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RESOLUTION NO. 2010-10

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE ART-IN-PUBLIC-PLACES (AIPP) PROGRAM, ACCEPTING THE RECOMMENDATION OF THE AIPP ADVISORY BOARD TO APPROVE THE ART SCULPTURAL FOUNTAIN AS DESIGNED BY OCTAVIO CUELLAR TO MEET THE AIPP ORDINANCE REQUIREMENTS FOR THE PALMETTO BAY POINT BUILDING LOCATED AT 17255 SOUTH DIXIE HWY; PROVIDING FOR SEVERABILITY; AND, AN EFFECTIVE DATE.

WHEREAS, on October 1st, 2007 the Mayor and Village Council established the Art-in-Public-Places (AIPP) Program via Resolution 07-05, designed to promote the general welfare by encouraging pride in the community, increasing property values, enhancing the quality of life through artistic opportunities, uniting the community through shared cultural experiences, and creating a cultural legacy for future generations through the collection and exhibition of high-quality art pieces that reflect diverse styles, chronicling history through the collection of artifacts, documents and memorabilia that will acknowledge the past and create programs and activities that will further these goals; and

WHEREAS, as part of the program, an advisory board was created to oversee the public education, and curatorial aspects of the program; and

WHEREAS, the developer of the Palmetto Bay Point Building project located at 17225 South Dixie Highway has submitted a proposal for the sculptural fountain to the Art-in-Public-Places Advisory Board to meet the requirements of the AIPP Program; and

WHEREAS, after several meetings and design modifications, the Advisory Board accepted the design proposal entitled "Titina" as prepared by Octavio Cuellar, dated stamped received October 13th, 2009, attached hereto as Exhibit 1, 2 & 3; and Pursuant to Section 30-160.2(a) of the Village Code, entitled "art works" includes a fountain; and

WHEREAS, the AIPP Board has determined that the proposed sculptural fountain meets the general criteria of the AIPP Program pursuant to Section 30-160.5 "Selections of Works of Art" in that the proposed sculptural fountain is found to be appropriate to the site and the surrounding neighborhood, and that it is not intrusive in nature. The Board finds the proposed location to be highly visible and accessible to pedestrian and vehicular traffic and that it reflects the cultural ethnic diversity of the Village and South Florida; and

WHEREAS, the Board has determined that the proposed fountain meets the general criteria of the AIPP Program requirements that calls for an on-site art installation equal to 1.25% of the "projects valuation" on the "total value of the improvements as indicated on the building permit application"; and

1 **WHEREAS**, the proposed construction value of the Palmetto Bay Point Center is
2 estimated at \$1,500,000 with a minimum AIPP requirement of \$18,750; and
3

4 **WHEREAS**, the proposed and recommended art sculptural fountain construction cost is
5 estimated at \$25,000, a value exceeding the minimum requirement by \$6,250.
6
7

8 **NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND VILLAGE**
9 **COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:**
10

11 **Section 1.** The Mayor and Village Council hereby accepts the recommendation of the
12 Art-in-Public-Places Advisory Board to approve the design proposal for an art sculptural fountain
13 entitled "Titina" as designed by Octavio Cuellar, dated stamped received October 13th, 2009,
14 attached hereto as Exhibit 1, 2 & 3, for the installation at the Palmetto Bay Point Building
15 development located at 17255 South Dixie Hwy in accordance with the provisions of the AIPP
16 Ordinance with the following conditions:
17

- 18 1. That a plaque or equivalent form of permanent signage acknowledging the artist, other
19 design professionals involved in the project and the Village of Palmetto Bay must be sited in
20 a publicly accessible location near the art work. The physical dimensions of the plaque
21 should allow for the utmost legibility of the information contained on it, and should vary
22 appropriately with the scale of the artwork and the site. It should not intrude on the physical
23 artwork. The plaque should include:
24

25 Name of Artist(s)
26 Title of Art Work
27 Date of Art Work Completion
28 Art Consultant
29 Name of Developer
30 In Association with the Village of Palmetto Bay
31

32 Final plaque layout shall be is subject to the Department of Planning and Zoning approval.
33 The Artist shall enter into a written agreement as prepared by the Village Attorney pursuant
34 to the requirements under Section 30-160.6(d) of the Village Code.
35

- 36 2. That the proposed sculptural fountain is to comply with the requirements of all other
37 applicable departments/agencies as part of the Village of Palmetto Bay building permit
38 submittal process.
39
- 40 3. That the proposed sculptural fountain shall comply with the requirements of Section 30-
41 160.9 of the Village Code, entitled "Certificate of Occupancy," which provision provides
42 that final approval, such as a final inspection or a certificate of occupancy, for any
43 development project shall issue unless compliance with the Village's AIPP Program is
44 achieved. In this case, the art work must be installed in a manner satisfactory to the Village
45 Council in compliance with the Village's AIPP Ordinance.
46

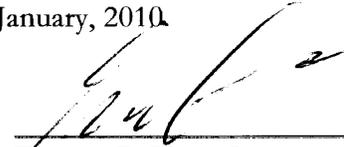
1 4. That the proposed sculptural fountain comply with Section 30-160.14 of the Village Code,
2 entitled "Ownership and Maintenance of Artwork Placed on the Site of a Project." The
3 obligation to provide all maintenance necessary to preserve and maintain the art work in
4 good condition shall remain with the owner of that site and the owner's successors and
5 assigns, unless an agreement with the Village is reached and recorded. The obligation to
6 maintain the art work shall be enforced as provided in the Village AIPP Ordinance, and a
7 covenant prepared by the Village Attorney, executed by the applicant, shall be recorded for a
8 period of five years setting forth a description of the art work and acknowledging the
9 obligation of the property owner to repair and maintain it. This document and the
10 underlying covenant shall run with the land and provide notice to future property owners of
11 the obligation to repair and maintain the art work and of certain limitations related to any
12 federal, state or local laws governing the rights of the artists including but not limited to
13 rights regarding the alteration, modification or relocation of subject art work. After the
14 expiration of the covenant the property owner shall be required to maintain the artwork as
15 approved pursuant to Section 30-160.14 of the Village Code.
16

17 **Section 2.** This resolution shall take effect immediately upon approval.

18 **PASSED and ADOPTED** this 11th day of January, 2010.

19
20 Attest:

21 
22 Meighan Rader
23 Village Clerk
24

25 
26 Eugene P. Flinn, Jr.
27 Mayor
28

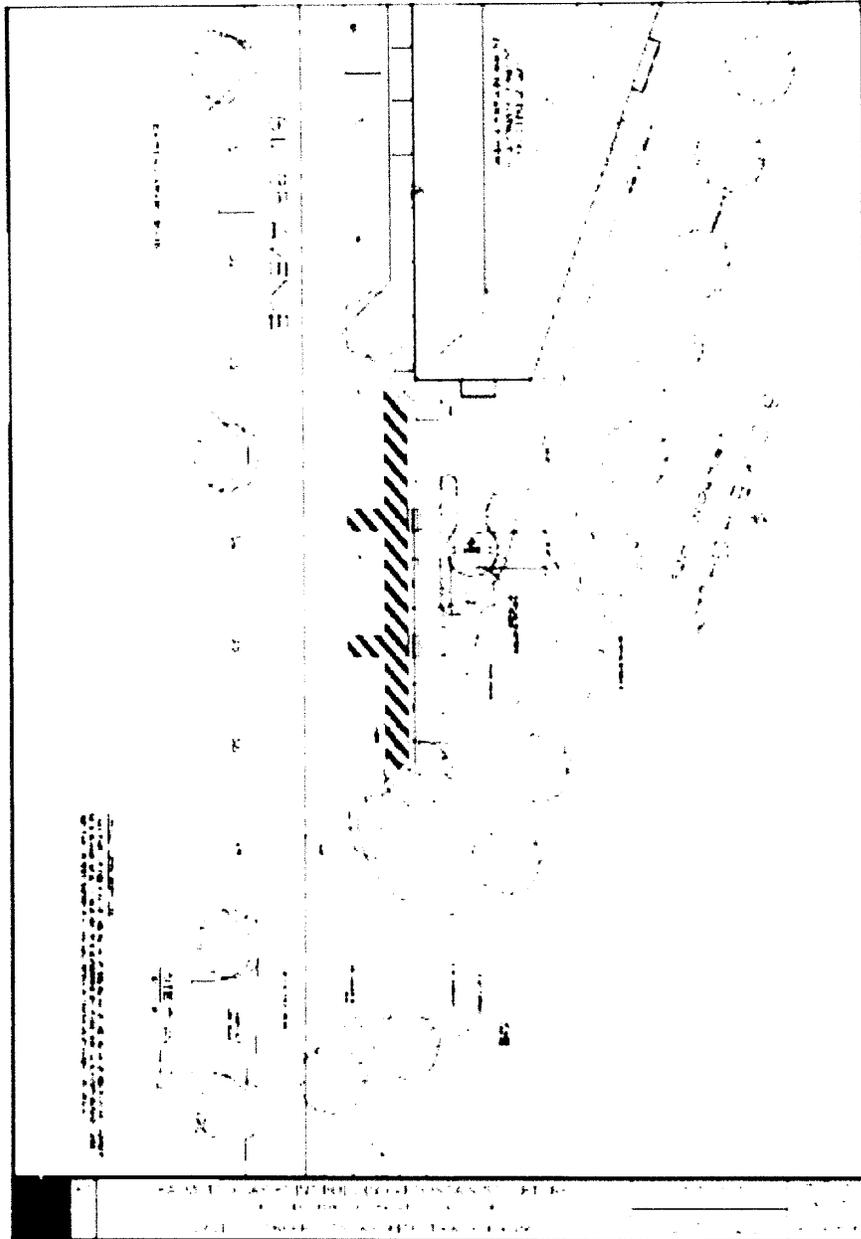
29 APPROVED AS TO FORM:

30 
31 Eve A. Boutsis, Village Attorney
32

33 **FINAL VOTE AT ADOPTION:**

34 Council Member Ed Feller YES
35
36 Council Member Howard Tendrich YES
37
38 Council Member Shelley Stanczyk YES
39
40 Vice-Mayor Brian Pariser YES
41
42 Mayor Eugene P. Flinn, Jr. YES

Exhibit 1



Site Plan

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Exhibit 2

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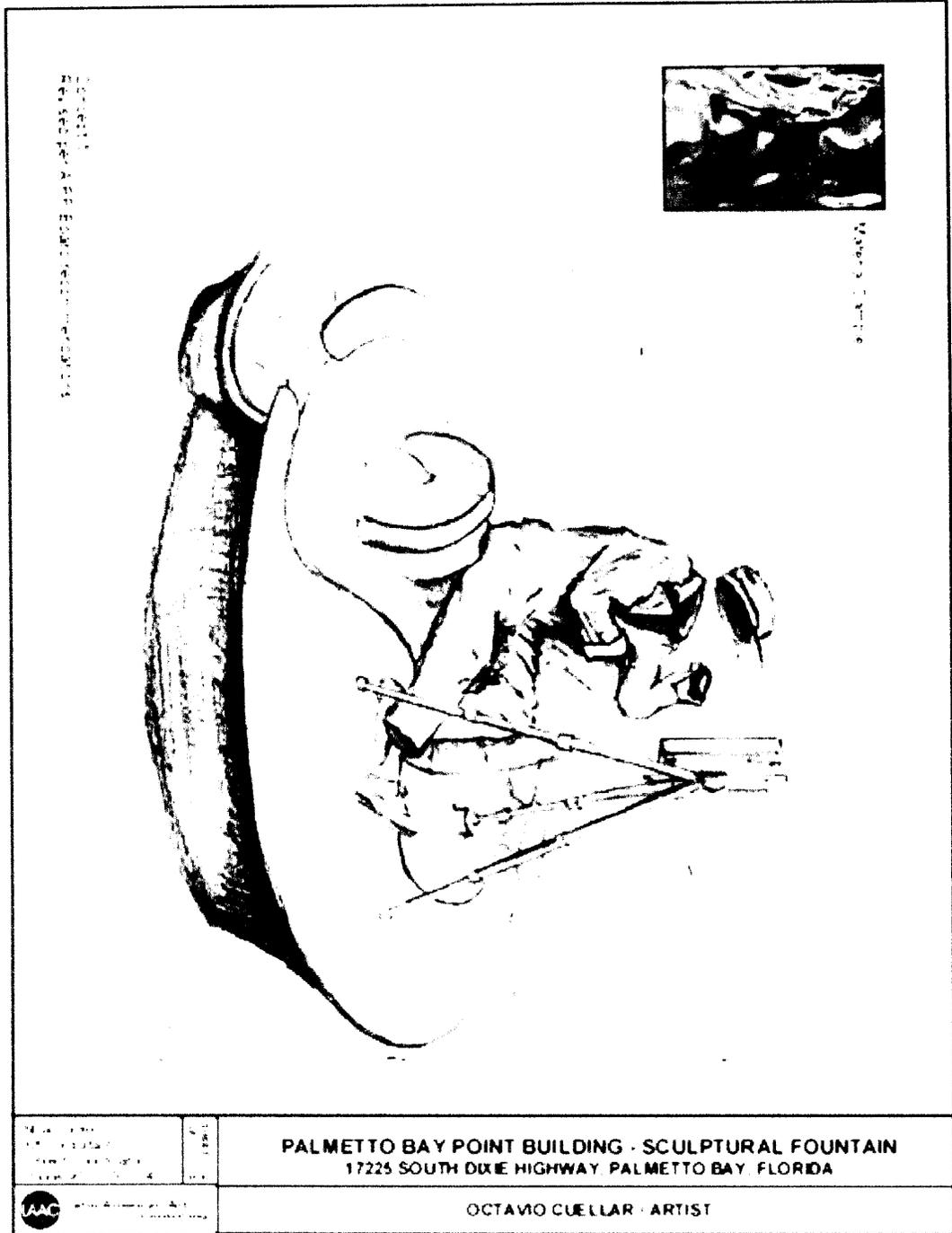
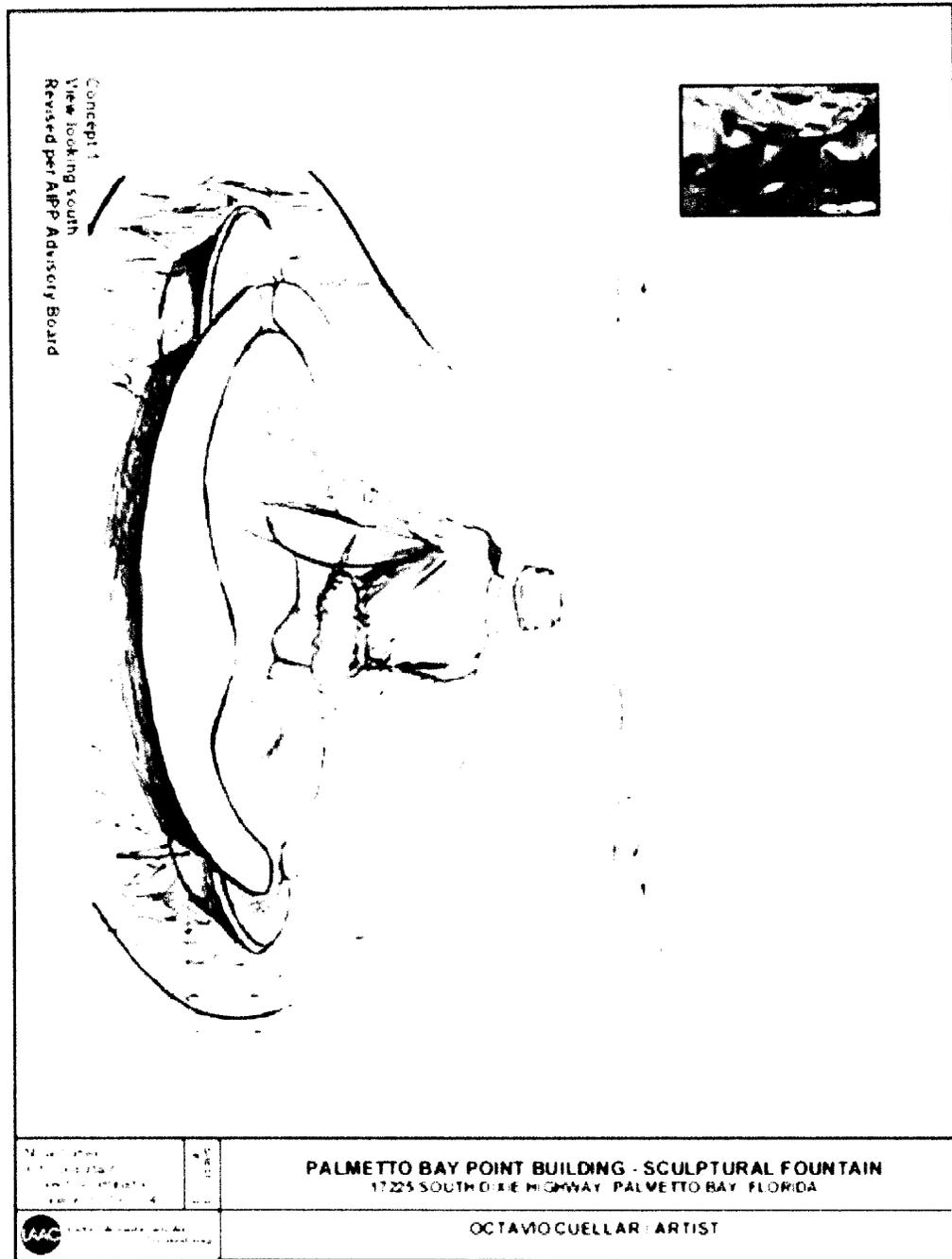


Exhibit 3

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Rendering, view looking south