Approved _____ Mayor

Veto _____

Override _____

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

07-10-07

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

RESOLUTION NO. R-798-07

RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE HOMESTEAD AIR RESERVE BASE PROVIDING FOR PAYMENT TO MIAMI-DADE COUNTY OF AN ENVIRONMENTAL POLLUTION PREVENTION CONTRIBUTION FOR STORMWATER TREATMENT AND DISPOSAL

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 Agreement between Miami-Dade County and the Homestead Air Reserve Base providing for payment of an environmental pollution prevention contribution for stormwater treatment and disposal to Miami-Dade County, 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.

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

COUNTY COMMISSIONERS DADE COUNTY FLORIDA

By: KAY SULLIVAN
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency. RAD

Robert A. Duvall

Memorandum

MIAMI-DADE COUNTY

Date: July 10, 2007

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

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

From: George M. Burgess
County Manager

Subject: Resolution Authorizing the Execution of an Agreement Between Miami-Dade County and the Homestead Air Reserve Base Providing for Payment to Miami-Dade County of an Environmental Pollution Prevention Contribution for Stormwater Treatment and Disposal

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Recommendation

It is recommended that the Board of County Commissioners approve the attached Resolution authorizing the County Mayor or his designee to execute an agreement between Miami-Dade County and Homestead Air Reserve Base providing for payment to Miami-Dade County of an environmental pollution prevention contribution for stormwater treatment and disposal.

Scope

This Agreement involves the Homestead Air Reserve Base ("HARB"), which is located in Commission District 9.

Fiscal Impact/Funding Source

HARB is agreeing to pay Miami-Dade County ("County") for HARB's annual proportionate share of the costs associated with the operation and maintenance of the stormwater treatment area referenced in the agreement located between SW 296th Street and theoretical 300th Street, and SW 107th Avenue and the L-31 East Levee.

Track Record/Monitor

The Director of the Department of Environmental Resources Management will monitor this Agreement.

Background

Both HARB and the County agree that HARB's onsite stormwater treatment meets the minimum legal standards for off-site discharges and that HARB property derives an environmental benefit from Miami-Dade County Stormwater Utility operations. Although HARB contested the applicability of the County Stormwater Utility Fees to the HARB property, HARB has agreed to pay a proportionate share of the operation and maintenance costs of the stormwater treatment and disposal area described above. In the attached agreement, HARB will compensate the County annually in an amount of $94,702 for the five-year term of the agreement.

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(D)(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**

AGREEMENT BETWEEN MIAMI-DADE COUNTY
AND
HOMESTEAD AIR RESERVE BASE

This Agreement entered into by and between Miami-Dade County (hereinafter referred to as "MDC") and Homestead Air Reserve Base (hereinafter referred to as "HARB") shall serve to resolve the dispute regarding the applicability of stormwater utility fees required by Section 24-51 Code of Miami-Dade County to the HARB property located in Homestead, Miami-Dade County, Florida. The specific properties owned and controlled by HARB for the purposes of this Agreement are identified on Exhibit A attached hereto and made a part hereof by reference.

BACKGROUND

1. Miami-Dade County is a political subdivision of the State of Florida which is empowered to control and prohibit pollution and protect the environment within Miami-Dade County pursuant to Article VIII, Section 6 of the Florida Constitution, the Miami-Dade County Home Rule Charter and Section 403.182. Further, MDC administers and operates the The Miami Dade County Stormwater Utility, throughout the county for the control and management of stormwater and drainage pursuant to Section 24-51 of the Code of Miami-Dade County, Florida. The stormwater utility was established pursuant to Section 403.0893(1), Florida Statutes.

2. Homestead Air Reserve Base is a federal military installation under the administrative jurisdiction and control of the Air Force Reserve Command, a major command designated by the Department of the Air Force and the United States Department of Defense.

3. The longstanding dispute between the parties to this Agreement relates to the applicability of the MDC stormwater utility fees required by section 24-52 of the Miami-Dade County Code to

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the HARB property. For the purposes of this Agreement only, the parties have determined that MDC's stormwater utility provides, and the HARB property derives an environmental benefit from MDC's stormwater utility operations, for which HARB agrees to pay an environmental assessment.

4. In order to resolve the dispute regarding the applicability of the MDC stormwater utility fees to the HARB, and to avoid time-consuming and costly litigation, the parties hereto agree to the following:

SETTLEMENT CONDITIONS

5. In consideration of and for the faithful performance of this Agreement, and subject to the availability of Federal appropriations, HARB shall pay to MDC an environment Pollution Prevention contribution in the amount of $94,702.00. This contribution shall be made within ninety (90) days following the effective date of this Agreement. Said payments shall be made as a contribution for HARB's proportionate share (based upon the 77% of base property under federal ownership) of the costs associated with the operation and maintenance of the Stormwater Treatment Disposal Area ("STDA") project located between SW 296 Street and theoretical 300 Street, and SW 107th Avenue and the L-31 East Levee. Although the parties acknowledge that on site stormwater treatment provided by the HARB meets the minimum standards required by law for the off-site discharges from the HARB properties, the STDA provides additional treatment to the stormwater discharged from the HARB and thereby improves the overall water quality and mitigates the adverse environmental impacts of

stormwater volumes by deterring surge discharges of stormwater entering Biscayne National Park and Biscayne Bay.

6. In light of HARB's prior stormwater treatment and management expenditures, including monies previously contributed for the construction of the STDA project, as well as for the construction of and continued operation and maintenance of an on-site stormwater management (drainage) system, the parties agree that the annual contributions referenced above in paragraph 5 is an appropriate settlement amount to resolve the dispute regarding all past stormwater utility fees billings assessed by MDC against the HARB property.

7. The annual contributions referenced above in paragraph 5 shall be made upon submission of appropriate bills to HARB at the address indicated in paragraph 7(a) below; provided, however, that sufficient funds are available through annual appropriations and in recognition that obligation of federal funds in excess of said appropriations may constitute a violation of the Anti-Deficiency Act. However, HARB agrees that it will act in good faith to receive adequate annual funds to fulfill the obligations undertaken in this Agreement. Further, if during the term of this agreement, sufficient funds are not available through the annual appropriations at the beginning of any fiscal year to carry out the provisions of this Agreement, HARB will so notify MDC writing.

7(a) Bills for payments provided hereunder shall be directed to:

Headquarters 482 Fighter Wing/CC
290505 Coral Sea Blvd
Homestead ARB, FL 33039-1299

Notifications to MDC hereunder shall be directed to:

Office of the Director, Miami-Dade County DERM
33 S.W. 2nd Avenue, Penthouse #2
Miami, Florida 33130

8. By entering into this Agreement, HARB does not waive any right or defenses as provided under the Constitution of the United States regarding the assessment of fees and taxes against federal entities. However, HARB recognizes the mutual advantage of resolving this longstanding dispute and considers the pollution prevention advantages of this initiative to justify the payments referenced in paragraph 5. Entry into this Agreement does not relieve HARB of the responsibility to comply with other applicable federal, state, or local laws, regulations and ordinances that are not addressed by this Agreement.

9. In consideration for the complete and timely payment by HARB of the amounts specified in Paragraph 5 above, MDC waives its rights to seek judicial or any other relief against HARB for any and all past stormwater utility fees assessed by the County or for any stormwater utility fees which may otherwise accrue during the duration of this agreement or written amendments thereto.

10. MDC agrees to keep records of books of account, showing the actual operation and maintenance costs of the STDA. The Comptroller General of the United States or any of his or her duly authorized representatives shall until the expiration of three (3) years after final payment, have access at all times during normal business hours to such records and books of account, or to any directly pertinent books, documents, papers, and records or any of MDC's contractors or subcontractors engaged in the performance or involving transactions related to this Agreement.

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MDC further agrees that representatives of the Air Force Audit Agency or any other designated representative of the Government shall have the same right of access to such records, books of account, documents and paper as is available to the Comptroller General.

11. This Agreement shall take effect upon the last date of execution by the authorized representatives of MDC and HARB. The Agreement shall remain in effect until the completion of the study phase of the STDA or for a period of five (5) years, whichever is sooner.

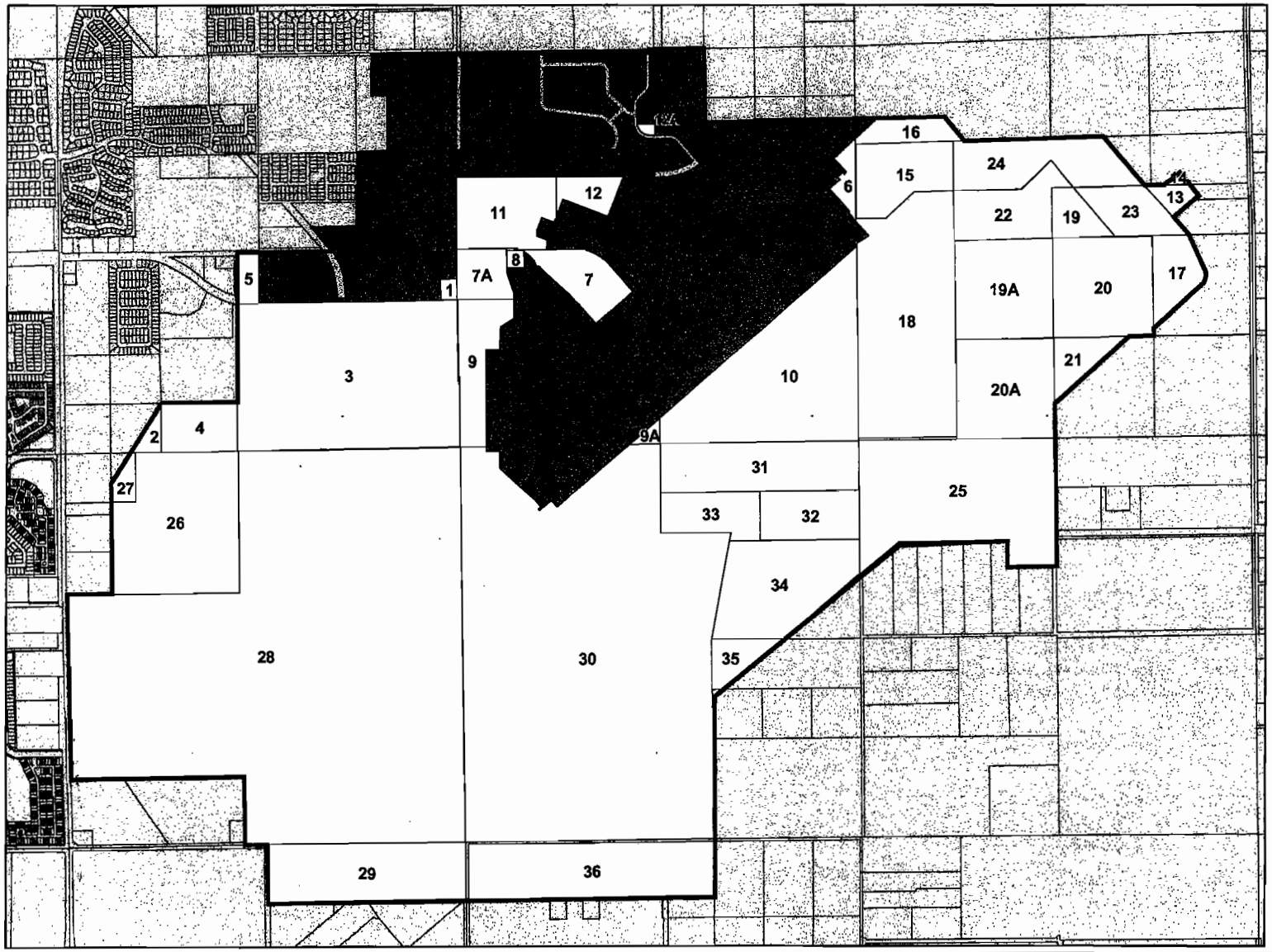
RANDALL G. FALCON, Col, USAFR
Commander, 48d Fighter Wing

20 Apr 07
Date

(Miami-Dade County Representative)

Date

FEDERAL PROPERTIES IN THE HARB



HARB Boundaries

Federal Properties in HARB

Other Properties in HARB

Properties Outside HARB

The federal properites comprise 77% of the HARB.

0 500 1,000 2,000 3,000 Feet

Map created February, 2007

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FEDERAL PROPERTIES AT HARB			
MAP #	FOLIO	PTXA OWNER	PREMISE ADDRESS
1	3079020000010	U S A 301 N MIAMI AVE SUITE 205 MIAMI FL	
2	3079020000121	U S A c/o CORPS OF ENG P O BOX 2288 MOBILE AL	
3	3079020000160	U S A 301 N MIAMI AVE SUITE 205 MIAMI FL	
4	3079020000180	U S A DEPT OF DEFENSE 301 N MIAMI AVE SUITE 205 MIAMI FL	
5	3079020000200	U S A TR A-102 HMSTD AIR BASE c/o DIST ENG 1420 W MOCKINGBIRD LN #575 DALLAS TX	
6	3079010000140	U S A c/o DIST ENGINEER BOX 4970 JACKSONVILLE FL	
7/7A	3079010000170	U S A c/o US ENG 575 RIVERSIDE AVE JACKSONVILLE FL	
8	3079010000171	FIRST NATL BANK OF HOMESTEAD 1550 N KROME AVE HOMESTEAD FL	470 BOUGAINVILE BLVD
9/9A	3079010000180	U S A 301 N MIAMI AVE SUITE 205 MIAMI FL	29050 CORAL SEA BLVD
10	3079010000190	U S A 301 N MIAMI AVE SUITE 205 MIAMI FL	
11	3079010000270	U S A c/o WM D JONES 700 ATLANTIC NATL BANK BLDG JACKSONVILLE FL	
12/12A	3079010000280	U S A c/o DIST ENGINEER BOX 4970 JACKSONVILLE FL	
13	3070060000021	U S A 301 N MIAMI AVE SUITE 205 MIAMI FL	
14	3070060000031	U S A 301 N MIAMI AVE SUITE 205 MIAMI FL	
15	3070060000050	HOMETEAD A F B c/o DIST ENG 575 RIVERSIDE AVE JACKSONVILLE FL	
16	3070060000061	U S A c/o DIST ENGINEER BOX 4970 JACKSONVILLE FL	
17	3070060000071	U S A c/o DIST ENGINEER BOX 4970 JACKSONVILLE FL	
18	3070060000100	U S A HOMESTEAD AIR BASE 301 N MIAMI AVE SUITE 205 MIAMI FL	

19/19A	3070060000110	U S A 301 N MIAMI AVE SUITE 205 MIAMI FL	
20/20A	3070060000120	U S A 301 N MIAMI AVE SUITE 205 MIAMI FL	
21	3070060000130	U S A 301 N MIAMI AVE SUITE 205 MIAMI FL	
22	3070060000140	U S A 301 N MIAMI AVE SUITE 205 MIAMI FL	
23	3070060000150	U S A c/o US ENG 575 RIVERSIDE AVE JACKSONVILLE FL	
24	3070060000160	U S A c/o US ENG 575 RIVERSIDE AVE JACKSONVILLE FL	
25	3070070000150	U S A HOMESTEAD AIR BASE 301 N MIAMI AVE SUITE 205 MIAMI FL	
26	3079110000011	U S A DEPT OF DEFENSE 301 N MIAMI AVE SUITE 205 MIAMI FL	
27	3079110000021	U S A c/o CORPS OF ENG P O BOX 2288 MOBILE AL	
28	3079110000040	DC HOMESTEAD AIR BASE c/o REAL EST OFF 482 FW 29050 CORAL SEA BLVD HOMESTEAD FL	
29	3079140010010	U S A 301 N MIAMI AVE SUITE 205 MIAMI FL	
30	3079120000010	U S A 301 N MIAMI AVE SUITE 205 MIAMI FL	
31	3079120000020	U S A 301 N MIAMI AVE SUITE 205 MIAMI FL	
32	3079120000030	U S A 301 N MIAMI AVE SUITE 205 MIAMI FL	
33	3079120000040	U S A 301 N MIAMI AVE SUITE 205 MIAMI FL	
34	3079120000100	HMSTD AIR FORCE BASE TR A-129 c/o DIST ENG BOX 4970 JACKSONVILLE FL	
35	3079120000120	HMSTD AIR FORCE BASE TR A-131 c/o DIST ENG BOX 4970 JACKSONVILLE FL	
36	3079130010040	U S A 301 N MIAMI AVE SUITE 205 MIAMI FL	