



Office of the Town Attorney

Mitchell A. Bierman
Town Attorney

MEMORANDUM

To: Honorable Mayor and Town Council

From: Mitchell A. Bierman, Town Attorney

Date: February 19, 2020

Re: Authorizing the Town to Join an Amicus Brief Opposing the Affordable Clean Energy (ACE) Rule

REQUEST

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING AND DIRECTING THE TOWN TO JOIN IN THE FILING OF AN AMICUS BRIEF TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT OPPOSING THE ENVIRONMENTAL PROTECTION AGENCY'S AFFORDABLE CLEAN ENERGY RULE; URGING LOCAL GOVERNMENT SUPPORT OF THE BRIEF; PROVIDING FOR TRANSMITTAL; AND PROVIDING FOR AN EFFECTIVE DATE.

BACKGROUND AND ANALYSIS

At the January 15, 2020 Town Council Meeting, there was a discussion regarding the filing of an amicus brief to the United States Court of Appeals for the District of Columbia Circuit opposing the Environmental Protection Agency's (EPA) Affordable Clean Energy (ACE) rule. The purpose of the amicus brief is to respond to the environmental, health, and economic consequences of the replacement rules that would weaken pollution limits for powerplants and automobiles respectively.

In June 2019, the Trump Administration proposed the ACE rule as a replacement for the 2015 Clean Power Plan (CPP) to tackle carbon emissions from power plants. The CPP set more aggressive pollution reduction goals while also projecting more health and climate benefits than the ACE rule. A comparison of benefits and goals are hereto attached as *Attachment "A"*.

In September 2019, the EPA and the National Highway Traffic Safety Administration proposed The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule Part One: One National Program, which when replaced would weaken the State and Federal Clean Cards Standards (*Attachment "B"*).





The Columbia University Sabin Center (the “Sabin Center”) is preparing the amicus brief as a pro bono service and will cover the filing, and other related fees, required for the process. Therefore, there is no outlay of funding required by the Town participating in the brief.

Once the Resolution is passed and adopted, the Columbia University Sabin Center will work with the Town to incorporate our climate risks and policies into the brief. In addition, the Town will have a chance to review and comment on the drafted brief, and have a final review and approval final brief before it is filled.

RECOMMENDATION

It is recommended that the Town Council adopt the attached Resolution authorizing and directing the Town to join in the filing of an amicus brief to the United States Court of Appeals for the District of Columbia Circuit opposing the Environmental Protection Agency’s Affordable Clean Energy Rule, and urging local government to support the amicus brief.

ATTACHMENT(S):

- Attachment “A” – Clean Power Plan vs Affordable Clean Energy Rule Comparison
- Attachment “B” – State and Federal Clean Cars Standards

