

ORDINANCE NO. 15-__

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING THE BORROWING OF FUNDS IN AN AMOUNT NOT TO EXCEED \$13,000,000 FOR THE PURPOSE OF REFUNDING THE TOWN'S PROMISSORY NOTES, SERIES 2010A, B, C, D AND E; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on June 14, 2010, pursuant to Ordinance No. 10-06 adopted by the Town Council (the "Council") on June 14, 2010 and Resolution No. 10-28 adopted by the Council on May 26, 2010, the Town issued its Promissory Notes, Series 2010A, Series 2010B, Series 2010C, Series 2010D and Series 2010E (collectively, the "Prior Notes") and entered into a Loan Agreement with TD Bank, N.A. (the "Bank") in order to provide for the acquisition of vacant land and the acquisition and renovation of the Town Hall; and

WHEREAS, on September 20, 2012, pursuant to Resolution No. 12-46 adopted by the Council on September 10, 2012, the Town and the Bank entered into an Amendment to Loan Agreement in order to restructure the amortization schedules for the Series 2010B, Series 2010C and Series 2010E Notes; and

WHEREAS, the interest rates on the Series 2010A, Series 2010B, Series 2010D and Series 2010E Notes will reset in June 14, 2015; and

WHEREAS, the original terms of the Series 2010C Note provides that such Note cannot be prepaid prior to maturity without the Town incurring a substantial prepayment penalty; and

WHEREAS, the Bank has offered to waive the prepayment penalty if the Town undertakes the refinancing of all of the Prior Notes pursuant to a new loan agreement with the Bank; and

WHEREAS, refinancing the Prior Notes will result in substantial debt service savings to the Town as compared to the current debt service on the Prior Notes; and

WHEREAS, in Resolution No. 10-28, the Council waived the competitive bidding requirement of Section 3.10 of the Town Charter in selecting the Bank to provide the financing for the Prior Notes; and

WHEREAS, because the loan to refinance the Prior Notes is being provided by the same lender (the Bank), the Council's prior waiver of competitive bidding satisfies the requirements of Section 3.10 the Town Charter in connection with refinancing; and

WHEREAS, Section 4.3 of the Town Charter requires that the Council approve the borrowing of the funds by Ordinance; and

WHEREAS, the Council by the adoption of this Ordinance is complying with Sections 4.3 and 4.11 of the Town Charter; and

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

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

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

Section 2. Authorizing Borrowing of Funds. The Council, pursuant to Sections 4.3 and 4.11 of the Town Charter, authorizes the borrowing of funds in an amount not to exceed \$13,000,000 in order to refund the Prior Notes and pay the costs of issuance of the refunding. The details and terms of the loan agreement and notes shall be determined hereafter by the Council by supplemental resolution, substantially in accordance with the terms sheets provided by the Bank and attached hereto as Exhibit “A”.

Section 3. Authorization. The Town Manager, the Town Finance Director and the Financial Advisor for the Town are each hereby authorized to negotiate the terms of the loan agreement and notes with the Bank. The Town Attorney and Bond Counsel to the Town are hereby authorized to draft documents and to do all other things necessary to accomplish the refinancing of the Prior Notes.

Section 4. Severability. If any section, clause, sentence, or phrase of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this Ordinance.

Section 5. Conflict. All Sections or parts of Sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions, or parts of resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

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

PASSED on first reading this 15th day of April, 2015.

PASSED AND ADOPTED on second reading this _____ day of _____, 2015.

Attest:

PEGGY R. BELL
Mayor

JACQUELINE N. WILSON
Interim Town Clerk

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

WEISS SEROTA HELFMAN
COLE & BIERMAN, P.L.
Town Attorney

Moved By: _____

Seconded By: _____

FINAL VOTE AT ADOPTION:

Mayor Peggy R. Bell _____

Vice Mayor Ernest N. Sochin _____

Council Member Roger Coriat _____

Council Member Sue Ellen Loyzelle _____

Council Member Mary Ann Mixon _____