, deletions, or revisions in the Work by a Written Amendment, a Change Order, a Work Change Directive, or a Field Directive.

Amend paragraph 10.05.D by adding the following sentence at the end of the paragraph:

Adherence to the terms of paragraph 10.05 is a condition precedent to bringing any further action in litigation.

SC-10.05

Amend paragraph 10.05.B by replacing it with the following paragraph:

B. TOWN MANAGER’S Decision: ENGINEER will render a formal recommendation to the TOWN MANAGER for a binding decision in writing within 30 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any. TOWN MANAGERS decision on such Claim, dispute, or other matter will be final and binding upon OWNER and CONTRACTOR:

Delete paragraphs 10.05.B.1 and 10.05.B.2.

ARTICLE 11 - COST OF THE WORK; CASH ALLOWANCE; UNIT PRICE WORK - Page 30

SC-11.01

Amend paragraph 11.01.A.1 by deleting the word Saturday from the last sentence of the paragraph.

Delete paragraph 11.01.A.4 in its entirety.

SC-11.03.C

Amend paragraph 11.03.C by replacing it with the following paragraph:

C. A Claim may be made for an adjustment in the Contract Price in accordance with paragraph 10.05 if:

ARTICLE 12 – CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES –

SC-12.01.C

Amend paragraph 12.01.C.2.a. by replacing the entire sentence with the following sentence:

for costs incurred under paragraph 11.01.A.1 and 11.01.A.2, the CONTRACTOR's fee shall be 10 percent;

SC-12.01.C

Modify paragraph 12.01.C.2.c. to change the fee as follows in the first sentence:

Will be paid a fee of 10 percent of the costs incurred by such Subcontractor under paragraph 11.01.A.1 and 11.01.A.2 and that any higher tier Subcontractor and CONTRACTOR will each be paid a fee of five percent of the amount paid to the next lower tier Subcontractor;

SC-12.06.B

Amend paragraph 12.06.B by replacing the entire paragraph with the following paragraph:

Contractor will not be entitled to any adjustment in the Contract Price for delays extended general conditions, extended overhead, loss of productivity, acceleration or any damages or other compensation whatsoever in the event of any delays in the progress of the Work on account of hindrances or delays from any cause whatsoever. Such causes of delay include but are not limited to differing site conditions, difficulty in acquiring building permits, limited access to the Project, failure to approve plans and shop drawings on time, delays

caused by governmental action, inaction or regulation, subsurface conditions, material shortages or delay in delivery of materials. It is the specific intent hereunder that an extension of time will be the sole and exclusive remedy for delay of any type, description or category. However, if occasioned by an act of God, or by any act or omission on the part of the OWNER such act, hindrance or delay may entitle the CONTRACTOR to an extension of time in which to complete the Work which shall be determined by the ENGINEER, provided that the CONTRACTOR will give notice as provided herein. The foregoing limitations on adjustments to Contract Price also apply to any causes of delay which affect any subcontractor, materialman, supplier or laborer on the Project. In no event, if any such events of delay occur, shall any subcontractor, materialman, supplier or laborer be entitled to additional compensation for delays including claims for extended general conditions, extended overhead and the like against the OWNER or Engineer.

ARTICLE 13 - TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK - Page 34

SC-13.04

Amend paragraph 13.04.A by replacing it with the following paragraph:

If any Work is covered contrary to the Technical Specifications, Drawings or Contract Documents, it must, if requested by ENGINEER, be uncovered for ENGINEER's observation and replaced at CONTRACTOR's expense.

Amend paragraph 13.04.B by adding the following language at the end of the second sentence:

,or direct payment if remaining Contract funds are not sufficient.

SC-13.09

Amend paragraph 13.09.C by adding the following language at the end of the first sentence:

, or direct payment if remaining Contract funds are not sufficient.

ARTICLE 14 - PAYMENTS TO CONTRACTOR AND COMPLETION - Page 36

SC-14.02.A.2

Amend paragraph 14.02.A.2 by deleting the existing paragraph and replacing it with the following paragraph:

With each Application for Payment, the CONTRACTOR shall include a Partial Waiver Upon Progress Payment or Statutory Waiver and Final Release, as appropriate from each and every materialman, supplier and or laborer ("Potential Lienor") who has provided labor, services or materials for the Project. Contractor shall submit its own Statutory Waiver and Partial Release of Lien or Statutory Waiver and Final Release of Lien, as appropriate, with each Application for Payment. Moreover, CONTRACTOR shall ensure that no construction liens, or any encumbrances in the nature thereof or any other encumbrances whatsoever (including equitable lien claims), shall be filed or maintained by the CONTRACTOR or by any Potential Lienor in connection with any Work for which OWNER has made payment or for which payment is not yet due. As a condition precedent to the receipt of each progress payment from the OWNER, CONTRACTOR must furnish the Partial Waiver Upon Progress Payment Statutory Waiver and Final Release from each Potential Lienor, in the form prescribed by OWNER and/or ENGINEER, together with a Contractor's Affidavit and Partial Release, in the form prescribed by the OWNER and/or ENGINEER. Further, as a condition precedent to the receipt of the final payment, the CONTRACTOR shall provide OWNER with a Statutory Waiver and Final Release from each Potential Lienor in the form prescribed by OWNER and/or the ENGINEER, together with a Contractor's Affidavit and Final Release. Each Release given to the OWNER shall waive and release any lien rights of the Potential Lienor to the extent payment is made with respect to any Work performed through the date of the Release. For any Potential Lienor who has served a Notice to Owner and/or Notice to Contractor, but who has not provided labor, services or materials during the period of time covered by an Application for Payment, the CONTRACTOR shall provide a Zero Dollar Release in the form prescribed by OWNER and/or ENGINEER. CONTRACTOR shall comply with all requirements of Florida Statutes, Chapter 713. CONTRACTOR agrees to indemnify, defend and hold the OWNER harmless from and against any and all liens or other claims whatsoever filed against the OWNER or the OWNER'S property by any Potential Lienor for worked performed or materials or services furnished in connection with the Work for which CONTRACTOR has been paid or for which payment is not yet due at the time the Lien is recorded. In the event a Claim of Lien is recorded against the OWNER'S property, the CONTRACTOR shall cause the same to be satisfied within ten (10) days following the date of recordation of the Claim of Lien, or in the alternative, shall cause the Claim of Lien to be transferred to a Bond. In the event any Liens are not cleared of record within ten (10) days of recordation, OWNER shall have the right to settle, satisfy, or transfer such Lien to a Bond at CONTRACTOR'S sole cost and expense and OWNER may offset any such cost against the next payment due to CONTRACTOR, or CONTRACTOR shall make a direct payment if remaining Contract funds are not sufficient. OWNER shall not be limited to and is entitled to all other remedies available at law or in equity. The provisions of this paragraph shall be deemed an independent covenant of the CONTRACTOR and shall be effective with respect to all Work performed and materials and services furnished under the Contract Documents, Change Orders or any other agreement for work with respect to the Project.

SC-14.02.D.1.b

Amend paragraph 14.02.D.1.b by deleting the existing paragraph and replacing it with the following:

Liens have been recorded in connection with the Work or the Project.

SC-14.07

Amend paragraph 14.07.A.1 by replacing it with the following paragraph:

After CONTRACTOR has, in the opinion of ENGINEER, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operation instructions, schedules, guarantees, Bonds, certificates or other evidence of insurance, certificates of inspection, marked-up record documents (as provided in paragraph 6.12), final releases, final affidavits, Asbuilts, and other documents, CONTRACTOR may make application for final payment following the procedure for progress payments.

Amend paragraph 14.07.A.2 by adding the following language at the end of the first sentence:

or claims made against the Bonds provided by CONTRACTOR under the Contract Documents.

Delete paragraph 14.07.A.3 in its entirety.

SC-14.09

Amend paragraph 14.09.A.1 by replacing it with the following paragraph:

a waiver of all Claims by OWNER against CONTRACTOR, except Claims arising from unsettled Liens or Claims against the Bonds, from defective Work appearing after final inspection pursuant to paragraph 14.06, from failure to comply with the Contract Documents or the terms of any special guarantees specified therein, or from CONTRACTOR's continuing obligations under the Contract Documents; and

ARTICLE 15 - SUSPENSION OF WORK AND TERMINATION - Page 40

SC-15.03

Delete paragraph 15.03.A.3 in its entirety.

Delete paragraph 15.03.A.4 in its entirety.

SC-15.04

Amend paragraph 15.04.A. by deleting the last sentence of the paragraph.

[THIS SPACE LEFT BLANK INTENTIONALLY]

EXHIBIT "B"

A LISTING OF THE DUTIES, RESPONSIBILITIES AND LIMITATIONS OF AUTHORITY OF THE RESIDENT PROJECT REPRESENTATIVE

ENGINEER shall furnish a Resident Project Representative (RPR), assistants and other field staff to assist ENGINEER in observing performance of the Work of the Contractor.

Through more extensive on-site observations of the Work in progress and field checks of materials and equipment by the RPR and assistants, ENGINEER shall endeavor to provide further protection for OWNER against defects and deficiencies in the Work; but, the furnishing of such services will not make ENGINEER responsible for or give ENGINEER control or supervisory control over construction means, methods, techniques, sequences or procedures or for safety precautions or programs, or responsibility for CONTRACTOR's failure to perform the Work in accordance with the Contract Documents.

The duties and responsibilities of the RPR are limited to those of ENGINEER in ENGINEER's agreement with the OWNER and in the construction Contract Documents, and are further limited and described as follows:

A. General

RPR is ENGINEER's agent at the site, will act as directed by and under the supervision of ENGINEER, and will confer with ENGINEER regarding RPR's actions. RPR's dealings in matters pertaining to the on-site work shall in general be with ENGINEER and CONTRACTOR keeping OWNER advised as necessary. RPR's dealings with subcontractors shall only be through or with the full knowledge and approval of CONTRACTOR. RPR shall generally communicate with OWNER with the knowledge of and under the direction of ENGINEER.

B. Duties and Responsibilities of RPR

1. Schedules: Review the progress schedule, schedule of Shop Drawing submittals and schedule of values prepared by CONTRACTOR and consult with ENGINEER concerning acceptability.

2. Conferences and Meetings: Attend meetings with CONTRACTOR, such as pre-construction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.

3. Liaison:

- a. Serve as ENGINEER's liaison with CONTRACTOR, working principally through CONTRACTOR's superintendent and assist in understanding the intent of the Contract Documents; and assist ENGINEER in serving as OWNER's liaison with CONTRACTOR when CONTRACTOR's operation affect OWNER's on-site operations.

- b. Assist in obtaining from OWNER additional details or information, when required for proper execution of the Work.

4. Shop Drawings and Samples:

- a. Record date of receipt of Shop Drawings and samples.
- b. Receive samples that are furnished at the site by CONTRACTOR, and notify ENGINEER of availability of samples for examination.
- c. Advise ENGINEER and CONTRACTOR of the commencement of any Work requiring a Shop Drawing or sample if ENGINEER has not approved the submittal.

5. Review of Work, Rejection of Defective Work, Inspections and Tests:

- a. Conduct on-site observations of the Work in progress to assist ENGINEER in determining if the Work is in general proceeding in accordance with the Contract Documents.
- b. Report to ENGINEER whenever RPR believes that any Work is unsatisfactory, faulty or defective or does not conform to the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise ENGINEER of Work that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.
- c. Verify that tests, equipment and systems startups and operating and maintenance training are conducted in the presence of appropriate personnel, and that CONTRACTOR maintains adequate records thereof; and observe, record and report to ENGINEER appropriate details relative to the test procedures and startups.
- d. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections and report to ENGINEER.

6. Interpretation of Contract Documents: Report to ENGINEER when clarifications and interpretations of the Contract Documents are needed and transmit to CONTRACTOR clarifications and interpretations as issued by ENGINEER.

7. Modifications: Consider and evaluate CONTRACTOR's suggestions for modifications in Drawings or Specifications and report with RPR's recommendations to ENGINEER. Transmit to CONTRACTOR decisions as issued by ENGINEER.

8. Records:

- a. Maintain at the job site orderly files for correspondence, reports of job conferences, Shop Drawings and samples, reproductions of original Contract Documents including all Work Directive Changes, Addenda, Change Orders, Field Orders, additional Drawings issued subsequent to the execution of the Contract, ENGINEER's clarifications and interpretations of the Contract Documents, progress reports, and other Project related documents.
- b. Keep a diary or log book, recording CONTRACTOR hours on the job site, weather conditions, data relative to questions of Work Directive Changes, Change Orders or changed conditions, list of job site visitors, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to ENGINEER.
- c. Record names, addresses and telephone numbers of all CONTRACTORS, subcontractors and major suppliers of materials and equipment.

9. Reports:

- a. Furnish ENGINEER periodic reports as required of progress of the Work and of CONTRACTOR's compliance with the progress schedule and schedule of Shop Drawing and sample submittals.
- b. Consult with ENGINEER in advance of scheduled major tests, inspections or start of important phases of the Work.
- c. Draft proposed Change Orders and Work Directive Changes, obtaining backup material from CONTRACTOR and recommend to ENGINEER Change Orders, Work Directive Changes, and Field Orders.
- d. Report immediately to ENGINEER and OWNER upon the occurrence of any accident.

10. Payment Requests: Review applications for payment with CONTRACTOR for compliance with the established procedure for their submission and forward with recommendations to ENGINEER, noting particularly the relationship of the payment requested to the schedule of values. Work completed and materials and equipment delivered at the site but not incorporated in the Work.

11. Certificates, Maintenance and Operation Manuals: During the course of the Work, verify that certificates, maintenance and operation manuals and other data required to be assembled and furnished by CONTRACTOR are applicable to the items actually installed and in accordance with

the Contract Documents, and have this material delivered to ENGINEER for review and forwarding to OWNER prior to final payment for the Work.

12. Completion:

- a. Before ENGINEER issues a Certificate of Substantial Completion, submit to CONTRACTOR a list of observed items requiring completion or correction.
- b. Conduct final inspection in the company of ENGINEER, OWNER and CONTRACTOR and prepare a final list of items to be completed or corrected.
- c. Observe that all items on final list have been completed or corrected and make recommendations to ENGINEER concerning acceptance.

C. Limitations of Authority

Resident Project Representative:

1. Shall not authorize any deviation from the Contract Documents or substitution of materials or equipment, unless authorized by ENGINEER.
2. Shall not exceed limitations of ENGINEER's authority as set forth in the Contract Documents.
3. Shall not undertake any of the responsibilities of CONTRACTOR, subcontractors or CONTRACTOR's superintendent.
4. Shall not advise on, issue directions relative to or assume control over any aspect of the means, methods, techniques, sequences or procedures of construction unless such advice or directions are specifically required by the Contract Documents.
5. Shall not advise on, issue directions regarding or assume control over safety precautions and programs in connection with the Work.
6. Shall not accept Shop Drawings or sample submittals from anyone other than Contractor.
7. Shall not authorize OWNER to occupy the Project in whole or in part.
8. Shall not participate in specialized field or laboratory tests or inspections conducted by others except as specifically authorized by ENGINEER.

TOWN OF CUTLER BAY

SECTION 6

SW 208 STREET ROADWAY IMPROVEMENTS
DETAILED SPECIFICATIONS

TECHNICAL SPECIFICATIONS INDEX

<u>SECTION</u>	<u>DESCRIPTION</u>	<u>PAGES</u>
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	Special Provisions	
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DIVISION I
SPECIAL PROVISIONS
FOR
SW 208 STREET ROADWAY IMPROVEMENTS
IN
THE TOWN OF CUTLER BAY

It is the intent of these Contract Documents that Division I, II and III of the Florida Department of Transportation “Standard Specifications for Roads and Bridge Construction” dated 2000 be used as the basis for the work as amended by the following Supplemental Technical Specification. Where such wording refers to the State of Florida and its Department of Transportation and Personnel, such wording is hereby replaced with wording which provides proper substitute terminology; thereby making such Standard Specifications for Roads and Bridge Construction, Standard Technical Specifications of the Town of Cutler Bay.

It is the intent to include Division I of the Florida Department of Transportation “Standard Specifications for Roads and Bridge Construction” as referenced above as a supplement to the General Conditions (Engineers Joint Contract Documents Committee) and Supplementary Conditions for this Contract.

Further the applicable portions of the Town of Cutler Bay Code and Florida Building Code shall apply to the project.

Supplemental Technical Specifications that pertain to the pertinent items of construction are located in Division II.

SECTION 01020

ALLOWANCES

PART 1 SCOPE OF WORK

1.01 DEFINITION

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

1.02 ALLOWANCE ACCOUNT

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

1.03 SELECTION OF PRODUCTS UNDER ALLOWANCES

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

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

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

- A. On notification of selection, execute purchase agreement with designated suppliers and/or subcontractors.
- B. Arrange for and process shop drawings, product data and samples, as required.
- C. Make all arrangements for delivery.
- D. Upon delivery, promptly inspect products for damage or defects.
- E. Submit claims for transportation damage.
- F. Install and finish products in compliance with requirements of referenced specification sections, including restoration.
- G. Noise Control
 1. Contractor will use discretion whenever engaging in activities that might produce excessive noise and disturb residents in and around work areas.
 2. The Town shall have the right to impose reasonable limitations on the Contractor to prevent excessive noise and disturb residents in and around work areas.

- H. Access to Property: The Contractor shall at all times maintain meaningful access to a given property for residents of that property.
- I. Staging of Work: All staging for work by the Contractor within the Town shall be first approved by the Town's department of public works.

1.05 ADJUSTMENT OF COSTS

- A. Should the net cost be more or less than the specified amount of the allowance, the contract sum will be adjusted accordingly by change order. Should work be changed by change order:
 - 1. The amount of the change order will recognize any changes in handling costs at the site, equipment, labor, installation costs, overhead, profit, and other expenses caused by the change order.
 - 2. For products specified under a unit cost in the change order schedule of values, the unit cost shall apply to the additional quantities actually used.
- B. Submit any claims for anticipated additional costs at the site, or other expenses caused by the selection under the allowance, prior to execution of the work.
- C. Failure to submit claims within the designated time will constitute a waiver of claims for additional costs.
- D. At contract closeout, reflect all approved changes in contract amounts in the final statement of accounting.

PART 2 PRODUCTS

Not Used

PART 3 EXECUTION

3.01 MEASURE AND PAYMENT

- A. The cost shall include a fixed amount per the Bid Form.
- B. Use of the allocation account shall be for unforeseeable conditions, for construction changes and for availability adjustments, if ordered and authorized by the Town. At the

closeout of contract, monies remaining in the contingency allowance will be credited to the Owner by change order.

- C. The fixed amount is indicated as a lump sum under Allowance pay item A-1.

END OF SECTION

SECTION 01030

SWALE RESTORATION AND AUDIO VISUAL PRECONSTRUCTION RECORD

PART 1 SCOPE OF WORK

1.01 DEFINITION

- A. Included in the contract sum is a lump sum pay item that includes the complete restoration of the swale area impacted by any construction activity adjacent to drainage work including but not limited to pipe culvert, French drain, catch basins, etc. Any swale areas impacted by the contractor outside of drainage work such as asphalt overlay, pavement markings, etc. will be restored by the contractor at no additional cost to the Town. The pay item includes but is not limited to new sod, landscaping, trees, excavation, new fill, grading, irrigation, driveway aprons, mail boxes, fences, pipes, curbs, etc. to an equal or better condition prior to construction.
- B. The contractor shall include the costs associated with a preconstruction video to confirm existing conditions. Any damage not confirmed by preconstruction video will be repaired at no additional cost to the Town.

1.02 SITE RESTORATION

- A. The Contractor shall remove all excess material and shall clean up and restore the swale area impacted by any construction activity adjacent to drainage work to its original condition or better. All damage to swale areas, as a result of WORK under this Contract, done to existing structures, pavement, driveways, paved areas, curbs and gutters, sidewalks, shrubbery, grass, trees, utility poles, utility pipe lines, conduits, drains, catch basins, flagstones, rocked, graveled or stabilized areas or driveways, and including all obstructions not specifically named herein, shall be repaired or replaced, as determined by the ENGINEER. Site restoration shall be done in a timely manner as the WORK progresses.

1.03 AUDIO-VISUAL PRECONSTRUCTION RECORD

- A. Prior to beginning the work, the Contractor shall have a continuous color audio-video recording taken along the entire length of the project, where construction will be performed, to serve as a record of preconstruction conditions. No construction shall begin prior to review and approval of the audio-video covering the construction area by the Engineer. The Engineer shall have the authority to reject all or any portion of the audio-video not conforming to the specifications and order that it be redone at no additional

charge. The Contractor shall reschedule the unacceptable coverage within five days after being notified.

- B. Contractor shall provide the Engineer and the Owner with one complete set of disks for each project area.
- C. All equipment, accessories, materials and labor to perform this service shall be furnished by the Contractor.

PART 2 PRODUCTS

Not Used.

PART 3 EXECUTION

3.01 MEASURE AND PAYMENT

- A. Compensation for the swale restoration as described on the plans and in this specification shall be included in the lump sum price bid for Swale Restoration.
- B. Compensation for the audio-video preconstruction record shall be included in the lump sum price bid for Swale Restoration Pay Item SR-1.

END OF SECTION

SECTION 15200

UTILITY RELOCATIONS

PART 1 SCOPE OF WORK

1.01 DEFINITION

- A. Included in the contract sum is an allowance account for unforeseen conditions that require the relocation of existing utilities. The Contractor shall verify the location of existing utilities prior to installing proposed roadway improvements, as specified in the detailed construction plans. If a conflict between the proposed improvements and the existing utility is identified, that cannot be avoided by adjusting scope of work, the Contractor shall immediately notify the Engineer. Upon direction from the Engineer, the Contractor shall coordinate with the utility provider to have the conflicting utilities relocated or deflected by provider personnel.

1.02 ALLOWANCE ACCOUNT

- A. Monies in the allocation account will be used on issuance of a work authorization, pre-approved in writing by the Town throughout
- B. At the closeout of the contract, monies remaining in the allowance account will be credited to the Town by change order.

1.03 PROCEDURE FOR COMPLETING UTILITY RELOCATIONS

- A. Engineer's Duties:
 - 1. Consult with the Contractor in considering options related to conflicts between existing utilities and proposed roadway improvements.
 - 2. Provide written authorization to request cost estimate.
 - 3. Transmit Owner's decision to the Contractor.
 - 4. Prepare work authorization.
- B. Contractor's Duties:
 - 1. Identify potential conflicts between proposed roadway improvements and existing utilities by verifying utility locations in the field prior to installation of proposed center median and notify Engineer of conflicts immediately upon discovery. The Contractor

and Engineer shall explore options to avoid the conflicts with the utilities as the first step.

2. Obtain cost estimates and schedules for relocation or deflection of existing utilities from provider as directed by the Engineer and provide copies of the requested information to the Engineer upon receipt.
3. If authorized by Engineer, coordinate with provider to have utility relocations/deflections constructed by provider personnel. This includes payment of any deposits or fees associated with the proposed deflections.
4. Notify Engineer promptly of:
 - a. Any effect on the construction schedule anticipated as a result of utility relocation/deflection.

1.05 ADJUSTMENT OF COSTS

- A. Should the net cost be more or less than the specified amount of the allowance, the contract sum will be adjusted accordingly by change order. Should work be changed by change order:
 1. The amount of the change order will recognize any changes in handling costs at the site, equipment, labor, installation costs, overhead, profit, and other expenses caused by the change order.
 2. For products specified under a unit cost in the change order schedule of values, the unit cost shall apply to the additional quantities actually used.
- B. Submit any claims for anticipated additional costs at the site, or other expenses caused by the selection under the allowance, prior to execution of the work.
- C. Failure to submit claims within the designated time will constitute a waiver of claims for additional costs.
- D. At contract closeout, reflect all approved changes in contract amounts in the final statement of accounting.

PART 2 PRODUCTS

Not Used.

PART 3 EXECUTION

3.01 MEASURE AND PAYMENT

- C. Included in the contract sum is an allowance account for unforeseen conditions that require the relocation of existing utilities. At the closeout of the contract, monies remaining in the allowance account shall be credited to the Village by change order.
- D. The fixed amount is indicted as a lump sum under Allowance pay item A-1.

END OF SECTION

DIVISION II
SECTION 101
MOBILIZATION

PART 1 GENERAL

1.01 SUMMARY

It is the intent of these specifications that Division I, II and III of the Florida Department of Transportation "Standard Specifications for Roads and Bridge Construction" dated 2000 be used as the basis for the work as amended by the General Conditions, Supplementary Conditions, Special Provisions, and the following Supplemental Technical Specification which pertains to the pertinent items of construction.

1.02 SUPPLEMENTAL TECHNICAL SPECIFICATION

Article 101-1 Description This section is expanded to include the following:

The Town shall identify the location of the construction staging area and construction field office (if necessary). The designated area will be within the limits of the Town. The Contractor shall take pictures or make a video record of the existing conditions of the site prior to making any modifications. The Contractor shall install fencing, gates and take all other measures, as necessary, to make said site secure. No automobiles shall be permitted to park in said staging area except for delivery and pickup purposes.

The Contractor shall be responsible for obtaining electrical and water service to the field office. The Contractor will be required to furnish all materials and connections necessary for the connection of these services from the point of connection to the existing system to the field office and pay all fees and deposits as required by the utility owner. The installation and connections shall be in accordance with the requirements of the utility owner, the Building Inspection Division of the Town of Cutler Bay and all other agencies or authorities which may have jurisdiction.

At the conclusion of the project, the Contractor shall be responsible for the removal of the field office, utility connections, and the clean up and restoration of the field office and construction staging site, to its original condition. The pictures and/or videotape, obtained at the beginning of the project, will be used to evaluate the restoration of the site. The Contractor shall obtain and furnish to the Engineer a letter from the owners of the site stating they are satisfied with the clean up and restoration of their property, and releasing the Contractor from the need of any further action.

All cost for work, materials, obtaining permits, permit fees and incidental costs as specified above and required for project completion are to be included in the cost of this section unless otherwise specified.

PART 2 MATERIALS

Materials shall be per the previously referenced FDOT “Standard Specifications for Roads and Bridge Construction”.

PART 3 EXECUTION

Execution shall be per the previously referenced FDOT “Standard Specifications for Roads and Bridge Construction”.

END OF SECTION

SECTION 102

MAINTENANCE OF TRAFFIC

PART 1 GENERAL

1.01 SUMMARY

It is the intent of these specifications that Division I, II and III of the Florida Department of Transportation “Standard Specifications for Roads and Bridge Construction” dated 2000 be used as the basis for the work as amended by the General Conditions, Supplementary Conditions, Special Provisions, and the following Supplemental Technical Specification which pertains to the pertinent items of construction.

A. 1.02 SUPPLEMENTAL TECHNICAL SPECIFICATION

Article 102-1.1 Description This section is expanded to include the following:

The Contractor shall provide access to properties adjacent to the construction area at all times.

Two weeks prior to any construction, the Contractor shall provide a maintenance of traffic plan and a written schedule to the Engineer showing anticipated construction activity, timing, location, and anticipated disruptions due to occur. The maintenance of traffic plan and schedule shall be updated every two weeks during construction. The original schedule and updates shall be provided to the Engineer no later than noon each Friday for use, by the Engineer and Town, in assisting the Contractor to inform the residents of pending disruptions. However, this does not relieve the Contractor of any and all reasonable communications with the affected property owners.

The Contractor may be asked to attend meetings with the Property Owners and offer his opinions during the course of the meeting, but the Town/Engineer will chair the meeting.

Article 102-4.1 Where Required – This sub-article is amended to include:

Except as delineated in the Contract Documents, traffic may be detoured only upon approval of the Town.

PART 2 MATERIALS

Materials shall be per the previously referenced FDOT “Standard Specifications for Roads and Bridge Construction”.

PART 3 EXECUTION

Execution shall be per the previously referenced FDOT “Standard Specifications for Roads and Bridge Construction”.

All cost for work, materials, permits and incidental costs as specified above are to be included in the cost of other bid items. The direct cost for off-duty police officers as required under Town Ordinance 02-19 will be paid for under the Allowance Bid Item.

END OF SECTION

SECTION 104

PREVENTION, CONTROL, AND ABATEMENT OF EROSION AND WATER POLLUTION

PART 1 GENERAL

1.01 SUMMARY

It is the intent of these specifications that Division I, II and III of the Florida Department of Transportation "Standard Specifications for Roads and Bridge Construction" dated 2000 be used as the basis for the work as amended by the General Conditions, Supplementary Conditions, Special Provisions, and the following Supplemental Technical Specification which pertains to the pertinent items of construction.

1.02 SUPPLEMENTAL TECHNICAL SPECIFICATION

Article 104-5 Preconstruction Conference

The Contractor shall comply with the National Pollutant Discharge Elimination System (NPDES) Permit requirements for the project, submitting the required documents to the U.S. Environmental Protection Agency (EPA) pursuant to the requirements of 40 CFR Part 122.26. This would include, but not be limited to, completing and submitting a Notice of Intent (NOI) and a Notice of Termination (NOT) to the U.S. EPA in accordance with the project schedule. Copies of the preprinted forms are attached as Appendix A.

Refusal by the Contractor to place his signature on any required documents or certification statements will be considered as default of the Contract. The Contractor that performs any earth disturbing activities in the absence of any required signed documents or certifications statements may also be considered by the U.S. EPA to be in violation of the Clean Air Act.

The contractor shall furnish the Engineer the name and telephone number of the person who will be responsible for monitoring and maintaining the erosion control devices.

The Contractor shall be responsible for compliance with the approved Erosion Control Plan.

All cost for work, materials, obtaining permits, permit fees and incidental costs as specified above and required for project completion are to be included in the cost of this section unless otherwise specified.

PART 2 MATERIALS

Materials shall be per the previously referenced FDOT “Standard Specifications for Roads and Bridge Construction”.

PART 3 EXECUTION

Execution shall be per the previously referenced FDOT “Standard Specifications for Roads and Bridge Construction”.

END OF SECTION

SECTION 300

PRIME AND TACK COAT FOR BASE AND SURFACE COURSE

PART 1 GENERAL

1.01 SUMMARY

It is the intent of these specifications that Division I, II and III of the Florida Department of Transportation “Standard Specifications for Roads and Bridge Construction” dated 2000 be used as the basis for the work as amended by the General Conditions, Supplementary Conditions, Special Provisions, and the following Supplemental Technical Specification which pertains to the pertinent items of construction.

1.03 SUPPLEMENTAL TECHNICAL SPECIFICATION

Article 300-9 – Basis of Payment - Delete the text of this article and insert the following:

No separate payment will be made for prime coat and tack coat materials but the cost of same, including furnishing, heating, hauling and applying (including sand or screening covering where required), shall be included for payment in the contract unit price either per ton or per square yard of base or asphalt pavement or in the unit price for pothole repair.

PART 2 MATERIALS

Materials shall be per the previously referenced FDOT “Standard Specifications for Roads and Bridge Construction”.

PART 3 EXECUTION

Execution shall be per the previously referenced FDOT “Standard Specifications for Roads and Bridge Construction”.

END OF SECTION

SECTION 425

INLETS, MANHOLES AND JUNCTION BOXES

PART 1 GENERAL

1.01 SUMMARY

It is the intent of these specifications that Division I, II and III of the Florida Department of Transportation “Standard Specifications for Roads and Bridge Construction” dated 2000 be used as the basis for the work as amended by the General Conditions, Supplementary Conditions, Special Provisions, and the following Supplemental Technical Specification which pertains to the pertinent items of construction.

1.04 SUPPLEMENTAL TECHNICAL SPECIFICATION

Article 425-6.8 Adjusting Existing Structures – Replace the last sentence of the first paragraph as follows and delete the text of the entire second paragraph:

The materials and construction methods for this work shall conform to the requirements specified above and shall also meet the standards and requirements of the utility company that owns the structure that will be adjusted.

PART 2 MATERIALS

Materials shall be per the previously referenced FDOT “Standard Specifications for Roads and Bridge Construction”.

PART 3 EXECUTION

Execution shall be per the previously referenced FDOT “Standard Specifications for Roads and Bridge Construction”.

END OF SECTION

TOWN OF CUTLER BAY

SECTION 8

ADDENDUM ACKNOWLEDGEMENT FORM

Addendum # Date Received

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

BIDDER: _____
(Company Name)

(Signature)

(Printed Name & Title)

END OF SECTION

TOWN OF CUTLER BAY

SECTION 9

ANTI-KICKBACK AFFIDAVIT

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

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

By: _____

Title: _____

Sworn and subscribed before this

_____ day of _____, 2010

Notary Public, State of Florida

(Printed Name)

My commission expires: _____

END OF SECTION

TOWN OF CUTLER BAY

SECTION 10

NON-COLLUSIVE AFFIDAVIT

State of _____ }
 } SS:
County of _____ }

_____ being first duly sworn, deposes and says that:

a) He/she is the _____, (Owner, Partner, Officer, Representative or Agent) _____, the Bidder that has submitted the attached Proposal;

b) He/she is fully informed respecting the preparation and contents of the attached Proposal and of all pertinent circumstances respecting such Proposal;

c) Such Proposal is genuine and is not collusive or a sham Proposal;

d) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, have in any way colluded, conspired, connived or agreed, directly or indirectly, with any other Bidder, firm, or person to submit a collusive or sham Proposal in connection with the Work for which the attached Proposal has been submitted; or to refrain from proposing in connection with such work; or have in any manner, directly or indirectly, sought by person to fix the price or prices in the attached Proposal or of any other Bidder, or to fix any overhead, profit, or cost elements of the Proposal price or the Proposal price of any other Bidder, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against (Recipient), or any person interested in the proposed work;

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

Signed, sealed and delivered
in the presence of:

Witness

Witness

By: _____

(Printed Name)

(Title)

TOWN OF CUTLER BAY

SECTION 11

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

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

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

by _____
[print individual's name and title]

for _____
[print name of entity submitting sworn statement]

whose business address is

and (if applicable) its Federal Employer Identification Number (FEIN) is _____

(If the entity has no FEIN, include the Social Security Number of the individual

signing this sworn statement: _____)

2. I understand that a "public entity crime" as defined in Paragraph 287.133(1)9g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or the United States, including, but not limited to, any bid or contract for goods and services to be provided to any public entity or an agency or political subdivision of any other state or of the United States involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

3. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), Florida Statutes, means a finding of guilt or a conviction or a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, nonjury trial, or entry of

a plea of guilty or nolo contendere.

4. I understand that an “affiliate” as defined in Paragraph 287.133(1)(a), Florida Statutes, means:
- a. A predecessor or successor of a person convicted of a public entity crime; or
 - b. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term “affiliate” includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm’s length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.
5. I understand that a “person” as defined in Paragraph 287.133(1)(e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term “person” includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an entity.
6. Based on information and belief, the statement that I have marked below is true in relation to the entity submitting this sworn statement. **[Indicate which statement applies.]**

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

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

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

entity submitting this sworn statement on the convicted vendor list. [attach a copy of the final order]

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

Signature of Entity Submitting Sworn Statement

Sworn to and subscribed before me this _____ day of _____, 2010.

Personally known _____

OR produced identification _____ Notary Public – State of _____

(type of identification) My commission expires _____

(Printed, typed or stamped Commissioned name notary public)

END OF SECTION

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

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

(Continue list on insert sheet, if necessary.)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NAME

RELATIONSHIPS

Signature of entity submitting supplement form

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

The foregoing instrument was acknowledged before me this _____ day of _____, 2010, by _____ who is personally known to me or who has produced _____ as identification and who did/did not take an oath.

WITNESS my hand and official seal, this _____ day of _____, 2010.

(NOTARY SEAL)

(Signature of person taking acknowledgment)

[THIS SPACE LEFT BLANK INTENTIONALLY]

TOWN OF CUTLER BAY

SECTION 13
PERFORMANCE BOND

PROJECT TITLE: SW 208 STREET ROADWAY IMPROVEMENS (the "Project")

CONTRACTOR:

CONTRACT NO:

CONTRACT DATED:

STATE OF § _____

§ _____

COUNTY OF § _____

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

WHEREAS, the Principal has entered into a certain written Agreement with Obligee, dated the ____ day of _____, 2010, for the construction of the Public Works Improvements (the "Contract"), which Agreement is by reference made a part of this Bond.

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

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

- (1) Complete the Agreement in accordance with its terms and conditions; or
- (2) Obtain a bid or bids for completion of the Agreement in accordance with its terms and conditions and upon determination by Surety of the lowest responsive, responsible bidder, or, if Obligee elects, upon determination by Obligee and the Surety jointly of the lowest responsive, responsible bidder, arrange for a contract between such bidder and Surety for completion of the Agreement in accordance with its terms and conditions, and make available as work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the Contract price; but not exceeding the amounts set forth in the first paragraph hereof.

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

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

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

IN WITNESS WHEREOF, the said Principal and Surety have signed and sealed this instrument this ____ day of _____, 2010.

Witness: _____

Witness: _____

Principal

Surety

By: _____

By: _____

Name: _____

Name: _____

(Print)

(Print)

Title: _____

Title: _____

Address: _____

Address: _____

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

Name: _____

Address: _____

Phone: _____

END OF SECTION

IN WITNESS WHEREOF, this instrument is executed this the _____ day of _____, 2010.

WHEN THE PRINCIPAL IS AN INDIVIDUAL:

Signed, sealed and delivered in the presence of:

(Witness)

By: _____
(Individual Principal)

(Witness)

Business Address

WHEN THE PRINCIPAL OPERATES UNDER A TRADE NAME:

Signed, sealed and delivered in the presence of:

(Witness)

Business Name and Address

(Witness)

By: _____
Signature of Individual

WHEN A PARTNERSHIP:

Signed, sealed and delivered in the presence of:

(Witness)

Name and Address of Partnership

(Witness)

By: _____
(Partner)

WHEN THE PRINCIPAL IS A CORPORATION:

ATTEST:

(Corporate Seal)

(Corporate PRINCIPAL Name)

Business Address

Secretary

By: _____
President

ATTEST:

(Surety Seal)

(Corporate SURETY)

Business Address

(Secretary)

By: _____
(Surety)

Florida Resident Agent

ATTORNEY-IN-FACT

By: _____

Name _____
(Type)

NOTE 1: Surety shall provide evidence of signature authority, i.e., a certified copy of Power of Attorney.

NOTE 2: If both the Principal and Surety are Corporations, the respective Corporate Seals shall be affixed and attached

IMPORTANT: Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of Florida.

ATTACH a certified copy of Power-of-Attorney appointing individual Attorney-in-Fact for execution of Performance Bond on behalf of Surety.

The Performance Bond and the Statutory Payment Bond and the covered amounts of each are separate and distinct from each other.

END OF SECTION

TOWN OF CUTLER BAY

SECTION 15

DRUG-FREE WORKPLACE FORM

The undersigned vendor in accordance with Section 287.087, Florida Statutes, hereby certifies that _____ does:

(Name of Business)

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

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

Proposers Signature

Date

TAB 4

ORDINANCE NO. 10- _____

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING SECTION 2-93 ENTITLED “RECOVERY OF COSTS FOR FAILURE OF THE RESPONSIBLE PERSON TO APPEAR ON BEHALF OF THE BUSINESS” RELATING TO ALLEGED SHOPLIFTING CRIMES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town’s Police Department spends significant resources on investigation, enforcement, and prosecution of suspected criminal activities or transactions which have been complained of by businesses within the Town; and

WHEREAS, the Town wastes significant resources when businesses within the Town fail to appear at court proceeding to prosecute the alleged criminal activities; and

WHEREAS, the Town Council finds it necessary to adopt a Police Cost Recovery Program in an effort to recoup the Town’s costs incurred when businesses fail to appear in court to prosecute the alleged criminal activities; and

WHEREAS, the Town Council finds that this Ordinance is in the best interest and welfare of the residents of the Town.

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

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

Section 2. Creation of Section 2-93 of the Town Code. The Town Council of the Town of Cutler Bay hereby creates Section 2-93 “Recovery of costs for failure of the responsible person to appear on behalf of the business” of the Town Code of Ordinances as follows¹:

Section 2-93. Recovery of costs for failure of the responsible person to appear on behalf of the business.

(a) **Applicability.** The provisions of this section shall apply only to shoplifting crimes allegedly committed in violation of Section 812.014, Florida Statutes, as amended.

(b) **Definitions.**

¹ Coding: underlined words are additions to existing text, ~~struck through~~ words are deletions from existing text, **shaded** text reflects changes made from First Reading.

Business owner or operator: The owner of operator of a business establishment which is operating within the Town or which holds a local business tax receipt issued by the Town, which business is the victim, subject, complainant, reporter or is the site of the suspected commission of criminal activity or transactions, and which activity or transaction is within the jurisdiction of the Town Police Department, and who, as a business owner or operator, may be liable for costs incurred upon a responsible person's failure to appear as provided by this section.

Costs incurred: Any and all monetary costs directly incurred by the Town in relation to the investigation, enforcement or prosecution of suspected criminal activities or transactions which has been complained of, witnessed or reported by a responsible person or concerning which a responsible person is required to appear at court proceedings.

Court proceedings: Any law enforcement, prosecutorial or judicial proceedings related to the reporting, filing, initiation or maintenance of a complaint or charge concerning a criminal prosecution, including but not limited to State Attorney intake and pre-filing proceedings, filing of criminal proceedings, depositions, or court appearances.

Criminal charge is abandoned, dismissed or fails: When a criminal complaint or charge is abandoned, declined to be filed or further prosecuted by the State Attorney or is dismissed by the State Attorney or by the court or a verdict of "not guilty" is made or directed by the court, directly upon the basis of the failure to appear of a responsible person.

Failure to appear: The failure of a responsible person to appear in court proceedings or to comply with the requirements of this section, under circumstances in which the criminal charge is abandoned, dismissed or fails.

Person: Any natural person, individual, firm, partnership, association, or corporation.

Responsible person: The person who, as a business owner or operator, or who, as an employee, officer or agent of a business owner or operator, furnished information to police, initiates a report or files a complaint upon or concerning suspected criminal activities or transactions upon behalf of any business owner or operator or concerning an incident in which it is reported by such person that criminal activities or transactions within the police jurisdiction of the Town may have occurred at or concerning the place of business or in connection with the activities or transactions of the business establishment. The term "responsible person" includes, but is not limited to, victim and witnesses.

(c) *Service charge imposed.* Pursuant to the Town's authority under its constitutional home rule powers, as codified in Section 166.021, Florida Statutes, and as also authorized by Section 166.201, Florida Statutes, a service charge in the full amount of the Town's costs incurred is hereby imposed upon the business owner or operator, in the event that a criminal charge is abandoned, dismissed or fails as a direct result of a responsible person's failure to appear in court proceedings. The identity of each responsible person may be noted in the applicable offense report or in a supplemental report. A written certification by the State Attorney, Court Administrator or the Town's Police Chief that a criminal charge is abandoned, dismissed or fails as a direct result of the failure to appear of a responsible person shall be prima facie evidence

that the costs incurred are the obligation of the business owner or operator pursuant to this section.

(d) Computation of costs. The Town's Finance Director shall calculate the costs incurred by the Town's Police Department, based upon pertinent information provided in writing by the Police Chief or designee.

(e) Appeal of Finance Director's determination: Any person aggrieved by a decision of the Finance Director concerning the calculation of costs incurred as required by this section, may appeal the matter to the Town Manager. The aggrieved person shall have ten days from receiving the written decision of the Town's Finance Director to file a written appeal to the Town Manager. The written appeal shall specify as to whether review is sought as to the liability of the business owner or operator and/or as to the calculation of the costs incurred. The Town Manager may accept, reject, or modify the decision of the Town's, based upon the scope of review requested and upon a review of the information provided to the Town Manager and his or her findings as to whether or not the business owner or operator is, pursuant to the intent, purposes and requirements of this section, liable for the costs incurred and as to whether the amount of the costs incurred has been correctly calculated. The Town Manager shall find that the business owner or operator is not liable for the costs incurred in the event that the business owner or operator demonstrates that: (1) the responsible person no longer served as an employee, agent or servant of the business owner or operator at the time of the failure to appear; or (2) the responsible person's failure to appear occurred solely because the responsible person did not receive a notice or subpoena to appear at court proceedings, if such notice or subpoena was required by law; or (3) the responsible person's failure to appear was not caused by the negligent, reckless or intentionally wrongful conduct of the responsible person and was unavoidable. Any person aggrieved by a decision of the Town Manager may timely seek judicial review of the matter in a court of competent jurisdiction to the extent and manner authorized by applicable law.

(f) Liability; collections. Each business owner and operator on whose behalf a responsible person has failed to appear as required by this section, shall be jointly and severally liable to the Town for the costs incurred as a result of such failure to appear. Costs incurred pursuant to this section may be collected by the Town pursuant to the following procedure:

(1) The service charge imposed by the Town for the costs incurred shall be due and payable not later than 30 days after the date of the mailing or hand delivery of the Town's invoice to the business owner or operator for cost recovery, and said due date shall be indicated upon the invoice of the Town.

(2) If such service charges are not fully paid by the business owner or operator on or before the past due date, a late fee of five percent shall be imposed by the Town and shall be added to the outstanding invoice. Unpaid balances of business owners or operators for such service charges and late fees shall be subject to an interest charge at the rate of one percent per month in accordance with the provisions of paragraph (3) below. Imposition of said interest charge shall commence for any delinquency existing 30 days after the past due date of the invoice and shall continue to accrue until all service charges, late fees and interest charges are paid.

(3) Service charges and late fees, together with any interest charges, shall be debts due and owing to the Town and such debts shall be recoverable by the Town or its assignee, in any court of competent jurisdiction.

(g) Implementation. The Town Manager and Police Chief, with any necessary assistance from the Town Attorney, are authorized to develop and implement forms for the efficient administration and implementation of this section.

(h) Police Cost Recovery Fund. The service charges imposed and collected by the Town shall be deposited in the Police Cost Recovery Fund. Said funds shall be used solely to recoup the costs incurred by the Town for a responsible person's failure to appear in court proceedings as provided for in this section.

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. Inclusion in the Code. It is the intention of the Town Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the Town of Cutler Bay; that the sections of this Ordinance may be re-numbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 6. Effective Date. This Ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading this _____ day of _____, 2010.

PASSED and ADOPTED on second reading this ____ day of _____, 2010.

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ-SANTAMARIA, CMC
Town Clerk

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

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

Moved By:
Seconded By:

FINAL VOTE AT ADOPTION:

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

TAB 5



MEMORANDUM

To: Honorable Mayor, Vice Mayor and Town Council

From: Steven J. Alexander, Town Manager

Date: February 17, 2010

Re: **ORDINANCE ADOPTING REVISIONS TO THE TOWN'S FLOODPLAIN MANAGEMENT REGULATION**

REQUEST

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING ORDINANCE 09-06 ENTITLED, "FLOODPLAIN MANAGEMENT REGULATIONS"; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

BACKGROUND AND ANALYSIS

In order for the Town residents to be eligible for participation in the National Flood Insurance Program (NFIP), the Town initially adopted a Floodplain Management Ordinance # 06-10. Town staff and Consulting Engineers have met with the Federal Emergency Management Agency (FEMA) to determine how to improve the Town's initial rating under the NFIP's Community Rating System (CRS) program. As a result of the meeting, Town staff prepared the requested FEMA changes which, resulted in the adoption of Ordinance #09-06.

Inadvertently, one of the "required" changes to the Town's Floodplain Management Ordinance, was not included within Ordinance #09-06. As a result, the Town' CRS application is on hold. Town staff is recommending the following changes (changes are underlined and ~~struck through~~) to Article 5, Section (B) (3) (a):

- (3) *Elevated Buildings*. New construction or substantial improvements of elevated buildings that include enclosed areas formed by foundation and other exterior walls below the lowest floor elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.
- (a) Designs for complying with this requirement must be certified by a professional engineer or architect and meet or exceed the following criteria:
- (i) Provide openings in each wall having a total net area of not less than 50% of the total wall area subject to flooding **and shall equal or exceed one square inch for each square foot of enclosed area.**



- (ii) **Provide A—at least one opening per wall, and the bottom elevation of all such openings shall be no higher than one foot above grade; and**

- (iii) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they provide the required net area of the openings and permit the automatic flow of floodwaters in both directions.

RECOMMENDATION

It is recommended that the Town Council adopt the proposed ordinance revising Town Ordinance number 09-06.



ORDINANCE NO. 10 - ____

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING ARTICLE 5, SECTION B OF ORDINANCE 09-06 ENTITLED, “FLOODPLAIN MANAGEMENT REGULATIONS”; REVISING TOWN STANDARDS TO CONFORM TO FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) GUIDELINES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in order to obtain coverage under the National Flood Insurance Program (“NFIP”) the Town must adopt Floodplain Management Regulations; and

WHEREAS, in consultation with the Federal Emergency Management Agency (“FEMA”), the Federal Agency which administers the NFIP, Town staff recommends additional changes to the Town’s regulations in order to fully comply with NFIP standards; and

WHEREAS, the Town Council wishes to make the following technical changes to Ordinance 09-06, which governs Floodplain Management; and

WHEREAS, the Town Council finds that this Ordinance is in the best interest of the health, safety and welfare of the residents of the Town.

NOW THEREFORE IT IS HEREBY ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AS FOLLOWS¹:

Section 1. Recitals Adopted. That each of the above stated recitals is hereby adopted and confirmed.

Section 2. Amendment to Article 5, Section B of Ordinance 09-06 of the Town Code. The Town Council of the Town of Cutler Bay hereby amends Article 5, Section B of Ordinance 09-06 of the Town Code of Ordinances as follows:

ARTICLE 5. PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION B. SPECIFIC STANDARDS.

¹ Coding: underlined words are additions to existing text, ~~struck through~~ words are deletions from existing text, **shaded** text reflects changes made from First Reading.

In all A-Zones where base flood elevation data have been provided (Zones AE, A1-30, and AH), as set forth in Article 3, Section B, the following provisions, in addition to those set forth in Article 5, Section A, shall apply:

- (1) *Residential Construction.* All new construction or substantial improvement of any residential building (including manufactured home) shall have the lowest floor, including basement, mechanical and utility equipment and ductwork, elevated to no lower than one foot above the base flood elevation, beginning March 1, 2009. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate automatic equalization of flood hydrostatic forces on both sides of the exterior walls shall be provided in accordance with standards of Article 5, Section B (3).
- (2) *Non-Residential Construction.* All new construction or substantial improvement of any commercial, industrial, or non-residential building (including manufactured home) shall have the lowest floor, including basement, mechanical and electrical equipment and ductwork, elevated to no lower than one foot above the base flood elevation, beginning March 1, 2009. All buildings located in A-Zones may be flood-proofed, in lieu of being elevated, provided that all areas of the building components (including mechanical and electrical equipment and ductwork) below the base flood elevation plus one foot are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied using the FEMA Floodproofing Certificate. Such certification along with the corresponding engineering data, and the operational and maintenance plans shall be provided to the Floodplain Administrator.
- (3) *Elevated Buildings.* New construction or substantial improvements of elevated buildings that include enclosed areas formed by foundation and other exterior walls below the lowest floor elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. ~~(Note changes to this section should provide for 300 CRS points, but could impact remodeling of buildings with garages below the BFE i.e. Cutler Cay)~~
 - (a) Designs for complying with this requirement must be certified by a professional engineer or architect and meet or exceed the following criteria:
 - (i) Provide openings in each wall having a total net area of not less than 50% of the total wall area subject to flooding and shall equal or exceed one square inch for each square foot of enclosed area.
 - (ii) Provide At least one opening per wall and the bottom elevation of all such openings shall be no higher than one foot above grade; and

- (iii) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they provide the required net area of the openings and permit the automatic flow of floodwaters in both directions.
- (b) Enclosed areas below the lowest floor shall solely be used for parking of vehicles, storage, and building access. Access to the enclosed area shall be minimum necessary to allow for parking of vehicles (garage door), limited storage of maintenance equipment used in connection with the premises (standard exterior door), or entry to the living area (stairway or elevator); and
- (c) The interior portion of such enclosed area shall not be finished or partitioned into separate rooms.

Section 3. Conflicts. All ordinances or Code provisions in conflict herewith are hereby repealed to the extent of such conflict.

Section 4. Severability. The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Inclusion in the Code. It is the intention of the Town Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the Town of Cutler Bay; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 6. Effective Date. That this Ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading this _____ day of _____, 2010.

PASSED and ADOPTED on second reading this ____ day of _____, 2010.

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 6

ORDINANCE NO. 10-___

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA AMENDING CHAPTER 30 “TRAFFIC AND MOTOR VEHICLES” TO PROVIDE COMPREHENSIVE REGULATIONS RELATING TO THE USE OF GOLF CARTS ON DESIGNATED STREETS WITHIN THE TOWN; AMENDING CHAPTER 8CC “CODE ENFORCEMENT” TO INCLUDE CIVIL PENALTIES RELATED TO GOLF CART USE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the State of Florida has given municipalities the right to designate streets within its boundaries for Golf Cart use; and

WHEREAS, the Town Council recognizes the needs of many citizens who enjoy the recreational advantages of Golf Cart use; and

WHEREAS, the Town Council also recognizes the environmental benefits associated with its citizens utilizing Golf Carts for trips within the Town rather than automobiles; and

WHEREAS the Town Council has determined that this Ordinance is in the best interest and welfare of the residents of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY AS FOLLOWS¹:

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

Section 2. Amendment to Chapter 30 of the Town Code. The Town Council of the Town of Cutler Bay hereby amends Chapter 30 “Traffic and Motor Vehicles” of the Town Code of Ordinances by adding a new Section 30-422 as follows:

Section 30-422 GOLF CARTS

Sec. 30-422.1 Legislative Intent

It is the intent of this section to permit and regulate the use of Golf Carts within the Designated Streets of the Town.

¹ Coding: underlined words are additions to existing text, ~~struck through~~ words are deletions from existing text, **shaded** text reflects changes made from First Reading.

Sec. 30-422.2 Definitions.

Designated Streets. All streets within the Town, except for those streets listed in Exhibit “A” as well as the entirety of Old Cutler Road, US 1, and the Florida Turnpike.

Golf Cart. A motor vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes as defined in Florida Statutes Chapter 316.003(68).

Permit. An official authorization designating that the Golf Cart to which the authorization is affixed meets the requirements of state law and the Town Code.

Prohibited Streets. Those streets listed in Exhibit “A” as well as the entirety of Old Cutler Road, US 1, and the Florida Turnpike.

Slow Moving Vehicles. Any vehicle designed for use and speeds less than 25 miles per hour.

Sec. 30-422.3 Authorized use.

(a) Licensed drivers may operate Golf Carts which have been issued Permits by the Town Police Department or a neighboring jurisdiction on all Designated Streets within the Town.

(b) A Permit to use a Golf Cart on a Designated Street does not allow entry onto private property or semi-private property, including retail parking lots, private roads or common areas in condominiums. Access to these areas may be regulated by the property owners and/or property managers.

(c) The storage of the Golf Carts shall not occur within ten feet of any property line that faces a street.

Sec. 30-422.4 Prohibited use.

The operation in the Town of any Golf Cart in the following manner or under the following conditions is prohibited:

(1) Without a valid, current driver's license;

(2) During hours between sunset and sunrise without being equipped with headlights, brake lights, turn signals, and a windshield;

(3) Without a valid, Permit issued by the Town Police Department or neighboring jurisdiction and registration sticker affixed to the Golf Cart on the rear fender.

(4) In violation of State or County traffic regulations;

(5) Anywhere on the roadway surface of the Prohibited Streets, except to cross those thoroughfares at marked intersections or intersections regulated by a traffic signal upon the Prohibited Streets solely for the purpose of reaching the immediate next intersection. The operation of Golf Carts upon Prohibited Streets pursuant to this subsection (5) shall be subject to authorization from Metro-Dade County pursuant to section 316.212(1) Florida Statutes;

(6) On the parks, bicycle paths, sidewalks, or swales of the Town;

(7) Parking in violation of posted regulations;

(8) Obstructing or interfering with normal traffic flow; and

(9) Carrying more passengers than those for which the Golf Cart was designed.

Sec. 30-422.5 Registration.

(a) All Golf Carts operated on Town Designated Streets must first be registered through the Town's Police Department or through a neighboring jurisdiction and a registration sticker must be placed on the rear fender of the golf cart.

(b) Registration of Golf Carts must be made by the owner who is at least 18 years of age.

(c) The owner of the Golf Cart will be charged an permit application/registration fee of \$60.00.

(d) Driving a Golf Cart without proper registration will result in a fine of \$150.00.

(e) A list of all Golf Cart registrations will be maintained by the Town's Police Department.

Sec. 30-422.6 Affidavit.

(a) Each Golf Cart owner shall provide an affidavit to the Town demonstrating that the Golf Cart meets all State law requirements prior to operating on a Designated Street

(b) Upon submitting a completed Permit application, affidavit, proof of insurance and the payment of a \$60.00 application fee, the Town Police Department shall issue a Permit to operate a Golf Cart.

Sec. 30-422.7 Required equipment.

A Golf Cart must be equipped with:

- (1) Efficient brakes;
- (2) Reliable steering apparatus;
- (3) Safe tires;
- (4) Rear view mirrors;
- (5) Red reflectorized warning devices, both in the front and the rear;
- (6) Rear stop lamps meeting the minimum standards of F.S. §316.234(1);
- (7) Turn signals meeting the minimum standards of F.S. § 316.234(2); and
- (8) Safety belts.

Sec. 30-422.8 Slow Moving Vehicles.

Golf Carts meeting the definition of Slow Moving Vehicle must also have a "SMV" triangular emblem attached to the Golf Cart.

Sec. 30-422.9 Operators.

Drivers must hold a current, valid driver's license in order to operate a Golf Cart upon the streets of the Town.

Sec. 30-422.10 Traffic laws.

(a) Operators of Golf Carts using Designated Streets within the Town are required to observe all traffic laws as if they were operating any other motor vehicle.

(b) While traveling on Designated Streets, operators and passengers of Golf Carts must comply with applicable State law as to the requirements and usage of safety belts and child restraint equipment.

(c) Owners and operators of Golf Carts shall comply with applicable State law pertaining to insurance requirements.

Sec. 30-422.11 Enforcement.

The Town Police Department shall be responsible for enforcing this section.

Section 3. Schedule of civil penalties amended. That the Town Code of the Town of Cutler Bay is hereby amended by amending Chapter 8CC "Code Enforcement", Section 8CC-10 "Schedule of civil penalties", to read as follows:

Sec. 8CC-10. Schedule of civil penalties.

<i>Code Section</i>	<i>Description of Violation</i>	<i>Civil Penalty</i>
***	***	***
<u>30-422.5</u>	<u>Driving a Golf Cart without current Town registration</u>	<u>\$150.00</u>
***	****	***

Section 4. 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 5. 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 6. Effective Date. This Ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading this 20th day of January, 2010.

PASSED and ADOPTED on second reading this ____ day of _____, 2010.

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 _____