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OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Memorandum

MIAMI-DADE COUNTY

Date: December 18, 2007

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

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

From: George M. Burgess
County Manager

R-1375-07

Subject: Agreement between the City of Aventura and Miami-Dade County for the Provision of Stormwater Billing Charges by the Miami-Dade Water and Sewer Department

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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 an agreement between Miami-Dade County and the City of Aventura providing for the billing of the City's stormwater charges by the Miami-Dade Water and Sewer Department (MDWASD).

SCOPE OF AGENDA ITEM

The agenda item is for billing services for the City of Aventura, Commission District 4.

FISCAL IMPACT/FUNDING SOURCE

MDWASD receives $.87 per bill from the City of Aventura for the billing service, totaling $5,146.05 for the time period October 1, 2006 through September 30, 2007. The total amount received by MDWASD for the provision of identical services to other municipalities for the same time period including the City of Aventura is $490,793.31.

TRACK RECORD/MONITOR

MDWASD's Intergovernmental Affairs Manager will monitor the agreement.

BACKGROUND

On March 31,1998, Miami-Dade County and the City of Aventura entered into an agreement for MDWASD to provide stormwater billing service to the City of Aventura simultaneously with the issuance of MDWASD's bills for water and sewer service. The City of Aventura has requested that MDWASD continue to provide the billing service.

Under the attached agreement, MDWASD will bill, collect and remit the stormwater utility charges to the City of Aventura in accordance with rates established and approved by the City for a fee to the City consisting of $.87 per bill. The agreement is for a period of five (5) years and can be extended by mutual consent of MDWASD and the City of Aventura. MDWASD's water and sewer bill identifies the stormwater charges as those of the City and provides a city telephone number for customers with questions. MDWASD currently performs similar billing services for the cities of Coral Gables, Doral, Miami, Miami Gardens, South Miami, Sweetwater, the Town of Miami Lakes, the Village of Key Biscayne, El Portal and Palmetto Bay. This agreement has been approved by the City of Aventura.

Assistant County Manager

MEMORANDUM
(Revised)

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

DATE: December 18, 2007

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

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

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

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(R)(1)(B)
12-18-07

RESOLUTION NO. R-1375-07

RESOLUTION APPROVING EXECUTION OF AN AGREEMENT WITH THE CITY OF AVENTURA FOR BILLING OF STORMWATER UTILITY CHARGES BY THE MIAMI-DADE WATER AND SEWER DEPARTMENT

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 agreement with the City of Aventura for the billing of stormwater utility charges 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 Joe A. Martinez, who moved its adoption. The motion was seconded by Commissioner Rebeca Sosa 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	aye
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 18th day of December, 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:

Henry N. Gillman

AGREEMENT FOR THE BILLING OF
STORMWATER CHARGES
BETWEEN
MIAMI-DADE COUNTY
AND
CITY OF AVENTURA

THIS AGREEMENT, entered into this __ day of _____, 2007, by and between the CITY OF AVENTURA, FLORIDA, a municipal corporation of the State of Florida (the "CITY"), and MIAMI-DADE COUNTY, a political subdivision of the State of Florida (the "COUNTY").

W I T N E S S E T H:

WHEREAS, the COUNTY, through its Miami-Dade Water and Sewer Department (the "Department"), operates the water and sewer utility systems within the CITY; and

WHEREAS, effective October 1, 1997, the CITY has been exclusively responsible to operate and maintain the stormwater utility system within the CITY boundaries, and

WHEREAS, on March 31, 1998, the COUNTY and the CITY entered into an agreement providing for the billing of stormwater charges by the COUNTY for the CITY and has been administering, billing and collecting a stormwater utility service charge simultaneously with the issuance of the COUNTY's bills for water and sewer service, and

WHEREAS, the CITY desires the COUNTY to continue to administer, bill and collect the stormwater utility service charge on behalf of the CITY; and

WHEREAS, the COUNTY has agreed to continue to administer, bill and collect the stormwater utility service charges on behalf of the CITY,

NOW, THEREFORE, in consideration of mutual advantages, it is agreed:

Section 1. The CITY, jointly with the COUNTY, will designate and cause to be identified from time to time the water and sewer service accounts of the Department which thereafter, under the rules and regulations of the CITY, shall be billed for stormwater utility service charges. The CITY shall designate the rate classifications applicable thereto in writing in a format acceptable to the COUNTY. The COUNTY shall act thereon until such designations and classifications are changed in writing by the CITY. The CITY understands and accepts that the COUNTY shall consider the person or persons whose names appear on the COUNTY's water and sewer service account as the persons responsible for the stormwater utility service charges at the location involved.

Section 2. The CITY shall deliver to the COUNTY a minimum of thirty (30) calendar days in advance of the effective date its schedule of rates and any revisions of such schedule of rates by furnishing to the Department's Assistant Director of Finance a certified copy of the ordinance or other action of the CITY promulgating said revised schedule of rates. Until the COUNTY is so furnished with a revised schedule, the COUNTY shall act upon the prior delivered schedule. The stormwater utility service charge shall be prorated in accordance with the revised schedule of rates.

No security deposits shall be collected by the COUNTY nor shall delinquent penalty charges be imposed by the COUNTY on the stormwater utility charge.

Section 3. The COUNTY agrees, during the COUNTY's regular and periodic billing procedures, to cause to be billed and collected from each water and sewer customer under said accounts, as an added and designated separate item on the bill, the stormwater utility service charge, according to the schedule of rates established by the CITY for such customer. This shall be the exclusive method for billing stormwater utility service charges by the County; no separate bills shall be issued, except for those bills that may be generated by the CITY. The CITY authorizes and empowers the COUNTY to render such billing for the CITY's account and on the payment thereof to give receipt and acquittance therefore, either by endorsement of payment upon such billings or by separate receipt. Upon the initial billing by the COUNTY to each user of stormwater utility service and at any time during the term of this agreement, as deemed necessary by the COUNTY or the CITY, the CITY shall at its sole cost and expense and independent of this Agreement, advise such user of the method and arrangement between the CITY and the COUNTY for the billing and collection of said charge by the COUNTY for and on behalf of the CITY as the CITY's agent. The COUNTY shall not be responsible for the notification of new owners, occupants or tenants that there is a stormwater utility service charge. Furthermore, the CITY shall notify its stormwater utility users of future rate increases.

Section 4. The COUNTY agrees to observe the same diligence, policy and procedure in the billing, and collection of stormwater utility service accounts as is used by the COUNTY in billing and collecting its water service accounts, except that the COUNTY shall not terminate water and/or sewer service for non-payment of stormwater utility service charges, except when account balances exceed an amount to be determined by the Department, nor shall it institute or maintain suits at law for collection of stormwater utility service charges. The COUNTY may provide water and sewer service to customers irrespective of said customer's failure to pay the applicable stormwater utility charge. The COUNTY shall not be responsible for the billing of accounts that are inactive. The COUNTY shall not file any liens on property for the collection of the stormwater utility charges. Legal actions for non-payment of stormwater utility charges shall be the sole responsibility of the CITY.

Section 5. The COUNTY will keep correct and proper books of accounts, showing monthly gross billings of stormwater utility service charges, and shall provide to the CITY a monthly statement in writing, showing the net amount owed the CITY by the COUNTY for the month covered by such statement. The COUNTY shall provide this statement and the remittance due the CITY within sixty (60) days of the end of each monthly period. Based on such statement, the COUNTY shall make payment to the CITY of the amount due, less the COUNTY's compensation for the billing and collection of said charges and less any other payments or deductions as hereinafter specifically provided in Paragraphs 6 and 9 of this Agreement.

The CITY agrees that the COUNTY shall remit monthly payments based on the collection of stormwater utility service charges, when the COUNTY's billing system is capable of this method of remittance.

Section 6. Adjustments for uncollected stormwater billings shall be made on a regular basis, at least annually, as a deduction provided in Section 5.

Section 7. Upon written request from the CITY, the COUNTY shall make available for inspection or audit by the CITY and its representatives at any reasonable time all of its records pertaining to the COUNTY's actions under this Agreement as agent for the CITY and shall also

furnish to the CITY such information concerning the administration of this Agreement as the CITY may reasonably request, including information as to delinquent stormwater utility charges and accounts not currently being billed. Should the CITY, in any audit of the COUNTY's records, find a discrepancy between the amount of funds remitted to the CITY and the actual billing and collection by the COUNTY, the COUNTY shall within thirty (30) days of receipt of written notification from the CITY remit to the CITY the sums owed.

Section 8. Both the CITY and the COUNTY recognize that in the billing and collection of stormwater utility service charges involving thousands of customers, numerous situations arise which require discretion. The CITY agrees with the COUNTY that the COUNTY may use its best judgment in such instances. The COUNTY's method or manner shall not be considered as negligence under or independent of the terms and conditions of this Agreement or as a breach thereof and the COUNTY shall not be liable or responsible to the CITY for any loss in stormwater utility service charge revenues by reason of the COUNTY's discretionary handling of such situations. Specifically, the COUNTY shall have the right to remove or adjust the stormwater utility service charge from a customer's bill if the customer provides proof acceptable to the COUNTY that he or she was not the owner, occupant or tenant of the property on the date that the stormwater utility service charge was applied. However, the COUNTY shall advise the CITY of all adjustments to CITY accounts as part of the monthly statements provided pursuant to Section 5. Except as otherwise specified in this paragraph, any adjustments to accounts assessed a stormwater utility service charge shall be initiated solely by the CITY and provided to the COUNTY in writing.

Section 9. The CITY agrees to pay to the COUNTY and the COUNTY shall receive from the CITY, by means of deduction from payments for monthly billings, compensation determined as follows:

A. For the period from the effective date of this agreement, until this agreement is modified pursuant to Section 10 hereinafter, a charge in the amount of eighty-seven cents ($0.87) per bill for all accounts to be charged the CITY's stormwater utility service charge; and

B. For all costs and expenses incurred and paid by the COUNTY during the preceding month in defending legal actions brought against the COUNTY by any person, firm or corporation, excluding the CITY, involving billing or collection of stormwater utility service charges on behalf of the CITY, or involving the COUNTY's administration of the terms and conditions of this Agreement.

The COUNTY shall notify the CITY in writing of any legal claims filed against the COUNTY pertaining to the COUNTY's billing and collection of the CITY's stormwater fees within thirty (30) working days of receipt of any claim. The CITY shall have the option to defend the COUNTY on any such claims and settle or compromise the same unless such a claim involves employee dishonesty or theft.

Section 10. The COUNTY reserves the right to review and revise the charges provided for in Section 9 (A) hereinabove and the CITY agrees to be bound thereby, provided the COUNTY provides ninety (90) days notice to CITY of said proposed revised charges.

Section 11. All telephone calls and correspondence from customers regarding the stormwater utility shall be the responsibility of the CITY. The COUNTY shall cause the telephone

number for the CITY, as provided by the CITY, to be printed on the COUNTY's regular bill stock.

Section 12. The CITY agrees that the COUNTY shall not be held liable for any damage, delay or other loss which the CITY may experience as a result of the COUNTY's practices in administering this Agreement, unless such loss arises from negligence of the COUNTY, its employees or agents.

Section 13. It is understood and agreed between the CITY and the COUNTY that the COUNTY's obligation is limited to billing and collection of stormwater utility service charges as specifically provided for in this Agreement.

Section 14. The CITY shall not allow or permit construction or installation of any connections of stormwater mains which allow stormwater to enter the COUNTY's sanitary sewer system. The CITY agrees to use its best efforts to detect and lawfully disconnect all stormwater connections to the COUNTY's sanitary sewer system within the CITY's jurisdiction and submit within ninety (90) days of the execution of this Agreement a timetable for the elimination of such stormwater connections which is reasonably acceptable to the COUNTY.

Section 15. This Agreement shall be binding upon the respective successors and assigns of both the CITY and the COUNTY.

Section 16. All references to the CITY under this Agreement that require direction to the COUNTY shall mean the CITY Manager or his designee. Whenever written notice to the CITY is required it shall be sent by Certified Mail, Return Receipt Requested, to The CITY OF AVENTURA, City Hall, 19200 W. Country Club Drive, Aventura, Florida 33180 (Attention: City Manager). Whenever written notice to the COUNTY is required it shall be sent by Certified Mail, Return Receipt Requested, to Miami-Dade County, Miami-Dade Water and Sewer Department, 3071 S. W. 38th Avenue, Miami, Florida 33146, (Attention: Assistant Director-Finance).

Section 17. This Agreement shall remain in full force and effect for a period of ten (10) years after its date of execution. This Agreement may be extended at that time by written request from the CITY to the Department's Director and mutual agreement by the City Manager and the Department Director, without which it shall terminate. Notwithstanding the above provisions, this Agreement shall terminate and be cancelled without further writings between the CITY and the COUNTY upon either party providing six (6) months notice in writing to the other party so advising the other party.

Notwithstanding the provisions of this paragraph, should the COUNTY fail to timely bill the CITY's customers in accordance with the agreed upon billing cycles and rates or fail to remit payment to the CITY in the timeframes specified in Paragraph 5 or 9, the CITY may terminate this Agreement on thirty (30) days written notice to the COUNTY.

(The rest of the page is intentionally left blank)

IN WITNESS WHEREOF, the parties hereto have executed these presents as of the day and year first above written.

MIAMI-DADE COUNTY
ATTEST:

BY:_____ BY: _____
Clerk County Mayor

ATTEST: CITY OF AVENTURA

BY: _____ BY: _____
City Clerk City Manager

Approved as to form and legal sufficiency: Approved as to form and legal sufficiency:

_____ _____
Assistant County Attorney City Attorney