Memorandum

MIAMI-DADE COUNTY

Agenda Item No. 12(A)(2)

Date: May 18, 2010

To: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

R.A. Cuevas, Jr.
County Attorney

Subject: Resolution Approving and Authorizing Execution of Settlement Agreement Resolving Pending Litigation Related to County-Owned Right-of-Way Abutting the Lakes of the Meadow Subdivision on SW 157th Avenue

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Recommendation

It is recommended that the Board of County Commissioners ("Board") approve the attached Settlement Agreement to resolve the pending litigation in the lawsuit of *Adolfo Perez, et al. v. Miami-Dade County* on the terms and conditions specified in the Settlement Agreement subject to the approval of the Court.

Scope

The Settlement Agreement applies to the claims by and against Adolfo Perez and other Lakes of the Meadow homeowners who live in properties adjoining SW 157th Avenue. These properties are located within District 11.

Fiscal Impact/Funding Source

There would be no fiscal impact to the County resulting from this Settlement Agreement.

Track Record/Monitor

Not applicable.

Background

On January 22, 2007, the owners of 33 properties adjoining SW 157th Avenue within the Lakes of the Meadow subdivision in southwestern Miami-Dade County ("the Plaintiffs") filed a lawsuit titled *Adolfo Perez, et al. v. Miami-Dade County*, Case No. 07-1888-CA-02. The lawsuit ensued from a property ownership dispute in which the Plaintiffs allege that the County legally abandoned the disputed property by failing to utilize or maintain it.

The Plaintiffs are currently in possession of portions of County-owned right-of-way located along SW 157th Avenue between SW 42nd Street and SW 56th Street (the "Property"), pursuant to certain permits issued by DERM in 1998. The County possesses its interests in the Property pursuant to a 1960 deed from the Central and Southern Flood Control District, and through dedications to the public contained in the plats of Lakes of the Meadow Sections 4 and 5, recorded in the 1980s. The County's Water Control Master Plan provides for a canal ("SW 157th Avenue Canal") to be constructed through the Property to drain stormwater from the area. Funding for the SW 157th Avenue Canal is currently available as a GOB project.

During the 1990s, the County received correspondence from the Plaintiffs and prior owners requesting that the County issue permits to allow their permissive use of the Property until such time as the SW 157th Avenue Canal was built. Based on these requests, the County issued permits ("Permits") in 1998 to these homeowners allowing the permissive use of the Property until such time as construction of the SW 157th Avenue Canal began.

In 2006, the County obtained the necessary funding to construct the SW 157th Avenue Canal. In November of 2006, pursuant to the terms of the Permits, the County delivered notice to the Plaintiffs of its intent to build the SW 157th Avenue Canal and provided 60 days notice to vacate the Property. To date, the Plaintiffs have refused to vacate the Property and have responded to the County's request by filing this lawsuit alleging that the County legally abandoned the Property by failing to utilize it or maintain it. The County filed a counterclaim for possession and ownership of the Property.

Upon mediation of these outstanding claims, the parties agreed to a settlement pending approval of the Board of County Commissioners and subject to the approval of the Court.

The Settlement Agreement includes, but is not limited to, the following terms:

- The Plaintiffs relinquish any legal rights to the Property and agree to a court order ratifying title to the Property in Miami-Dade County.
- The County shall be entitled to immediately utilize the entire Property in order to construct the SW 157th Avenue Canal. The canal will be located within the 30-foot wide portion of the Property located closest to SW 157th Avenue.
- Following the construction of the SW 157th Avenue Canal, the Plaintiffs will be entitled to the issuance of a renewed 15 year DERM Class III permit for the construction of a fence around the remaining area of the Property, excepting the area containing the SW 157th Avenue Canal. The renewed permit prohibits the Plaintiffs from placing any permanent structures within the Property. The Plaintiffs must maintain the area encompassed by the renewed permit.
- After 15 years, the Plaintiffs' right to use any portion of the Property would terminate, and the County would own the entire Property, free and clear of any claims by the Plaintiffs.
- If the Property occupied by the Plaintiffs is needed by the County during the 15 year period of the renewed permit for drainage, roadway, or emergency purposes, the Plaintiffs must vacate the Property to allow for such use.

It is therefore recommended that this Board approve the attached Settlement Agreement of the pending litigation with the Plaintiffs on the terms described herein and in the Settlement Agreement subject to the approval of the Court.

Attachments

Assistant County Manager

MEMORANDUM
(Revised)

TO: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

DATE: May 18, 2010

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Agenda Item No. 12(A)(2)

Please note any items checked.

_____ **"3-Day Rule" for committees applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

✓ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 12(A)(2)
5-18-10

RESOLUTION NO. _____

RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF SETTLEMENT AGREEMENT RESOLVING PENDING LITIGATION RELATED TO COUNTY-OWNED RIGHT-OF-WAY ABUTTING THE LAKES OF THE MEADOW SUBDIVISION ON SW 157TH AVENUE, MIAMI-DADE COUNTY, FLORIDA

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby approves the execution of a Settlement Agreement resolving the lawsuit *Adolfo Perez, et al. v. Miami-Dade County*, Circuit Court Case No. 07-1888-CA-02, in substantially the form attached hereto and made a part hereto, and authorizes the Mayor or Mayor's designee to execute same for and on behalf of Miami-Dade County, and to execute all other documents necessary to implement the Agreement, subject to the approval of the County Attorney as to legal sufficiency.

The foregoing resolution was offered by Commissioner , who moved its adoption. The motion was seconded by Commissioner and upon being put to a vote, the vote was as follows:

Dennis C. Moss, Chairman
Jose "Pepe" Diaz, Vice-Chairman

Bruno A. Barreiro
Carlos A. Gimenez
Barbara J. Jordan
Dorrin D. Rolle
Katy Sorenson
Sen. Javier D. Souto
Audrey M. Edmonson
Sally A. Heyman
Joe A. Martinez
Natacha Seijas
Rebeca Sosa

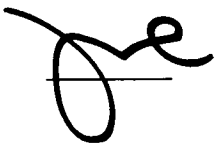
The Chairman thereupon declared the resolution duly passed and adopted this 18th day of May, 2010. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By:_____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Jorge Martinez-Esteve

Mediation Settlement Agreement - Lakes of the Meadow/MDC - Case No. 07-1888-CA02

Whereas there is a dispute concerning the East 85 feet of the West 125 feet of Section 21, Township 54 South, Range 39 East in Miami-Dade County, Florida (the "Property').

Whereas this agreement is contingent upon full and binding approval by the Miami-Dade County Commission.

Whereas, if this agreement is not approved, then it will be void *ab initio* and will be confidential and may not be used in any proceeding (either the agreement or any testimony concerning the content of the agreement).

Now, therefore, the parties agree as follows:

1. The Plaintiffs relinquish all right, title, interest, and claim, if any, to the Property.

2. The Plaintiffs ratify the fee simple ownership of the County of the Property, and agree to a finding by the Court of said ownership.

3. If the County decides to construct a drainage facility on the West 30 Feet (the "30 Feet"), the County and/or the contractor awarded such project shall inform the Homeowners 60 days before actual construction begins. Homeowners will have 60 days to remove all personal property from the Property. The County will notify the contractor awarded the bid for the project that the Homeowners request that the contractor use as little of the Property as is needed to complete the Project. The Homeowners, agree, however, that it is ultimately within the County and the contractor's sole discretion to determine how much of the Property will be used to complete the Project. If the Homeowners do not remove such items the County may remove them at the Homeowners' expense and the Homeowners release the County from any liability concerning such removal. Trees are not included as items of personal property. The Homeowners shall not be required to remove any trees and the County shall not be liable for the damage or removal of trees from the Property concerning any construction. The County will install a construction fence and otherwise secure the job site during the construction (as described in paragraph 6 of the June 5, 2009 Injunction). The status quo of the Property may be maintained by the Plaintiffs until the time of the notification of the construction. This shall not limit the Plaintiff's option to obtain a fence permit as provided in paragraph 4.

4. As to the East 55 feet of the Property ("the 55 Feet") the appropriate County department(s) shall issue a permit to the Plaintiffs for construction of a wood or chain link fence at the 55 foot line in accordance with the attached form of application. In the event of any inconsistency between this Settlement Agreement ("Settlement Agreement") and any other Exhibit, the terms of this Agreement shall control and the Exhibit shall be modified accordingly. The Homeowners may use the 55 feet and place landscaping, playground equipment, and sheds on it provided that they do not

have a concrete base or require a permit. No other permits shall be required by the County. The homeowners must submit all required applications for permits with the appropriate County department(s) and comply with all inspections in the normal permitting course. The County shall not deny the homeowners permits due to the ownership of the property, as the Permit shall qualify the homeowners for said wood or chain link fence permits.

5. The County agrees that it will not utilize the 55 Feet for a period of 15 years; provided however that the County may use the 55 Feet for roadway expansion, drainage or emergency use upon reasonable notice (at least 60 days, absent an emergency). Once any emergency passes, as determined in the County's sole discretion, the Homeowner's use will resume subject to the limitations herein. However, the County shall act in good faith in determining the end of said emergency. In the event of such expansion, drainage or emergency, Plaintiffs shall remove from their portion of the 55 Feet and shall discontinue their use as to that portion of the 55 Feet. Subsequent to the 15 year period the Plaintiffs' use shall cease and Plaintiffs (or their successors, as applicable) will remove their items, including fences at their sole cost and expense, with the exception of landscaping at the Homeowners' option. Failure to remove these items by the Plaintiffs may result in the County's removal of the items, and the cost of such removal shall become a lien on the applicable property, i.e., the adjoining offending individual homeowner's lot shall bear the lien. The Homeowners will be provided with notice and an opportunity to be heard if hearing is required concerning any proposed public use.

6. In the event that the County constructs a drainage facility within the 30 Feet the County hereby agrees to install landscaping and sodding as described in the Specifications and Contract Documents for County Project No. 1-70094 GOB following the completion of the construction. During the period prior to construction the County will maintain the 30 Feet. After completion of the drainage facility the County shall maintain the 30 Feet.

7. Unless they agree otherwise among themselves, the Plaintiffs agree that each individual Plaintiff may only use that portion of the 55 Feet extending from the northern to the southern boundary line of their adjacent lot.

8. The parties may renew this agreement following the expiration of the 15 year period by mutual agreement in writing.

9. Any rights, responsibilities, and obligations conveyed or described herein are transferable from a present homeowner to a future homebuyer. Homeowners that sell their home agree to provide a copy of the permit and this Settlement Agreement to the homebuyer and notify the County in writing (by letter sent to the address listed in the permit) of the provision of the permit and Settlement Agreement within 60 days of the transfer of the Property.

10. The Parties will exchange mutual general releases as to all claims arising from or relating to the Property including but not limited to fines, claims, or other penalties concerning the Homeowners' prior use of the Property. Upon approval of the Agreement by the Miami-Dade County Commission, the parties will dismiss the litigation with prejudice with the Court retaining jurisdiction to enforce the agreement.

11. The 15 year period of this Settlement Agreement runs from the time of approval of this Agreement by the Board of County Commissioners of Miami-Dade County or the completion of the drainage facility/slab covered trench (but shall in no event exceed 20 years in total after subtracting for the construction period, or 15 years in the event no drainage facility/slab covered trench is commenced within 15 years of the approval of this Agreement by the Board of County Commissioners).

Dated: 2/24/10

STUART L. TOCKMAN

YOLANDA TOCKMAN

RE LOT 79 BLOCK 55 LAKES OF THE MEADOW

Francis Myrthil
5540 S.W 156th Place
Miami, FL 33185

Mary Myrthil
5540 S.W 156th Place
Miami, FL 33185

Irma Alvarez
5520 S.W. 156th Place
Miami, FL 33185

*Mauricio Javier Gonzalez
5500 S.W. 156th Place
Miami, FL 33185

*Martha Ilia Gonzalez
5500 S.W. 156th Place
Miami, FL 33185

Elena Purinos
5450 S.W. 156th Place
Miami, FL 33185

Manuel Garcia
5440 SW 156 PL
Miami FL 33185

Carmen Guillen
5420 S.W. 156th Place
Miami, FL 33185

Carlos Ferrer
5420 S.W. 156th Place
Miami, FL 33185

Otto G. Ferrer
5420 S.W. 156th Place
Miami, FL 33185

Silvio Amico
5400 S.W. 156th Place
Miami, FL 33185

Rachel Velazquez
5400 S.W. 156th Place
Miami, FL 33185

Joe San Pedro
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Miami, FL 33185

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Miami, FL 33185

Iliana Lopez
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Miami, FL 33185

Stuart L Tockman
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Miami, FL 33185

Yolanda Tockman
5120 S.W. 156th Place
Miami, FL 33185

Herbert Valentin
5020 S.W. 156th Place
Miami, FL 33185

Magalys Valentin
5020 S.W. 156th Place
Miami, FL 33185

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5010 S.W. 156th Place
Miami, FL 33185

Maria D. Diaz
5010 S.W. 156th Place

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4920 S.W. 156th Place
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4840 S.W. 156th Place
Miami, FL 33185

Manuel Torrado
4840 S.W. 156th Place
Miami, FL 33185

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Miami, FL 33185

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4730 S.W. 113th Place
Miami, FL 33185

Amelia Zotti
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*Celina De Brun
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Joyce Vargas
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Amelia R. Garcia
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4620 S.W. 156th Place
Miami, FL 33185

Shari Kaufman
4620 S.W. 156th Place
Miami, FL 33185

Jorge E. Collazo
4560 S.W. 156th Place
Miami, FL 33185

Maria E. Collazo
4560 S.W. 156th Place
Miami, FL 33185

Jorge C. Fernandez
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Miami, FL 33185

Liset Fernandez
15632 S.W. 44th Terrace
Miami, FL 33185

Albert Valdes
15633 S.W. 44th Terrace
Miami, FL 33185

Alvaro Cuartas
15632 S.W. 43rd Lane
Miami, FL 33185

Luz Cuartas
15632 S.W. 43rd Lane
Miami, FL 33185

Mediation Settlement Agreement
Lakes of the Meadow/MDC
Case No. 07-1888 CA 02

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15633 S.W. 43rd Lane
Miami, FL 33185

Jose R Diaz Jr.
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Miami, FL 33185

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Isabel C. Rodriguez
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Maria E. Graziano Fernandez
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Jorge Sanchez
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Miami, FL 33185

Marta Sanchez
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Ramon Perez
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Miami, FL 33185

Maité M. Perez
4240 S.W. 156th Place
Miami, FL 33185

Frank D. Crawley
4220 S.W. 156th Place
Miami, FL 33185

Lourdes G. Crawley
4220 S.W. 156th Place
Miami, FL 33185

Adolfo Perez
15625 S.W. 42nd Terrace
Miami, FL 33185

Libia R. Perez
15625 S.W. 42nd Terrace
Miami, FL 33185

EXHIBIT A

Department of Environmental Resources Management
Water Control Section
701 NW 1st Court, Suite 400
Miami, FL 33136-3912
305-372-6681

Class III Construction Permit Along County Canal

Permit Number: 2009-CLIII-PER-00024 **Commencement Date:**
DERM Project Manager: **Expiration Date:**

Permittee **Contractor**

Bond **Engineer**

Bond Amount: N/A **Engineer:**
Type of Bond: N/A **Company:**
Bond Number: N/A **Phone:**

Application Name: Lakes of the Meadow / MDC-Case No. 07-1888-CA02

Folio:

Project Location: The East 55 feet of the West 125 feet of Section 21, Township 54 South, Range 39 East, in Miami-Dade County, Florida (the "Property").

Project Description: Permit to utilize a portion of the "Property".

Proposed Work: Installation of a wooden or chain link fence.

THIS PERMIT AND PLANS SHALL BE KEPT ON SITE DURING ALL PHASES OF CONSTRUCTION

Special Permit Conditions

1. Permittee may have the continued use of the Property, provided, however, that with the exception of the above-described encroachments, or as otherwise described in the Settlement Agreement in Case No. 07-1888 CA 02 ("Settlement Agreement"), no other structure or facility shall be placed within the Property except as is set forth the Settlement Agreement. The Permittee bears all risk of loss as to monies expended in furtherance of this permitted use.

2. The Permittee shall comply with the foregoing restrictions on use of the Property and shall be solely responsible for removal of all items placed within the Property upon demand of the County as described in the Settlement Agreement.

3. The Permittee shall have one (1) year to complete the fence construction from the date of application and issuance of the permit hereunder, however, the permit may be extended for an additional one (1) year period provided that an application for an extension of time is filed prior to the time of expiration and all other requirements are met.

4. The Permittee shall comply with all statutes, ordinances, rules, orders, regulations or requirements of the Federal, State, County and City governments and of any and all of their departments and bureaus for the correction, prevention and abatement of nuisances or other grievances, in or upon the Property, which must be complied with by reason of the nature of the use of the Property by Permittee. The Permittee shall fully maintain the Property. County may revoke this Permit upon sixty days' notice, if the Property is needed, in the County's sole discretion, for roadway expansion, drainage, or an emergency. However, less than sixty days' notice may be provided in the event of an emergency. When such emergency subsides the Permittee may resume use. Upon revocation, the Permittee shall vacate the Property and shall remove or cause to be removed any encroachments, placed or existing therein at Permittee's sole cost and expense, except any landscaping. If the Permittee fails or refuses to remove said encroachments and clear the Property, the County, in addition to other legal remedies, shall have the right to perform such obligations on behalf of Permittee and any costs or expenses incurred thereby shall be borne by Permittee, and these costs and expenses shall automatically become a lien upon the applicable property, i.e., the adjoining offending individual homeowners' lot.

5. Notwithstanding any provision of this permit to the contrary, Permittee shall never, under any circumstances, have the power to subject the interest of the County in the Property to any mechanic's, or material men's liens of any kind, nor shall any provisions in this Permit ever be construed as empowering the Permittee to encumber the property interest that the County has in the Property. This Permit does not create or vest, compensable rights, or property rights, other than use rights, in or to the Permittee.

6. The Permittee covenants that it will indemnify and hold the County harmless against any and all liability, loss, cost, penalty, damage, expense and judgment arising from injury or by damage during the term hereof to persons or property, occasioned in whole or in part by any act or omission of Permittee, or of any business associates, guests, customers, employees or agents of Permittee as a result of the use and occupancy of the Property.

7. Until otherwise notified in writing, any notice required or desired to be served shall be deemed to have been served if a copy thereof is mailed by certified mail, to the address herein set forth for the County or Permittee, respectively, or such address as may hereafter be specified in writing in accordance with this Section.

8. The Permittee shall not allow the placement or storage of chemicals, debris, pollutants, waste, hazardous waste, or other contaminants on the Property. Permittee is responsible for removing and clearing from the Property any trash, hazardous waste or debris brought on by any party during the term of Permittee's use of the Property. The County shall notify the Permittee after discovering any violation or damage to the Property, which Permittee is responsible for correcting promptly after said notice.

9. The Permittee shall not engage in any activity regarding the permitted use which interferes with the construction, alteration, maintenance or operation of the County's canal, including: Discharge of debris or aquatic weeds into the canal,

THE ABOVE NAME PERMITTEE IS HEREBY AUTHORIZED TO PERFORM THE WORK SHOWN ON THE APPLICATION AND APPROVED DRAWINGS, PLANS AND OTHER DOCUMENTS ATTACHED HERETO OR ON FILE WITH THE DEPARTMENT AND MADE PART HEREOF, SUBJECT TO THE ATTACHED GENERAL AND SPECIAL CONDITIONS.

THIS PERMIT AND PLANS SHALL BE KEPT ON SITE DURING ALL PHASES OF CONSTRUCTION

causing erosion or shoaling within the Property or canal, and planting trees or shrubs which limit or prohibit access by County equipment or vehicles.

10. The Permittee shall allow County to inspect the Property and permitted use at any time.

11. The conditions of this permit shall outlive the active construction period authorized by this permit.

THIS PERMIT AND PLANS SHALL BE KEPT ON SITE DURING ALL PHASES OF CONSTRUCTION

General Permit Conditions

1. This permit shall be kept on site during all phases of construction and shall be made available to the inspector or DERM personnel upon demand during site inspection.

2. All work shall be performed in accordance with the above referenced plans and in accordance with the attached special and general conditions. If a general condition conflicts with the special condition(s) in this document, the special condition shall be the controlling condition for the work authorized by this permit.

3. This permit only authorizes the work described in pages 1 and 2 under Proposed Permitted Work. Any additional work not shown in this permit or on the approved plans shall require additional DERM Water Control Section Approval.

4. Any deviation from the approved plans for this project shall be submitted in writing to and approved by DERM Water Control Section prior to the commencement of this project. The contractor and the Permittee shall take whatever remedial action necessary to bring the project into compliance with permit and approved plans upon determination by DERM that the structure or constructed elevations and/or grading is not in compliance with current standards or public policy.

5. DERM shall be notified no later than forty-eight (48) hours prior to the commencement of work authorized by this permit, unless otherwise noted by the reviewer or staff engineer. The Permittee and/or contractor may notify DERM by calling (305) 372-6681 or by submitting the attached Notice of Commencement of Construction via hand delivery, U.S. Mail, or by facsimile at (305) 372-6489.

6. The engineer has been retained by the Permittee to provide inspections throughout the construction period and shall prepare a set of reproducible record prints of drawings showing changes made during the construction process based upon marked-up prints, drawings and other data furnished by the contractor to the engineer.

7. The Permittee shall furnish at his expense all survey information required for proper control of the work. For excavation work, this shall include cross-sections taken at 100 feet intervals at the end of each ten-day period while the work is in progress, unless otherwise specified by the Water Control Engineer. Cross sections and other as-built drawings shall be prepared in accordance with good engineering practice and certified as correct by a registered engineer.

8. Miami-Dade County shall assign its inspectors as needed to oversee the execution of the work contemplated under this Permit. The inspectors' duties and functions are purely oversight and their decisions are to be binding only in the absence of the Water Control Engineer, and shall be subject to his review. When in the judgment of the inspectors the performance of the work is not in accordance with the requirements of this permit, they shall have the power to stop the work, including all related site development work, which shall not be resumed until the Water Control Engineer has rendered his decision upon the matter in dispute.

9. Any work found not in accordance with permit requirements shall be corrected before the Permittee is authorized to resume work. Delay in completion of the work, in relation to said stoppage shall be considered an acceptable reason for an extension of time.

10. Upon bona fide complaints of residents in the vicinity of the work concerning excessive noise, Miami-Dade County reserves the right to impose the requirement that no work be done on Sunday or any day between the hours of 11:00 p.m. and 7:00 a.m. except such work as is necessary for the proper care and protection of the work already performed.

11. All alterations, relocations and other incidental work including utility adjustments that may be required

THIS PERMIT AND PLANS SHALL BE KEPT ON SITE DURING ALL PHASES OF CONSTRUCTION

to carry out the purpose and intent of this Permit shall be performed at the Permittee's expense after approval by the Water Control Engineer.

12. It is agreed that the first priority in the Permittee's development program, if a development program exists, will be given to provision of adequate drainage connections through the property. The Contractor shall conduct his operations in a manner that will insure that the primary purpose of drainage is served at all times. Temporary construction or blockage of channels for construction purposes will be allowed only upon express permission by the Water Control Engineer, and must be removed immediately upon his demand.

13. All engineering drawings submitted for either a Class II or Class III Permit involving construction activities in or along the banks of any surface body of water, shall show turbidity control device outlined on the permit plan set. Turbidity barriers shall be installed in-place before the commencement of work. The latter shall include both exploratory work and actual work. In order to minimize inadvertent collapse of barrier structure, barrier sheathing shall also be anchored along the bottom hem with a weighted chain-like device. At all times, the turbidity barrier device shall be maintained in a proper functional position during the entire construction phase.

14. The Permittee or Contractor shall be responsible for securing any and all permits not included within this permit, which may be required in connection with the Class II, III, or VI Permit. The issuance of this permit does not relieve the Contractor or Permittee from above responsibility.

15. This permit does not eliminate the necessity to obtain any required federal, state, local, and special district authorizations prior to the start of any activity approved by this permit. This permit does not convey to the Permittee or create any property right, or any interest in real property,nor does it authorize any entrance upon or activities on property which is not owned or controlled by the Permittee, or convey any rights or privileges other than those specified in the permit and Chapter 24, Miami-Dade County Code.

16. The Permittee shall hold and save the Miami-Dade County harmless from any and all damages, claims, or liabilities which may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any system authorized by this permit.

17. Agencies other than the Department of Environmental Resources Management from which approval may be necessary (as checked):

___ South Florida Water Management District, for any use of District Right-of-Way.
___ Miami-Dade County Fire Department, for use of explosives.
___ Miami-Dade County Public Works Department, Highway Division, for approval of bridge and roadway construction plans.
___ Florida State Department, Highway Division, for approval of bridge construction plans.
___ Florida State Department of Transportation District Office, Miami, for work within SRD Right-of-Way.
___ Miami-Dade County Public Works Department, Permit Section, for construction permit to install structures (bridge, culvert, catch basin, storm drain, etc.) within canal road Right-of-Way and on-site.
_X_ Miami-Dade County Building & Zoning Department, for permit to install on private property only, bulkheads, retaining walls, piers, docks and boat slips incidental to the principal work covered by this Permit, and for clearing, leveling, grading, excavating and filling on said property.

18. This Permit is issued for disposal of excess stormwater runoff only after that portion of the runoff containing the majority of pollutants has been fully restrained on-site, and may be rescinded if a detrimental effect is found on the receiving water body for reasons of malfunction, inadequate maintenance or other reasons. Therefore, in order to maintain this permit active, the Permittee is required to provide regular maintenance.

19. In addition, the Permittee hereby agrees to allow access to the site to staff personnel of the

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Department of Environmental Resources Management, if so required for inspection, at any time after the completion of the job and the closing of this permit.

20. The Permittee shall be responsible to establish adequate measures and control during construction of the fence to ensure that sedimentation and/or turbidity problems shall not impact adjacent site, public right-of-ways and their drainage facilities. Said measures shall be used also to prevent siltation of the constructed drainage system during site development.

21. Silt Screens, hay bales or other such sediment control measures shall be utilized during construction to the extent needed to construct the fence. The selected sediment control measures shall be utilized landward of the canal water body. All areas shall be stabilized and vegetated immediately after construction to prevent erosion into the canal or water body.

22. If prehistoric or historic artifacts, such as pottery or ceramics, stone tools or metal implements, dugout canoes, or any physical remains that could be attributed with Native American cultures, or early colonial or American settlement are encountered at any time within the project area, the permitted project should cease all activities involving subsurface disturbance in the immediate vicinity of such discoveries. The Permittee, contractor, or other designee, should contact the Florida Department of State, Division of Historical Resources, Review and Compliance Section at (850) 245-6333 or (800) 847-7278, as well as the appropriate permitting agency office. Project activities should not resume without verbal and/or written authorization from the Division of Historical Resources. In the event that unmarked human remains are encountered during permitted activities, all work shall stop immediately and the proper authorities notified in accordance with Section 872.05, Florida Statues.

23. A NPDES (National Pollutant Discharge Elimination System) Stormwater Permit may be required as per Rule 62-621.300(4). F.A.C. for the proposed construction activity. Please contact the Florida Department of Environmental Protection NPDES Stormwater Section at (805) 921-9904 or www.dep.state.fl.us/water/stormwater/NPDES.

24. Any construction in areas designated as manatee protection area must comply with the Standard Manatee Construction Conditions. Any collision with and /or injury to a manatee shall be reported to the Florida Fish and Wildlife Conservation Commission at 1-888-404-FWCC or the U.S. Fish and Wildlife Service at 1-561-562-3909.

25.Nothwithstanding any other provision of this permit, paragraphs 7, 13, 23 and 24 are deleted

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