VILLAGE OF EL PORTAL
VILLAGE COUNCIL
PUBLIC WORKS COMMITTEE MEETING
AGENDA
TUESDAY, March 5, 2019 @ 7:30pm

A. CALL TO ORDER

B. MOMENT OF SILENT MEDITATION & PLEDGE OF ALLEGIANCE

C. ROLL CALL

D. APPROVAL OF AGENDA

E. APPROVAL OF MINUTES
   E1. Minutes for January 15, 2019 Public Works Committee Meeting

F. AGENDA ITEMS:
   G1. Floodplain Management Ordinance review
   G2. Craig A. Smith & Associates Contract addendum
   G3. Pennoni Contract Review
   G4. Septic to Sewer Project Updates
   G5. Cap Government Contract Review
   G6. Disaster Management RFP results and Debris Removal RFP results

G. GOOD & WELFARE: (NOTE: This section of the agenda is reserved in the
   spirit of a representative democracy “of, by, and for the people” and is specifically
   provided as a mechanism for the input and solutions on matters of concern of Villagers.
   We request that comments be limited to 3 minutes per person, and that speakers and
   the audience maintain proper decorum at-large. The speaker may speak on any issue
   of concern.)

I. ADJOURNMENT

Members:
Councilperson Mathis, Jr., Chairperson
Vice Mayor Nickerson, Vice Chairperson
Councilperson Roman, Member

“Pursuant to Florida Statutes, Chapter 286.0105: If a person decided to appeal any decision made by
the Board, Agency or Commission with respect to any matter considered at such meeting or hearing,
he/she will need a record of the proceedings, and that, for such purpose, he/she may need to ensure
that a verbatim record of the proceedings is made, which record includes the testimony and evidence
upon which the appeal is to be based.”
ORDINANCE NO. 2019-02

AN ORDINANCE BY THE VILLAGE COUNCIL AMENDING THE VILLAGE OF EL PORTAL CODE OF ORDINANCES TO REPEAL CHAPTER 7.5 FLOOD DAMAGE PREVENTION OF THE VILLAGE OF EL PORTAL CODE OF ORDINANCES; TO ADOPT A NEW CHAPTER 7.5 FLOOD DAMAGE PREVENTION; TO ADOPT FLOOD HAZARD MAPS, TO DESIGNATE A FLOODPLAIN ADMINISTRATOR, TO ADOPT PROCEDURES AND CRITERIA FOR DEVELOPMENT IN FLOOD HAZARD AREAS, AND FOR OTHER PURPOSES; PROVIDING FOR APPLICABILITY; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, the Legislature of the State of Florida has, in Chapter 166, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of the Village of El Portal and such areas may be subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare, and

WHEREAS, the Village of El Portal was accepted for participation in the National Flood Insurance Program on September 29, 1972 and the Village Council desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60, necessary for such participation; and

WHEREAS, Chapter 553, Florida Statutes, was adopted by the Florida Legislature to provide a mechanism for the uniform adoption, updating, amendment, interpretation and enforcement of a state building code, called the Florida Building Code; and

WHEREAS, the Village Council previously adopted requirements to (1) require accumulation of cost of improvements and repairs of buildings in flood hazard areas, based on issued building permits, over a one-year period; (2) limit partitioning of enclosed areas below elevated buildings and to limit access to enclosed areas for buildings and structures in flood hazard areas; and (3) require elevation of critical facilities higher than required by the Florida Building Code, prior to July 1, 2010; and, pursuant to Chapter 8 Article III of the Miami-Dade County Code and section 553.73(5), F. S., is formatting that requirement to coordinate with the Florida Building Code;

WHEREAS, the Village Council has determined that it is in the public interest to adopt the proposed floodplain management regulations that are coordinated with the Florida Building Code.

NOW, THEREFORE, BE IT ORDAINED by the Village Council of the Village of El Portal that the following floodplain management regulations are hereby adopted.

SECTION 1. RECITALS.

The foregoing whereas clauses are incorporated herein by reference and made a part hereof.
SECTION 2. This ordinance specifically repeals and replaces the following ordinance(s) and regulation(s): Chapter 7.5 Flood Damage Prevention.

ARTICLE I. ADMINISTRATION

SECTION 7.5-1 GENERAL

(a) Title. These regulations shall be known as the Floodplain Management Ordinance of the Village of El Portal, hereinafter referred to as “this ordinance.”

(b) Scope. The provisions of this ordinance shall apply to all development that is wholly within or partially within any flood hazard area, including but not limited to the subdivision of land; filling, grading, and other site improvements and utility installations; construction, alteration, remodeling, enlargement, improvement, replacement, repair, relocation or demolition of buildings, structures, and facilities that are exempt from the Florida Building Code; placement, installation, or replacement of manufactured homes and manufactured buildings; installation or replacement of tanks; placement of recreational vehicles; installation of swimming pools; and any other development.

(c) Intent. The purposes of this ordinance and the flood load and flood resistant construction requirements of the Florida Building Code are to establish minimum requirements to safeguard the public health, safety, and general welfare and to minimize public and private losses due to flooding through regulation of development in flood hazard areas to:

1. Minimize unnecessary disruption of commerce, access and public service during times of flooding;

2. Require the use of appropriate construction practices in order to prevent or minimize future flood damage;

3. Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of equipment or materials, and other development which may increase flood damage or erosion potential;

4. Manage the alteration of flood hazard areas, watercourses, and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain;

5. Minimize damage to public and private facilities and utilities;

6. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas;

7. Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events; and

8. Meet the requirements of the National Flood Insurance Program for community participation as set forth in the Title 44 Code of Federal Regulations, Section 59.22.

(d) Coordination with the Florida Building Code. This ordinance is intended to be administered and enforced in conjunction with the Florida Building Code. Where cited, ASCE 24 refers to the edition of the standard that is referenced by the Florida Building Code.

(e) Warning. The degree of flood protection required by this ordinance and the Florida Building Code, as amended by this community, is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside of mapped special flood hazard
areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage. The flood hazard areas and base flood elevations contained in the Flood Insurance Study and shown on Flood Insurance Rate Maps and the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60 may be revised by the Federal Emergency Management Agency, requiring this community to revise these regulations to remain eligible for participation in the National Flood Insurance Program. No guaranty of vested use, existing use, or future use is implied or expressed by compliance with this ordinance.

(f) **Disclaimer of Liability.** This ordinance shall not create liability on the part of the Village Council of the Village of El Portal or by any officer or employee thereof for any flood damage that results from reliance on this ordinance or any administrative decision lawfully made thereunder.

**SECTION 7.5-2 APPLICABILITY**

(a) **General.** Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

(b) **Areas to which this ordinance applies.** This ordinance shall apply to all flood hazard areas within the Village of El Portal, as established in Section 7.5-2(c) of this ordinance.

(c) **Basis for establishing flood hazard areas.** The Flood Insurance Study for Miami-Dade County, Florida and Incorporated Areas dated September 11, 2009, and all subsequent amendments and revisions, and the accompanying Flood Insurance Rate Maps (FIRM), and all subsequent amendments and revisions to such maps, are adopted by reference as a part of this ordinance and shall serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file at the Village Hall, 500 NE 87th Street.

(d) **Submission of additional data to establish flood hazard areas.** To establish flood hazard areas and base flood elevations, pursuant to Section 7.5-5 of this ordinance the Floodplain Administrator may require submission of additional data. Where field surveyed topography prepared by a Florida licensed professional surveyor or digital topography accepted by the community indicates that ground elevations:

1. Are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as flood hazard area and subject to the requirements of this ordinance; and, as applicable, the requirements of the *Florida Building Code*.
2. Are above the closest applicable base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the special flood hazard area.

(e) **Other laws.** The provisions of this ordinance shall not be deemed to nullify any provisions of local, state or federal law.

(f) **Abrogation and greater restrictions.** This ordinance supersedes any ordinance in effect for management of development in flood hazard areas. However, it is not intended to repeal or abrogate any existing ordinances including but not limited to land development regulations, zoning ordinances, stormwater management regulations, or the *Florida Building Code*. In the event of a conflict between this ordinance and any other ordinance, the more restrictive shall govern. This ordinance shall not impair any deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by this ordinance.

(g) **Interpretation.** In the interpretation and application of this ordinance, all provisions shall be:

1. Considered as minimum requirements;
(2) Liberally construed in favor of the governing body; and

(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

SECTION 7.5-3 DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR

(a) Designation. The Building Official is designated as the Floodplain Administrator. The Floodplain Administrator may delegate performance of certain duties to other employees.

(b) General. The Floodplain Administrator is authorized and directed to administer and enforce the provisions of this ordinance. The Floodplain Administrator shall have the authority to render interpretations of this ordinance consistent with the intent and purpose of this ordinance and may establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall not have the effect of waiving requirements specifically provided in this ordinance without the granting of a variance pursuant to Section 7.5-7 of this ordinance.

(c) Applications and permits. The Floodplain Administrator, in coordination with other pertinent offices of the community, shall:

(1) Review applications and plans to determine whether proposed new development will be located in flood hazard areas;

(2) Review applications for modification of any existing development in flood hazard areas for compliance with the requirements of this ordinance;

(3) Interpret flood hazard area boundaries where such interpretation is necessary to determine the exact location of boundaries; a person contesting the determination shall have the opportunity to appeal the interpretation;

(4) Provide available flood elevation and flood hazard information;

(5) Determine whether additional flood hazard data shall be obtained from other sources or shall be developed by an applicant;

(6) Review applications to determine whether proposed development will be reasonably safe from flooding;

(7) Issue floodplain development permits or approvals for development other than buildings and structures that are subject to the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code, when compliance with this ordinance is demonstrated, or disapprove the same in the event of noncompliance; and

(8) Coordinate with and provide comments to the Building Official to assure that applications, plan reviews, and inspections for buildings and structures in flood hazard areas comply with the applicable provisions of this ordinance.

(d) Substantial improvement and substantial damage determinations. For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

(1) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
(2) Compare the cost to perform the improvement, the cost to repair a damaged building to its predamaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;

(3) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; the determination requires evaluation of previous permits issued for improvements and repairs as specified in the definition of "substantial improvement"; and

(4) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the Florida Building Code and this ordinance is required.

(e) Modifications of the strict application of the requirements of the Florida Building Code. The Floodplain Administrator shall review requests submitted to the Building Official that seek approval to modify the strict application of the flood load and flood resistant construction requirements of the Florida Building Code to determine whether such requests require the granting of a variance pursuant to Section 7.5-7 of this ordinance.

(f) Notices and orders. The Floodplain Administrator shall coordinate with appropriate local agencies for the issuance of all necessary notices or orders to ensure compliance with this ordinance.

(g) Inspections. The Floodplain Administrator shall make the required inspections as specified in Section 7.5-6 of this ordinance for development that is not subject to the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code. The Floodplain Administrator shall inspect flood hazard areas to determine if development is undertaken without issuance of a permit.

(h) Other duties of the Floodplain Administrator. The Floodplain Administrator shall have other duties, including but not limited to:

(1) Establish, in coordination with the Building Official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 7.5-3(d) of this ordinance;

(2) Require that applicants proposing alteration of a watercourse notify adjacent communities and the Florida Division of Emergency Management, State Floodplain Management Office, and submit copies of such notifications to the Federal Emergency Management Agency (FEMA);

(3) Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps if the analyses propose to change base flood elevations, or flood hazard area boundaries; such submissions shall be made within 6 months of such data becoming available;

(4) Review required design certifications and documentation of elevations specified by this ordinance and the Florida Building Code to determine that such certifications and documentations are complete; and

(5) Notify the Federal Emergency Management Agency when the corporate boundaries of the Village are modified.

(i) Floodplain management records. Regardless of any limitation on the period required for retention of public records, the Floodplain Administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of this ordinance and the flood resistant construction requirements of the Florida Building Code, including Flood Insurance Rate Maps; Letters of Map Change; records of issuance of permits and denial of permits; determinations of whether
proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations specified by the Florida Building Code and this ordinance; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this ordinance and the flood resistant construction requirements of the Florida Building Code. These records shall be available for public inspection at the Village Hall, 500 NE 87th Street.

SECTION 7.5-4 PERMITS

(a) Permits required. Any owner or owner's authorized agent (hereinafter "applicant") who intends to undertake any development activity within the scope of this ordinance, including buildings, structures and facilities exempt from the Florida Building Code, which is wholly within or partially within any flood hazard area shall first make application to the Floodplain Administrator, and the Building Official if applicable, and shall obtain the required permit(s) and approval(s). No such permit or approval shall be issued until compliance with the requirements of this ordinance and all other applicable codes and regulations has been satisfied.

(b) Floodplain development permits or approvals. Floodplain development permits or approvals shall be issued pursuant to this ordinance for any development activities not subject to the requirements of the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code. Depending on the nature and extent of proposed development that includes a building or structure, the Floodplain Administrator may determine that a floodplain development permit or approval is required in addition to a building permit.

(c) Buildings, structures and facilities exempt from the Florida Building Code. Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Sections 59 and 60), floodplain development permits or approvals shall be required for the following buildings, structures and facilities that are exempt from the Florida Building Code and any further exemptions provided by law, which are subject to the requirements of this ordinance:

(1) Railroads and ancillary facilities associated with the railroad.
(2) Nonresidential farm buildings on farms, as provided in section 604.50, F.S.
(3) Temporary buildings or sheds used exclusively for construction purposes.
(4) Mobile or modular structures used as temporary offices.
(5) Those structures or facilities of electric utilities, as defined in section 366.02, F.S., which are directly involved in the generation, transmission, or distribution of electricity.
(6) Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.
(7) Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.
(8) Temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.
(9) Structures identified in section 553.73(10)(k), F.S., are not exempt from the Florida Building Code if such structures are located in flood hazard areas established on Flood Insurance Rate Maps.

(d) Application for a permit or approval. To obtain a floodplain development permit or approval the applicant shall first file an application in writing on a form furnished by the community. The information provided shall:

(1) Identify and describe the development to be covered by the permit or approval.

(2) Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.

(3) Indicate the use and occupancy for which the proposed development is intended.

(4) Be accompanied by a site plan or construction documents as specified in Section 7.5-5 of this ordinance.

(5) State the valuation of the proposed work.

(6) Be signed by the applicant or the applicant's authorized agent.

(7) Give such other data and information as required by the Floodplain Administrator.

(e) Validity of permit or approval. The issuance of a floodplain development permit or approval pursuant to this ordinance shall not be construed to be a permit for, or approval of, any violation of this ordinance, the Florida Building Codes, or any other ordinance of this community. The issuance of permits based on submitted applications, construction documents, and information shall not prevent the Floodplain Administrator from requiring the correction of errors and omissions.

(f) Expiration. A floodplain development permit or approval shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions for periods of not more than 180 days each shall be requested in writing and justifiable cause shall be demonstrated.

(g) Suspension or revocation. The Floodplain Administrator is authorized to suspend or revoke a floodplain development permit or approval if the permit was issued in error, on the basis of incorrect, inaccurate or incomplete information, or in violation of this ordinance or any other ordinance, regulation or requirement of this community.

(h) Other permits required. Floodplain development permits and building permits shall include a condition that all other applicable state or federal permits be obtained before commencement of the permitted development, including but not limited to the following:

(1) The South Florida Water Management District; section 373.036, F.S.

(2) Florida Department of Health for onsite sewage treatment and disposal systems; section 381.0065, F.S. and Chapter 64E-6, F.A.C.

(3) Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit; section 161.055, F.S.

(4) Florida Department of Environmental Protection for activities that affect wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers; Section 404 of the Clean Water Act.

(5) Federal permits and approvals.
SECTION 7.5-5 SITE PLANS AND CONSTRUCTION DOCUMENTS

(a) Information for development in flood hazard areas. The site plan or construction documents for any development subject to the requirements of this ordinance shall be drawn to scale and shall include, as applicable to the proposed development:

1. Delineation of flood hazard areas and flood zone(s), base flood elevation(s), and ground elevations if necessary for review of the proposed development.

2. Where base flood elevations are not included on the FIRM or in the Flood Insurance Study, they shall be established in accordance with Section 7.5-5(b)(2) or (3) of this ordinance.

3. Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than 5 acres and the base flood elevations are not included on the FIRM or in the Flood Insurance Study, such elevations shall be established in accordance with Section 7.5-5(b)(1) of this ordinance.

4. Location of the proposed activity and proposed structures, and locations of existing buildings and structures.

5. Location, extent, amount, and proposed final grades of any filling, grading, or excavation.

6. Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill area; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose.

7. Existing and proposed alignment of any proposed alteration of a watercourse.

The Floodplain Administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by this ordinance but that are not required to be prepared by a registered design professional if it is found that the nature of the proposed development is such that the review of such submissions is not necessary to ascertain compliance with this ordinance.

(b) Information in flood hazard areas without base flood elevations (approximate Zone A). Where flood hazard areas are delineated on the FIRM and base flood elevation data have not been provided, the Floodplain Administrator shall:

1. Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices.

2. Obtain, review, and provide to applicants base flood elevation data available from a federal or state agency or other source or require the applicant to obtain and use base flood elevation data available from a federal or state agency or other source.

3. Where base flood elevation data are not available from another source, where the available data are deemed by the Floodplain Administrator to not reasonably reflect flooding conditions, or where the available data are known to be scientifically or technically incorrect or otherwise inadequate:
   
   (a) Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices; or

   (b) Specify that the base flood elevation is two (2) feet above the highest adjacent grade at the location of the development, provided there is no evidence indicating flood depths have been or may be greater than two (2) feet.

4. Where the base flood elevation data are to be used to support a Letter of Map Change from FEMA, advise the applicant that the analyses shall be prepared by a Florida licensed engineer in a format
required by FEMA, and that it shall be the responsibility of the applicant to satisfy the submittal requirements and pay the processing fees.

(c) **Additional analyses and certifications.** As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses signed and sealed by a Florida licensed engineer for submission with the site plan and construction documents:

(1) For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained in a manner which preserves the channel's flood-carrying capacity; the applicant shall submit the analysis to FEMA as specified in Section 7.5-5(d) of this ordinance.

(d) **Submission of additional data.** When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a Letter of Map Change from FEMA to change the base flood elevations or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a Florida licensed engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

**SECTION 7.5-6 INSPECTIONS**

(a) **General.** Development for which a floodplain development permit or approval is required shall be subject to inspection.

(b) **Development other than buildings and structures.** The Floodplain Administrator shall inspect all development to determine compliance with the requirements of this ordinance and the conditions of issued floodplain development permits or approvals.

(c) **Buildings, structures and facilities exempt from the Florida Building Code.** The Floodplain Administrator shall inspect buildings, structures and facilities exempt from the Florida Building Code to determine compliance with the requirements of this ordinance and the conditions of issued floodplain development permits or approvals.

(d) **Buildings, structures and facilities exempt from the Florida Building Code, lowest floor inspection.** Upon placement of the lowest floor, including basement, and prior to further vertical construction, the owner of a building, structure or facility exempt from the Florida Building Code, or the owner's authorized agent, shall submit to the Floodplain Administrator:

(1) If a design flood elevation was used to determine the required elevation of the lowest floor, the certification of elevation of the lowest floor prepared and sealed by a Florida licensed professional surveyor; or

(2) If the elevation used to determine the required elevation of the lowest floor was determined in accordance with Section 7.5-5(b)(3)(b) of this ordinance, the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner or the owner's authorized agent.

(e) **Buildings, structures and facilities exempt from the Florida Building Code, final inspection.** As part of the final inspection, the owner or owner's authorized agent shall submit to the Floodplain Administrator a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certifications and documentations shall be prepared
as specified in Section 7.5-6(d) of this ordinance.

(f) Manufactured homes. The Floodplain Administrator shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of this ordinance and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted to the Floodplain Administrator.

SECTION 7.5-7 VARIANCES AND APPEALS

(a) General. The Board of Adjustment shall hear and decide on requests for appeals and requests for variances from the strict application of this ordinance. Pursuant to section 553.73(5), F.S., the Board of Adjustment shall hear and decide on requests for appeals and requests for variances from the strict application of the flood resistant construction requirements of the Florida Building Code.

(b) Appeals. The Board of Adjustment shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the administration and enforcement of this ordinance. Any person aggrieved by the decision may appeal such decision to the Circuit Court, as provided by Florida Statutes.

(c) Limitations on authority to grant variances. The Board of Adjustment shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in Section 7.5-(f) of this ordinance, the conditions of issuance set forth in Section 7.5-7(g) of this ordinance, and the comments and recommendations of the Floodplain Administrator and the Building Official. The Board of Adjustment has the right to attach such conditions as it deems necessary to further the purposes and objectives of this ordinance.

(d) Historic buildings. A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building that is determined eligible for the exception to the flood resistant construction requirements of the Florida Building Code, Existing Building, Chapter 12 Historic Buildings, upon a determination that the proposed repair, improvement, or rehabilitation will not preclude the building’s continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. If the proposed work precludes the building’s continued designation as a historic building, a variance shall not be granted and the building and any repair, improvement, and rehabilitation shall be subject to the requirements of the Florida Building Code.

(e) Functionally dependent uses. A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use, as defined in this ordinance, provided the variance is the minimum necessary considering the flood hazard, and all due consideration has been given to use of methods and materials that minimize flood damage during occurrence of the base flood.

(f) Considerations for issuance of variances. In reviewing requests for variances, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all other applicable provisions of the Florida Building Code, this ordinance, and the following:

1) The danger that materials and debris may be swept onto other lands resulting in further injury or damage;

2) The danger to life and property due to flooding or erosion damage;

3) The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;
(4) The importance of the services provided by the proposed development to the community;

(5) The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;

(6) The compatibility of the proposed development with existing and anticipated development;

(7) The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;

(8) The safety of access to the property in times of flooding for ordinary and emergency vehicles;

(9) The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

(10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.

(g) Conditions for issuance of variances. Variances shall be issued only upon:

(1) Submission by the applicant, of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of this ordinance or the required elevation standards;

(2) Determination by the Board of Adjustment that:

   (a) Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;

   (b) The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing laws and ordinances; and

   (c) The variance is the minimum necessary, considering the flood hazard, to afford relief;

(3) Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the Office of the Clerk of the Court in such a manner that it appears in the chain of title of the affected parcel of land; and

(4) If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the Floodplain Administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as $25 for $100 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

SECTION 7.5-8 VIOLATIONS

(a) Violations. Any development that is not within the scope of the Florida Building Code but that is regulated by this ordinance that is performed without an issued permit, that is in conflict with an issued permit, or that does not fully comply with this ordinance, shall be deemed a violation of this ordinance. A building or structure without the documentation of elevation of the lowest floor, other required design certifications, or other evidence of compliance required by this ordinance or the Florida Building Code is presumed to be a violation until such time as that documentation is provided.
(b) Authority. For development that is not within the scope of the Florida Building Code but that is regulated by this ordinance and that is determined to be a violation, the Floodplain Administrator is authorized to serve notices of violation or stop work orders to owners of the property involved, to the owner’s agent, or to the person or persons performing the work.

(c) Unlawful continuance. Any person who shall continue any work after having been served with a notice of violation or a stop work order, except such work as that person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed by law.

ARTICLE II DEFINITIONS

SECTION 7.5-9 GENERAL

(a) Scope. Unless otherwise expressly stated, the following words and terms shall, for the purposes of this ordinance, have the meanings shown in this section.

(b) Terms defined in the Florida Building Code. Where terms are not defined in this ordinance and are defined in the Florida Building Code, such terms shall have the meanings ascribed to them in that code.

(c) Terms not defined. Where terms are not defined in this ordinance or the Florida Building Code, such terms shall have ordinarily accepted meanings such as the context implies.

SECTION 7.5-10 DEFINITIONS

Alteration of a watercourse. A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

Appeal. A request for a review of the Floodplain Administrator’s interpretation of any provision of this ordinance.

ASCE 24. A standard titled Flood Resistant Design and Construction that is referenced by the Florida Building Code. ASCE 24 is developed and published by the American Society of Civil Engineers, Reston, VA.

Base flood. A flood having a 1-percent chance of being equaled or exceeded in any given year. [Also defined in FBC, B, Section 202.] The base flood is commonly referred to as the "100-year flood" or the "1-percent-annual chance flood."

Base flood elevation. The elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the Flood Insurance Rate Map (FIRM). [Also defined in FBC, B, Section 202.]

Basement. The portion of a building having its floor subgrade (below ground level) on all sides. [Also defined in FBC, B, Section 202; see “Basement (for flood loads)”.]

Critical facility. A facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.
Design flood. The flood associated with the greater of the following two areas: [Also defined in FBC, B, Section 202.]

(1) Area with a floodplain subject to a 1-percent or greater chance of flooding in any year; or

(2) Area designated as a flood hazard area on the community’s flood hazard map, or otherwise legally designated.

Design flood elevation. The elevation of the “design flood,” including wave height, relative to the datum specified on the community’s legally designated flood hazard map. In areas designated as Zone AO, the design flood elevation shall be the elevation of the highest existing grade of the building’s perimeter plus the depth number (in feet) specified on the flood hazard map. In areas designated as Zone AO where the depth number is not specified on the map, the depth number shall be taken as being equal to 2 feet. [Also defined in FBC, B, Section 202.]

Development. Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, tanks, temporary structures, temporary or permanent storage of equipment or materials, mining, dredging, filling, grading, paving, excavations, drilling operations or any other land disturbing activities.

Encroachment. The placement of fill, excavation, buildings, permanent structures or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

Existing building and existing structure. Any buildings and structures for which the “start of construction” commenced before September 29, 1972. [Also defined in FBC, B, Section 202.]

Existing manufactured home park or subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before September 29, 1972.

Expansion to an existing manufactured home park or subdivision. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Federal Emergency Management Agency (FEMA). The federal agency that, in addition to carrying out other functions, administers the National Flood Insurance Program.

Flood or flooding. A general and temporary condition of partial or complete inundation of normally dry land from: [Also defined in FBC, B, Section 202.]

(1) The overflow of inland or tidal waters.

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood damage-resistant materials. Any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair. [Also defined in FBC, B, Section 202.]

Flood hazard area. The greater of the following two areas: [Also defined in FBC, B, Section 202.]
(1) The area within a floodplain subject to a 1-percent or greater chance of flooding in any year.

(2) The area designated as a flood hazard area on the community’s flood hazard map, or otherwise legally designated.

**Flood Insurance Rate Map (FIRM).** The official map of the community on which the Federal Emergency Management Agency has delineated both special flood hazard areas and the risk premium zones applicable to the community. [Also defined in FBC, B, Section 202.]

**Flood Insurance Study (FIS).** The official report provided by the Federal Emergency Management Agency that contains the Flood Insurance Rate Map, the Flood Boundary and Floodway Map (if applicable), the water surface elevations of the base flood, and supporting technical data. [Also defined in FBC, B, Section 202.]

**Floodplain Administrator.** The office or position designated and charged with the administration and enforcement of this ordinance (may be referred to as the Floodplain Manager).

**Floodplain development permit or approval.** An official document or certificate issued by the community, or other evidence of approval or concurrence, which authorizes performance of specific development activities that are located in flood hazard areas and that are determined to be compliant with this ordinance.

**Florida Building Code.** The family of codes adopted by the Florida Building Commission, including: *Florida Building Code, Building; Florida Building Code, Residential; Florida Building Code, Existing Building; Florida Building Code, Mechanical; Florida Building Code, Plumbing; Florida Building Code, Fuel Gas.***

**Functionally dependent use.** A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, including only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities; the term does not include long-term storage or related manufacturing facilities.

**Highest adjacent grade.** The highest natural elevation of the ground surface prior to construction next to the proposed walls or foundation of a structure.

**Historic structure.** Any structure that is determined eligible for the exception to the flood hazard area requirements of the *Florida Building Code, Existing Building, Chapter 12 Historic Buildings.*

**Letter of Map Change (LOMC).** An official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

- **Letter of Map Amendment (LOMA):** An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.

- **Letter of Map Revision (LOMR):** A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.

- **Letter of Map Revision Based on Fill (LOMR-F):** A determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community’s floodplain management
regulations.
Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

Light-duty truck. As defined in 40 C.F.R. 86.082-2, any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less, which is:
(1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
(2) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
(3) Available with special features enabling off-street or off-highway operation and use.

Lowest floor. The lowest floor of the lowest enclosed area of a building or structure, including basement, but excluding any unfinished or flood-resistant enclosure, other than a basement, usable solely for vehicle parking, building access or limited storage provided that such enclosure is not built so as to render the structure in violation of the non-elevation requirements of the Florida Building Code or ASCE 24. [Also defined in FBC, B, Section 202.]

Manufactured home. A structure, transportable in one or more sections, which is eight (8) feet or more in width and greater than four hundred (400) square feet, and which is built on a permanent, integral chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle" or "park trailer." [Also defined in 15C-1.0101, F.A.C.]

Manufactured home park or subdivision. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Market value. The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in this ordinance, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value may be established by a qualified independent appraiser, Actual Cash Value (replacement cost depreciated for age and quality of construction), or tax assessment value adjusted to approximate market value by a factor provided by the Property Appraiser.

New construction. For the purposes of administration of this ordinance and the flood resistant construction requirements of the Florida Building Code, structures for which the “start of construction” commenced on or after September 29, 1972 and includes any subsequent improvements to such structures.

New manufactured home park or subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after September 29, 1972.

Park trailer. A transportable unit which has a body width not exceeding fourteen (14) feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances. [Defined in section 320.01, F.S.]
Recreational vehicle. A vehicle, including a park trailer, which is: [see in section 320.01, F.S.)

(1) Built on a single chassis;
(2) Four hundred (400) square feet or less when measured at the largest horizontal projection;
(3) Designed to be self-propelled or permanently towable by a light-duty truck; and
(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Special flood hazard area. An area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V. [Also defined in FBC, B Section 202.]

Start of construction. The date of issuance of permits for new construction and substantial improvements, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days of the date of the issuance. The actual start of construction means either the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns.

Permanent construction does not include land preparation (such as clearing, grading, or filling), the installation of streets or walkways, excavation for a basement, footings, piers, or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main buildings. For a substantial improvement, the actual “start of construction” means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Also defined in FBC, B Section 202.]

Substantial damage. Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed 50 percent of the market value of the building or structure before the damage occurred. [Also defined in FBC, B Section 202.]

Substantial improvement. Any repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure, the cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either: [Also defined in FBC, B, Section 202.]

(1) Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.

(2) Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure. [See Instructions and Notes]

Variance. A grant of relief from the requirements of this ordinance, or the flood resistant construction requirements of the Florida Building Code, which permits construction in a manner that would not otherwise be permitted by this ordinance or the Florida Building Code.

Watercourse. A river, creek, stream, channel or other topographic feature in, on, through, or over which water flows at least periodically.
ARTICLE III FLOOD RESISTANT DEVELOPMENT

SECTION 7.5-11 BUILDINGS AND STRUCTURES

(a) Design and construction of buildings, structures and facilities exempt from the Florida Building Code. Pursuant to Section 7.5-4(c) of this ordinance, buildings, structures, and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, shall be designed and constructed in accordance with the flood load and flood resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings shall comply with the requirements of Section 7.5-17 of this ordinance.

(b) Specific methods of construction and requirements. Pursuant to Chapter 8 Article III of the Miami-Dade County Code, the following specific methods of construction and requirements apply:

(1) Critical facilities. Construction of new critical facilities shall be, to the extent possible, located outside the limits of the special flood hazard area. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet or more above the level of the base flood elevation at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced or released into floodwaters. Access routes elevated to or above the level of the base flood shall be provided to all critical facilities to the extent possible.

(2) Cumulative Substantial Improvement. In the Florida Building Code, Building and Florida Building Code, Existing Building, definitions for the term “Substantial Improvement” shall be as follows:

SUBSTANTIAL IMPROVEMENT. For the purpose of determining compliance with the flood provisions of this code, any combination of repair, reconstruction, rehabilitation, alteration, addition or improvement of a building or structure taking place during a one-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. The period of accumulation begins when the first improvement or repair of each building or structure is permitted subsequent to {see Note}. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either: 1) Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that is the minimum necessary to assure safe living conditions. 2) Any alteration of a historic structure provided that the alteration will not preclude the structure’s continued designation as a historic structure.

(3) Limitations on Enclosures Under Elevated Buildings and Dwellings. Enclosed areas shall: a) have the minimum necessary access to allow for parking of vehicles (garage door), limited storage of maintenance equipment used in connection with the premises (standard exterior door), or entry to the elevated building (stairway or elevator); and, b) not have the interior portion partitioned or finished into separate rooms.

SECTION 7.5-12 SUBDIVISIONS

(a) Minimum requirements. Subdivision proposals, including proposals for manufactured home parks and subdivisions, shall be reviewed to determine that:
(1) Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;

(2) All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and

(3) Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

(b) Subdivision plats. Where any portion of proposed subdivisions, including manufactured home parks and subdivisions, lies within a flood hazard area, the following shall be required:

(1) Delineation of flood hazard areas and flood zones, and design flood elevations, as appropriate, shall be shown on preliminary plats;

(2) Where the subdivision has more than 50 lots or is larger than 5 acres and base flood elevations are not included on the FIRM, the base flood elevations determined in accordance with Section 7.5-5(b)(1) of this ordinance; and

(3) Compliance with the site improvement and utilities requirements of Section 7.5-13 of this ordinance.

SECTION 7.5-13 SITE IMPROVEMENTS, UTILITIES AND LIMITATIONS

(a) Minimum requirements. All proposed new development shall be reviewed to determine that:

(1) Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;

(2) All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and

(3) Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

(b) Sanitary sewage facilities. All new and replacement sanitary sewage facilities, private sewage treatment plants (including all pumping stations and collector systems), and on-site waste disposal systems shall be designed in accordance with the standards for onsite sewage treatment and disposal systems in Chapter 64E-6, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the facilities and discharge from the facilities into flood waters, and impairment of the facilities and systems.

(c) Water supply facilities. All new and replacement water supply facilities shall be designed in accordance with the water well construction standards in Chapter 62-532.500, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the systems.

(d) Limitations on placement of fill. Subject to the limitations of this ordinance, fill shall be designed to be stable under conditions of flooding including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and protection against flood-related erosion and scour. In addition to these requirements, if intended to support buildings and structures (Zone A only), fill shall comply with the requirements of the Florida Building Code.

SECTION 7.5-14 MANUFACTURED HOMES

(a) General. All manufactured homes installed in flood hazard areas shall be installed by an installer that is licensed pursuant to section 320.8249, F.S., and shall comply with the requirements of Chapter 15C-1,
F.A.C. and the requirements of this ordinance.

(b) Foundations. All new manufactured homes and replacement manufactured homes installed in flood hazard areas shall be installed on permanent, reinforced foundations that are designed in accordance with the foundation requirements of the Florida Building Code Residential Section R322.2 and this ordinance. Foundations for manufactured homes subject to Section 7.5-14(f) of this ordinance are permitted to be reinforced piers or other foundation elements of at least equivalent strength.

(c) Anchoring. All new manufactured homes and replacement manufactured homes shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Methods of anchoring include, but are not limited to, use of over-the-top or frame ties to ground anchors. This anchoring requirement is in addition to applicable state and local anchoring requirements for wind resistance.

(d) Elevation. Manufactured homes that are placed, replaced, or substantially improved shall comply with Section 7.5-14(e) or 7.5-14(f) of this ordinance, as applicable.

(e) General elevation requirement. Unless subject to the requirements of Section 7.5-14(f) of this ordinance, all manufactured homes that are placed, replaced, or substantially improved on sites located: (a) outside of a manufactured home park or subdivision; (b) in a new manufactured home park or subdivision; (c) in an expansion to an existing manufactured home park or subdivision; or (d) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated such that the bottom of the frame is at or above the elevation required, as applicable to the flood hazard area, in the Florida Building Code, Residential Section R322.2 (Zone A).

(f) Elevation requirement for certain existing manufactured home parks and subdivisions. Manufactured homes that are not subject to Section 7.5-14(e) of this ordinance, including manufactured homes that are placed, replaced, or substantially improved on sites located in an existing manufactured home park or subdivision, unless on a site where substantial damage as result of flooding has occurred, shall be elevated such that either the:

1. Bottom of the frame of the manufactured home is at or above the elevation required in the Florida Building Code, Residential Section R322.2 (Zone A); or
2. Bottom of the frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than 36 inches in height above grade.

(g) Enclosures. Enclosed areas below elevated manufactured homes shall comply with the requirements of the Florida Building Code, Residential Section R322.2 for such enclosed areas.

(h) Utility equipment. Utility equipment that serves manufactured homes, including electric, heating, ventilation, plumbing, and air conditioning equipment and other service facilities, shall comply with the requirements of the Florida Building Code, Residential Section R322.

SECTION 7.5-15 RECREATIONAL VEHICLES AND PARK TRAILERS

(a) Temporary placement. Recreational vehicles and park trailers placed temporarily in flood hazard areas shall:

1. Be on the site for fewer than 180 consecutive days; or
2. Be fully licensed and ready for highway use, which means the recreational vehicle or park model
is on wheels or jacking system, is attached to the site only by quickdisconnect type utilities and security devices, and has no permanent attachments such as additions, rooms, stairs, decks and porches.

(b) Permanent placement. Recreational vehicles and park trailers that do not meet the limitations in Section 7.5-15(a) of this ordinance for temporary placement shall meet the requirements of Section 7.5-14 of this ordinance for manufactured homes.

SECTION 7.5-16 TANKS

(a) Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty.

(b) Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Section 7.5-16(c) of this ordinance shall be permitted in flood hazard areas provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.

(c) Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be attached to an elevated to or above the design flood elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area.

(d) Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:

(1) At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and

(2) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

SECTION 7.5-17 OTHER DEVELOPMENT

(a) General requirements for other development. All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this ordinance or the Florida Building Code, shall:

(1) Be located and constructed to minimize flood damage;

(2) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;

(3) Be constructed of flood damage-resistant materials; and

(4) Have mechanical, plumbing, and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

SECTION 3. FISCAL IMPACT STATEMENT.

In terms of design, plan application review, construction and inspection of buildings and structures, the cost
impact as an overall average is negligible in regard to the local technical amendments because all development has been subject to the requirements of the local floodplain management ordinance adopted for participation in the National Flood Insurance Program. In terms of lower potential for flood damage, there will be continued savings and benefits to consumers.

SECTION 4. APPLICABILITY.

For the purposes of jurisdictional applicability, this ordinance shall apply in the Village of El Portal. This ordinance shall apply to all applications for development, including building permit applications and subdivision proposals, submitted on or after the effective date of this ordinance.

SECTION 5. INCLUSION INTO THE CODE OF ORDINANCES.

It is the intent of the Village Council that the provisions of this ordinance shall become and be made a part of the Village of El Portal Code of Ordinances, and that the sections of this ordinance may be renumbered or re-lettered and the word "ordinance" may be changed to "section," "article," "regulation," or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 6. SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part so declared.

SECTION 7. EFFECTIVE DATE.

This Ordinance shall become effective immediately upon passage and publication as required by law.

Claudia Cubillos, Mayor

ATTEST: ___________________________________________________________________
Yenise Jacobi, Village Clerk

Approved as to form and legal sufficiency:
Interim Village Attorney

Law Office of Norman C. Powell

By: ___________________________________________________________________
Norman C. Powell, Esq.

Vote:
Councilperson Mathis: ___(Yes) ___(No)
Councilperson Roman: ___(Yes) ___(No)
Vice Mayor Nickerson.: ___(Yes) ___(No)
Mayor Cubillos: ___(Yes) ___(No)

I, Yenise Jacobi, Village Clerk of the Village of El Portal, Miami-Dade County, Florida, do hereby certify that this is a true and correct copy of Resolution No.: 2019-01 adopted on March __, 2019, as shown in the Official Records of the Village of El Portal, Miami-Dade County, Florida. Given under my hand and seal, this ___ day of __________, 2019.

Yenise Jacobi
Village Clerk

22
FREQUENTLY ASKED QUESTIONS
ABOUT THE FLOODPLAIN MANAGEMENT MODEL ORDINANCE
AND FLORIDA BUILDING CODE AMENDMENTS

November 5, 2018

Of Florida's 467 NFIP communities, 390 have adopted local regulations based on the State's model ordinance written to rely on the Florida Building Code for the design and construction of buildings in special flood hazard areas. FEMA approved this ordinance in 2012. Another 50 communities are in review and the State Floodplain Management Office expects to work with the remaining communities in the next few months.

Many common questions are answered in the FAQs that follow and the notes and instructions that accompany the model ordinance and code amendment packages. Please see Building Code and Ordinance resources at https://www.floridadisaster.org/dem/mitigation/floodplain/community-resources/.

For assistance, email Technical Support at flood.ordinance@em.myflorida.com (please put your community's name in the subject line).

Frequently Asked Questions
1. Are we required to do anything at all? ................................................................. 2
2. Has FEMA approved the floodplain management model ordinance? ........................ 2
3. Will DEM prepare the draft for us? ........................................................................ 2
4. Will we have to modify our floodplain management ordinance every time the FBC is updated? .............................................................................................................. 2
5. Does the Building Official have to be designated the Floodplain Administrator? .......... 2
6. Can we delete provisions in the ordinance that apply only to specific flood hazard areas not shown on our maps? ................................................................. 3
7. How do we explain this code-coordinated ordinance to the public and local elected officials? .................................................................................................................. 3
8. Some communities, especially smaller towns, have arrangements with other jurisdictions (or private companies) to perform some or all of their building permit and floodplain management responsibilities. Will those arrangements be affected?........ 3
9. What are "local technical code amendments"? .......................................................... 3
1. Are we required to do anything at all?
Yes. By law, the Florida Building Code (FBC) contains all laws and rules that pertain to and govern the design and construction of buildings (see section 553.73(1)(a), F.S.). This means the flood provisions of the FBC that govern the flood-resistant design of buildings in mapped flood zones (special flood hazard areas) supersede local regulations that are not consistent with the FBC. Most of the differences between the flood provisions of the FBC and local regulations are relatively minor for most buildings. However, that does not alter the fact that the code governs the design of buildings.

Coordinating floodplain management regulations with the building code (making them “work together”) should be done as quickly as possible, otherwise inconsistencies and possible conflicts could occur. The model ordinance is specifically designed to repeal and replace existing regulations, to satisfy the NFIP, to coordinate with the FBC, and to meet the requirements of section 553.73(5), F.S.

2. Has FEMA approved the floodplain management model ordinance?
Yes. The NFIP Checklist that documents consistency is available at the above webpage.

FEMA’s approval is important: it means communities that use the model as the basis for their local floodplain management regulations will have rules that are both consistent with the NFIP and also coordinated with the FBC.

3. Will DEM prepare the draft for us?
Yes. We will review your existing regulations to identify provisions that are specific to your community and that exceed the requirements of the FBC. Then we incorporate those community-specific provisions into the model ordinance. We can also add any new higher standards you may be considering.

We pay close attention to provisions that qualify for the NFIP Community Rating System. Section 553.73, F.S., was amended in 2010 to explicitly allow communities to retain higher standards, including those adopted for the CRS. Higher standards that are adopted as local technical amendments to the FBC and that satisfy specific conditions do not sunset every three years, as do other local amendments to the FBC.

4. Will we have to modify our floodplain management ordinance every time the FBC is updated?
No. However, as with every new edition of the FBC, local officials should pay attention to changes in flood provisions. For example, the 6th Edition FBC has a number of changes in the flood provisions of the FBC, Residential and FBC, Building (by reference to the 2014 edition of ASCE 24). The more significant changes are (a) freeboard in the FBC, Residential in all flood zones; (b) Coastal A Zone is treated like Zone V (if LIMWA delineated or otherwise designated by a community); (c) flood openings in breakaway walls; and (d) critical facilities (Flood Design Class 4/Risk Category IV) elevated or protected to BFE + 2 feet or 500-year flood elevation, whichever is higher. Excerpts of the 6th Edition FBC are on the above webpage, along with a list of changes.

5. Does the Building Official have to be designated the Floodplain Administrator?
No. Communities designate the position of a qualified staff member who is knowledgeable about floodplain management to fulfill the broad range of responsibilities of the Floodplain Administrator. It is common to designate a department head, planning manager, building official, or a town manager, who then delegates functions. By law, the building official is
responsible for enforcing the building code. If designated as the Floodplain Administrator, the building official functions under the authority of the FPM regulations.

Communities with interlocal agreements with other communities — and communities with private providers of building code services — must designate a position from their communities with ultimate authority to enforce the community’s floodplain management ordinance and to fulfill commitments to the NFIP.

6. **Can we delete provisions in the ordinance that apply only to specific flood hazard areas not shown on our maps?**

Yes, but it must be done very carefully. Communities that are entirely coastal (without any riverine waterways) may remove floodway and some other provisions and communities that have BFEs in all flood zones may remove requirements for flood hazard areas without BFEs.

Another fairly common request is from communities that have no manufactured homes and do not allow placement of new manufactured homes. When documentation (e.g., citation of LDC section) is provided during review of the draft ordinance, the provisions for manufactured homes can be deleted. The documentation is retained in DEM’s records in the event questions are raised about the deletion.

7. **How do we explain this code-coordinated ordinance to the public and local elected officials?**

Instructions and Notes that go with the model ordinance include brief background notes. Also, we prepared a short PowerPoint presentation for this purpose. It includes a brief explanation of the need for older ordinances to be repealed and replaced and explains some of the unique properties of the ordinance. Request a copy by emailing flood.ordination@em.myflorida.com. You can customize it to meet your community’s specific needs.

8. **Some communities, especially smaller towns, have arrangements with other jurisdictions (or private companies) to perform some or all of their building permit and floodplain management responsibilities. Will those arrangements be affected?**

No. Florida Statute Chapter 163, Intergovernmental Programs, authorizes local governments to enter into written inter-local agreements to have one jurisdiction perform some functions for another jurisdiction. We encourage communities with such arrangements to develop and adopt agreements that specifically address floodplain management. A model inter-local agreement designed to help communities adopt acceptable formal agreements and a handout that summarizes community responsibilities under the NFIP are available by emailing the State Floodplain Management Office at floods@em.myflorida.com.

9. **What are “local technical code amendments”?**

Chapter 1 of the FBC, Building contains administrative provisions. The remainder of the FBC, Building and all the other codes in the FBC family of codes contain the technical provisions that set forth the requirements for the design and construction of buildings and structures. Section 553.73(4)(a), F.S., provides that local technical amendments must be more stringent than the code and that “(b) Local governments may, subject to the limitations of this section, adopt amendments to the technical provisions of the Florida Building Code which apply solely within the jurisdiction of such government and which provide for more stringent requirements than those specified in the Florida Building Code, not more than once every 6 months.” Please note that there are several other requirements not copied here that must be met.
Also note section 553.73(5) that was added in 2010 to explicitly address higher standards for flood. The requirements of section 553.73(4) do not apply in three specific circumstances, and technical amendments may not be rendered void every three years when a new edition of the FBC becomes effective. The three specific circumstances are:

1. "if the amendment is adopted for the purpose of participating in the Community Rating System promulgated pursuant to 42 U.S.C. s. 4022;"
2. "if the amendment had already been adopted by local ordinance prior to July 1, 2010;"
   and
3. "if the amendment requires a design flood elevation [i.e., freeboard] above the base flood elevation."

Even though section 553.73(4) does not apply to higher standards under those three circumstances, the higher standards need to be formatted to be consistent with the FBC to be useable by the public. We ensure ordinances with FBC amendments include whereas clauses and a fiscal impact statement to satisfy the statutory requirements.

Links:

State Floodplain Management Office
https://www.floridadisaster.org/dem/mitigation/floodplain/

DEM Local Ordinance & Building Code Resources:
https://www.floridadisaster.org/dem/mitigation/floodplain/community-resources/

FEMA Building Science webpage (click on “Building Code Resources”)  
http://www.fema.gov/rebuild/buildingscience/index.shtml
TO: Miami-Dade Floodplain Administrators and Building Officials

FROM: Steve Martin, State Floodplain Manager
       DEM State Floodplain Management Office

DATE: February 24, 2015

RE: FBC-Coordinated Model Floodplain Management Ordinance

A few years ago DEM prepared a model floodplain management ordinance that is written expressly to work with the FBC; it was approved by FEMA Region IV. The 2010 Florida Building Code (FBC) – and the upcoming 5th Edition FBC – includes flood provisions that FEMA deems meet or exceed the NFIP requirements for buildings and structures.

As of early 2015, more than half of Florida’s 465 NFIP communities have adopted floodplain management regulations based on the Model Ordinance (or are in the process of adopting it). In Miami-Dade, one community has adopted and three communities have worked on it.

I am contacting you to encourage your community to initiate action to tailor the model to your community – and to let you know that DEM’s ordinance experts are available to help and to review your drafts to ensure what you adopt is acceptable.

The Model Ordinance, Instructions & Notes, and Frequently Asked Questions are online: http://www.floridadisaster.org/Mitigation/SFMP/lbcresources.htm

The Model Ordinance is written to be generally applicable in all Florida communities that participate in the NFIP. This memo is to let you know two things do NOT apply in Miami-Dade because of guidance issued by the Miami-Dade Board of Rules and Appeals:

1. Communities in Miami-Dade do not need to adopt any local administrative amendments to address certain administrative provisions of the FBC (described below), and

2. Communities in Miami-Dade should handle higher standards that affect the design and construction of buildings in flood hazard areas differently than described in the Model Ordinance instructions (described below).

Administrative Provisions. The Model Ordinance has a section for three local administrative amendments to the FBC. None of these amendments are necessary in Miami-Dade communities. The amendment to FBC 104.10 is not applicable in Miami-Dade because the BOAF Model Administrative Chapter is not used. The other two amendments are not necessary in Miami-Dade based on guidance issued on November 21, 2013 by the Board of Rules and Appeals (attached):
SFMO to Miami-Dade; 2/24/15 — page 2

- **Community Review of Floodplain Permits.** The guidance that states “the community’s floodplain management responsibilities as contained in 44 CFR Part 60 may not be delegated through the Permit by Affidavit procedures contained in the Florida Building Code” and, referring to the Alternative Plan Review and Inspection program (553.791, F.S.), “in order to maintain compliance with 44 CFR Part 60 Subpart A, Section 60.3, the local building official should elect to review any flood related provisions contained in the permit application.”

- **Variances in Flood Hazard Areas.** The guidance states that “Pursuant to section 553.73(5), F.S., the variance procedures adopted in the local floodplain management ordinance shall apply to requests submitted to the Building Official for variances to the provisions of Section 1612.4 of the Florida Building Code, Building or, as applicable, the provisions of R322 of the Florida Building Code, Residential. These variance procedures shall not apply to Section 3109 of the Florida Building Code, Building.”

**Higher Standards.** By law, the FBC contains all laws and rules that pertain to and govern the design and construction of buildings (see section 553.73 (1)(a)). This means the flood provisions of the FBC that govern the flood-resistant design of buildings supersede local regulations that are not consistent with the FBC. However, the statute was modified in 2010 to specifically provide for adoption of local technical amendments to the FBC to provide for higher standards in flood hazard areas. The SFMO prepared instructions for adoption of certain higher standards as local technical amendments to the FBC. However, communities in Miami-Dade should not use those instructions.

The BORA requested an amendment to the Miami-Dade Code of Ordinances, Chapter 8 Building Code, Sec. 8-32 to modify Chapter 1 of the FBC. Specifically: “103.3 Where, in any specific case, different sections of the Florida Building Code or adopted flood hazard ordinances specify different materials, methods of construction or other requirements, the most restrictive shall govern.”

**Therefore, when preparing to adopt the code-coordinated Model Ordinance, Miami-Dade communities that already have higher standards (or that elect to adopt new higher standards) that affect the design of buildings in flood hazard areas should contact DEM’s Technical Support for assistance (email shown below).**

Following the format DEM developed for Broward County, higher standards will be identified in a Whereas clause (sample below) and incorporated into the floodplain management ordinance in a new section (below) that does not appear in the Model ordinance:

**Whereas,** the City Council previously adopted [insert brief description; can include all in one clause], and, pursuant to Chapter 8 Article III of the Miami-Dade County Code and section 553.7(5), F.S., is formatting that requirement to coordinate with the Florida Building Code.
301.2/301.3 Specific methods of construction and requirements.  
*Instruction*: If your community has adopted a higher standard that affects the design of buildings (or if your community would like to adopt new higher standards), additional language will be included here. Please contact Technical Support at flood.ordinance@em.myflorida.com. Higher standards that affect the design of buildings (also recognized by CRS) might include:

- Additional elevation (freeboard)
- Additional foundation protection/certification (Zone A)
- Cumulative substantial improvement
- Include repetitive loss in the definition for Substantial Damage (to qualify for ICC claim payment based on repair of flood damage 2 times within 10-year period, each equaling 20% or more of market value)
- Protection of critical facilities
- Limitations on enclosures below elevated buildings (e.g., prohibiting enclosures, limiting the size of enclosures, prohibiting partitions, requiring non-conversion agreements)
- Limitations on manufactured homes (e.g., prohibiting in SFHA, Zone V or floodway)
- Treat Coastal A Zone (between LiMWA and Zone V) like Coastal High Hazard Area

Contact us for help with the Model Ordinance: flood.ordinance@em.myflorida.com (please put your community name in the subject line)

View Frequently Asked Questions and download the Model Ordinance, Instructions & Notes, and flood excerpts from the FBC: http://www.floridadisaster.org/Mitigation/SFMP/lobc_resources.htm

For general questions about the NFIP and floodplain management (not the Model Ordinance), contact floods@em.myflorida.com.

Attached: BORA action and memos
**Miami-Dade Legislative Item**  
**File Number: 120501**

<table>
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<th>File Number: 120501</th>
<th>File Type: Ordinance</th>
<th>Status: Adopted</th>
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<tbody>
<tr>
<td>Version: 0</td>
<td>Reference: 12-57</td>
<td>Control: Board of County Commissioners</td>
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**File Name:** DELEGATION OF FLOOD PLAIN REGULATION  
**Introduced:** 3/14/2012

**Requester:** Regulatory and Economic Resources  
**Cost:**  
**Final Action:** 7/3/2012

**Agenda Date:** 7/3/2012  
**Agenda Item Number:** 7L

**Notes:**  
6WKS/4WKS REQUIRED. X/120775.

**Title:** ORDINANCE AMENDING CHAPTER 8 ARTICLE III OF THE MIAMI-DADE COUNTY CODE ADOPTING A LOCAL ADMINISTRATIVE AMENDMENT PERTAINING TO THE DESIGN AND CONSTRUCTION OF BUILDINGS AND STRUCTURES IN FLOOD HAZARD AREAS OF INCORPORATED AND UNINCORPORATED MIAMI-DADE COUNTY PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE [SEE AGENDA ITEM NO. 8M2]

**Indexes:** FLOODPLAIN REGULATION

**Sponsors:** Audrey M. Edmonson, Prime Sponsor

**Sunset Provision:** No  
**Effective Date:**  
**Expiration Date:**

**Registered Lobbyist:** None Listed

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**Legislative History**

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TITL

ORDINANCE AMENDING CHAPTER 8 ARTICLE III OF THE MIAMI-DADE COUNTY CODE ADOPTING A LOCAL ADMINISTRATIVE AMENDMENT PERTAINING TO THE DESIGN AND CONSTRUCTION OF BUILDINGS AND STRUCTURES IN FLOOD HAZARD AREAS OF INCORPORATED AND UNINCORPORATED MIAMI-DADE COUNTY PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA

Section 1. That Chapter 8 of the Code of Miami-Dade County, Florida, is amended as follows:
Chapter 8 BUILDING CODE
ARTICLE III. FLORIDA BUILDING CODE
Sec. 8-31. - Local technical amendments to Florida Building Code.

[[Secs. 8-32 - 8-39. - Reserved.]]
>>Sec. 8-32. Local Administrative Amendments

(A). The County hereby adopts the following Local Administrative Amendment modifying Chapter 1 of the Florida Building Code.

SECTION 103
POWERS AND DUTIES OF THE FLOODPLAIN ADMINISTRATOR

103.1 Scope. In accordance with F.S. sec. 553.73, the Appointing Authority of Miami-Dade County and the Municipalities may delegate the authority to enforce the floodplain provisions of the Florida Building Code to a floodplain administrator, the Building Official, or any other appropriate agency or combination thereof.

103.2 Intent. A floodplain administrator, the Building Official, or any other appropriate agency or combination thereof, as designated, is authorized and directed to administer and enforce the flood provisions of the Florida Building Code and any adopted flood hazard ordinances. The designated authority shall delegate such duties and assignments as may be deemed necessary to carry out provisions of the Florida Building Code and any adopted flood hazard ordinances, to render interpretations consistent with the intent and purpose of these codes and may establish policies and procedures in order to clarify the application of their provisions.

103.3 General. Where, in any specific case, different sections of the Florida Building Code or adopted flood hazard ordinances specify different materials, methods of construction or other requirements, the most restrictive shall govern.

Secs. 8-33 - 8-39. - Reserved. <<

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.
Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.
Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.
Section 5. This ordinance does not contain a sunset provision.
November 21st, 2013

Community Review of Floodplain Permits

According to 44 CFR Part 60 Subpart A, Section 60.3, the community shall in part:

- Require permits for all proposed construction or other development.
- Review proposed development to assure that all necessary permits have been received from those governmental agencies.
- Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding.
- Review subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding.

The community means any State or area or political subdivision there... which has authority to adopt and enforce flood plain management regulations for the areas within its jurisdiction.

Inasmuch, the community’s’ flood plain management responsibilities as contained in 44 CFR Part 60 may not be delegated through the Permit by Affidavit procedures contained in the Florida Building Code. The procedures related to Permit by Affidavit herein shall remain in effect until superseded by the implementation of the Florida Building Code 5th Edition (2014).

Additionally, the Alternative Plan Review and Inspection program established by Florida Statute 553.791 does not require the local building official to review the plans prepared under this statute. In order to maintain compliance with 44 CFR Part 60 Subpart A, Section 60.3 the local building official should elect to review any flood related provisions contained in the permit application.

Should you have any questions, please contact Mr. Michael Goolsby at (786) 315-2508.
November 21st, 2013

Variance in Flood Hazard Areas

Pursuant to section 553.73 (5), F.S., the variance procedures adopted in the local floodplain management ordinance shall apply to requests submitted to the Building Official for variances to the provisions of Section 1612.4 of the Florida Building Code, Building or, as applicable, the provisions of R322 of the Florida Building Code, Residential. These variance procedures shall not apply to Section 3109 of the Florida Building Code, Building.

The variance procedures contained herein shall remain in effect until superseded by the implementation of the Florida Building Code 5th Edition (2014).

Should you have any questions, please contact Mr. Michael Goolsby at (786) 315-2508.
VILLAGE OF EL PORTAL

PROPOSED SCOPE OF SERVICES AND PROPOSED FEE

FOR

PROFESSIONAL ENGINEERING SERVICES

FOR

INSPECTION OF DRAINAGE STRUCTURES, OUTFALLS, AND SWALES

&

SUBMITTAL OF PAST DUE NDPES ANNUAL REPORTS

Dated: November 9, 2017
Revised: May 1, 2018
Amended: December 17, 2018

CRAIG A. SMITH & ASSOCIATES
Consulting Engineers • Surveyors • Utility Locators
7777 Glades Road,
Boca Raton, FL 33434
Palm Beach (561) 314-4445, Dade (305) 940-4661, Broward (954) 782-8222
FAX (561) 314-4457
CRAIG A. SMITH & ASSOCIATES (CAS)

PROPOSED SCOPE OF SERVICES AND PROPOSED FEE

FOR

PROFESSIONAL ENGINEERING SERVICES

FOR

Inspection of drainage structures, outfalls, and swales & submittal of past due NPDES annual reports

PROJECT NAME: VILLAGE OF EL PORTAL

PROPOSAL NO: P3635

PROJECT DESCRIPTION: This is an amendment to the previously approved proposal which includes the preparation of future National Pollution Discharge Elimination System (NPDES) reporting requirements via CAS sub-consultant Rising Waters Consulting and increasing the scope fee by $4,000. This was a task that was previously mentioned in the scope with dollar amount left to be determined. Previously approved services amounted to $17,120 under different tasks which have been completed to date. This amendment increases the scope of service fees to $21,120.00.

This proposal includes providing professional engineering and inspection services of past stormwater improvements to assist the Village with the reporting requirements of the NPDES permit as it pertains to Part III.A.1 “Structural Controls and Stormwater Collection System Operation” of the permit. These services will be billed at the attached hourly rates for a not to exceed amount. CAS field representative will perform an observation of each drainage structure and report its findings. Maintenance on structures and on engineered swales may be required and CAS will make its recommendations known to the Village.

OWNER: Village of El Portal

Attention: Christia Alou, Manager
villagemanager@villageofelportal.org

Address: 500 NE 87th Street
Village of El Portal, FL 33138-3517

Phone: (305) 795 - 7880
FAX: (305) 795 - 7884

BACKGROUND: The NPDES Stormwater Program regulates point source discharges from three potential sources: Municipal Separate Storm Sewer Systems (MS4s), construction activities and industrial activities. The NPDES Stormwater Program in Tallahassee is responsible for the development, administration and compliance of rules and policy to minimize and prevent pollutants in stormwater discharges. Operators of these sources may be required to obtain an NPDES permit before they can discharge stormwater.
Stormwater runoff is generated from rain events that flow over land or impervious surfaces, such as paved streets, parking lots and building rooftops, and does not soak into the ground. The runoff picks up pollutants like trash, chemicals, oils, and dirt/sediment that can harm our rivers, streams and lakes. To protect these resources, municipalities, construction and industrial activities, and others use stormwater controls, known as Best Management Practices (BMPs), to manage runoff. The implementation of these practices, which include BMP design, performance and adaptive management requirements, prevent or minimize pollution by controlling it at its source.

The Village, like other participating municipalities, is a co-permittee with Miami-Dade County’s NPDES permit. Each municipality is responsible for administering their respective NPDES program including the submittal of the annual report as required by FDEP.

CAS proposes to accomplish the professional services as follows:

**ITEM No.**

**E57A DRAINAGE STRUCTURE OBSERVATIONS (PREVIOUSLY APPROVED - COMPLETED)**

A CAS field representative will perform an observation of each drainage structure and report its findings. Maintenance on structures and on engineered swales may be required and CAS will make its recommendations known to Village. There are at least 83 structures to be inspected and these consist of accessible catch basins, control structures, manholes, water quality (hydrodynamic separators) structures and two major stormwater outfalls to the C-7 Canal. Drainage facilities that have not been replaced since the adoption of the 2002 Stormwater Master will be assessed in the field as well. CAS will gather available drainage structure as-built drawings and surveys to assist with field assessments and observations. Services will be billed at the approved hourly rates for a not to exceed agreed upon amount shown below (Max. hours: 64).

**Hourly Not to Exceed Fee: $7,040.00**

**E53A REPORTING AND MAINTENANCE RECOMMENDATIONS (PREVIOUSLY APPROVED - REPORTING COMPLETED)**

Maintenance of drainage systems may be recommended and maintenance is not part of this proposal. CAS can assist the Village with the solicitation for these services from qualified vendors upon request. Field findings will be reviewed by in house Engineering staff and findings will be reported to the Village in tabular format to assist the Manager with NPDES reporting requirements with supporting as-built plans.

The revised proposal includes the preparation and submittal of the NDPES Annual Reports (3) which are past due and include Cycle 3 - Year 5 Annual Report (6/2015 – 6/2016), Year 6 (6/2016 - 6/2017), Year 7 (6/2017 – 12/2017). CAS will provide assistance to the Village with the development an Illicit Discharge Inspection Standard Operating Procedure (SOP) and Construction site inspection SOP. CAS will make all reasonable efforts to bring the Village into compliance with its NDPES reporting requirements. Services will be billed at the approved hourly rates for a not to exceed agreed upon amount shown below (Max. hours: 60).

**Hourly Not to Exceed Fee: $10,080.00**

**E53B FUTURE ANNUAL REPORTING**
Prepare and submit for future Cycle 4 Permit requirements as follows:

- Part V.B. Assessment Plan 12/29/2018 (due 12 months after permit issuance 12/29/2017)
- Year 1 annual report 6/30/2019 (reporting period 1/1/2018-12/31/2018)

Services will be provided by CAS via subconsultant Rising Water Consulting (see attached proposal)

Hourly Not to Exceed Fee: $4,000.00

SUMMARY OF COSTS

CAS proposes to accomplish the professional engineering services listed at the hourly rates for the not to exceed amounts shown below.

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<th>Description</th>
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Thank you for your time and effort in supporting this project and we look forward to working together with the Village on reaching compliance with the NPDES Permit. Any service not specifically included in the final Agreement will be considered as an Additional Service. CAS will accomplish Additional Services upon proper written authorization of the CLIENT. The fees for Additional Services are at the attached hourly rates or at a mutually agreed upon Lump Sum Fee. If this proposal is acceptable, please execute as indicated and return one executed copy to our office for our files.

Yours Sincerely,

CRAIG A. SMITH & ASSOCIATES

Orlando A. Rubio, PE
Sr. Supervising Engineer

ACCEPTED BY:

VILLAGE OF EL PORTAL

Signature

Date

Name of Authorized Representative

Title of Authorized Representative
# CRAIG A. SMITH & ASSOCIATES, INC.
## 2016
### HOURLY RATE SCHEDULE

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*These rates are in effect for services rendered commencing March 1, 2016 and are subject to change.*
CRAIG A. SMITH & ASSOCIATES, INC.

2016
REIMBURSABLE EXPENSES

- 3D Scanner Usage $3,000.00/day
- Computer Usage (CADD) $2.50/hour
- Reproductions
  Engineering (24 x 36) $2.50/sht
  Engineering Color $3.50/sht
  Standard Copies $0.30/sht
  Standard Color $0.40/sht
  Ledger (11 x 17) $0.40/sht
  Ledger Color $0.55/sht
- Recording & Permit Fees Cost + 10%
- Services of Outside Consultants Cost + 10%
- Federal Express or Courier Services Cost + 10%
- Commercial Air Travel Cost + 10%
- Long Distance Phone Cost + 10%
- Auto Travel Expense $0.56 / mile
- Meals – Per Diem $35.00
- Lodging Cost + 10%

These rates are in effect for services rendered commencing March 1, 2016 and are subject to change.
Rising Waters Consulting
1312 E Hawthorne Circle
Hollywood, Fl. 33012-4719
Telephone 954.240.4117
Email: risingwatersconsulting@gmail.com
December 3, 2018

Craig A Smith and Associates
Attn.: Orlando Rubio
277 Goolsby Blvd., Unit 4 C
Deerfield Beach, Fl. 33442

RE: Request for Scope of Services Proposal for Village of El Portal, Miami-Dade County, Florida

The Village of El Portal has requested a proposal for professional services in their desire to continue to be in compliance with the National Pollutant Discharge Elimination System (NPDES) Permit. The Village has recently submitted all back Annual Reports that were due to remain in compliance with the Permit.

Services Proposal

Rising Waters Consulting (RWEC) proposes to offer the following services with the intent of keeping the Village in compliance with their NPDES Permit:

- Facilitate the annual reporting required under the Permit
- Drafting or modifying any Standard Operating Procedures required by the Permit
- Submitting future Total Maximum Daily Load (TMDL) reports as required
- Review of documents as needed to be submitted to DEP as part of the present and past Permit requirements

Fees for Proposed Services
The fee for the above described services is not to exceed: $4,000.00.
Fees will be disbursed at the rate of $150.00 per hour until the above total charge is reached.
Fees will be paid as invoiced on a regular basis by RWC.

Any further work beyond the scope described above will be negotiated at that time, or will continue at the rate of $150.00 per hour.

RWC hereby states that it acts strictly as a consultant to the Village, and as sub-contractor to Craig A Smith, and accepts no liability for any actions or decisions made by
the Village or work contemplated by the Village that violates NPDES permit conditions or violates any other relevant local laws or statutes related to the work considered.

RWC is an active Corporation under the Division of Corporations in the State of Florida.

Thank you for the opportunity to assist the Village in its efforts to manage its stormwater systems, activities and efforts under the NPDES Permit.

Sincerely,

MG for

M. Gambino, President
Rising Waters Consulting

MG: mg
EC: Christia E. Alou, Esq., Village Manager, Village of El Portal
February 7, 2019

Project No. VOEPO17003

Christia Alou, Village Manager
Village of El Portal
500 NE 87th Street
El Portal, Florida 33138

RE: ADDENDUM NO. 1 TO SUPPLEMENTAL AGREEMENT #3
SANITARY SEWER SYSTEM IMPROVEMENTS PHASE 1 PROJECT

Dear Ms. Alou:

We are pleased to submit this REVISED Addendum No. 1 to the Supplemental Agreement dated 02/07/18 to provide the Village with consulting engineering services on this Project. This Agreement describes our scope of services to provide additional design and permitting services for the Village's proposed Sanitary Sewer System Improvements Phase 1 Project. Please note the fee proposed herein has been reduced based on our 11/15/18 project scope discussion meeting and our follow-up 11/21/18 email correspondence to the Village.

Upon review and approval, please sign and return one (1) executed copy of this Addendum to our office.

Please call us if you have any questions. We sincerely appreciate the opportunity to serve the Village of El Portal on this important Project.

Sincerely,

PENNONI ASSOCIATES INC.

Steven L. Elias, PE.                    Roger L. Homann
Division Manager                      Project Manager
ADDENDUM NO. 1

TO

SUPPLEMENTAL AGREEMENT TO MASTER AGREEMENT

SANITARY SEWER SYSTEM IMPROVEMENTS PHASE 1 DESIGN

By and Between

VILLAGE OF EL PORTAL - and - PENNONI ASSOCIATES INC.

This Supplemental Agreement is not intended to alter any of the terms in prior agreements between the parties, which shall remain in full force and effect. This Supplemental Agreement merely adds additional term to the parties’ prior agreements.

1.0 BACKGROUND INFORMATION:

The Village desires for Pennoni to complete the pumping station design at location number 7, a summary of how the budgeted $125,000 design and permitting effort is proposed to be accomplished is as follows:

<table>
<thead>
<tr>
<th>Cost</th>
<th>Dates</th>
<th>Task</th>
</tr>
</thead>
<tbody>
<tr>
<td>$ 4,000</td>
<td>11/17/17 - 1/4/18</td>
<td>Reused effort from PS #1 design</td>
</tr>
<tr>
<td>$ 35,000</td>
<td>1/8/18 - 5/30/18</td>
<td>Reuse PS #3 design efforts</td>
</tr>
<tr>
<td>$ 20,117</td>
<td>6/4/18 - 8/5/18</td>
<td>Out of scope re-design performed for PS #7</td>
</tr>
<tr>
<td>$ 35,000</td>
<td>6/4/18 - 8/5/18</td>
<td>Leftover PS #3 budget used at PS #7</td>
</tr>
<tr>
<td>$ 35,000</td>
<td>8/5/18 - forward</td>
<td>Additional design needed to complete design for PS #7</td>
</tr>
<tr>
<td>$ 129,117</td>
<td></td>
<td></td>
</tr>
<tr>
<td>$ - 4,117</td>
<td></td>
<td>Less professional discount</td>
</tr>
<tr>
<td>$ 125,000</td>
<td></td>
<td>TOTAL</td>
</tr>
</tbody>
</table>

Note: If the pumping station location changes from location 7, the scope of work and design/permitting fee will need to be revised.

2.0 EXCLUDED SERVICES: Services not included in this Agreement (additional services) include, but are not limited to the following:

2.1 Re-design, re-permitting, legal description revision, and/or planning fees associated with the pump station being located anywhere other than within the location #7 easement legal description prepared by Pennoni in the Fall of 2018 for the Village’s use with the School Board

2.2 Re-design, re-permitting, and planning of the sanitary sewer system and force main design that is nearly complete as necessitated if the pump station would need to change from location #7
2.3 Any additional design requirements that could be required by others, (Dade County, WASD, DERM, SFWMD, School Board, etc.) that may have gone into effect after 8/3/18 that Pennoni and the Village may not be aware of and are not part of the anticipated scope herein

3.0 PENNONI'S COMPENSATION

3.1 Pennoni's proposed additional lump sum fee, excluding reimbursement costs, to provide the services described in Section 2.1 thru 2.4 is $45,000. A breakdown of Pennoni's additional services fees is as follows:

<table>
<thead>
<tr>
<th>Description</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pump station locations 4 and 5 additional design (Task 2.1)</td>
<td>$11,028</td>
</tr>
<tr>
<td>Pump station location 6 evaluation additional services (Task 2.2)</td>
<td>$5,016</td>
</tr>
<tr>
<td>Pump station location 7 additional design services (Task 2.3)</td>
<td>$52,245</td>
</tr>
<tr>
<td>Gravity sewer and force main redesign for pump station location 7 (Task 2.4)</td>
<td>$16,711</td>
</tr>
<tr>
<td>Sub-Total</td>
<td>$85,000</td>
</tr>
<tr>
<td>Professional Discount</td>
<td>$-40,000</td>
</tr>
<tr>
<td><strong>TOTAL FEE</strong></td>
<td><strong>$45,000</strong></td>
</tr>
</tbody>
</table>

3.2 Task 2.5 (Public Meetings) will be performed upon Village request on a time and expense basis.

4.0 OTHER MATTERS: Except as provided for herein, the terms and conditions of the existing Supplemental and Master Consulting Agreement between the Village and Pennoni shall apply.

5.0 PAYMENT TO ENGINEER

6.1 Pennoni will submit monthly statements to the Village for services rendered and for reimbursable expenses incurred. Pennoni will provide a summary of costs incurred and task completion description information on the monthly invoices to help keep the Village appraised of Project progress.

6.2 The Village will make prompt payment for completed work in response to the Engineer's statements in accordance with Pennoni's Supplemental Agreement dated 02/07/18 as applicable.

6.0 Pursuant to 558.0035 F.S., an agent or individual employee may not be individually held liable for negligence.

IN WITNESS WHEREOF, the Village and Pennoni have executed this Agreement Addendum as of the date given below.

PENNONI ASSOCIATES INC.

Beth L. Evans, AICP, LEED AP
Office Director
02/07/19

Date

VILLAGE OF EL PORTAL, FLORIDA

______________________________
Village Manager

______________________________
Date
PROJECT NO. VOEPO17006

ADDENDUM 1 TO SUPPLEMENTAL AGREEMENT 17-03

PHASE 1 STORMWATER SYSTEM IMPROVEMENTS

By and Between

VILLAGE OF EL PORTAL - and - PENNONI ASSOCIATES INC.

This Supplemental Agreement is not intended to alter any of the terms in prior agreements between the parties, which shall remain in full force and effect. This Supplemental Agreement merely adds additional term to the parties' prior agreements.

1.0 GENERAL: This is Addendum No. 1 Supplemental Agreement 17-03 dated 02/07/18 between PENNONI ASSOCIATES INC. (Pennon or Engineer) and the VILLAGE OF EL PORTAL (Village or Owner) for professional services. Funding for the services described herein will occur via Amendment 1 to the Village’s FDEP Funding Agreement for FDEP Project SW1320L0. Except as provided for herein, the provisions of the Master Agreement between the Village and Engineer dated 05/23/17 shall apply to this Addendum.

2.0 EMPLOYMENT: The Village hereby retains the professional engineering services of Engineer. Village and Engineer, in consideration of their mutual covenants herein, agree in respect of the performance of professional engineering services by Engineer and the payment for those services by Village as set forth herein. Pennon was competitively selected to perform the scope of work described herein in accordance with F.S. 287.055 (Consultant’s Competitive Negotiation Act) and has been approved by FDEP.

3.0 PROJECT DESCRIPTION AND PURPOSE: The Village desires to construct improvements to the existing stormwater conveyance system to serve residents within the Village. A Stormwater Facilities Plan describing the Project has been prepared by Pennoni, approved by Village Resolution on 05/01/18, and submitted to the Florida Department of Environmental Protection (FDEP). The Stormwater Facilities Plan describes a stormwater conveyance system serving the entire Village and also defines the first phase (Phase 1, the Project) of improvements, which the Village desires. CWSRF loan funding for design and permitting of Phase 1 of the Project was approved at the FDEP funding hearing conducted on 08/08/18. The Village desires to retain Pennoni to provide design services for the proposed Phase 1 Stormwater System Improvements Project. Ideally, and it is assumed for this proposal, the Phase 1 Stormwater Improvements will be constructed concurrently with the Phase 1 Septic to Sewer Improvements to achieve efficiencies and reduce the Village’s costs. As such, Pennoni’s scope and fee is based on preparing one set of comprehensive design plans and one project manual reflecting both the proposed sewer and stormwater SRF improvements. Pennoni will endeavor to include stormwater management improvements to as much of the Project Area as is feasible to construct based on the Village’s available funding. Approximately $500,000 was available from existing Village budget sources at the time of Project planning. If additional funding becomes available, the scope/fee of this Project can be expanded to include further improvements outside of Phase 1 upon the Village’s request.
Based on the Phase 1 Project described in the Village’s Stormwater Facilities Plan, the Project will generally include regrading portions of the southwest area basin to improve the conveyance of stormwater to the existing exfiltration trenches and off-line treatment basins. The improvements will also consider the replacement of flap valves on existing stormwater outfalls and targeted improvements to existing driveways within the right-of-way. Improvements will be limited to areas within Village-owned rights-of-way and existing easements (or as secured by the Village as necessary). Our design and permitting services will be provided to the extent feasible within the available Project funding. Additional design components such as sidewalks, curbing, landscaping, handicap ramps, and work on private property are not included.

4.0 **SCOPE OF SERVICES:** Pennoni will provide, or obtain from others, professional engineering design services for this Project. Pennoni's services will include serving as the Village's engineering representative for the Project and providing customary professional civil engineering and consulting services. Pennoni makes no warranties, express or implied, under this Agreement or otherwise, in connection with Pennoni's services. Notwithstanding anything else herein, Pennoni shall perform its services in accordance with generally accepted practices and the professional standard of care.

4.1 **Preliminary Engineering Phase:** Pennoni will:

4.1.1 Meet with the Village staff to verify the Project objectives and available budget for construction (The design will be limited to those areas which can be designed and permitted with the available funds and those areas which are anticipated to have construction funds available by the end October 1, 2019.)

4.1.2 Evaluate Pennoni-observed deficiencies in the existing stormwater conveyance system

4.1.3 Meet with the Village staff to agree on upon the scope of improvements prior to design

4.1.4 Prepare 30% Design Plans for roadway regrading, adjustment of existing stormwater inlet tops, and minor stormwater system conveyance improvements within the Village owned right-of-way only

*Note: Pennoni will use as applicable existing survey, geotechnical, and roadway design data developed during design of the concurrent sewer design project. This proposed budget assumes no additional field and related services are necessary.*
4.2 Design Phase

4.2.1 Prepare Construction Documents: Pennoni will prepare bidding and design level documents for this Project. The construction documents will consist of the engineering plans which incorporate technical specifications, Bid Form, a typical Construction Contract, and other ‘Front End Type’ documents, in accordance with the Village’s procurement requirements and reviewed by the Village’s counsel for sufficiency. The Construction Documents will include content required by the FDEP CWSRF for approval of the documents including but not limited to FDEP CWSRF Special Conditions, Davis Bacon wage determination provisions, and American Iron and Steel provisions. It is assumed that a Maintenance of Traffic (MOT) Plan(s) will be the responsibility of the selected Contractor. If a Project-specific MOT plan is required by any jurisdictional agency, this will be prepared as an Additional Service.

4.2.2 Coordinate with Utility Owners (e.g., gas, electric, telephone, cable TV): Pennoni will, as part of its limited site utility research, provide known utility providers with a set of draft Plans showing the Village’s proposed utility line locations and request them to sketch the approximate locations of their utilities and give comments regarding potential conflicts as deemed necessary. Due to information source and project timing limitations, there is no assurance that all existing utilities and proposed future utility line locations will be accurately defined in their depth and extent within the vicinity of the Project within the Village’s project schedule.

NOTE: Please be advised that a state law in association with Sunshine State One Call of Florida allows utility companies to charge service fees for providing utility location information inside public rights-of-way and/or easements. These fees cover services such as meetings with engineers, site visits to flag utilities in the field, reviewing and marking up plans to depict the location of their facilities, etc., which are necessary to facilitate the design and construction of improvements within rights-of-way and/or easements. If we receive invoices for these charges, we will include them on our invoices to the Village as a direct reimbursable cost.

4.2.3 Village Reviews: The following milestone reviews will be conducted with the Village staff:

- At the 30% completion milestone, Pennoni will submit a conceptual design for staff review and subsequent staff presentation at a public meeting. This conceptual design will include a generalized right-of-way cross-section and preliminary roadway profile. Upon approval by the Village, this will be the basis for Engineer’s final design. Any substantial changes to this conceptual plan will result in additional fees for redesign work.

- At the 90% completion milestone, Pennoni will submit one set of drawings to the Village for review and comment for technical and legal sufficiency. The 90% submittal will include the applicable permit applications described in Section 4.3.

- The 100% submittal will incorporate the Village’s 90% review comments. At the 100% completion milestone, Pennoni will submit one set of the construction drawings and permit applications to the Village for review/acceptance and to the necessary permitting agencies. Permit application fees will be paid by the Village.

4.2.4 FDEP CWSRF Submittal: On behalf of the Village, Pennoni will submit the design documents (Construction Plans and Project Manual) and any obtained permits for the Project to the FDEP CWSRF for construction funding consideration.
4.2.5 Public Meetings: Pennoni will prepare for and attend public meetings at the Village’s request based on availability (Village Council meetings, committee meetings, or workshops) to update the public and the Village Council on the status of the Project and to gain public and Village Council input. These meetings or outreach efforts will be performed on a time and expense basis upon request in accordance with Section 7.0.

4.3 PERMITTING PHASE: For purposes of this proposal, it is assumed State and Federal permitting is not required for this phase of the Project. The 90% drawings will be submitted to the Village of El Portal’s Building Department for review.

4.4 FDEP CWSRF Administration: Pennoni will assist City staff with the following FDEP CWSRF administrative tasks:

4.4.1 Preparation of disbursement applications on behalf of the Village and to assist the Village in submitting to the FDEP CWSRF to obtain payments for Pennoni’s invoices

4.4.2 Preparation of an FDEP CWSRF Request for Inclusion for construction funding following FDEP approval of the Project design documents

4.4.3 Other miscellaneous coordination with FDEP CWSRF staff

5.0 VILLAGE’S RESPONSIBILITIES: The Village will assume the following responsibilities to assist the Engineer in the timely and proper completion of its professional services.

5.1 Designate the Village Manager (or a person to be named by the Village) as the Village’s representative with respect to the services to be rendered under this Agreement, who will have complete authority to transmit instructions, coordinate and schedule all public meetings, prepare meeting agendas, receive information, and interpret and define the Village’s policies and decisions with respect to Pennoni’s services for this Project

5.2 Promptly pay for all outside permit application and review fees

5.3 Promptly review Pennoni’s submittals and comment

5.4 Promptly review and respond to Pennoni’s questions

5.5 Give prompt written notice to Engineer whenever the Village becomes aware of any problem with the Engineer’s work, any development that affects the scope of timing of Engineer’s services, or any defect or non-conformance in the work of any person

6.0 EXCLUDED SERVICES: Services not included in this Agreement (Additional Services) include, but are not limited to the following:

6.1 Specialized studies that could be required depending on field conditions or findings to satisfy funding agency requirements (e.g. archaeological, historical, ecological, environmental, etc.)

6.2 Specialized environmental work including, but not limited to formal surveys for other state/federally listed species, formal consultation with U.S. Fish and Wildlife Service and identification of off-site mitigation lands

6.3 Land development / future demand projections
6.4 Expert testimony
6.5 Wetland studies
6.6 Electrical, Mechanical and Structural Engineering
6.7 FIRM Revision or Amendments; Floodplain and Floodway Studies; Floodplain Evaluations; Floodplain Impacts
6.8 Redesign for Cost-Cutting by Others (e.g. Client, Owner, or Consultants) due to insufficient data
6.9 Ownership and encumbrance reports
6.10 Right-of-way or easement acquisition assistance
6.11 Bidding, construction administration, and certification services
6.12 Land surveys and legal description/sketch documents
6.13 Participation in orders of taking and/or other litigation
6.14 In person meetings other than those specifically listed in Scope
6.15 All other services not explicitly described in Section 4.0

7.0 PENNONI’S COMPENSATION

7.1 Pennoni’s fixed fee, excluding reimbursable costs, to provide the services described in Section 4.0 is $126,194.

7.2 Task 4.2.5 (Public Meetings) will be performed upon the Village’s request on a time and expense basis.

7.3 Reimbursable costs incurred regarding the Project will be itemized and included in our monthly invoices in accordance with the Schedule of Hourly Rates and Reimbursable Costs defined in our Village Master Agreement.

7.4 If the Client elects to expand the Scope of Work to include work tasks not covered in this Supplemental Agreement, upon written request, Pennoni will perform the requested Additional Services based on: (A) A mutually agreed upon fixed fee; or (B) The time we spend and the costs we incur to perform the work in accordance with our Village-approved Schedule of Hourly Rates and Reimbursable Costs.

7.5 Pennoni will submit monthly statements to the Village for services rendered and for reimbursable expenses incurred. Pennoni will provide a summary of costs incurred and task completion description information on the monthly invoices to help keep the Village apprised of Project progress.

8.0 OTHER MATTERS

8.1 The general terms and conditions of our Master Agreement are applicable to this Project.
8.2 Information provided to Pennoni by the Village will be used without independent review or verification.

8.3 The obligation to provide services under this Agreement may be terminated by either party upon seven days written notice, in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. In the event of any termination, Engineer will be paid for all services rendered.

8.4 PURSUANT TO 558.0035 F.S., AN AGENT OR INDIVIDUAL EMPLOYEE MAY NOT BE INDIVIDUALLY HELD LIABLE FOR NEGLIGENCE.

9.0 PAYMENT TO ENGINEER: Pennoni will submit monthly statements to the Village for services rendered and for reimbursable expenses incurred. Pennoni will provide a summary of costs incurred and task completion description information on the monthly invoices to help keep the Village apprised of Project progress. The Village will make prompt payment in response to Engineer's statements in accordance with the Master Agreement.

IN WITNESS WHEREOF, the Village and Pennoni have executed this Agreement as of the date given below.

PENNONI ASSOCIATES INC.                                      VILLAGE OF EL PORTAL, FLORIDA

Beth L. Evans, AICP, LEED AP
Office Director

Date

Village Manager

Date
 AGREEMENT FOR BUILDING INSPECTION
AND PLAN REVIEW PROFESSIONAL CONSULTANT SERVICES

THIS AGREEMENT is made and entered into this day _____ of ______, 2019, by and between the Village of El Portal, Florida, a municipal corporation, hereinafter referred to as "Village" and C. A. P. Government, Inc., a Florida Corporation, 343 Almeria Avenue, Coral Gables, Florida 33134, hereinafter referred to hereinafter as "Consultant."

IN CONSIDERATION of the mutual covenants set forth in this Agreement, the parties agree as follows:

1. SCOPE OF SERVICES

Consultant is authorized and designated to act on behalf of the Village as the Village's Building Official in accordance with the applicable building code and Chapter 468 of the Florida Statutes. As such,

A. The Consultant agrees to provide plans review of building, structural, fire sprinklers, electrical, mechanical and plumbing and inspections of building, accessibility, roofing, electrical, mechanical, gas and plumbing requirements as contained in the Florida Building Code, including any Miami-Dade County High-Velocity Zone and Village amendments thereto; and

B. Services shall be provided by Consultant personnel in accordance with the job classifications contained in Exhibit "A". All such personnel shall be employees of the Consultant and not the Village. The Village may Designate a qualified Building Official as required by Florida Statutes, §468.601 et. seq; and

C. Process all building permit applications for the Village and verify contractor's licenses; and

D. Review building plans for structural, fire sprinkler, plumbing, electrical; and

E. mechanical and other requirements as contained in the South Florida;

F. Building Code and/or the Florida Building Code, including the Miami-Dade

G. County and amendments thereto using qualified and appropriately trained Individuals; and

H. The first plan review for single family residences shall be completed by Consultant within ten (10) working days of receipt by the Village; and

I. The first plan review for commercial building, multi-dwelling units; and

similar types of construction projects will have plan review completed within fourteen (14) working days of receipt by the Village; and

J. Conduct building permit inspections for the Village within three (3) working days from the time a request is submitted to the Village to determine compliance with the South Florida Building Code and/or the Florida Building Code, including the Miami-Dade County and amendments thereto; and

K. Consult with architects, engineers and contractors to provide guidance on proposed large projects; and

1
L. Respond to consumer complaints within two (2) working days from the time a complaint is submitted to the Village. The Village Manager shall be advised of all complaints received by Consultant’s and Consultant’s response to same; and

M. Provide support services relating to the organization and coordination of the Village’s building department as requested and determined by the Village Manager; and

N. Provide all necessary vehicles, mobile phones or radios and equipment for Consultant’s employees to perform the services required by this Agreement. Consultant shall provide clearly marked Village identification on all vehicles used in conjunction with the performance of this Agreement; and

O. Provide 24-hour emergency damage assessment of structures; and

P. Provide other building department services mutually agreed to by Consultant and the Village Manager. (Please refer to Section 2)

Code Compliance Services

Q. Provide a trained Code Enforcement Officer and support services relating to the organization and coordination of the Village’s code enforcement department as requested and determined by the Village Manager.


S. Issue notices of violation stop work orders, citations and fines.

T. Prepare all paperwork and documentation for code-enforcement hearings and process all cases through the code compliance process.

U. Attend all code compliance hearings on behalf of the Village.

V. Provide all necessary vehicles, mobile phones or radios and equipment for Consultant’s employees to perform the code compliance services required by this Agreement.

W. Consultant shall provide monthly reports to the Village Manager of all known and reported violations of the Village Code and the Miami-Dade County Code. Provide other code compliance and enforcement services mutually agreed to by Consultant and the Village Manager. (Please refer to Section 2)

X. Additional Services

Consultant shall provide additional services to the Village as determined by the Village Manager. (Please refer to Section 2)

AA. VILLAGE RESPONSIBILITIES

The Village shall provide, if desired, badges and photo ID for Consultant’s employees.

The Village will provide workspace and telephones for all inspectors and plan examiners employed by Consultant to perform the services required by this Agreement.

The Village shall provide computers, software and office space to track and document all Building Department records.
BB. CONSULTANT RESPONSIBILITIES

The Consultant shall also provide additional support services as may be reasonably requested by the Village Manager relating to organization and coordination of the various activities with Village staff.

Both parties understand that the Village will employ its own Building Official as defined by the Florida Building Code and F. S. 553. Employees of the Consultant shall coordinate their work through the Village's Building Official.

2. FEES FOR SERVICES and COMPENSATION

A. The Consultant agrees to charge the Village and the Village agrees to pay the Consultant the following fees for the Consultant's services:

i. For services provided pursuant to Paragraph 1A, Consultant shall be compensated at a rate equal to Seventy Percent (70%) and the Village shall receive Thirty Percent (30%) of the gross building permit fee amounts collected by the Village.

ii. If the gross permit fees exceed Fifty Thousand dollars ($50,000) in any one or more month(s), Consultant's portion for that month, or any like month shall be reduced to Sixty Five Percent (65%) and calculated on a calendar month basis and the Village shall receive Thirty Five Percent (35%).

B. For all Building Department Services provided by Consultant as described in this Agreement, the Village shall pay Consultant 50% of the actual total Permit Fees collected, or an amount approximately equal to $27,000.00 per year, whichever is greatest, payable monthly.

For all Additional Services requested by the Village Manager, the Village shall pay Consultant a fee mutually agreed to by the Village Manager and Consultant.

However, notwithstanding the above, the Consultant shall receive only Thirty Five Percent (35%) of the gross building permit fees for all projects owned, paid for and to be operated by the Village.

C. For services provided pursuant to Paragraph 1C, additional support services, Village shall compensate Consultant at the rates shown in "Exhibit B" for the hours worked by the Consultant and approved by the Village.

D. Village shall pay Consultant within thirty (30) days of invoice by Consultant consistent with Florida's Prompt Payment Act.

3. TERM OF AGREEMENT

This Agreement shall become effective upon signature of both parties and shall continue in full force and effect for a period of three (3) years. The Village reserves the right to extend the Contract for One (1) additional three (3) year term providing: (a) both parties to the Contract agree to the extension; (b) all the terms, conditions, and specifications remain the same, subject to satisfactory performance by the Consultant as determined by the Village Manager.
4. **GENERAL TERMS AND CONDITIONS**

A. All original I.D cards, badges, sketches, tracings, drawings, computations, details, design, calculations, work papers and other documents and plans that result from the Consultant providing Consultant specified services shall be the property of the Village. Upon termination of this Agreement or upon request of the Village during the term of this Agreement, any and all such documents shall be delivered to the Village by the Consultant.

B. Consultant shall provide all necessary vehicles, mobile phones and/or radios and equipment for Consultant's employees to perform the services required by this Agreement.

C. Village shall provide badges, photo I.D, workspace and telephones for all inspectors employed by Consultant to perform the services required by this Agreement.

5. **AUTOMATION, SUPPORT AND SOFTWARE**

Consultant agrees to work with Village in order to implement a program that will permit Consultant's personnel to enter data into an internet-based software application that processes, tracks and monitors permit, plan review, and inspection activity; contains plan review comments and approvals; schedules pending and daily inspections and records the date of the issuance of the Certificate of Occupancy/Completion. Consultant shall provide the Village with unrestricted access to information in the elected software application. Consultant shall contribute up to $12,000 per year toward the purchase of the necessary software and equipment to implement this program. Both parties agree that the Consultant may utilize the software application with other municipal entities that may be clients of the Consultants.

6. **SERVICE STANDARDS**

Consultant agrees to provide the services as required by Paragraph 1 A based on the following standards for service:

A. Consultant shall seek to provide building inspection services within twenty-four (24) hours after the Village's Building Clerk receives a request for inspection during normal business days.

B. Plan reviews shall be completed within Ten (10) working days after the Building Clerk receives a request for plan review.

C. Consultant shall seek to maintain their personnel available for customer service assistance during normal hours and as a minimum between 8:30 A.M. and 10:00 A.M.

7. **INSURANCE**

The Consultant shall at all times carry professional liability insurance, worker's compensation insurance, public liability and property damage insurance, and automotive public liability and property damage insurance within minimum policy limits in the amount of One Million and No/100 ($1,000,000.00) per occurrence, except that the dollar amount of Worker's Compensation coverage shall be as provided by Chapter 440, Fla Stat. The Village shall be named as an additional insured on all of the above insurance
policies. Each insurance policy shall state that it is not cancelable without written notice to the Village thirty (30) days prior to the effective date of cancellation.

8. ASSIGNMENT

This Agreement shall not be assignable by Consultant.

9. INDEPENDENT CONTRACTOR

Consultant shall be, in the performance of all work, services and activities under this Agreement, an independent contractor and not an employee, agent or servant of the Village. Services provided by Consultant shall be by employees of Consultant and nothing in this Agreement shall create an employment relationship between the Village and Consultant employee. Consultant agrees that it is a separate and independent enterprise from the Village.

Consultant shall be solely responsible for all employee benefits, compensation, including, but not limited to, unpaid wages, overtime, and, or, any status or rights during the course of employment with Consultant. The Village shall not be called upon to assume or share any liability for, or direct payment of, any salaries, wages, contribution to pension funds, insurance premiums or payments, workers' compensation benefits under Chapter 440, Florida Statutes, or any other benefits or employment to any Consultant personnel performing services, duties and responsibilities under this Agreement for the benefit of the Village, or any other liabilities whatsoever. This Agreement shall not create any joint employment relationship between Consultant and the Village.

10. PROHIBITION AGAINST CONTINGENT FEES

The Consultant warrants that is has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person(s), company, corporation, individual or firm, other than a bona fide employee working solely for the Consultant any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making this Agreement.

11. TERMINATION

This Agreement may be terminated by the Village upon Ten (10) days' notice with or without cause and by the Consultant upon Ninety (90) day's written notice with or without cause. Any scope of work performed by Consultant through the date of Notice of Termination shall be paid by the Village to the Consultant; however, it shall be within the Village's sole discretion to permit the Consultant to complete plans examination and/or inspection on any one or more projects that the Village may advise and Village shall pay the Consultant its professional fees according to the terms of this Agreement.

12. NON-EXCLUSIVE AGREEMENT
The services to be provided by the Consultant pursuant to this Agreement shall be nonexclusive and nothing herein shall preclude the Village from engaging other firms to perform the same or similar services for the benefit of the Village within the Village's sole and absolute discretion. The cost of those services will be deducted from the monthly amount due to the Consultant.

13. ENTIRE AGREEMENT

The parties agree that this is the entire agreement between the parties. This Agreement cannot be amended or modified without the express written consent of the parties. In the event a court must interpret any word or provision of the Agreement, the word or provision shall not be construed against either party by reason of drafting or negotiating this Agreement.

14. WARRANTIES OF CONSULTANT

The Consultant hereby warrants and represents that at all times during the term of this Agreement it shall maintain in good standing all required licenses, certifications and permits required under federal, state and local laws necessary to perform the services under this Agreement. A copy of all such required licenses, certifications and permits shall be provided to the Village.

15. ATTORNEY'S FEES

In the event any party hereto, institutes litigation or arbitration to enforce its rights or remedies hereunder, the party prevailing in such litigation or arbitration shall be entitled to an award for costs and reasonable attorney fees incurred in connection with such litigation or arbitration.

16. NOTICES

All notices and communications to the parties shall be in writing and shall be deemed to have been properly given if transmitted by registered or certified mail, postage pre-paid, or hand delivery. All notices and communications shall be effective upon receipt. Notices shall be addressed as follows:

As to the Village Of El Portal:

Ms. Christia E. Alou
Village Manager
Village of El Portal
500 NE 87th Street
El Portal, Florida 33138

As to the Consultant:

Mr. Carlos A. Penin
President
C. A. P. Government, Inc.
343 Almeria Avenue
Coral Gables, Florida 33134
17. **GOVERNING LAW**

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

18. **VENUE; WAIVER OF JURY TRIAL**

A. Venue for any arbitration or litigation hereunder shall be in Miami-Dade County, Florida.

B. In the event of any litigation between the party which in any way arise from or concerns this Agreement or the services provided hereunder, the parties hereby voluntarily waive any right to trial by jury.
IN WITNESS WHEREOF, the parties have accepted, made and executed this Agreement upon the terms and conditions above stated on the day and year above written.

CONSULTANT:
CAP Government, Inc.
343 Almeria Avenue
Coral Gables, FL 33134

By: ____________________________
Carlos A. Penin, President

Attest: __________________________

VILLAGE of EL PORTAL:
Village of El Portal
500 NE 87th Street
El Portal, FL 33138

By: ____________________________
Christia E. Alou, Village Manager

Attest: __________________________
Yenise Jacobi, Village Clerk

Approved: _______________________
Norman C. Powell, Interim Village Attorney
INTENTIONALLY LEFT BLANK
Exhibit "A"

JOB CLASSIFICATIONS

A. Building Official: Building Official is certified by the Miami-Dade County Board of Rules and Appeals. This position will supervise all activities for the Village Building Department and coordinate with the Village’s Code Enforcement Unit/Officer. This person will monitor and coordinate the daily operations between the Village and the Consultant.

B. Structural Plan Reviewer: A consultant employee who is certified by the Miami Dade County Board of Rules and Appeals, who is a Florida registered Professional Engineer and who performs structural review of building permit plans as mandated by the Florida Building Code.

C. Chief Building Inspector: A consultant employee who is certified by the Miami Dade County Board of Rules and Appeals and who performs all plans review and field inspection of structural, building, ADA and roofing components, per requirements of the Florida Building Code. This person is responsible for supervising inspection activities of all trades, the Threshold Building and special inspectors.

D. Threshold Buildings Inspector, Mechanical, Plumbing and Electrical, Fire Sprinkler Officials are delegated power by the Building Official to enforce the South Florida Building Code and/or the Florida Building Code and to interpret the Code requirements of their respective trades. Plans Examiners shall review permit applications remaining with Miami-Dade County Fire Engineering.

E. Building Clerk/Receptionist: A Consultant employee reporting to the Village who is assigned to be in charge of the permit counter. This employee assists with the coordination of received inspections, distribution for the inspectors, plan reviews and filing systems, also performs record retention functions for the division and coordination with the scanning contracted company. This position may be a full-time employee of the Village of El Portal.
## Exhibit "B"
### Building Department Services
#### Hourly Fee Schedule

<table>
<thead>
<tr>
<th>Position</th>
<th>Hourly Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building Official</td>
<td>$185.00</td>
</tr>
<tr>
<td>Professional Structural Engineering / Plans Examiner</td>
<td>$125.00</td>
</tr>
<tr>
<td>Professional Civil, Electrical, Mechanical Engineer</td>
<td>$100.00</td>
</tr>
<tr>
<td>Project Manager</td>
<td>$100.00</td>
</tr>
<tr>
<td>Engineer/ Designer/ Plans Examiner (Other than Structural)</td>
<td>$85.00</td>
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<tr>
<td>CADD Technician</td>
<td>$85.00</td>
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<tr>
<td>Field Inspector</td>
<td>$75.00</td>
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<tr>
<td>Zoning Inspector</td>
<td>$55.00</td>
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<tr>
<td>Administrative Assistant</td>
<td>$45.00</td>
</tr>
<tr>
<td>Clerical</td>
<td>$30.00</td>
</tr>
<tr>
<td>Vehicle Travel (with proper documentation)</td>
<td>$0.55 / Mile</td>
</tr>
<tr>
<td>Out of Pocket (pass-thru)</td>
<td>Cost + 10%</td>
</tr>
</tbody>
</table>