OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(R)(1)(C)
07-10-07

RESOLUTION NO. R-816-07

RESOLUTION APPROVING EXECUTION OF A CONTRACT WITH BAL HARBOUR VILLAGE FOR PROVISION OF WATER SERVICE BY THE COUNTY TO THE VILLAGE

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 the contract with Bal Harbour Village for the provision of water service by the County to Bal Harbour Village in substantially the form attached hereto and made a part hereof; and authorizes the County Mayor or his designee to execute same for and on behalf of Miami-Dade County, Florida.

The foregoing resolution was offered by Commissioner Jose "Pepe" Diaz, who moved its adoption. The motion was seconded by Commissioner Carlos A. Gimenez and upon being put to a vote, the vote was as follows:

Bruno A. Barreiro, Chairman aye
Barbara J. Jordan, Vice-Chairwoman aye

Jose "Pepe" Diaz	aye	Audrey M. Edmonson	aye
Carlos A. Gimenez	aye	Sally A. Heyman	absent
Joe A. Martinez	aye	Dennis C. Moss	aye
Dorrin D. Rolle	aye	Natacha Seijas	aye
Katy Sorenson	aye	Rebeca Sosa	aye
Sen. Javier D. Souto	aye		

The Chairperson thereupon declared the resolution duly passed and adopted this 10th day of July, 2007. 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: KAY SULLIVAN
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency:

David M. Murray

Memorandum

MIAMI-DADE COUNTY

Date: July 10, 2007

Agenda Item No. 8(R)(1)(C)

To: Honorable Chairman Bruno A. Barreiro and Members, Board of County Commissioners

From: George M. Burgess, County Manager

Subject: Contract with Bal Harbour Village for the Provision of Water Service

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RECOMMENDATION

It is recommended that the Board of County Commissioners (Board) approve and adopt the attached resolution authorizing the execution of a contract between Miami-Dade County and Bal Harbour Village providing for the rendition of water service by Miami-Dade County to Bal Harbour Village for a twenty (20) year period to coincide with the County's application for a twenty (20) year consumptive use permit with the South Florida Water Management District (District).

SCOPE OF AGENDA ITEM

The agenda item has a countywide impact as the County must have water available to provide water service to this municipality for a 20-year period.

FISCAL IMPACT/FUNDING SOURCE

This agenda item is for wholesale water service which results in revenue to the Miami-Dade Water and Sewer Department (MDWASD). The water revenue from Bal Harbour Village in FY 2006 was $523,675. The revenue from all wholesale water customers in FY 2006 was approximately $29 million.

TRACK RECORD/MONITOR

MDWASD's Intergovernmental Affairs Manager will monitor the agreement.

BACKGROUND

Per the terms and conditions of the original contract dated December 18, 1988 between Miami-Dade County and Bal Harbour Village, the County shall provide water service to Bal Harbour Village until December 18, 2018. This contract is being substituted by a new contract which adheres to the terms and conditions of the Miami-Dade County Interim Consumptive Use Authorization and Agreement (Agreement) established between the County and the District via Resolution No. 449-06 on April 25, 2006. The Agreement requires the County to extend its volume water service contracts for a twenty (20) year period to coincide with the County's request for a twenty (20) year consumptive use permit. In accordance with the requirements of the Agreement with the District, this new contract with Bal Harbour Village for the provision of water service for a twenty (20) year term.

Assistant County Manager

MEMORANDUM

(Revised)

TO: Honorable Chairman Bruno A. Barreiro and Members, Board of County Commissioners

DATE: July 10, 2007

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

SUBJECT: Agenda Item No. 8(R)(1)(C)

Please note any items checked.

_____ "4-Day Rule" ("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

_____ Bid waiver requiring County Manager's written recommendation

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

_____ Housekeeping item (no policy decision required)

_____ No committee review

CONTRACT
BETWEEN
MIAMI-DADE COUNTY
AND
BAL HARBOUR VILLAGE, FLORIDA
PROVIDING FOR THE RENDITION OF WATER SERVICE

THIS CONTRACT, made and entered into this _____ day of_____,2007 between Miami-Dade County, a political subdivision of the State of Florida, referred to as the "COUNTY" and Bal Harbour Village, a municipal corporation organized and existing under the laws of the State of Florida, referred to as the "VILLAGE".

W I T N E S S E T H:

WHEREAS, on December 18, 1988, the COUNTY and the VILLAGE entered into a Contract providing for the rendition of water service by the COUNTY to the VILLAGE until December 18, 2018, and

Whereas, on August 28, 2003, the COUNTY and the VILLAGE entered into an agreement for emergency interconnection for water service, and

WHEREAS, on May 10, 2006, the COUNTY and the South Florida Water Management District (SFWMD) entered into a contract which requires the COUNTY to obtain twenty (20) year water service contracts with its volume water customers to coincide with the request of the COUNTY for twenty (20) year Consumptive Use Permits issued by the SFWMD, and

WHEREAS, without a twenty (20) year contract with the VILLAGE, the water supply source for the VILLAGE, may be allocated from an alternative more expensive source for the VILLAGE, and

WHEREAS, the COUNTY and the VILLAGE desire to enter into this Contract so the COUNTY can continue to render water service to the VILLAGE for a twenty (20)year period, and

WHEREAS, the Miami-Dade Water and Sewer Department, referred to as the "Department", operates and maintains the COUNTY's water system.

NOW, THEREFORE, in consideration of the mutual covenants and obligations set forth, the COUNTY and VILLAGE agree as follows:

1. Insofar as it may be lawful to do so in accordance with the terms and limitations of any Consumptive Use Permit issued the COUNTY by the SFWMD and subsequent to the terms herein, the COUNTY shall sell and deliver to the VILLAGE, and the VILLAGE shall purchase and receive from the COUNTY all potable water necessary to fulfill the water requirements of the VILLAGE during the effective period of this Contract. All water delivered by the COUNTY shall be of good and potable quality satisfactory for domestic use and shall be of similar quality as that furnished to the COUNTY's other customers. Potable water obtained by the VILLAGE from the COUNTY may be utilized to serve the VILLAGE's customers in its existing water service area or future water service area(s) that the VILLAGE is legally authorized to serve.

2. Notwithstanding the obligations of Paragraph 1 above, if the COUNTY should have an insufficient supply of water available to fulfill the total requirements of all customers of the COUNTY due to prohibitions, restrictions, limitations or requirements of local, state or federal governments having jurisdiction over such matters or due to any other cause beyond the COUNTY's control including but not limited to those specifically set forth in Paragraph 23 below, the COUNTY shall be deemed to have fully performed its duties and to have discharged its obligations if it furnishes and delivers the VILLAGE's prorata share of such supply as determined by the COUNTY. The COUNTY will not be discriminatory in its delivery of water service. The COUNTY shall give expeditious notice to the VILLAGE whenever the COUNTY becomes aware of conditions which could reasonably lead to an outage or shortage of such potable water supply or which may bring about such condition. Notwithstanding the preceding, the County shall not be obligated to take or omit any action to ensure current or future water supply to the VILLAGE.

3. The VILLAGE agrees to be bound by existing and future standards, laws, rules and regulations which may be enacted by the COUNTY or as may be necessary to ensure continued compliance with local, state and federal laws and regulations and permit conditions.

4. The water furnished will be delivered by the COUNTY and will be accepted and received by the VILLAGE at the following points of delivery:

a. 96 Street and Bal Bay Drive, Northwest corner
b. 96 Street and Bal Bay Drive, East side of bridge (emergency connection)

Additional points of delivery may be established at such times and places as shall be mutually agreed by the Director of the Department and the VILLAGE. The VILLAGE shall bear the entire cost and expense of establishing each such additional point of delivery,

obtaining such easements as may be needed and furnishing all necessary labor and materials required to connect with the COUNTY's main, all in accordance with plans and specifications which are subject to approval of the COUNTY. The VILLAGE will supply and install meter(s) and transfer ownership to the COUNTY. The VILLAGE shall convey to the COUNTY, by appropriate bill of sale, as shown on Exhibit "A" attached hereto, and Grants of Easements, all of the VILLAGE's right, title and interest in and to the tees or crosses in the feeder mains, meters, meter vaults and all piping, valves and appurtenances between and including the aforesaid tees or crosses and the valve immediately on the discharge side of the meters. The COUNTY shall thenceforth own, control, operate and maintain such facilities. Readings of each meter at all points of delivery shall be taken by the COUNTY on or about the 28th day of each month and shall be used for monthly billing purposes under the provisions of Paragraph 11 below.

5. The Parties agree and warrant that their respective water distribution and transmission system and any extensions shall be constructed, operated and maintained in accordance with the requirements of all applicable federal, state, county and other local laws, rules and regulations. The operation and maintenance of all facilities on the VILLAGE side of the meters shall be the responsibility of the VILLAGE. Upon reasonable notice that the VILLAGE is in violation of this Agreement, the VILLAGE shall provide the COUNTY with access to the VILLAGE's distribution and transmission system. Said inspections shall be made at reasonable times and upon reasonable notice in such manner as to least disturb the normal operation of the VILLAGE.

6. In order for the COUNTY to adequately plan for future water demands, within ninety days following execution of this contract and on or before each January 1 thereafter, the VILLAGE shall submit to the COUNTY the VILLAGE's projected annual water needs for the next five years. Within 120 days of the COUNTY's receipt of the VILLAGE's projected annual water needs for the next five years, the COUNTY will notify the VILLAGE of the COUNTY's ability or inability to meet such needs, which is subject to local,state and federal agencies and otherregulatory bodies having jurisdiction over such matters. The VILLAGE agrees that the COUNTY shall not be liable or in any way responsible for any cost, claims or losses incurred by the VILLAGE as a result of actions by regulatory bodies.

Notwithstanding the preceding, nothing contained herein shall require the COUNTY to take or omit any action to ensure that the expected demand is satisfied. Any representation as to the County's ability to satisfy expected demands is conditional, and shall not obligate the County to deliver any specific amount of water.

7. The COUNTY shall own, operate and maintain metering stations at the points of delivery listed above which will measure all potable water delivered by the COUNTY to the VILLAGE. The metering stations shall be of standard make and type installed in a readily accessible location with checking or calibration devices. The installation shall indicate flow with an error not to exceed plus or minus two percent of full scale reading (true accuracy). The Department, at its sole expense, shall check the accuracy of each metering installation once every six months, or at such other time intervals as it may deem appropriate. The Department shall provide the results of the checking to the VILLAGE's Public Works Director no later than thirty (30) days after the meter is checked. Such checking shall be at a reasonable time, mutually agreeable to the Department and the VILLAGE. If found to be in error exceeding two (2) percent of true accuracy, the meter shall be recalibrated to the satisfaction of the parties. If such error of more than two(2) percent is discovered, bills for the periods following the prior meter accuracy check shall be adjusted to reflect the quantity of over-read or under-read exceeding two (2) percent. In calculating such billing adjustment it will be assumed that the meter inaccuracy existed for the entire time interval between meter accuracy tests. The billing adjustment shall be made at the same rate in effect during the period of meter inaccuracy.

8. The VILLAGE may request and the COUNTY agrees to perform a meter accuracy test at any reasonable time acceptable to both parties. If the meter is found to be in error exceeding two percent true accuracy, it shall be recalibrated as described above and the entire cost for such testing and recalibration shall be paid for by the COUNTY. If the meter is found performing within two (2) percent true accuracy, the meter accuracy test shall be paid for by the VILLAGE within thirty (30) days of receiving the COUNTY's invoice.

9. In the event of complete or partial failure of any meters to register the VILLAGE's water consumption, the COUNTY may determine the estimated water consumption based on the most recent twelve (12) full months of consumption measured by the meters when they were operating properly or another method mutually agreed upon by the Department and the VILLAGE. To the extent possible, the COUNTY shall repair all failed meters within thirty (30) days of the determination that the meter has completely or partially failed.

10. It shall be the obligation and duty of the VILLAGE to transmit the water at its own expense from each point of delivery to the place or places of ultimate use. The COUNTY shall not be responsible for insufficient pressure for either domestic or fire flow service, nor be required to correct any fluctuation in pressure occuring beyond any point of delivery. The existing normal level of service to the VILLAGE is 50-55 psig at an average

daily flow of approximately 4,000,000 gallons per day into the 30" Broad Causeway water main referenced in Paragraph 14. In the event that the pressure on the COUNTY's point of delivery drops to the low pressure telemetry alarm level setting of 40 psig, the COUNTY shall notify Bal Harbour Police Department and the Miami-Dade County Fire Department of such low pressure alarm condition by a telephone auto-dialer (the "Auto-Dialer"). The COUNTY shall provide at least a 72 hour notice before any planned decrease in pressure which would affect the VILLAGE's and the Miami-Dade County Fire Department's ability to deliver services to any VILLAGE customer.

11. The VILLAGE shall pay to the COUNTY, as compensation for the treatment and transmission of all water delivered to the VILLAGE, a monthly charge for such service based on a uniform rate for the COUNTY's volume customers. The rate shall be calculated for each Department fiscal year based on projections from the prior Department fiscal year and based on the sum of the following:

(a) That portion of all budgeted annual operating and maintenance expenses, including taxes assessed, if any, for the COUNTY's regional water system divided by the projected total amount of flow used to bill all the COUNTY's water customers over the same time period.
(b) That portion of the budgeted annual renewal and replacement expenses for the COUNTY's regional water system divided by the total projected amount of flow used to bill all the COUNTY water customers over the same time period.
(c) That portion of the COUNTY's budgeted annual interest obligations of outstanding notes and bonds for the COUNTY's regional water system divided by the projected total amount of flow used to bill all the COUNTY water customers over the same time period.
(d) That portion of the budgeted annual charge for the amortization of the COUNTY's outstanding notes and bonds for the COUNTY's regional water system, to be consistent with the requirements under law, divided by the total projected amount of flow used to bill all the COUNTY's water customers over the same time period.
(e) That portion of the budgeted annual charge for customer ccounting and service, for the COUNTY's regional water system divided by the total projected of flow used to bill all the COUNTY's water customers over the same time period.
(f) That portion of projected annual administration and general expenses, for the COUNTY's regional water system, divided by the total projected amount of flow used to bill all the COUNTY's water customers over the same time period.

(g) That portion of the charge for debt service coverage requirement for bond issues for the COUNTY's regional water system divided by the total projected amount of flow used to bill all the COUNTY's water customers over the same time period.

12. The VILLAGE, with the assistance of the COUNTY, shall prepare a water conservation plan for its distribution system, to the satisfaction of the COUNTY, and shall implement the tenets of such plan. This plan shall comply with applicable local, state and federal conservation rules and guidance, as appropriate. The COUNTY may impose a surcharge on the use of such amounts of water by the VILLAGE as could be conserved by the VILLAGE through the implementation of a conservation plan, provided that the surcharge is applied uniformly to all volume water customers of COUNTY. The amount of the surcharge is subject to the review and approval of the Board of County Commissioners. Water conservation is necessary to meet the public water supply demands of the COUNTY.

13. The COUNTY reserves the right to revise or modify the rate and the method of calculation included in Paragraph 11 as may be approved by the Board of County Commissioners in accordance with applicable law and the VILLAGE agrees to be bound thereby. The COUNTY will attempt to provide the VILLAGE with a preliminary rate and shall to provide such rate a minimum of six (6) weeks in advance of any rate increase effective date. The VILLAGE recognizes and agrees that the adopted rate may differ from the preliminary rate. The VILLAGE recognizes and agrees that the COUNTY intends to implement in the future such charges or rate structures, including but not limited to peak flow surcharges, as it deems necessary to fairly recover its costs for any needed infrastructure improvements. The VILLAGE further recognizes and agrees that the COUNTY's right to revise or modify the rate or methods of calculation under this paragraph is not limited solely to revisions or modifications allowing the COUNTY to recover costs for infrastructure improvements.

14. In addition to the monthly payment calculated in accordance with Paragraph 11 hereinabove, the VILLAGE shall pay to the COUNTY an asset charge representing the VILLAGE's proportionate share of the COUNTY's costs for the construction of water main improvements in Broad Causeway and Kane Concourse which costs are calculated as shown below:

A charge per month for interest and depreciation in an amount equal to fifteen thousand one hundred twenty-five dollars and sixty-four cents ($15,125.64) representing seven-tenths of one percent (0.7%) of $2,160,805 for the cost of the thirty (30) inch main in Broad Causeway; plus two thousand eight hundred dollars ($2,800.00) representing seven-tenths of one percent (0.7%) of $400,000 for the cost of installing the twenty-four (24) inch main

in Kane Concourse. This charge shall remain in effect through December 2008.

15. For the purpose of billing the VILLAGE for the charges specified in Paragraph 14 hereinabove, the COUNTY will establish the VILLAGE's proportionate share by dividing the VILLAGE's metered consumption by the total water consumption of Town of Surfside, Indian Creek Village, Bay Harbor Islands and the VILLAGE.

16. The COUNTY grants the VILLAGE the right to audit all Department records related to the computation of the rates for each fiscal year. Upon written notice, the COUNTY shall make available for the VILLAGE such records at the offices of the Department on an annual basis. In the event that such audit indicates any discrepancy between the rates used by the COUNTY in computing the monthly service charges to the VILLAGE and the amount paid by the VILLAGE determined as a result of the audit, and following the COUNTY's acceptance of the audit findings, the COUNTY shall make an adjustment, for that fiscal year, in the service charges previously paid by the VILLAGE. The audit must be completed on or before the end of each fiscal year for which the rates apply. Adjustments shall not be made for prior fiscal years.

17. Billings for services provided in accordance with this contract shall be rendered monthly. Invoices will be mailed by the tenth day of the month following the month for which service has been provided, based on meter readings taken by Department employees on or about the 28th day of each month. Amounts billed on such invoices are due when rendered. In the event the VILLAGE disputes a bill, the VILLAGE shall provide the COUNTY with notice of the reasons for non-payment and shall escrow such portion of the bill that is disputed in an interest-bearing account. The parties shall promptly meet and use good faith efforts to resolve the dispute within forty-five(45) days of the notice. Except for any portion of a bill disputed by the VILLAGE, payments not received by the Department on or before twenty-five (25) days after the postmark date of the bill shall be considered past due. All past due invoices shall be subject to a late charge as established by the COUNTY, such charge to reimburse the Department for costs in processing and otherwise administering late payments. In addition, per annum interest shall accrue on the past due charges including the late charges at the maximum legal rate provided by Florida law for contracts in which no interest rate is specified, for each day, including Saturdays, Sundays and holidays, from the past due date until the date of receipt by the Department. For purposes of this paragraph, date of receipt shall be the date of actual receipt by the Department if hand delivered or mailed, or date of transfer to the Department's bank, if electronic funds transfer is used.

18. Any and all suits brought by either party shall be instituted and maintained in any court of competent jurisdiction

in Miami-Dade County, Florida. In all such suits, the prevailing party shall be entitled to receive costs and reasonable attorney's fees. The amount of such costs and fees shall be determined by the court in which such actions are brought.

19. The VILLAGE shall accept delivery of water transmitted at a flow rate as nearly uniform as practical throughout each daily 24-hour period during November, December, January, February, March and April of each year and at all such other times when the daily quantity delivered shall exceed the average daily quantity delivered during the preceding six (6) months set forth above. The COUNTY shall have the right to make such tests as it shall deem necessary, and at such times as it shall deem to be appropriate, to determine to what extent the maximum 60-minutes sustained demand imposed upon the facilities of the COUNTY by the requirements of the VILLAGE between the hours of 6:00 A.M. and 9:00 P.M. is exceeding the average daily demand for the same month. For the purpose of making each such test and of ascertaining and utilizing the result to give effect to the provisions of this Paragraph, the COUNTY shall use a recording flow meter installed at each of the points of delivery provided for in Paragraph 4 above. Such tests shall apply to each of the six (6) months set forth above and to any other month in which the average daily demand is equal to or greater than the average daily demand for the six (6) months considered collectively. Provided however, that no test allowed by this paragraph shall occur on less than three (3) business days notice to the VILLAGE.

20. The VILLAGE shall establish, impose, maintain and collect, or shall cause to be established, imposed, maintained and collected at all times throughout the effective period such rates and charges for water distributed as will enable it to pay in full all amounts to which the COUNTY shall be entitled.

21. No property taxes shall be levied or collected by the VILLAGE upon the properties of the Department. Additionally, the VILLAGE shall not impose any zoning changes upon the properties of the Department.

22. Any cessation of water services and any consequences caused by force majeure, inevitable accident or occurrence or cause beyond the reasonable control of either Party, shall not constitute a breach of this Contract and neither party shall be liable to the other or its inhabitants or customers for any damage resulting from such cessation or interruption of water service. Force majeure shall mean an act of God which includes but is not limited to sudden, unexpected or extraordinary forces of nature such as floods, washouts, storms, fires, earthquakes, landslides, hurricanes, epidemics, explosions or other forces of nature, strikes, lockouts, other industrial disturbances, wars, blockades, acts of terrorism, insurrections, riots, federal, state, county and

local governmental restrictions, regulations and restraints, military action, civil disturbances, or conditions in federal, state, county and local permits.

Neither party shall be liable for its failure to carry out its obligations under the contract during a period when such party is rendered unable, in whole or in part, by force majeure or inevitable accidents or occurrences to carry out such obligations, but the obligations of the party or parties relying on such force majeure shall be suspended only during the continuance of any inability so caused and for no longer period of an unexpected or uncontrollable event, and such cause shall, so far as possible, be remedied with all reasonable dispatch. It is further agreed and stipulated that the right of any party to excuse its failure to perform by reason of force majeure shall be conditioned upon such party giving, to the other party , written notice of its assertion that a force majeure delay has commenced within ten (10) working days after such commencement, unless there exists good cause for failure to give such notice, in which event, failure to give such notice shall not prejudice any party's right to justify any non-performance as caused by force majeure unless the failure to give timely notice causes material prejudice to the other party.

23. In accordance with the provision of County Ordinance No. 89-95 as currently in effect and as may be amended or revised in the future, the VILLAGE shall require all new retail users, as defined in the Ordinance, to pay the COUNTY's water and sewer connection charges. The VILLAGE shall not render water service, sewer service or both to any new retail user until a written receipt from the Department is provided to the VILLAGE. Pursuant to Ordinance No. 05-167, the provision of water and/or sewer service to new retail users by the VILLAGE who did not pay the appropriate charges, shall render the VILLAGE liable to the COUNTY for the payment of such charges.

24. In consideration of good and valuable consideration received from the COUNTY and in consideration of the covenants in this Contract, the VILLAGE agrees to indemnify and save harmless forever, the COUNTY, its officers, agents and employees from all claims, liability, actions, loss, cost and expense, including attorney's fees, which may be sustained by the COUNTY, it officers, agents, and employees due to, caused by, or arising from the negligence of the VILLAGE, its officers, employees and agents in connection with the performance of this Contract. The VILLAGE agrees to defend against any claims brought or actions filed against the COUNTY, its officers, agents and employees in connection with the subject of the indemnities contained herein.

25. In consideration of good and valuable consideration received from the VILLAGE and in consideration of the covenants in This Contract, the COUNTY agrees to indemnify and save harmless

forever, the VILLAGE, its officers, agents and employees from all claims, liability, actions, loss, cost and expense, including attorney's fees, which may be sustained by the VILLAGE, it officers, agents, and employees due to, caused by, or arising from the negligence of the COUNTY, its officers, employees and agents in connection with the performance of this Contract. The COUNTY agrees to defend against any claims brought or actions filed against the VILLAGE, its officers, agents and employees in connection with the subject of the indemnities contained herein.

26. Notwithstanding the above, nothing shall create any liability of the COUNTY or VILLAGE beyond the scope of Section 768.28 Florida Statutes, as currently in effect or as lawfully amended in the future.

27. No rights pursuant to this contract shall be assignable by the VILLAGE unless the COUNTY agrees in writing.

28. This Contract shall be and remain in full force and effect for a period of twenty (20) years from the date of execution of this Contract providing the SFWMD extends the current Consumptive Use Permits for a twenty (20) year period. The VILLAGE shall comply with the terms and conditions of the Consumptive Use Permit issued by the SFWMD and any revisions or modifications to such permit. Where the Consumptive Use Permit requires reporting of various measures to the SFWMD, or requires actions be taken to the satisfaction of the SFWMD, the VILLAGE shall make such reports or take such actions as necessary to comply with the terms of the Permit. The County shall notify the VILLAGE of any such actions which are necessary and shall allow a reasonable time for compliance by the Village.

29. The VILLAGE grants to the COUNTY the right to provide reuse water for non-drinking purposes, when available, within the VILLAGE subject to federal, state and local laws and regulations in effect and as may be amended in the future, subject to the issuance of construction permits by the VILLAGE and upon the VILLAGE's Manager giving approval in writing which shall not be unreasonably withheld. The VILLAGE agrees to accept and utilize re-use water in lieu of potable water, if such water is provided by the COUNTY through a distribution system installed in the VILLAGE at the COUNTY's expense, to the extent the use for which the COUNTY is offering such re-use water is permitted by law.

30. All notices required pursuant to this Contract shall be properly given if mailed by United States registered or certified mail addressed to the party to which notice is to be given at the following respective addresses:

Miami-Dade County
c/o The Director
Miami-Dade Water and Sewer Department
3071 SW 38 Avenue
Miami Florida 33146

Bal Harbour Village
Mayor
655 96 Street
Bal Harbour Village, Florida 33154

31. This contract shall be governed by and construed according to the laws of the State of Florida, and venue shall be in Miami-Dade County, Florida.

32. This Contract contains the entire Contract of the parties with respect to the subject matter and replaces and supersedes all prior contracts or understandings, oral or written, with respect to such subject matter, and such contracts or understandings are now void and no longer in effect; however, the terms of the Emergency Interconnection Agreement, dated August 28, 2003, shall remain in full force and effect.

33. If any Section of this Contract is found to be null and void, the other Sections shall remain in full force and effect.

(THE REST OF THIS PAGE IS INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, the parties have caused this instrument to be executed in their names and their corporate seals affixed and to all duplicates by their respective officers all as of the day and year above.

MIAMI-DADE COUNTY

ATTEST:

By: _____
Clerk

By: _____ (SEAL)
County Mayor

ATTEST:

BAL HARBOUR VILLAGE

By: _____
VILLAGE Clerk

By: _____ (SEAL)
VILLAGE Manager

Approved as to form and legal sufficiency:

_____
Assistant County Attorney

Approved as to form:

_____
Attorney for VILLAGE of Bal Harbour

Exhibit "A"

ABSOLUTE BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS, That Bal Harbour Village, a municipal corporation organized and existing under the laws of the State of Florida, hereinafter called GRANTOR, for and in consideration of the sum of Ten Dollars ($10.00)) and other good and valuable consideration, paid and delivered by Miami-Dade County, a political subdivision of the State of Florida, hereinafter called GRANTEE, the receipt whereof is hereby acknowledged, has granted, bargained, sold, transferred and delivered, and by these presents does grant, bargain, sell, transfer and deliver unto the GRANTEE, its successors and assigns, that portion of the GRANTOR's water facilities installed to provide an additional point of connection south of _____ Street and _____ Avenue in Miami-Dade County.

The GRANTOR hereby assigns and transfers to the GRANTEE all of its rights, title and interest to the following:

a. Any and all rights, licenses and permits from the Department of the Army Corps of Engineers and State of Florida, Department of Environmental Regulation issued to the VILLAGE in connection with the construction of the sewage facilities.

b. Any and all other rights, interest, easements, licenses and permits issued or granted by any other governmental authority, person, firm or corporation in connection with the sewage facilities conveyed to the GRANTEE hereunder.

TO HAVE AND TO HOLD the same unto the GRANTEE, its successors and assigns forever. GRANTOR does covenant to and with the GRANTEE, its successors and assigns, that GRANTOR is the lawful owner of the above described; that said property is free from all encumbrances; that GRANTOR has good right to sell the same aforesaid; that GRANTOR will warrant and defend the sale of the said property unto the GRANTEE, its successors and assigns, against the lawful claims and demands of all persons whomsoever.

IN WITHNESS WHEREOF, the GRANTOR has hereunto set its hand and seal this _____ day of _____, 2007.

ATTEST: BAL HARBOUR VILLAGE

_____ _____

VILLAGE Clerk VILLAGE Manager