



TOWN OF CUTLER BAY

Mayor Edward P. MacDougall
Vice Mayor Ernest N. Sochin
Councilmember Peggy R. Bell
Councilmember Mary Ann L. Mixon
Councilmember Sue Ellen Loyzelle

Town Attorney Mitchell Bierman
Town Attorney Chad Friedman
Town Manager Steven Alexander
Town Clerk Esther B. Coulson

This meeting is open to the public. In accordance with the Americans with Disabilities Act of 1990, persons needing special accommodations 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 (REVISED)

Wednesday, January 19, 2011, 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

2. PUBLIC COMMENTS

3. PROCLAMATIONS, AWARDS, AND PRESENTATIONS

A. Town of Cutler Bay Police Department

B. Craig Woodall

4. APPROVAL OF MINUTES

A. Committee of the Whole Workshop – November 15, 2010

B. Regular Council Meeting – November 17, 2010

C. Regular Council Meeting – December 1, 2010

D. Special Council Meeting – December 1, 2010

E. Special Council Meeting – December 6, 2010

F. Special Council Meeting – December 14, 2010

TAB 1

5. REPORTS

A. **TOWN MANAGER'S REPORT**

B. **TOWN ATTORNEY'S REPORT**

C. BOARD/COMMITTEE REPORTS AND COUNCIL ANNOUNCEMENTS

6. CONSENT AGENDA

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

- A.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING AN INTERLOCAL AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE TOWN REGARDING THE TRANSFER OF BUS BENCHES AND SHELTERS; AUTHORIZING THE TOWN MANAGER TO TAKE ANY AND ALL STEPS NECESSARY TO EFFECTUATE THE INTENT OF THIS RESOLUTION, AND PROVIDING FOR AN EFFECTIVE DATE.
- B.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ADOPTING A POLICY RELATING TO THE FILLING OF VICE MAYOR OR TOWN COUNCIL VACANCIES, AND PROVIDING FOR AN EFFECTIVE DATE. **(SOCHIN)**
- C.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING THE TOWN MANAGER TO ISSUE A PURCHASE ORDER TO MAROONE DODGE OF PEMBROKE PINES FOR THE PURCHASE OF SIX POLICE MOTOR VEHICLES AND RELATED EQUIPMENT IN THE AMOUNT OF \$ 134,604; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS, AND PROVIDING FOR AN EFFECTIVE DATE.
- D.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING THE ISSUANCE OF A REQUEST FOR PROPOSALS (RFP) FOR THE DEVELOPMENT OF A WEB BASED INFORMATION PORTAL, AND PROVIDING FOR AN EFFECTIVE DATE. **(MacDOUGALL)**
- E.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING THE ISSUANCE OF A REQUEST FOR QUALIFICATIONS (RFQ) FOR GENERAL CONTRACTOR(S) SERVICES – TOWN CENTER BUILDING, AND PROVIDING FOR AN EFFECTIVE DATE.
- F.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING THE ISSUANCE OF A REQUEST FOR QUALIFICATIONS (RFQ) FOR HEATING, VENTILATION, AND AIR CONDITIONING (HVAC) SERVICES FOR THE TOWN CENTER BUILDING, AND PROVIDING FOR AN EFFECTIVE DATE.
- G.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING THE ISSUANCE OF A REQUEST FOR QUALIFICATIONS (RFQ) FOR JANITORIAL MAINTENANCE SERVICES FOR

TAB 2

TAB 3

TAB 4

TAB 5

TAB 6

TAB 7

TAB 8

THE TOWN CENTER BUILDING, AND PROVIDING FOR AN EFFECTIVE DATE.

- H. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING THE ISSUANCE OF A REQUEST FOR QUALIFICATIONS (RFQ) FOR ELEVATOR MAINTENANCE SERVICES FOR THE TOWN CENTER BUILDING; AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 9

6. QUASI-JUDICIAL HEARINGS (PUBLIC HEARING REQUIRED)

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

7. 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.

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

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING CODE ENFORCEMENT PROCEDURES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 10

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

10. ORDINANCES FOR SECOND READING (PUBLIC HEARING REQUIRED)

11. 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.

12. MAYOR AND COUNCIL COMMENTS

13. OTHER BUSINESS

14. ADJOURNMENT

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 WORKSHOP MEETING MINUTES

Monday, November 15, 2010, 2:00 p.m.

Town Hall

10720 Caribbean Boulevard, Suite 105

Cutler Bay, Florida 33189

COUNCIL MEMBERS PRESENT:

Mayor Edward P. MacDougall

Councilmember Peggy Bell

Councilmember Mary Ann L. Mixon

Councilmember Ernest N. Sochin

ALSO PRESENT:

Town Attorney Mitchell Bierman

Town Attorney Chad Friedman

Town Manager Steven Alexander

Town Clerk Esther B. Coulson

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

The mayor called the Committee of the Whole Workshop meeting to order at 2:02 p.m.; requested that Ms. Coulson call the roll and with a quorum present, he led in the Pledge of Allegiance to the flag.

Belated Birthdays

The mayor recognized the past birthdays of Councilmember Bell, November 10, 2010; David Hennis, Community Development Director (who was not present), November 12, 2010, and former Councilmember Tim Meerbott, November 14, 2010.

2. PACE PROGRAMS - ILA

At the mayor's request, Mr. Alexander referred to the recent meeting the mayor and himself had with Mayor Tomas P. Regalado, City of Miami, and relayed that the Property Assessment Clean Energy (PACE) Program is anticipated to be considered at its December 2010 commission meeting. Mr. Alexander indicated that he will review the status of the other municipalities who agreed to be included in the process and acknowledged that the Interlocal Agreement (ILA) will be considered by the town council on its November 17, 2010 agenda.

3. OLD CUTLER ROADWAY - JPA

Mr. Alexander referred to previous discussions held with the Miami-Dade county staff regarding the construction of a road improvement project along Old Cutler Roadway and conveyed county staff's reasons for not paying for the roadway enhancements. Mr. Alexander pointed out the memorandum dated April 13, 2004 from Mr. George M. Burgess, Miami-Dade County Manager, recommending the county commission's adoption of the resolution pertaining to the Old Cutler Road Charrette Report which acknowledged the public's input.

Mr. Alexander gave a report on town staff's findings prior to the 2010 General Election that there have been no changes since meetings were held by the former town mayor and town staff; on the request made to the then District 8 Miami-Dade County Commissioner Katy Sorenson who met with Ms. Esther Calas, MDC Public Works

Director, on what could be implemented to resolve the issue, and on comments from Commissioner Sorenson that the county staff has done everything that they could. Mr. Alexander addressed the different strategies that were undertaken by town staff and gave a status of the enhancements to a standard county road project on Old Cutler Road (Southwest 97 Avenue to Southwest 87 Avenue) and projects eligible for People's Transportation Plan (PTP) funds.

Mr. Alexander relayed the county public works department staff's remarks that the county will not be paying for the enhancements. He referred to Mr. Burgess' memorandum depicting that the county staff would be guided by the Charrette that they conducted in 2004 on Old Cutler Road and pointed out his recommendations and application of same to the Miami-Dade County code.

After Mr. Caseals reviewed the document in question, Mr. Alexander recalled the county commission's previous approval to execute the Joint Participation Agreement (JPA) with the town to provide funding for the design and construction of roadway improvements along Old Cutler Road, from Southwest 97 Avenue to Southwest 87 Avenue; however, Mr. Bierman pointed out the county's argument that their approved agreement does not provide the enhancements.

Following further discussion, Mr. Friedman cited the provision in the JPA that the county would pay to build the standard road and addressed the possibility of questions arising from the agreement on Caribbean Boulevard (from Coral Sea road to Southwest 87 Avenue). He suggested that the town ought to review all its documents on the subject further.

After discussion, Mr. Caseals reviewed the designs on the subject Standard Miami-Dade County Public Works Roadway Improvement Project and the Proposed Roadway Improvement Project with Enhancements; copies of which are filed with the supplemental papers to the minutes of this meeting.

Mr. Caseals identified the areas that the county determined not to fund and indicated that the Charrette was adopted before the town was incorporated on February 17, 2008. In addition, Mr. Alexander conveyed the county's disagreement that the Charrette was paid for with stimulus funds and not PTP.

Discussion was held on town staff's findings that the county still has not communicated with the two affected property owners for land which needs to be acquired for traffic circles and the implications of not delivering a completely constructed roadway.

Mr. Alexander addressed the town staff's intent to continue to meet with Ms. Calas and should negotiations fail, town staff would report back to the council with recommendations or options on how to proceed.

The mayor relayed his telephone conversations with the new District 8 Miami-Dade County Commissioner and the intent to follow up with a meeting; suggested that the town council members arrange to meet with the county commissioners, and recommended that Mr. Alexander deal with Mr. Burgess.

Mr. Alexander addressed one of the components of the town's cost-effective method of designing the project for resurfacing the roadway and mentioned the county's opposition.

After discussion, Mr. Caseals explained that instead of the county reallocating funds towards the enhancements as designed by town staff, the money was transferred elsewhere.

In response to the mayor's inquiry, Mr. Bierman indicated that the JPA was approved by the county and the town; noted the provision on allowable expenses which he stated is subject to interpretation, and explained that the town could make an argument based on the fact that the county approved the Charrette with some of the items referred to as "upgrade enhancements" which both participants understood them to be the scope of work; however, the language in the agreement does not incorporate the Charrette which is a problem. He explained that neither parties had the roadway design when the JPA was entered into and stated that language could have been created based on same. Mr. Bierman addressed the need to negotiate the gray area that currently exists.

Following further discussion, Mr. Alexander was advised to obtain as much documentation as possible who acknowledged that future council workshops would be valuable to collectively receive such information.

It was suggested that the council wait until the date before informing the public and affected property owners about possible delays on the Old Cutler Road improvements.

4. PTP OPINIONS

The mayor referred to his attendance at the Miami-Dade County League of Cities (MDCLC) meeting earlier this day and addressed the desire to become a member. He pointed out the Citizens' Independent Transportation Trust (CITT) Resolution 10-061 dated July 29, 2010 expressing support of an amendment to MDC Ordinance 02-116 to provide funding to new municipalities through the hold harmless option and the easing of municipal maintenance of effort requirement and Resolution 10-062 requesting that the county commission fund the new municipalities from a county source other than the 20% (twenty percent) municipal share of surtax revenue until new funding sources are identified or Ordinance 02-116 is amended. Additionally the mayor cited Mr. Burgess' memorandum dated July 19, 2010 regarding the People's Transportation Plan (PTP) Municipal Revenue Sharing showing the difference with CITT and his recommendations to not have the money and the hold harmless option; a copy of which is filed with the supplemental papers to the minutes of this meeting.

The mayor indicated, in response to a question, that there are a number of items, including sign issues, which need to be reviewed more closely. Recognizing the intent of the Cities of Doral and Miami Gardens to pursue further action on the subject issue, the mayor addressed the town's rights to the fair share of funding and advised that a resolution ought to be considered by the council at its regular meeting in December 2010 to join with the other Miami-Dade County municipalities.

After discussion, Mr. Alexander suggested allowing the opportunity to discuss the subject matter with county staff rather than the town entering into a lawsuit.

Mr. Friedman explained that he has not yet heard from the mayors and municipalities who plan to proceed on the subject issue; recognized the municipalities that have not received funding from PTP having a slightly different interest than the other cities, and addressed the likelihood of the county's willingness to settle than to proceed in litigation.

The mayor identified the municipalities, who are members of the MDCLC, who have since adopted resolutions or intend to implement same to commence with the legal process and are in support of the subject matter.

5. VICE MAYOR SELECTION PROCESS DISCUSSION

Reference was made to the town council's consideration of a resolution on its November 17, 2010 regular meeting agenda to appoint a vice mayor and pointed out previous discussions held with the legal staff.

In response, Mr. Bierman pointed out the town's requirement, according to the law, to appoint the vice mayor by its next council meeting and within 30 days when the Canvassing Board official certified the General Election. He stated that the town council's discussion on the subject issues scheduled at the December 1 meeting would allow citizens time to understand the town's process and provide an opportunity to put forward their resumes.

If the town council wishes to hold a special meeting to appoint a vice mayor on December 1, 2010, Mr. Bierman outlined the requirements for Ms. Coulson to publish notice this day to the public. He stated that anyone interested in applying to be nominated ought to provide a resume, letter of interest, and evidence of eligibility to serve no later than Wednesday, November 24, 2010 which would allow Ms. Coulson to distribute said documents to the council a week in advance of the December 1, 2010 Special Meeting. Mr. Bierman recalled the council's previous process to consider the candidates for nomination. He recognized the few days remaining to reschedule another meeting, if the council is unable to agree on the appointment at the special meeting; otherwise, within the 30-day period, a special election would be required ninety (90) days from the original vacancy and sixty (60) days within the December 8, 2010 deadline.

Mr. Bierman referred to his November 15, 2010 memorandum sent earlier this day regarding the Town of Cutler Bay (the "Town") Vice Mayor Appointment; addressed the question on the "next scheduled countywide election" and the potential recall of the Miami-Dade County Mayor (the "Recall Election"), and indicated that a clear guidance on same is not provided in the town's charter language. (A copy of the memorandum is filed with the supplemental papers to the minutes of this meeting.)

Mr. Bierman cited the charter provisions that the appointee serves until the next scheduled countywide election (not the next regular countywide election) which could encompass the special election to be held possibly within the next few months in the event the petition drive to recall the MDC Mayor appointment is successful and if enough signatures on the ballot petition are collected. He explained that the county must schedule an election to decide whether to recall the county mayor which may or may not happen; however, if it occurs, he opined that it would be the next scheduled countywide election and if it does not whereby the county decides to hold a special election on charter amendments, that would be another scheduled countywide election at which time the appointee would have to run.

After discussion, Mr. Bierman suggested that the council could remove the proposed resolution on the November 17, 2010 regular meeting agenda with the direction to Ms. Coulson to schedule it for the December 1, 2010 Special Meeting Agenda.

6. OTHER BUSINESS

A. Advisory Committee Vacancies/Appointments

At the mayor's request, Ms. Coulson explained the changes to the advisory committee vacancies and appointments as a result of the council's enactment of General Regulations and Procedures Town Advisory Boards Ordinance 10-08 at its July 21, 2010 Regular Council Meeting.

Mr. Bierman pointed out Section 2.(c), Board Terms which indicated that the term of a council member's committee appointee shall not extend beyond the councilmember's term of office and upon newly elected or reelected council members taking office, he or she shall have the right to appoint committee members to all seats vacated by the expiration of the previous council member's term.

The mayor addressed Ms. Coulson's intent to provide the information to the town council and suggested that the town council members contact their respective appointments.

B. CERT Program Status

Mr. Alexander reported that the town staff is currently updating the email contacts of town residents relating to the Community Emergency Response Team (CERT) program; reported that town staff will be facilitating a *Meet and*

Greet event at the University of Miami on Saturday, November 20, 2010, and confirmed that the CERT program is not a town committee.

Mr. Alexander mentioned that the town council members can become CERT trained and be involved with the continuing education program and acknowledged that town staff is currently certified as CERT members. He explained that the town will be considering the establishment of its own team and addressed staff's intent to provide information on the series of training courses and forthcoming classes.

C. Town Clerk's Office

After further deliberations, Mr. Bierman cited Sections 3.6 of the Town Charter and Section 4.2., Prohibitions, whereby the council is required to communicate with the town manager and by extension the town clerk is in charge of the clerk's employees.

D. Special Recognition

On behalf of the town council, Councilmember Bell extended congratulations to the newly elected Mayor MacDougall and Councilmember Mixon.

E. Transparency

The mayor recognized that Mr. Friedman is currently conducting his research on transparency and will be making arrangements to address the issue.

The mayor referred to the attorneys' monthly invoice that he has been receiving electronically which also will be forthcoming to the councilmembers.

7. ADJOURNMENT

There being no further business to come before the council at this time, the meeting adjourned at 3:31 p.m.

The workshop minutes were approved at the January 19, 2011 Regular Council Meeting.

Signed _____
Esther B. Coulson, Town Clerk

Signed _____
Edward P. MacDougall, Mayor

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

Wednesday, November 17, 2010, 7:00 p.m.

South Dade Regional Library
10750 Southwest 211 Street
Cutler Bay, Florida 33189

Members Present:

Mayor Edward P. MacDougall
Councilmember Peggy R. Bell
Councilmember Mary Ann Mixon
Councilmember Ernest N. Sochin

Also Present:

Town Manager Steven Alexander
Town Attorney Mitchell Bierman
Town Clerk Esther B. Coulson

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

The mayor called the meeting to order at 7:02 p.m.; requested that Ms. Coulson call the roll and with a quorum present, he led in the Pledge of Allegiance to the flag.

2. PROCLAMATIONS, AWARDS, AND PRESENTATIONS

Proclamation – Timothy Meerbott

On behalf of the council, the mayor read into the record a proclamation recognizing Mr. Timothy “Tim” Meerbott for his service as councilmember since the town’s inception and dedicating November 15, 2010 as “Tim Meerbott Day” in the Town of Cutler Bay.

The town council extended best wishes to Mr. Meerbott who accepted the proclamation with gratitude.

Special Recognition – Oath of Office

The Oath of Office was administered to the following:

Councilmember Mary Ann Mixon – sworn in by Ms. Coulson
Mayor Edward P. MacDougall – sworn in by his daughter, Ms. Kristin Fullana, and
Councilmember Peggy R. Bell – sworn in by the Ms. Coulson

Presentation

On behalf of the MacDougall family, Mr. Robert MacDougall gave a special presentation to the mayor who accepted it with honor.

10. PUBLIC COMMENTS

Mr. “Bill” William Meiklejohn, Cutler Bay Business Association president, recognized the lack of council representation on the Business Association’s Committees and the Economic Development Council (EDC), of which he is a director; noted the number of open positions available, and requested that the mayor consider appointments to fill same.

Mr. Robert Rosa, Town of Cutler Bay resident and Saga Bay Board member, voiced concerns with the quality of work by the town's vendors and subcontractors who were awarded to conduct work to the subject community; expressed dissatisfaction with their accountability and response time, and requested that the council consider monitoring contracts that allows for penalties or fines or create reward incentives for job performance on completed scope of work and assignments beyond the expected end time.

Mr. Dave Segal, Southland Mall Manager, referred to unfinished business previously discussed before the town council on the increasing problem of shoplifting in the Town of Cutler Bay. He voiced support in following through with the prosecution of shoplifters and suggested that the town develop written communication to store merchants and large corporations operating at the mall in relation to same.

In response, the mayor indicated that the town will follow-up on the public comments and any concerns submitted on the town's website. He additionally suggested that Mr. Segal communicate with Major Julie Miller, Town of Cutler Bay Police Department Chief, who is in attendance at this evening's meeting and would share the previous statistics on the shop lifting issue.

On motion of Councilmember Sochin, seconded by Councilmember Bell and unanimously carried, the town council postponed its consideration to fill the vacancy of the vice mayor under Consent Agenda Item 4.G. to the December 1, 2010 Special Meeting.

On motion of Councilmember Sochin, seconded by Councilmember Bell and unanimously carried, the town council approved the revised agenda.

3. APPROVAL OF MINUTES

On motion of Councilmember Sochin, seconded by Councilmember Bell and unanimously carried, the town council took the following actions:

- A. First Budget Hearing – September 8, 2010
Approved as submitted;**
- B. First Budget Hearing Continuation – September 14, 2010
Approved as submitted;**
- C. Regular Council Meeting – September 15, 2010
Approved as corrected;**
- D. Second Budget Hearing - September 22, 2010
Approved as submitted;**

- E. **Special Council Meeting – September 22, 2010**
Approved as submitted, and
- F. **Special Council Meeting – October 6, 2010**
Approved as submitted.

4. REPORTS

A. TOWN MANAGER'S REPORT- CIE Update

Mr. Alexander requested that the council consider the proposed Capital Improvements Elements (CIE) Ordinance later in the meeting under Regular Agenda Item 8.

B. TOWN ATTORNEY'S REPORT

There were no town attorney reports to submit at this time.

C. BOARD/COMMITTEE REPORTS AND COUNCIL ANNOUNCEMENTS

As discussed at the November 15, 2010 Town Council Workshop Meeting, an email dated November 17, 2010 regarding the Board/Committee Reports and Council Announcements were provided to the town council; a copy of which is filed with the supplemental papers to the minutes of this meeting.

CONSENT AGENDA

- 5. By unanimous consent, the town council pulled from this evening's agenda Consent Item 5.D. at Councilmember Sochin's request and Supplemental Consent Agenda Item 5.H. at Councilmember Bell's request.**

On motion of Councilmember Sochin, seconded by Councilmember Bell and unanimously carried, the town council took action on the following Consent Agenda Items:

A. RESOLUTION 10-67 – GREEN CORRIDOR PACE DISTRICT - ILA

Adopted Resolution 10-67 of the Mayor and Town Council of the Town of Cutler Bay, Florida, approving an interlocal agreement between the town and other municipalities relating to the green corridor Property Assessment Clean Energy (PACE) district; authorizing the Town Manager to take any and all steps necessary to execute the necessary documents to carry out the intent and purpose of this resolution, and providing for an effective date.

B. RESOLUTION 10-68 – GREEN CORRIDOR PACE DISTRICT - RFP

Adopted Resolution 10-68 of the Mayor and Town Council of the Town of Cutler Bay, Florida, authorizing the issuance of a Request for Proposals (RFPs) for a third party administrator for the green corridor Property Assessment Clean Energy (PACE) district, and providing for an effective date.

- C. RESOLUTION 10-69 - BUDGET FY 2009/2010 – AMENDMENT**
Adopted Resolution 10-69 of the Mayor and Town Council of the Town of Cutler Bay, Florida, amending Resolution 09-68, which adopted the budget for the 2009/2010 fiscal year by revising the 2009/2010 operating and capital budget as outlined in Exhibit “A” attached hereto; authorizing the Town Manager to do all things necessary to carry out the provisions of this resolution, and providing for an effective date.
- E. RESOLUTION 10-71 – STORMWATER ASSETS INVENTORY SERVICES**
Adopted Resolution 10-71 of the Mayor and Town Council of the Town of Cutler Bay, Florida, relating to professional services; approving the qualifications of firm to provide: stormwater assets inventory services to the town; authorizing the Town Manager to enter into a professional services agreement with Calvin, Giordano & Associates, Inc., and providing for an effective date.
- F. RESOLUTION 10-72 – GENERAL ELECTION OFFICIAL RESULTS**
Adopted, as corrected, Resolution 10-72 of the Mayor and Town Council of the Town of Cutler Bay, Florida, certifying and declaring the official results of the general election of the Town of Cutler Bay held on November 2, 2010, and providing for an effective date.
- G. RESOLUTION – VICE MAYOR VACANCY - POSTPONED**
Earlier in the meeting, the town council, by unanimous consent, postponed its consideration to adopt a resolution of the Mayor and Town Council of the Town of Cutler Bay, Florida, filling the vacancy of vice mayor, and providing for an effective date.
- D. RESOLUTION 10-70 – TRAFFIC SAFETY CAMERA PROGRAM - AMENDMENT 1**
After extensive discussions and on motion of Councilmember Sochin, seconded by Councilmember Bell and unanimously carried, the town council adopted Resolution 10-70 of the Mayor and Town Council of the Town of Cutler Bay, Florida, approving Amendment No. 1 to an agreement between the Town of Cutler Bay and American Traffic Solutions, Inc., for the administration of the traffic safety camera program; providing for implementation, and providing for an effective date.

SUPPLEMENTAL CONSENT AGENDA

- H. RESOLUTION 10-74 – SAGA BAY PARK IMPROVEMENTS**
Following some discussion and on motion of Councilmember Bell, seconded by Councilmember Mixon and unanimously carried, the town council adopted as an additional agenda item Resolution 10-74 of the Mayor and Town Council of

the Town of Cutler Bay, Florida, approving a change order for the KVC Constructors Inc. design build agreement for the Saga Bay Park improvements in order to flood proof the bathroom facility within the park, and providing for an effective date.

QUASI-JUDICIAL PUBLIC HEARINGS

On motion of Councilmember Sochin, seconded by Councilmember Bell and unanimously carried, the town council postponed its action on the following Quasi-Judicial Public Hearing Items to a future meeting time certain:

6. **A. RESOLUTION – OUT PARCEL 20505 SOUTH DIXIE HIGHWAY – STREET FRONTAGE**
Resolution of the Mayor and Town Council of the Town of Cutler Bay, Florida, approving a variance from Section 33-284.86 (B)(1)(a) for an out parcel on the property located at 20505 South Dixie Highway to permit a building to not be directly accessible from a street frontage, and providing for an effective date.
- B. RESOLUTION – OUT PARCEL 20505 SOUTH DIXIE HIGHWAY – ONE-STORY BUILDING**
Resolution of the Mayor and Town Council of the Town of Cutler Bay, Florida, approving a height variance for an out parcel on the property located at 20505 South Dixie Highway to permit a one story building where a minimum six stories is required, and providing for an effective date.
- C. RESOLUTION – OUT PARCEL 20505 SOUTH DIXIE HIGHWAY – CLEAR GLAZED AREA**
Resolution of the Mayor and Town Council of the Town of Cutler Bay, Florida, approving a variance from section 33-284.86 (B)(1)(b) for an out parcel on the property located at 20505 South Dixie Highway relating to the clear glazed area of the façade of the building, and providing for an effective date.

END OF QUASI JUDICIAL PUBLIC HEARINGS

7. ORDINANCES FOR FIRST READING

At this time, there were no ordinances to consider on this evening's agenda for the first reading.

8. FIRST READING – CAPITAL IMPROVEMENTS ELEMENT ANNUAL UPDATE

The town council considered its action to enact the proposed ordinance and upon the mayor's request, Mr. Bierman read the following title:

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 the adoption of the annual update to the Miami-Dade County Public Schools Facilities Work Program; providing for severability, and providing an effective date.

On motion of, seconded by and unanimously carried, the town enacted the aforementioned proposed ordinance. (Prior to the Local Planning Agency's recommendations, the second reading will be held on January 19, 2011 and the public will have the opportunity to speak at that time.)

PUBLIC HEARINGS

By unanimous consent, the mayor opened the public hearings.

9. ORDINANCES SECOND READING

It now being the time advertised to consider the enactment of the proposed ordinance the substance of which is as follows, the mayor called for the public to be heard and requested that Mr. Bierman read the title:

An ordinance of the Mayor and Town Council of the Town of Cutler Bay, Florida, amending Chapter 19 "responsible property owner and merchant act" to include provisions relating to the registration, maintenance and security of vacant and occupied real property in foreclosure; providing for severability; providing for conflict, and providing for an effective date.

There being no comments from the public **and by unanimous consent, the mayor closed the public hearing.**

After discussion and **on motion of Councilman Sochin, seconded by Councilmember Bell and unanimously carried, the town council enacted the previously cited Ordinance 10-14 to become effective immediately.**

END OF PUBLIC HEARINGS

11. MAYOR AND COUNCIL COMMENTS

Councilmember Bell thanked the public who elected her for another term and on behalf of the town council she welcomed and congratulated the newly elected council members.

A. COUNCIL – VICE MAYOR VACANCY

At the mayor's request, Mr. Bierman outlined the procedures by charter to fill the vice mayor vacancy or position by the next regular meeting or at a special

meeting to be scheduled within 30 days of the occurrence of the vacancy which came about on November 8, 2010 as a result of Mayor MacDougall's resignation as vice mayor to run for mayor.

Mr. Bierman addressed the intent to hold a special meeting and if a vice mayor appointment is not made by the December 8, 2010 Special Meeting (the deadline date to make an appointment), a special election would be required within 90 days to fill the vacancy. He recalled the discussions made at the November 15, 2010 council workshop to provide a procedure on the vice mayor vacancy which has been advertised by the town clerk; persons interested to give their resume and/or letters of interest to show that they qualify to hold said office ought to do so by Wednesday and such information would be distributed to the council members. Each council member may be required to nominate a person to fill a vacancy and hold discussions on nominees.

A majority vote of the council is required to appoint a person to fill the vice mayor vacancy. If the council is unable to fill the position at the first meeting, there is still an opportunity to make an appointment at another special meeting prior to December 8, 2010 expiration date; otherwise, the council would need to move towards the schedule of a special election, within 90 days of November 8, 2010.

Mr. Bierman noted charter requirements to hold 11 regular monthly meetings per year and addressed his understanding to hold the Regular Meeting on December 1, 2010 as well as the Special Meeting at that time.

B. MIAMI-DADE COUNTY LEAGUE OF CITIES' MEMBERSHIP

Following extensive deliberations, and **on motion of Councilmember Sochin, seconded by Councilmember Bell and unanimously carried, that the town council approved the annual membership of the Miami-Dade County League of Cities and approved staff's recommendation to discontinue membership with the Florida League of Mayors.**

C. TRAVEL REQUEST

After discussion and **on motion of Councilmember Sochin, seconded by Councilmember Bell and unanimously carried, the town council approved Mayor MacDougall's request to travel to Orlando, Florida on November 18 and 19, 2010 for the 50th Annual Legislative Conference.**

12. OTHER BUSINESS

Date of Next Meeting

The next regular meeting of the Town Council will be held on Wednesday, December 1, 2010 at 7:00 p.m.

13. ADJOURNMENT

There being no further business to come before the council, and on motion made, seconded and unanimously carried, the meeting adjourned at 8:36 p.m.

The minutes were approved at the January 19, 2011 Regular Council Meeting.

Signed _____
Esther B. Coulson, Town Clerk

Signed _____
Edward P. MacDougall, Mayor

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

TOWN OF CUTLER BAY TOWN COUNCIL REGULAR MEETING MINUTES

Wednesday, December 1, 2010, 7:00 p.m.

South Dade Regional Library

10750 Southwest 211 Street

Cutler Bay, Florida 33189

Members Present:

Mayor Edward P. MacDougall

Councilmember Peggy R. Bell

Councilmember Mary Ann Mixon

Councilmember Ernest N. Sochin

Also Present:

Town Manager Steven Alexander

Town Attorney Mitchell Bierman

Town Clerk Esther B. Coulson

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

The mayor called the meeting to order at 7:04 p.m.; requested that Ms. Coulson call the roll and with a quorum present, he led in the Pledge of Allegiance to the flag.

The mayor announced that two meetings will be held this evening, the regular council meeting and the special council meeting to take place directly after this evening's meeting.

At the mayor's request and **on motion of Councilmember Bell, seconded by Councilmember Mixon and unanimously carried, the council approved the revised agenda with Consent Agenda Item 3.C. added as a Supplemental Agenda Item.**

7. PUBLIC COMMENTS

After discussion and upon the mayor's request **the council, by unanimous consent, took Item 7., Public Comments, out of order on this evening's agenda to allow for the public to be heard.**

Mr. David Jay Feinberg, Town of Cutler Bay resident, extended congratulations to the mayor and Councilmember Mixon on their elections and thanked the town and the police department for the recent issuance of citations for violations on Caribbean Boulevard.

Mr. Feinberg questioned the status of roadway improvements on Caribbean Boulevard; addressed the need for a schedule and repair of said roadway, and described the work with timelines that should have already been carried out.

Mr. Feinberg recognized that the hurricane season ended on November 30, 2010; mentioned his intent to combine efforts to provide Radio Amateur Services, with the endorsement of the Miami-Dade County (MDC) Emergency Services, and adopt Cutler Bay as an emergency station. He addressed his plan to meet with Mr. Alexander and

designated participants and noted the need for an eight-by-eight space. Mr. Feinberg acknowledged that town volunteers are available with equipment, grants are being sought in this regard, and 24-hour amateur radio emergency service would be provided within the vicinity of town hall.

Ms. Barbara Condon, Town of Cutler Bay resident, voiced support to change the agenda in the beginning of the meeting and requested the council's consideration of same at the end of the meeting.

After discussion, Mr. Adam Andraeus, Town of Cutler Bay resident, congratulated Mayor MacDougall and Councilmember Mixon on their recent election; thanked the town council for the consideration of the proposed resolution on this evening's agenda to revise the town council agenda format which allows public comments to be placed earlier in the meeting, and voiced his support of same.

Mr. Art Nanni, Town of Cutler Bay resident, expressed his agreement with Ms. Condon's comments; voiced concerns on the existing conflict between the town and Miami-Dade County regarding issues relating to Old Cutler Road, and explained the need to see an improved town.

2. A. TOWN MANAGER'S REPORT

2011 State Legislative Session Budget Requests

Mr. Alexander reviewed the following 2011 State Legislative Session Budget requests; copies of which are filed with the supplemental papers to the minutes of this meeting:

- Cutler Bay Wetland Observation Pavilions (Southwest 97 Avenue and Southwest 224 Street): \$185,000;
- Bike Trail Connecting Old Cutler Road Bike Path to Biscayne Bicycle Trail (Southwest 97 Avenue): \$650,000;
- Cutler Bay Wetlands Preservation/Restoration Project (163 Acres): \$700,000;
- Port Royale Section #5 Sub-Basin – Drainage Capital Improvements: \$360,000;
- Bel-Aire Section #1.2 Sub-Basin – Drainage Capital Improvements: \$660,000;
- Development of Town-Wide Floodplain and Repetitive Loss Area Mitigation Plan: \$452,000;

- Cutler Ridge Section #5 Sub-Basin – Stormwater Improvements (South Florida Water Management District): \$1,580,000, and
- Saga Bay Section #1.1 Sub-Basin – Stormwater Improvements (South Florida Water Management District): \$800,000.

After much discussion, and **by unanimous consent, the council approved staff's recommendation supporting the town's funding requests for the 2011 State Legislative Program, as previously cited.** (The mayor will be making a presentation before the Miami-Dade County Legislative Delegation on December 17, 2010.)

Vacant Land – Status Report

Later in the meeting, Mr. Alexander gave a status report on the vacant land acquisition at Southland Mall, south of town hall, and developing issues raised by the mall and its tenants. Mr. Alexander stated that closing on the property acquisition for \$1.8 million is scheduled for December 15, 2010.

Mr. Alexander indicated that Macy's Florida Stores retained outside council to represent them in their interests relative to the mall ownership and agreements; described the locations of two mall area entrances owned and controlled by Macy's, and noted the issue on not using one of Macy's driveways when conducting business at the town to which staff does not have a problem.

Mr. Alexander requested the town's consideration on the loan guaranteed from the bank for \$3 million; addressed the intent to spend the \$1.8 million, and noted the remaining \$1.2 million which could be allocated towards additional improvements at Lakes by-the-Bay Park and the vacant land's parking lot. He noted the need to inform the bank by closing on December 2 and not the previously informed date by the bank of December 15, 2010 on the decision to draw down the remaining \$1.2 million over and above the purchase price.

After extensive discussion, Mr. Bierman explained that if funds are not drawn down on the entire amount, financing would be available at additional costs and a potential charge of pre-payment penalties; however, if the extra funds are not used beyond what is needed, there is an opportunity to still be found credit worthy for the same amount of money and no further charges to not use the additional funds.

Following further deliberations, Mr. Alexander suggested using the funds needed to utilize the town's additional \$150,000 to complete the parking

lot and allow the remaining funds to return to the bank. He noted that at some point in the future, the town could consider what would be implemented for Lakes by the Bay Park.

After discussion, and **on motion of Councilmember Sochin, seconded by Councilmember Mixon and unanimously carried**, the town council accepted the bank loan of \$1.8 million for the vacant property acquisition at Southland Mall; approved the town manager's recommendation that the town allocate an additional amount of \$150,000 to revitalize the parking lot, and authorize the remaining funds to return to the bank.

Old Cutler Road, JPA

With respect to the Joint Participation Agreement (JPA) with Miami-Dade County for the Caribbean Boulevard and Old Cutler Road Improvement projects, Mr. Alexander referred to his conversations earlier this day with MDC staff who is making attempts to resolve the issue with town staff.

B. TOWN ATTORNEY'S REPORT

There were no town attorney reports to submit at this time.

3. CONSENT AGENDA

By unanimous consent, the town council took the following item out of order as Consent Agenda Item 3.B. was pulled at Councilmember Bell's request and Supplemental Consent Agenda Item 3.C. was pulled at Councilmember Sochin's request.

A. Resolution 10-73 – MDCLC

On motion of Councilmember Mixon, seconded by Councilmember Bell and unanimously carried, the council adopted Resolution 10-73 of the Mayor and Town Council of the Town of Cutler Bay, Florida, agreeing to join the Miami-Dade County League of Cities; authorizing the town manager to take any and all steps necessary to fulfill the intent and purpose of this resolution, and providing for an effective date. (MacDougall)

B. Resolution 10-75 - Town Council Agenda Format

The council considered its action to adopt a resolution of the Mayor and Town Council of the Town of Cutler Bay, Florida, repealing Resolution 07-17; adopting a revised town council agenda format; providing for agenda items requested by the town council; and providing for an effective date. (MacDougall)

Councilmember Bell suggested a proposed amendment to Section 2.4., Town Council Agenda Format under Public Comments striking the language and replacing it with: *Public comments shall be limited to two (2) minutes during the*

public comments portion of the agenda, to commence after approval of the minutes and the public shall be permitted to speak for an additional two (2) minutes at the end of the meeting after "Other Business" which ought to become effective for a trial period of six (6) months.

Councilmember Bell accepted Mr. Bierman's recommendation to include in the proposed amendment *"two (2) minutes per person"*.

After discussion, Mr. Bierman explained that the presiding officer and council has the ability to make exceptions to amend the agenda to allow public speakers additional time.

Subsequent to further deliberations and **a motion was made by Councilmember Bell and seconded by Councilmember Mixon that the council amend Section 2.4, Town Council Agenda Format under Public Comments of the previously cited Resolution to read: *Public comments shall be limited to two (2) minutes per person during the public comments portion of the agenda, to commence after approval of the minutes and the public shall be permitted to speak for an additional two (2) minutes at the end of the meeting after "Other Business" to become effective for a trial period of six (6) months.***

Following additional discussion, **the mayor called for a roll call vote on the motion to amend the previously cited Resolution 10-75 with the following councilmembers voting as follows:**

Councilmember Bell	Yes
Councilmember Sochin	No
Councilmember Mixon	No
Mayor MacDougall	No

The mayor declared the motion to amend Resolution 10-75, as previously cited, failed to carry on a three to one (3-1) vote.

A motion was made by Councilmember Sochin and seconded by Councilmember Bell that the council adopt previously cited Resolution 10-75.

After discussion, **an amendment to the motion was made by- Councilmember Bell and seconded by Councilmember Mixon that the council adopt previously cited Resolution 10-75 as amended in Section 2., Town Council Agenda Format under Public Comments, deleting the words *"The presiding officer. . . "* and change it to read: *"The council"***

Ensuing discussions followed and **the mayor called for a roll call vote on the amended motion with the following councilmembers voting as follows:**

Councilmember Mixon	Yes
Councilmember Sochin	No
Councilmember Bell	Yes
Mayor MacDougall	No

The mayor declared the amended motion failed to carry on a tie vote.

After discussion, **the mayor called for a roll call vote on the motion on the floor and declared it carried unanimously.**

SUPPLEMENTAL CONSENT AGENDA ITEM

C. Resolution 10-76 - South Florida East Coast Corridor Transit Study – Transit Service

The council considered its action to adopt a resolution of the Mayor and Town Council of the Town of Cutler Bay, Florida, expressing support expressing support for the Florida Department of Transportation's South Florida East Coast (FEC) Corridor study for transit service between Miami and Jupiter; to enhance mobility in the southeast Florida region; providing for transmittal, and providing for an effective date. (MacDougall)

After Councilmember Sochin cited reasons why he is against the proposed resolution, the mayor acknowledged the presence of Councilmember Joseph M. Corradino, Village of Pinecrest, at this evening's meeting and requested that he appear before the town council to address the possible impact to the Town of Cutler Bay.

Councilmember Corradino depicted the range of the transit corridor prioritized in the MDC's Long Range Transportation Plan (LRTP); recognized the competitive process to select a corridor for federal funding, and indicated that the MDC Metropolitan Planning Organization (MPO) explained how the bus rapid transit as the preferred mode. Councilmember Corradino explained that the dedicated Right-Of-Way (ROW) and the existing bus rapid transit corridor should not negatively impact the town.

After discussion, **a motion was made by Councilmember Bell and seconded by Councilmember Mixon that the town council adopt Resolution 10-76 as previously cited.**

Whereupon, the mayor called for a roll call vote on the motion with the councilmembers voting as follows:

Councilmember Bell	Yes
Councilmember Mixon	Yes

Councilmember Sochin
Mayor MacDougall

No
Yes

The mayor declared the motion carried on a three to one (3-1) vote.

4. ORDINANCES FOR FIRST READING

There were no ordinances scheduled for the first reading.

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

There were no ordinances scheduled for the first reading or resolutions requiring a public hearing.

6. ORDINANCES FOR SECOND READING

There were no ordinances to be considered for a second reading.

8. MAYOR AND COUNCIL COMMENTS

There were no comments from the mayor or the councilmembers at this time.

A. Status Reports/Discussion

Earlier in the meeting and in response to the mayor's inquiry on the status of the Citizens' Independent Transportation Trust (CITT) surtax which is inclusive with negotiations with MDC on the JPA, Mr. Alexander relayed conversations he had with Mr. Burgess on the briefing he was going to receive regarding the People's Transportation Plan (PTP) funding decisions among the municipalities; the belief that there is a possibility of reaching a solution, and the understanding that he would need a unanimous decision of all 36 municipalities.

The mayor believed that more verification would be received by January 2011 which would be addressed at that time.

B. 2011 Meeting Schedule

No action was taken on the 2011 Meeting Schedule.

9. OTHER BUSINESS

After discussion, and **on motion of Councilmember Bell, seconded by Councilmember Sochin and unanimously carried, the council approved Councilmember Mary Ann Mixon's travel to Gainesville, Florida to attend the 2011 Institute for Elected Municipal Officials (IEMO) on January 21 through 23, 2011.** (This training is recommended for newly elected officials with less than one year service.)

PUBLIC COMMENTS

Mr. Adam Andraeus, Town of Cutler Bay resident, was informed in answer to his inquiry that public comments has been placed on the special meeting agenda following the conclusion of this evening's regular council agenda.

In response to Town of Cutler Bay Resident Ms. Peggy Shuber's concerns, she was assured of the town council members' previous knowledge by Mr. Alexander on matters pertaining to the land acquisition.

Ms. Linda Stevenson, Town of Cutler Bay resident and civics teacher at Cutler Ridge Middle School, questioned what could be done as citizens to assist the town and enable the students to become more involved in government and forums similar to this evening's proceedings.

The council members responded to Ms. Stevenson's inquiry on their willingness to visit the area schools; participate and working together in providing assistance, and initiating a students' committee to learn more about local government.

10. ADJOURNMENT

There being no further business to come before the council, and on motion made, seconded and unanimously carried, the meeting adjourned at 8:36 p.m.

The minutes were approved at the January 19, 2011 Regular Council Meeting.

Signed _____
Esther B. Coulson, Town Clerk

Signed _____
Edward P. MacDougall, Mayor

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

TOWN OF CUTLER BAY TOWN COUNCIL SPECIAL MEETING MINUTES

Wednesday, December 1, 2010
(Immediately Following the Council's Regular Meeting)
South Dade Regional Library
10750 Southwest 211 Street
Cutler Bay, Florida 33189

COUNCIL MEMBERS PRESENT:

Mayor Edward P. MacDougall
Councilmember Peggy R. Bell
Councilmember Mary Ann L. Mixon
Councilmember Ernest N. Sochin

ALSO PRESENT:

Town Attorney Mitchell Bierman
Town Manager Steven Alexander
Town Clerk Esther B. Coulson

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

The mayor called the meeting to order at 9:00 p.m.; requested that Ms. Coulson call the roll and with a quorum present, he led in the Pledge of Allegiance to the flag. The mayor outlined this evening's proceedings in the selection of the position of the vice mayor that was vacated.

PUBLIC COMMENTS

The following Town of Cutler Bay residents appeared before the town council:

Mick Mayors gave reasons why the appointment of qualified candidates who recently ran for office will be doing a disservice to the citizens.

Ms. Yvette Cameron believed that Mr. Timothy "Tim" Meerbott ought to be considered as a qualified candidate for vice mayor.

Mses. Patricia Fulton, Louise Lockwood, and Messrs. Bill Meiklejohn cited reasons why they support the appointment of Mr. Sochin as the council's choice for vice mayor.

Mr. Arthur Nanni requested the town's consideration of:

- the citizens' concerns on running for office, not elected, and being appointed; however, the individual would not be precluded in a forthcoming election recognizing the right to vote for candidates even if they were defeated;
- The Miami-Herald article's previous newspaper article on law enforcement's investigation on a candidate if the issue is not cleaned up, and

- the future Charter Review Commission addressing the issue of excluding candidates, who ran in an election that year, to be appointed to any seat.

Mr. Robert Green requested identification of the five people to be considered, with the exception of Councilmember Sochin, at this evening's meeting and whether elected officials received emails in this regard.

Mr. Marty Bell referred to previous comments on the exclusion of candidates; recognized the late Thomas Jefferson who came in second in 1796 for president and was made vice president, and noted that excluding people would be the possibility of losing the most qualified individuals.

Ms. Peggy Schuler concurred with Mr. Bell's remarks and questioned the vice mayor's term.

After discussion, Mr. Bierman referred to the charter provisions that the person appointed to the seat would either serve until the remainder of the term or until the next scheduled Miami-Dade Countywide election.

Mr. Bierman recognized the 2012 Presidential Primary Countywide Election (to take place sometime between January and March 2012) which he believes would be the latest the person could serve or the possibility of an election scheduled sooner as a result of the MDC Mayor Recall; thus, the occasional referendum election scheduled by the county.

2. VICE MAYOR NOMINATION

A. Resolution – Vice Mayor Appointment

At the mayor's request, Ms. Coulson read the title of the following proposed resolution into the record:

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, FILLING THE VACANCY OF VICE MAYOR, AND PROVIDING FOR AN EFFECTIVE DATE.

The mayor announced the names of individuals who placed their names for nomination: Messrs. Jeffrey "Jeff" L. Abell, Timothy "Tim" Meerbott, Roberto "Rob" Rosa, Ernest Sochin, and Ernesto Martinez; requested that they appear before the council describing their background and accomplishments in support of the vice mayor vacancy, and outlined the procedures before placing the names in nomination for consideration. (Copies of the candidates' resumes are filed with the supplemental papers to the minutes of this meeting.)

Messrs. Abell, Meerbott, and Martinez appeared before the council outlining their background and why they ought to be considered for the vice mayor vacancy.

Mr. Rosa stated that he had not realized Councilmember Sochin placed his name for consideration and decided to remain for the vice mayor position and for that reason, he requested that his name be withdrawn from consideration and indicated that he endorses Councilmember Sochin.

After discussion, Mr. Rosa stated that if Councilmember Sochin is appointed to the vice mayor position, he would seek the seat vacated by him.

Councilmember Sochin explained that he is not interested in the vice mayor position; however, he gave reasons why he offered himself to be considered.

A point of order was raised by Councilmember Bell that Councilmember Sochin address his background and believe that the statements he is making is out of order.

After Mr. Bierman announced that the point of order was within the mayor's discretion and was not outside the council's parameters on the conduct of proceedings established at this evening's meeting, the mayor requested that Councilmember Sochin attempt to elude to his qualifications.

The applicants responded to questions posed by the councilmembers who spoke well of their involvement within the community.

At this time the mayor declared that nominations for the vice mayor position are in order.

Councilmember Bell placed the name of Mr. Timothy "Tim" Meerbott to be appointed as Vice Mayor for the Town of Cutler Bay. The nomination was seconded by Councilmember Mixon.

Following extensive discussion, the mayor called for a roll call vote on the nomination to appoint Mr. Timothy "Tim" Meerbott as Vice Mayor for the Town of Cutler Bay with the town council members voting as follows:

Councilmember Sochin	No
Councilmember Mixon	Yes
Councilmember Bell	Yes
Mayor MacDougall	No

The nomination failed to carry due to a tie vote.

Mayor MacDougall stepped down as Chair, passed the gavel, and placed the name of Mr. Ernest N. Sochin to be appointed as Vice Mayor for the Town of Cutler Bay. The nomination was seconded by Councilmember Sochin.

In response to an inquiry on Councilmember Sochin on recusing and voting for himself, Mr. Bierman clarified that issues of conflict of interest are determined primarily by the State of Florida Ethics Commission, the MDC Commission on Ethics and the State Attorney's Office and not by the town attorney.

Mr. Bierman stated that with any questions of violations, he always stated that:

- he had made himself available to the council;
- he would analyze and provide an answer if the council has a question on whether or not its vote would be in violation of the code of ethics;
- his previous statements that his answer is not binding and final, and
- the best practice is to obtain advisory opinion from the commission on ethics.

In the case of Councilmember Sochin, Mr. Bierman referred to Councilmember Mixon's recent questions posed to the attorney's office. He explained that research was conducted and the issue raised with the MDC Commission on Ethics; believed that it was determined that there would not be a legal voting conflict, and confirmed that it was the conclusion reached by the MDC Commission on Ethics.

In response to Councilmember Mixon's concerns citing provisions under Florida State Statutes that: . . . *No county, municipal, or other local public officer shall vote in an official capacity upon any measure which would inure to his or her special private gain or loss . . .*, Mr. Bierman agreed that councilmembers can recuse themselves to avoid the appearance of impropriety.

After discussion and there being no other names placed in nomination, at this time, the nominations were closed.

The mayor called for a roll call vote on the nomination to appoint Mr. Ernest N. Sochin as Vice Mayor for the Town of Cutler Bay with the town council members voting as follows:

Mayor MacDougall	Yes
Councilmember Bell	No
Councilmember Mixon	No
Councilmember Sochin	Yes

The nomination failed to carry due to a tie vote.

At this time, the mayor resumed the chair.

There being no other names placed in nomination, at this time, the nominations were closed.

Mr. Bierman addressed the need for the council to design its own process and indicated that the last day for the vice mayor appointment to be made, according to the charter, is December 8, 2010.

Following further deliberations, the mayor determined that:

- the council hold special meetings each night on Monday, December 6 through Wednesday, December 8, 2010 at 7:00 p.m.;
- Ms. Coulson publish notice of the special meetings and notice the position on the town's website ensuring that the applicants meet the qualifications and provide evidence of eligibility for the vice mayor position with the deadline of receiving applications to be noon on December 6, 2010, and
- Ms. Coulson forward the applications to the town council for review and consideration.

After it was recognized that the council reserved the right to renominate any individual; the mayor announced the timeline for appointing someone to the vice mayor position as well as the seat two vacancy, if Councilmember Sochin is appointed.

PUBLIC COMMENTS

There were no public comments to come before the council at this time.

5. ADJOURNMENT

There being no further business to come before the council, and on motion made, seconded and unanimously carried, the meeting adjourned at 9:25 p.m.

The special meeting minutes were approved at the January 19, 2011 Regular Council Meeting.

Signed _____
Esther B. Coulson, Town Clerk

Signed _____
Edward P. MacDougall, Mayor

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

TOWN OF CUTLER BAY TOWN COUNCIL SPECIAL MEETING MINUTES

Monday, December 6, 2010, 7:00 p.m.

Town of Cutler Bay Town Center
10720 Caribbean Blvd, Second Floor
Cutler Bay, Florida 33189

COUNCIL MEMBERS PRESENT:

Mayor Edward P. MacDougall
Councilmember Mary Ann L. Mixon
Councilmember Ernest N. Sochin

ALSO PRESENT:

Town Attorney Mitchell Bierman
Town Manager Steven Alexander
Town Clerk Esther B. Coulson

(Councilmember Peggy R. Bell entered the meeting room as reflected in the minutes of this meeting.)

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

The mayor called the meeting to order at 7:08 p.m.; requested that Ms. Coulson call the roll and with a quorum present, he led in the Pledge of Allegiance to the flag.

The mayor outlined the decorum of procedures for this evening's special meeting.

(Councilmember Bell entered the meeting room during the following item.)

PUBLIC COMMENTS

Messrs. David Jay Feinberg, Tom Condon, and Ray Martin, Town of Cutler Bay residents, appeared citing reasons in support of nominating a vice mayor at this evening's meeting.

Upon the mayor's suggestion and **by unanimous consent, the town council agreed to take Item 4, Other Business out of order on this evening's agenda.**

4. OTHER BUSINESS

A. Councilmember Peggy R. Bell – Travel Request - CNU

On motion of Councilmember Mixon, seconded by Councilmember Sochin and unanimously carried, the town council approved Councilmember Peggy R. Bell's travel to attend the Congress for the New Urbanism Florida 2011 Statewide Meeting from January 27 through 29, 2011 at Seaside, Florida.
(Councilmember Bell is a current member of CNU.)

B. Councilmember Ernest N. Sochin – Travel Request - CNU

On motion of Councilmember Ernest N. Sochin's travel to attend the Congress for the New Urbanism Florida 2011 Statewide Meeting from January 27 through 29, 2011 at Seaside, Florida. (Councilmember Sochin's membership expired in June 2010 which is pending renewal.)

2. **VICE MAYOR NOMINATION**

The mayor recognized the qualified candidates for the vice mayor nomination and upon his request, Messrs. "Bill" William H. Meiklejohn, "Ed" Eduardo Wolmers, Marshall Steingold, and Ernesto Martinez, Jr., appeared before the council; described their background and accomplishments in support of the vice mayor vacancy, and responded to questions posed by the councilmembers who spoke well of the applicants' involvements within the community.

Councilmember Sochin commented on Roberto "Rob" Rosa's qualifications and experience for the vice mayor position due to his absence from this evening's meeting.

At this time the mayor declared that nominations for the position of the vice mayor are in order.

Councilmember Mixon read into the record her statement relating to the proceedings that took place at the last special council meeting and Mr. "Tim" Timothy Meerbott former councilmember's accomplishments; a copy of which is filed with the supplemental papers to the minutes of this meeting.

Councilmember Mixon placed the name of Mr. Timothy "Tim" Meerbott to be appointed as Vice Mayor for the Town of Cutler Bay.

Councilmember Sochin placed the name of Mr. Roberto "Rob" Rosa to be appointed as Vice Mayor for the Town of Cutler Bay.

Mr. Bierman reminded the council of its concurrence, at its previous workshop, to adopt a procedure for this evening's meeting whereby each councilmember would initially nominate up to one person until the nominations are disposed of.

After discussion, **Councilmember Bell placed the name of Mr. Marshall Steingold to be appointed as Vice Mayor for the Town of Cutler Bay.**

Mayor MacDougall placed the name of Mr. Ernest N. Sochin to be appointed as Vice Mayor for the Town of Cutler Bay.

Following some discussion, Councilmember Sochin gave reasons why he withdrew his name from consideration.

Subsequent to further discussion, **Mayor MacDougall placed the name of Mr. Ernesto Martinez, Jr. to be appointed as Vice Mayor for the Town of Cutler Bay.**

After extensive deliberations, the mayor announced that duty forces him to announce his filing of complaints against Mr. Meerbott, one of them for ethics violation on his campaign report and voiced concerns in appointing a candidate to serve on the elected body with such violation.

After point of order was raised by Councilmember Bell and upon her request, Mr. Bierman opined that he can only direct the council on issues which may compromise its legal position sometime in the future which he stated that he has done. He believes that the council ought to determine its rules of decorum regardless of how the councilmembers may feel and such discussions may be held as long as it is not barred by rules previously adopted by the council. Mr. Bierman stated that his decision is advisory and that he cannot overrule the presiding officer.

Following some discussion, the mayor explained that he believes that it is his duty to apprise the council and citizens of circumstances surrounding the subject issue and assured that he has never discussed the matter with anyone.

In response to an inquiry posed, the mayor pointed out his conversations with the State of Florida Ethics Commission's attorney; conveyed their advice to file a report with the Miami-Dade County Police Department which he did not do, and indicated that the case is a current and open investigation with said department.

The mayor pointed out that the council would be guilty of not performing its due diligence after the individual is appointed to the council; if it was aware of the results from the police department's open investigation.

Councilmember Bell cited reasons in voicing her objections to the statements made by the mayor in this evening's forum.

A motion was made by Councilmember Mixon to appoint Mr. Timothy "Tim" Meerbott as Vice Mayor for the Town of Cutler Bay. The motion died for a lack of a second.

A motion was made by Councilmember Sochin to appoint Mr. Roberto "Rob" Rosa as Vice Mayor for the Town of Cutler Bay. The motion died for a lack of a second.

A motion was made by Councilmember Bell and seconded by Councilmember Mixon that the Town Council appoint Mr. Marshall Steingold as Vice Mayor for the Town of Cutler Bay.

After discussion, **the mayor called for a roll call vote with councilmembers voting as follows:**

Councilmember Bell	Yes
Councilmember Sochin	No
Councilmember Mixon	Yes
Mayor MacDougall	No

The motion failed to carry due to a tie vote.

Mayor MacDougall stepped down as Chair, passed the gavel, and made a motion to appoint Mr. Ernesto Martinez, Jr. as Vice Mayor for the Town of Cutler Bay. The motion was seconded by Councilmember Sochin.

Following further discussion, **Councilmember Sochin called for a roll vote with the council members voting as follows:**

Councilmember Mixon	No
Councilmember Bell	No
Mayor MacDougall	Yes
Councilmember Sochin	Yes

The motion was failed to carry due to a tie vote.

At this time Mayor MacDougall resumed the chair.

Councilmember Sochin placed the name of Mr. William “Bill” Miekeljohn to be appointed as Vice Mayor for the Town of Cutler Bay.

The mayor placed the name of Mr. “Ed” Eduardo Wolmers to be appointed as Vice Mayor for the Town of Cutler Bay. The nomination was seconded by Councilmember Sochin.

The mayor called for a roll call vote on the nomination to appoint Mr. “Ed” Eduardo Wolmers as Vice Mayor for the Town of Cutler Bay with the councilmembers voting as follows:

Councilmember Sochin	Yes
Councilmember Bell	No
Councilmember Mixon	No
Mayor MacDougall	Yes

The motion failed to carry due to a tie vote.

After discussion and at Councilmember Bell’s request, **and by unanimous consent, the council recessed its meeting at 8:12 p.m. and reconvened at 8:15 p.m.**

The nomination to appoint Mr. William “Bill” Miekeljohn was seconded by the Mayor MacDougall. The mayor called for a roll call vote on the nomination with the councilmembers voting as follows:

Councilmember Mixon	No
Councilmember Bell	No
Councilmember Sochin	Yes
Mayor MacDougall	Yes

The motion failed to carry due to a tie vote.

Councilmember Bell placed the name of Councilmember Ernest Sochin to be appointed as Vice Mayor for the Town of Cutler Bay. The nomination was seconded by Councilmember Mixon.

There being no other names placed in nomination, at this time, the nominations were closed.

The mayor called for a roll call vote on the motion with the councilmembers voting as follows:

Councilmember Sochin	No
Councilmember Mixon	Yes
Councilmember Bell	Yes
Mayor MacDougall	Yes

The motion carried on a three to one (3-1) vote.

After discussion, the council recognized Vice Mayor-Elect Sochin's experience and accomplishments on the council and upon Mr. Alexander's recommendation, **the town council by unanimous consent recessed its meeting at 8:34 p.m. and reconvened at 8:38 p.m.**

After Mr. Sochin accepted the vice mayor position, Mr. Bierman noted and Mr. Alexander recapped that after he is sworn in, a vacancy would exist in seat two which is required to be filled immediately upon creation to 30 days or by special election within 90 days of this day's date.

Ms. Coulson administered the Oath of Office and the town council extended their congratulations to Vice Mayor Sochin.

RESOLUTION – VICE MAYOR APPOINTMENT

A motion was made by Councilmember Mixon and seconded by Councilmember Bell that the town council adopt Resolution 10-77 of the Mayor and Town Council of the Town of Cutler Bay, Florida, and filling the vacancy of vice mayor to become effective immediately.

After discussion and upon Councilmember Bell's request, **the town council by unanimous consent recessed its meeting at 8: 38 p.m. and reconvened at 8:41 p.m.**

Subsequent to further deliberations, Mr. Bierman explained the procedures due to the appointment of the nominees for the vice mayor and the seat two positions. He indicated that the individual appointed who does not intend to run at the next scheduled countywide election would fill the position for the time being as a caretaker;

however, if the person wants to fill the seat and continue, said individual would have to run at the next scheduled countywide election (the same time the vice mayor seat would become open) resulting in two town elections and that charter amendment resolutions would require a referendum that can be scheduled by mail and a special election held, should the county run an election.

The mayor called for a roll call vote with the councilmembers voting as follows:

Councilmember Mixon	Yes
Councilmember Bell	Yes
Vice Mayor Sochin	No
Mayor MacDougall	Yes

The motion was declared carried with a three to one (3-1) vote.

RESIDENTIAL AREA COUNCIL SEAT NUMBER 2 NOMINATION

The town council considered its action adopt a resolution of the Mayor and Town Council of the Town of Cutler Bay, Florida, and filling the vacancy of residential area council seat number two to become effective immediately.

After further discussion, the mayor recognized the following nominees to which Mr. Bierman confirmed that they would have to affirm, upon appointment, that they reside in the seat 2 district; they are qualified before they are considered (otherwise they would be subject to removal), and that they have to be present to accept the appointment:

- "Bill" William H. Meiklejohn,
- "Ed" Eduardo Wolmers,
- Marshall Steingold, and
- Ernesto Martinez, Jr.

The mayor called for nominations to appoint the previously mentioned candidates to seat number two.

Councilmember Bell placed the name of Mr. Marshall Steingold to be appointed to the vacancy of Residential Area Council Seat Number Two of the Town of Cutler Bay.

Subsequent to further discussion, **Vice Mayor Sochin placed the name of Robert "Rob" Rosa to be appointed to the vacancy of Residential Area Council Seat Number Two of the Town of Cutler Bay.**

Mayor MacDougall placed the name of Ernesto Martinez, Jr. to be appointed to Residential Area Council Seat Number Two of the Town of Cutler Bay. The nomination was seconded by Vice Mayor Sochin.

The mayor called for a roll call vote on the nomination to appoint Ernesto Martinez, Jr. to the vacancy of Residential Area Council Seat Number Two of the Town of Cutler Bay with the councilmembers voting as follows:

Councilmember Bell	No
Councilmember Mixon	No
Vice Mayor Sochin	Yes
Mayor MacDougall	Yes

The nomination failed due to a tie vote.

This nomination to appoint Mr. Robert “Rob” Rosa to the vacancy of Residential Area Council Seat Number Two of the Town of Cutler Bay was seconded by Mayor MacDougall.

The mayor called for a roll call vote with councilmembers voting as follows:

Vice Mayor Sochin	Yes
Councilmember Bell	No
Councilmember Mixon	No
Mayor MacDougall	Yes

The nomination failed due to a tie vote.

This nomination to appoint Mr. Marshall Steingold to the vacancy of Residential Area Council Seat Number Two of the Town of Cutler Bay was seconded by Councilmember Mixon.

The mayor called for a roll call vote with councilmembers voting as follows:

Councilmember Bell	No
Councilmember Mixon	No
Vice Mayor Sochin	Yes
Mayor MacDougall	Yes

The nomination failed due to a tie vote.

Mayor MacDougall placed the name of “Bill” William H. Meiklejohn to be appointed to the vacancy of Residential Area Council Seat Number Two of the Town of Cutler Bay. The nomination was seconded by Vice Mayor Sochin.

After discussion, a substitute motion was made by Councilmember Bell and seconded by Councilmember Mixon that the town council postpone nominating candidates to residential area council seat number two to Tuesday, December 7, 2010 time uncertain.

Following further deliberations, **an amendment to the substitute motion was made by Vice Mayor Sochin, seconded by Councilmember Mixon that the town council postpone nominating candidates to Residential Area Council Seat Number Two and change Tuesday, December 7, 2010 time uncertain and determine a date the following week time uncertain in order for the town clerk and town manager to work with the town council and establish a convenient time.**

Upon Mr. Alexander's suggestion and **by unanimous consent, the town council agreed that the town clerk publish notice to the public for anyone interested in applying to be nominated to Residential Area Council Seat Number Two position; require that the applicants submit their resumes and evidence of eligibility to serve by noon on Friday, December 10, 2010, and forward said documents to the town council for review prior to its next scheduled special council meeting to consider the candidates in question.**

OTHER BUSINESS

There was no other business to come before the council at this time.

PUBLIC COMMENTS

Town of Cutler Bay residents, Messrs. Wolmers and David Jay Feinberg expressed their appreciation to the town council.

5. ADJOURNMENT

There being no further business to come before the council, and on motion made, seconded and unanimously carried, the meeting adjourned at 9:08 p.m.

The special meeting minutes were approved at the January 19, 2011 Regular Council Meeting.

Signed _____
Esther B. Coulson, Town Clerk

Signed _____
Edward P. MacDougall, Mayor

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

TOWN OF CUTLER BAY TOWN COUNCIL SPECIAL MEETING

Tuesday, December 14, 2010, 7:00 p.m.

South Dade Regional Library

10750 SW 211th Street

Cutler Bay, Florida 33189

COUNCIL MEMBERS PRESENT:

Mayor Edward P. MacDougall

Vice Mayor Ernest N. Sochin

Councilmember Mary Ann L. Mixon

Councilmember Peggy R. Bell

ALSO PRESENT:

Town Attorney Chad Friedman

Town Manager Steven Alexander

Town Clerk Esther B. Coulson

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

The mayor called the meeting to order at 7:01 p.m.; requested that Ms. Coulson call the roll and with a quorum present, he led in the Pledge of Allegiance to the flag.

PUBLIC COMMENTS

Ms. Louise Lockwood requested the council's support in appointing a candidate for seat 2 and expressed her disappointment on the status of Old Cutler Road.

3. RESIDENTIAL AREA COUNCIL SEAT 2 NOMINATION

Upon the mayor's request, Ms. Coulson read into the record the title of the proposed resolution as follows:

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN
OF CUTLER BAY, FLORIDA, FILLING THE VACANCY OF SEAT TWO,
AND PROVIDING FOR AN EFFECTIVE DATE.

After Vice Mayor Sochin gave reasons why Mr. Roberto "Rob" Rosa requested that his name be withdrawn from consideration for the seat two vacancy, the mayor recognized the following qualified candidates for the seat two nomination and requested that they describe their background and accomplishments:

- Ernesto Martinez, Jr.,
- "Bill" William H. Meiklejohn,
- Marshall Steingold,
- Jeffrey L. Abell,
- William "Chuck" Barrentine,
- Dominick M. Humphrey,
- Kevin Woitke,
- Eduardo "Ed" Ordonez, and
- Sue Ellen Loyzelle

The applicants appeared before the council and responded to questions posed by the councilmembers who spoke well of their involvements within the community.

At this time the mayor declared that the nominations for seat two are in order.

After discussion, **Councilmember Bell placed the name of Mr. Marshall Steingold to be appointed to the Residential Area Council Seat 2 to the Town of Cutler Bay.**

Vice Mayor Sochin placed the name of Mr. Ernesto Martinez, Jr., to be appointed to the Residential Area Council Seat 2 to the Town of Cutler Bay.

Councilmember Mixon placed the name of Ms. Sue Ellen Loyzelle to be appointed to the Residential Area Council Seat 2 to the Town of Cutler Bay.

Mayor MacDougall placed the name of Ms. Sue Ellen Loyzelle to be appointed to the Residential Area Council Seat 2 to the Town of Cutler Bay.

After discussion and there being no other names placed in nomination, the nominations were closed.

Mayor MacDougall seconded the nomination made by Councilmember Mixon to appoint Ms. Sue Ellen Loyzelle.

Following extensive discussion, Councilmember Bell expressed concerns on the procedure undertaken in nominating the applicants.

Subsequent to further deliberations, **the mayor called for a roll call vote on the motion with the councilmembers voting as follows:**

Councilmember Bell	No
Councilmember Mixon	Yes
Vice Mayor Sochin	Yes
Mayor MacDougall	Yes

The mayor declared the motion carried on a three to one (3-1) vote.

A. RESOLUTION – SEAT 2 APPOINTMENT

At the mayor's request, Ms. Coulson read the title of the following proposed resolution into the record:

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE
TOWN OF CUTLER BAY, FLORIDA, FILLING THE VACANCY OF SEAT
TWO, AND PROVIDING FOR AN EFFECTIVE DATE.

B. SPECIAL ELECTION – SEAT TWO ELECTION (REMOVED)

The consideration to direct the town clerk to take the steps necessary so that a special election be held in order to elect a Residential Area Council Seat Number Two Councilmember was removed from this evening's agenda.

On motion of Vice Mayor Sochin, seconded by Councilmember Bell and unanimously carried, the town council adopted Resolution 10-78 of the Mayor and Town Council of the Town of Cutler Bay, Florida, filling the vacancy of seat two to become effective immediately.

After Ms. Coulson administered the Oath of Office to Ms. Loyzelle, the town council extended their congratulations to her.

4. Councilmember Bell, Vice Mayor Sochin, and Councilmember Mixon – Travel Request - Florida League of Cities (A-C)

On motion of Vice Mayor Sochin, seconded by Councilmember Mixon and unanimously carried, the town council approved the travel of Councilmember Peggy R. Bell, Vice Mayor Sochin, and Councilmember Mary Ann Mixon to attend the Florida League of Cities Inc.'s Fly-in to Washington, D.C., on February 8 and 9, 2011 to discuss key federal issues that affect municipalities.

The mayor explained that he will not be attending due to the expense involved and suggested that in future councilmembers converse with Mr. Alexander before making such travel arrangements.

6. PUBLIC COMMENTS

Members of the public appeared extended congratulations to the town council.

OTHER BUSINESS - VACANT LAND

Mr. Alexander reported on the continued negotiations regarding the acquisition of the vacant land at Southland Mall; the resolution of same with Macy's mall owners, and the issues of concern between Macy's, Mall owners and a third party, which is not an issue for the town. He mentioned the town's consequences if it accepts the funds and not fulfill the deal; conveyed his request to the bank that the town not receive any further extension on the funds, and addressed the need for the town to commit to the funds or withdraw from the deal by noon on December 15, 2010.

Mr. Alexander commended Mr. Friedman and Ms. Lillian M. Arango, Weiss, Serota, et. al., town attorneys, in this regard and requested permission from the town council for him and Mr. Friedman to proceed or withdraw from the acquisition and that they act on the town's behalf whenever an issue arises, in the meantime, apprising the council of same.

After discussion, **a motion was made Vice Mayor Sochin and seconded by Councilmember Bell that the town council approve staff's recommendation authorizing the town manager and the town attorney to, based on their discretion, proceed with the acquisition of the vacant land at Southland Mall and secure funding by noon on December 15, 2010.**

After ensuing discussions, **the mayor called for a vote on the motion and declared it carried unanimously.**

7. ADJOURNMENT

There being no further business to come before the council, and on motion made, seconded and unanimously carried, the meeting adjourned at 8:56 p.m.

The special meeting minutes were approved at the January 19, 2011 Regular Council Meeting.

Signed _____
Esther B. Coulson, Town Clerk

Signed _____
Edward P. MacDougall, 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 11

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING AN INTERLOCAL AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE TOWN REGARDING THE TRANSFER OF BUS BENCHES AND SHELTERS; AUTHORIZING THE TOWN MANAGER TO TAKE ANY AND ALL STEPS NECESSARY TO EFFECTUATE THE INTENT OF THIS RESOLUTION, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Miami-Dade County (the “County”) owns several bus benches and shelters within the town; and

WHEREAS, the county desires to transfer, and the town agrees to accept, such bus benches and shelters; and

WHEREAS, the county and the town agree to enter into an Interlocal Agreement to transfer the bus benches and shelters, in substantially the form attached hereto as Exhibit “A” (the “Interlocal Agreement”); and

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

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

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

Section 2. Approval of Interlocal Agreement. The Town Council hereby approves the Interlocal Agreement, in substantially the form attached hereto as Exhibit “A.”

Section 3. Authorization. The Town Manager is hereby authorized to take any and all steps necessary to effectuate the intent of this Resolution, and to execute the Interlocal Agreement in substantially the form attached hereto as Exhibit “A.”

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

PASSED and ADOPTED this _____ day of _____, 2011.

EDWARD P. MACDOUGALL, Mayor

Attest:

ESTHER COULSON
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 Edward P. MacDougall	_____
Vice Mayor Ernest N. Sochin	_____
Councilmember Peggy R. Bell	_____
Councilmember Mary Ann Mixon	_____
Councilmember Sue Ellen Loyzelle	_____

**Interlocal Agreement Between
Miami-Dade County and the Town of Cutler Bay
Allowing for the Transfer and Use of Bus Passenger Benches and For the
Transfer and Use of Bus Passenger Shelters**

This is an Interlocal Agreement, made and entered into by and between: Miami-Dade County, a political subdivision of the State of Florida, hereinafter referred to as “the County,” and the Town of Cutler Bay, a municipal corporation of the State of Florida, hereinafter referred to as “the Town.”

WITNESSETH:

WHEREAS, the County owns approximately 37 bus benches in areas which was previously a part of unincorporated Miami-Dade County, but are now within the Town limits, as shown on Exhibit “A;” and

WHEREAS, the County owns approximately 33 bus shelters in areas which was previously a part of unincorporated Miami-Dade County, but are now within the Town limits, as shown on Exhibit “A;” and

WHEREAS, the County is willing to transfer ownership of said benches and shelters located within the Town; and

WHEREAS, the Town wishes to obtain and utilize said benches and shelters.

NOW, THEREFORE, in consideration of the mutual terms, conditions, promises, covenants and payments hereinafter set forth, the County and the Town agree as follows:

**ARTICLE 1
DEFINITIONS**

- 1.1 “The County” shall include Miami-Dade County, the Miami-Dade Transit, and authorized representatives thereof.
- 1.2 “The Town” shall mean the Town of Cutler Bay and authorized representatives thereof.
- 1.3 “MDT” shall mean the Miami-Dade Transit and authorized representatives thereof.
- 1.4 “Bus Passenger Benches” shall mean those benches located within the Town at Miami-Dade Transit bus stops as of the effective date of this Interlocal Agreement.
- 1.5 “Bus Passenger Shelter” shall mean a roofed structure located at Miami-Dade Transit bus stops for the purpose of protecting passengers from the elements.
- 1.6 “Cemusa Miami, Ltd. (hereinafter “Cemusa”), its authorized representatives, and its successors and/or assignees shall mean the bus passenger shelter contractor.

- 1.7 “Bus Stop” shall mean the location designated by MDT for buses to stop for the purpose of loading and unloading passengers.
- 1.8 “Bus Stop Site” shall mean the area within a ten-foot radius of a bus passenger bench or shelter or, at those stops where no bench or shelter is installed, the area within a ten-foot radius of the stop sign.

ARTICLE 2

BUS PASSENGER BENCHES AND BUS PASSENGER SHELTERS

The County agrees to transfer to the Town title and possession of all Bus Passenger Benches and Bus Passenger Shelters located within the Town limits. As consideration for the transfer of all Bus Passenger Benches and Bus Passenger Shelters within the Town, the Town agrees to forgo all past advertising revenues for 2010 due to the Town pursuant to the Cemusa Agreement with the County, dated August 5, 2002. County extends no warranty, implied or expressed, as to fitness or condition of the benches and shelters transferred. It is expressly understood that the Town assumes ownership of the benches and shelters as is and in place.

Bus Passenger Benches and Bus Passenger Shelters shall be located only at authorized MDT bus stops or where the Town expressly allows.

The Town understands and acknowledges that the County has the right, at the County’s sole discretion, to eliminate, move, or add bus stops. In the event of such action, the Town shall remove or relocate Bus Passenger Benches and Bus Passenger Shelters within ten (10) business days of receipt of notification.

ARTICLE 3

COMPLIANCE WITH APPLICABLE LAWS AND REGULATIONS

The Town and its contractors shall comply with all existing and future laws, statutes, ordinances, codes, rules, regulations, and procedural requirements, whether federal, State, or local, which are applicable, including but not limited to, the Americans with Disabilities Act (ADA). The Town shall be responsible for ensuring compliance of its employees, contractors, agents, or assigns with all applicable county, state, and federal requirements, including, but not limited to, all safety standards mandated by MDT relating to bus stops and amenities or structures located at bus stops. The Town shall be responsible for obtaining copies of the appropriate laws, regulations, ordinances, and documents and complying therewith.

The Town shall designate individual(s) to act as liaison to the County and notify the County thereof. The Town shall promptly notify the County of any changes.

The County shall designate individual(s) to act as liaison to the Town and notify the Town thereof. The County shall promptly notify the Town of any changes.

ARTICLE 4 INDEMNIFICATION

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

The County does hereby agree to indemnify and hold harmless the Town to the extent and within the limitations of Section 768.28, Florida Statutes, subject to the provisions of that Statute whereby the County shall not be held liable to pay a personal injury or property damage claim or judgment by any one person which exceeds the sum of \$100,000, or any claim or judgment or portions thereof, which, when totaled with all other occurrences, exceeds the sum of \$200,000, from any and all personal injury or property damage claims, liabilities, losses and causes of action which may arise solely as a result of the negligence of the County. However, nothing herein shall be deemed to indemnify the Town from any liability or claim arising out of the negligence or failure of performance of the Town or any unrelated third party.

ARTICLE 5 MAINTENANCE

The Town shall ensure that Bus Stops in the Town, including those where Bus Passenger Shelters and benches are located, are maintained in manner such that they remain free of graffiti, litter and debris.

ARTICLE 6 TERM

This Agreement shall commence upon approval of the Board of County Commissioners and the Town Council of the Town and the execution by the County Manager and Town Manager.

ARTICLE 7

MODIFICATIONS AND MISCELLANEOUS PROVISIONS

Unless provided otherwise elsewhere in this Agreement, amendments and modifications to this Agreement must be in writing and shall require the signatures of the County Manager and the Town Manager, or their designees, subject to authorization by their respective Boards.

The Town and the County agree that any more favorable position provided in any other County Bus shelter and/or Bus Bench transfer agreement would be offered to the Town for consideration.

ARTICLE 8 NOTICES

All notices and other communications required to be remitted pursuant to this Agreement to either party hereto shall be in writing and shall be delivered by verified facsimile transmission, electronic mail or U.S. postal service mail to the parties at the address indicated below:

FOR MIAMI-DADE COUNTY:
Miami-Dade Transit
701 N.W. 1st Court 17th Floor
Miami, FL 33136
Attention: Director, Miami-Dade Transit

Fax: (786) 469-5580

FOR TOWN
Town of Cutler Bay
10720 Caribbean Boulevard
Suite 105
Cutler Bay, FL 33189
Attention: Town Manager
Fax: (305)-234-4251

ARTICLE 9 COMPLETE AGREEMENT

This writing embodies the full and complete agreement of the parties. No other terms, conditions or modifications shall be binding upon the parties unless in writing and signed by the parties. This document shall be executed in four (4) counterparts, each of which shall be deemed an original.

ARTICLE 10 GOVERNING LAW

This Agreement shall be construed in accordance with the laws of the State of Florida.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on their behalf as of the date first above written.

ATTEST:

MIAMI-DADE COUNTY, FLORIDA,
BY ITS BOARD OF COUNTY COMMISSIONERS

HARVEY RUVIN
CLERK OF THE BOARD

BY: _____
Deputy Clerk

BY: _____
County Manager

Approved by County Attorney
as to form and legal sufficiency

County Attorney

ATTEST:

TOWN OF CUTLER BAY, a municipal
corporation of the State of Florida

BY: _____
Town Clerk

BY: _____
Town Manager

(Affix Town Seal)

Approved by Town Attorney
as to form and legal sufficiency

Town Attorney

TAB 3

RESOLUTION NO. 011-____

**A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE
TOWN OF CUTLER BAY, FLORIDA, ADOPTING A POLICY
RELATING TO THE FILLING OF VICE MAYOR OR TOWN
COUNCIL VACANCIES; AND PROVIDING FOR AN EFFECTIVE
DATE.**

WHEREAS, in accordance with Section 2.5(C) of the Town Charter, the Town Council is authorized to appoint someone to fill a Vice Mayor or Town Council vacancy if six months or more remain in the unexpired term; and

WHEREAS, the Town Council desires to adopt a policy that an individual shall not be eligible to be appointed to fill a vacancy in the Vice Mayor or Town Council positions, if such individual has run unsuccessfully for the Mayor, Vice Mayor, or Town Council within six months prior to the vacancy occurring; and

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

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

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

Section 2. Appointment Policy. The Town Council hereby adopts a policy that an individual shall not be eligible to be appointed to fill a vacancy in the Vice Mayor or Town Council positions, if such individual has run unsuccessfully for the Mayor, Vice Mayor, or Town Council within six months prior to the vacancy occurring.

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

PASSED and ADOPTED this _____ day of _____, 2011.

EDWARD P. MACDOUGALL, Mayor

Attest:

ESTHER LEWIN-COULSON
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 Edward P. MacDougall	_____
Vice Mayor Ernest N. Sochin	_____
Councilmember Peggy R. Bell	_____
Councilmember Mary Ann Mixon	_____
Councilmember Sue Ellen Loyzelle	_____

TAB 4



Office of the Town Manager

Steven J. Alexander
Town Manager

MEMORANDUM

To: Honorable Mayor, Vice Mayor and Town Council

From: Steven J. Alexander, Town Manager

Date: January 19, 2011

Re: Purchase of six (6) Police Package Vehicles

REQUEST

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING THE TOWN MANAGER TO ISSUE A PURCHASE ORDER TO MAROONE DODGE OF PEMBROKE PINES FOR THE PURCHASE OF SIX (6) POLICE MOTOR VEHICLES AND RELATED EQUIPMENT IN THE AMOUNT OF \$ 134,604, AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE.

BACKGROUND AND ANALYSIS

In order to maintain the existing level of responsiveness and service, within our Police Department, there is a need to replace six (6) existing police vehicles. The recent amendments to the Police Services Interlocal Agreement, allow the Town to purchase the vehicles and perform the routine preventative maintenance.

The proposed new vehicles will be striped and equipped with all the standard equipment and the vehicles will be operated on a daily basis, by police personnel assigned to the Town.

The source of funding for the proposed purchase is the Town's Police Impact Fee fund.

In accordance with the Town's purchasing Ordinance, the Town intends to utilize the prices submitted through the competitive bidding process as performed by the Florida Sheriff's Association, Florida Association of Counties & Florida Fire Chiefs' Association (Bid Award # 10-18-0907), to procure six (6) full size police Dodge Chargers at a competitive price





RECOMMENDATION

We recommend that the attached resolution authorizing the Town Manager to issue a Purchase Order in the amount of \$ 134,604 to Maroone Dodge of Pembroke Pines (Florida Sheriff's Association bid# 10-18-0907) be adopted.



RESOLUTION NO. 11-__

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING THE TOWN MANAGER TO ISSUE A PURCHASE ORDER TO MAROONE DODGE OF PEMBROKE PINES FOR THE PURCHASE OF SIX POLICE MOTOR VEHICLES AND RELATED EQUIPMENT IN THE AMOUNT OF \$ 134,604, AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay (“Town”) whereby determines that an essential need exists for the procurement of six (6) replacement police motor vehicles and related equipment; and

WHEREAS, the police motor vehicles will be owned by the Town and operated by Miami-Dade Police Department personnel assigned to the Town; and

WHEREAS,; and

WHEREAS, pursuant to Section 4 of the Town of Cutler Bay Ordinance 06-22 “Purchasing Regulation,” the Town may enter into contracts without following competitive bidding processes when another public agency has already followed such procedures; and

WHEREAS, the funding source for the purchase of the vehicles is the Police Impact Fees which have been collected throughout the prior years; and

WHEREAS, the purchase of police vehicles is an eligible expense from the Police Impact Fee fund; and

WHEREAS, the Town Manger recommends that the Town Council authorize the Town Manager to issue a Purchase Order with the same terms and conditions as the Florida Association of Counties & Florida Fire Chiefs’ Association contract.

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

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

Section 2. Town Manager Authorized. The Town Manager is hereby authorized to issue a Purchase Order in the amount of \$ 134,604 to Maroone Dodge of Pembroke Pines for the purchase of six (6) Police motor vehicles.

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

PASSED and ADOPTED this _____ day of _____, 2011.

Edward P. MacDougall, Mayor

Attest:

Esther Coulson
Town Clerk

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

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

FINAL VOTE AT ADOPTION:

Mayor Edward P. MacDougall _____

Vice Mayor Ernest N. Sochin _____

Councilmember Peggy R. Bell _____

Councilmember Sue Loyzelle _____

Councilmember Mary Ann Mixon _____

BID AWARD ANNOUNCEMENT

10-18-0907

**PURSUIT,
ADMINISTRATIVE NON-PURSUIT,
UTILITY VEHICLES, TRUCKS & VANS,
& OTHER FLEET EQUIPMENT**
*Participating Sheriffs Offices & Local Governmental
Agencies of the State of Florida*

Coordinated By

**The
Florida Sheriffs Association,
Florida Association of Counties &
Florida Fire Chiefs' Association**





**FLORIDA SHERIFFS ASSOCIATION,
FLORIDA ASSOCIATION OF COUNTIES &
FLORIDA FIRE CHIEFS' ASSOCIATION**

**FULL SIZE PURSUIT VEHICLES - RWD (POLICE PACKAGE)
SPECIFICATION #1**

2011 Dodge Charger (LDDE48/29A)

The Dodge Charger (LDDE48/29A) purchased through this contract comes with all the standard equipment as specified by the manufacturer for this model and FSA's base vehicle specification(s) requirements which are included and made a part of this contract's vehicle base price as awarded by specification by zone.

ZONE:	Western	Northern	Central	Southern
BASE PRICE:	\$22,309.00	\$22,309.00	\$22,309.00	\$22,309.00

While the Florida Sheriffs Association, Florida Association of Counties and Florida Fire Chiefs' Association have attempted to identify and include those equipment items most often requested by participating agencies for full size vehicles, we realize equipment needs and preferences are going to vary from agency to agency. In an effort to incorporate flexibility into our program, we have created specific add/delete options which allow the purchaser to tailor the vehicle to their particular wants or needs.

The following equipment delete and add options and their related cost are provided here to assist you in approximating the total cost of the type vehicle(s) you wish to order through this program. Simply deduct the cost of any of the following equipment items you wish deleted from the base unit cost and/or add the cost of any equipment items you wish added to the base unit cost to determine the approximate cost of the type vehicle(s) you wish to order.

NOTE: An official listing of all add/delete options and their prices should be obtained from the appropriate dealer in your zone when preparing your order. Additional add/delete options other than those listed here may be available through the dealers, however, those listed here must be honored by the dealers in your zone at the stated prices.

VEHICLE:	Charger (LDDE48/29A)	Charger (LDDE48/29A)	Charger (LDDE48/29A)	Charger (LDDE48/29A)
DEALER:	Maroone Dodge of Pembroke Pines	Maroone Dodge of Pembroke Pines	Maroone Dodge of Pembroke Pines	Maroone Dodge of Pembroke Pines
ZONE:	Western	Northern	Central	Southern
BASE PRICE:	\$22,309.00	\$22,309.00	\$22,309.00	\$22,309.00

Order Code	Delete Options	All Zones
27A ¹	V6 engine in lieu of V8 engine	\$335.00 ¹
CKJ ¹	Black vinyl floor covering	\$25.00 ¹
C8X9 ¹	Cloth rear seat in lieu of vinyl	\$40.00 ¹
	Front door body side molding	NA
	5" round dome lamp	Std
LNF ¹	Left hand pillar mounted 6" spotlight with clear halogen bulb	\$65.00 ¹
TBW ¹	Space saver spare tire in lieu of full size spare tire	\$60.00 ¹

Order Code	Add Options	All Zones
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**Please refer to Part D - Emergency Vehicle Lighting Specifications
for lightbar descriptions and the awarded dealer pricing.**

PS ¹	Priority start/battery saver	\$210.00 ¹
	Silicone hoses	NA
	Limited slip differential	NA ¹
	<i>Traction Control Standard¹</i>	
68P ¹	Complete Police Prep Package	NA ¹
65A ¹	Base Police Prep Package	NA ¹
65U ¹	Police Prep Package - "Ready for the Road"	NA ¹
65P ¹	Base Lighting Package	NA ¹
LNA ¹	Left & right-hand pillar mounted 6" spotlight with clear halogen bulb, factory installed	\$200.00 ¹
	<i>Right Side Spot Lamp-Left Side Included With Base Spec¹</i>	
65W ¹	Visibility Package	NA ¹
60T ¹	Fire suppression system	NA ¹
TRMC ¹	Tremco anti-theft - foot activated, dealer installed	\$210.00 ¹
SSAT ¹	SafeStop vehicle anti-theft - key activated or emergency lights activated, plug-&-play for most Ford and Chevy fleet vehicles, dealer installed in 20 minutes or less	\$225.00 ¹
RML ¹	Rechargeable mag light	\$155.00 ¹
	Roof wiring with hole	NA
	Roof wiring without hole	NA
	Accessory feed wires for police equipment	NA
RPRSBS-CV03 ¹	Ready Buckle Prisoner Restraint Seat Belt System - Crown Vic	NA ¹
RPRSBS-DC03 ¹	Ready Buckle Prisoner Restraint Seat Belt System - Dodge Charger	\$565.00 ¹
14T ¹	Kevlar trunk package	NA ¹

VEHICLE:	Charger (LDDE48/29A)	Charger (LDDE48/29A)	Charger (LDDE48/29A)	Charger (LDDE48/29A)
DEALER:	Maroone Dodge of Pembroke Pines	Maroone Dodge of Pembroke Pines	Maroone Dodge of Pembroke Pines	Maroone Dodge of Pembroke Pines
ZONE:	Western	Northern	Central	Southern
BASE PRICE:	\$22,309.00	\$22,309.00	\$22,309.00	\$22,309.00

	Ignition powered trunk button, factory installed	Std
	Comfort and convenience group	NA
AEB ¹	Street appearance group <i>Includes Aluminum Wheels, Fog Lamps, Full Length Console, Power Heated Mirrors ¹</i>	\$495.00 ¹
W8A ¹	Full wheel covers	\$30.00 ¹
NFT ¹	Nitrogen filled tires including spare tire	\$145.00 ¹
	AM/FM radio with single CD	Std
	Daytime running lights	NA
	Sunscreen privacy glass	NA
	Cloth split bench – front	NA
	Driver seat only – 6 way power	Std
	Carpet (installed)	Std
CW6 ¹	Rear door locks & handles inoperative <i>Includes rear Windows ¹</i>	\$25.00 ¹
CW6D ¹	Rear door locks & handles inoperative, dealer modification	\$110.00 ¹
CW6 ¹	Rear windows inoperative <i>Included with Rear Door Locks Inoperative ¹</i>	\$25.00 ¹
	Cruise control	Std
	Radio noise suppression	NA
CLD ¹	Courtesy light disabled	\$45.00 ¹
	Side air protection (may affect cage availability)	Std
LDT ¹	Legal deep tinted film, lifetime warranty, dealer installed	\$225.00 ¹
3KY ¹	Third key <i>4 Keys & Fobs are standard ¹</i>	\$205.00 ¹
GKF ¹	Keyed alike	\$40.00 ¹
3KY ¹	Factory remote keyless entry with 2 fobs included. <i>4 Keys & Fobs are standard ¹</i>	\$205.00 ¹
	Front door moldings, not installed	NA
RS-IV ¹	Vent visors - stick-on style	\$145.00 ¹
RSFS ¹	Rainshields - flange style	\$165.00 ¹
RWB ¹	Door blank & rear window barriers with manual lock override (Setina, Pro-Gard, Cruisers or approved equivalent)	\$515.00 ¹
LGC ¹	Locking gas cap	\$38.00 ¹
TTP ¹	Two-tone paint	\$1,545.00 ¹
TT-111 ¹	Class III hitch with 2" ball, dealer installed	\$445.00 ¹
CSM-830 ¹	Optional equipment - specify <i>Havis Angled Console ¹</i>	\$449.00 ¹

VEHICLE:	Charger (LDDE48/29A)	Charger (LDDE48/29A)	Charger (LDDE48/29A)	Charger (LDDE48/29A)
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TCB-7 ¹	Optional equipment - specify <i>Havis Laptop Stand</i> ¹	\$219.00 ¹
C3090 ¹	Optional equipment - specify <i>Havis Top Platform</i> ¹	\$269.00 ¹
	Optional equipment - specify	NA
	Optional equipment - specify	NA
PB100A12 ¹	Setina PB100A12 – 12" Aluminum Push Bumper	\$445.00 ¹
PB100A16 ¹	Setina PB100A16 – 16" Aluminum Push Bumper	\$495.00 ¹
SPB300 ¹	Setina PB300 Push Bumper	\$530.00 ¹
GR50 ¹	Go Rhino 5000 Series Push Bumpers	\$475.00 ¹
RTS3P ¹	Rear Transport Seat – Laguna System 3P	\$635.00 ¹
RTSPG6000 ¹	Rear Transport Seat – Pro Gard 6000 Series	\$695.00 ¹
	Rear Transport Seat – Cruiser PCM012	NA
PSCV1 ¹	Rear Transport Seat with extended seat belt – Patriot PSCV1	\$545.00 ¹
SET10 ¹	Setina #10 Series Lexan Cage with sliding window, full width lower extension panel, dealer installed	\$785.00 ¹
SET8S ¹	Setina 8S Lexan cage with 1/2 lexan and 1/2 expanded metal with full lower extension panel, dealer installed	\$785.00 ¹
PGP2600 ¹	Pro-Gard P2600 Series Polycarbonate (Lexan) Cage with sliding window, full width lower extension panel, dealer installed	\$735.00 ¹
	Patriot VP1-120 Lexan cage with 1/2 lexan and 1/2 metal with full lower extension panel, dealer installed	NA
	Patriot VP1-100 all Lexan cage with full lower extension panel, dealer installed	NA
	Cruisers Cage with slide and lock window, lower extension panels, dealer installed	NA
	Cruisers Cage with 1/2 Lexan and 1/2 mesh, lower extension panels, dealer installed	NA
K9C ¹	K-9 Container. All aluminum In-Vehicle (rear seat area) K-9 Container to protect the public, officer, K-9, and vehicle. Please specify vehicle year, make and model. Call for installation, shipping, and/or delivery prices.	\$2,490.00 ¹
ERRD ¹	Electronic Remote Rear Door Opening system to be used with the K-9 Container. Allows the officer to release the K-9 from the vehicle from a remote position.	\$1,050.00 ¹
HAS ¹	Heat Alarm System to be used in a K-9 vehicle. Warns officer when dangerously high temperatures are inside the vehicle.	\$1,075.00 ¹
TTG ¹	Temporary tag	\$25.00 ¹
TRS ¹	Transfer existing registration (must provide tag number)	\$105.00 ¹
NST ¹	New state tag (specify state, county, city, sheriff, etc.)	\$185.00 ¹
DSM ¹	Complete set of shop manuals ONLY <i>Not available at this time</i> ¹	NA ¹
MPXW375 ¹	Warranty - specify <i>3 Years-75,000 Miles-0 Deductible-Maximum Care</i> ¹	\$2,360.00 ¹

VEHICLE:	Charger (LDDE48/29A)	Charger (LDDE48/29A)	Charger (LDDE48/29A)	Charger (LDDE48/29A)
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BASE PRICE:	\$22,309.00	\$22,309.00	\$22,309.00	\$22,309.00

MPXW575 ¹	Warranty - specify 5 Years-75,000 Miles-0 Deductible-Maximum Care ¹	\$2,470.00 ¹
MPXW660 ¹	Warranty - specify 6 Years-60,000 Miles-0 Deductible-Maximum Care ¹	\$2,285.00 ¹

TAB 5



Office of the Town Manager

Steven J. Alexander
Town Manager

MEMORANDUM

To: Honorable Mayor & Town Council

From: Steven J. Alexander, Town Manager

Date: January 10, 2011

Re: Issuance of A Web Based Information Portal RFP

REQUEST

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING THE ISSUANCE OF A REQUEST FOR PROPOSALS (RFP) FOR DEVELOPMENT OF A WEB BASED INFORMATION PORTAL; AND PROVIDING FOR AN EFFECTIVE DATE.

BACKGROUND AND ANALYSIS

The Town currently provides certain financial, budget, and other information on its web site for public review. Additionally, the public can and frequently do request additional information from the Town pursuant to state "Sunshine" laws. The Town staff has gone through an extensive effort to create systems for providing quick, efficient responses to all public records requests while protecting the taxpayers of Cutler Bay from financial considerations in responding to such requests. An effort to provide a direct view of the Town's financial and budgetary records has been discussed repeatedly. Town staff believes an RFP to solicit proposals from firms to develop a web based portal allowing the public direct unguided access to its financial data may be helpful to this ongoing debate.

RECOMMENDATION

We recommend that the RFP, in substantially the form as Exhibit A attached to the proposed Council Resolution, be approved for issuance by the Council.



RESOLUTION 11-_____

**A RESOLUTION OF THE MAYOR AND TOWN COUNCIL
OF THE TOWN OF CUTLER BAY, FLORIDA,
AUTHORIZING THE ISSUANCE OF A REQUEST FOR
PROPOSALS (RFP) FOR DEVELOPMENT OF A WEB
BASED INFORMATION PORTAL; AND PROVIDING FOR
AN EFFECTIVE DATE.**

WHEREAS, the Town desires to provide more transparency relating to its finances and budgetary matters; and

WHEREAS, in an effort to provide more transparency, Town staff has prepared the Request for Proposal (RFP), attached as Exhibit "A," in order to obtain proposals from potential companies to develop a web based information portal; and

WHEREAS, the Town Council authorizes the Town Manager to issue and advertise the RFP, in substantially the form attached hereto as Exhibit "A;" and

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

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

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

Section 2. **Authorization.** The Town Manager is hereby authorized to issue and advertise the RFP for development of a web based information portal, in substantially the form attached hereto as Exhibit "A."

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

PASSED and ADOPTED this _____ day of _____, 2011.

EDWARD P. MACDOUGALL, Mayor

Attest:

ESTHER LEWIN-COULSON
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 Edward P. MacDougall _____

Vice Mayor Ernest N. Sochin _____

Councilmember Peggy R. Bell _____

Councilmember Mary Ann Mixon _____

Councilmember Sue Ellen Loyzelle _____

REQUEST FOR PROPOSALS

Development of a Web Based Information Portal



The Town of Cutler Bay Council:

Mayor Edward MacDougall
Vice Mayor Ernest Sochin
Councilmember Peggy Bell
Councilmember Mary Ann Mixon
Councilmember Sue Loyzelle

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

DATE ISSUED: JANUARY 26, 2011

CLOSING DATE: FEBRUARY 25 , 2011

Town of Cutler Bay, Florida
Request for Proposals No. _____

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SECTION 1 – REQUEST FOR PROPOSALS ADVERTISEMENT

The Town of Cutler Bay (TOWN) issued the following Request for Proposals (RFP) Advertisement for an RFP for the development and implementation of a web based information portal for the TOWN.

The RFP Notice was advertised in the Miami Daily Business Review on January 26, 2011 and on the TOWN'S web site.

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SECTION 2 – BACKGROUND INFORMATION & SCOPE OF SERVICES

Background Information

The Town of Cutler Bay (TOWN) is accepting proposals for the development and implementation of a web based information portal. This web portal will allow residents, and the public at large, to view various financial transactions processed by the TOWN.

The RFP responses will be scored on the following criteria:

1. Compatibility with Existing Town IT system (CETS) – maximum of 1,000 points
 - a. Ability to run in a Windows environment, including compatibility with Server 2008 and IIS 7 - 250 points.
 - b. Ease of connection to the TOWN's existing data:
 - Direct connection to an SQL database - 250 points.
 - Requires an intermediate database - 100 points.
 - c. Ability to integrate directly into the TOWN's existing web site - 250 points.
 - d. Amount of customization required.
 - No customization - 250 points.
 - Deducting 40 points per 8 hours of customization required (as estimated by the Respondent)
2. Pricing – maximum 1,000 points

The top 10 respondents from the CETS level are then ranked by price with 1000 points being awarded to the lowest price product 900 points to the next, 800 to the third and so on through the top 10 products.
3. Presentation – maximum 1,000 points

Some or all of the proposers may be asked to provide a live demonstration of the actual product. The demonstration may last up to two hours and will involve the RFP selection committee as well as the Town Council and appropriate department heads. All modules must be demonstrated and product will be evaluated on:

 - Completeness of function demonstrated
 - Usability of interface
 - Compatibility with current Town processes
 - Integration with other modules

Please Note:

The solution presented must be the current baseline offering as presented in the response to the request for proposal (i.e., not a prototype developed specifically for this demonstration). All functionality demonstrated in the demonstration must be currently available and shall be service proven by having been successfully utilized in an existing client's production environment. The demonstration shall include only functionality that

is included in the Cost Proposal without additional cost. For software demonstration purposes, a PowerPoint presentation or software simulation is not acceptable. Proposals may be re-evaluated after the demonstration. Demonstrations / presentations, if any, shall be evaluated prior to opening the pricing information and application of points therefore.

Scope of Services

The TOWN is requesting the following scope of services as a minimum response to this RFP.

The TOWN is seeking an “off the shelf” solution that requires little or no coding or customization to present the required information. The information shall be presented either within the TOWN’s existing web site or as a web link from the TOWN’s web site. The TOWN does anticipate coding / customization to connect to the TOWN’s data sources. The product should be nationally available and in use by no less than 5 municipalities for at least one year at each municipality.

The successful proposer will provide a public web portal that will allow the viewing of Summary Financial data with the ability to drill down to specific transactions. Proposers may look at the following web sites for examples of what the TOWN desires:

<http://ftr.wellingtonfl.gov/FTR/reports.aspx?categoryid=37>
<http://open.palmbayflorida.org/>

The raw data will be provided either by a direct read only link to the TOWN’s ERP system or preferably to an intermediate data source drawn from said ERP system and updated on a regular basis. [The TOWN’s data is currently housed in Tyler Technologies EDEN ERP system. This system uses Microsoft SQL as the data repository. A data dictionary is available.](#)

The product should allow the web site to maintain the look and feel of the TOWN’s existing web site if being presented by a secondary site.

The product shall run in a Microsoft environment and be coded using the .NET framework.

The successful proposer will provide 24 / 7 support. The first year’s support shall be included in the proposed price.

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SECTION 3 – GENERAL CONDITIONS

3.1 RFP Documents

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

3.2 Taxes

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

3.3 Additional Terms and Conditions/Exceptions

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

3.4 Interpretations and Inquiries

All VENDORS shall carefully examine the RFP documents. Any ambiguities or inconsistencies shall be brought to the attention of the TOWN or its agent in writing at least seven business days prior to the Proposal deadline.

Any questions concerning the intent, meaning and interpretation of the RFP documents shall be requested in writing, and received by the TOWN no later than **5:00 PM**, local time, on **February 9, 2011**. Written inquiries shall be addressed to:

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

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

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

3.5 Verbal Agreements

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

3.6 Prohibition on Contingent Fees

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

3.7 Independence ADD/Conflicts of Interest

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

3.8 Assignment; Non-transferability of Proposal

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

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

3.9 Legal Requirements

VENDORS are required to comply with all provisions of federal, state, county and local laws, ordinances, rules and regulations that are applicable to the products being offered in this

RFP. Lack of knowledge of the VENDOR shall in no way be a cause for relief from responsibility, or constitute a cognizable defense against the legal effects thereof.

3.10 Advertising

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

3.11 Execute Agreement

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

3.12 Facilities

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

3.13 Withdrawal or Revision of Proposal Prior to and After Opening

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

3.14 Town's Exclusive Rights

The TOWN reserves the exclusive rights to:

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

By submitting a Proposal for the products sought, all VENDORS acknowledge and agree that no enforceable Agreement arises until the TOWN negotiates and approves an Agreement with the selected VENDOR.

3.15 Addenda

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

3.16 Review of the RFP Documents

By the submission of a Proposal to provide product, the VENDOR certifies that a careful review of the RFP documents has taken place and that the VENDOR is fully informed and understands the requirements of the RFP documents and the quality of product to be provided.

3.17 Adjustment/Changes/Deviations

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

3.18 Public Records

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

3.19 Subcontracting

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

3.20 Public Entities Crime

A person or affiliate as defined in Section 287.133, Florida Statutes, who or which has been placed on the convicted vendor list maintained by the Florida Department of Management Services following a conviction for a public entity crime, may not submit a proposal or an Agreement to provide any goods or services to the TOWN and may not transact business with

the TOWN in an amount set forth in Section 287.017, Florida Statutes, for Category Two for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

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

3.21 Source Code in Escrow

- 3.21.1 For all VENDOR -Owned Core System Software, the VENDOR shall maintain copies of the source code in escrow with an escrow company pre-approved by the TOWN. The VENDOR shall pay all fees associated with placing and maintaining the source code in escrow
- 3.21.2 Within fifteen (15) calendar days after the TOWN's written acceptance of the implementation of the system, the VENDOR shall submit to the TOWN a letter naming the escrow company that the VENDOR intends to use, with the understanding that the TOWN may approve or disapprove the named company. This letter must include the name, address, and full contact information for the recommended escrow company. The TOWN will indicate its approval or disapproval in writing
- 3.21.3 Within fifteen (15) calendar days after the TOWN has provided to the VENDOR the written approval of a recommended escrow company, the VENDOR shall place the source code in escrow with the approved escrow company. The VENDOR shall provide the TOWN with a signed letter from the escrow company in question stating that the code has been placed in escrow and confirming the TOWN's right to obtain the source code directly from the escrow company in the event of VENDOR default as described below. Throughout the term of the contract, the VENDOR shall ensure that the source code in escrow is kept current with the TOWN's production environment, matching the TOWN's production version level, including any upgrades, enhancements, or new releases that are applied to the TOWN's system
- 3.21.4 If for any reason during the term of the contract the VENDOR becomes unable to fulfill its obligations as described herein, the VENDOR agrees to deliver the source code held in escrow to the TOWN. In the event that the VENDOR fails to deliver the source code in a timely manner, as determined by the TOWN, the TOWN may obtain the source code directly from the escrow company

3.22 Warranty

3.22.1 Warranty Periods

- 3.22.1.1 The warranty period(s) shall be one (1) year, shall apply to all software accepted by the TOWN and to products or services resulting from change orders and enhancements related to that software, and shall begin on the first day of use by the Town of the software or modification

- 3.22.2 The warranty shall be applicable when TOWN staff performs any function under direction of the VENDOR during any turnover, training or maintenance periods required in the Contract.
- 3.22.3 Warranty Coverage
- 3.22.3.1 The warranty encompasses any errors, defects, deficiencies or deviations discovered in any products or services, and errors created in TOWN data caused by such error, defect, deficiency or deviation.
 - 3.22.3.2 The warranty requires the correction by the VENDOR of all products or services containing any errors, defects, deficiencies or deviations, correction of errors in TOWN data caused by such, and any necessary modifications or revisions to products or services, including, by example, and not by limitation, the design, coding, and operation of the system's software to perform any function required by the Contract, whether occurring in the original contract or whether resulting from a change order or enhancement requested by the TOWN, or which is procured in any amendment to the Contract, in any interfaces that are created, and in any training manuals and all system documentation provided by the VENDOR.
- 3.22.4 Time Frames for Warranty Services
- 3.22.4.1 The VENDOR must promptly, at the direction of, and within the time specified by the TOWN, correct any errors, defects, deficiencies or deviations from specifications and all ERP-related system errors and performance or operational delays.
 - 3.22.4.2 The VENDOR shall provide emergency maintenance services to correct code problems or any performance or operational problems related to the design or coding of the system software, its functioning or interfaces on a Monday thru Friday 8:00 am to 6:00 pm EST basis at minimum
 - 3.22.4.3 Products and services shall be either replaced, revised, repaired or corrected within twenty-one (21) calendar days of written notification by the TOWN of the errors, defects, deficiencies or deviations; provided, however, that if the continued use of a defective or deficient product or service would cause damage to the TOWN system(s) or associated data, or would otherwise seriously impair, as determined by the TOWN, the ability of users of the system(s) to do their jobs or the functions for which the system was established, then VENDOR shall act to repair the deficiencies immediately, unless an extension is otherwise granted in writing, by the TOWN
 - 3.22.4.4 The TOWN will determine when any errors, defects, deficiencies or deviations have been resolved.
- 3.22.5 Resources Required for Warranty Service
- 3.22.5.1 The VENDOR shall apply all necessary resources to correct the errors, defects, deficiencies or deviations without cost or expense

to the TOWN, and shall make these corrections within the timeframe specified by the TOWN

3.22.6 Failure to Provide Effective Warranty Services

3.22.6.1 If the VENDOR fails to repair an error, defect, deficiency or deviation for products or services covered by the warranty, the TOWN may, at its option, act to correct or repair the error, defect, deficiency or deviation, and the VENDOR shall be required to reimburse the TOWN for all costs incurred to conduct the repair

3.22.7 Contact for Warranty Services

3.22.7.1 The VENDOR will be the initial contact point for all warranty notifications and support requests, regardless of the perceived source of the problem

3.22.7.2 The VENDOR may elect to have telephone or on-site warranty repair or support services performed by subcontracted personnel; however, if this is the case, the VENDOR shall be responsible for coordinating the effort so that the use of any third-party support is transparent to the TOWN and so that the TOWN shall not have to deal directly with the Subcontractor

3.22.7.3 The TOWN reserves the right to approve Subcontractors for warranty service, and such Subcontractors shall be approved in writing by the TOWN at the Town's reasonable discretion.

3.23 References

3.23.1 The VENDOR will be required to provide a minimum of 3 municipalities as reference. Two must be of similar size in population to the Town of Cutler Bay (40,000 residents) and one must be at least twice the population of Cutler Bay (minimum 80,000 residents). One of the reference cities may be chosen for a site visit during the final phase of the selection process

3.24 Representations and Warranties

3.24.1 Software Provider represents and warrants that the Software will perform substantially in accordance with its documentation and that the Software, or Licensee's use of the Software as permitted under this Agreement, does not infringe the copyrights, trademarks, trade secrets, or other intellectual property or other proprietary right of any third party. The term of the Warranty Period for the software performing substantially in accordance with its documentation shall be twelve (12) months, from the date that the Software in question is used in a production mode in the Licensee's system. The term of the Warranty Period with regard to non-infringement shall be perpetual

3.25 Non-Collusion Affidavit

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

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SECTION 4 – PROPOSAL PROCESS

4.1 Preparation of Proposals

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

4.2 Number of Copies

Seven (7) complete copies of the Proposal, and one (1) original Proposal, are required to be submitted to the TOWN by the date and time indicated above. Each copy should contain all mandatory and optional information submitted by the VENDOR. Additional copies may be requested by the TOWN at its discretion.

4.3 Proposal Packaging

Each Proposal shall be submitted in a separate plain sealed parcel, box or other secure packaging, marked as the “Proposal”, in accordance with Section 4.4. The outside of the sealed package shall clearly indicate the submitting RFP No. _____, “Development of a Web Based Information Portal,” VENDOR’S name, address and the name and telephone number of the VENDOR’S specific contact person. **The Proposal shall contain seven (7) complete copies and one (1) original, and is required to be submitted to the TOWN by the date and time indicated in Section 4.6.**

All pricing information shall be submitted in a sealed envelope within the package containing the proposal and shall be clearly marked “Pricing Information” on the outside of the envelope which shall also include the name and address of the proposers. The provided Pricing Schedule shall be used for such purpose. Only the original with no additional copies of the pricing information is required.

4.4 Signatures

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

Proposals by corporations shall be executed in the corporate name by the President or Vice-President (or other corporate officer if accompanied by evidence of authority to sign) and the corporate seal shall be affixed and attested

by the Corporate Secretary or an Assistant Secretary. The corporate address and state of incorporation shall be shown below the signature.

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

4.5 Proposal Format

The Proposal shall be completed as follows:

1. ALL forms listed as Paper Submission in Table 4.1 Proposal Format are to be submitted 1 original and 7 copies in paper form.

The following summarizes some of the requirements:

Letter of Intent

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

VENDOR'S Statement of Organization

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

Personnel

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

Experience

VENDOR shall have a minimum of three (3) years of successful experience in providing similar solutions to other entities, preferably to other municipalities in the US. A summary of all of the most recently awarded and serviced comparable jobs, for the past three (3) years shall be provided. This record shall show the

name of the municipality, address, description of product provided, and a contact/reference person with phone number. VENDORS shall provide references for all jobs summarized using Form 3 provided in Section 5.

Financial Stability

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

Financial Statement

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

Transition Plan

Ensuring a smooth, seamless transition is of critical importance to the TOWN. VENDORS shall provide a detailed description of how services will be transitioned under the Agreement.

Litigation History

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

Insurance Requirement

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

Criminal Convictions

VENDORS shall provide a summary of any criminal convictions of the company, owners, officers and anybody performing work under this Agreement, related to the services being proposed bid. The TOWN may disqualify a Vendor on the basis of past criminal convictions when those convictions relate to dishonesty, antitrust violations, or unfair competition. Failure to make any required disclosure may also subject a Vendor to disqualification.

VENDOR'S Non-Collusion Certification

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

Drug-Free Workplace

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

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, 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.

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.

Addenda

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

Independence Affidavit

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

Certification to Accuracy of Proposal

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

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

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Table 4.1 – Proposal Format

Letter of Intent (Paper Submission)

VENDOR'S Statement of Organization
(Paper Submission)

Personnel (Paper Submission)

Experience (Paper Submission)

Financial Stability (Paper Submission)

Financial Statement (Paper Submission)

Transition Plan (Paper Submission)

Litigation History (Paper Submission)

Insurance Requirement
(Paper Submission)

Criminal Convictions (Paper Submission)

VENDOR'S Non-Collusion Certification
(Paper Submission)

Independence Affidavit
(Paper Submission)

Drug-free Workplace (Paper Submission)

Addendums (Paper Submission)

Certification to Accuracy of Proposal
(Paper Submission)

Pricing Schedule
(Paper Submission)

4.6 Submittal, Receipt and Opening of Proposals

All Proposals shall be submitted on or before **5:00PM**, local time, on **February 25, 2011** to:

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

All VENDORS are reminded that it is the sole responsibility of the VENDOR to ensure that the Vendor's Proposal is time stamped in the OFFICE OF THE TOWN CLERK prior to **5:00PM**, local time, on **February 25, 2011**. Failure of VENDOR to submit the Proposal and ensure that the Proposal is time stamped prior to the time stated above shall render the VENDOR to be deemed non-responsive and the Proposal shall not be considered for award.

4.7 Selection Committee

Proposals submitted will be evaluated by a Selection Committee, who will review submissions and provide a recommendation to the Town Council for further consideration.

The Selection Committee shall first evaluate the qualitative criteria, including an evaluation of demonstrations, if requested, and create an initial ranking. The pricing will then be applied according to the formula in section 2.2 above.

4.8 Qualification Evaluation

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

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

The Selection Committee may make such investigations as it deems necessary to determine the ability of the product proposed by the VENDOR to perform and the VENDOR shall furnish the TOWN all such information as the selection committee or Town Manager may request before and during the Proposal period. The Selection Committee reserves the right to make additional inquiries,

interview some or all VENDORS, make site visits, obtain credit reports, or take any other action it deems necessary to fairly evaluate all VENDORS. The Selection Committee may at its sole discretion reject a VENDOR or qualify a VENDOR.

4.9 Evaluation

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

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

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

The Proposal ranked one (1), based on the qualifications and pricing considered together will be recommended by the Selection Committee to the Town Council.

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

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4.10 Estimated Schedule

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

Request for Proposals Legal Advertisement	January 26, 2011
RFP Release	January 26, 2011
Last Date for Submittal of Written Questions	February 9, 2011 5:00 PM
Pre Submission Q&A Meeting	February 11, 2011 2:00 PM
Proposals Due	February 25, 2011 5:00 PM
Selection Committee Ranking	March 4, 2011
Presentations	March 14-18, 2011
Recommendation to Town Manager	March 31, 2011
Town Manager Award of Agreement	April 20, 2011

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CONE OF SILENCE

I. Notwithstanding any other provision in the specifications, pursuant to section 2-11.1(t) of the Miami-Dade County Code, made applicable to the Town pursuant to Section 2-11.1(t)(4) thereof, there shall be a cone of silence in effect with respect to all competitive procurements.

(A) Definitions. "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, for goods or services valued at over \$25,000, between:

(1) A potential vendor, service provider, proposer, bidder, lobbyist, or consultant; and
(2) 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.

(B) Restriction; notice. A cone of silence shall be imposed upon each RFP, RFQ, and bid after the advertisement of said RFP, RFQ, or bid. At the time of imposition of the cone of silence, the Town Manager or his or her designee shall provide for public notice of the cone of silence by posting a notice at the Town Hall. The Town Manager shall issue a written notice thereof to the affected departments, file a copy of such notice with the Town Clerk, with a copy thereof to each Town Councilperson, and shall include in any public solicitation for goods or services a statement disclosing the requirements of this section.

(C) Termination of cone of silence. The cone of silence shall terminate at the beginning of the Town Council meeting at which 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 reimposed until such time as the Manager makes a subsequent written recommendation.

(D) Exceptions to applicability. The provisions of this section shall not apply to:

- (1) Oral communications at pre-bid conferences;
- (2) Oral presentations before selection or evaluation committees;
- (3) Public presentations made to the Town Council by any person during any duly noticed and agenda appropriate public meeting;
- (4) Communications in writing at any time with any Town administrative employee, unless specifically prohibited by the applicable RFP, RFQ or bid documents provided that, the bidder or proposer shall file a copy of any written communication with the Town Clerk. The Town Clerk shall distribute all such written communications to all prospective proposers for the subject RFP for whom the clerk has contact information;
- (5) Communications regarding a particular RFP, RFQ 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 RFP, RFQ 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 solely regarding matters of legal process and procedure;
- (7) Duly noticed site visits by administrative staff 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 which shall be addressed to the Town Clerk or the Town's purchasing agent or the Town employee designated responsible for administering the procurement process for such solicitation;
- (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.
- (12) Communications to enable Town Manager to answer specific questions from the Town Council at any time regarding any RFP, RFQ or bid process or award.
- (E) Penalties. Violation of this section by a particular bidder or proposer shall render any RFP award, RFQ award or bid award to said bidder or proposer voidable by the Town Council and/or Town Manager. Any person who violates a provision of this section may be prohibited from serving on a Town selection or evaluation committee. In addition to any other penalty provided herein, violation of any provision of this section by a Town employee may subject said employee to disciplinary action.

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SECTION 5 – QUALIFICATION FORMS

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

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FORM 1
VENDOR'S STATEMENT OF ORGANIZATION

1. Full Name of Business Concern (VENDOR):

Principal Business Address:

2. Principal Contact Person(s):

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

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

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

If a corporation, in what state incorporated: _____

Date Incorporated: _____

Month	Day	Year
-------	-----	------

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

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

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

1. _____

2. _____

3. _____

4. _____

FORM 1
VENDOR'S STATEMENT OF ORGANIZATION
(CONTINUED)

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

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

7. Licenses:

a. County or Municipal Occupational License No.

(Attach Copy)

b. Occupational License Classification:

c. Occupational License Expiration Date:

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

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FORM 2 PERSONNEL

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

- A. Name & Title
- B. Years Experience with:
 - This Firm:
 - With Other Similar Firms:
- C. Education:
 - Degree(s)
 - Year/Specialization
- D. Professional References: (List a minimum of 3)
- E. Other Relevant Experience and Qualifications

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FORM 3 REFERENCES

The VENDOR shall provide a minimum of three (3) references of municipalities presently being served by the VENDOR'S proposed Web Based Information Portal with similar services to those being proposed in this Proposal.

Note: Please have 2 References with populations similar in size to the Town of Cutler Bay (40,000) and 1 reference with a population of at least twice that of Town of Cutler Bay

1. Name of Municipality: _____
Address: _____

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

Year Contract Initiated: _____
Population: _____
2. Name of Municipality: _____
Address: _____

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

Year Contract Initiated: _____
Population: _____
3. Name of Municipality: _____
Address: _____

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

Year Contract Initiated: _____
Population: _____

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FORM 4
NON-COLLUSION AFFIDAVIT

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

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

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FORM 4
NON-COLLUSION AFFIDAVIT
(CONTINUED)

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

Signature (Blue ink only)

Print Name

Title

Date

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

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

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

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

NOTARY PUBLIC

My Commission Expires:

FORM 5
DRUG-FREE WORKPLACE

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

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

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FORM 5
DRUG-FREE WORKPLACE
(CONTINUED)

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

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

Signature (Blue ink only)

Print Name

Title

Date

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

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

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

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

NOTARY PUBLIC

My Commission Expires:

FORM 6
ACKNOWLEDGMENT OF ADDENDA

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

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

[THIS SPACE INTENTIONALLY LEFT BLANK]

FORM 7
INDEPENDENCE AFFIDAVIT

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

1. He/She is _____ of _____, the
VENDOR that has submitted the attached Proposal;
2. (a) Below is a list and description of any relationships, professional, financial or
otherwise that VENDOR may have with the TOWN, its elected or appointed
officials, its employees or agents or any of its agencies or component units for the
past five (5) years.

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

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

[THIS SPACE INTENTIONALLY LEFT BLANK]

**FORM 7
INDEPENDENCE AFFIDAVIT
(CONTINUED)**

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

Signature (Blue ink only)

Print Name

Title

Date

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

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

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

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

NOTARY PUBLIC

My Commission Expires:

FORM 8
CERTIFICATION TO ACCURACY OF PROPOSAL

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

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

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

[THIS SPACE INTENTIONALLY LEFT BLANK]

FORM 8
CERTIFICATION TO ACCURACY OF PROPOSAL
(CONTINUED)

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

Signature (Blue ink only)

Print Name

Title

Date

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

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

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

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

NOTARY PUBLIC

My Commission Expires:

SECTION 6 – AGREEMENT

The agreement located in this Section of the RFP for the Development of a Web Based Information Portal for the TOWN is substantially the form that will be utilized, subject to negotiation with the successful VENDOR. The TOWN reserves the right to award or not to award the Agreement in the best interests of the TOWN.

[THIS SPACE INTENTIONALLY LEFT BLANK]

AGREEMENT BETWEEN
THE TOWN OF CUTLER BAY
AND
FOR DEVELOPMENT OF A WEB BASED INFORMATION PORTAL

THIS AGREEMENT is made and entered into this _____ day of _____, 2011, by and between the Town of Cutler Bay, a Florida municipal corporation (the "TOWN"), and _____ ("VENDOR").

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

PURPOSE/AUTHORIZATION

- 1.1 The purpose of this Agreement is to provide for the TOWN'S purchase / licensing of a WEB BASED INFORMATION PORTAL and all necessary services to implement said system from VENDOR for the TOWN as described in Section 2 below.

SCOPE OF SERVICES

VENDOR shall provide the following to the TOWN:

2.1 **Web Based Information Portal**

The TOWN desires the VENDOR to provide the necessary software products to perform the TOWN's services, processes and procedures as outlined by the TOWN and as stated by the VENDOR throughout the associated RFP process.

2.2 **Software Maintenance**

VENDOR shall provide ongoing software support and maintenance of all product provided to the TOWN by VENDOR on a Monday through Friday, (Federal Holidays Excepted), from 9:00am to 6:00pm EST basis. Annual maintenance pricing is set forth in the Pricing Schedule.

2.3 **Software Installation and Migration**

VENDOR shall provide competent staff to perform all installation tasks necessary to render purchased Web Based Information Portal functional.

3. **COMPENSATION**

- 3.1 For all Products / Services provided by VENDOR as described in Sections 2.1 through 2.3 of this Agreement, VENDOR shall be compensated _____[*to be completed*].
- 3.2 The VENDOR shall provide any such backup documentation requested by the TOWN to support the amounts invoiced to the TOWN for the Product / Services contemplated herein. The TOWN shall pay the VENDOR for all approved invoices, no later than 30 calendar days from the date of approval by the Town Manager of the invoice.
- 3.3 For all Additional Services, (Annual Maintenance Contract), as described in Sections 2.2 of this Agreement, the TOWN shall pay VENDOR a fee mutually agreed to by the Town Manager and VENDOR.

4. **INDEMNIFICATION**

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

5. **INSURANCE**

- 5.1. VENDOR shall maintain at its sole cost and expense at all times, in addition to any other insurance the TOWN may reasonably require, professional liability insurance, employee dishonesty insurance, employer's liability insurance, comprehensive general liability insurance and automotive liability insurance with minimum policy limits for each coverage in the amount of One Million Dollars (\$1,000,000.00) per occurrence, single limit for property damage and bodily injury, including death. The TOWN shall be named as an additional insured on each of the above policies, unless prohibited by law, and VENDOR shall provide TOWN with a certificate evidencing same. Each policy shall also state that it is not subject to cancellation, modification, or reduction in coverage without 30 calendar days written notice to the TOWN prior to the effective date of cancellation, modification, or reduction in coverage.
- 5.2. VENDOR shall maintain worker's compensation insurance at the statutory minimums required by Chapter 440, Florida Statutes.
- 5.3. VENDOR shall maintain each of above insurance policies/coverages throughout the term of this Agreement and any extensions of this Agreement.
- 5.4. VENDOR shall provide the TOWN with a current copy of each of the above insurance policies, and any renewals.

6. **TERMINATION**

- 6.1 The TOWN may elect to terminate all or a portion of the Services provided by VENDOR in this Agreement by giving VENDOR written notice at least 90 calendar days prior to the effective date of termination. Upon receipt of written notice of termination, VENDOR shall not enter into any third party agreements and shall incur only those expenses specifically approved or directed in writing by the Town Manager. Upon written notice of termination, the Town Manager may elect not to use the services of VENDOR.
- 6.2 VENDOR may terminate the Agreement at any time by giving the TOWN written notice at least 180 calendar days prior to the effective date of termination.
- 6.3 In the event of termination or expiration of this Agreement, VENDOR and the TOWN shall cooperate in good faith in order to effectuate a smooth and harmonious transition from VENDOR to the TOWN, or to any other person or entity the TOWN may designate, and to maintain during such period of transition the same services provided to the TOWN pursuant to the terms of this Agreement.
- 6.4 Subsequent to the termination of this Agreement, the TOWN may contract with VENDOR at a mutually agreed upon amount to perform specified services on an as needed basis.

- 6.5 In the event that this Agreement is terminated for convenience, the VENDOR shall be paid for any Services performed up to the date of termination. Upon receipt of a notice of termination, the VENDOR shall perform only those services specified by the TOWN Manager and shall not incur additional expenses without the Town Manager's prior written approval.
- 6.6 Upon termination or expiration, any compensation payable by TOWN to VENDOR shall be withheld until all Records and documents are provided to TOWN pursuant to Section 4.2 of this Agreement.
- 6.7 Upon termination or expiration, the TOWN shall not be liable to VENDOR for any additional compensation, consequential or incidental damages, lost profits, or any other compensation, beyond the compensation structure specifically provided for in this Agreement.

7. **ENTIRE AGREEMENT/MODIFICATION/AMENDMENT**

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

8. **SEVERABILITY**

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

9. **GOVERNING LAW**

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

10. **WAIVER**

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

11. **NOTICES/AUTHORIZED REPRESENTATIVES**

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

For the Town:

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

With a copy to:

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

For VENDOR:

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

12. **INDEPENDENT VENDOR**

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

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

13. **STAFFING/REMOVAL**

- 13.1 If at any time during the term of this Agreement the Town Manager becomes dissatisfied with the performance of any of VENDOR'S staff assigned to provide services under this Agreement, the Town Manager may request that the particular employee be removed from servicing this account. Representatives of VENDOR and the Town Manager shall meet to discuss appropriate remedial action to alleviate the performance deficiencies experienced by the TOWN. If the proposed resolution is unsatisfactory to the Town Manager, VENDOR shall reassign said personnel out of the TOWN within 3 calendar days of notification by the Town Manager.
- 13.2 VENDOR agrees to act in good faith and to use its best efforts to resolve any problems experienced by the TOWN.
- 13.3 VENDOR shall be responsible for maintaining current background checks on all employees and agents assigned to work in the TOWN. Background checks for each individual must be performed prior to providing any services to the TOWN. Written verification of any background checks must be provided to the TOWN if requested by the Town Manager.

14. **WAIVER OF JURY TRIAL**

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

15. **ASSIGNMENT/SUBCONTRACTS**

- 15.1. This Agreement shall not be assignable by VENDOR without the prior approval of the Town Council, at the TOWN'S sole discretion.
- 15.2 VENDOR shall not subcontract any portion of the work required by this Agreement, except with the prior approval of the Town Manager, which shall be on his or her sole and absolute discretion.

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

- 16.1. VENDOR warrants that it has not paid or agreed to pay any person(s), company, corporation, individual or firm, other than a bona fide employee working solely for VENDOR, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.
- 16.2. Neither VENDOR nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with VENDOR'S loyal and conscientious exercise of judgment related to its performance under this Agreement.
- 16.3. VENDOR agrees that none of its officers or employees shall, during the Term or any renewal term of this Agreement, serve as an expert witness against TOWN in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process.

17. **WARRANTIES OF VENDOR**

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

duties, obligations, and services set forth in this Agreement and agrees to provide and perform such Services to TOWN'S satisfaction for the agreed compensation.

17.6 VENDOR shall maintain a Drug-Free workplace as that term is defined in Florida Statutes.

17.7 VENDOR shall comply with all applicable federal, state, county and Town laws, rules and regulations in the performance of Services.

18. **ATTORNEYS' FEES**

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

19. **SOURCE CODE IN ESCROW**

19.1 For all VENDOR -Owned Core System Software, the VENDOR shall maintain copies of the source code in escrow with an escrow company pre-approved by the TOWN. The VENDOR shall pay all fees associated with placing and maintaining the source code in escrow

19.2 Within fifteen (15) calendar days after the TOWN's written acceptance of the implementation of the system, the VENDOR shall submit to the TOWN a letter naming the escrow company that the VENDOR intends to use, with the understanding that the TOWN may approve or disapprove the named company. This letter must include the name, address, and full contact information for the recommended escrow company. The TOWN will indicate its approval or disapproval in writing

19.3 Within fifteen (15) calendar days after the TOWN has provided to the VENDOR the written approval of a recommended escrow company, the VENDOR shall place the source code in escrow with the approved escrow company. The VENDOR shall provide the TOWN with a signed letter from the escrow company in question stating that the code has been placed in escrow and confirming the TOWN's right to obtain the source code directly from the escrow company in the event of VENDOR default as described below. Throughout the term of the contract, the VENDOR shall ensure that the source code in escrow is kept current with the TOWN's production environment, matching the TOWN's production version level, including any upgrades, enhancements, or new releases that are applied to the TOWN's system

19.4 If for any reason during the term of the contract the VENDOR becomes unable to fulfill its obligations as described herein, the VENDOR agrees to deliver the source code held in escrow to the TOWN. In the event that the VENDOR fails to deliver the source code in a timely manner, as determined by the TOWN, the TOWN may obtain the source code directly from the escrow company

20 Warranty

20.1 Warranty Periods

20.1.1 The warranty period(s) shall be one (1) year, shall apply to all software accepted by the TOWN and to products or services resulting from change orders and enhancements related to that software, and shall begin on the first day of production of the software or modification

20.2 The warranty shall be applicable when TOWN staff performs any function under direction of the VENDOR during any turnover, training or maintenance periods required in the Contract.

20.3 Warranty Coverage

20.3.1 The warranty encompasses any errors, defects, deficiencies or deviations discovered in any products or services, and errors created in TOWN data caused by such error, defect, deficiency or deviation.

20.3.2 The warranty requires the correction by the VENDOR of all products or services containing any errors, defects, deficiencies or deviations, correction of errors in TOWN data caused by such, and any necessary modifications or revisions to products or services, including, by example, and not by limitation, the design, coding, and operation of the system's software to perform any function required by the Contract, whether occurring in the original contract or whether resulting from a change order or enhancement requested by the TOWN, or which is procured in any amendment to the Contract, in any interfaces that are created, and in any training manuals and all system documentation provided by the VENDOR.

20.4 Time Frames for Warranty Services

20.4.1 The VENDOR must promptly, at the direction of, and within the time specified by, the TOWN, correct any errors, defects, deficiencies or deviations from specifications and all the ERP-related system errors and performance or operational delays.

20.4.2 The VENDOR shall provide emergency maintenance services to correct code problems or any performance or operational problems related to the design or coding of the system software, its functioning or interfaces on a Monday thru Friday 8:00 am to 6:00 pm EST basis at minimum

20.4.3 Products and services shall be either replaced, revised, repaired or corrected within twenty-one (21) calendar days of written notification by the TOWN of the errors, defects, deficiencies or deviations; provided, however, that if the continued use of a defective or deficient product or service would cause damage to the TOWN system(s) or associated data, or would otherwise seriously impair, as determined by the TOWN, the ability of users of the system(s) to do their jobs or the functions for which the system was established, then VENDOR shall act to repair the deficiencies immediately, unless an extension is otherwise granted in writing, by the TOWN

20.4.4 The TOWN will determine when any errors, defects, deficiencies or deviations have been resolved.

20.5 Resources Required for Warranty Service

20.5.1 The VENDOR shall apply all necessary resources to correct the errors, defects, deficiencies or deviations without cost or expense to the TOWN, and shall make these corrections within the timeframe specified by the TOWN

20.6 Failure to Provide Effective Warranty Services

20.6.1 If the VENDOR fails to repair an error, defect, deficiency or deviation for products or services covered by the warranty, the TOWN may, at its option, act to correct or repair the error, defect, deficiency or deviation, and the VENDOR shall be required to reimburse the TOWN for all costs incurred to conduct the repair

20.7 Contact for Warranty Services

20.7.1 The VENDOR will be the initial contact point for all warranty notifications and support requests, regardless of the perceived source of the problem

20.7.2 The VENDOR may elect to have telephone or on-site warranty repair or support services performed by subcontracted personnel; however, if this is the case, the VENDOR shall be responsible for coordinating the effort so that the use of any third-party support is transparent to the TOWN and so that the TOWN shall not have to deal directly with the Subcontractor

20.7.3 The TOWN reserves the right to approve Subcontractors for warranty service, and such Subcontractors shall be approved in writing by the TOWN

21 **Representations and Warranties**

21.1 Software Provider represents and warrants that the Software will perform substantially in accordance with its documentation and that the Software, or Licensee's use of the Software as permitted under this Agreement, does not infringe the copyrights, trademarks, trade secrets, or other intellectual property or other proprietary right of any third party. The term of the Warranty Period for the software performing substantially in accordance with its documentation shall be limited to twelve (12) months, from the date that the Software in question is used in a production mode in the Licensee's Web Based Information Portal system. The term of the Warranty Period with regard to non-infringement shall be perpetual

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

WITNESSES:

VENDOR

Print Name: _____

By: _____

Print Name: _____

Date: _____

ATTEST:

TOWN OF CUTLER BAY

Town Clerk

By: _____

Date: _____

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

Town Attorney

[END OF DOCUMENT]

TAB 6



Office of the Town Manager

Steven J. Alexander
Town Manager

MEMORANDUM

To: Honorable Mayor, Vice Mayor and Town Council

From: Steven J. Alexander, Town Manager

Date: January 19, 2011

Re: Issuance of Request for Qualification (RFQ) #11-01 Cutler Bay Town Center – General Contractor(s) Services

REQUEST

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING THE ISSUANCE OF A REQUEST FOR QUALIFICATIONS (RFQ) FOR GENERAL CONTRACTOR SERVICES – TOWN CENTER BUILDING; AND PROVIDING FOR AN EFFECTIVE DATE.

BACKGROUND AND ANALYSIS

The Town recently purchased the South Dade 2 Building (Cutler Town Center Building), located at 10720 Caribbean Boulevard Cutler Bay, Florida. The Town is scheduled to perform renovations to the first and second floor(s), through an existing Design/Build contract, in which a previous Request For Qualification was issued and awarded to various rotating qualified firms.

There will be many occasions, in which, minor improvements and/or tenant build-outs will need to be performed by the Town in the entire Building. Currently Town staff has been able to manage this issue, by contacting several contractors and obtaining written proposals. Unfortunately, this current process is very time consuming, since many of the repairs are minor and contractors written proposals are delayed. In order to streamline the procurement process, staff has developed a Request for Qualification in which three (3) "Pre-Qualified" General Contractors will be selected. These contractors will be selected based on their experience with similar type commercial buildings, track record of completing projects within budget, accomplishments of project manager, etc.





A Request For Qualifications has been prepared to identify the best three (3) qualified General Contractors to provide miscellaneous services and/or materials, associated with maintenance and/or tenant build-outs. The selected "pre-qualified" General Contractors will be issued individual request for written quotes, developed by Town staff. Each "pre-qualified" contractor will submit their written proposal, at which time will be evaluated by Town staff. Upon completing the evaluation, Town staff will issue a "Work Authorization" to the lowest & responsive General Contractor, in accordance with the Town's Purchasing Policies.

Town Ordinance #06-22 requires the Town Manager to obtain authorization from the Town Council in order to advertise solicitations for bids and proposals, prior to advertising the public notice. Additionally, pursuant to Chapter 287.055, Florida Statutes, the Town intends to retain consultants to provide professional services. In order to fulfill the needs of quick response and professional expertise, the Town intends to retain two (2) Consultants in each Service Area.

RECOMMENDATION

We recommend that the attached resolution authorizing the Town Manager to issue a Request for Qualifications (RFQ #11-01) be adopted.



RESOLUTION NO. 11-____

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING THE ISSUANCE OF A REQUEST FOR QUALIFICATIONS (RFQ) FOR GENERAL CONTRACTOR(S) SERVICES – TOWN CENTER BUILDING; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay, (the “Town”) purchased the Cutler Bay Town Center located at 10720 Caribbean Boulevard Cutler Bay, Florida and is responsible for all of the maintenance and tenant improvements; and

WHEREAS, many of the day-to-day maintenance issues and/or tenant build-outs are required as part of the operation of the Town Center building; and

WHEREAS, minor maintenance items and/or improvements will require Town staff to obtain three (3) written proposals from qualified vendors, as per the Town’s Purchasing Ordinance 06-22; and

WHEREAS, a Request For Qualifications has been prepared to identify the best three (3) pre-qualified General Contractors to provide services and materials for the Cutler Bay Town Center; and

WHEREAS, in accordance with Chapter 287.055 of the Florida Statutes, a Request for Qualification (RFQ) has been prepared to identify the best three (3) pre-qualified General Contractors to provide services and materials for the Cutler Bay Town Center; 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, THAT:

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

Section 2. Request For Proposals Advertising Approved. The Town Manager is hereby authorized to advertise and issue a Request For Qualification for Cutler Bay Town Center – General Contractor(s) Services, substantially the form attached hereto as Exhibit “A.”

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

PASSED and ADOPTED this _____ day of _____, 2011.

Edward P. MacDougall, Mayor

Attest:

Esther Coulson
Town Clerk

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

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

FINAL VOTE AT ADOPTION:

Mayor Edward P. MacDougall _____

Vice Mayor Ernest N. Sochin _____

Councilmember Peggy R. Bell _____

Councilmember Sue Loyzelle _____

Councilmember Mary Ann Mixon _____



**REQUEST FOR QUALIFICATIONS
CUTLER BAY TOWN CENTER
GENERAL CONTRACTOR(S) SERVICES
RFQ# 11-01**

**SECTION # 1
INTRODUCTION**

The Town of Cutler Bay (the TOWN), a municipality located in Miami-Dade County, Florida, desires to receive qualifications for the selection of a **General Contractor(s)** (the Contractor) to provide Professional Services (the Services) to the TOWN for the Construction and Coordination of Tenant Improvements and Miscellaneous renovations of Town Hall facility, “Cutler Bay Town Center” Building located at 10720 Caribbean Boulevard, Cutler Bay, Florida.

The TOWN intends to execute an agreement with selected Contractor(s) to providing such services. The TOWN guarantees that all of the services identified in this Request for Qualifications (RFQ) will be assigned to the Contractor during the term of the Agreement.

1.1 SCHEDULE OF EVENTS

No	Event	Date*	Time* (EST)
1	Advertisement/ Distribution of RFQ & Cone of silence begins	TBA	9:00 AM
2	Mandatory Pre-RFQ-Response Meeting	TBA	1:00 PM
3	Deadline to Submit Questions	TBA	4:00 PM
4	Deadline to Town Responses to Questions	TBA	5:00 PM
5	Deadline to Submit RFQ-Response	TBA	11:00 AM
6	Announcement of selected Contractors/Cone of Silence ends	TBA	TBA

*The Town reserves the right to change the scheduled dates and time.



1.2 ELIGIBILITY

In addition to other requirements stated in this document, to be eligible to respond to this RFQ, the Contractor must have successfully provided within the past eight (8) years services similar to those in Section 2.2 of this RFQ. Each Contractor shall meet all legal, technical and professional requirements for providing the requested Services.

The respondents shall furnish such additional information as the TOWN may reasonably require. This includes information that indicates financial resources as well as ability to provide and maintain the system and/or services. The TOWN reserves the right to make investigations of the respondents' qualifications or any of its agents, as it deems appropriate.

1.3 ADDENDA

If the TOWN finds it necessary to add to, or amend this document prior to the Response submittal deadline, the TOWN will issue written addenda/addendum. Each Contractor must acknowledge receipt of each addendum by signing the acknowledgement (Appendix A) and providing it with its Response.

1.4 CERTIFICATION

The signer of the Response (to this RFQ) must declare by signing Appendices A and B that the person(s), firm (s) and parties identified in the Response are interested in and available for providing the services; that the Response is made without collusion with any other person(s), firm(s) and parties; that the Response is fair in all respects and is made in good faith without fraud; and that the signer of the cover letter of the Response has full authority to bind the person(s), firm(s) and parties identified in the Response.

1.5 PUBLIC RECORDS

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

1.6 RETENTION OF RESPONSES

The TOWN reserves the right to retain all Responses submitted and to use any ideas contained in any Response, regardless of whether that Contractor is selected.



1.7 QUESTIONS AND CLARIFICATIONS:

All requests for information and/or clarification should be submitted in writing to:

Town of Cutler Bay
Town Clerk's Office
Attn: RFQ # 11-01
Cutler Bay Town Center-General Contractor(s) Services
10720 Caribbean Blvd., Suite 105
Cutler Bay, FL 33189
Phone: (305) 234-4262 / Fax: (305) 234-4251
Email: townclerk@cutlerbay-fl.gov

1.8 TOWN AUTHORITY

Proposals will be selected at the sole discretion of the TOWN. The TOWN reserves the right to waive any irregularities in the request process, to reject any or all proposals, or to reject a proposal which is in any way incomplete or irregular. Proposals received after the deadline will not be considered.

1.9 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.

1.10 CONE OF SILENCE

Notwithstanding any other provision of these specifications, the provisions of TOWN "Cone of Silence" are applicable to this transaction. Pursuant to Section 2-11.1(t) of the Miami-Dade County Code, made applicable to the Town pursuant to Section 2-11(t) (4) thereof, there shall be a "Cone of Silence" associated with this solicitation. The entirety of these provisions can be found in the TOWN's Purchasing Ordinance, Town Ordinance 09-12. 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 contractor; 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 distribute all such written communications to all prospective proposers for the subject RFP for whom the Clerk has contact information;
- (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 solely regarding matters of legal process and procedure;
- (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 which shall be addressed to the Town Clerk or the Town's purchasing agent or the Town employee designated responsible for administering the procurement process for such solicitation;
- (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 contractor 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.
- (12) Communications to enable Town Manager to answer specific questions from the Town Council at any time regarding any RFP, RFQ or bid process or award.

Violations of any of the above section(s) by a particular bidder or proposer shall render any RFP award or bid award to said bidder or proposer voidable by the Town Council and/or Town Manager. Any person who violates a provision of this section may be prohibited from serving on a Town selection or evaluation committee.

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.

1.11 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's Office at (305) 234-4262 for additional information.



SECTION # 2

SERVICES NEEDED BY THE TOWN

2.1 GENERAL BACKGROUND

The Town of Cutler Bay recently purchased “The South Dade Tower 2” building located at 10720 Caribbean Boulevard. The existing building was built in 1986 and is six story’s with a mechanical penthouse at the roof level. The total square footage is approximately 78,198 s.f. The second floor through the penthouse is occupied by several tenants. Unoccupied areas are available for leasing throughout the second through penthouse floors. The typical office floor plate is approximately 12,565 s.f.

The first and second floor of the building is going to be occupied by the TOWN’s various departments. The police department will be occupying the majority of the second floor. The design and construction of the TOWN and police department offices is being designed and constructed by a design build team that was awarded the contract. The constructions of these improvements for the TOWN are expected to start in the first quarter of 2011.

Pursuant to Chapter 287.055, Florida Statutes, the TOWN intends to retain contractors to provide professional services in the Service Areas identified in Section 1.0 and described further in the Section 2.2. In order to fulfill the needs of quick response and professional expertise, the TOWN intends to retain three (3) Pre-qualified Licensed General Contractors.

While pursuing this RFQ process, the TOWN reserves the right to award contracts to Contractors who will best serve the interests of the TOWN and whose Responses are considered by the TOWN to be the most responsive and most responsible.

The TOWN reserves the right to accept or reject any or all Responses, based upon its deliberations and opinions. In making such determination, the TOWN reserves the right to investigate the financial capability, integrity, experience and quality of performance of each Contractor, including officers, principals, senior management and supervisors as well as the staff identified in the Response.

The TOWN also reserves the right to waive minor variations or irregularities in the Responses.



2.2 SCOPE OF SERVICES

The TOWN as owner is seeking to select three (3) qualified and licensed general Contractors with relevant experience in the construction and coordination of tenant improvements and miscellaneous renovations throughout the building. The miscellaneous work may include but not limited to the renovations and/or miscellaneous repairs of:

- Tenant Improvements / Renovations
- Public areas-parking lot, hallways, etc...
- Bathroom Facilities
- Interior Corridors
- After hours emergency callouts of standby staff
- Tenant build out, approved by the TOWN
- Partitions, doors ceilings, windows, flooring, finishes, MEP systems, etc.
- The work may also include:
 - Daily Maintenance Services as needed
 - General Interior constructions for tenant improvement as needed.

The other service anticipated for the contractor, if required, be able to provide a minimum of two (2) on-site maintenance personnel, on a full time daily basis (staggered shifts 7 am-6pm coverage) with ongoing maintenance and servicing duties, as specified by the TOWN. The contractor is to provide the monthly cost of such representatives. All contractors' personnel will be subject to an "extensive" national criminal background check.

2.3 SCHEDULE

CONTRACTOR will complete the work items outlined in the Scope of Work within a timetable that will be deemed acceptable by the TOWN depending on the scope of work assigned of each particular task. "Notice to Proceed" from the TOWN will be issued once the scope, schedule and cost for the work has been determined (provided by the contractor).

2.4 EXCLUSIONS

The services outlined below are not included as part of the Scope of Work, although additional "Work Authorizations" can be executed to assist the TOWN with these services if necessary, such as but not limited to:

- Surveys
- Systems testing
- Material testing and other testing needed to complete the scope of work that is requested

2.5 COMPENSATION –TO BE DETERMINED

CONTRACTOR will be compensated for the work accordingly based on the Scope of Work that is assigned by the TOWN. Individual "work orders" will be assigned, upon acceptance of contractor's proposal.



SECTION # 3

RESPONSE SUBMISSION REQUIREMENTS AND EVALUATION

Six (6) signed (one original and five (5) photo copies) Responses shall be submitted in one sealed package, clearly marked on the outside "RFQ 11-01, Cutler Bay Town Center, GENERAL CONTRACTOR(S) SERVICES". The outside of the sealed envelope shall also show the name of the Prime Contractor.

All sealed Qualification packages must be received at the receptionist's desk in the TOWN Hall located at 10720 Caribbean Blvd., Suite 105, Cutler Bay, FL 33189, by **11:00 AM, TBA**, at which time their receipt will be publicly documented by the Town Clerk or his/her designee(s).

All Responses must be received by the TOWN clerk by the due date and time. All Responses received after the due date and time will not be considered.

3.1 RESPONSE /(QUALIFICATION PACKAGE) PREPARATION

Each contractor shall submit one (1) original and five (5) bound photocopies of each Response. Each Response shall be limited to eighteen (18) pages (paper size 8.5"x11,"printed on only one side of the paper, single or the larger spacing, font size not less than 11) excluding the Certificates and Appendices A, B and C. The sections shall follow the order given on the next page. The twenty-(20)-page limit is for items 1 to 9 on the next page. No material other than that listed in this Section shall be included in the Response.

1. A **one-page** cover letter indicating the Contractors' interest in providing the services to the TOWN and a statement on why the contractor should be selected for the award. The letter shall include the name of the Prime Contractor and those of the subcontractors, explanation of the type of contractual agreement between them, if different from that of Prime and subcontractor. A representative who is authorized to contractually bind the Contractor shall sign this letter.
2. A **one-page** table of contents identifying the sections and page numbers.
3. A **one-page**, proposed organization chart identifying key professionals, their area(s) of responsibility and extent of their availability.
4. A **two-page** history of all the contractor(s).
5. **Up to four (4), one-page** resumes of the persons, including the Project Manager that will be assigned to the TOWN projects, if the TOWN selects the Contractor.
6. **Up to two (2), one-page**, a table showing all current and recently completed private and public (local municipal, county, regional and state) sector clients of all the contractors. The table shall include for each client: (a) the length of the contract; (b) the scope of services provided; (c) the type of contract (pro bono, retainer, project based fee, other); (d) specific accomplishments, if any; and (e) a contact name, phone number and e-mail address for each client. If the Contractor team includes subcontractor, there must be at least one project for each subcontractor. The Contractor may select suitable clients/projects, if the list exceeds two-page limit.



7. **Up to a two (2), one-page.** a narrative on projects completed on time and in budget after 1/1/2005.
8. **Up to four (4), one-page.** a description of projects providing services similar to those identified in the scope of services over the last ten (10) years. The emphasis shall be given to the projects in Florida AND the tasks performed by the four persons identified in the Response
9. **Up to three (3), one-page.** copies of any press articles, profiles, commendations, awards etc. The emphasis shall be given to the projects completed in Florida AND the projects of the four persons identified in the Response
10. **Six (6) pages,** completed any Appendices A, B and C.
11. Proofs of authorization to transact business in the State from the Florida Secretary of State, from prime as well as supporting firms

3.2 RESPONSE EVALUATION CRITERIA

The selection committee will evaluate the Responses based on the criteria listed below. The points assigned to each criterion are also given:

1. Contractor's similar experience for the past eight (8) years **(30 points)**.
2. Contractor's track record of on time and within budget **(25 points)**.
3. Credentials and accomplishments of the contractor's project manager **(15 points)**.
4. Credentials and accomplishments of the contractor in general **(20 points)**.
5. Compliance with the Response preparation and submission requirements **(10 points)**.

[SPACE LEFT BLANK INTENTIONALLY]



SECTION # 4

OTHER CONDITIONS

4.1 TERM OF ENGAGEMENT

Three (3) Years, with the option to extend the contract for an additional two-one (1) year term. The TOWN may terminate the agreement with a sixty (60-days) notice without giving any reason.

4.2 PERMITS, TAXES, LICENSES

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

4.3 LAWS, ORDINANCES

The Contractor shall observe and comply with all federal, state and local laws, ordinances, rules, regulations and professional standards that would apply to this contract. Additionally, selected contractor will be responsible to perform both national/local criminal background checks for ALL on-site personnel.

4.4 INSURANCE

Prior to execution of an agreement with the TOWN, the successful Contractor shall provide certificates evidencing insurance coverage as required hereunder. Companies authorized to do business under the laws of the State of Florida shall issue all insurance policies. The Certificates shall clearly indicate that the successful Contractor has obtained insurance of the type, amount, and classification as required and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the TOWN's representative. Compliance with the foregoing requirements shall not relieve the successful Contractor of its liability and obligations under the agreement.

The successful Contractor shall maintain during the term of the agreement, standard Professional Liability insurance in the minimum amount of one-million-dollars (\$1,000,000) per occurrence.

The successful Contractor shall maintain during the life of the agreement, commercial general liability, including contractual liability insurance in the amount of one-million-dollars (\$1,000,000) per occurrence to protect it and the TOWN from claims for damages for bodily and personal injury, including wrongful death, as well as from claims of property damages which may arise from any operations under the agreement, whether such operations be by the successful Contractor or by anyone directly employed by or contracting with the successful Contractor.



The successful Contractor shall maintain, during the life of the agreement, comprehensive automobile liability insurance in the minimum amount of five-hundred-thousand-dollars (\$500,000) combined single limit for bodily injury and property damage liability to protect it from claims for damages for bodily and personal injury, including death, as well as from claims for property damage, which may arise from the ownership, use, or maintenance of owned and non owned automobiles, including rented automobiles whether such operations be by the successful Contractor or by anyone directly or indirectly employed by the successful Contractor.

The successful Contractor shall maintain, during the life of the agreement, as law requires adequate Worker's Compensation Insurance and Employer's Liability insurance in at least such amounts as for all of its employees per Florida Statute 440.02.

The Contractor shall also maintain other required insurance coverage specific to the services to be provided.

4.5 BONDING CAPABILITY

Contractor/Vendor shall demonstrate evidence of bond ability up to \$ 500,000.00 from a bonding company or entity of a minimum rating of AA (or a bank letter of credit in lieu).

4.6 NEGOTIATIONS

Fees negotiated will be for the underlying contracts and will be negotiated in accordance with Florida Statutes.

[SPACE LEFT BLANK INTENTIONALLY]



APPENDIX A

ACKNOWLEDGEMENT, WARRANTY AND ACCEPTANCE

A. Contractor warrants that it is willing and able to comply with all applicable State of Florida laws, rules and regulations.

B. Contractor warrants that they have read, understand and are willing to comply with all of the requirements of the RFQ and the addendum/ addenda nos.

C. Contractor warrants that it will not delegate or subcontract its responsibilities under an agreement without the prior written permission of the Council.

D. Contractor warrants that all information provided by it in connection with this proposal is true and accurate.

E. CONTINGENCY FEE AND CODE OF ETHICS WARRANTY:

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

Signature of Official: _____

Name (typed): _____

Title: _____

Contractor: _____

Date: _____



APPENDIX B

NON-COLLUSIVE AFFIDAVIT

State of _____

SS:

County of _____

_____ being first duly sworn, deposes and says
that:

(1) He/she is the, (Owner, Partner, Officer, Representative or Agent) of:

_____ the Contractor that has submitted the attached
Proposal;

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

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

(4) Neither the said Contractor 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 Contractor or
person to submit a collusive or sham response in connection with the work for which the
attached Proposal has been submitted, or to refrain from responding in connection with such
work, or have in any manner, directly or indirectly, sought by agreement or collusion,
communication, or conference with any Contractor or person to fix this Proposal or to secure
through any collusion, conspiracy, connivance, or unlawful agreement, any advantage against
the Town of Cutler Bay, or any person interested in the proposed Work;

Signed, sealed and delivered
In the presence of

_____ By: _____

(Printed Name)

(Title)



ACKNOWLEDGMENT

State of Florida

County of _____

On this _____ day of _____, 2011, before me, the undersigned

Notary Public of the State of Florida personally appeared

And whose name(s) is/are subscribed to the within instrument, and he/she/they acknowledge that he/she/they executed it.

WITNESS my hand
and official seal

NOTARY PUBLIC, STATE OF FLORIDA

NOTARY PUBLIC
SEAL OF OFFICE:

(Name of Notary Public: Print, Stamp or
Type as commissioned.)
o Personally known to me, or
o Produced identification:

(Type of Identification Produced)
o Did take an oath. or
o Did not take an oath.



APPENDIX C

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

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

1. This sworn statement is submitted to the TOWN OF CUTLER BAY, FLORIDA

By _____

For _____

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 - S.S. # _____)

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

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



4. I understand that an "affiliate" as defined in Paragraph 287.133(1) (a), Florida Statutes, and 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 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 Proposals or applies to Proposal on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of any entity.

Signed, sealed and delivered

In the presence:

By:

(Printed Name)

(Title)



ACKNOWLEDGMENT

State of Florida

County of _____

On this _____ day of, 2011, before me, the undersigned Notary Public
of the State of Florida personally appeared _____
and whose name(s) is/are subscribed to the within instrument, and he/she/they acknowledge
that he/she/they executed it.

WITNESS my hand
and official seal

NOTARY PUBLIC, STATE OF FLORIDA

NOTARY PUBLIC
SEAL OF OFFICE:

(Name of Notary Public: Print, Stamp or
Type as commissioned.)
o Personally known to me, or
o Produced identification:

(Type of Identification Produced)
o Did take an oath. or
o Did not take an oath.

TAB 7



Office of the Town Manager

Steven J. Alexander
Town Manager

MEMORANDUM

To: Honorable Mayor, Vice Mayor and Town Council

From: Steven J. Alexander, Town Manager

Date: January 19, 2011

Re: Issuance of Request for Qualification (RFQ) #11-02 Cutler Bay Town Center – Heating, Ventilation, and Air Conditioning (HVAC) Services

REQUEST

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING THE ISSUANCE OF A REQUEST FOR QUALIFICATIONS (RFQ) FOR HEATING, VENTILATION, AND AIR CONDITIONING (HVAC) SERVICES – TOWN CENTER BUILDING; AND PROVIDING FOR AN EFFECTIVE DATE.

BACKGROUND AND ANALYSIS

The Town recently purchased the South Dade 2 Building (Cutler Town Center Building), located at 10720 Caribbean Boulevard Cutler Bay, Florida. The Town is scheduled to perform improvements to the existing Heating, Ventilation, and Air Conditioning (HVAC) systems within the first and second floor(s), through an existing Design/Build contract, in which a previous Request For Qualification was issued and awarded to various rotating qualified firms.

In order to streamline the procurement process, staff has developed a Request for Qualification in which one (1) qualified and licensed HVAC Contractors will be selected. The HVAC contractor will be selected based on their experience with similar type commercial buildings, monthly preventative maintenance costs, credentials and accomplishments of the project manager, credentials of the contractor in general, etc.

Town Staff has developed a Request For Qualifications to identify the best qualified HVAC Contractor, in order to provide monthly preventative





maintenance and other required repairs to the Town Center's existing HVAC system.

Town Ordinance #06-22 requires the Town Manager to obtain authorization from the Town Council in order to advertise solicitations for bids and proposals, prior to advertising the public notice. Additionally, pursuant to Chapter 287.055, Florida Statutes, the Town intends to retain consultants to provide professional services. In order to fulfill the needs of quick response and professional expertise, the Town intends to retain two (2) Consultants in each Service Area.

RECOMMENDATION

We recommend that the attached resolution authorizing the Town Manager to issue a Request for Qualifications (RFQ #11-02) be adopted.

Revised



RESOLUTION NO. 11-____

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING THE ISSUANCE OF A REQUEST FOR QUALIFICATIONS (RFQ) FOR HEATING, VENTILATION, AND AIR CONDITIONING (HVAC) SERVICES FOR THE TOWN CENTER BUILDING; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay, (the “Town”) purchased the Cutler Bay Town Center located at 10720 Caribbean Boulevard, Cutler Bay, Florida and is responsible for all of the maintenance and tenant improvements; and

WHEREAS, the Town has a month-to-month existing agreement with the prior owner’s Heating, Ventilation, and Air Conditioning (HVAC) contractor during the building ownership transition period; and

WHEREAS, as per the Town’s Purchasing Ordinance 06-22, the yearly HVAC services contract estimates will require the services to be competitively bid; and

WHEREAS, Town staff has prepared a Request For Qualifications (the “RFQ”) to identify the best qualified HVAC contractor to provide monthly preventative maintenance services and materials for the Cutler Bay Town Center; and

WHEREAS, in accordance with Chapter 287.055 of the Florida Statutes, a (RFQ) has been prepared to identify best qualified HVAC contractor to provide HVAC services and materials for the Cutler Bay Town Center; 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, THAT:

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

Section 2. Request For Proposals Advertising Approved. The Town Manager is hereby authorized to advertise and issue a RFQ for Heating, Ventilation, and Air Conditioning (HVAC) Services for the Town Center Building, in substantially the form attached hereto as Exhibit “A.”

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

PASSED and ADOPTED this _____ day of _____, 2011.

Edward P. MacDougall, Mayor

Attest:

Esther Coulson
Town Clerk

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

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

FINAL VOTE AT ADOPTION:

Mayor Edward P. MacDougall _____

Vice Mayor Ernest N. Sochin _____

Councilmember Peggy R. Bell _____

Councilmember Sue Loyzelle _____

Councilmember Mary Ann Mixon _____



**REQUEST FOR QUALIFICATIONS
CUTLER BAY TOWN CENTER
HEATING, VENTILATION, AND AIR CONDITIONING (HVAC) SERVICES
RFQ# 11-02**

**SECTION # 1
INTRODUCTION**

The Town of Cutler Bay (the TOWN), a municipality located in Miami-Dade County, Florida, desires to receive qualifications for the selection of a Heating, Ventilation, and Air Conditioning (HVAC) (the Contractor) to provide Professional Services (the Services) to the TOWN for the monthly preventative maintenance of the Town Center HVAC system. The work will include required HVAC maintenance and improvements of the Town Hall facility; “Cutler Bay Town Center” Building located at 10720 Caribbean Boulevard, Cutler Bay, Florida.

The TOWN intends to execute an agreement with selected Contractor(s) to providing such services. The TOWN guarantees that all of the services identified in this Request for Qualifications (RFQ) will be assigned to the Contractor during the term of the Agreement.

1.1 SCHEDULE OF EVENTS

No	Event	Date*	Time* (EST)
1	Advertisement/ Distribution of RFQ & Cone of silence begins	TBA	9:00 AM
2	Mandatory Pre-RFQ-Response Meeting	TBA	1:00 PM
3	Deadline to Submit Questions	TBA	4:00 PM
4	Deadline to Town Responses to Questions	TBA	5:00 PM
5	Deadline to Submit RFQ-Response	TBA	11:00 AM
6	Announcement of selected Contractors/Cone of Silence ends	TBA	TBA

*The Town reserves the right to change the scheduled dates and time.



1.2 ELIGIBILITY

In addition to other requirements stated in this document, to be eligible to respond to this RFQ, the Contractor must have successfully provided within the past eight (8) years services similar to those in Section 2.2 of this RFQ. Each Contractor shall meet all legal, technical and professional requirements for providing the requested Services.

The respondents shall furnish such additional information as the TOWN may reasonably require. This includes information that indicates financial resources as well as ability to provide and maintain the system and/or services. The TOWN reserves the right to make investigations of the respondents' qualifications or any of its agents, as it deems appropriate.

1.3 ADDENDA

If the TOWN finds it necessary to add to, or amend this document prior to the Response submittal deadline, the TOWN will issue written addenda/addendum. Each Contractor must acknowledge receipt of each addendum by signing the acknowledgement (Appendix A) and providing it with its Response.

1.4 CERTIFICATION

The signer of the Response (to this RFQ) must declare by signing Appendices A and B that the person(s), firm (s) and parties identified in the Response are interested in and available for providing the services; that the Response is made without collusion with any other person(s), firm(s) and parties; that the Response is fair in all respects and is made in good faith without fraud; and that the signer of the cover letter of the Response has full authority to bind the person(s), firm(s) and parties identified in the Response.

1.5 PUBLIC RECORDS

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

1.6 RETENTION OF RESPONSES

The TOWN reserves the right to retain all Responses submitted and to use any ideas contained in any Response, regardless of whether that Contractor is selected.



1.7 QUESTIONS AND CLARIFICATIONS:

All requests for information and/or clarification should be submitted in writing to:

Town of Cutler Bay
Town Clerk's Office
Attn: RFQ # 11-02
Cutler Bay Town Center-HVAC Services
10720 Caribbean Blvd., Suite 105
Cutler Bay, FL 33189
Phone: (305) 234-4262 / Fax: (305) 234-4251
Email: townclerk@cutlerbay-fl.gov

1.8 TOWN AUTHORITY

Proposals will be selected at the sole discretion of the TOWN. The TOWN reserves the right to waive any irregularities in the request process, to reject any or all proposals, or to reject a proposal which is in any way incomplete or irregular. Proposals received after the deadline will not be considered.

1.9 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.

1.10 CONE OF SILENCE

Notwithstanding any other provision of these specifications, the provisions of TOWN "Cone of Silence" are applicable to this transaction. Pursuant to Section 2-11.1(t) of the Miami-Dade County Code, made applicable to the Town pursuant to Section 2-11(t) (4) thereof, there shall be a "Cone of Silence" associated with this solicitation. The entirety of these provisions can be found in the TOWN's Purchasing Ordinance, Town Ordinance 09-12. 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 contractor; 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 distribute all such written communications to all prospective proposers for the subject RFP for whom the Clerk has contact information;
- (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 solely regarding matters of legal process and procedure;
- (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 which shall be addressed to the Town Clerk or the Town's purchasing agent or the Town employee designated responsible for administering the procurement process for such solicitation;
- (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 contractor 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.
- (12) Communications to enable Town Manager to answer specific questions from the Town Council at any time regarding any RFP, RFQ or bid process or award.

Violations of any of the above section(s) by a particular bidder or proposer shall render any RFP award or bid award to said bidder or proposer voidable by the Town Council and/or Town Manager. Any person who violates a provision of this section may be prohibited from serving on a Town selection or evaluation committee.

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.

1.11 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's Office at (305) 234-4262 for additional information.



SECTION # 2

SERVICES NEEDED BY THE TOWN

2.1 GENERAL BACKGROUND

The Town of Cutler Bay recently purchased “The South Dade Tower 2” building located at 10720 Caribbean Boulevard. The existing building was built in 1986 and is six story’s with a mechanical penthouse at the roof level. The total square footage is approximately 78,198 s.f. The second floor through the penthouse is occupied by several tenants. Unoccupied areas are available for leasing throughout the second through penthouse floors. The typical office floor plate is approximately 12,565 s.f.

The first and second floor of the building is going to be occupied by the TOWN’s various departments. The police department will be occupying the majority of the second floor. The design and construction of the TOWN and police department offices is being designed and constructed by a design build team that was awarded the contract. The constructions of these improvements for the TOWN are expected to start in the first quarter of 2011.

Pursuant to Chapter 287.055, Florida Statutes, the TOWN intends to retain contractors to provide professional services in the Service Areas identified in Section 1.0 and described further in the Section 2.2. In order to fulfill the needs of quick response and professional expertise, the TOWN intends to retain one (1) qualified licensed HVAC Contractor. The selected contractor will be responsible for the monthly preventative maintenance tasks, outlined in Section 2.4. Additionally, other non-maintenance related repairs will be awarded on an as-needed basis, by the Town’s staff.

While pursuing this RFQ process, the TOWN reserves the right to award contracts to Contractors who will best serve the interests of the TOWN and whose Responses are considered by the TOWN to be the most responsive and most responsible.

The TOWN reserves the right to accept or reject any or all Responses, based upon its deliberations and opinions. In making such determination, the TOWN reserves the right to investigate the financial capability, integrity, experience and quality of performance of each Contractor, including officers, principals, senior management and supervisors as well as the staff identified in the Response.

The TOWN also reserves the right to waive minor variations or irregularities in the Responses.



2.2 SCOPE OF SERVICES

Furnish all labor necessary to inspect, install replacement parts and service the subject equipment to maintain it in good operating condition. Replacement parts and material are not included in a monthly maintenance fee. Parts and materials will be reimbursed separately, upon approval by Town staff. The contractor will be responsible to obtain all of the required Permits, from the Town's Building & Zoning Department. The permit fees will be billed separately on each "approved" Work Order, issued by Town staff.

Regularly inspect the equipment at least twelve (12) times a year, and on each inspection perform all services per inspection checklist.

Furnish the Town with a copy of the Inspection Report indicating what repairs, if any, were necessary resulting from each inspection. PROVIDE EMERGENCY SERVICE as needed between inspections during normal working hours at no extra charge.

Provide the Town with Instructions in the operation of equipment to provide for greatest operating efficiency.

EXISTING HVAC EQUIPMENT:

- (2) Carrier Condensing Units – Model # 38AH-084-K600 – Serial #'s 3801F12706 3801F12745
- Novak Operating Control System
- (1) Flakt Fan Main Air Handling Unit with (4) Evaporators
- (1) Pneumatic Compressor
- (1) Pneumatic Air Dried
- (1) Magnatek VFD on Main Air Handling Unit
- POTTORFF Control Dampers model # CD-41, CD-42 Triple Blade

2.3 SERVICE HOURS

This agreement shall include service calls made during normal working hours, between 7:00 a.m. and 6:00 p.m., Monday through Friday, weekends and holidays excluded. Emergency service will be available at other times at an additional cost. All overtime labor will be charged at a rate that is negotiated with the Town staff.



2.4 ITEMS TO BE INCLUDED IN THE MONTHLY PREVENTIVE MAINTENANCE FEE:

- Tighten Electrical connections
- Inspect Contactors and Relays
- Provide and replace pre-filters as needed (bag filters quoted as an add)
- Clean Condensate Pans and Lines
- Check Refrigerant Pressure
- Check Amperes
- Lubricate Bearings per Manufacturer's Recommendations
- Check Temperature Splits
- Check for Vibrations
- Check Operating of Variable Speed Drive
- Check Panels for Tightness
- Check Coils and Blower Wheels for Cleanliness
- Check Compressor Oil Levels
- Inspect for Refrigerant Leaks
- Check Crankcase Heater Operation Abnormalities
- Supply Customer with Service Report
- Check for Proper Outside Air
- Check Compressor Unloaders
- Check for Proper Staging and Capacity Control
- Check Motor and Compressor Mounts



- Check refrigerant Air Drier
- Check Pneumatic Compressors
- Check Smoke Exhaust Damper for proper operation
- Check all Fan Belt Drives for proper belt tightness
- Check outside air and return Air Dampers for proper operation and tight closing

2.5 SCHEDULE

CONTRACTOR will complete the work items outlined in the Scope of Work within a timetable that will be deemed acceptable by the TOWN depending on the scope of work assigned of each particular task. "Notice to Proceed" from the TOWN will be issued once the scope, schedule and cost for the work has been determined (provided by the contractor).

2.6 EXCLUSIONS

Ductwork, air balancing, refrigerant, piping, electrical wiring, waste drain lines, doors, gaskets or hardware. Damage or repairs to other parts of the system as a result of water entering from the chillers, or condensers. Major overhauls (the contractor assumes, customer maintains building boiler and machinery insurance on listed equipment).

Replacement of equipment or major components deteriorated by exposure, age or breakage beyond normal repair. Moving or relocating equipment. Cooling tower repairs, except moving parts. Repairs due to losses or damages as a result of fire, water, windstorm, vandalism, theft, riots, civil commotion, inadequate or fluctuating conditions of the electrical utilities, lightning, damages caused by electrolytic action, crane charges, coil cleanings, indoor air quality, Acts of God, strikes, picket lines or anything beyond the normal mechanical maintenance.



SECTION # 3

RESPONSE SUBMISSION REQUIREMENTS AND EVALUATION

Six (6) signed (one original and five (5) photo copies) Responses shall be submitted in one sealed package, clearly marked on the outside "RFQ 11-02, Cutler Bay Town Center, Heating, Ventilation, and Air Conditioning (HVAC) SERVICES". The outside of the sealed envelope shall also show the name of the Prime Contractor.

All sealed Qualification packages must be received at the receptionist's desk in the TOWN Hall located at 10720 Caribbean Blvd., Suite 105, Cutler Bay, FL 33189, by **11:00 AM, TBA**, at which time their receipt will be publicly documented by the Town Clerk or his/her designee(s).

All Responses must be received by the TOWN clerk by the due date and time. All Responses received after the due date and time will not be considered.

3.1 RESPONSE /(QUALIFICATION PACKAGE) PREPARATION

Each contractor shall submit one (1) original and five (5) bound photocopies of each Response. Each Response shall be limited to eighteen (18) pages (paper size 8.5"x11,"printed on only one side of the paper, single or the larger spacing, font size not less than 11) excluding the Certificates and Appendices A, B and C. The sections shall follow the order given on the next page. The twenty-(20)-page limit is for items 1 to 9 on the next page. No material other than that listed in this Section shall be included in the Response.

1. A **one-page** cover letter indicating the Contractors' interest in providing the services to the TOWN and a statement on why the contractor should be selected for the award. The letter shall include the name of the Prime Contractor and those of the subcontractors, explanation of the type of contractual agreement between them, if different from that of Prime and subcontractor. A representative who is authorized to contractually bind the Contractor shall sign this letter.
2. A **one-page** table of contents identifying the sections and page numbers.
3. A **one-page**, monthly cost for the "monthly" Preventative Maintenance Fees, as stated in Section # 2.4 (Pages 8 thru 9).
4. A **two-page** history of all the contractor(s).
5. **Up to four (4), one-page** resumes of the persons, including the Project Manager that will be assigned to the TOWN projects, if the TOWN selects the Contractor.
6. **Up to two (2), one-page**, a table showing all current and recently completed private and public (local municipal, county, regional and state) sector clients of all the contractors. The table shall include for each client: (a) the length of the contract; (b) the scope of services provided; (c) the type of contract (pro bono, retainer, project based fee, other); (d) specific accomplishments, if any; and (e) a contact name, phone number and e-mail address for each client. If the Contractor team includes subcontractor, there must be at least one project for each subcontractor. The Contractor may select suitable clients/projects, if the list exceeds two-page limit.



7. **Up to a two (2), one-page**, a narrative on projects completed on time and in budget after 1/1/2005.
8. **Up to four (4), one-page**, a description of projects providing services similar to those identified in the scope of services over the eight (8) years. The emphasis shall be given to the projects in Florida AND the tasks performed by the four persons identified in the Response
9. **Up to three (3), one-page**, copies of any press articles, profiles, commendations, awards etc. The emphasis shall be given to the projects completed in Florida AND the projects of the four persons identified in the Response
10. **Six (6) pages**, completed any Appendices A, B and C.
11. Proofs of authorization to transact business in the State from the Florida Secretary of State, from prime as well as supporting firms

3.2 RESPONSE EVALUATION CRITERIA

The selection committee will evaluate the Responses based on the criteria listed below. The points assigned to each criterion are also given:

1. Contractor's similar experience for the past eight (8) years **(25 points)**.
2. Contractor's "monthly" preventative maintenance costs **(50 points)**.
3. Credentials and accomplishments of the contractor's project manager **(10 points)**.
4. Credentials and accomplishments of the contractor in general **(10 points)**.
5. Compliance with the Response preparation and submission requirements **(5 points)**.

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SECTION # 4

OTHER CONDITIONS

4.1 TERM OF ENGAGEMENT

Three (3) Years, with the option to extend the contract for an additional two-one (1) year term. The TOWN may terminate the agreement with a sixty (60-days) notice without giving any reason.

4.2 PERMITS, TAXES, LICENSES

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

4.3 LAWS, ORDINANCES

The Contractor shall observe and comply with all federal, state and local laws, ordinances, rules, regulations and professional standards that would apply to this contract. Additionally, selected contractor will be responsible to perform both national/local criminal background checks for ALL on-site personnel.

4.4 INSURANCE

Prior to execution of an agreement with the TOWN, the successful Contractor shall provide certificates evidencing insurance coverage as required hereunder. Companies authorized to do business under the laws of the State of Florida shall issue all insurance policies. The Certificates shall clearly indicate that the successful Contractor has obtained insurance of the type, amount, and classification as required and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the TOWN's representative. Compliance with the foregoing requirements shall not relieve the successful Contractor of its liability and obligations under the agreement.

The successful Contractor shall maintain during the term of the agreement, standard Professional Liability insurance in the minimum amount of one-million-dollars (\$1,000,000) per occurrence.

The successful Contractor shall maintain during the life of the agreement, commercial general liability, including contractual liability insurance in the amount of one-million-dollars (\$1,000,000) per occurrence to protect it and the TOWN from claims for damages for bodily and personal injury, including wrongful death, as well as from claims of property damages which may arise from any operations under the agreement, whether such operations be by the successful Contractor or by anyone directly employed by or contracting with the successful Contractor.



The successful Contractor shall maintain, during the life of the agreement, comprehensive automobile liability insurance in the minimum amount of five-hundred-thousand-dollars (\$500,000) combined single limit for bodily injury and property damage liability to protect it from claims for damages for bodily and personal injury, including death, as well as from claims for property damage, which may arise from the ownership, use, or maintenance of owned and non owned automobiles, including rented automobiles whether such operations be by the successful Contractor or by anyone directly or indirectly employed by the successful Contractor.

The successful Contractor shall maintain, during the life of the agreement, as law requires adequate Worker's Compensation Insurance and Employer's Liability insurance in at least such amounts as for all of its employees per Florida Statute 440.02.

The Contractor shall also maintain other required insurance coverage specific to the services to be provided.

4.5 BONDING CAPABILITY

Contractor/Vendor shall demonstrate evidence of bond ability up to \$ 500,000.00 from a bonding company or entity of a minimum rating of AA (or a bank letter of credit in lieu).

4.6 NEGOTIATIONS

Other fees negotiated will be for the underlying contracts and will be negotiated in accordance with Florida Statutes.

[SPACE LEFT BLANK INTENTIONALLY]



APPENDIX A

ACKNOWLEDGEMENT, WARRANTY AND ACCEPTANCE

A. Contractor warrants that it is willing and able to comply with all applicable State of Florida laws, rules and regulations.

B. Contractor warrants that they have read, understand and are willing to comply with all of the requirements of the RFQ and the addendum/ addenda nos.

C. Contractor warrants that it will not delegate or subcontract its responsibilities under an agreement without the prior written permission of the Council.

D. Contractor warrants that all information provided by it in connection with this proposal is true and accurate.

E. CONTINGENCY FEE AND CODE OF ETHICS WARRANTY:

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

Signature of Official: _____

Name (typed): _____

Title: _____

Contractor: _____

Date: _____



APPENDIX B

NON-COLLUSIVE AFFIDAVIT

State of _____

SS:

County of _____

_____ being first duly sworn, deposes and says
that:

(1) He/she is the, (Owner, Partner, Officer, Representative or Agent) of:

_____ the Contractor that has submitted the attached
Proposal;

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

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

(4) Neither the said Contractor 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 Contractor or
person to submit a collusive or sham response in connection with the work for which the
attached Proposal has been submitted, or to refrain from responding in connection with such
work, or have in any manner, directly or indirectly, sought by agreement or collusion,
communication, or conference with any Contractor or person to fix this Proposal or to secure
through any collusion, conspiracy, connivance, or unlawful agreement, any advantage against
the Town of Cutler Bay, or any person interested in the proposed Work;

Signed, sealed and delivered
In the presence of

By: _____

(Printed Name)

(Title)



ACKNOWLEDGMENT

State of Florida

County of _____

On this _____ day of _____, 2011, before me, the undersigned

Notary Public of the State of Florida personally appeared

And whose name(s) is/are subscribed to the within instrument, and he/she/they acknowledge that he/she/they executed it.

WITNESS my hand
and official seal

NOTARY PUBLIC, STATE OF FLORIDA

NOTARY PUBLIC
SEAL OF OFFICE:

(Name of Notary Public: Print, Stamp or
Type as commissioned.)
o Personally known to me, or
o Produced identification:

(Type of Identification Produced)
o Did take an oath. or
o Did not take an oath.



APPENDIX C

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

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

1. This sworn statement is submitted to the TOWN OF CUTLER BAY, FLORIDA

By _____

For _____

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 - S.S. # _____)

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

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



4. I understand that an "affiliate" as defined in Paragraph 287.133(1) (a), Florida Statutes, and 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 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 Proposals or applies to Proposal on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of any entity.

Signed, sealed and delivered

In the presence:

By:

(Printed Name)

(Title)



ACKNOWLEDGMENT

State of Florida

County of _____

On this _____ day of, 2011, before me, the undersigned Notary Public
of the State of Florida personally appeared _____
and whose name(s) is/are subscribed to the within instrument, and he/she/they acknowledge
that he/she/they executed it.

WITNESS my hand
and official seal

NOTARY PUBLIC, STATE OF FLORIDA

NOTARY PUBLIC
SEAL OF OFFICE:

(Name of Notary Public: Print, Stamp or
Type as commissioned.)
o Personally known to me, or
o Produced identification:

(Type of Identification Produced)
o Did take an oath. or
o Did not take an oath.

TAB 8



Office of the Town Manager

Steven J. Alexander
Town Manager

MEMORANDUM

To: Honorable Mayor, Vice Mayor and Town Council

From: Steven J. Alexander, Town Manager

Date: January 19, 2011

Re: Issuance of Request for Qualification (RFQ) #11-04 Cutler Bay Town Center
– Janitorial Maintenance Services

REQUEST

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING THE ISSUANCE OF A REQUEST FOR QUALIFICATIONS (RFQ) FOR JANITORIAL MAINTENANCE SERVICES – TOWN CENTER BUILDING; AND PROVIDING FOR AN EFFECTIVE DATE.

BACKGROUND AND ANALYSIS

The Town recently purchased the South Dade 2 Building (Cutler Bay Town Center Building), located at 10720 Caribbean Boulevard Cutler Bay, Florida. In order to insure an “uninterrupted” transition, between the previous owner and the Town, the Town continued to utilize the prior owner’s janitorial services contractor on a month-to-month basis.

In order to comply with our procurement process, staff has developed a Request for Qualification in which one (1) qualified and licensed Janitorial Services Contractor will be selected. The contractor will be selected based on their experience with similar type commercial buildings, monthly maintenance costs, credentials and accomplishments of the project manager, credentials of the contractor in general, etc.

Town Ordinance #06-22 requires the Town Manager to obtain authorization from the Town Council in order to advertise solicitations for bids and proposals, prior to advertising the public notice. Additionally, pursuant to Chapter 287.055, Florida Statue the Town intends to retain a contractor to perform the services, identified in RFQ# 11-04.

RECOMMENDATION

We recommend that the attached resolution authorizing the Town Manager to issue a Request for Qualifications (RFQ #11-04) be adopted.



RESOLUTION NO. 11-____

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING THE ISSUANCE OF A REQUEST FOR QUALIFICATIONS (RFQ) FOR JANITORIAL MAINTENANCE SERVICES FOR THE TOWN CENTER BUILDING; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay, (the “Town”) purchased the Cutler Bay Town Center located at 10720 Caribbean Boulevard, Cutler Bay, Florida and is responsible for all of the maintenance and tenant improvements; and

WHEREAS, the Town has a month-to-month existing agreement with the prior owner’s Janitorial Maintenance Services Contractor during the building ownership transition period; and

WHEREAS, as per the Town’s Purchasing Ordinance 06-22, the estimated yearly costs for the Janitorial Maintenance Services contract will require the services to be competitively bid; and

WHEREAS, Town staff has prepared a Request For Qualifications (the “RFQ”) to identify the best qualified Janitorial Maintenance Services Contractor to provide services and materials for the Cutler Bay Town Center; and

WHEREAS, in accordance with Chapter 287.055 of the Florida Statutes, a (RFQ) has been prepared to identify best qualified Janitorial Maintenance Services contractor to provide services and materials for the Cutler Bay Town Center; 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, THAT:

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

Section 2. Request For Proposals Advertising Approved. The Town Manager is hereby authorized to advertise and issue a RFQ for Janitorial Maintenance Services for the Town Center Building, in substantially the form attached hereto as Exhibit “A.”

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

PASSED and ADOPTED this _____ day of _____, 2011.

Edward P. MacDougall, Mayor

Attest:

Esther Coulson
Town Clerk

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

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

FINAL VOTE AT ADOPTION:

Mayor Edward P. MacDougall _____

Vice Mayor Ernest N. Sochin _____

Councilmember Peggy R. Bell _____

Councilmember Sue Loyzelle _____

Councilmember Mary Ann Mixon _____



**REQUEST FOR QUALIFICATIONS
CUTLER BAY TOWN CENTER
JANITORIAL MAINTENANCE SERVICES
RFQ# 11-04**

**SECTION # 1
INTRODUCTION**

The Town of Cutler Bay (the TOWN), a municipality located in Miami-Dade County, Florida, desires to receive qualifications for the selection of a Janitorial Maintenance Contractor (the Contractor) to provide Janitorial Services (the Services) to the TOWN. The TOWN has recently purchased a six (6) story commercial office building, approximately 78,198 square feet in size. The building has a typical floor plan with each floor having common area and serviced by two (2) elevators and stairs. The proposed work will include Janitorial Maintenance services six (6) days per week (Monday thru Saturday), including holidays. The “Cutler Bay Town Center” Building located at 10720 Caribbean Boulevard, Cutler Bay, Florida.

The TOWN intends to execute an agreement with selected Contractor(s) to providing such services. The TOWN guarantees that all of the services identified in this Request for Qualifications (RFQ) will be assigned to the Contractor during the term of the Agreement.

1.1 SCHEDULE OF EVENTS

No	Event	Date*	Time* (EST)
1	Advertisement/ Distribution of RFQ & Cone of silence begins	TBA	9:00 AM
2	Mandatory Pre-RFQ-Response Meeting	TBA	1:00 PM
3	Deadline to Submit Questions	TBA	4:00 PM
4	Deadline to Town Responses to Questions	TBA	5:00 PM
5	Deadline to Submit RFQ-Response	TBA	11:00 AM
6	Announcement of selected Contractors/Cone of Silence ends	TBA	TBA

*The Town reserves the right to change the scheduled dates and time.



1.2 ELIGIBILITY

In addition to other requirements stated in this document, to be eligible to respond to this RFQ, the Contractor must have successfully provided within the past eight (8) years services similar to those in Section 2 of this RFQ. Each Contractor shall meet all legal, technical and professional requirements for providing the requested Services.

The respondents shall furnish such additional information as the TOWN may reasonably require. This includes information that indicates financial resources as well as ability to provide and maintain the system and/or services. The TOWN reserves the right to make investigations of the respondents' qualifications or any of its agents, as it deems appropriate.

1.3 ADDENDA

If the TOWN finds it necessary to add to, or amend this document prior to the Response submittal deadline, the TOWN will issue written addenda/addendum. Each Contractor must acknowledge receipt of each addendum by signing the acknowledgement (Appendix A) and providing it with its Response.

1.4 CERTIFICATION

The signer of the Response (to this RFQ) must declare by signing Appendices A and B that the person(s), firm (s) and parties identified in the Response are interested in and available for providing the services; that the Response is made without collusion with any other person(s), firm(s) and parties; that the Response is fair in all respects and is made in good faith without fraud; and that the signer of the cover letter of the Response has full authority to bind the person(s), firm(s) and parties identified in the Response.

1.5 PUBLIC RECORDS

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

1.6 RETENTION OF RESPONSES

The TOWN reserves the right to retain all Responses submitted and to use any ideas contained in any Response, regardless of whether that Contractor is selected.



1.7 QUESTIONS AND CLARIFICATIONS:

All requests for information and/or clarification should be submitted in writing to:

Town of Cutler Bay
Town Clerk's Office
Attn: RFQ # 11-04
Cutler Bay Town Center-Janitorial Maintenance Services
10720 Caribbean Blvd., Suite 105
Cutler Bay, FL 33189
Phone: (305) 234-4262 / Fax: (305) 234-4251
Email: townclerk@cutlerbay-fl.gov

1.8 TOWN AUTHORITY

Proposals will be selected at the sole discretion of the TOWN. The TOWN reserves the right to waive any irregularities in the request process, to reject any or all proposals, or to reject a proposal which is in any way incomplete or irregular. Proposals received after the deadline will not be considered.

1.9 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.

1.10 CONE OF SILENCE

Notwithstanding any other provision of these specifications, the provisions of TOWN "Cone of Silence" are applicable to this transaction. Pursuant to Section 2-11.1(t) of the Miami-Dade County Code, made applicable to the Town pursuant to Section 2-11(t) (4) thereof, there shall be a "Cone of Silence" associated with this solicitation. The entirety of these provisions can be found in the TOWN's Purchasing Ordinance, Town Ordinance 09-12. 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 contractor; 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 distribute all such written communications to all prospective proposers for the subject RFP for whom the Clerk has contact information;
- (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 solely regarding matters of legal process and procedure;
 - (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 which shall be addressed to the Town Clerk or the Town's purchasing agent or the Town employee designated responsible for administering the procurement process for such solicitation;
 - (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 contractor 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.
 - (12) Communications to enable Town Manager to answer specific questions from the Town Council at any time regarding any RFP, RFQ or bid process or award.

Violations of any of the above section(s) by a particular bidder or proposer shall render any RFP award or bid award to said bidder or proposer voidable by the Town Council and/or Town Manager. Any person who violates a provision of this section may be prohibited from serving on a Town selection or evaluation committee.

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.

1.11 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's Office at (305) 234-4262 for additional information.



SECTION # 2

SERVICES NEEDED BY THE TOWN

2.1 GENERAL BACKGROUND

The Town of Cutler Bay recently purchased “The South Dade Tower 2” building located at 10720 Caribbean Boulevard. The existing building was built in 1986 and is six (6) stories with a mechanical penthouse at the roof level. The total square footage is approximately 78,198 s.f. The third floor through the penthouse are occupied by several tenants. Unoccupied areas are available for leasing throughout the third through penthouse floors. The typical office floor plate is approximately 12,565 s.f.

The first and second floors of the building are going to be occupied by the TOWN’s various departments. The police department will be occupying the majority of the second floor. The design and construction of the TOWN and police department offices is being designed and constructed by a design build team that was awarded the contract. The build-out is scheduled to be completed in the summer of 2011.

Pursuant to Chapter 287.055, Florida Statutes, the TOWN intends to retain contractors to provide professional services in the Service Areas identified in Section 1.0 and described further in the Section 2. In order to fulfill the needs of quick response and professional expertise, the TOWN intends to retain one (1) qualified licensed Janitorial Maintenance Contractor. The selected contractor will be responsible for the janitorial services outlined in Section 2.

While pursuing this RFQ process, the TOWN reserves the right to award contracts to Contractors who will best serve the interests of the TOWN and whose Responses are considered by the TOWN to be the most responsive and most responsible.

The TOWN reserves the right to accept or reject any or all Responses, based upon its deliberations and opinions. In making such determination, the TOWN reserves the right to investigate the financial capability, integrity, experience and quality of performance of each Contractor, including officers, principals, senior management and supervisors as well as the staff identified in the Response.

The TOWN also reserves the right to waive minor variations or irregularities in the Responses.



2.2 SCOPE OF SERVICES

The Town of Cutler Bay (TOWN) is interested in obtaining proposals from qualified, licensed and bonded Contractors (CONTRACTOR), to provide Janitorial Services as described in these Technical Specifications, listed below. The Work consists of furnishing all labor, machines, equipment, tools, materials, supplies, service and supervision necessary to perform and maintain our facility (10720 Caribbean Boulevard) in a neat, clean and orderly condition. All labor and materials must be in compliance with all Local, State, Federal and OSHA standards.

The TOWN facility that will require janitorial service and their approximate square footage are as follows:

<u>Name</u>	<u>Address</u>	<u>Approximate Sq Ft.</u>
<u>Cutler Bay Town Center</u>	<u>10720 Caribbean Blvd</u>	<u>78,198</u>

IMPORTANT NOTE: The above indication of approximate squared footage does **not** eliminate the need for the CONTRACTOR's on **site inspection**.

2.3 TOWN SUPPLIED PRODUCTS

TOWN'S Responsibilities:

TOWN will "only" provide reasonable closet space for supplies, Machine and equipment used on a daily basis.

CONTRACTOR'S Responsibilities:

CONTRACTOR will provide ALL consumable janitorial supplies, consisting of paper towels, toilet paper, multifold hand towels, trash bags, liquid soap, and urinal blocks.

CONTRACTOR staff shall be able to work without restrictions to perform all necessary services.

CONTRACTOR shall replenish janitorial supplies, on a as-needed basis.

CONTRACTOR is required to notify the TOWN when there is no more than a three (3) day supply remaining of any item listed above in the janitorial closets.

CONTRACTOR will provide a list of cleaning products, tools, and machines required to clean the TOWN buildings. Once approved by the TOWN, the CONTRACTOR will pay for and provide all cleaning products so specified.



CONTRACTOR's employees are not to use TOWN equipment (i.e., coffee urns, typewriters, adding machines, copiers, radios, telephones, machinery, etc.) for any reason unless approved in writing by the Town of Cutler Bay Staff.

CONTRACTOR'S employees must conduct themselves in a courteous manner and make every effort to avoid any disruption to TOWN employees, patrons, events or functions, which may be on site during the cleaning process.

2.4 CONTRACTOR USE OF SITE AND PREMISES

SECURITY PROVISIONS:

All employees shall be in uniform with identifying Company logo or identification badge [Clearly displayed], and shall maintain a neat and orderly appearance.

Facility keys or any other means of access shall not be identified by either TOWN name or address. Keys shall be tagged with a numerical code known only to the Janitorial Operations Management Staff.

All windows and doors shall be locked during the cleaning operations and when leaving the Building following completion of the cleaning activities. If an office door is found locked, relock it upon completion of cleaning; if the door is not locked, do not lock it upon completion of cleaning. In addition, the TOWN's security/alarm system is to be properly activated. Should the CONTRACTOR set off the alarm system for any reason, they are to notify appropriate TOWN personnel (at phone numbers to be provided at a later date). Should the TOWN's Police Department respond to an alarm, which turns out to be a false alarm, any penalty imposed upon the TOWN (due to the False Alarm Ordinance) will be deducted from the CONTRACTOR's monthly invoice. Any security concerns should be reported to the appropriate TOWN personnel.

Unauthorized personnel shall not be permitted to enter any TOWN facility.

A list of employees' names shall be provided to the TOWN prior to commencement of work.

CONTRACTOR must furnish an on-site supervisor (English speaking), who must be present at any time CONTRACTOR'S staff is working in the facilities.

Time Restrictions for Performing Work:

CONTRACTOR shall not begin work prior to 7:00 pm or unless specified otherwise. All Work in the building must be completed by 5:00 am. The CONTRACTOR is responsible for coordinating cleaning services with Town activities schedule.



2.5 GENERAL HOUSEKEEPING PROVISIONS

A. Equipment: The CONTRACTOR must furnish and maintain, in good repair, all equipment and machinery including, but not limited to mops, brooms, floor machines, etc. and any other equipment and machinery necessary to perform assigned duties at its own expense. A complete list of equipment used in the TOWN buildings must be provided and approved. CONTRACTOR shall avoid using any fuel operated machinery or equipment in the interior of the building.

B. Basic Cleaning Fundamentals: The CONTRACTOR will be required to adhere to the following basic cleaning fundamentals, in addition to “Standard” industry practice(s):

1. Perform all activities safely.
2. Clean for health first and appearance second.
3. Maximize extraction of pollutants from the occupied space.
4. Minimize chemicals, particles and moisture.
5. Minimize human exposure to indoor pollutants.
6. Clean to improve the total environment.
7. Properly dispose of cleaning wastes.

C. General Housekeeping Procedures: The CONTRACTOR must provide the TOWN with a written copy of their housekeeping procedures, prior to commencement of work. CONTRACTOR must furnish the TOWN with written inspection reports and total number of hours for janitorial services performed each day. CONTRACTOR must furnish the TOWN with a report of the results of a complete formal inspection every three (3) months. General housekeeping procedures should include, but are not limited to, the following:

1. Properly dispose of trash, waste and recyclable product.
2. Avoid the use of cleaning solutions and chemicals containing ammonia, chlorine or harsh detergents.
3. Avoid sweeping to reduce airborne dust.
4. Use a dry lint-free dust mop on access floors.
5. Spot clean with a damp mop. All common areas with non-carpeted floors shall be completely mopped daily.
6. All carpets must be vacuumed daily any stains will be removed on a daily basis, as instructed by TOWN staff.



7. All cleaning equipment shall be cleaned thoroughly and stored properly.
 8. All cleaning products being used have been tested according to NEMA standards and that the chemical does not interfere with the static dissipating properties of the floor.
 9. The mops and dust cloths used to clean the computer room are to be used only in the computer room. Under NO circumstances should mops and dust cloths used to clean other areas be used in the computer room.
 10. All trash can liners, in use, will be replaced on a daily basis.
 11. Stripping:
 - a. When using a highly alkaline stripper, be sure to rinse/neutralize thoroughly after stripping.
 - b. When using sealer, apply two thin coats. Allow sealer to dry thoroughly between coats and before applying floor finish.
 - c. Always apply a minimum of two coats of wax allowing floor to dry thoroughly between applications.
 12. Scrubbing/Refinishing:
 - a. Scrub floor with grade pads before refinishing.
 - b. Scrub with a floor-cleaning compound designed expressly for deep cleaning prior to refinishing. Do not use neutral cleaner for this process. Rinse floor thoroughly and allow to dry before refinishing.
- D. Meetings:** The CONTRACTOR or a designated representative, shall be available for biweekly meetings with the TOWN'S contract manager.
- E. Schedule:** Within thirty (30) days of Contract commencement the CONTRACTOR shall provide the Town with a schedule identifying which days of the week, month, and quarter all periodic tasks will be performed for the entire term of the Contract, based on information provided below.



2.6 SPECIFIC HOUSEKEEPING PROVISIONS - FREQUENCY

A. The CONTRACTOR shall perform the following duties on a nightly basis – six (6) days per week , Monday through Saturday.

1. Empty trash, waste and recycling containers (and wash trash lids and containers as needed before replacing liner) in all rooms and hallways, and outside of building. CONTRACTOR shall transport waste to locations in the manner designated by the TOWN.
2. Replace plastic liners of appropriate size in waste receptacles as necessary. Liners shall be replaced as needed.
3. Maintain all desks, file cabinets, workstation partitions, ledges, sills, communication consoles and all furniture in a dust free condition. Clean and polish Formica or wood dais, podiums and other surfaces as necessary to maintain a clean, well-polished appearance.
4. Clean all drinking fountains using metal polish as necessary to remove watermarks and preserve a shiny surface.
5. Vacuum all carpeted floor areas, including areas under desks, chairs, tables and other furniture, as well as corners, baseboards and stairs. The vacuuming shall remove staples, particles of paper or other material, mud, dirt, or any other debris on the carpet.
6. The contractor shall inspect all carpeted areas nightly and clean all spots as needed to maintain the original appearance and condition of the carpets.
7. Wet mop and disinfect all non-carpeted floor areas including stairwells, landings, and two (2) elevators. Wash and mop procedures should leave a clean appearance, without streaks or spots, and should not splatter on walls or baseboard. Vinyl and tile floors shall appear shiny and buffed at all times, except in the Alzheimer Building (see special procedures below). Floor tiles and grout should be maintained in a clean and stain free condition.
8. Clean all stairs, stairways, stairwells and hand rails, vacuum up any debris and wash stair treads whenever soiled.
9. Clean all building entranceways, inside and outside. Particular emphasis should be given to the lobby glass doors, partitions and sidelights to a height of seven feet from the floor.
10. Clean and disinfect all toilets and washrooms, including urinals, sinks, bowls, mirrors, floors, walls, partitions and fixtures. Toilet and washrooms must be maintained in a clean and sanitary condition. Tile surfaces shall be maintained in a clean, unstained condition. The mirrors shall be streak and spot free.
11. Wipe down, clean and disinfect the outside of all appliances with suitable cleaners. In addition, wipe down, clean and disinfect all sinks, counters, tables, chairs and fixtures in employee lounge areas.



B. The CONTRACTOR shall perform the following duties on a weekly basis:

1. Clean all entry and office doors
2. Chrome and bright work in the bathrooms are to be polished with a suitable metal polish.
3. Remove all cobwebs from hallways, restrooms, and individual offices.
4. Wipe, clean and disinfect smudge marks from doors, door frames and light switches.

C. The CONTRACTOR shall perform the following duties at all facilities:

1. Vinyl floors shall be scrubbed, waxed and spray buffed once per month.
2. Strip and wax quarterly.
3. The CONTRACTOR shall Shampoo and rinse all carpeting using the dry extraction method on a quarterly basis (four times per year).
4. CONTRACTOR shall provide a schedule of when the above activities will take place to allow the Town to prepare.

SPECIFIC CLEANING OF THE RESTROOMS

1. Thoroughly clean with disinfectant all walls, toilet bowls, inside and out including base of toilet and seats (front and back). Cleaning shall include all human bodily waste for example, blood and feces.
2. Wipe clean with disinfectant all sinks.
3. Wipe clean all mirrors. (Must be streak and spot free)
4. Check and refill all dispensers such as: toilet tissue, hand towel, soap, etc.



SPECIFIC CLEANING OF THE EMPLOYEE LOUNGE

1. Wipe clean and disinfect all counter tops, sinks and faucets. (Not dishes)
2. Wipe clean and disinfect kitchen appliances. (Not inside of appliances)
3. Wash trash container lid both inside and outside before replacing liner.

SPECIFIC INSTRUCTIONS REGARDING AFTER HOUR MEETINGS

After hour events occur periodically at Town Hall. TOWN staff will provide the CONTRACTOR with a monthly schedule of upcoming events, which will require a schedule change of the janitorial maintenance services. Proper coordination on the part of the CONTRACTOR is mandatory. These events may include but are not limited to Council meetings, workshops, and other public meetings.

REQUEST FOR PRICE OF OPTIONAL SERVICES

The CONTRACTOR will include a separate cost per unit for the following optional services in their proposals:

- A. Spray buff of resilient floors – (S.F.)
- B. Floor stripping, waxing and sealing (S.F.)
- C. Carpet shampooing and rinsing (deep extraction method) (S.F.)
- D. Carpet shampooing (deep extraction method in the Commission Chambers) – include rinsing the carpet after shampooing (S.F.)
- E. Furniture polishing of furniture tops – (S.F. of furniture tops)
- F. Upholstery shampooing – (per seat)
- G. Pressure cleaning –(S.F.)

NOTE: CONTRACTOR's prices for the above-mentioned services will remain fixed and firm for the entire term of the Contract. Additionally, CONTRACTOR agrees to provide any or all of the above-mentioned services upon no less than forty-eight (48) hours notice from the TOWN.



UNOCCUPIED SPACE

A) The Town of Cutler Bay will not pay for unoccupied space. Offices that are unoccupied will have a marker placed on the office door to notify the CONTRACTOR that the office is **UNOCCUPIED**.

B) The monthly cost per square-foot is based on the total occupied square footage for each facility. The monthly fee may be adjusted on a pro rated basis for unoccupied space.

ENVIRONMENTAL PROVISIONS

Energy conservation and recycling are issues of great concern to the TOWN. To this end, CONTRACTOR agrees to the following:

1. Leave only designated night-lights burning upon departure from any TOWN facility;
2. The contractor will strive to use the lowest tax Town/volatility products available that will perform adequately. Cleaners/disinfectants/deodorizers should not generate strong odors;
3. Maximize extraction of pollutants: Use HEPA vacuums or Micro-filters with high efficiency particulate filter bags with filters retaining particles sizes below one (1) micron. Always use a damp cloth when dusting;
4. Replace VOC-based cleaning products with water-based solutions;
5. Maintain the separation of trash and designated recyclables, and deposit each in the appropriate containers and/or dumpsters;
6. Follow all label instructions on all cleaning and disinfecting products;
7. Dispose of all cleaning products or rinse water in the janitorial sink located in every building.

ADDITIONAL REQUIREMENTS

1. A 24 hour contact person and phone number is required
2. Hygiene product supplied by the Town shall not be used for cleaning
3. One week's notice shall be given to the Superintendent prior to special cleaning. This is necessary for relocation of furniture and other items.



SECTION # 3

RESPONSE SUBMISSION REQUIREMENTS AND EVALUATION

Six (6) signed (one original and five (5) photo copies) Responses shall be submitted in one sealed package, clearly marked on the outside "RFQ 11-04, Cutler Bay Town Center, JANITORIAL MAINTENANCE SERVICES". The outside of the sealed envelope shall also show the name of the Prime Contractor.

All sealed Qualification packages must be received at the receptionist's desk in the TOWN Hall located at 10720 Caribbean Blvd., Suite 105, Cutler Bay, FL 33189, by **11:00 AM, TBA**, at which time their receipt will be publicly documented by the Town Clerk or his/her designee(s).

All Responses must be received by the TOWN clerk by the due date and time. All Responses received after the due date and time will not be considered.

3.1 RESPONSE /(QUALIFICATION PACKAGE) PREPARATION

Each contractor shall submit one (1) original and five (5) bound photocopies of each Response. Each Response shall be limited to eighteen (18) pages (paper size 8.5"x11,"printed on only one side of the paper, single or the larger spacing, font size not less than 11) excluding the Certificates and Appendices A, B and C. The sections shall follow the order given on the next page. The twenty-(20)-page limit is for items 1 to 9 on the next page. No material other than that listed in this Section shall be included in the Response.

1. A **one-page** cover letter indicating the Contractors' interest in providing the services to the TOWN and a statement on why the contractor should be selected for the award. The letter shall include the name of the Prime Contractor and those of the subcontractors, explanation of the type of contractual agreement between them, if different from that of Prime and subcontractor. A representative who is authorized to contractually bind the Contractor shall sign this letter.
2. A **one-page** table of contents identifying the sections and page numbers.
3. A **one-page**, cost for the "monthly" Janitorial Maintenance, as detailed in Section # 2 – Scope of Services (Pages 7 thru 14).
4. A **two-page** history of all the contractor(s).
5. **Up to four (4), one-page** resumes of the persons, including the Project Manager that will be assigned to the TOWN projects, if the TOWN selects the Contractor.
6. **Up to two (2), one-page**, a table showing all current and recently completed private and public (local municipal, county, regional and state) sector clients of all the contractors. The table shall include for each client: (a) the length of the contract; (b) the scope of services provided; (c) the type of contract (pro bono, retainer, project based fee, other); (d) specific accomplishments, if any; and (e) a contact name, phone number and e-mail address for each client. If the Contractor team includes subcontractor, there must be at least one project for each subcontractor. The Contractor may select suitable clients/projects, if the list exceeds two-page limit.
7. **Up to a two (2), one-page**, a narrative on projects completed on time and in budget after 1/1/2005.



8. **Up to four (4), one-page,** a description of projects providing services similar to those identified in the scope of services over the eight (8) years. The emphasis shall be given to the projects in Florida AND the tasks performed by the four persons identified in the Response
9. **Up to three (3), one-page,** copies of any press articles, profiles, commendations, awards etc. The emphasis shall be given to the projects completed in Florida AND the projects of the four persons identified in the Response
10. **Six (6) pages,** completed any Appendices A, B and C.
11. Proofs of authorization to transact business in the State from the Florida Secretary of State, from prime as well as supporting firms

3.2 RESPONSE EVALUATION CRITERIA

The selection committee will evaluate the Responses based on the criteria listed below. The points assigned to each criterion are also given:

1. Contractor's similar experience for the past eight (8) years **(25 points)**.
2. Contractor's "monthly" preventative maintenance costs **(50 points)**.
3. Credentials and accomplishments of the contractor's project manager **(10 points)**.
4. Credentials and accomplishments of the contractor in general **(10 points)**.
5. Compliance with the Response preparation and submission requirements **(5 points)**.

[SPACE LEFT BLANK INTENTIONALLY]



SECTION # 4

OTHER CONDITIONS

4.1 TERM OF ENGAGEMENT

Three (3) Years, with the option to extend the contract for an additional two-one (1) year term. The TOWN may terminate the agreement with a sixty (60-days) notice without giving any reason.

4.2 PERMITS, TAXES, LICENSES

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

4.3 LAWS, ORDINANCES

The Contractor shall observe and comply with all federal, state and local laws, ordinances, rules, regulations and professional standards that would apply to this contract. Additionally, selected contractor will be responsible to perform both national/local criminal background checks for **ALL** on-site personnel.

4.4 INSURANCE

Prior to execution of an agreement with the TOWN, the successful Contractor shall provide certificates evidencing insurance coverage as required hereunder. Companies authorized to do business under the laws of the State of Florida shall issue all insurance policies. The Certificates shall clearly indicate that the successful Contractor has obtained insurance of the type, amount, and classification as required and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the TOWN's representative. Compliance with the foregoing requirements shall not relieve the successful Contractor of its liability and obligations under the agreement.

The successful Contractor shall maintain during the term of the agreement, standard Professional Liability insurance in the minimum amount of one-million-dollars (\$1,000,000) per occurrence.

The successful Contractor shall maintain during the life of the agreement, commercial general liability, including contractual liability insurance in the amount of two-million-dollars (\$2,000,000) per occurrence to protect it and the TOWN from claims for damages for bodily and personal injury, including wrongful death, as well as from claims of property damages which may arise from any operations under the agreement, whether such operations be by the successful Contractor or by anyone directly employed by or contracting with the successful Contractor.



The successful Contractor shall maintain, during the life of the agreement, comprehensive automobile liability insurance in the minimum amount of five-hundred-thousand-dollars (\$500,000) combined single limit for bodily injury and property damage liability to protect it from claims for damages for bodily and personal injury, including death, as well as from claims for property damage, which may arise from the ownership, use, or maintenance of owned and non owned automobiles, including rented automobiles whether such operations be by the successful Contractor or by anyone directly or indirectly employed by the successful Contractor.

The successful Contractor shall maintain, during the life of the agreement, as law requires adequate Worker's Compensation Insurance and Employer's Liability insurance in at least such amounts as for all of its employees per Florida Statute 440.02.

The Contractor shall also maintain other required insurance coverage specific to the services to be provided.

4.5 BONDING CAPABILITY

Contractor/Vendor shall demonstrate evidence of bond ability up to \$ 500,000.00 from a bonding company or entity of a minimum rating of AA (or a bank letter of credit in lieu).

4.6 NEGOTIATIONS

Other fees negotiated will be for the underlying contracts and will be negotiated in accordance with Florida Statutes.

[SPACE LEFT BLANK INTENTIONALLY]



APPENDIX A

ACKNOWLEDGEMENT, WARRANTY AND ACCEPTANCE

A. Contractor warrants that it is willing and able to comply with all applicable State of Florida laws, rules and regulations.

B. Contractor warrants that they have read, understand and are willing to comply with all of the requirements of the RFQ and the addendum/ addenda nos.

C. Contractor warrants that it will not delegate or subcontract its responsibilities under an agreement without the prior written permission of the Council.

D. Contractor warrants that all information provided by it in connection with this proposal is true and accurate.

E. CONTINGENCY FEE AND CODE OF ETHICS WARRANTY:

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

Signature of Official: _____

Name (typed): _____

Title: _____

Contractor: _____

Date: _____



APPENDIX B

NON-COLLUSIVE AFFIDAVIT

State of _____

SS:

County of _____

_____ being first duly sworn, deposes and says
that:

(1) He/she is the, (Owner, Partner, Officer, Representative or Agent) of:

_____ the Contractor that has submitted the attached
Proposal;

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

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

(4) Neither the said Contractor 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 Contractor or
person to submit a collusive or sham response in connection with the work for which the
attached Proposal has been submitted, or to refrain from responding in connection with such
work, or have in any manner, directly or indirectly, sought by agreement or collusion,
communication, or conference with any Contractor or person to fix this Proposal or to secure
through any collusion, conspiracy, connivance, or unlawful agreement, any advantage against
the Town of Cutler Bay, or any person interested in the proposed Work;

Signed, sealed and delivered
In the presence of

By: _____

(Printed Name)

(Title)



ACKNOWLEDGMENT

State of Florida

County of _____

On this _____ day of _____, 2011, before me, the undersigned

Notary Public of the State of Florida personally appeared

And whose name(s) is/are subscribed to the within instrument, and he/she/they acknowledge that he/she/they executed it.

WITNESS my hand
and official seal

NOTARY PUBLIC, STATE OF FLORIDA

NOTARY PUBLIC
SEAL

OF

OFFICE:

(Name of Notary Public: Print, Stamp or
Type as commissioned.)
o Personally known to me, or
o Produced identification:

(Type of Identification Produced)
o Did take an oath. or
o Did not take an oath.



APPENDIX C

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

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

1. This sworn statement is submitted to the TOWN OF CUTLER BAY, FLORIDA

By _____

For _____

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 - S.S. # _____)

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

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



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

Signed, sealed and delivered

In the presence:

By:

(Printed Name)

(Title)



ACKNOWLEDGMENT

State of Florida

County of _____

On this _____ day of, 2011, before me, the undersigned Notary Public
of the State of Florida personally appeared _____
and whose name(s) is/are subscribed to the within instrument, and he/she/they acknowledge
that he/she/they executed it.

WITNESS my hand
and official seal

NOTARY PUBLIC, STATE OF FLORIDA

NOTARY PUBLIC
SEAL OF OFFICE:

(Name of Notary Public: Print, Stamp or
Type as commissioned.)
o Personally known to me, or
o Produced identification:

(Type of Identification Produced)
o Did take an oath. or
o Did not take an oath.

TAB 9



Office of the Town Manager

Steven J. Alexander
Town Manager

MEMORANDUM

To: Honorable Mayor, Vice Mayor and Town Council

From: Steven J. Alexander, Town Manager

Date: January 19, 2011

Re: Issuance of Request for Qualification (RFQ) #11-03 Cutler Bay Town Center – Elevator Maintenance Services

REQUEST

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING THE ISSUANCE OF A REQUEST FOR QUALIFICATIONS (RFQ) FOR ELEVATOR MAINTENANCE SERVICES FOR THE TOWN CENTER BUILDING; AND PROVIDING FOR AN EFFECTIVE DATE.

BACKGROUND AND ANALYSIS

The Town recently purchased the South Dade 2 Building (Town Center Building), located at 10720 Caribbean Boulevard Cutler Bay, Florida. The Town is scheduled to perform improvements to the existing two (2) Otis electric geared type elevators servicing the Town Center building.

In order to comply with our procurement process, staff has developed a Request for Qualification in which one qualified and licensed Elevator Contractors will be selected. The elevator contractor will be selected based on their experience with similar type commercial buildings, monthly preventative maintenance costs, credentials and accomplishments of the project manager, credentials of the contractor in general, etc.

Town Ordinance #06-22 requires the Town Manager to obtain authorization from the Town Council in order to advertise solicitations for bids and proposals, prior to advertising the public notice. Additionally, pursuant to Chapter 287.055, Florida Statutes, the Town intends to retain consultants to provide professional services.





RECOMMENDATION

We recommend that the attached resolution authorizing the Town Manager to issue a Request for Qualifications (RFQ #11-03) be adopted.



RESOLUTION NO. 11-____

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING THE ISSUANCE OF A REQUEST FOR QUALIFICATIONS (RFQ) FOR ELEVATOR MAINTENANCE SERVICES FOR THE TOWN CENTER BUILDING; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay, (the “Town”) purchased the Cutler Bay Town Center located at 10720 Caribbean Boulevard, Cutler Bay, Florida and is responsible for all of the maintenance and improvements; and

WHEREAS, the Town has a month-to-month existing agreement with the prior owner’s elevator maintenance contractor during the building ownership transition period; and

WHEREAS, as per the Town’s Purchasing Ordinance 06-22, the yearly elevator services contract estimates will require the services to be competitively bid; and

WHEREAS, Town staff has prepared a Request For Qualifications (the “RFQ”) to identify the best qualified elevator maintenance contractor to provide monthly preventative maintenance services and materials for the Cutler Bay Town Center; and

WHEREAS, in accordance with Chapter 287.055 of the Florida Statutes, a (RFQ) has been prepared to identify best qualified elevator maintenance contractor to provide routine maintenance services and materials for the Cutler Bay Town Center; 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, THAT:

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

Section 2. Request For Proposals Advertising Approved. The Town Manager is hereby authorized to advertise and issue a RFQ for elevator maintenance services for the Town Center Building, in substantially the form attached hereto as Exhibit “A.”

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

PASSED and ADOPTED this _____ day of _____, 2011.

Edward P. MacDougall, Mayor

Attest:

Esther Coulson
Town Clerk

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

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

FINAL VOTE AT ADOPTION:

Mayor Edward P. MacDougall _____

Vice Mayor Ernest N. Sochin _____

Councilmember Peggy R. Bell _____

Councilmember Sue Loyzelle _____

Councilmember Mary Ann Mixon _____



**REQUEST FOR QUALIFICATIONS
CUTLER BAY TOWN CENTER
ELEVATOR MAINTENANCE SERVICES
RFQ# 11-03**

**SECTION # 1
INTRODUCTION**

The Town of Cutler Bay (the TOWN), a municipality located in Miami-Dade County, Florida, desires to receive qualifications for the selection of a Elevator Maintenance and Repair Contractor (the Contractor) to provide Professional Services (the Services) to the TOWN for the monthly preventative maintenance of the Town Center's two (2) Electric Geared traction passenger elevators, serving six (6) landings at 2,500 lb. capacity and 350 Feet Per Minute (FPM) and associated equipment. The work will include required monthly maintenance and other improvements of the elevators "Cutler Bay Town Center" Building located at 10720 Caribbean Boulevard, Cutler Bay, Florida.

The TOWN intends to execute an agreement with selected Contractor(s) to providing such services. The TOWN guarantees that all of the services identified in this Request for Qualifications (RFQ) will be assigned to the Contractor during the term of the Agreement.

1.1 SCHEDULE OF EVENTS

No	Event	Date*	Time* (EST)
1	Advertisement/ Distribution of RFQ & Cone of silence begins	TBA	9:00 AM
2	Mandatory Pre-RFQ-Response Meeting	TBA	1:00 PM
3	Deadline to Submit Questions	TBA	4:00 PM
4	Deadline to Town Responses to Questions	TBA	5:00 PM
5	Deadline to Submit RFQ-Response	TBA	11:00 AM
6	Announcement of selected Contractors/Cone of Silence ends	TBA	TBA

*The Town reserves the right to change the scheduled dates and time.



1.2 ELIGIBILITY

In addition to other requirements stated in this document, to be eligible to respond to this RFQ, the Contractor must have successfully provided within the past eight (8) years services similar to those in Section 2 of this RFQ. Each Contractor shall meet all legal, technical and professional requirements for providing the requested Services.

The respondents shall furnish such additional information as the TOWN may reasonably require. This includes information that indicates financial resources as well as ability to provide and maintain the system and/or services. The TOWN reserves the right to make investigations of the respondents' qualifications or any of its agents, as it deems appropriate.

1.3 ADDENDA

If the TOWN finds it necessary to add to, or amend this document prior to the Response submittal deadline, the TOWN will issue written addenda/addendum. Each Contractor must acknowledge receipt of each addendum by signing the acknowledgement (Appendix A) and providing it with its Response.

1.4 CERTIFICATION

The signer of the Response (to this RFQ) must declare by signing Appendices A and B that the person(s), firm (s) and parties identified in the Response are interested in and available for providing the services; that the Response is made without collusion with any other person(s), firm(s) and parties; that the Response is fair in all respects and is made in good faith without fraud; and that the signer of the cover letter of the Response has full authority to bind the person(s), firm(s) and parties identified in the Response.

1.5 PUBLIC RECORDS

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

1.6 RETENTION OF RESPONSES

The TOWN reserves the right to retain all Responses submitted and to use any ideas contained in any Response, regardless of whether that Contractor is selected.



1.7 QUESTIONS AND CLARIFICATIONS:

All requests for information and/or clarification should be submitted in writing to:

Town of Cutler Bay
Town Clerk's Office
Attn: RFQ # 11-03
Cutler Bay Town Center-Elevator Maintenance Services
10720 Caribbean Blvd., Suite 105
Cutler Bay, FL 33189
Phone: (305) 234-4262 / Fax: (305) 234-4251
Email: townclerk@cutlerbay-fl.gov

1.8 TOWN AUTHORITY

Proposals will be selected at the sole discretion of the TOWN. The TOWN reserves the right to waive any irregularities in the request process, to reject any or all proposals, or to reject a proposal which is in any way incomplete or irregular. Proposals received after the deadline will not be considered.

1.9 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.

1.10 CONE OF SILENCE

Notwithstanding any other provision of these specifications, the provisions of TOWN "Cone of Silence" are applicable to this transaction. Pursuant to Section 2-11.1(t) of the Miami-Dade County Code, made applicable to the Town pursuant to Section 2-11(t) (4) thereof, there shall be a "Cone of Silence" associated with this solicitation. The entirety of these provisions can be found in the TOWN's Purchasing Ordinance, Town Ordinance 09-12. 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 contractor; 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 distribute all such written communications to all prospective proposers for the subject RFP for whom the Clerk has contact information;
- (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 solely regarding matters of legal process and procedure;
- (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 which shall be addressed to the Town Clerk or the Town's purchasing agent or the Town employee designated responsible for administering the procurement process for such solicitation;
- (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 contractor 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.
- (12) Communications to enable Town Manager to answer specific questions from the Town Council at any time regarding any RFP, RFQ or bid process or award.

Violations of any of the above section(s) by a particular bidder or proposer shall render any RFP award or bid award to said bidder or proposer voidable by the Town Council and/or Town Manager. Any person who violates a provision of this section may be prohibited from serving on a Town selection or evaluation committee.

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.

1.11 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's Office at (305) 234-4262 for additional information.



SECTION # 2

SERVICES NEEDED BY THE TOWN

2.1 GENERAL BACKGROUND

The Town of Cutler Bay recently purchased “The South Dade Tower 2” building located at 10720 Caribbean Boulevard. The existing building was built in 1986 and is six story’s with a mechanical penthouse at the roof level. The total square footage is approximately 78,198 s.f. The second floor through the penthouse is occupied by several tenants. Unoccupied areas are available for leasing throughout the second through penthouse floors. The typical office floor plate is approximately 12,565 s.f.

The first and second floor of the building is going to be occupied by the TOWN’s various departments. The police department will be occupying the majority of the second floor. The design and construction of the TOWN and police department offices is being designed and constructed by a design build team that was awarded the contract. The constructions of these improvements for the TOWN are expected to start in the first quarter of 2011.

The Town Center building is serviced by two (2) electric geared traction passenger elevators serving six (6) landings at 2,500 pounds capacity and 350 Feet Per Minute (FPM)- Automatic D.

Pursuant to Chapter 287.055, Florida Statutes, the TOWN intends to retain contractors to provide professional services in the Service Areas identified in Section 1.0 and described further in the Section 2. In order to fulfill the needs of quick response and professional expertise, the TOWN intends to retain one (1) qualified licensed elevator Contractor. The selected contractor will be responsible for the monthly preventative maintenance tasks, outlined in Section 2. The contractor will be responsible to coordinate with Miami-Dade County’s annual certification process. Additionally, other non-maintenance related repairs will be awarded on an as-needed basis, by the Town’s staff.

While pursuing this RFQ process, the TOWN reserves the right to award contracts to Contractors who will best serve the interests of the TOWN and whose Responses are considered by the TOWN to be the most responsive and most responsible.

The TOWN reserves the right to accept or reject any or all Responses, based upon its deliberations and opinions. In making such determination, the TOWN reserves the right to investigate the financial capability, integrity, experience and quality of performance of each Contractor, including officers, principals, senior management and supervisors as well as the staff identified in the Response.

The TOWN also reserves the right to waive minor variations or irregularities in the Responses.



2.2 SCOPE OF SERVICES

Furnish all labor necessary to inspect, install replacement parts and service the subject equipment to maintain it in good operating condition. Replacement parts and material are not included in a monthly maintenance fee. Parts and materials will be reimbursed separately, upon approval by Town staff. The contractor will be responsible to obtain all of the required Permits, from the Town's Building & Zoning Department. The permit fees will be billed separately on each "approved" Work Order, issued by Town staff. The contractor will be responsible to perform all necessary repairs, in order to obtain the Miami-Dade County annual Elevator Inspection Certificate.

Regularly inspect the equipment at least twelve (12) times a year, and on each inspection perform all services identified below.

Furnish the Town with a copy of the Inspection Report indicating what repairs, if any, were necessary resulting from each inspection. PROVIDE EMERGENCY SERVICE as needed between inspections during normal working hours at no extra charge.

Provide the Town with Instructions in the operation of equipment to provide for greatest operating efficiency.

Perform regular, systematic examinations of the equipment. These examinations will also include lubrication, adjustment, and other services as specified within this Agreement.

Equipment Repairs or Replacement

When conditions warrant, due to the wear and tear of normal usage, repair or replace the equipment. Replacement of signal lamps will be made during scheduled examinations.

Customer Service Technician

Assign a customer service technician. This technician will be trained and qualified to troubleshoot and perform the scheduled routine preventive maintenance functions on the equipment based on a regular and systematic program. As appointed by the Town.

Prompt Emergency Service Response

Should trouble develop between regularly scheduled examinations, emergency service dispatchers are to be on duty 24 hours per day. Promptly dispatch a service technician upon notification to us of trouble and your request for such service. The cost of emergency service rendered during overtime hours will be negotiated prior to the execution of a maintenance contract. Should a passenger be trapped on an elevator, such a call will be given the highest priority for on-site service upon notification.



Hours of Service

Unless noted otherwise under "Special Provisions," regular working hours are 8:00 AM to 5:30 PM, Monday through Saturday, including holidays. All other hours are considered overtime.

ADDITIONAL SUPPORT SERVICES

Parts Inventory

Maintain, on the job site or in service vehicles, a supply of commonly used replacement parts, lubricants, and wiping cloths for the performance of routine maintenance and parts replacement.

Wiring Diagrams

Provide the proper wiring diagrams for the equipment covered: These diagrams will remain the Town's property, and will be maintained by the contractor for use in troubleshooting and servicing the elevator equipment.

Replacement Parts Warehousing

Maintain additional parts inventory within the contractor's local warehouses. The main Service Center will maintain a comprehensive inventory of replacement parts for use on this contract. The contractor will have available "Emergency" delivery of stocked parts to be available on an expedited express delivery basis.

Engineering Services

Maintain a staff of field and headquarters engineering personnel. That will be specially trained and uniquely qualified to support such service technicians whenever necessary.

Technical Library

Maintain an exclusive in-depth library of technical information. This information includes maintenance, repair, circuitry, parts, and troubleshooting information.

Training

Personnel assigned to this account will be continually trained and updated on new methods and technology applicable to the maintenance and repair of the equipment.

Field Supervision

Maintain a full-time staff of supervisory personnel. They will work with the Town to conveniently schedule the various repairs and routine maintenance functions performed on the equipment. They will also oversee the work performed by the service personnel assigned to this contract on a day-to-day basis.



Performance Evaluation

For each unit, we conduct an initial evaluation of equipment performance characteristics. Following this evaluation, perform periodic adjustments, repairs or replacements required to maintain the performance characteristics of the system as determined by the initial) evaluation.

Equipment Update Report

Keep the Town informed of changes in Code requirements, reliability standards, and performance improvements. Provide you with periodic reports outlining specific recommendations for the particular equipment.

Manpower Availability

Maintain a full-time local staff of service technicians to meet the day-to-day requirements of the service Agreement. Assure prompt service in the event of a major equipment outage.

Travel Costs for Minor Emergency Service

Absorb the cost of the actual on-site time during regular working hours. Absorb the cost of the actual on-site time during overtime hours.

- We will perform an annual no-load safety test on each traction or drum elevator.
- Five-Year Traction Full Load Safety Test
We will perform, each fifth year, a full load safety test on each traction or drum elevator.

Painting of Machine Room Floor

Keep the machine room floor properly painted, as instructed by Town staff.

Cleaning of Equipment

Periodically clean the machinery and machine room area and maintain them in a presentable condition.

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2.3 EQUIPMENT COVERAGE

The entire system, as described below, is included for coverage under this Scope of Services. This coverage includes the applicable systems described below as well as all sub-assemblies and all sub-components that comprise these described systems:

Machine, including worms, gears, bearings, brake, linings, coil, contact, coupling and sheaves Selector, including motors, cams, switches, bearings, wiring, cable, tape, and driving mechanism

Controller and Dispatcher, including wiring, relays, capacitors, timers, resistors, computers, solid state components, circuit boards, rectifiers, transformers, load weighing and transducers

Hoist Motor and Generator, including windings, fields, stators, rotating elements, brushes, holders, bearings, commutators, and static drive

Hoist and Governor Ropes, including tension equalization, and re-socketing of drum hoist and counterweight ropes.

Car and Counterweight Safety Mechanism, including governor Hoistway Equipment, including switches, cams and sheaves Car and Counterweight Guide Shoes, including gibs and rollers

Car and Counterweight Buffers, including switches, springs and oil Car, Shaftway, and Machine Room Wiring, including travelling cables Car and Hall Signal Devices, including lamps and displays

Car and Hall Operating Devices, including buttons, lamps and switches.

Hoistway Door Hardware, including hangers, interlocks, gibs and closers

Door Operator System, including motor, clutches, sheaves, belts, bearings, contacts, cams, gears, car door hangers, and door reversal devices

All Accessory Equipment except such items as are hereinafter excluded.

2.4 SCHEDULE

CONTRACTOR will complete the work items outlined in the Scope of Work within a timetable that will be deemed acceptable by the TOWN depending on the scope of work assigned of each particular task. "Notice to Proceed" from the TOWN will be issued once the scope, schedule and cost for the work has been determined (provided by the contractor).



SECTION # 3

RESPONSE SUBMISSION REQUIREMENTS AND EVALUATION

Six (6) signed (one original and five (5) photo copies) Responses shall be submitted in one sealed package, clearly marked on the outside "RFQ 11-03, Cutler Bay Town Center, ELEVATOR MAINTENANCE SERVICES". The outside of the sealed envelope shall also show the name of the Prime Contractor.

All sealed Qualification packages must be received at the receptionist's desk in the TOWN Hall located at 10720 Caribbean Blvd., Suite 105, Cutler Bay, FL 33189, by **11:00 AM, TBA**, at which time their receipt will be publicly documented by the Town Clerk or his/her designee(s).

All Responses must be received by the TOWN clerk by the due date and time. All Responses received after the due date and time will not be considered.

3.1 RESPONSE /(QUALIFICATION PACKAGE) PREPARATION

Each contractor shall submit one (1) original and five (5) bound photocopies of each Response. Each Response shall be limited to eighteen (18) pages (paper size 8.5"x11,"printed on only one side of the paper, single or the larger spacing, font size not less than 11) excluding the Certificates and Appendices A, B and C. The sections shall follow the order given on the next page. The twenty-(20)-page limit is for items 1 to 9 on the next page. No material other than that listed in this Section shall be included in the Response.

1. A **one-page** cover letter indicating the Contractors' interest in providing the services to the TOWN and a statement on why the contractor should be selected for the award. The letter shall include the name of the Prime Contractor and those of the subcontractors, explanation of the type of contractual agreement between them, if different from that of Prime and subcontractor. A representative who is authorized to contractually bind the Contractor shall sign this letter.
2. A **one-page** table of contents identifying the sections and page numbers.
3. A **one-page**, cost for the "monthly" Elevator Maintenance, as stated in Section # 2 (Pages 7 thru 11).
4. A **two-page** history of all the contractor(s).
5. **Up to four (4), one-page** resumes of the persons, including the Project Manager that will be assigned to the TOWN projects, if the TOWN selects the Contractor.
6. **Up to two (2), one-page**, a table showing all current and recently completed private and public (local municipal, county, regional and state) sector clients of all the contractors. The table shall include for each client: (a) the length of the contract; (b) the scope of services provided; (c) the type of contract (pro bono, retainer, project based fee, other); (d) specific accomplishments, if any; and (e) a contact name, phone number and e-mail address for each client. If the Contractor team includes subcontractor, there must be at least one project for each subcontractor. The Contractor may select suitable clients/projects, if the list exceeds two-page limit.



7. **Up to a two (2), one-page,** a narrative on projects completed on time and in budget after 1/1/2005.
8. **Up to four (4), one-page,** a description of projects providing services similar to those identified in the scope of services over the eight (8) years. The emphasis shall be given to the projects in Florida AND the tasks performed by the four persons identified in the Response
9. **Up to three (3), one-page,** copies of any press articles, profiles, commendations, awards etc. The emphasis shall be given to the projects completed in Florida AND the projects of the four persons identified in the Response
10. **Six (6) pages,** completed any Appendices A, B and C.
11. Proofs of authorization to transact business in the State from the Florida Secretary of State, from prime as well as supporting firms

3.2 RESPONSE EVALUATION CRITERIA

The selection committee will evaluate the Responses based on the criteria listed below. The points assigned to each criterion are also given:

1. Contractor's similar experience for the past eight (8) years **(25 points)**.
2. Contractor's "monthly" preventative maintenance costs **(50 points)**.
3. Credentials and accomplishments of the contractor's project manager **(10 points)**.
4. Credentials and accomplishments of the contractor in general **(10 points)**.
5. Compliance with the Response preparation and submission requirements **(5 points)**.

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SECTION # 4

OTHER CONDITIONS

4.1 TERM OF ENGAGEMENT

Three (3) Years, with the option to extend the contract for an additional two-one (1) year term. The TOWN may terminate the agreement with a sixty (60-days) notice without giving any reason.

4.2 PERMITS, TAXES, LICENSES

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

4.3 LAWS, ORDINANCES

The Contractor shall observe and comply with all federal, state and local laws, ordinances, rules, regulations and professional standards that would apply to this contract. Additionally, selected contractor will be responsible to perform both national/local criminal background checks for **ALL** on-site personnel.

4.4 INSURANCE

Prior to execution of an agreement with the TOWN, the successful Contractor shall provide certificates evidencing insurance coverage as required hereunder. Companies authorized to do business under the laws of the State of Florida shall issue all insurance policies. The Certificates shall clearly indicate that the successful Contractor has obtained insurance of the type, amount, and classification as required and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the TOWN's representative. Compliance with the foregoing requirements shall not relieve the successful Contractor of its liability and obligations under the agreement.

The successful Contractor shall maintain during the term of the agreement, standard Professional Liability insurance in the minimum amount of two-million-dollars (\$2,000,000) per occurrence.

The successful Contractor shall maintain during the life of the agreement, commercial general liability, including contractual liability insurance in the amount of two-million-dollars (\$2,000,000) per occurrence to protect it and the TOWN from claims for damages for bodily and personal injury, including wrongful death, as well as from claims of property damages which may arise from any operations under the agreement, whether such operations be by the successful Contractor or by anyone directly employed by or contracting with the successful Contractor.



The successful Contractor shall maintain, during the life of the agreement, comprehensive automobile liability insurance in the minimum amount of five-hundred-thousand-dollars (\$500,000) combined single limit for bodily injury and property damage liability to protect it from claims for damages for bodily and personal injury, including death, as well as from claims for property damage, which may arise from the ownership, use, or maintenance of owned and non owned automobiles, including rented automobiles whether such operations be by the successful Contractor or by anyone directly or indirectly employed by the successful Contractor.

The successful Contractor shall maintain, during the life of the agreement, as law requires adequate Worker's Compensation Insurance and Employer's Liability insurance in at least such amounts as for all of its employees per Florida Statute 440.02.

The Contractor shall also maintain other required insurance coverage specific to the services to be provided.

4.5 BONDING CAPABILITY

Contractor/Vendor shall demonstrate evidence of bond ability up to \$ 500,000.00 from a bonding company or entity of a minimum rating of AA (or a bank letter of credit in lieu).

4.6 NEGOTIATIONS

Other fees negotiated will be for the underlying contracts and will be negotiated in accordance with Florida Statutes.

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APPENDIX A

ACKNOWLEDGEMENT, WARRANTY AND ACCEPTANCE

A. Contractor warrants that it is willing and able to comply with all applicable State of Florida laws, rules and regulations.

B. Contractor warrants that they have read, understand and are willing to comply with all of the requirements of the RFQ and the addendum/ addenda nos.

C. Contractor warrants that it will not delegate or subcontract its responsibilities under an agreement without the prior written permission of the Council.

D. Contractor warrants that all information provided by it in connection with this proposal is true and accurate.

E. CONTINGENCY FEE AND CODE OF ETHICS WARRANTY:

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

Signature of Official: _____

Name (typed): _____

Title: _____

Contractor: _____

Date: _____



APPENDIX B

NON-COLLUSIVE AFFIDAVIT

State of _____

SS:

County of _____

_____ being first duly sworn, deposes and says
that:

(1) He/she is the, (Owner, Partner, Officer, Representative or Agent) of:

_____ the Contractor that has submitted the attached
Proposal;

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

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

(4) Neither the said Contractor 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 Contractor or
person to submit a collusive or sham response in connection with the work for which the
attached Proposal has been submitted, or to refrain from responding in connection with such
work, or have in any manner, directly or indirectly, sought by agreement or collusion,
communication, or conference with any Contractor or person to fix this Proposal or to secure
through any collusion, conspiracy, connivance, or unlawful agreement, any advantage against
the Town of Cutler Bay, or any person interested in the proposed Work;

Signed, sealed and delivered
In the presence of

By: _____

(Printed Name)

(Title)



ACKNOWLEDGMENT

State of Florida

County of _____

On this _____ day of _____, 2011, before me, the undersigned

Notary Public of the State of Florida personally appeared

And whose name(s) is/are subscribed to the within instrument, and he/she/they acknowledge that he/she/they executed it.

WITNESS my hand
and official seal

NOTARY PUBLIC, STATE OF FLORIDA

NOTARY PUBLIC
SEAL

OF

OFFICE:

(Name of Notary Public: Print, Stamp or
Type as commissioned.)
o Personally known to me, or
o Produced identification:

(Type of Identification Produced)
o Did take an oath. or
o Did not take an oath.



APPENDIX C

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

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

1. This sworn statement is submitted to the TOWN OF CUTLER BAY, FLORIDA

By _____

For _____

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 - S.S. # _____)

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

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



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

Signed, sealed and delivered

In the presence:

By:

(Printed Name)

(Title)



ACKNOWLEDGMENT

State of Florida

County of _____

On this _____ day of, 2011, before me, the undersigned Notary Public
of the State of Florida personally appeared _____
and whose name(s) is/are subscribed to the within instrument, and he/she/they acknowledge
that he/she/they executed it.

WITNESS my hand
and official seal

NOTARY PUBLIC, STATE OF FLORIDA

NOTARY PUBLIC
SEAL OF OFFICE:

(Name of Notary Public: Print, Stamp or
Type as commissioned.)
o Personally known to me, or
o Produced identification:

(Type of Identification Produced)
o Did take an oath. or
o Did not take an oath.

TAB 10



Office of the Town Manager

Steven J. Alexander
Town Manager

MEMORANDUM

To: Mayor and Town Council

From: Steven Alexander

Date: December 21, 2010

Re: Amendment to Ordinance 07-09 Establishing a Lien Reduction Process and Updating Code Enforcement Procedures

BACKGROUND

On March 21st 2007, Town Council passed Ordinance 07-09 which established local code enforcement procedures for the Town. Prior to this date the Town conducted code enforcement following the language contained in the Miami-Dade County Code made applicable to the Town by Section 8.3 of the Town Charter. Ordinance 07-09 established that violation of any Town ordinance constitutes a civil offense, punishable by civil penalty and the ordinance further created a Special Master position to hear cases and requests for appeals. Criteria and procedures for code enforcement activities, civil penalties, rights of violators, payment of fines, scheduling and conduct of hearings, and recovery of unpaid penalties and liens were also incorporated.

ANALYSIS

The attached ordinance has amendments that clarify and update existing code language. The main intent of the amendment is to incorporate a lien reduction process for properties which have significant lien amounts accrued and are the subject of a potential ownership transfer. Section 7(f)-(o) is added, establishing a process for reduction of lein authorization. The process includes specific guidelines for reaching a reasonable and equitable amount, ranging from 25% to 95% of the recorded lien, and provides that the reduction is not less than the administrative costs incurred by the Town.





The term “administrative costs” has been expanded to specify the various types of expenses incurred by the Town are considered administrative costs. The amendment also provides authority for a reduction below civil penalty guidelines where there is a demonstrated financial hardship. the amendment also clarifies pertains the treatment of “uncorrectable violations”, which are single prohibited acts rather than ongoing conditions or circumstances, by treating each instance as separate violations which has become an issue of recurring issues.

RECOMMENDATION

Approval of the ordinance amendment.



ORDINANCE NO.10-

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING CODE ENFORCEMENT PROCEDURES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Mayor and Town Council of the Town of Cutler Bay (the “Town”) finds it is in the best interest of the Town to amend the code enforcement procedures adopted in Town Ordinance 07-09; and

WHEREAS, Section 162.03(2), Florida Statutes, authorizes the Town to adopt an alternate method of code enforcement.

NOW, THEREFORE, BE IT ORDAINED 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. Code Enforcement Procedures Adopted. The Code is amended as follows:

Sec. 1.Civil offenses and penalties; Special Magistrate.

The violation of any Town ordinance shall constitute a civil offense punishable by civil penalty in the amount prescribed ~~in this Section 10 and as modified by Section 4 of this chapter.~~ Accordingly, there is hereby created and established a code enforcement position to be filled by a Special Magistrate to enforce the Town code of ordinances.

Sec. 2.Qualifications of the Special Magistrate and removal; organization.

(a) The Special Magistrate shall possess an outstanding reputation for civic pride, interest, integrity, responsibility, and business or professional ability. The Special Magistrate shall be a member of the Florida Bar in good standing or a retired judge of one of the courts of the State of Florida. The appointment of the Special Magistrate shall be made by the Town Manager on the basis of experience or interest in code enforcement. The Special Magistrate shall be appointed for a term of two (2) years. The Special Magistrate may be reappointed at the discretion of the Town Manager. There shall be no limit on the number of reappointments that may be given to any Special Magistrate; provided, however, that a determination as to removal or reappointment must be made at the end of each of his or her two-year terms. The Town Manager shall have authority to remove the Special Magistrate with or without cause. Appointments to fill any vacancy shall be for the remainder of the unexpired term.

(b) The Town Attorney's Office shall, when so requested by the Town Manager, represent the Town in the prosecution of a violation. If an appeal hearing is held pursuant to Section 8, the Town Attorney's Office shall, if requested by the Town Manager, represent the Town at such proceedings.

Sec. 3. Enforcement procedures.

(a) For the purposes of this chapter, a "Code Compliance Officer" is defined to be any agent or employee of the Town whose duty is to assure the enforcement of and compliance with the Code of the Town.

(b) Code Compliance Officers shall have the authority to initiate enforcement proceedings as provided below. ~~No~~ The Special Magistrate shall not have the power to initiate such proceedings.

(c) For the purposes of this chapter, "violators" shall be deemed to be those persons or entities legally responsible for the violation of the ordinances.

(d) A Code Compliance Officer who finds a violation of ~~those ordinances of this~~ Code shall determine a reasonable time period within which the violator must correct the violation. This determination shall be based on considerations of fairness; practicality; ease of correction; ability to correct; severity of violation; nature, extent and probability of danger or damage to the public; and other relevant factors relating to the reasonableness of the time period prescribed. A time for correction need not be specified if the violation is deemed to be an uncorrectable violation or a repeat violation.

(e) A Code Compliance Officer who finds such a violation shall issue a civil violation notice to the violator. Service shall be effected by delivering the civil violation notice to the violator or his agent, or by leaving the civil violation notice at the violator's usual place of abode with any person residing therein who is fifteen (15) years of age or older and informing that person of its contents. If such service cannot be effected, the civil violation notice may be sent by certified mail, return receipt requested, or by posting of the civil violation notice in a conspicuous place on the premises or real property upon which the violation has been observed or by mailing to or posting the civil violation notice at the property owner's mailing address as listed in the tax records of the County. Such posting of the civil violation shall be deemed proper service; and the time for compliance; stated in the notice; shall commence with the date such notice is posted.

(f) The civil violation notice shall include but not be limited to the following:

- (1) Date of issuance.
- (2) Name of Code Compliance Officer~~and division or department~~ issuing the notice.
- (3) Name and address of the violator.
- (4) ~~Section~~ Section Number of the Code Section that has been violated.
- (5) Brief description of the nature of the violation, including location, date, and time of violation.
- (6) Amount of the civil penalty for which the violator may be liable.
- (7) Instructions and due date for paying the civil fine or filing for an administrative hearing before a Special Magistrate to appeal the civil fine.
- (8) Time within which the violation must be corrected, if applicable.

(9) Notice that each day of continued violation after the time period for correction has run shall be deemed a continuing violation subject to additional penalty in the same amount, without the need for additional notices of violation.

~~(10) Notice that the filing of a request for an administrative hearing will toll the accrual of continuing violation penalties.~~

~~(11) Notice that failure to request an administrative hearing within twenty (20) days, or within the specified time period listed for a violation of a specific Section of the Code, after service of the civil violation notice shall constitute a waiver of the violator's right to an administrative hearing before the Special Magistrate, and that such waiver shall constitute an admission of violation.~~

~~(12) Notice that the violator may be liable for the reasonable costs of the administrative hearing should he be found guilty of the violation.~~

~~(13) Notice that the violator may be liable for the Town's administrative costs and expenses incurred as a result of investigation, enforcement, testing or monitoring incurred by the Town in its prosecution of violations, including, but not limited to, any staff time, Special Magistrate's time, and attorney's fees for the inspection, investigation, prosecution, testing, or monitoring of a code violation should the violator be found guilty of the violation.~~

(g) A Code Compliance Officer is authorized to record in the public record the civil violation notice or a notice of violation which is based upon the civil violation notice. The recording of the civil violation or a notice of violation under this section shall not act as or be a lien on the property and shall not act as a notice of a lien on the property but shall merely act as public notice of the existence of the violation.

Sec. 4. Civil penalties and related terms construed.

(a) Penalties for violations of the ordinances to be enforced by this chapter shall be in the amount prescribed in the schedule of civil penalties in Section 10, unless otherwise provided in this Code or by other law.

(b) An "uncorrectable violation" is a violation which cannot be remedied after the violation has been committed because the violation constitutes a single prohibited act rather than an ongoing condition or circumstance. Each ~~reoccurrence of an~~ uncorrectable violation shall constitute a separate violation and shall subject the violator to an additional penalty, including repeat violation penalties, as applicable, in the same amount as that prescribed for the original violation. If, however, a violator has been once found guilty of an uncorrectable violation, and causes the same uncorrectable violation to occur a second time, each reoccurrence of the uncorrectable violation by such violator shall constitute a "repeat violation" as provided in Section 4(d). Continuing violation penalties cannot be imposed by the Special Magistrate for uncorrectable violations, however the maximum fine for an uncorrectable violation shall be \$5000.

(c) "Continuing violations" are those violations which remain uncorrected beyond the reasonable time period for correction contained in either the civil violation notice or the ~~final~~ order of the Special Magistrate, whichever is applicable. For each day of continued violation after the time for correction has run, an additional penalty in the same amount as that prescribed for the original violation shall be added.

(d) A "repeat violation" is a recurring violation of an ordinance by a violator who has previously been found guilty or who has admitted guilt of the same violation within

the last five (5) years. In the case of correctable violations, a repeat violation can occur only after correction of the previous violation has been made. For the first repeat violation, the amount of the civil penalty shall be double the amount of penalty prescribed for the original violation ~~by Section 10~~. The amount of civil penalty due for each subsequent repeat violation shall be double the amount of penalty due for the first day of the immediately preceding violation, to a maximum initial civil penalty of four times the original penalty for the second and subsequent repeat violations. A repeat violation shall accrue civil penalties from the date of the civil violation notice and continuing violation penalties in the same amount until the violation is corrected.

~~(e) — A repeat violation which remains uncorrected beyond the time prescribed for correction in the civil violation notice shall be treated as a continuing violation, and the additional penalty for each day of continued violation shall be equal to the doubled amount due for the first day of the repeat violation.~~

~~(f)(e)~~ Continuing violation penalties shall accrue from the ~~date of deadline~~ for correction given in the civil violation notice until the violation is corrected~~correction is made and payment of the fine is received if a request for administrative hearing is not timely filed~~. If the named violator requests an administrative hearing on a correctable violation and loses his appeal~~is found in violation~~, the Special Magistrate shall determine a reasonable time period within which correction of the violation must be made, based on the considerations set forth in Section 3(d). If correction is not made within the period set by the Special Magistrate, continuing violation penalties shall accrue~~begin after the time for correction has run~~. ~~No continuing violation penalties shall accrue during the time period from the date of the civil violation notice until the date of the administrative hearing, if the named violator timely requests an administrative hearing to appeal the decision of the Code Compliance Officer.~~ The time period for correction may run retroactive to the deadline in the civil violation notice. ~~Continuing violation penalties cannot be imposed by the Special Magistrate for uncorrectable violations.~~

~~(g)(f)~~ Continuing violation penalties shall automatically accrue after the deadline imposed in the original civil violation notice, or by the Special Magistrate. If said deadline is prospective, the Code Compliance Officer may file~~be assessed by the Special Magistrate upon the filing of an Affidavit of Non-Compliance and Notice of Right to Request a Hearing by the Code Compliance Officer~~. The violator may request an administrative hearing before the Special Magistrate, which hearing shall be strictly limited to whether the violator complied with the prior order of the Special Magistrate and the amount of the continuing violation penalties based upon the length of time the violation continued to exist. ~~Upon the filing of the Affidavit of Non-Compliance,~~ The Code Compliance Officer shall send a copy of the Affidavit of Non-Compliance and Notice of Right to Request a Hearing to the violator by first class mail, at the last known address of the violator. Said affidavit shall include, but not be limited, to the following:

- ~~(1) The d~~(1) Date of issuance.
- ~~(2) Department or division~~(2) Name of the Code Compliance Officer issuing the original affidavit.
- (3) Section number of Code that has been violated.
- (4) Amount of continuing penalty to be assessed by the Special Magistrate.
- (5) Notice of right to request an administrative hearing and instructions on how to file for the administrative hearing.

(6) Notice that failure to request an administrative hearing within twenty (20) days after the receipt of the Affidavit of Non-Compliance shall constitute a waiver of the violator's right to the administrative hearing.

(7) Notice that the administrative hearing is strictly limited to whether the violator complied with the prior order of the Special Magistrate and the amount of the continuing penalty based solely upon the length of time the violation continued to exist ~~but in no case in excess of the maximum set forth in the Code.~~

(8) Notice that the violator shall be liable for the ~~reasonable~~ costs of the administrative hearing if the violator is unsuccessful at the hearing.

(g) “Administrative costs” shall mean the costs and expenses incurred by the Town in its prosecution of violations, including, but not limited to, any staff time, Special Magistrate’s time, and attorney’s fees for the inspection, investigation, prosecution, testing, or monitoring of a code violation.

(h) Civil penalties assessed pursuant to this chapter are due and payable to the Town on the last day of the period allowed for the filing of an appeal from the Special Magistrate's decision, or, if proper appeal is made, when the appeal has been finally decided adversely to the named violator.

Sec. 5.Rights of violators; payment of fine; right to appeal; failure to pay and correct, or to appeal.

(a) A violator who has been served with a civil violation notice or Affidavit of Non-Compliance shall elect either to:

(1) Pay the civil penalty in the manner indicated on the notice, and correct the violation within the time specified on the notice (if applicable); or

(2) Request an administrative hearing before a Special Magistrate to appeal the decision of the Code Compliance Officer which resulted in the issuance of the civil violation notice or Affidavit of Non-Compliance.

(b) Appeal by administrative hearing of the notice of violation shall be accomplished by filing a request in writing to the address indicated on the notice, within the time limit stipulated in the specified Code Section which is enforced pursuant to the provisions of this chapter, or no later than twenty (20) calendar days after the service of the notice, whichever is earlier.

(c) If the named violator after notice fails to pay the civil penalty and correct the violation within the time specified (if applicable), or fails to timely request an administrative hearing before a Special Magistrate, the Special Magistrate shall be informed of such failure by the filing of an Affidavit of Default ~~report from~~ by the Code Compliance Officer. If the named violator pays the civil penalty for a correctable violation but does not correct that violation within the time specified, each day that the violation continues beyond such specified time shall constitute a continuing violation. Failure of the named violator to appeal the decision of the Code Compliance Officer within the prescribed time period shall constitute a waiver of the violator's right to administrative hearing before the Special Master. A waiver of the right to administrative hearing shall be treated as an admission of the violation and penalties and administrative costs may be assessed accordingly.

Sec. 6. Scheduling and conduct of hearing.

(a) Upon receipt of a named violator's timely request for an administrative hearing, the Special Magistrate shall set the matter down for hearing on the next regularly scheduled hearing date or as soon thereafter as possible or as mandated in the specified Code Section which is enforced pursuant to this chapter.

(b) The ~~Special Magistrate~~Code Compliance Recording Secretary shall send a notice of hearing by first class mail to the named violator at his last known address. The notice of hearing shall include but not be limited to the following:

- (1) Name of the Code Compliance Officer who issued the civil violation notice.
- (2) Factual description of alleged violation.
- (3) Date of alleged violation.
- (4) Section of the Code allegedly violated.
- (5) Place, date and time of the hearing.
- (6) Right of violator to be represented by a lawyer.
- (7) Right of violator to present witnesses and evidence.
- (8) Notice that failure of violator to attend hearing may result in civil penalties and administrative costs being assessed against him.
- (9) Notice that requests for continuances will not be considered if not received by the Special Magistrate at least ten (10) calendar days prior to the date set for hearing.

(c) The ~~Special Magistrate~~Town shall ~~schedule~~call hearings on a monthly basis or as requested by the Code Compliance Officer. ~~No hearing shall be set sooner than twenty (20) calendar days from the date of service of the notice of violation.~~

(d) A hearing date shall not be postponed or continued unless a request for continuance, showing good cause for such continuance, is received in writing by the Special Magistrate at least ten (10) calendar days prior to the date set for the hearing.

(e) All hearings of the Special Magistrate shall be open to the public. All testimony shall be under oath. Assuming proper notice, a hearing may proceed in the absence of the named violator.

(f) The proceedings at the hearing shall be recorded and may be transcribed at the expense of the party requesting the transcript.

(g) The Town shall provide clerical and administrative personnel as may be reasonably required by the Special Magistrate for the proper performance of his duties.

(h) Each case before a Special Magistrate shall be presented by the Town Manager or his designee.

(i) The hearing ~~need~~shall not be conducted in accordance with the formal rules relating to evidence and witnesses. Any relevant evidence shall be admitted if the Special Magistrate finds it competent and reliable, regardless of the existence of any common law or statutory rule to the contrary.

(j) Each party shall have the right to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called him to testify; and to rebut the evidence against him.

(k) The Special Magistrate shall make findings of fact based on evidence of record. The Special Magistrate shall make the findings of fact ~~immediately upon~~at the conclusion

of the hearing. ~~The violator or the Town shall have the option to request a reschedule of the hearing. A request to reschedule shall only be considered prior to the commencement of testimony and presentation of evidence.~~ In order to make a finding upholding the Code Compliance Officer's decision, the Special Magistrate must find that a preponderance of the evidence indicates that the named violator was responsible for the violation of the relevant Section of the Code as charged ~~for purposes of in the~~ civil violation notice, or that the violation continued to exist ~~for the time period beyond the deadline for compliance in a prior order of the Special Magistrate as set out in the Affidavit of Non-Compliance, for purposes of an Affidavit of Non-Compliance.~~

(l) If the named violator is found guilty of the violation, or if the violation is found to be a continuing violation ~~pursuant to an Affidavit of Non-Compliance he, the violator shall pay the reasonable administrative costs of the administrative hearing and the costs and expenses of the Town. The costs and expenses of the Town for investigation, enforcement, testing, or monitoring shall be calculated and submitted to the Special Magistrate, to be attached to the final order for amount owed, in standard format as prescribed by departmental administrative orders of the Town Manager. All administrative costs of enforcement shall be paid within thirty (30) days of the date of the administrative hearing unless an alternate timeframe is established by the department~~ order of the Special Magistrate awarding such costs. If the Special Magistrate finds that the violation constitutes a serious threat to the public health, safety, and welfare, the Special Magistrate may authorize the Town make all reasonable repairs which are required to bring the property into compliance and charge the violator with the reasonable cost of the repairs along with the fine imposed pursuant to this section. Making such repairs does not create a continuing obligation on the part of the Town to make further repairs or to maintain the property and does not create any liability against the Town for any damages to the property if such repairs were completed in good faith. The Town may record a notice of lien for the costs of repairs. Said lien shall be equal in dignity to tax liens.

(m) The fact-finding determination of the Special Magistrate for purposes of a civil violation notice shall be limited to whether the violation alleged did occur and, if so, whether the person named in the civil violation notice can be held responsible for that violation. The fact-finding determination of the Special Magistrate for purposes of an Affidavit of Non-Compliance shall be strictly limited to whether the violator complied with the prior order of the Special Magistrate and the amount of continuing violation penalties based upon length of time that the violation existed. Based upon this fact-finding determination, the Special Magistrate shall either affirm or reverse the decision of the Code Compliance Officer. If the Special Magistrate affirms the decision of the Code Compliance Officer with respect to a civil violation notice, the Special Magistrate, pursuant to Section 4(f), shall determine a reasonable time period within which correction of the violation must be made, provided however, that such time period shall be no more than thirty (30) days. If the Special Magistrate reverses the decision of the Code Compliance Officer and finds the named violator not responsible for the Code violation alleged in the civil violation notice, the named violator shall not be liable for the payment of any civil penalty, absent reversal of the Special Magistrate's findings pursuant to Section 8(a). If the decision of the Special Magistrate is to affirm, then the following elements shall be included:

- (1) Amount of civil penalty.
- (2) Administrative costs of hearing.
- (3) Date by which the violation must be corrected to prevent imposition of continuing violation penalties (if applicable).
- (n) The Special Magistrate shall have the power to:
 - (1) Adopt procedures for the conduct of hearings.
 - (2) Subpoena alleged violators and witnesses for hearings; subpoenas may be served by the Town's Police Department or by the Code Compliance Officer or Recording Secretary staff of the Special Magistrate.
 - (3) Subpoena evidence.
 - (4) Take testimony under oath.
 - (5) Assess and order the payment of civil penalties and administrative costs as provided herein.
 - ~~(6) Reduce civil penalties as provided herein. The Special Magistrate shall be bound by the interpretations and decisions of duly authorized Town boards concerning the provisions of the codes within their respective jurisdictions. In the event such a board decides that an alleged violation of the Code is not in accordance with such board's interpretation of the Code provision on which the violation is based, the Special Magistrate shall not be empowered to proceed with the enforcement of the violation.~~
 - (7) Issue orders having the force of law to command whatever steps are necessary to bring a violation into compliance.

Sec. 7. Recovery of unpaid civil penalties; unpaid penalty to constitute a lien; interest to be paid on liens; foreclosure; prohibition of the issuance of permits, licenses, certificates of use and occupancy, or zoning approvals to violators with unpaid civil penalties or liens; lien reduction.

(a) The Town may institute proceedings in a court of competent jurisdiction to compel payment of civil penalties.

(b) A certified copy of an order imposing a civil penalty ~~may~~shall be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists or upon any other real or personal property owned by the violator; and it may be enforced in the same manner as a court judgment by the sheriffs of this State, including levy against the personal property, but shall not be deemed to be a court judgment except for enforcement purposes. ~~After three (3) months from the filing of any such lien which remains unpaid, t~~The Town may foreclose or otherwise execute on the lien.

(c) Liens created pursuant to ~~Section 8CC-7~~this chapter may be discharged and satisfied by paying to the Town the amount specified in the ~~notice of lien order~~, together with interest thereon from the date of the ~~filing of the lien order~~ computed at the rate of twelve (12) percent per annum, together with the administrative costs, ~~filing and recording fees and fees paid to file a satisfaction of the lien in the public records.~~ When any such lien has been discharged, the Town shall issue a satisfaction of lien in recordable form~~promptly cause evidence of the satisfaction and discharge of such lien to be recorded in the public records.~~

(d) With the exception of any development approvals needed to correct a code violation for which the applicant has been cited and Notwithstanding any provision of this Code, no Town officer, agent, employee or Board shall approve, grant or issue any operating permit, license, building permit, certificate of use and occupancy, platting action, or zoning action to any named violator with (i) uncorrected code violations, (ii) unpaid civil penalties; (iii) unpaid administrative costs of hearing; (iii) unpaid Town investigative, enforcement, testing, or monitoring costs; or (iv) unpaid liens, any or all of which are owed to Town pursuant to the provisions of the Code of the Town of Cutler Bay, Florida.

(e) No lien provided under this chapter shall continue for a period longer than 20 years after the certified copy of an order imposing a fine has been recorded, unless within that time an action to foreclose on a lien is commenced in a court of competent jurisdiction. In an action to foreclose on a lien, the prevailing party may recover interest and all costs, including attorney's fees, incurred in the foreclosure. The continuation of the lien effected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration without notice, unless a notice of lis pendens is recorded.

(f) Lien Reduction: The Violator, or the Violator's successor or assign, who has an ownership interest in the property encumbered by a lien for civil penalties(the "Applicant"), may file a request for a reduction of the continuing violation penalties before the Special Magistrate. The request may only be filed after a compliance inspection is completed during which a Code Compliance Officer finds that all violations were corrected but that the civil penalties have not yet been paid and that there are no other outstanding code violations, whether on the property to which the lien attaches or on another property belonging to the Applicant, or debts owed to the Town for which the Applicant is responsible. Upon receipt of a written request for reduction of civil penalties, and the filing of an affidavit of partial compliance by the Code Compliance Officer which sets forth that all outstanding violations of the Special Magistrate's order have been corrected, except for payment of any outstanding civil penalties, the Town shall set the matter for a penalty reduction hearing by the Special Magistrate. The Town Manager may enter into a settlement agreement with the Applicant to pay a fine that is reduced pursuant to the guidelines in this section without the need for hearing. No hearing shall be held (i)to reduce an initial civil penalty or an award of administrative costs, (ii) to reduce the civil penalties for an uncorrectable violation, (iii) if the Town Attorney has requested authorization to bring further enforcement action or commenced an action to obtain compliance with the order of the Special Magistrate, including, but not limited to, an action for injunctive relief, foreclosure, or money judgment, or (iv) if, for whatever reason, the civil penalties have already been paid.

(g) At the hearing, the fact-finding determination of the Special Magistrate shall be limited to evidence establishing:

- (1) Good cause for a reduction of the continuing violation penalties,
- (2) The amount of the reduction, and
- (3) Any equitable considerations raised by the Applicant or the Town relating to good cause or the amount of the reduction.

Said hearing shall not be an opportunity to appeal any finding of fact or conclusions of law set forth in any prior order of the Special Magistrate or any administrative determination of the Town.

(h) The Special Magistrate may reduce the civil penalties once the Applicant has otherwise complied with an order of the Special Magistrate based on a showing of good cause, but in no event shall the civil penalties be reduced below the administrative costs incurred by the Town nor shall any administrative costs previously awarded by the Special Magistrate, costs of repair, or assessment liens be waived or reduced.

(i) In determining good cause, and the amount of the reduction, if any, the Special Magistrate shall consider:

(1) The gravity of the violation.

(2) Any actions taken by the Violator or Applicant to correct the violation.

(3) Any previous, or other outstanding violations whether committed by the Violator or Applicant, or pertaining to the property to which the lien attaches, unless an order finding a violation is under appeal at the time of the determination.

(4) Whether the violation is irreparable or irreversible in nature.

(5) Whether the Violator or Applicant's failure to timely comply with an order of the Code Compliance Officer or the Special Magistrate is due to an inability to comply based on factors beyond the control of the Violator or Applicant.

(j) Upon a finding of good cause, the Special Magistrate has the sole discretion to grant or deny the request for a reduction of civil penalties according to the following guidelines, provided the reduction is to an amount that is not less than the administrative costs incurred by the Town:

(1) If compliance occurs within three months of the deadline for compliance provided for in the order of the Special Magistrate; a maximum reduction of 95 percent of the total civil penalties (the original civil penalty plus the continuing violation penalties);

(2) If compliance occurs more than three months but less than 12 months from the compliance deadline, a maximum reduction of 75 percent of the total civil penalties;

(3) If compliance occurs from 12 months to 18 months of the compliance deadline; a maximum of 50 percent of the total civil penalties; and

(4) If compliance occurs more than 18 months after the compliance deadline, a maximum of 25 percent of the total civil penalties.

(k) The Special Magistrate has the authority where there is a demonstrated showing of financial hardship or other good cause to reduce the civil penalties below the civil penalty reduction guidelines. The Special Magistrate shall exercise this authority with great caution and only in documented and exceptional circumstances. An Applicant alleging financial hardship has the burden of presenting evidence of inability to pay the civil penalty.

(l) If a civil penalty is reduced, the order of the Special Magistrate shall provide that, if the Applicant fails to pay the reduced civil penalty by the date ordered by the Special Magistrate, then the original amount of the total civil penalty shall be

automatically reinstated. The Special Magistrate may impose conditions on the granting of a request for reduction of the civil penalty and may allow additional hearings upon request if necessary to establish compliance with said conditions before an order reducing the civil penalty is entered.

(m) A certified copy of the order reducing the civil penalty shall not be recorded in the public records and the order shall so provide.

(n) Upon receipt of timely payment in full of the amount of the reduced civil penalties, and the recording costs, the Town shall issue to the Applicant a satisfaction of lien in recordable form.

(o) A reduction of civil penalty may only be granted once as to any violation of an order of the Special Magistrate.

Sec. 8. Appeals.

(a) The named violator or the Town may appeal a final order of the Special Magistrate ~~for all violations~~ by filing a notice of appeal in the Circuit Court in and for Miami-Dade County, Florida, within 30 days of the execution of the order to be appealed and in accordance with the procedures and within the time provided by the Florida Rules of Appellate Procedure for the review of administrative action. Such an appeal shall not be a hearing de novo, but shall be limited to appellate review of the record created before the Special Magistrate.

(b) Unless the findings of the Special Magistrate are overturned in a proceeding held pursuant to Section 8(a), all findings of the Special Magistrate shall be admissible in any proceeding to collect unpaid penalties.

(c) No party, other than the Town, may apply to the Court for relief unless such party has first exhausted the remedies provided for in this chapter and has taken all available steps provided in this chapter. It is the intention of the Town that all steps provided by this chapter shall be taken before any application is made to the Court for relief; and no application shall be made by any party other than the Town to a court for relief except from an order imposing civil penalties or continuing violation penalties issued by a Special Magistrate pursuant to this article. It is the intention of the Town that the order reducing the civil penalty or denying a reduction of the civil penalty shall not be subject to appeal or other form of judicial review.

Sec. 9. Provisions contained herein are supplemental; ~~general penalty for failure to correct violations.~~

~~(1) Nothing contained in this chapter shall prohibit the Town from enforcing its Code by any other means. The enforcement procedures outlined herein are cumulative to all others and shall not be deemed to be prerequisites to filing suit for the enforcement of any Section of this Code.~~

~~(2) It shall be unlawful for a named violator found guilty of a code violation pursuant to Section 5(e) or Section 6 to fail to correct the violation as set forth in the uniform civil violation notice and said failure shall be a separate offense punishable as set forth in the Code of The Town of Cutler Bay, Florida.~~

Sec. 10. Schedule of civil penalties.

The following table shows the sections of this Code, as they may be amended from time to time, which may be enforced pursuant to the provisions of this chapter; and the dollar amount of civil penalty for the violation of these sections as they may be amended. The "descriptions of violations" below are for informational purposes only and are not meant to limit or define the nature of the violations or the subject matter of the listed Code sections, except to the extent that different types of violations of the same Code section may carry different civil penalties. For each Code section listed in the schedule of civil penalties, the entirety of that section may be enforced by the mechanism provided in this chapter, regardless of whether all activities proscribed or required within that particular section are described in the "Description of Violation" column. To determine the exact nature of any activity proscribed or required by this Code, the relevant Code section must be examined.

TABLE INSET:

<i>Code Section</i>	<i>Description of Violation</i>	<i>Civil Penalty</i>
	Maintaining any sign in violation of Town Ordinance 06-13 as subsequently amended.	\$1000
***	***	***
33-95(e)	Maintaining a fence or wall sign in a residential district	\$500
**	***	***
33-107	Exceeding maximum Class C Sign Size	\$1,000
33-107	Exceeding the maximum height for a Class C sign	\$1,000
33-107	Failure to meet setback or spacing requirements for Class C sign	\$1,000
	All sections of this Code not specifically listed in this schedule	\$500
***	***	***

Section 3. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Inclusion In The Code. It is the intention of the Town Council that the provisions of this Ordinance shall become and made a part of the Town of Cutler Bay Code; that the sections of this Ordinance may be renumbered or re-lettered to

accomplish such intentions; and that the word “Ordinance” shall be changed to “Section” or other appropriate word.

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

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

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

Edward P. MacDougall, Mayor

Attest:

Esther Coulson
Town Clerk

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

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

FINAL VOTE AT ADOPTION:

Mayor Edward P. MacDougall _____

Vice Mayor Ernest N. Sochin _____

Councilmember Peggy R. Bell _____

Councilmember Sue Loyzelle _____

Councilmember Mary Ann Mixon _____