

CITY OF POMPANO BEACH
Broward County, Florida

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING WAIVER OF CONFLICT UNDER SECTION 112.313(7)(A), FLORIDA STATUTES, FOR PENNY CUTT, A MEMBER OF THE CITY’S MARINE ADVISORY BOARD; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Cummins Cederberg, Inc. is one of three marine engineering firms that submitted responses to the City’s Request for Letters of Interest No. E-07-22 (RLI), to provide marine engineering services, on a continuing “as-needed” basis, to the City and its Community Redevelopment Agency, over a five (5) year term, limited to projects where the construction costs will not exceed \$4 million and for any study activity where fees will not exceed \$500,000, consistent with Section 287.055, Florida Statutes; and

WHEREAS, the City’s approval and authorization to execute a contract for marine engineering services with Cummins Cederberg, Inc. would give rise to certain employment or contractual conflicts under Section 112.313(7)(a), Florida Statutes, for Penny Cutt, a longtime and currently serving member of the City’s Marine Advisory Board; and

WHEREAS, Mrs. Cutt is employed as a Senior Director with Cummins Cederberg, Inc., but has no financial interest in her employer, does not participate in profit-sharing nor makes decisions involving company policy; and

WHEREAS, Section 112.313(7)(a), Florida Statutes, prohibits public officers, including advisory board members, from having or holding any employment or contractual relationship with any business entity or any agency which is subject to the regulation of, or is doing business with, an agency of which he or she is an officer or employee; however, pursuant to Section 112.313(12), Florida Statutes, in the instance of an advisory board member, the City Commission may waive such prohibition by a two-thirds vote after full disclosure of the conflicting relationship; and

WHEREAS, Mrs. Cutt, prior to the submission of Cummins Cederberg’s response to the respective RLI, contacted the City to advise of her employment with Cummins Cederberg and completed the Florida Commission on Ethics’ required Disclosure of Business Transaction, Relationship or Interest, which is attached and incorporated in this Resolution, fully disclosing any existing conflicts; now, therefore

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. The City Commission finds that, should Cummins Cederberg, Inc. enter into a contract with the City to provide marine engineering services on an “as-needed” basis, while Penny Cutt remains employed with Cummins Cederberg and continues to serve as a member of the City’s Marine Advisory Board, a prohibited conflict of interest arises pursuant to Section 112.313(7)(a), Florida Statutes. However, because Mrs. Cutt has provided full disclosure of this potential conflict due to her employment with Cummins Cederberg by completing the Florida Commission on Ethics’ required Disclosure of Business Transaction, Relationship or Interest, and because she has no financial interest in her employer, does not participate in profit-sharing nor makes decisions involving company policy, the City Commission waives such conflict consistent with Section 112.313(12), Florida Statutes.

SECTION 2. Notwithstanding, pursuant to Section 112.3143(3), Florida Statutes, Mrs. Cutt is required to recuse herself from matters where her vote or participation would inure to the special private gain or loss for her employer, Cummins Cederberg, Inc.

SECTION 3. This Resolution shall become effective upon passage.

PASSED AND ADOPTED this _____ day of _____, 2022.

REX HARDIN, MAYOR

ATTEST:

ASCELETA HAMMOND, CITY CLERK

JES:jrm
10/11/22
l:reso/2023-02