



City of

Palm Bay

120 Malabar Road, SE - Palm Bay, FL 32907 (321-952-3400)

Mayor
JOHN J. MAZZIOTTI

Deputy Mayor
ED GEIER

Councilmembers
PAT WOODARD
MILO ZONKA
KRISTINE ISNARDI

AGENDA

SPECIAL COUNCIL MEETING NO. 2008-12 THURSDAY

April 10, 2008 - 6:15 P.M.
City Hall Council Chambers

CALL TO ORDER:

ROLL CALL:

BUSINESS:

1. Consideration of terms of settlement with the United Third Bridge (Memorandum of Mediated Settlement).

ADJOURNMENT:

If an individual decides to appeal any decision made by the City Council with respect to any matter considered at this meeting, a record of the proceedings will be required and the individual will need to ensure that a verbatim transcript of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based (FS 286.0105). Such person must provide a method for recording the proceedings verbatim.

In accordance with the Americans with Disabilities Act, persons needing special accommodations for this meeting shall, at least 48 hours prior to the meeting, contact the Office of the City Clerk at (321) 952-3414 or Florida Relay System at 711.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

United Third Bridge/ UTB

Plaintiff,

v.

Case No. 6:07-CV-1596-ORL-28-UAM

The City of Palm Bay, Florida

Defendant.

MEMORANDUM OF MEDIATED SETTLEMENT

THIS MEMORANDUM OF MEDIATED SETTLEMENT sets forth the agreement of the parties hereto and has been entered into on April 3, 2008, between the above parties, on the advice and consent of their respective attorneys.

TERMS OF SETTLEMENT:

1. **Parade and Festival:** Plaintiff, UNITED THIRD BRIDGE ("UTB") will be permitted to conduct an annual Puerto Rican Pride Festival and Parade Event which shall occur on one weekend per year and shall be scheduled in writing with the City Manager at least six (6) months in advance, to occur on a weekend in October or November of each year. The route of the parade shall be as historically has occurred with staging to occur on Eldron Road and the parade shall proceed down Malabar Road, and shall end at City Hall, where the Festival shall continue on property adjacent to City Hall. In the event exigent circumstances prevent the use of this staging area and route for reasons of public safety, the parties agree to negotiate a mutually acceptable alternative staging area and route or to reschedule the event to a date when the normal staging area and route may be safely utilized.

2. **Electricity:** City Manager will provide a cost estimate for installation of an electric outlet and UTB will have the option of purchasing this electricity from the City through that device. The cost will include installation and electricity. The City agrees to document and show the books and records necessary to justify the charge for electricity. The electricity will be sufficient to meet the needs of UTB.

3. **Trash:** UTB agrees to clean up the site after the Festival at no cost to the City.



4. **Toilets:** UTB agrees to provide portable toilets for the Festival at no cost to the City. Public toilets will not be available or provided by the City.

5. **Police:** The City will provide adequate general police presence to insure reasonable safety for the crowd and traffic during the parade.

6. **Stage:** City Manager will provide the standard fee schedule applicable to all non-City users for the costs of the portable sound stage and UTB shall have the option to rent the stage for that fee, including set-up, transport, rental, take-down and storage of said stage after the event.

7. **No Admission of Liability:** Neither party admits any wrongdoing in connection with the settlement of this case. Plaintiff and Defendant, without admitting liability or fault, mutually agree to settle this case herein because each has decided settlement is in their best interest, given the expense and burden of continued litigation. The parties also certify that all issues herein have been amicably resolved.

8. **Miscellaneous and Mutual Release:** This is a binding offer from UTB that shall remain open and binding until this Agreement may be considered by the City of Palm Bay in an open meeting and accepted as per ordinary rules of practice for Palm Bay entering contracts and in accordance with §286.011, Florida Statutes. Upon approval by the City, all provisions hereof shall be fully binding and this Agreement shall be entered and effective. Upon approval of this Agreement by Palm Bay, except for the terms hereof that are expressly required to be performed in the future, the following shall occur:

- a. Each party releases and holds harmless the other from the beginning of time through the date of this Agreement, including a release of all liabilities and claims that were raised in this lawsuit or which could have been raised, including legal fees and costs.
- b. UTB shall immediately file a dismissal of this lawsuit with prejudice.

9. **Amendments:** Nothing herein prohibits the parties from negotiating amendments to this Agreement in the future should circumstances change. However, no Amendment shall be binding on the City of Palm Bay unless the Amendment is in writing, and approved by the City in an open meeting in conformance with all requirements for municipal contracting in Palm Bay. If the City resumes funding third party events, Plaintiff will be considered in the same category as all other third party event sponsors.

10. **Approval:** This Settlement Agreement is subject to the approval by the City of Palm Bay City Council.

Signatures to follow on next page



THE PARTIES, AND EACH OF THEM, ACKNOWLEDGE THAT THE FOREGOING REPRESENTS THEIR COMPLETE AGREEMENT IN THIS MATTER.

PLAINTIFF

DEFENDANT

U.T.B. UNITED THIRD BRIDGE, INC.

CITY OF PALM BAY

By: 1172
4/3/08

By: L. N. Field
4/3/08

As its: PRESIDENT

As its: City Manager

[Signature]
RICHARD L. WILSON, ESQUIRE
4/3/08

[Signature]
USHER L. BROWN, ESQUIRE
4/3/08

[Signature]
GARY S. EDINGER, ESQUIRE
Melvin B. Samuels
4/3/08
ATTORNEYS FOR PLAINTIFF

ATTORNEY FOR DEFENDANT

[Signature]

[Signature]