OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Memorandum

MIAMI-DADE COUNTY

Date: June 3, 2008

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

From: George M. Burgess
County Manager

Agenda Item No. 8(D)(1)(I)

Resolution No. R-630-08

Subject: Resolution Authorizing the Exemption of the Town of Cutler Bay from the Provisions of the Miami-Dade County Stormwater Utility Ordinance

---

THIS ITEM WAS AMENDED BY THE COUNTY ATTORNEY'S OFFICE AT THE MAY 13, 2008 GOVERNMENT OPERATIONS AND ENVIRONMENT COMMITTEE MEETING TO AMEND THE 3RD CONDITION IN THE RESOLUTION.

Recommendation
It is recommended that the Board of County Commissioners, as the governing body of the Miami-Dade County Stormwater Utility, approve the attached resolution authorizing the exemption of the Town of Cutler Bay from the provisions of the Miami-Dade County Stormwater Utility Ordinance.

Scope
The Town of Cutler Bay is primarily in Commission District 8, with a small portion in District 9.

Fiscal Impact/Funding Source
The exemption of the Town of Cutler Bay from the provisions of the Miami-Dade County Stormwater Utility Ordinance will not have a fiscal impact on the County.

Track Record/Monitor
The Director of the Department of Environmental Resources Management (DERM) will monitor this agreement.

Background
On June 18, 1991, the Board of County Commissioners adopted Ordinance 91-66, establishing the Miami-Dade County Stormwater Utility ("the Utility"). Through this ordinance, the Utility is authorized to collect stormwater utility fees sufficient to plan, construct, operate and maintain stormwater management systems on a countywide basis.

On October 17, 1995, the Board adopted Ordinance 95-195, amending the Stormwater Utility Ordinance, Section 24-51.2 of the Code of Miami-Dade County, granting municipalities the option of obtaining an exemption from the Utility, and in turn, creating a local stormwater utility. On May 16, 2007, the Town of Cutler Bay adopted Resolution Number 07-18 (Attachment A), notifying the Board of their desire to exercise its option to be exempt from the provisions of the Stormwater Utility Ordinance and to establish a stormwater utility within their municipal limits. On December 19, 2007, the Town of Cutler Bay adopted Ordinance 07-29 (Attachment B), creating stormwater management regulations in their Town Code of Ordinances and establishing their own stormwater utility as the funding source. Additionally, the Town of Cutler Bay has prepared a stormwater management agreement and a billing agreement that satisfy the County's conditions of exemption. Those agreements will be presented for Board approval concurrent with this item or soon thereafter.

Assistant County Manager

MEMORANDUM

(Revised)

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

DATE: June 3, 2008

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Agenda Item No. 8(D)(1)(I)

Please note any items checked.

_____ **"4-Day Rule" ("3-Day Rule" for committees) applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Bid waiver requiring County Manager's written recommendation**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **Housekeeping item (no policy decision required)**

_____ **No committee review**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(D)(1)(I)
6-3-08

RESOLUTION NO. **R-630-08**

RESOLUTION AUTHORIZING THE EXEMPTION OF THE TOWN OF CUTLER BAY FROM THE PROVISIONS OF THE MIAMI-DADE COUNTY STORMWATER UTILITY ORDINANCE; AND AUTHORIZING THE COUNTY MANAGER TO EXERCISE ANY AND ALL OTHER RIGHTS CONFERRED THEREIN

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board, acting as the governing body of the Miami-Dade County Stormwater Utility, hereby approves the exemption of the Town of Cutler Bay ("the Town"), effective July 1, 2008, from the provisions of Article V, Chapter 24 of the Code of Miami-Dade County, Florida (the Miami-Dade County Stormwater Utility Ordinance) with the following conditions:

1. The Town shall enter into an agreement with Miami-Dade County for the billing and collection of stormwater charges not later than August 31, 2008.
2. The Town shall enter into an interlocal agreement with the Miami-Dade County Stormwater Utility for stormwater management not later than August 31, 2008.
3. The Town agrees to pay on an annual basis its pro-rata share of the debt service on the Stormwater Utility Revenue Bonds Series 1999 and Series 2004, <u>and any bonds issued at any time to refund one or both Series</u>, and any other stormwater utility revenue bonds issued prior to exemption of the Town and any annexations by the Town that may be approved in the future, <u>including any bonds issued at any time to refund such stormwater utility revenue bonds.</u>

The foregoing resolution was offered by Commissioner Carlos A. Gimenez, who moved its adoption. The motion was seconded by Commissioner Sally A. Heyman and upon being put to a vote, the vote was as follows:

Bruno A. Barreiro, Chairman aye
Barbara J. Jordan, Vice-Chairwoman aye

Jose "Pepe" Diaz	absent	Audrey M. Edmonson	absent
Carlos A. Gimenez	aye	Sally A. Heyman	aye
Joe A. Martinez	aye	Dennis C. Moss	aye
Dorrin D. Rolle	absent	Natacha Seijas	absent
Katy Sorenson	aye	Rebeca Sosa	absent
Sen. Javier D. Souto	aye		

The Chairperson thereupon declared the resolution duly passed and adopted this 3rd day of June, 2008. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

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

HARVEY RUVIN, CLERK

By: Kay Sullivan
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

PST

Peter S. Tell

ATTACHMENT A

RESOLUTION NO. 07-18

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA (THE "TOWN"); NOTIFYING THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA (THE "COUNTY") AND THE DIRECTOR OF THE MIAMI-DADE COUNTY DEPARTMENT OF ENVIRONMENTAL RESOURCES MANAGEMENT ("DERM") AS REQUIRED BY SECTION 24-51.2 OF THE MIAMI-DADE COUNTY CODE (THE "CODE"); THAT THE TOWN EXERCISES ITS OPTION TO EXEMPT THE TOWN FROM INCLUSION IN THE COUNTY'S STORMWATER UTILITY; COMITTING TO ESTABLISH A STORMWATER UTILITY WITHIN THE MUNICIPAL BOUNDARIES OF THE TOWN IN ACCORDANCE WITH SECTIONS 403.0893 (1) (2) or (3), FLORIDA STATUTES; AUTHORIZING THE TOWN MANAGER TO NEGOTIATE AN INTERLOCAL AGREEMENT WITH THE COUNTY FOR THE COLLECTION OF THE TOWN'S STORMWATER UTILITY FEES; AUTHORIZING THE TOWN CLERK TO SEND COPIES OF THIS RESOLUTION TO THE APPROPRIATE OFFICIALS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town is currently part of the Miami-Dade County Stormwater Utility (the "Utility"); and

WHEREAS, pursuant to Section 24-51.2, et seq., of the County Code, the Town may opt out of the Utility upon committing to implement the provisions of Section 403.0893(1), (2) or (3), Florida Statutes, by creating a stormwater utility and adopting stormwater utility fees sufficient to plan, construct, operate and maintain a stormwater management system; and

WHEREAS, the Town's engineers are developing a stormwater master plan and as part of the plan, the town council intends on establishing a stormwater utility within the municipal boundaries of the Town; and

WHEREAS, the Town Council desires to exercise its option to exempt the Town from the County's Utility, as soon as possible.

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. Notification. The Town of Cutler Bay notifies the Board of County Commissioners of the County and the Director of DERM that it exercises its option to be exempted from the provisions of the County Stormwater Utility as provided in Section 24-51.2, et seq., of the County Code, as soon as possible.

Section 3. Commitment. The Town of Cutler Bay commits to implement the applicable provisions of Section 403.0893(1), (2) or (3), Florida Statutes, to create and fund a stormwater utility within the municipal boundaries of the Town.

Section 4. Authorization. The Town Manager is authorized to negotiate with the County an Interlocal Agreement for the collection of the Town's stormwater utility fees.

Section 5. Clerk's Notification. The Town Clerk is directed to file a certified copy of this Resolution with the Clerk of the Board of County Commissioners and the Director of DERM.

Section 6. Effective Date. This Resolution shall be effective immediately upon its adoption.

PASSED and ADOPTED this 16th day of May, 2007.

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ-SANTAMARIA, CMC
Town Clerk

TOWN OF CUTLER BAY
INCORPORATED
2005
FLORIDA

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

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

Moved By: Councilmember Meerbott
Seconded By: Councilmember Bell

FINAL VOTE AT ADOPTION:

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

ATTACHMENT B

ORDINANCE NO. 07-29

AN ORDINANCE OF TOWN OF CUTLER BAY, FLORIDA, CREATING A STORMWATER UTILITY SYSTEM FOR THE TOWN; PROVIDING AUTHORITY; PROVIDING FOR DEFINITIONS; MAKING CERTAIN FINDINGS AND DETERMINATIONS; ESTABLISHING A STORMWATER UTILITY FEE SYSTEM; ESTABLISHING THE RATE OF STORMWATER UTILITY FEE; ESTABLISHING A METHOD AND PROCEDURE FOR THE COLLECTION OF STORMWATER UTILITY FEES; PROVIDING FOR REQUESTS FOR ADJUSTMENT; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town is currently part of the Miami-Dade County Stormwater Utility and, as part of the Utility, Miami-Dade County is responsible for the maintenance of the Town's stormwater management system; and

WHEREAS, by the adoption of Resolution No. 07-18 the Town has exercised its option to be exempt from the provisions of the Miami-Dade County Stormwater; and

WHEREAS, by creating the Utility the Town will become responsible for the ownership, maintenance and expansion of the existing stormwater management system located within the Town's limits for the purpose of collecting and disposing of storm and other surface water; and

WHEREAS, the Town finds that although each developed property in the Town has varying degrees of water retention, all properties contribute to some extent to the Town's stormwater drainage problems and that all citizens will benefit from the establishment of a Stormwater Utility; and

WHEREAS, the fee structure set forth herein represents a logical, reasonable and rational basis for allocating the costs for a Stormwater Utility to the several types of developed properties of the Town and based upon the relative contribution of such developed properties to the need for the Stormwater Management System; and

WHEREAS, the adoption of a Stormwater Utility Program will generate fees needed to implement the level of service (LOS) standards contained in the Town's Comprehensive Plan's Drainage Element and the Capital Improvement Element, adopted in conformance with the requirements of Chapter 163, Florida Statutes; and

WHEREAS, the purpose and intent of this ordinance is to establish a Town-wide stormwater utility in furtherance of the provisions of Section 403.0893(1), Florida Statutes, the Town of Cutler Bay Comprehensive Plan, to insure compliance with the Federal Clean Water Act,

the Environmental Protection Agency Stormwater NPDES Permitting Program, Rule 62-25, Florida Administrative Code, and to adopt stormwater utility fees sufficient to plan, fund, construct, operate and maintain a local stormwater management system pursuant to Section 403.0891(3), Florida Statutes; and

WHEREAS, the Town Council finds it to be in the best interest of the health, safety, and general welfare of the residents and citizens of the Town to provide for a municipal stormwater management utility to maintain and operate the stormwater utility; and

WHEREAS, local natural resources features (such as waterways, lakes, mangroves, wetlands, and groundwater supplies) can be protected and enhanced as part of the Stormwater Utility.

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

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

Section 2. A new section of the Town Code entitled, "Stormwater Utility System" is hereby created as follows:

STORMWATER UTILITY SYSTEM

Sec. 1. Authority.

(a) As authorized by the Town's Home Rule authority and Section 403.0893(1), Florida Statutes, as amended, a municipal stormwater utility within the geographic boundaries of the Town of Cutler Bay implementing the provisions of Section 403.0893(1), Florida Statutes which shall be known as the Cutler Bay Stormwater Utility (the "Utility") is created.

(b) The Utility shall be a public body corporate and politic which, through its governing body may exercise all those powers specifically granted herein , those powers granted by law and those powers necessary in the exercise of those powers herein enumerated.

(c) The governing body of the Utility shall be the Town Council.

(d) The Utility shall be responsible for the operation, maintenance, and governance of a Town wide stormwater utility to plan, construct, operate and maintain the Town's Stormwater Management System.

(e) The Town Manager shall be the Director of the Utility.

(f) The Utility Director shall prescribe the organization and operating

procedures of the Utility. The Utility Director shall employ such consultants and employees as may be necessary to operate the Utility.

Sec. 2. Definitions.

The following, when used in this Ordinance, shall have the meanings ascribed in this section, except where the context clearly indicates a different meaning:

(a) "*Developed Property*" shall mean any parcel of land that contains an impervious area.

(b) "*Dwelling*" shall mean any building that is wholly or partly used or intended to be used for living, sleeping, cooking and eating.

(c) "*Dwelling Unit*" shall mean any room or group of rooms located within a dwelling and forming a single habitable unit with facilities used or intended to be used for living, sleeping, cooking and eating.

(d) "*ERU*" ("Equivalent Residential Unit") shall mean the statistically estimated average of impervious area of residential developed properties per dwelling unit. The estimated average (which equals 1,548 square feet) is calculated by dividing the total estimated impervious area of residential properties by the estimated total number of dwelling units.

(e) "*Impervious Area*" shall mean the horizontal ground surface that is incapable of being penetrated by rainwater. This shall include, but not be limited to, all structures, roof extensions, slabs, patios, porches, asphalt, driveways, sidewalks, parking areas, and decks.

(f) "*Nonresidential Developed Property*" shall mean any parcel of land that contains an impervious area and that is classified by the Miami-Dade county Property Appraiser as land use types 10 through and including 99, as set forth in Florida Administrative Code Rule 12D-8.008(2)(c), as amended from time to time.

(g) "*Residential Developed Property*" shall mean any parcel of land that contains an impervious area and is classified by the Miami-Dade County Property Appraiser as land use types 00 through and including 09 as set forth in Florida Administrative Code Rule 12D-8.008(2)(c), as amended from time to time.

(h) "*Stormwater Infrastructure*" shall mean the structural, non-structural or natural features of a parcel of land or watershed which collect, convey, store, absorb, inhibit treat, use, reuse, or otherwise affect the quantity or quality of stormwater.

(i) "*Stormwater*" shall mean the surface water runoff that results from

10

rainfall.

(j) "*Stormwater Management System*" (or the "System") shall have the meaning specified by Section 403.031(16), Florida Statutes, as amended from time to time.

(k) "*Stormwater Utility*" shall have the meaning specified by Section 403.031(17) Florida Statutes, as amended from time to time.

(l) "*Stormwater Utility Fund*" shall mean that separate Fund established by the Town for the deposit and use of all Stormwater Utility Fees collected.

(m) "*Stormwater Utility Fee*" shall have the meaning specified by Section 403.0893, Florida Statutes, as amended from time to time.

Sec. 3. Findings and Determinations.

It is hereby determined and declared as follows:

(a) The Town desires to create a Stormwater Management System to maintain and improve water quality, to control flooding that results from rainfall events, to deter unmanaged rainwater from eroding sandy soils, to deter the disruption of the habitat of aquatic plants and animals and to provide for the collection of Stormwater Utility Fees for those expenses connected with the planning, constructing, operating and maintaining of a Stormwater Management System.

(b) The collection of and disposal of stormwater and regulation of groundwater are of benefit to all property within the Town including property not currently served by the system.

(c) The cost of operating and maintaining the System should, to the extent practicable, be allocated in relationship to the contributions to the system.

Sec. 4. Stormwater Utility Fee.

(a) A Stormwater Utility Fee is assessed against each Developed Property within the Town for services and facilities provided by the Stormwater Management System.

(b) The Utility Director or his/her designee is directed to prepare a list of lots and parcels within the Town and to assign a classification of Single-family Dwelling Unit, Multi-family Dwelling Unit, or Nonresidential Developed Property to each lot or parcel.

11

(c) ERU's shall be assigned as follows:

(1) Single Family Dwelling Units: 1.0 ERU.

(2) Multi-family Dwelling Units: 1.0 ERU per Dwelling Unit.

(3) Non-Residential Developed Properties: shall be assigned ERU's on the basis of (1) ERU per 1,548 square feet of impervious area.

(d) The following criteria shall be used to calculate Stormwater Utility Fees:

(1) Each Single-Family Dwelling Unit, Multi-family Dwelling Unit and Nonresidential Developed Property shall be assessed a Stormwater Utility Fee calculated by multiplying the rate for one ERU by the number of ERU's provided in Sections 4(c)(1), (2) and (3), respectively.

(2) For the purpose of calculating Stormwater Utility Fees, the calculation of ERU's is based upon property usage. The property usage shall be determined by the Town based on, but not be limited by, state and county land use codes, occupational licenses and site inspections.

(3) Any authorized representative of the Town shall have access to the properties at any reasonable time for the purpose of determining property usage for the purpose of calculating Stormwater Utility Fees and obtaining billing account information.

(4) The number of ERU's calculated for each account shall be rounded up to the nearest whole number.

(5) The minimum charge assessed against each Developed Property shall be one (1) ERU.

(e) The fees owed to the Town and collected by the Miami-Dade County Water and Sewer Department (WASD) with respect to the Stormwater Utility, together with investment earnings thereon, shall be deposited in the Stormwater Utility Fund and shall be used exclusively for planning, constructing, financing, operation and maintaining the Stormwater Utility and the infrastructure of the Stormwater Management System. The Town may pledge such fees as security for indebtedness incurred by it in connection with the Stormwater Utility and the Stormwater Management System.

(f) The fee per ERU Billing shall be $4.00 per month.

(g) The ERU fee approved in Section 4(f) may be amended by the Town Council by Resolution.

Sec. 5. Collection of Stormwater Utility Fee; Liens.

(a) The Stormwater Utility Fee shall be shown as a separate item on WASD bills (or as shown on a stormwater utility bill if no water bill is issued) and shall be paid by the owner, tenant or occupant in possession of the premises at the same time and in the same manner as is provided in WASD regulations for the payment of bills. For properties not receiving monthly utility bills for other services, the bill or statement for the Stormwater Utility Fee shall be sent to the owner of the property as determined from the tax rolls by the Town. The Utility Director may render annual or semi-annual billing on such properties if determined to be in the best interest of the Town.

(b) The Stormwater Utility Fee shall be billed to the owner, tenant or occupant of each Developed Property. If the Stormwater Utility Fee is not fully paid by the owner, tenant or occupant on or before the past due date set forth on the owner's, tenant's or occupant's bill, a ten percent (10%) late charge may be added to the bill. Any unpaid balance of the owner, tenant or occupant for a Stormwater Utility Fee shall be subject to an interest charge at a rate of eight percent (8%) per annum. Imposition of this interest charge shall commence 60 days after the past due date of the fees set forth on the bill of the owner of the Developed Property. WASD is authorized to act as the Town's agent for the purpose of billing and collecting Stormwater Utility Fees. Stormwater Utility Fees shall be billed by WASD in the same manner and subject to the same rules and regulations governing WASD's water and sewer bills, including, but to limited to, the right to discontinue service. Fees and late charges, together with any interest charges, shall be debts due and owing the Town's Stormwater Utility.

(c) All Stormwater Utility Fees, late charges and interest accruing thereupon due and owing to the Town's Stormwater Utility which remain unpaid 60 days after the past due date shall become a lien against and upon the Developed Property for which the Stormwater Utility Fees are due and owing to the same extent and character as a lien for a special assessment. Until fully paid and discharged, such fees, late charges, and interest accrued shall constitute a special assessment lien equal in rank and dignity to all other liens, encumbrances, titles, and claims in, to or against the Developed Property involved for the period of five years from the date such Stormwater Utility Fees, late charges, and interest accrued thereupon became a lien as set forth in this ordinance. This lien may be enforced and satisfied by the Town pursuant to Chapter 173, Florida Statutes, as amended from time to time, or by any other method permitted by law. The lien provided for in this

sub-section shall not be deemed to be in lieu of any other legal remedies for recovery of such fee, late charges, and accrued interest available to the Town.

(d) For Stormwater Utility Fees which become more than 60 days past due and unpaid, the Town shall cause to be filed in the office of the Clerk of the Circuit court of Miami-Dade county, Florida, a notice of lien or statement showing a legal description of the Developed Property against which the lien is claimed, its location by street and number, the name of the owner, and an accurate statement of the fees and late charges then unpaid. A copy of such notice of lien shall be mailed within a reasonable time to the owner of the Developed Property involved as shown by the records of the tax collector of Miami-Dade County. No such lien shall be enforceable by the Town unless this notice is filed within six months from the date the fees and late charges become a lien as established in this section.

(e) Liens may be discharged and satisfied by payment to the Town of the aggregate amounts specified in the notice of lien, together with interest accrued, and all filing and recording fees. When any such lien has been fully paid or discharged, the Town shall cause evidence of the satisfaction and discharge of such lien to be filed with the office of the Clerk of the Circuit court of Miami-Dade County, Florida.

(f) Notwithstanding other provisions to the contrary, the Utility Director shall have the discretion not to file notices of lien for fees, late charges, and interest accrued in an amount less than one hundred dollars ($100.00). If the Utility Director elects not to file a notice of lien, such fees, late charges, and accrued interest shall remain as debts due and owing in accordance with section (b) above.

(g) The owner of Developed Property is ultimately responsible for all unpaid fees established under this section.

(h) The Utility Director or his designee is authorized and directed to certify upon written request the amount of fees, late charges and interest accrued, which are due and owing to the Town for any Developed Property which is subject to payment of said fees, or the Town Manager may certify that no fees, late charges or accrued interest are due and owing.

Sec. 6. Request for Adjustment.

The owner, tenant or occupant may request an adjustment of the Stormwater Utility Fees assessed against a parcel of Developed Property. The Utility Director or his designee shall be authorized to adjust the stormwater utility fee upon determination that the property should not be subject to the assessment of a fee or that the

calculated fee is incorrect. The procedure to request an adjustment shall be as follows:

(a) All requests shall be in writing and set forth in detail the grounds upon which relief is sought.

(b) All adjustment requests shall be submitted no later than 30 calendar days from the date of the bill under dispute.

(c) The owner, tenant or occupant requesting the adjustment may be required, at his own cost, to provide supplemental information to the Utility director, including, but not limited to, survey data and engineering reports approved by either a registered professional land surveyor (R.P.L.S.) or professional engineer (P.E.). Failure to provide such information may result in denial of the adjustment request.

(d) The Utility Director shall provide the person requesting the adjustment with a written determination of the request. Any adjustments shall be prorated monthly.

(e) No adjustment may be requested unless the Stormwater Utility Fee is first paid to the Town.

Section 2. Repeal of conflicting Ordinances. Article IV of Chapter 24 of the Miami-Dade County Code, concerning the same subject matter, as made applicable to the Town by Article VIII, Sections 8.3 of the Town Charter, is hereby repealed and replaced. Notwithstanding the foregoing, for the purposes of the collection of past due fees assessed prior to the effective date of this ordinance, the prior provisions of Chapter 24 of the Town Code shall remain in effect.

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

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

Section 6. Effective Date. This ordinance shall take effect ten (10) days after adoption on second reading.

15

PASSED on first reading this 14th day of November, 2007.

PASSED and ADOPTED on second reading this 19th day of December, 2007.

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ-SANTAMARIA, CMC
Town Clerk

TOWN OF CUTLER BAY
INCORPORATED
2005
FLORIDA

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: Councilmember Bell
Seconded By: Councilmember Sochin

FINAL VOTE AT ADOPTION:

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

16