TOWN CHARTER

ADOPTED BY THE VOTERS ON NOVEMBER 8, 2005
AMENDED BY THE VOTERS ON SEPTEMBER 18, 2008
AMENDED BY THE VOTERS ON JUNE 25, 2009
AMENDED BY THE VOTERS ON NOVEMBER 6, 2012

***Historical Notes –**

On March 5, 2005, pursuant to Resolution No. R-280-05, the Board of County Commissioners of Miami-Dade County appointed the Cutler Ridge Charter Commission to draft the municipal Charter for the newly incorporated Town of Cutler Bay. Edward P. MacDougall (Chairperson), Alfonsina Sergio (Vice Chairperson), Delleperche Joseph (Secretary), Sandra K. Reyes-Nanni, and Eduardo Wolmers served as the members of the Charter Commission. The Charter Commission was represented by Edward P. Ludovici, Esq. as legal Counsel during the drafting of this charter. The Charter Commission delivered a municipal charter to the Mayor and Board of County Commissioners of Miami-Dade County on September 5, 2005. The Town Charter was adopted by the electors of the Town of Cutler Bay on November 8, 2005.

On December 19, 2007, pursuant to Section 6.2 of the Town Charter, the Town Council of the Town of Cutler Bay appointed a Charter Revision Commission to draft such amendments to the Town Charter as it deemed appropriate and to submit such proposed amendments to the Town Council. Vice Mayor Edward P. MacDougall (Non-voting Member), Ernesto Martinez (Chairperson), Barbara Condon (Vice Chairperson), Bill Meiklejohn, Dennis Peterson, Timothy Sander served as the members of the Charter Revision Commission. Town Clerk Erika Gonzalez-Santamaria, CMC and Town Attorneys Mitchell Bierman and Chad Friedman and Town Manager Steven Alexander provided staff support to the Charter Revision Commission. The Charter Revision Commission delivered its recommendations for amendments to the Town Charter to the Mayor and Town Council of the Town of Cutler Bay on July 16, 2007. Fifteen of the nineteen proposed charter amendments were adopted by the electors of the Town of Cutler Bay on September 18, 2008.

On June 25, 2009, at the request of the Miami-Dade County Supervisor of Election, two charter amendments were proposed to the Cutler Bay electors and both amendments were adopted.

On December 7, 2011 pursuant to Section 6.2 of the Town Charter, the Town Council of the Town of Cutler Bay appointed a Charter Revision Commission to draft such amendments to the Town Charter as it deemed appropriate and to submit such proposed amendments to the Town Council. Council Member Peggy Bell (Non-voting Member), Barbara Condon (Chairperson), Ed Wolmers, Terry Long (Vice Chair), Dennis Peterson and Timothy Meerbott served as the members of the Charter Revision Commission. Town Clerk Esther Coulson and Town Attorneys Mitchell Bierman and Chad Friedman, and Town Manager Steven Alexander provided staff support to the Charter Revision Commission. The Charter Revision Commission delivered its recommendations for amendments to the Town Charter to the Mayor and Town Council of the Town of Cutler Bay on May 24, 2012. Thirteen of the fourteen proposed charter amendments were adopted by the electors of the Town of Cutler Bay on November 6, 2012.

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TOWN CHARTER

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TOWN OF CUTLER BAY MUNICIPAL CHARTER

Charter Commission Note - The following is the charter of the town, as adopted by referendum on November 8, 2005, and effective on November 9, 2005.

On March 1, 2005, the Miami-Dade County Board of County Commissioners appointed the following residents as members of the Town of Cutler Bay Charter Commission: Edward P. MacDougall, as Chair, Alfonsina Sergio, as Vice-Chair, Delleperche Joseph, as Secretary, Sandra K. Reyes-Nanni, and Eduardo Wolmers. The charter commission was represented by Edward P. Ludovici, Esq. as legal counsel during the drafting of this charter. The charter commission met during the months of March, April, May, June, July and August 2005 to draft the charter for the town.

PREAMBLE

We, the people of the Town of Cutler Bay, in order to secure for ourselves the benefits and responsibilities of home rule, in order to provide a municipal government to serve our present and future needs, do hereby adopt this charter.

CITIZENS' BILL OF RIGHTS

(A) This government has been created to protect the governed, not the governing. In order to provide the public with full and accurate information, to promote efficient administration management, to make government more accountable, and to ensure to all persons fair and equitable treatment, the following rights are guaranteed:

(1) Convenient Access. Every person has the right to transact town business with a minimum of personal inconvenience. It shall be the duty of the mayor, the town council and the town manager to provide, within budget limitations, reasonably convenient times and places for registration and voting, for required inspections, and for transacting business with the town.

(2) Truth in Government. No municipal official or employee shall knowingly furnish false information on any public matter, or knowingly omit significant facts when giving requested information to members of the public.

(3) Public Records. All audits, reports, minutes, documents and other public records of the town and its boards, agencies, departments and authorities shall be open for inspection at reasonable times and places convenient to the public.

(4) Minutes and Ordinance Register. The town clerk shall maintain and make available for public inspection an ordinance register separate from the minutes showing the votes of each member on all ordinances and resolutions listed by descriptive title. Written minutes of all meetings and the ordinance register shall be available for public inspection not later than 30 days after the conclusion of the meeting.

(5) Right to be Heard. So far as the orderly conduct of public business permits, any interested person has the right to appear before the town council or town agency, board or department for the presentation, adjustment or determination of an issue, request, or controversy within the jurisdiction of the town. Matters shall be scheduled for the convenience of the public. The town council shall adopt agenda procedure and schedule hearings in a manner that will enhance the opportunity for public participation. Nothing herein shall prohibit any governmental entity or agency from imposing reasonable time limits and procedures for the presentation of a matter.

(6) Right to Notice. Persons entitled to notice of a town hearing shall be timely informed as to the time, place and nature of the hearing and the legal authority pursuant to which the hearing is to be held. Failure by an individual to receive such notice shall not constitute mandatory grounds for canceling the hearing or rendering invalid any determination made at such hearing. Copies of proposed ordinances or resolutions shall be made available at a reasonable time prior to the hearing, unless the matter involves an emergency ordinance or resolution.

(7) No Unreasonable Postponements. No matter, once having been placed on a formal agenda by the town, shall be postponed to another day except for good cause shown in the opinion of the mayor, town council, board or agency conducting such meeting, and then only on condition that the affected person shall, upon written request, receive mailed notice of the new date of any postponed meeting. Failure by an individual to receive such notice shall not constitute mandatory grounds for canceling the hearing or rendering invalid any determination made at such hearing.

(8) Right to Public Hearing. Upon a timely written request from any interested party, and after presentation of the facts to and approval by the council, a public hearing shall be held by any town agency, board, department or authority upon any significant policy decision to be issued by it which is not subject to subsequent administrative or legislative review and hearing. This provision shall not apply to the law department of the town or to any person whose duties and responsibilities are solely advisory. At any zoning or other hearing in which review is exclusively by certiorari, a party or his/her counsel shall be entitled to present his/her case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross examination as may be required for a full and true disclosure of the facts. The decision of such agency, board, department or authority must be based upon the facts in the record. Procedural rules establishing reasonable time and other limitations may be promulgated and amended from time to time.

(9) Notice of Action and Reasons. Prompt notice shall be given of the denial in whole or in part of a request of an interested person made in connection with any town administrative decision or proceeding when the decision is reserved at the conclusion of the hearing. The notice shall be accompanied by a statement of the grounds for denial.

(10) Manager’s and Attorneys' Reports. The town manager and town attorney shall periodically make a public status report on all major matters pending or concluded within their respective areas of concern.

(11) Budgeting. In addition to any budget required by state statute, the town manager shall prepare a budget showing the cost of each department for each budget year. Prior to the town council's first public hearing on the proposed budget required by state law, the town manager shall make public a budget summary setting forth the proposed cost of each individual department and reflecting the personnel for each department, the purposes therefore, the estimated millage cost of each department and the amount of any contingency and carryover funds for each department.

(12) Quarterly Budget Comparisons. The town manager shall make public quarterly report showing the actual expenditures during the quarter just ended against one quarter of the proposed annual expenditures set forth in the budget. Such report shall also reflect the same cumulative information for whatever portion of the fiscal year that has elapsed.

(13) Representation of Public. The mayor shall endeavor to designate one or more individuals to represent the town at all proceedings before county, state and federal regulatory bodies, significantly affecting the town and its residents.

(14) Misuse of Authority. No elected or appointed town official shall intentionally misuse his or her position to threaten, harass or otherwise attempt to intimidate any other person including but not limited to any citizen, employee or colleague. Nothing herein shall be construed to in any way restrict or restrain rigorous discussion or debate of issues that come before the council or are of importance in the town. Rather, this section is intended to ensure that the town's environment is one in which all citizens, employees and council members may express opinions on public issues or, except as otherwise provided in this charter, express support for candidates for public office without fear of reprisals.

(B) The foregoing enumeration of citizens' rights vests large and pervasive powers in the citizenry of the town. Such power necessarily carries with it responsibility of equal magnitude for the successful operation of government in the town. The orderly, efficient and fair operation of government requires the participation of individual citizens exercising their rights with dignity and restraint so as to avoid any sweeping acceleration in the cost of government because of the exercise of individual prerogatives, and for individual citizens to grant respect for the dignity of public office.

(C) All provisions of this Bill of Rights shall be construed to be supplementary to and not in conflict with the general laws of Florida. If any part of this Bill of Rights shall be declared invalid, it shall not affect the validity of the remaining provisions.

ARTICLE I. CORPORATE EXISTENCE, FORM OF GOVERNMENT, BOUNDARY AND POWERS

Section 1.1 Corporate Existence.

A municipal corporation resulting from the election authorized by Resolution R-1318-04 adopted on November 30, 2004 by the Miami-Dade County Board of County Commissioners, which permitted the continuing process of incorporation of the area described in Section 1.3 below, originally known as Cutler Ridge, is hereafter known as the Town of Cutler Bay (the "town"), pursuant to the Constitution of the State of Florida (the "state") and the Home Rule Charter of Miami-Dade County (the "county"). The corporate existence of the town shall commence November 9, 2005.

Section 1.2 Form of Government.

The town shall have a "council-manager" form of government.

Section 1.3 Corporate Boundary.

The corporate boundaries of the town are generally described as follows bounded on the North by S.W. 184th Street (the South boundary of the Village of Palmetto Bay), bounded on the South by S.W. 232 Street, bounded on the East by Biscayne National Park and bounded on the West by the South Miami-Dade Transit Corridor (Busway) and S.W. 112 Avenue (Allapattah Road). A town-wide map and an individual council district map are adopted as provided below. The legal description for the town is on Appendix “A” attached hereto. In case of a conflict between the legal description and the town-wide map, the legal description shall govern.

Town of Cutler Bay Boundary Map

Cutler Bay Town Boundary

Palmetto Bay
Cutler Bay
SW 184 ST
Palmetto Bay
Cutler Bay
Biscayne Bay
SW 186 ST
SW 97 AVE
Unincorporated
Cutler Bay
Cutler Bay
Unincorporated
OLD CUTLER RD
FRANJO RD
MARLIN RD
S DIXIE HWY
SW 87 AVE
CARIBBEAN BLVD
SW 85 AVE
SW 207 ST
Town Hall
Southland Mall
SW 112 AVE
SW 211 ST
US 1
Cultural Arts Center
Public Library
Cutler Bay
Unincorporated
SW 212 ST
OLD CUTLER RD
SW 92 AVE
SW 212 ST
FLORIDA TPKE
SW 216 ST
SW 224 ST
Cutler Bay
Unincorporated
SW 87 AVE
SW 232 ST
Cutler Bay
Unincorporated

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Created: 2/2/2013

Section 1.4 Powers.

(A) The town shall have all available governmental, corporate and proprietary powers and may exercise them except when prohibited by law. Through the adoption of this charter, it is the intent of the electors of the town to grant to the municipal government established by this charter the broadest exercise of home rule powers permitted under the Constitution and laws of the State of Florida, and the Miami-Dade County Charter as amended from time to time including the ability to exercise such powers within and without its corporate boundaries to the extent constitutionally permitted.

(B) The only limitation concerning alienability of town owned property is that there shall be no sale, exchange or lease in excess of five (5) years of any park property while it is being used for public purpose unless such sale, exchange or lease is approved by a majority vote at the next regularly scheduled election of the voters of the town. This provision shall not apply to any valid written contractual obligations entered into prior to the effective incorporation date of this town nor shall it apply to any town owned educational facility, library property or parking facility not located in a park or any utility or access easements or right-of-way. This provision is intended to restrict sales, exchanges or leases and shall not be applicable to any operating, management or other agreements.

Section 1.5 Construction.

This charter and the powers of the town shall be construed liberally in favor of the town.

ARTICLE II. MAYOR, VICE-MAYOR AND TOWN COUNCIL

Section 2.1 Mayor and Vice-Mayor.

(A) Powers of the Mayor. The mayor shall preside at meetings of the council and be a voting member of the council. In addition, the mayor shall have the following specific responsibilities:

(1) The mayor shall present a state of the town address annually.

(2) The mayor shall be recognized as head of the town government for all ceremonial purposes, for purposes of military law, and for service of process. Notwithstanding the foregoing, major awards or other forms of formal recognition of individuals or entities shall be by the council or any individual council member with the majority consent of the council. Proclamation requests by individual council members shall be honored by the mayor.

(3) The mayor shall be the official designated to represent the town in all dealings with other governmental entities.

(4) The mayor shall execute contracts, deeds and other documents on behalf of the town as authorized by the council.

(B) Vice-Mayor. During the absence or incapacity of the mayor, the vice-mayor shall have all the powers, authority, duties and responsibilities of the mayor.

Section 2.2 Town Council.

(A) Powers.

There shall be a town council (the "council ") vested with all legislative powers of the town. The council shall consist of the mayor, vice-mayor, and three residential council members (“council members"). The town council shall have the power to pass all such ordinances and resolutions which are not contrary to this charter, the Home Rule Charter of Miami-Dade County, the Constitution and laws of the State of Florida or the United States of America. The council shall not enact any ordinance or resolution that in any way infringes on the rights of its citizens as outlined in the Citizens’ Bill of Rights in this charter. References in this charter to the council and/or council members shall include the mayor and vice-mayor unless the context dictates otherwise. The council may create and appoint committees of the council, which may include non-council members. The members of each committee shall select a chair.

(B) Violation of Town Charter.

In addition to any other remedy provided by law, the council may censure, reprimand or levy fines as a sanction against any member of the council, or town staff member under the council’s control, who has been determined by the council to have intentionally violated any provision of this charter, or any explicit directive of the council. The council shall employ the procedures set forth in Section 2.5 (B)(3) in assessing any fine, censure or reprimand. The council shall establish a fine schedule, by ordinance, within 120 days of the adoption of this section.

Section 2.3 Election, Term of Office and Term Limits.

(A) Election and Term of Office. Except for the initial election and terms of office specified in Article VIII, the mayor, vice-mayor and each council member shall be elected at-large for four year terms by the electors of the town in the manner provided in Article V of this charter. Said term shall end upon the swearing in of his/her successor.

(B) Seats. Council members shall serve in seats numbered 1-3 described below, collectively "Seats." Individually each is a "Seat." One council member shall be elected to each seat.

(C) Residential Areas. Seats 1-3. The town shall be divided into three residential areas. Individually each is a "residential area" collectively "residential areas." One council member shall be elected to a seat from each residential area. Council members from residential areas are collectively the "residential area council members" or “district council members”. Individually each is a "residential area council member." The residential areas corresponding to each seat are formally set forth below:

Seat 1

BEGIN at the intersection of the centerline of State Road 5 (U.S. 1) and the centerline of S.W. 184 Street; thence run Easterly along the centerline of said S.W. 184 Street, said centerline being the South boundary of the Village of Palmetto Bay and the North boundary of the town, to the centerline of S.W. 97 Avenue; thence South along the centerline of said S.W. 97 Avenue to the centerline of

Franjo Road; thence Southeasterly along said centerline of Franjo Road to the centerline of Old Cutler Road (Ingraham Highway); thence southwesterly along said centerline of Old Cutler Road (Ingraham Highway) to the South line of Section 8, Township 56 South, Range 40 East; thence Westerly along the South line of said Section 8 (S.W. 216 Street) to the intersection with the Southerly extension of the East line of Tract "E" of CUTLER CANAL APARTMENTS III according to the plat thereof as recorded in Plat Book 139, page 79 of the Public Records of Miami-Dade County, Florida; thence Northerly along said Southerly extension of the East line of Tract "E" to the Southeast corner of said Tract "E"; the following 5 courses being along the Easterly line of said Tract "E"; (1) thence Northerly for 160.00 feet; (2) thence Westerly for 16.07 feet; (3) thence Northerly for 705.00 feet; (4) thence Easterly for 23.21 feet; (5) thence Northerly for 250.00 feet to the Northeast corner of said Tract "E", thence Northerly along the Northerly extension of the East line of Tract "E" to the centerline of S.W. 212th Street; thence Westerly along said centerline of S.W. 212 Street to the intersection with the centerline of the canal Right-of-Way described in Official Record Book 1631, Page 643 and Official Record Book 1373, Page 613 of the Public Records of Miami-Dade County, Florida; thence Northerly along a line 25.00 feet East of and parallel with the West line of the Southwest one-quarter of the Northeast one-quarter of the Southwest one-quarter of the above mentioned Section 8 (said line being the centerline of said canal Right-of-Way) for 170.00 feet; thence Westerly along a line 135.00 feet North of and parallel with the South line of the Southeast one-quarter of the Northwest one-quarter of the Southwest one-quarter of said Section 8 (said line also being the centerline of said canal Right-of-Way) to the intersection with the center line of Canal C-1- N; thence Northerly and Northeasterly along said centerline of Canal C-1-N to the intersection with the Southerly extension of the East line of the Miami-Dade County Parks and Recreation Department property described in Official Record Book 19682, Page 4787 of the Public Records of Miami-Dade County, Florida; thence Northerly along the Southerly extension of the East line and the East line of said Miami-Dade County Parks and Recreation Department property to the Northeast corner of said Miami-Dade County Parks and Recreation Department property; thence westerly along the North line and the Westerly extension of the North line of said Miami-Dade County Parks and Recreation Department property, across State Road 821 (Homestead Extension of the Florida Turnpike) as shown on the Florida State Department of Transportation Right-of-way Map, Section 87005-2502, to the intersection with the Westerly Limited Access Right-of-Way line of said State Road 821 (Homestead Extension of the Florida Turnpike); thence Southerly along said Westerly Limited Access Right-of-Way line of said State Road 821 (Homestead Extension of the Florida Turnpike) to the intersection with the centerline of Canal C-1 (Black Creek Canal); thence Westerly following said centerline of Canal C-1 (Black Creek Canal) to the intersection with the West line of the Southeast one-quarter of Section 7, Township 56 South, Range 40 East, Miami-Dade County, Florida, lying in S.W. 112th Avenue (Allapattah Road); thence Northerly along said West line of the Southeast one-quarter and the West line of the Northeast one-quarter of said Section 7 (S.W. 112th Avenue and its Northerly extension) to the intersection with the Southeasterly Right-of-Way line of the South Miami-Dade Transit Corridor (Busway) as recorded in Official record Book 20119, page 0538 of the Public Records of Miami-Dade County, Florida; Thence Northeasterly along said Southeasterly Right-of-Way line of the South Miami-Dade Transit Corridor (Busway), across Sections 7, 6 and 5, Township 56 South, Range 40 East Miami-Dade County, Florida, to the centerline of S.W. 186th Street; thence Easterly along said centerline of S.W. 186th Street to the centerline of State Road 5 (U.S. 1) according to the Florida Department of Transportation Right-of-Way Map recorded in Plat Book 124, Page 56 of the Public Records of Miami-Dade County, Florida; thence Northeasterly along said centerline of State Road 5 (U.S. 1) to the centerline of S.W. 184th Street and the POINT OF BEGINNING.

Seat 2

BEGIN at the intersection of the centerline of S.W. 184 Street (Eureka Drive) and the centerline of S.W. 97 Avenue; thence run East along the centerline of said S.W. 184 Street, said centerline being the South boundary of the Village of Palmetto Bay and the North boundary of the town, to the Western Boundary line of Biscayne National Park, thence run Southerly, Westerly and Southerly along the Western Boundary line of Biscayne National Park to the centerline of S W 208 Street, thence run West along the centerline of S.W. 208 Street and its Westerly extension to the intersection with the Southerly extension with the centerline of S.W. 78 Avenue; thence Northerly along the Southerly extension of the centerline of S.W. 78 Avenue to the centerline of S.W. 207 Street; thence Westerly along the centerline of S.W. 207 Street to the centerline of S.W. 87 Avenue, thence run Northerly along the centerline of S.W. 87 Avenue to the centerline of Old Cutler Road (Ingraham Highway); thence run Southwesterly along the centerline of said Old Cutler Road (Ingraham Highway) to the centerline of Franjo Road, thence run Northwesterly along the centerline of Franjo Road to the centerline of S.W. 97 Avenue; thence Northerly along the centerline of S.W. 97 Avenue to the centerline of S.W. 184
Street and the POINT OF BEGINNING.

Seat 3

BEGIN at the Southeast corner of Section 17, Township 56 South, Range 40 East, Miami-Dade County, Florida (the intersection of S.W. 97 Avenue and theoretical S.W. 232nd Street); thence Northerly along the East line of the Southeast one-quarter of said Section 17 (S.W. 97 Avenue) to the intersection with the North line of the South three-quarters of the Southeast one-quarter of the Southeast one-quarter of said Section 17; thence Westerly along said North line of the South three-quarters of the Southeast one-quarter of the Southeast one-quarter of Section 17 (theoretical S.W. 228 Street) to the intersection with the Southerly extension of the East line of Sunset Apartments according to the plat thereof as recorded in Plat Book 156, Page 89 of the Public Records of Miami-Dade County, Florida; thence Northerly along said Southerly extension of the East line of Sunset Apartments, the East line of Sunset Apartments and the Northerly extension of the East line of said Sunset Apartments to the centerline of S.W. 224 Street as shown on said Sunset Apartments; thence Westerly and Northwesterly along the centerline of said S.W. 224 Street to the centerline of Old Cutler Road (Ingraham Highway) as described in Official Record Book 3097, page 272 of the Public Records of Miami-Dade County, Florida; thence Northeasterly along said centerline of Old Cutler Road (Ingraham Highway) to the centerline of S.W. 87 Avenue. Thence South along the centerline of said S.W. 87 Avenue to the centerline of S.W. 207 Street. Thence east along the centerline of said S.W. 207 Street to the centerline of S.W. 78 Avenue; thence Southerly along the Southerly extension of S.W. 78 Avenue to the intersection with the westerly extension of the centerline of S.W. 208 Street; thence easterly along said westerly extension and along the centerline of S.W. 208 Street to the western boundary of Biscayne National Park; thence Southerly and Southwesterly along said Western boundary of Biscayne National Park to theoretical centerline of S.W. 232 Street. Thence west along said centerline of S.W. 232 Street to the Southeast corner of said Section 17; and the POINT OF BEGINNING.

(D) Affiliations. Each person running for elected office shall run independently.

(E) Term Limits. No person shall serve as mayor or vice-mayor for more than eight (8) consecutive years. No person may serve on the council for more than eight (8) consecutive years. No person may serve as a combination of mayor, vice-mayor and council member for more than Twelve (12) consecutive years. Notwithstanding the above the seat 1 council member, the seat 3 council member and the mayor elected in the 2005 election may serve for a maximum of eight (8) years and eight (8) months (until the 2014 election), the seat 2 council member and the vice-mayor elected in the 2005 election may serve for a maximum of six (6) years and eight (8) months (until the 2012 election).

(1) No person shall be eligible to be elected to any office if he or she would not be able to complete the term of office due to the application of this section.

(2) No person who has served the maximum time allowed under the above provisions shall qualify to run for or hold office again for a period of two years.

(3) Except for those members holding office as of April 12, 2012 any member who resigns from office prior to the completion of his or her term of office shall be deemed to have served all four years of the term for the purposes of applying these term limits.

(4) Notwithstanding the above or any provision herein to the contrary, the lengthening of terms caused by the initial staggering of terms or any change in the election date shall not be counted in calculating the 8 or 12 year service limits hereunder.

Section 2.4 Qualifications.

Candidates for mayor, vice-mayor or council member shall qualify for election by the filing of a written notice of candidacy with the town clerk no earlier than 75 days prior to the election date scheduled by the Miami-Dade County Supervisor of Elections for the first Tuesday following the first Monday in November (the "Election Date"), and no later than 60 days prior to the election date (the "qualifying date"), and paying to the town clerk a qualifying fee of $100.00, in addition to any fees required by Florida Statutes. In the event the election date is changed to a date other than the first Tuesday following the first Monday in November pursuant to section 5.1C of this charter, then the qualifying period shall also be adjusted and shall commence no more than 75 days before the election date and end 14 days thereafter. Provided however, that the qualifying period shall always begin and end on a weekday that is not a legal holiday. A person may not be a candidate for more than one office in the same election. Only electors of the town, as defined by Section 5.1(a), who have resided continuously in the town for at least two years preceding their qualifying date shall be eligible to hold the office of mayor, vice-mayor or council member. In addition, a person may not be a candidate for a residential council member seat unless that person has resided in the residential area s/he seeks to represent continuously for a period of one year preceding his/her qualifying date. If at the conclusion of the qualifying period no elector has filed or qualified for a seat, then the qualifying period for that seat shall be reopened for a period of five business days and any qualified elector who resides in the relevant residential area and has resided continuously in the town for at least two years may file a written notice of candidacy for the seat in accordance with the provisions of this section.

A vacancy in a candidacy for the office of mayor, vice-mayor or district council member shall occur upon the death, withdrawal or removal of a candidate. If any qualified candidate dies, withdraws or is removed from the ballot following the end of the qualifying period, and in the event such action leaves fewer than two (2) candidates for that office, then the qualifying period for that particular office shall commence at noon on the day following the day that the vacancy in candidacy occurred, and additional qualification papers shall be available for that particular office in the office of the town clerk until noon, fourteen (14) days subsequent to the death, withdrawal or removal from the ballot of the original candidate. A candidate who was a qualifying candidate at the beginning of the supplemental qualified period shall not be required to re-qualify during such period. The town council shall hold a special meeting within seven (7) days of such additional qualifying period for the purpose of announcing a vacancy in the candidacy, announcing the additional qualifying period, and taking any action that may be necessary to reschedule the election for that particular office.

Should the additional qualifying period be necessitated, the town council shall schedule a special election for that particular office, which election shall be held at least sixty (60) days, but no more than seventy-five (75) days subsequent to the last day of the additional qualifying period. This procedure shall apply only in the event of the death, withdrawal or removal from the ballot of any candidate who qualified during the original qualifying period for such office and any subsequent deaths, withdrawals or removal from the ballot of a candidate's name, which provides for fewer than two (2) candidates for an office, shall result in the remaining candidate being duly elected pursuant to Section 5.1(h).

This section complies with the conditions of incorporation approval detailed in Section 20-27(B) of the Miami-Dade County Code, which may be amended from time to time. Pursuant to Article V of the Miami-Dade County Home Rule Charter, any modifications to this section will require all approvals normally required by the municipal charter, and approval by an affirmative vote of 2/3rds of the members of the Board of County Commissioners then in office, prior to a vote of qualified municipal electors.

Notwithstanding any of the other provisions of this Section, the Town may modify any aspect of the qualifying period for an election or run-off election by ordinance if such modification is necessary in order to accommodate a request by the Miami-Dade County Supervisor of Elections office or a successor entity or to comply with state or Federal law.

Section 2.5 Vacancies; Forfeiture of Office; Filling of Vacancies.

(A) Vacancies. The office of a council member shall become vacant upon his/her death, resignation, disability, suspension or removal from office in any manner authorized by law or by forfeiture of his/her office.

(B) Forfeiture of Office

(1) Forfeiture by Disqualification. The mayor, vice-mayor or council member, shall forfeit his/her office if at any time during his/her term s/he:

(a) ceases to maintain his/her permanent residence in the town.

(b) in the case of a residential area council member, upon his/her ceasing to reside in his/her respective residential area; a residential area council member shall not forfeit his/her office under this paragraph if, in the process of relocating within a residential area, s/he lives outside of his/her residential area but within the town for a period of no more than 90 days.

(c) intentionally commits any prohibited act pursuant to this charter as determined by a court of law.

(d) otherwise ceases to be a qualified elector of the town.

(2) Forfeiture by Absence. Any member of the town council who fails to attend town council meetings without good cause for a period of three (3) consecutive months, shall be subject to forfeiture of his or her office according to the procedures in Section 2.5(B)(3) of the town charter.

(3) Procedures. The council shall be the sole judge of the qualifications of its members and shall hear all questions relating to forfeiture of a council member's office, including but not limited to whether or not good cause for absence has been or may be established. The burden of establishing good cause shall be on the council member in question; provided, however, that any council member may at any time during any duly held meeting move to establish good cause for the absence of him/herself or the absence of any other council member, from any past, present or future meeting(s), which motion, if carried, shall be conclusive. A council member whose qualifications are in question, subject to due process or who is otherwise subject to forfeiture of his/her office, shall not vote on any such matters. The council member in question shall be entitled to a public hearing upon request regarding an alleged forfeiture of office. If a public hearing is requested, notice thereof shall be published in one or more newspapers of general circulation in the town at least one week in advance of the hearing. Any final determination by the council that a council member has forfeited his/her office shall be made by a minimum of three council members by resolution. All votes and other acts of the council member in question prior to the effective date of such resolution shall be valid regardless of the grounds of forfeiture.

(C) Filling of Vacancies. A vacancy on the council shall be filled as follows:

(1) If less than six months remain in the unexpired term, the vacancy shall be filled by resolution of the council, at its next regularly scheduled meeting.

(2) If six months or more remain in the unexpired term, the vacancy shall be filled by resolution of the council, at its next regularly scheduled meeting or a special meeting to be held no later than 30 days after the vacancy occurs. The nominee shall fill the vacancy until

the next scheduled regular county-wide election in Miami-Dade County at which time an election shall be held to fill the vacancy for the balance of the term. However, if the council is unable to confirm a nominee, a special election to fill that vacancy shall be held no later than 90 days following the occurrence of the vacancy.

(3) If the mayor's position becomes vacant, the vice-mayor shall complete the term of mayor, even if said complete term shall cause the vice-mayor to exceed the term limits as specified in Section 2.3 (E). The vacancy of vice-mayor thus created shall be filled in the manner that the vacancy of a council member is generally filled under this article. If the elected mayor shall be returned to office, s/he shall automatically resume the duties of the office for the remainder of the term for which elected, and the vice-mayor shall be returned to complete the balance of his/her term. The appointment of the person to complete the term of the vice-mayor shall be automatically rescinded.

(4) A vacancy in seats 1-3 shall be filled by a qualified elector residing in the respective residential area. A vacancy for vice-mayor shall be filled by any qualified elector of the town.

(5) Persons filling vacancies shall meet the qualifications specified in this article.

(6) If no candidate for a vacancy meets the qualifications under this article for that vacancy, the council shall appoint a person qualified under this article to fill the vacancy.

(7) In the event that the number of council members to make a quorum are removed by death, disability, recall, forfeiture of office and/or resignation, the governor of the State of Florida shall appoint additional interim council members to fill vacancies who shall call a special election within not less than 45 days or more than 60 days after such appointment. Such election shall be held in the same manner as the first elections under this charter; provided, however, that if there are less than six months remaining in any of the unexpired terms, such interim council appointee(s) by the governor shall serve out the unexpired terms. Appointees must meet all requirements for candidates provided for in this article.

Section 2.6 Compensation; Reimbursement for Expenses.

District council members and the vice-mayor shall receive compensation in the amount of $500.00 per month and the mayor shall receive compensation in the amount of $1,000.00 per month. These payments shall be increased, but not decreased, by CPI annually. Furthermore elected officials and authorized employees of the town shall receive reimbursement in accordance with applicable law, or as may be otherwise provided by ordinance, for authorized expenses incurred in the performance of their official duties.

Section 2.7 Recall

The electors of the town shall have the power to recall and to remove from office any elected official of the town to the extent permitted by the Constitution and the laws of the State of Florida. The minimum number of electors of the town which shall be required to initiate a recall petition shall be ten percent (10%) of the total number of electors registered to vote, as certified by the county supervisor of elections, in town elections as of the date an affidavit is filed pursuant to section 5.2 of this charter. The petition shall be handled in the same manner as all petitions as outlined in

Section 5.2.

ARTICLE III. ADMINISTRATIVE

Section 3.1 Town Manager.

There shall be a town manager (the "town manager") who shall be the chief administrative officer of the town. The town manager shall be responsible to the council for the administration of all town affairs and for carrying out policies adopted by the council. The term, conditions, method of evaluation, and compensation of the town manager shall be established by the council.

Section 3.2 Town Manager: Appointment, Qualifications and Removal.

The town manager shall be appointed by a majority vote of the council. The town manager shall be appointed on the basis of education and professional experience in the accepted competencies and practices of local government management. The town manager shall be removed by a majority vote of the council. Any council member may nominate or move the hiring or firing of the town manager.

Section 3.3 Powers and Duties of the Town Manager.

The town manager shall:

(1) Be responsible for the appointing, hiring, promoting, supervising and removing of all town employees, and the supervision of all contracted services including but not limited to police, consultants and contracted employees, except the town attorney and town clerk and all of their employees. If the town contracts with another entity for the provision of police services, then the town manager shall be responsible for directing the police commander and shall make all police personnel decisions in conjunction with the police commander.

(2) Direct and supervise the administration of all departments and offices but not town boards or committees, unless so directed by the council from time to time;

(3) Attend council meetings and have the right to take part in discussion but not the right to vote;

(4) Ensure that all laws, provisions of this charter and directives of the council, subject to enforcement and/or administration by him/her or by employees subject to his/her direction and supervision, are faithfully executed;

(5) Prepare and submit to the council a proposed annual budget and capital program;

(6) Submit to the council and make available to the public an annual report on the finances and administrative activities of the town as of the end of each fiscal year;

(7) Prepare such other reports as the council may require concerning the operations of town departments, offices, boards and agencies;

(8) Keep the council fully advised as to the financial condition and future needs of the town and make such recommendations to the council concerning the affairs of the town as s/he deems to be in the best interests of the town;

(9) Execute contracts and other documents on behalf of the town as authorized by the council;

(10) Perform such other duties as are specified in this charter or as may be required by the council; and

(11) Pursue the collection of all allowable fees and taxes and maximize financial reserves as is necessary to sustain the town and the service levels requested by the citizenry. Periodically compare fee structure to similarly sized municipalities to ensure fair and appropriate pricing.

Section 3.4 Acting Town Manager.

To perform his/her duties during his/her temporary absence or disability, the town manager may designate by letter filed with the council, a qualified employee of the town to serve as acting town manager. In the event of failure of the town manager to make such designation or should the council be dissatisfied with performance of the person designated, the council may appoint another employee to serve as acting town manager.

Section 3.5 Bond of Town Manager.

The town manager shall furnish a surety bond to be approved by the council, and in such amount as the council may fix, said bond to be conditioned on the faithful performance of his/her duties. The premium of the bond shall be paid by the town.

Section 3.6 Town Clerk.

The town council shall appoint the town clerk (the "town clerk "). The town clerk shall give notice of all council meetings and all other town meetings required to be publicly noticed to council members and the public, and shall keep minutes of the council's proceedings. The town clerk shall perform such other duties as the town council may prescribe from time to time. The town clerk shall report to the town council. The town clerk may be removed by the town council. The town clerk shall maintain the seal of the town and attest the mayor's or manager's signature, as the case may be, on all documents if needed. The town clerk shall be responsible for the appointing, hiring, promoting, supervising and removing of all employees of the office of the town clerk as authorized by the town council in the annual budget or as otherwise provided by resolution or ordinance.

Section 3.7 Town Attorney.

The council shall hire an individual attorney or law firm to act as the town attorney under such terms, conditions, and compensation as may be established by the council. The town attorney shall report to the council and may be removed by majority vote of the council.

Section 3.8 Expenditure of Town Funds.

No funds of the town shall be expended except pursuant to duly approved appropriations.

Section 3.9 Town Boards, Agencies and/or Committees.

The council may establish or terminate such boards, agencies and/or committees as it deems advisable from time to time. The council shall establish procedures for appointing town residents to boards, agencies and/or committees provided however that all appointments shall be for residents at large and shall not be restricted to appointees from particular residential districts, except as otherwise provided by the charter; provided however, that no citizen may serve on more than two such boards, agencies or committees simultaneously. The boards, agencies and/or committees shall report to the council.

Section 3.10 Competitive Bid Requirements/Purchasing.

(A) Except as otherwise provided by law, contracts for public improvements and purchases of supplies, materials or services shall be awarded or made on the basis of clearly drawn specifications and competitive bids, except in cases where the council, based on the written recommendation of the town manager, specifically determines by affirmative vote of four council members that it is impracticable or not advantageous to the town to do so. The town council shall have the power to reject all bids and advertise again. The town manager, by an ordinance approved by a super majority (four or more votes) of the council may be granted purchasing power up to an amount established by said ordinance without competitive bidding or as otherwise mandated by law.

(B) No contract or order shall be issued to any vendor unless or until the town manager or his/her designee certifies that there is to the credit of such office, department or agency a sufficient unencumbered budget appropriation to pay for the supplies, materials, equipment or contractual services for which the contract or order is to be issued.

Section 3.11 Technology

The town manager shall recommend, in his/her proposed annual budget, and the town council shall, subject to budgetary limitations, appropriate sufficient funds to make the proficient use of cost effective information technology designed to make the administration of the town's government accessible and transparent; reduces the use of paper and the town's "carbon footprint"; and other technologies that save energy, reduce space requirements, improves communication and makes the internal administration and financial reporting of the town more efficient.

Section 3.12 Grants

The town council shall instruct the town manager to engage a grant writer, either as an employee or as an independent contractor or consultant, whose duty it will be, to secure all applicable grants for the town. All grants are to be approved by the town manager or the appropriate department head, prior to submission.

Section 3.13 Ordinance on Sexual Predators

The town shall have an ordinance dealing with sexual predators consistent with or more stringent than the ordinance passed by the Miami-Dade County Commission. Alternatively, the town shall continue to be governed by the Miami-Dade County ordinance.

ARTICLE IV. LEGISLATIVE

Section 4.1 Council Meeting Procedure.

(A) Meetings. The council shall hold at least 11 regular monthly meetings in each calendar year, at such times and places as the council may prescribe. Special meetings may be held on the call of the mayor or upon the call of three council members upon no less than 48 hours notice to the public or such shorter time as a majority of the council deems necessary in case of an emergency affecting life, health, property or the public peace.

(B) Rules and Minutes. The council shall determine its own rules of procedure and order of business and shall keep minutes open for public inspection.

(C) Quorum and Voting. A majority of the council shall constitute a quorum but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the council. Voting on ordinances shall be by roll call on final reading. Voting on all other matters shall be by voice vote unless a council member or the town clerk requests otherwise. In the event that three or more council members are unavailable to vote on a particular matter due to required abstention pursuant to state law, then the remaining members of the council may vote and approve such matter by unanimous vote.

(D) Meeting Time Limits. No meeting of the council shall extend later than 11:00 p.m. except upon the affirmative vote of a majority of council members present at the meeting.

Section 4.2 Prohibitions.

(A) Appointment and Removals. Neither the council nor any of its members shall in any manner dictate the appointment or removal of any town employees, whom the town manager or any of his/her subordinates are empowered to appoint. The council may express its views and fully and freely discuss with the town manager anything pertaining to appointment and removal of such officers and employees.

(B) Interference with Administration.

(1) Except for the purpose of inquiries and investigations made in good faith and in accordance with a resolution adopted by the council, the council and any of its individual members shall deal with town employees who are subject to the direction and supervision of the town manager solely through the town manager, and neither the council nor its members shall give orders to any such employee, except the town manager, the town attorney and/or the town clerk, either publicly or privately. It is the express intent of this charter that recommendations for improvement in town government operations by individual council members are made solely to and through the town manager. Council

members may discuss with the town manager any matter of town business; however, no individual council member shall give orders to the town manager.

(2) Any willful violation of this section by the mayor, vice-mayor or any district council member shall be grounds for his/her removal from office by an action brought in the circuit court by the State Attorney of Miami-Dade County.

(C) Holding Other Office. No elected town official shall hold any appointed town office or town employment while in office. No former elected town official shall hold any compensated appointive town office or town employment until two (2) years after the expiration of his/her term.

Section 4.3 Ordinances.

(A) Actions Requiring an Ordinance. In addition to other acts required by Florida law or by specific provision of this charter to be effected or authorized by ordinance, those acts of the town council shall be by ordinance which:

(1) Adopt or amend an administrative regulation or establish, alter or abolish any town office, department, board or agency;

(2) Establish a rule or regulation the violation of which carries a penalty;

(3) Levy taxes or appropriate funds except pursuant to the adoption of the annual budget, which may be adopted or amended by resolution of the council subsequent to a public hearing;

(4) Grant, renew, modify or extend a franchise;

(5) Set service or user charges for municipal services or grant administrative authority to set such charges;

(6) Authorize the borrowing of money in accordance with section 4.11, except where the council authorizes a general obligation bond issue to be approved by the electorate, which may be done by appropriate resolution;

(7) Convey or lease or authorize by administrative action the conveyance or lease of any lands of the town;

(8) Regulate land use and development; or

(9) Amend or repeal any ordinance previously adopted, except as otherwise provided in this charter.

Section 4.4 Emergency Ordinances.

To meet a public emergency affecting life, health, property or the public peace, the council may adopt, in the manner provided in this section, one or more emergency ordinances, but emergency ordinances may not: levy taxes, grant, renew or extend any municipal franchise; set service or user

charges for any municipal services; or authorize the borrowing of money except as provided under the emergency appropriations provisions of this charter if applicable.

(1) Form. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated in a preamble as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms.

(2) Procedure. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced and shall be enacted by the council. After its adoption, the ordinance shall be published and printed as prescribed for other ordinances.

(3) Effective Date. An emergency ordinance shall become effective upon adoption or at such other date as may be specified in the ordinance.

(4) Repeal. Every emergency ordinance except emergency appropriation ordinances shall automatically be repealed as of the 91st day following its effective date, but this shall not prevent reenactment of the ordinance under regular procedures, or if the emergency still exists, in the manner specified in this section. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

(5) Emergency Appropriations. The council may make emergency appropriations in the manner provided in this section. Notwithstanding the provisions of section 4.11 to the extent that there are no available unappropriated revenues to meet such appropriations, the council may authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes, including renewals thereof, shall be payable no later than the last day of the fiscal year next succeeding the fiscal year in which the emergency appropriation ordinance was originally adopted.

Section 4.5 Annual Budget Adoption.

(A) Balanced Budget. Each annual budget adopted by the council shall be a balanced budget and adopted in accordance with Florida law.

(B) Budget Adoption. The council shall by resolution adopt the annual budget within the time prescribed by general law, after having had two (2) public hearings. If it fails to adopt the annual budget by this date, the council may by resolution direct that the amounts appropriated for current operations for the current fiscal year shall be deemed adopted for the ensuing fiscal year for a period of fifteen (15) days and renewed by resolution each fifteen (15) days, with all items in it prorated accordingly, until such time as the council adopts an annual budget for the ensuing fiscal year. A resolution adopting an annual budget shall constitute appropriation of the amounts specified therein.

(C) Specific Appropriation. The budget shall be specific as to the nature of each category of appropriations therein. The town manager may recommend for approval by the council one or more contingency accounts to be used for unanticipated items of expense which were not included in the budget as original items of expenditure. The town manager may recommend for approval by the council one or more reserve accounts to be used for items of expense which might require multiple years of budgeting in order to fulfill the original designation of funds.

(D) Notice and Hearing. The council shall publish the general summary of the budget and a notice of public hearing as prescribed by general law.

Section 4.6 Fiscal Year.

The fiscal year of the town government shall begin on the first day of October and shall end on the last day of September of the following calendar year. Such fiscal year shall also constitute the annual budget and accounting year.

Section 4.7 Appropriation Amendments During the Fiscal Year.

(A) Supplemental Appropriations. If, during any fiscal year, revenues in excess of those estimated in the annual budget are available for appropriation, the council may by resolution after a public hearing make supplemental appropriations for the fiscal year up to the amount of such excess.

(B) Reduction of Appropriations. If, at any time during the fiscal year, it appears probable to the town manager that the revenues available will be insufficient to meet the amount appropriated, s/he shall report in writing to the council immediately upon discovery, indicating the estimated amount of the deficit, and his/her recommendations as to the remedial action to be taken. The council shall then take such action as it deems appropriate to prevent any deficit spending.

Section 4.8 Authentication, Recording and Disposition of Ordinances, Resolutions and Charter Amendments.

(A) Authentication. The mayor and the town clerk shall authenticate by their signature all ordinances and resolutions adopted by the council. In addition, when charter amendments have been approved by the electors, the mayor and the town clerk shall authenticate by their signatures the charter amendment, such authentication to reflect the approval of the charter amendment by the electorate.

(B) Recording. The town clerk shall keep properly indexed books in which shall be recorded, in full, all ordinances and resolutions passed by the council. Ordinances shall, at the direction of the council, be periodically codified, but at least annually after the third year of the town's existence. The town clerk shall also maintain the charter in current form including all charter amendments.

(C) Availability of Enactments. The council shall establish procedures for making all resolutions, ordinances, technical codes adopted by reference, and this charter available for public inspection and copying as required by general law.

Section 4.9 Tax Levy, Assessments and Fees.

The town, by majority vote of the council, shall have the right to levy, assess and collect all such taxes, assessments and fees as are permitted by law, including without limitation, fines, ad valorem taxes, special assessments and fees, excise, franchise or privilege taxes and taxes on services and utilities.

Section 4.10 Independent Audit.

The council shall provide for an annual independent audit of all town accounts and may provide

more frequent audits as it deems necessary. Audits shall be made in accordance with generally accepted auditing standards by a certified public accountant or firm of such accountants who have no personal interest direct or indirect in the fiscal affairs of the town government, its employees or officers. Residency, per se, shall not constitute a direct or indirect interest. A summary of the results, including any deficiencies found, shall be made public at the next regularly scheduled council meeting. A written response to any noted deficiencies shall be the responsibility of the town manager. The response shall be made public no later than 30 days from delivery of the independent auditor's report.

Section 4.11 Borrowing.

(A) Debt Approval. The town shall incur no debt unless the incurrence of such debt is approved by a majority of the council.

(B) Limits. The total debt of the town, including amounts authorized but still not drawn down under existing loan agreements and other contractual arrangements with banks and other financial institutions, underwriters, brokers and/or intermediaries, shall not exceed the greater of:

i. three percent (3%) of the total assessed value of all property within the town, as certified by the Miami-Dade County Property Appraiser for the current fiscal year; or

ii. that amount which would cause annual debt service to equal fifteen percent (15%) of general fund expenditures for the previous fiscal year.

(C) Definitions. As used in this section 4.11 the following terms shall have the meanings ascribed to them in this subsection.

i. "Debt" means any obligation of the town to repay borrowed money however evidenced since the date of its incorporation regardless of tenor or term for which it was originally contracted or subsequently converted through refinancing or novation, except (a) any obligation required to be repaid in less than a year and which was incurred solely for emergency relief of natural disasters, or (b) that portion of any obligation for operations which are financed and operated in an independent, self-liquidating manner and recovered entirely through currently collected user fees and charges.

ii. "Debt Service" shall include, without limitation thereto, scheduled interest payments, repayments of principal and all financial fees arising from debt or from the underlying contractual obligations, whether as originally incurred or subsequently deferred or otherwise renegotiated.

iii. "General Fund" shall mean any and all revenues of the town, from whatever source derived, except those revenues derived from special assessments, user fees and charges and designated as a separate fund to finance goods and services to the public.

ARTICLE V. ELECTIONS

Section 5.1 Elections.

(A) Electors. Any person who is a resident of the town, has qualified as an elector of the state and registers to vote in the manner prescribed by law shall be an elector of the town.

(B) Nonpartisan Elections. All elections for the town council and mayor shall be conducted on a nonpartisan basis and no ballot shall show the party designation of any candidate.

(C) Election Dates. A general election shall be held in even numbered years on the first Tuesday following the first Monday in November, provided however that it is the intent of this charter that the town election always be scheduled to coincide with a county-wide election. Accordingly, if the date of the county-wide general election changes for any reason, either permanently or temporarily, the date of the Town election shall automatically be changed to the same date as the county-wide election and all dates in this charter that are dependent on the date of the town election, including but not limited to the lengths of the terms of office for the mayor, vice-mayor and council members in section 2.3 and the qualifying dates for candidates in section 2.4, shall also be automatically amended and adjusted to coincide with the change of election date. In the case of the terms of office in section 2.3, such change may result in the shortening or lengthening of the terms of office of the elected officials. This paragraph complies with the conditions of incorporation approval detailed in section
20- 27(A) of the Miami-Dade County Code, which may be amended from time to time. Pursuant to Article V of the Miami-Dade County Home Rule Charter, any modifications to this paragraph will require all approvals normally required by the municipal charter, and approval by an affirmative vote of 2/3rds of the members of the Board of County Commissioners then in office, prior to a vote of qualified municipal electors.

(D) General Election. The ballot for the general election shall contain the names of all qualified candidates for mayor or vice-mayor, if the mayor's or vice-mayor's term is expiring, and for each of the residential areas seats which are to be filled as a result of members' terms expiring. The ballot shall instruct electors to cast one vote for mayor or vice-mayor, if applicable, and one vote for each residential area council seat, with a maximum of one vote per candidate. If any candidate for mayor receives a number of votes greater than 50% of the total number of votes cast, such candidate shall be the duly elected mayor and no run-off election for mayor shall be required. If any candidate for vice-mayor receives a number of votes greater than 50% of the total number of votes cast, such candidate shall be the duly elected vice-mayor and no run-off election for vice-mayor shall be required. If any candidate for a council seat receives a number of votes greater than 50% of the total number of votes cast, such candidate(s) shall be duly elected to the residential area council seat and no run-off election for that seat(s) shall be required.

(E) Run-off Election. If necessary, the ballot for the runoff election shall contain the names of the two candidates for mayor, the two candidates for vice-mayor, and the names of the two candidates for each council seat, who received the most votes in the general election. The ballot shall instruct electors to cast one vote for mayor, one vote for vice-mayor, and one vote for each council seat, with a maximum of one vote per candidate. The candidate for mayor receiving the most votes shall be duly elected mayor. The candidate for vice-mayor receiving the most votes shall be duly elected vice-mayor. The candidate for each council seat receiving the most votes shall be duly elected to that

council seat. Run-off elections shall, whenever possible, be held at the same time as county-wide or state-wide elections, but in no event less than 14 days or more than 35 days after the general or special election giving rise to the run-off.

(F) Ties. In the event that there is a tie in the regular election and it is necessary to break the tie in order to determine the two (2) names to be placed on the ballot at the runoff election, or in the event that there is a tie in the runoff election, then the winner or winners shall be determined by the drawing of straws, with the person or persons drawing the longest straw being declared the winner.

(G) Special Elections. Special elections, when required, shall be scheduled by the council at such times and in such manner as shall be consistent with this charter and state law.

(H) Single Candidates. No election for mayor or vice-mayor or any council seat shall be required in any election if there is only one duly qualified candidate for mayor, vice-mayor or for any council seat. That candidate shall be considered elected by operation of law.

(I) Absentee Voting. Absentee voting will be permitted as provided by the laws of the State of Florida and under such conditions as may be prescribed by ordinance from time to time; provided, however, that no ordinance shall limit the right to vote by absentee ballot available under state law.

(J) Early Voting. Early voting will be permitted as provided by the laws of the State of Florida and Miami-Dade County, in the case of any town election held in conjunction with a county-wide election, and under such conditions as may be prescribed by ordinance from time to time.

(K) Commencement of Terms. The term of office of any elected official will commence at 12 o'clock noon, on the day following the day that the Canvassing Board of Miami-Dade County certifies the results of the general or runoff election in which he/she is elected, and will end at the time that the term of his or her successor commences.

The council shall hold no meetings between the general election or the runoff election and the swearing in of those newly elected or re-elected council members except in the case of an emergency affecting life, health, property or the public peace.

Section 5.2 Initiative and Referendum.

(A) Power to Initiate and Reconsider Ordinances.

> (1) Initiative. The electors of the town shall have the power to propose ordinances to the council and, if the council fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a town election, provided that such power shall not extend to the annual budget or capital program or any ordinance appropriating money, levying taxes or setting salaries of town officers or employees.
>
> (2) Referendum. The electors of the town shall have power to require reconsideration by the council of any adopted ordinance and, if the council fails to repeal an ordinance so reconsidered, to approve or reject it at a town election, provided that such power shall not extend to the annual budget or capital program or any ordinance appropriating money, levying taxes or setting salaries of town officers or employees.

(B) Commencement of Proceedings. A minimum of ten electors may commence initiative or referendum proceedings by filing with the town clerk an affidavit (the "affidavit") stating they will constitute the petitioners' committee (the "committee") and be responsible for circulating the petition (the "petition ") and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered. Promptly after the affidavit of the committee is filed, the town clerk shall at the committee's request, issue the appropriate petition blanks to the committee at the committee's expense. Petitioners' proposed ordinance shall be approved as to legal sufficiency by the town attorney prior to circulation.

(C) Petitions.

(1) Number of Signatures. Initiative and referendum petitions must be signed by at least ten (10) percent of the total number of electors registered to vote at the last regular town election.

(2) Form and Content. All pages of a petition shall be assembled as one instrument of filing. Each signature shall be executed in ink and shall be followed by the printed name and residence address (or precinct number) of the person signing as well as the date signed. Petitions shall contain or have attached throughout their circulation the full text of the ordinance proposed or sought to be reconsidered, as well as an advisory noting that any individual who knowingly signs more than one petition or who attempts to sign another person's name, or a fictitious name shall be deemed to have violated F.S. § 104.185, and in addition shall be guilty of a misdemeanor in the second degree.

(3) Affidavit of Circulator. Each page of a petition shall have attached to it when filed an affidavit executed by the circulator stating that s/he personally circulated the page, the number of signatures contained, that all the signatures were affixed in his/her presence, that

s/he believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered. This affidavit shall include a sworn statement signed by the circulator certifying to its truthfulness and correctness; stating that it is being given under penalty of perjury under the laws of the State of Florida; and setting forth the date and the place of execution of the certification.

(4) Filing Deadline. All petitions must be filed within 60 days of the date a proper affidavit is filed pursuant to subsection (B) of this section.

(D) Procedure for Filing.

(1) Certificate of Clerk; Amendment. Within Twenty (20) days after an initiative petition is filed or within five business days after a referendum petition is filed, the town clerk shall complete a certificate as to its sufficiency ("the certificate"). If insufficient the certificate shall specify the particulars of the deficiency. A copy of the certificate shall be promptly sent to the committee by registered mail. Grounds for insufficiency are only those specified in subsection (c) of this section. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the committee files a notice of intention to amend

it with the town clerk within two (2) workdays after receiving the copy of the certificate and files a supplementary petition ("supplementary petition") with the town clerk with additional valid signatures within ten (10) days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of subsection (c) of this section. Within five business days after a supplementary petition is filed the town clerk shall complete a certificate as to the sufficiency of the petition as amended ("amended petition") and promptly send a copy of such certificate to the committee by registered mail. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the committee does not elect to amend or request council review under paragraph (2) of this subsection within the time required, the town clerk shall promptly present his/her certificate to the council and such certificate shall then be a final determination as to the sufficiency of the petition.

(2) Council Review. If a petition has been certified insufficient and the committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within two (2) workdays after receiving the copy of such certificate, file a request with the town clerk that it be reviewed by the council. The council shall review the certificate at its next regularly scheduled meeting following the filing of such request and approve or disapprove it. The council's determination shall then be a final determination as to the sufficiency of the petition.

(E) Action on Petitions.

(1) Action by Council. When an initiative or referendum petition has been finally determined sufficient, the council shall promptly consider the proposed initiative ordinance or reconsider the referred ordinance by voting its repeal. If the council fails to adopt a proposed initiative ordinance without any change in substance within 45 days or fails to repeal the referred ordinance within 30 days, it shall submit the proposed or referred ordinance to the electors of the town. If the council fails to act on a proposed initiative ordinance or a referred ordinance within the time period contained in this paragraph, the council shall be deemed to have failed to adopt the proposed initiative ordinance or failed to repeal the referred ordinance on the last day that the council was authorized to act on such matter.

(2) Submission to Electors. The vote of the town on a proposed or referred ordinance shall be held not less than 45 days or no more than 75 days from the date the council acted or was deemed to have acted pursuant to paragraph (1) of this subsection. If no regular election is to be held within the period described in this paragraph, the council shall provide for a special election. Copies of the proposed or referred ordinance shall be made available at the polls.

(2) Withdrawal of Petitions. An initiative or referendum petition may be withdrawn at any time prior to the 15th day preceding the day scheduled for a vote by the town by filing with the town clerk a request for withdrawal signed by at least eight/tenths of the committee. Upon the filing of such a request, the petition shall have no further force or effect and all proceedings shall be terminated.

(F) Results of Election.

(1) Initiative. If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict. If the proposed initiative ordinance fails, it or any ordinance that is substantially similar may not be submitted in accordance with this article for at least one year from the date of the election.

(2) Referendum. If a majority of the qualified electors voting on a referred ordinance vote for repeal, the repealed ordinance shall be considered repealed upon certification of the election results.

Section 5.3 Form of Ballots

A charter amendment, ordinance or other ballot issue to be voted on by the electors shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure without argument or prejudice in accordance with state law.

Section 5.4 County Canvassing Board

As a condition of incorporation approval pursuant to Article V of the Miami-Dade County Home Rule Charter, each new municipality shall provide for all of its elections to be canvassed by a County Canvassing Board as provided under the election laws of this state and section 20-27(C) of the Miami-Dade County Code. Any modifications to this section will require all approvals normally required by the municipal charter, and approval by an affirmative vote of 2/3rds of the members of the Board of County Commissioners then in office, prior to a vote of qualified municipal electors.

ARTICLE VI. CHARTER AMENDMENTS AND ABOLISHMENT OF MUNICIPALITY

Section 6.1 Procedure to Amend or Revoke Charter or to Abolish Municipality.

(A) The charter may be amended or revoked, or the town abolished, in accordance with the provisions of section 5.03 of the Home Rule Charter of Miami-Dade County, which states: "Except as provided in section 5.04, any municipality in the county may adopt, amend, or revoke a charter for its own government or abolish its existence in the following manner. Its governing body shall, within 120 days after adopting a resolution or after the certification of a petition of ten percent of the qualified electors of the municipality, draft or have drafted by a method determined by municipal ordinance a proposed charter amendment, revocation, or abolition which shall be submitted to the electors of the municipalities. Unless an election occurs not less than 60 days before, and no more than 120 days after, the draft is submitted, the proposal shall be submitted at a special election within that time. The governing body shall make copies of the proposal available to the electors not less than 30 days before the election. Alternative proposals may be submitted. Each proposal approved by a majority of the electors voting on such proposal shall become effective at the time fixed in the proposal." This provision is a special condition of incorporation pursuant to Article V of the Miami-Dade County Home Rule Charter. Any modifications to this paragraph will require all approvals normally required by the municipal charter, and approval by an affirmative vote of 2/3rds

of the members of the Board of County Commissioners then in office, prior to a vote of qualified municipal electors. The town shall enact an ordinance to implement this article.

(B) If conflicting amendments are adopted at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

Section 6.2 Charter Revision.

(A) At its first regular meeting in December 2007, and in December 2011 and thereafter every sixth year, the council shall appoint and fund a charter revision commission (the "commission").

(B) The commission shall consist of five residents including one from each of the three residential areas. One appointment shall be made by the mayor, vice-mayor and each district council member. Each district council member shall appoint one (1) person from his or her council district. No town official shall be appointed to serve on a charter revision commission. The commission shall commence its proceedings within 45 days after appointment by the council. No person shall serve as a voting member of a charter revision commission more than two times consecutively.

(C) The commission shall be charged with reviewing each and every section of this charter and make recommendations for change. If the commission determines that an amendment or revision is needed, it shall submit the same to the council no later than July 1st of the year following its appointment. Alternative proposals may be submitted by the charter revision commission and/or by citizen's initiative. The council after its review and approval shall submit suggested amendments and revisions to the electors of the town in accordance with the provisions of section 6.1, at the next regularly scheduled election.

ARTICLE VII. GENERAL PROVISIONS

Section 7.1 Severability and Conflict Within the Charter.

Severability. If any article, section or part of a section of this charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this charter or the context in which such article, section or part of section so held invalid may appear, except to the extent that an entire article, section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

Conflict within the Charter. Should there be a conflict or apparent conflict in the provisions of any one section of this charter, or between two or more sections thereof, then the town attorney shall resolve such conflict or apparent conflict by a written ruling which shall be legal and binding unless invalidated by a court of competent jurisdiction.

Section 7.2 Conflicts of Interest; Ethical Standards.

(A) All council members, officials and employees of the town shall be subject to the standards of conduct for public officers and employees set by state law and the Miami-Dade County Code of Ethics. The council may, by ordinance, adopt additional standards of conduct and code of ethics, but in no case inconsistent with law. If the town council wishes to opt out of the Cone of Silence Provision of the Miami-Dade County Code of Ethics, then they must do so by ordinance.

(B) All elected officials, employees and appointed board or committee members shall disclose any interest in real estate or other business(es) upon entering office or being hired and shall re-disclose annually thereafter, except as otherwise provided by law.

(C) Without in any way limiting the generality of the foregoing, no council member, town manager, town attorney, town clerk, department director, or member of a selection committee for a procurement, shall have a financial interest, direct or indirect, or by reason of ownership of stock or other equity ownership in any corporation or entity, in any contract or in the sale to the town or to a contractor supplying the town of any land or rights or interests in any land, materials, supplies, or services unless, after full disclosure to the council of the nature and extent of such interest, the same is authorized by the council before the event or accepted and ratified by the council after the event. No member of the council, town manager, town clerk, staff or a member or employee of the town attorney's office who possesses such a financial interest shall vote on, or participate in the council deliberations concerning, any such contract or sale. Any violation of this section with the knowledge of the person or entity contracting with the town shall render the contract voidable by the council.

Section 7.3 Town Personnel System.

All new employment, appointments and promotions of town employees shall be made pursuant to written personnel procedures to be established by the manager from time to time.

Section 7.4 Variation of Pronouns.

All pronouns and any variation thereof used in this charter shall be deemed to refer to masculine, feminine, neutral, singular or plural as the identity of the person or persons shall require and are not intended to describe, interpret, define or limit the scope, extent, or intent of this charter.

Section 7.5 No Discrimination.

The town shall not adopt any ordinance or policy that discriminates against any person due to race, religion, color, national origin, physical or mental disability, creed, age, sexual orientation or gender.

Section 7.6 Lobbyists, Principals and Vendors

(A) The town council shall pass, maintain and enforce an ordinance, which requires all paid lobbyists (as may be defined by the Miami-Dade County Code and/or as may be made more stringent by the town council) to:

> (1) Register and pay annual fees as required by ordinance with the town clerk prior to lobbying any town government official ie: town council member, employee, board or committee member;
>
> (2) Disclose in writing all persons and/or entities the lobbyist is representing upon registering and shall update this list within ten (10) days of being retained by a new principal or for a new project of an existing principal; and
>
> (3) Disclose in writing all town government officials directly contacted by the lobbyist and any expenditures involved as defined by state law, before the public hearing.

The ordinance shall also direct the town clerk to make available to the town council, prior to any public hearing, on the event or matter for which a registered lobbyist may appear all disclosures required herein or as otherwise required by state or County law.

(B) Principals in all items requiring a public hearing must disclose in writing to the town clerk all moneys paid to a person(s) or entity to support or not object to a matter which is set for a public hearing.

Any violation of subsections (A) or (B) above shall render the issue being lobbied for or sought by the principal voidable.

(C) Any 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 candidate who is elected mayor, vice-mayor or council member, shall be required to disclose said contribution and if said Vendor fails to disclose 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.

Section 7.7 Precedence over Related Laws.

In case of a conflict between the provisions of this charter and the provisions of the code to be adopted pursuant thereto, the charter terms shall control. Moreover, nothing in this charter shall be construed to alter, abolish, affect or amend the general laws of this state, now in force, or which hereinafter may be enacted relative to or affecting this town, except where such laws are in direct conflict in which case the provisions of this charter or code adopted pursuant thereto shall supersede and be in full force and effect.

ARTICLE VIII. TRANSITION PROVISIONS

Section 8.1 Temporary Nature of Article.

The following sections of this Article are inserted solely for the purpose of effecting the incorporation of the Town and the transition to a new municipal government. Each section of this Article shall automatically, and without further vote or act of the electors of the Town, become ineffective and no longer a part of this Charter at such time as the implementation of such section has been accomplished. In cases of a conflict between this Article and the remainder of the Charter the provisions of this Article shall govern.

Section 8.2 Interim Governing Body.
(Deleted)

Section 8.3 Interim Adoption of Codes and Ordinances.

Until otherwise modified or replaced by this charter or the town council, all codes, ordinances and resolutions in effect on the date of adoption of this charter shall, to the extent applicable to the town, remain in full force and effect as municipal codes, ordinances and resolutions of the town until modified, replaced or repealed by the town.

Section 8.4 Taxes and Fees.

Unless otherwise modified by the town council, all municipal taxes and fees imposed within town boundaries by Miami-Dade County as the municipal government for unincorporated Miami-Dade County, which taxes and fees are in effect on the date of adoption of this charter, shall continue at the same rate and on the same conditions as if those taxes and fees had been adopted and assessed by the town.

Section 8.5 Initial Election of Town Council and Mayor.

(A) Transition. This Section shall apply to the initial general and runoff elections for council, vice-mayor and mayor. Any conflicting provisions of this charter shall not apply to such elections.

(1) The general election shall be held on January 10, 2006. The first town run-off election, if necessary, shall be held on January 31, 2006.

(2) The general and run-off elections in 2006 shall be held pursuant to the general election procedures set forth in this charter except as follows:

(a) Only those candidates will qualify for election who have filed written notice of candidacy for council member, vice-mayor or mayor (but not more than one) with the Miami-Dade County Elections Department, which notice is received between 8:00 a.m. on November 9, 2005 and 5:00 p.m. on December 1, 2005, and which notice shall:

(i) indicate whether the candidate seeks the office of council member, vice-mayor, or mayor; if for council member, a particular seat 1,2 or 3 shall be designated;

(ii) contain the candidate's certification that s/he is a qualified elector of the state, is registered to vote in the town and that the person has resided continuously within the area comprising the town since November 9, 2003;

(iii) if applicable, a certification that the candidate has resided continuously in the Residential Area they are seeking to represent since November 9, 2004;

(iv) contain or be accompanied by such other information or statement, if any, as may be required by the applicable laws of the state;

(v) be signed by the candidate and duly notarized; and

(vi) be accompanied by a check payable to the Board of County Commissioners in the amount of $100.00 in addition to any fees required by Florida Statutes, as a qualifying fee.

(3) There will be one mayor, one vice-mayor, and three council seats to be filled.

(4) The mayor will be elected to a term expiring in March 2010 or election of his/her

successor.

(5) The vice-mayor will be elected to a term expiring in March 2008 or election of his/her successor.

(6) The odd numbered seats for council members shall be elected to terms expiring in March 2010 or election of his/her successor.

(7) The even numbered seat for council members shall be elected to terms expiring in March 2008 or election of his/her successor.

(B) Induction into Office. Those candidates who are elected at the first regular election shall take office at the initial council meeting, which shall be held at 7 p.m. on January 12, 2006 or if a run-off election is necessary for any Seat at 7 p.m. on February 2, 2006, at a place to be determined.

Section 8.6 Initial Expenditures.
(Deleted)

Section 8.7 First Fiscal Year and Budget.
(Deleted)

Section 8.8 Transitional Ordinances and Resolutions.
(Deleted)

Section 8.9 Town Name
(Deleted)

Section 8.10 Interim Personnel.
(Deleted)

Section 8.11 Code Enforcement Amnesty
(Deleted)

ARTICLE IX. SPECIAL CONDITIONS

Section 9.1 Interlocal Agreements.

Within one hundred eighty (180) days after the election of a municipal council, the town will enter into an interlocal agreement ("interlocal agreement") with Miami-Dade County to set forth contractual provisions establishing the municipality's relationship with Miami-Dade County to the extent required by the charter.

Section 9.2 County Services.

The town shall remain a part of and receive services at least equal to the service level as of the date of approval of this charter by the electors of the town, in perpetuity, from the:

(1) Miami-Dade Fire Rescue District,

(2) Miami-Dade Library System, and

(3) Miami-Dade Solid Waste Collection Service Area.

Private trash collection in place on the date of incorporation within the residential and commercial areas of the town will continue. The county's department of solid waste management will provide services to all new residential customers and continue serving existing customers.

Except as otherwise provided in this article the county shall not have the right or ability to impair or infringe upon the functions and powers assumed by the town upon incorporation.

Section 9.3 Specialized Law Enforcement Services.
(deleted)

Section 9.4 Local Patrol Police Services.

The town shall exclusively utilize the Miami-Dade Police Department for a specific level of patrol staffing for an initial period of three years. The utilization of the Miami-Dade Police Department for local patrol services may only be terminated for cause during this initial three (3) year period. Payment amounts and other pertinent items relating to the provision of local patrol services shall be set forth in a contract between the town and Miami-Dade County. Such contract shall also provide that "the initial three-year period" shall commence upon the execution of the Local Patrol Contract by all parties. At the end of the three (3) year period the town may elect not to renew the Local Patrol Contract at which point a transition period of no less than twelve (12) months will begin.

Section 9.5 Regulatory Control.

The local government comprehensive plan adopted by the Town of Cutler Bay pursuant to chapter 163, part II, Florida Statutes, shall be consistent with the adopted Miami-Dade County Comprehensive Development Master Plan (the CDMP) as it may be amended from time to time, as applied to the sites listed below:

DEPARTMENT/FACILITY	**LOCATION**
MIAMI-DADE POLICE DEPARTMENT	
South Dade Station (District 4)	10800 S.W. 211 Street
MIAMI-DADE FIRE DEPARTMENT	
Cutler Ridge Station	10850 S.W. 211 Street Saga
Bay/Lakes by the Bay Station	21501 S.W. 87 Avenue
WATER and SEWER DEPARTMENT	
Water & Sewer Pump Station	10350 Puerto Rico Drive

The Miami-Dade County Board of County Commissioners may revise this list of facilities from time to time.

Any use or activity allowed by the CDMP may not be limited or impeded in any way by the local government comprehensive plan adopted by the Town of Cutler Bay. Jurisdiction over the listed sites

for purposes of comprehensive planning, zoning and building approvals (including but not limited to site plan approvals, issuance of building permits, building inspections, compliance with the Florida Building Code or other applicable building code, issuance of certificates of occupancy, zoning applications, special exceptions, variances, building and/or zoning moratoria, and all other types of functions typically performed by building and/or zoning departments) water and sewer installations, compliance with environmental regulations, street maintenance (including sidewalks, if applicable) and utility regulation shall be and is hereby vested in Miami-Dade County regardless of any Town ofCutler Bay code, charter, or ordinance provision to the contrary. So long as Miami-Dade County maintains jurisdiction over the matters set forth in this paragraph, Miami-Dade County shall pay the costs of providing the services described herein.

This provision shall not alter or affect the legal rights of any person residing or owning real property within the town. The town shall not institute, intervene or otherwise participate in, in opposition to Miami-Dade County, any judicial or formal administrative proceeding regarding land use or development of the listed sites, or Miami-Dade County's planning or regulatory requirements for any listed facility of county-wide significance.

These charter provisions shall be deemed self-executing.

Section 9.6 Continuing Obligations as to County Bonds

The county has previously issued its $41,580,000 Stormwater Utility Revenue Bonds, Series 1999 (the "Series *1999* Stormwater Bonds") of which $35,400,000 remains outstanding as of May 1, 2005 and its $75,000,000 Stormwater Utility Revenue Bonds, Series 2004 (the "Series 2004 Stormwater Bonds") of which $71,485,000 remains outstanding as of May 1, 2005. The county, in its capacity as a Stormwater Utility (the "Stormwater Utility") pursuant to Sections 24-61 through 24-61.5 of the County Code, as amended from time to time and Section 403.0893, Florida Statutes, as amended from time to time, assesses and collects fees (the "Stormwater Utility Fees") in the unincorporated area of the county and within those municipalities that have not been exempted from the Stormwater Utility (the "Stormwater Utility Service Area"). The Series 1999 Stormwater Bonds and the Series 2004 Stormwater Bonds (collectively the "Stormwater Bonds") are payable from the Stormwater Utility Fees collected in the Stormwater Utility Service Area.

The county has issued its $77,640,000 Public Service Tax Revenue Bonds (UMSA Public Improvements) Series 1999 (the "Series 1999 Public Service Bonds") of which $65,190,000 remains outstanding as of May 1, 2005 and its $55,275,000 Public Service Tax Revenue Bonds (UMSA Public Improvements) Series 2002 (the "Series 2002 Public Service Bonds") of which $52,515,000 remains outstanding as of May 1, 2005 (collectively the Public Service Bonds) prior to the town's incorporation payable from Public Service Taxes (defined below) collected in the unincorporated area of the county. The county receives a public service tax pursuant to Section 166.231, Florida Statutes, as amended from time to time, and as of October 1, 2001, from a discretionary communications tax assessed pursuant to Chapter 202, Florida Statutes and Section 29 of the County Code (collectively, "The Public Service Tax"). Within 180 days of the adoption of this charter, the town shall enact an ordinance, pursuant to Section 202.19, Florida Statues, authorizing the levy of the discretionary services tax at a rate no less than the rate established by the county for communications services prior to the incorporation of the town.

The Stormwater Bonds, the Public Service Bonds, and any additional bonds issued in the future

secured by the Stormwater Utility Fees (while the town is part of the Stormwater Utility) are referred to collectively in this section as the "bonds". The Stormwater Utility Fees and Public Service Taxes securing these bonds are referred to collectively in this section as "fees and taxes".

The town agrees that until the bonds are retired the county shall have the right to receive and apply to debt service on the bonds all of the fees and taxes collected within the unincorporated area and within the boundaries of the town. The county shall continue to collect the Stormwater Utility Fees until the Stormwater Bonds are retired even if the town elects to seek exemption from the Stormwater Utility after incorporation. After the county has paid or satisfied the monthly debt service requirements on the bonds, the county shall make a payment to the town, equal to its share of the remaining fees and taxes on deposit with the county, provided, however, the town will not be entitled to any Stormwater Utility Fees while it remains a part of the Stormwater Utility.

The town's share shall be all fees and taxes collected within the town annually minus its pro-rata share of debt service (the "debt service share") on the bonds. The town's debt service share for the Public Service Bonds is determined by expressing the Public Service Taxes collected within the town at the time of incorporation as a percentage of the total Public Service Taxes collected within the unincorporated area of the county at the time of incorporation applying that percentage to the total annual debt service on the Public Service Bonds. The town's debt service share for the Stormwater Bonds (and any additional stormwater bonds issued while the town is part of the Stormwater Utility) is determined by expressing the Stormwater Utility Fees collected within the town during the county's fiscal year in which the town is exempted by the county from the Stormwater Utility as a percentage of the total Stormwater Utility Fees collected within the Stormwater Utility Service Area during the county's fiscal year in which the town is exempted by the county from the Stormwater Utility and applying that percentage to the total annual debt service on the Stormwater Bonds (and any additional stormwater bonds issued while the town is part of the Stormwater Utility). The town may prepay its proportionate share of the bonds, including accrued interest, at any time during the life of the bonds without penalty.

The intent of this section is to ensure that (i) the county will be in compliance with the bond covenants regarding the collection of the fees and taxes; (ii) the town continues to pay its debt service share until the bonds are retired.

Section 9.7 Favored Nation Status

If a subsequent incorporation is approved without the newly incorporated area being required to remain in the Miami-Dade Fire Rescue District, Miami-Dade Library System, Miami-Dade Solid Waste collection service area, or without contracting with the Miami-Dade Police Department for local patrol police services, the town will be entitled to modify its relationship with the county, so that the town will not be required to receive that particular service from the county. The provisions of this section, only apply to the service or services modified, and in no way alter the agreement regarding the remaining services.

Section 9.8 Rights of the Town.

The town will be granted all rights powers and privileges afforded to all municipalities and provided under the general laws of the State of Florida subject only to the restrictions placed upon it by this charter and Miami-Dade County's Home Rule Charter. The town will receive all other municipal

revenue sources such as utility taxes including those that the county by right or may otherwise retain, such as the franchise fees, (which the county shall have exclusive authority to determine the town's proportionate share) and will continue to receive all services that are provided to cities under the county-wide budget.

Section 9.9 Modifications.

Any modifications to Article IX will require:

(A) All approvals normally required by the municipal charter, and

(B) Approval by an affirmative vote of 2/3rds of the members of the Board of County Commissioners then in office, prior to a vote of qualified municipal electors.

Section 9.10 Community Redevelopment.

Pursuant to Chapter 163, Part Ill, Florida Statutes ("act"), Miami-Dade County ("county"), as a home rule charter county, has the authority to create a community redevelopment district ("district") anywhere within its boundaries.

The county is in the process of creating such a district which includes a portion of the town, this portion being generally described as the area bounded on the south by Canal C-I (Black Creek Canal), on the West by S.W. 112 Avenue, on the north by State Road 5 (U.S. I), including the area to the west of State Road 5 and east of the Busway between S.W. 112 Avenue and Caribbean Boulevard, and on the east by State Road 821 (Homestead Extension of the Florida Turnpike). The town, acting through the governing body of the town, shall adopt a resolution approving the community redevelopment plan or plans for the district ("plan") in accordance with the agreement between Cutler Ridge and Goulds representatives regarding incorporation boundaries and related issues dated July 13, 2004, pursuant to Section 163.356(1) of the Act within forty-five (45) days from the date it receives the plan from the county. The plan shall include programs to remove blighting conditions, further the economic development of, and further the creation of affordable housing and jobs within the Goulds/Town of Cutler Bay redevelopment area. The plan shall conform to the requirements of Section 163.360, Florida Statutes.

Section 9.11 In Remembrance of Those Who Lost Their Lives.

The electors of the Town of Cutler Bay wish to recognize and remember those who died in New York City, at the Pentagon and in Pennsylvania on September 11, 2001. A date which will always be referred to as 9/11.

Section 9.12 Dedications, Conveyances, Covenants and Commitments.

The creation of the municipality shall in no way release, eliminate or modify the obligation of any person or party to convey or provide to Miami-Dade County, or the right of Miami-Dade County to obtain and enforce, any benefit, payment, conveyance, right, title or interest of any type or nature, which has been committed, promised or otherwise obligated to Miami-Dade County as of the

effective date of this charter, whether by contract, agreement, development order, declaration of restrictive covenants, dedication, requirement of law, ordinance or other regulation, or any other means.

The county may at its sole discretion, however, assign, convey or otherwise transfer by appropriate legal instrument to the town such benefits, payments, conveyances, rights, titles or interests as may be of a municipal nature.

The municipality shall not release, modify or eliminate any such obligation imposed by development order, declaration of restrictive covenants, law, regulation or ordinance without the prior written consent of Miami-Dade County.

Appendix A

Legal Description of the Town of Cutler Bay
Proposed Municipal Boundaries

A portion of Miami-Dade County, Florida generally bounded on the North by S.W. 184th Street (the South boundary of the Village of Palmetto Bay), bounded on the South by S.W. 232 Street, bounded on the East by Biscayne National Park and bounded on the West by the South Miami-Dade Transit Corridor (Busway) and S.W. 112 Avenue (Allapattah Road), said portion being more particularly described as follows:

BEGIN at the Southeast corner of Section 17, Township 56 South, Range 40 East, Miami-Dade County, Florida (the intersection of S.W. 97 Avenue and theoretical S.W. 232nd Street); thence Northerly along the East line of the Southeast one-quarter of said Section 17 to the intersection with the North line of the South three-quarters of the Southeast one-quarter of the Southeast one- quarter of said Section 17; thence Westerly along said North line of the South three-quarters of the Southeast one-quarter of the Southeast one-quarter of Section 17 (theoretical S.W. 228 Street) to the intersection with the Southerly extension of the East line of Sunset Apartments according to the plat thereof as recorded in Plat Book 156, Page 89 of the Public Records of Miami- Dade County, Florida; thence Northerly along said Southerly extension of the East line of Sunset Apartments, the East line of Sunset Apartments and the Northerly extension of the East line of said Sunset Apartments to the intersection with the centerline of S.W. 224 Street as shown on said Sunset Apartments; thence Westerly and Northwesterly along the centerline of said S.W. 224 Street to the intersection with the centerline of Old Cutler Road (Ingraham Highway) as described in Official Record Book 3097, page
272 of the Public Records of Miami-Dade County, Florida; thence Northeasterly along said centerline of Old Cutler Road (Ingraham Highway) to the intersection with the South line of Section 8, Township 56 South, Range 40 East; thence Westerly along the South line of said Section 8 (S.W.
216 Street) to the intersection with the Southerly extension of the East line of Tract “E” of Cutler Canal Apartments III according to the plat thereof as recorded in Plat Book 139, page 79 of the Public Records of Miami-Dade County, Florida; thence Northerly along said Southerly extension of the East line of Tract “E” to the Southeast corner of said Tract “E”; the following 5 courses being along the Easterly line of said Tract “E”; (1) thence Northerly for 160.00 feet; (2) thence Westerly for 16.07 feet; (3) thence Northerly for 705.00 feet; (4) thence Easterly for 23.21 feet; (5) thence Northerly for 250.00 feet to the Northeast corner of said Tract “E”, thence Northerly along the Northerly extension of the East line of Tract ‘E” to the intersection with the centerline of S.W. 212th

Street; thence Westerly along said centerline of S.W. 212 Street to the intersection with the centerline of the canal Right-of-Way described in Official Record Book 1631, Page 643 and Official Record Book 1373, Page 613 of the Public Records of Miami-Dade County, Florida; thence northerly along a line 25.00 feet East of and parallel with the West line of the Southwest one-quarter of the Northeast one-quarter of the Southwest one-quarter of the above mentioned Section 8 (said line being the centerline of said canal Right-of-Way) for 170.00 feet; thence Westerly along a line 135.00 feet North of and parallel with the South line of the Southeast one-quarter of the Northwest one-quarter of the Southwest one-quarter of said Section 8 (said line also being the centerline of said canal right-of- way) to the intersection with the center line of Canal C-i-N; thence Northerly and Northeasterly along said centerline of Canal C-I-N to the intersection with the Southerly prolongation of the East line of the Miami-Dade County Parks and Recreation Department property described in Official Record Book 19682, Page 4787 of the Public Records of Miami-Dade County, Florida; thence Northerly along the Southerly prolongation of the East line and the East line of said Miami-Dade County Parks and Recreation Department property to the Northeast corner of said Miami-Dade County Parks and Recreation Department property; thence westerly along the North line and the Westerly prolongation of the North line of said Miami-Dade County Parks and Recreation Department property, across State Road 821 (Homestead Extension of the Florida Turnpike) as shown on the Florida State Department of Transportation Right-of-way Map, Section 87005-2502, to the intersection with the Westerly Limited Access Right-of-Way line of said State Road 821 (Homestead Extension of the Florida Turnpike); thence Southerly along said Westerly Limited Access Right-of-Way line of said State Road 821 (Homestead Extension of the Florida Turnpike) to the intersection with the centerline of Canal C-i (Black Creek Canal); thence Westerly following said centerline of Canal C-I (Black Creek Canal) to the intersection with the West line of the Southeast one-quarter of Section 7, Township 56 South, Range 40 East, Miami-Dade County, Florida, lying in S.W. 112th Avenue (Allapattah Road); thence Northerly along said West line of the Southeast one- quarter and the West line of the Northeast one-quarter of said Section 7 (S.W. 112th Avenue and its Northerly extension) to the intersection with the Southeasterly Right-of-Way line of the South Miami- Dade Transit Corridor as recorded in Official record Book 20119, page 0538 of the Public Records of Miami-Dade County, Florida; Thence Northeasterly along said Southeasterly Right-of-Way line of the South Miami-Dade Transit Corridor, across Sections 7, 6 and 5, Township 56 South, Range 40 East Miami-Dade County, Florida, to the intersection with the centerline of S.W. 186th Street; thence Easterly along said centerline of S.W. 186th Street to the intersection with the centerline of State Road 5 (U.S. 1) according to the Florida Department of Transportation Right-of-Way Map recorded in Plat Book 124, Page 56 of the Public Records of Miami-Dade County, Florida; thence Northeasterly along said centerline of State Road 5 (U.S. 1) to the intersection with the North line of Section 5, Township 56 South, Range 40 East, lying in S.W. 184th Street said line also being the South boundary of the Village of Palmetto Bay; thence Easterly along the South boundary of the Village of Palmetto Bay and the North line of Sections 5, 4, 3, and 2, Township 56 South, Range 40
East, (S.W. 184th Street) to the intersection with the Mean High Water Line on the Western shore of Biscayne Bay and the Western boundary of Biscayne National Park, the following 12 courses being on the Western boundary of Biscayne National Park; (1) Thence Southerly along said Mean High Water Line to the intersection with the South line of the North one-half of Lots 7 and 8, in the North one-half of Section 2, Perrine Grant according to the plat thereof as recorded in Plat Book 4, page 9 of the Public Records of Miami-Dade County, Florida; (2)thence Westerly along said South line of the North one-half of Lots 8 and 7 of said Perrine Grantto a point 1570 feet, more or less, East of the West line of Lot 5 of said Perrine Grant; (3) thence Southerly to a point 425 feet, more or less, North of the South line of Lot 7, in the South one-half of Section 2,Perrine Grant; (4)

thence Southeasterly to the Southwest corner of Lot 8 in the South one-half of Section 2, Perrine Grant; (5) thence Southerly to the Northwest corner of Lot 7, in Section 2, Tennall Ocean Farms according to the plat thereof as recorded in Plat Book 8, page 124 of the Public Records of Miami-Dade County, Florida; (6) thence Southerly to the Southwest corner of said Lot 7 in Section 2, Tenalla Ocean Farms; (7) thence Southeasterly to the Northeast corner of Lot 40, in Section 11,Tenalla Ocean Farms; (8) thence Southerly along the East line of said Lot 40, Lot 57 and Lot 72 of said Tenalla Ocean Farms to the Southeast corner of said Lot 72; (9) thence Southwesterly to a point on the North line of Section 14, Township 56 South, Range 40 East, which lies 1600 feet, more or less Easterly of (as measured along said North line) of the Northwest corner of said Section 14; (10) thence Southwesterly to a point on the North line of the South one-half of the North one-half of said Section 14 which lies 1550 feet, more or less, East of the West line of said Section 14; (11) thence Southwesterly to a point on the North line of the South one-half of Section 14 which lies 1320 feet, more or less, East of the West line of Section 14: (12) thence Southwesterly to a point on the South line of said Section 14 which lies 430 feet, more or less, East of the West line of said Section 14; thence Westerly, leaving said Western boundary of Biscayne National Park, along the South line of Section 14, Section 15 and Section 16, Township 56 South, Range 40 East (S.W.. 232nd Street and the Easterly extension thereof) to the Southeast corner of Section 17, Township 56 South, Range 40 East and the POINT OF BEGINNING.