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

Memorandum

MIAMI-DADE COUNTY

Date: June 3, 2008

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

From: George M. Burgess
County Manager

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

Resolution No. R-628-08

Subject: Resolution Authorizing the Execution of an Interlocal Agreement between the City of Florida City and the Miami-Dade County Stormwater Utility for Stormwater Management

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Recommendation
It is recommended that the Board of County Commissioners approve the attached resolution authorizing the execution of an interlocal agreement for stormwater management between the City of Florida City ("Florida City") and the Miami-Dade County Stormwater Utility ("the Utility"), a public body corporate and politic. The agreement establishes relationships and responsibilities for operation and maintenance of stormwater systems shared by Florida City and Miami-Dade County.

Scope
Florida City is located in Commission District 9.

Fiscal Impact/Funding Source
Under this agreement, Florida City shall partially reimburse the Utility for canal maintenance and stormwater management work on County-owned stormwater drainage systems that provide a direct benefit to Florida City and its residents. Florida City's estimated reimbursement to the Utility is $24,000 annually. Without this agreement, Miami-Dade County provides the same services without reimbursement.

Track Record/Monitor
The Director of the Department of Environmental Resources Management will monitor this agreement.

Background
On June 18, 1991, the Board of County Commissioners adopted Ordinance 91-66, creating the Miami-Dade County Stormwater Utility and establishing a uniform approach to stormwater management in Miami-Dade County. The municipalities were subsequently given the option to become part of the Utility or to create their own local stormwater utility that provides a dedicated source of stormwater funding in accordance with Section 403, Florida Statutes.

On September 26, 2000, Florida City adopted Ordinance No. 00-01 (Attachment A), creating stormwater management regulations within its City Code with its own stormwater utility as its funding source. On March 25, 2008, Florida City adopted Resolution Number 08-21 (Attachment B), approving the Two (2) Year Interlocal Agreement Between the City of Florida City and the Miami-Dade County Stormwater Utility for Stormwater Management (Attachment C). The proposed interlocal agreement establishes relationships and responsibilities for the operation and maintenance of stormwater systems shared by Florida City and Miami-Dade County.

Assistant County Manager

MEMORANDUM
(Revised)

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

DATE: June 3, 2008

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

SUBJECT: Agenda Item No. 8(D)(1)(G)

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(D)(1)(G)
6-3-08

RESOLUTION NO. **R-628-08**

RESOLUTION AUTHORIZING THE EXECUTION OF AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF FLORIDA CITY AND THE MIAMI-DADE COUNTY STORMWATER UTILITY FOR STORMWATER MANAGEMENT; AND AUTHORIZING THE MAYOR OR HIS DESIGNEE TO EXERCISE THE TERMINATION PROVISIONS THEREIN

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 interlocal agreement between the City of Florida City and the Miami-Dade County Stormwater Utility for stormwater management responsibilities and the use of applicable funds for stormwater management work by the City of Florida City and Miami-Dade County in shared stormwater drainage systems near or within the boundaries of the City of Florida City, in substantially the form attached hereto and made a part hereof; and authorizes the Mayor or his designee to execute same for and on behalf of the Miami-Dade County Stormwater Utility; and to exercise the termination provisions contained therein.

The foregoing resolution was offered by Commissioner Carlos A. Gimenez, who moved its adoption. The motion was seconded by Commissioner Sally A. Heyman 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	absent	Audrey M. Edmonson	absent
Carlos A. Gimenez	aye	Sally A. Heyman	aye
Joe A. Martinez	aye	Dennis C. Moss	aye
Dorrin D. Rolle	absent	Natacha Seijas	absent
Katy Sorenson	aye	Rebeca Sosa	absent
Sen. Javier D. Souto	aye		

The Chairperson thereupon declared the resolution duly passed and adopted this 3rd day of June, 2008. 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.

Peter S. Tell

ATTACHMENT A

ORDINANCE NO. 00-01

AN ORDINANCE OF THE CITY OF FLORIDA CITY, FLORIDA, ESTABLISHING CHAPTER 43, SECTIONS 43-1 THROUGH 43-25 OF THE CODE OF ORDINANCES OF THE CITY OF FLORIDA CITY, TO AUTHORIZE A STORMWATER UTILITY MANAGEMENT PROGRAM, ENUMERATE PURPOSES OF THE PROGRAM, ESTABLISH THE STORMWATER UTILITY SYSTEM, IDENTIFY THE UTILITY'S GOVERNING BODY, DEFINE UTILITY FEES, PROVIDE A BILLING, PAYMENT, AND PENALTY SYSTEM, AND ESTABLISH A FUND TO WHICH STORMWATER UTILITY FEES WILL BE DIRECTED.

WHEREAS, the Federal Government has mandated that local governments assume the responsibility for control and management of stormwater runoff and discharge; and,

WHEREAS, the State of Florida has authorized local governments to assume the responsibility for developing stormwater management programs; and,

WHEREAS, the creation of a stormwater utility program will allow the Mayor and City Commission to regulate the collection of utility fees to sufficiently and appropriately fund the planning, construction, operation, and maintenance of a stormwater system; and,

WHEREAS, the Mayor and City Commission of the City of Florida City has determined that the establishment of a publicly-owned stormwater management system would be in the best interest of the City and its citizens:

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF FLORIDA CITY, FLORIDA as follows:

That Chapter 43 of the Code of Ordinances of the City of Florida City, Florida, be and the same is hereby established and will read as follows:

Chapter 43. STORMWATER UTILITY MANAGEMENT PROGRAM

Article I. In General

Section 43-1. Authority.

The City is authorized by the provisions of Chapter 166 and Section 403.0893 of the Florida Statutes to develop a stormwater management program. The City is further authorized by Section 403.0893, Florida Statutes, to institute stormwater utility fees sufficient to plan, construct, operate, and maintain the stormwater management program established under Section 403.0891(3), Florida Statutes.

The City is authorized by Article IV, Chapter 24, Miami-Dade County Code to create a stormwater management program that complies with the provisions of Sections 403.0891 and 403.0893, Florida Statutes.

Section 43-2. Title.

This chapter shall be known as the City of Florida City Stormwater Utility Ordinance.

Section 43-3. Purpose.

The purpose of this chapter is to implement the provisions of Sections 403.0891 and 403.0893, Florida Statues and Article IV, Chapter 24, Miami-Dade County Code, by creating a municipality-wide stormwater utility and adopting stormwater utility fees sufficient to plan, construct, operate, and maintain the established stormwater management program.

This chapter shall be liberally construed to protect the public health, safety, and welfare and to effectuate the purposes set forth herein.

Section 43-4. Effective Area.

The provisions of this chapter shall be effective throughout the incorporated area of the City.

Secs. 43-5 through 43-10. Reserved.

Article II. Establishment of Stormwater Utility

Section 43-11. Creation of Stormwater Utility.

There is hereby created and established a city-wide stormwater utility implementing the provisions of Section 403.0893(1), Florida Statutes, and Article IV, Chapter 24, Miami-Dade County Code, which shall be named and known as the City of

Florida City Stormwater Utility (hereinafter called the "utility"). The utility shall be a public body corporate and politic.

Section 43-12. Organization of Utility.

(a) The governing body of the utility shall be the City Commission of the City of Florida City.

(b) The utility, acting through its governing body, shall be responsible for the planning, construction, operation, and maintenance of the stormwater management programs established in the local program required pursuant to Section 403.0891(3), Florida Statutes. The governing body may create by ordinance one (1) or more districts and subdistricts within the service area of the utility.

(c) The director of the City's public works department shall be the director of the utility, subject to the supervision of the Mayor.

(d) The organization and operating procedures of the utility shall be prescribed by administrative orders and regulations of the Mayor. The Mayor shall appoint such employees as may be necessary to operate the utility.

Secs. 43-13 through 43-20. Reserved.

Article III. Utility Fees.

Section 43-21. Establishment of Fees.

(a) The City of Florida City Stormwater Utility is hereby authorized and directed to establish, assess, and collect stormwater utility fees upon all residential developed property and all nonresidential developed property within the City Limits, sufficient to plan, construct, operate, and maintain stormwater management systems set forth in the local program required pursuant to Section 403.0891(3), Florida Statutes. Such fees shall be established and adjusted annually by resolution based upon the projected annual operating and capital improvement budgets for the utility.

(b) An Equivalent Residential Unit (ERU) is hereby defined as 1,250 square feet of horizontal impervious area.

(c) Impervious area is hereby defined as any part of any parcel of land that has been modified to reduce the land's natural ability to absorb and hold rainfall.

(d) Each property developed for use as a single-family residential dwelling shall be considered as one (1) ERU and will be assessed a stormwater utility fee based on the ERU rate.

(e) Each unit of a duplex residential dwelling shall be considered as one (1) ERU and will be assessed a stormwater utility fee based on the ERU rate.

(f) Each multi-family and nonresidential developed property shall be assessed a stormwater utility fee calculated by dividing the total horizontal impervious area by a single ERU equivalent of one thousand two hundred fifty (1,250) square feet, rounded to the nearest one-tenth of an ERU, and multiplied by the current fee amount for one (1) ERU as established by resolution. The minimum fee amount to be applied to multi-family and non-residential developed property shall be based on two (2) ERU's.

Section 43-22. Billing, Payment, and Penalties.

(a) Bills or statements for the stormwater utility fee shall be rendered monthly, in accordance with the regular utility billing cycle of the City by the Finance Department for all properties subject to the fee.

(b) Payment of the stormwater utility fee may be made at the same time, in the same manner, and subject to the same penalties, as set forth in Section 58-56 for water services and in Section 58-135 for sewer service, both sections being a part of Chapter 58, Code of Ordinances, City of Florida City, Florida.

Section 43-23. Stormwater Utility Fund.

All fees collected pursuant to the stormwater utility management program shall be deposited into a separate City fund. This fund will be maintained for the exclusive use of the City of Florida City Stormwater Utility, including, but not limited to, the following:

(a) Stormwater utility services, such as studies, design services, permit reviews, plan preparations, and development reviews.

(b) Operation, maintenance, repair, and replacement of the stormwater collection, storage, treatment, and conveyance infrastructure.

(c) Project costs related to the construction of major or minor structural improvements in the stormwater related infrastructure as provided in the City of Florida City Stormwater Utility.

(d) Administrative costs associated with the management of the City of Florida City Stormwater Utility.

(e) Debt service incurred for the financing of stormwater-related capital improvements.

(f) Funding of studies associated with the planning of stormwater-related infrastructure.

Secs. 43-24 through 43-25 Reserved.

PASSED and ADOPTED BY THE Mayor and City Commission of the City of Florida City, Florida this 26th day of September, 2000.

OTIS T. WALLACE, MAYOR

ATTEST:

ELIZABETH A. SEWELL, CITY CLERK

Second reading September 26, 2000

Third reading September 26, 2000

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

I, Jennifer A. Walker City Clerk
Of the City of Florida City, Florida do hereby certify that the above and foregoing is a true and correct copy of the original thereof on file in this office.
WITNESS, my hand and the seal of said City
this 16th day of April AD 20 08
By:

ATTACHMENT B

RESOLUTION No: 08-21

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FLORIDA CITY, FLORIDA, APPROVING A TWO (2) YEAR STORMWATER UTILITY INTERLOCAL AGREEMENT BETWEEN THE CITY OF FLORIDA CITY AND THE MIAMI-DADE COUNTY STORMWATER UTILITY AND AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 403.0893, Florida Statutes, authorizes the establishment of a Stormwater Utility, [hereinafter referred to as the "UTILITY"] to plan construct, operate, and maintain Stormwater Management Systems; and

WHEREAS, the Board of County Commissioners of Miami-Dade County, did, by adoption of Miami-Dade County Ordinances No. 91-66 and Ordinance No. 91-120, as amended by Ordinance Nos. 92-44 and 92-86, create a Stormwater Utility and which UTILITY may, operate within a municipality or municipalities; and

WHEREAS, it is the intent of the UTILITY and the CITY, through the attached Interlocal Agreement, to establish relationships and responsibilities for the operation, maintenance, costs as well as the benefits of a shared stormwater system; and

WHEREAS, the City Commission has determined that it is in the best interest of the City to enter into the Interlocal Agreement with the County for these purposes; and

NOW, THEREFORE BE IT RESOLVED BY THE MAYOR AND THE CITY COMMISSION OF THE CITY OF FLORIDA CITY, FLORIDA THAT:

SECTION 1: The Interlocal Agreement between the City of Florida City and the Miami-Dade County Stormwater Utility for stormwater management attached hereto as Exhibit "A" is hereby approved and adopted.

SECTION 2: The Mayor is hereby authorized to execute the Interlocal Agreement and to do all things necessary to carry out the City's responsibilities under the terms of the Agreement.

SECTION 3: All resolutions or parts of resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

SECTION 4: This Resolution shall take effect immediately upon adoption by the City Commission and Miami-Dade County.

RESOLUTION NO: 08-21

PASSED AND ADOPTED by the Mayor and Commission of the City of Florida City on the 25th Day of March******** , 2008.

OTIS T. WALLACE, MAYOR

ATTEST:

JENNIFER A. EVELYN, CITY CLERK

Approved as to form and legal sufficiency:

REGINE MONESTIME, CITY ATTORNEY

Offered By: Mayor

Motion to adopt by Comm. Berry seconded by Comm. Butler

FINAL VOTE AT ADOPTION

Mayor Otis T. Wallace	Yes
Vice Mayor Daurell Dorsett	Yes
Commissioner Eugene D. Berry	Yes
Commissioner Sharon Butler	Yes
Commissioner R.S. Shiver	Absent

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

I, Jennifer A. Evelyn City Clerk of the City of Florida City, Florida do hereby certify that the above and foregoing is a true and correct copy of the original thereof on file in this office. WITNESS, my hand and the seal of said City this 16th day of April AD 20 08

By:

MIAMI-DADE COUNTY. FLORIDA

ATTACHMENT C

TWO (2) YEAR INTERLOCAL AGREEMENT

Between

THE CITY OF FLORIDA CITY
AND
THE MIAMI-DADE COUNTY
STORMWATER UTILITY
FOR
STORMWATER MANAGEMENT

MIAMI-DADE COUNTY
STORMWATER UTILITY (305) 372-6656
701 NORTHWEST FIRST COURT, SUITE 400
MIAMI, FL 33136

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TWO (2) YEAR
INTERLOCAL AGREEMENT
BETWEEN
THE CITY OF FLORIDA CITY
AND
THE MIAMI-DADE COUNTY STORMWATER UTILITY
FOR
STORMWATER MANAGEMENT

THIS TWO (2) YEAR INTERLOCAL AGREEMENT, [the "Agreement"] by and between the Miami-Dade County Stormwater Utility, a public body corporate and politic, through its governing body, the Board of County Commissioners of Miami-Dade County, Florida [hereinafter sometimes referred to as "UTILITY",] and the City of Florida City, a public body corporate and politic, through its governing body, the Florida City Commission of the City of Florida City, Florida [hereinafter sometimes referred to as "CITY",] is entered into as follows:

WITNESSETH

WHEREAS, Section 403.0893, Florida Statutes, authorizes the establishment of stormwater utilities to plan, construct, operate, and maintain stormwater management systems; and

WHEREAS, the Board of County Commissioners of Miami-Dade County, did, by adoption of Miami-Dade County Ordinances No. 91-66 and Ordinance No. 91-120, as amended by Ordinance Nos. 92-44 and 92-86, create a stormwater utility [hereinafter referred to as the "UTILITY",] and which UTILITY may, operate within a municipality or municipalities; and

WHEREAS, it is the intent of the UTILITY and the CITY, through this Agreement, to establish relationships and responsibilities for maintenance of shared stormwater systems by the CITY and the UTILITY; and

WHEREAS, the UTILITY and the CITY recognize that there are operating costs, as well as benefits, associated with maintaining shared stormwater drainage systems; and

WHEREAS, the UTILITY and the CITY want to share these costs in proportion to the drainage area the service provided and the benefits received,

Now, therefore, in consideration of the mutual promises and covenants contained herein and the mutual benefits to be derived from this Agreement, the parties hereto agree as follows:

ARTICLE I
PURPOSES

The UTILITY and the CITY enter into this Agreement to further the following purposes:

(1) to protect and promote the public health, safety, and general welfare through the management of stormwater run-off;

(2) to maintain and improve water quality and preserve and enhance the environmental quality of the receiving waters;

(3) to control flooding that results from rainfall events;

(4) to deter unmanaged rainwater from eroding sandy soils and causing sedimentation;

(5) to deter the disruption of the habitat of aquatic plants and animals;

(6) to promote intergovernmental cooperation in effectively and efficiently managing stormwater run-off;

(7) to maintain and repair shared stormwater systems located within the limits of the drainage service areas in accordance with the approved plans. These include maintaining canals, and any required maintenance of flow control structures and stormwater pump stations and their mechanical and electrical components; maintaining stormwater systems as determined by conditions of the system and the level of service established.

(8) to provide a mechanism for the UTILITY and the CITY to share and allocate the cost of maintaining and repairing shared stormwater drainage systems as stated in (7), above.

ARTICLE II
DEFINITIONS

Agreement shall mean this document, including any written amendments, attachments, and other written documents, which are expressly incorporated by reference.

Stormwater Management Plans shall mean stormwater management plans developed by both the CITY and by the UTILITY, to meet the required level of service as established in their respective stormwater management programs or master plan pursuant to Florida Statute 403.0891.

City Stormwater Utility Budget shall mean the CITY's developed and approved fiscal year budget which includes a component for stormwater management of its drainage system, including capital and operating outlays necessary to maintain the level of service established in the CITY's Stormwater Management Plans.

Utility Stormwater Budget shall mean the UTILITY's developed and approved fiscal year budget for stormwater management of its drainage system, including capital and operating outlays necessary to maintain the level of service established in the Utility's Approved Plans.

Shared Stormwater Drainage System shall mean that portion of the drainage system owned by either the CITY or the UTILITY to which both the CITY and the UTILITY contribute stormwater runoff and which is identified in Attachment "A".

Costs allocable to the CITY shall mean those portions of the actual maintenance and operating outlays budgeted by the UTILITY in its yearly budget process, which are allocated to the CITY based on the CITY's relative stormwater runoff contribution to the shared portion of the stormwater drainage system of the UTILITY and are identified in Attachment "B".

Costs allocable to the Utility shall mean those portions of the actual maintenance and operating outlays budgeted by the CITY in its yearly budget process, which are allocated to the UTILITY based on the UTILITY's relative stormwater runoff contribution to the shared portion of the stormwater drainage system of the CITY and are identified in Attachment "B".

Operating Outlays shall mean expenses budgeted by the CITY and the UTILITY which are actual expenses incurred in each fiscal year, which due to their nature are considered reoccurring expenses to sustain yearly stormwater drainage operations.

Capital Outlays shall mean expenses budgeted by the CITY and the UTILITY which are actual expenses incurred in each fiscal year, which due to their nature are considered non-reoccurring and producing a long term benefit to the users. The yearly charges allocable to the CITY or to the UTILITY shall be that amount prorated, plus interest charges and administrative fees, for no longer than the calculated useful life of the capitalized item in no case exceeding 20 years. A separate Interlocal Agreement is required for any approved Capital Outlays that may be amortized beyond the life of this Agreement.

Fiscal Year shall mean the period beginning on October 1 and ending on September 30 of the following year.

Force Majeure shall mean an act of God, epidemic, lightning, earthquake, fire, explosion, hurricane, flood or similar occurrence, strike, an act of a public enemy, or blockade, insurrection, riot, general arrest or restraint of government and people, civil disturbance or similar occurrence, which has had or may reasonably be expected to have a material adverse effect on the rights or obligations under this Agreement, and which, by the exercise of due diligence, such parties shall not have been able to avoid. Such acts or events DO NOT INCLUDE inclement weather (except as noted above) or the acts or omissions of subcontractors, third-party contractors, material men, suppliers, or their subcontractors, unless such acts or omissions are otherwise encompassed by the definition set forth above.

Maintenance is defined by, and limited to, the tasks listed in the Attachment B.

Project Manager shall mean the persons designated by the CITY and by the UTILITY to serve as the representative of each for the purposes of exchanging communications and to issue and receive directives pursuant to and within the powers provided under this Agreement.

Written notice shall mean written communication to and from the Project Managers.

ARTICLE III
STATEMENT OF WORK

The CITY AND the UTILITY shall fully and timely perform all work tasks described in this Statement of Work:

The CITY shall maintain and repair shared stormwater systems located within the limits of the drainage service areas in accordance with this Agreement and the CITY's stormwater management plan. Specifically, the CITY shall perform flat and slope mowing, and aesthetic debris removal within CITY boundaries on the canal. Flat and slope mowing must be performed at or above the Level of Service provided by the UTILITY or no less than four (4) cycles per year. The CITY must provide an end of fiscal year report to the UTILITY that includes the dates of performance of such work and the actual cost of the work. If approved by the UTILITY, a credit for actual work shall be issued to the CITY. However, said credit shall not exceed the annual credit total ($12,971) depicted in Attachment "B" of this Agreement.

The UTILITY shall maintain, repair and enhance shared stormwater management systems located within the limits of the drainage service areas in accordance with the Attachment "A". The UTILITY shall not perform any flat and slope mowing, and aesthetic debris removal within CITY boundaries on both canals. Additionally, the UTILITY shall not perform any mechanical treatments on both canals based on historical information and the recent dredging activities. However, if deemed necessary by the UTILITY, based on field inspections, mechanical treatments will be performed and this Agreement shall be revised accordingly to include such tasks and their associated costs.

The CITY's relative stormwater runoff contribution to the UTILITY's shared drainage system and the UTILITY's relative stormwater runoff contribution to the shared drainage system is depicted in Attachment "A".

ARTICLE IV
TERM OF THE AGREEMENT

The term of this Agreement shall be for a period of two (2) years commencing on October 1, 2007 and ending on September 30, 2009, provided, however, either party may terminate this Agreement without cause prior to the expiration date upon one (1) year's advance written notice to the other party of its decision to terminate this Agreement. Maintenance costs incurred by the UTILITY, prior to the Board of County Commissioners' approval of this Agreement, shall not be reimbursed to the UTILITY by the CITY.

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ARTICLE V
CITY AND UTILITY RESPONSIBILITIES

A. Upon the request of either the CITY or the UTILITY, each shall share information in matters related to operations, maintenance, design and construction costs and cost allocation determinations associated with shared drainage systems.

B. The CITY and the UTILITY shall provide notice to each other, as provided, in this Agreement designating their respective Project Manager. Each shall promptly notify each other of any change in the Project Manager designation by written notice as specified in this Agreement.

C. If necessary, prior to each fiscal year, the CITY will provide the UTILITY and the UTILITY will provide the CITY with a summary of shared maintenance costs on shared drainage systems. For ensuing fiscal years the CITY's and the UTILITY's estimated costs showing the shared costs allocation shall be available and transmitted to each other by March 1 of each year.

D. Commencing with fiscal year 2007-2008, the costs allocable to the CITY and the costs allocable to the UTILITY based on the relative stormwater runoff contribution to each other's shared portion of the stormwater drainage systems are included in this Agreement and presented as described in Attachment "B". Estimated total expenditures for the two (2) year term of this Agreement is also included and shall not be exceeded. Modifications to Attachment "B" due to CITY annexations or otherwise shall require Board of County Commissioners' approval. All shared costs are subject to review during the CITY's and UTILITY's preliminary budget process and may be accepted by the CITY and the UTILITY and are to be finalized by April 1 of each year.

These costs shall be the minimum estimated costs necessary to accomplish the functions of the CITY and the UTILITY pertaining to the shared stormwater drainage systems.

F. Upon mutual written agreement of the parties' respective Project Managers, the tasks and levels of service set forth in Attachment B may be adjusted due to prevailing environmental conditions or maintenance needs, provided that the total annual estimated expenditures are not exceeded.

G. Payments by the CITY are to be made within 30 days after the bill presentation. In the event of a dispute on the paid amount, the CITY may notify the UTILITY of the nature of the dispute and the UTILITY shall make arrangements for the pertinent records to be made available for inspection by the CITY, as indicated under Article V (H) of this Agreement. The UTILITY shall reimburse the CITY for any amounts determined to have been overpaid by the CITY within 30 days after verification of the overpayment.

H. The CITY and the UTILITY shall maintain financial records for 5 years pertaining to this Agreement, and shall make them available within reasonable time after requesting them for inspection and copying by either the CITY or the UTILITY, at the place where the records are maintained.

I. The CITY and the UTILITY shall each be responsible for procuring independently all necessary permits in the performance of their respective work under this Agreement.

J. The CITY and the UTILITY shall each comply with all applicable regulations, ordinances and laws in effect in the performance of this Agreement.

ARTICLE VI
COMPENSATION/CONSIDERATION

A. It is the intent and understanding of the parties that this Agreement is solely for the CITY and the UTILITY. No person or entity other than the CITY or the UTILITY shall have any rights or privileges under this Agreement in any capacity whatsoever, either as a third-party beneficiary or otherwise.

ARTICLE VII
DEFAULT

CITY Event of Default

Without limitation, the failure by the CITY to substantially fulfill any of its material obligations in accordance with this Agreement, unless such failures are justified by Force Majeure, shall constitute a "CITY event of default". The UTILITY will not be required to provide one year prior notice as required under Article IV before terminating for default. The UTILITY may terminate immediately after issuing written notice of default.

If a CITY event of default should occur, the UTILITY shall have all of the following cumulative and independent rights and remedies:

1. The right to declare that this Agreement together with all rights granted to CITY are terminated, effective upon such date as is designated by the UTILITY.

2. Any and all rights and remedies provided under federal laws and the laws of the State of Florida.

UTILITY Event of Default

Without limitation, the failure by the UTILITY to substantially fulfill any of its material obligations in accordance with this Agreement, unless such failures are justified by Force Majeure, shall constitute a "UTILITY event of default". The CITY will not be required to provide one year prior notice as required under Article IV before terminating for default. The CITY may terminate immediately after written notice of default.

If a UTILITY event of default should occur, the CITY shall have all of the following cumulative and independent rights and remedies:

1. The right to declare that this Agreement together with all rights granted to UTILITY are terminated, effective upon such date as is designated by the CITY.

2. Any and all rights and remedies provided under federal laws and the laws of the State of Florida.

ARTICLE VIII
GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. The UTILITY and the CITY agree to submit to service of process and jurisdiction of the State of Florida for any controversy or claim arising out of or relating to this Agreement or a breach of this Agreement. Venue for any court action between the parties for any such controversy arising from or related to this Agreement shall be in the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, or in the United States District Court for the Southern District of Florida, in Miami-Dade County, Florida.

ARTICLE IX
ENTIRETY OF AGREEMENT

This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained in this Agreement. The parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this Agreement, and that this Agreement contains the entire agreement between the parties as to all matters contained herein. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that any oral representations or modifications concerning this Agreement shall be of no force or effect, and that this Agreement may be modified, altered or amended only by a written amendment duly executed by both parties hereto or their authorized representatives.

ARTICLE X
HEADINGS

Captions and headings in this Agreement are for ease of reference only and do not constitute a part of this Agreement and shall not affect the meaning or interpretation of any provisions herein.

ARTICLE XI
RIGHTS OF OTHERS

Nothing in this Agreement expressed or implied is intended to confer upon any person other than the parties any rights or remedies under or by reasons of this Agreement.

ARTICLE XII
REPRESENTATION OF CITY

The CITY represents that this Agreement has been duly authorized, executed and delivered by the CITY Commission of the CITY of Florida City, as the governing body of the CITY and it has the required power and authority to perform this Agreement and has granted the CITY Mayor the required power and authority to perform this Agreement.

ARTICLE XIII
REPRESENTATION OF UTILITY

The UTILITY represents that this Agreement has been duly approved, executed and delivered by the Board of County Commissioners, as the governing body of the UTILITY, and it has granted the Miami-Dade County Mayor or his designee the required power and authority to perform this Agreement.

ARTICLE XIV
WAIVER

There shall be no waiver of any right related to this Agreement unless in writing and signed by the party waiving such right. No delay or failure to exercise a right under this Agreement shall impair such right or shall be construed to be a waiver thereof. Any waiver shall be limited to the particular right so waived and shall not be deemed a waiver of the same right at a later time or of any other right under this Agreement.

ARTICLE XV
INVALIDITY OF PROVISIONS, SEVERABILITY

Wherever possible, each provision of the Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement, provided that the material purposes of this Agreement can be determined and effectuated.

ARTICLE XVI
INDEPENDENT CONTRACTOR

CITY shall perform all work and services described as an independent contractor and not as an officer, agent, servant, or employee of the UTILITY. CITY shall have control of the work performed in accordance with the terms of this Agreement and of all persons performing the same, and CITY shall be responsible for the acts and omissions of its officers, agents, employees, contractors, and subcontractors, if any.

UTILITY shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant, or employee of the CITY. UTILITY shall have control of the work performed in accordance with the terms of this Agreement and of all persons performing the same, and UTILITY shall be responsible for the acts and omissions of its officers, agents, employees, contractors, and subcontractors, if any.

Nothing in this agreement shall be construed as creating a partnership or joint venture between the UTILITY and the CITY.

ARTICLE XVII
INDEMNIFICATION

CITY shall indemnify and hold harmless MDC and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which MDC or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the CITY or its employees, agents, servants, partners principals or subcontractors. CITY shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of MDC, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. CITY expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by CITY shall in no way limit the responsibility to indemnify, keep and save harmless and defend MDC or its officers, employees, agents and instrumentalities as herein provided.

MDC does hereby agree to indemnify and hold harmless CITY to the extent and within the limitations of Section 768.28, Fla. Stat., subject to the provisions of that Statute whereby MDC shall not be held liable to pay a personal injury or property damage claim or judgment by any one person which exceeds the sum of $100,000, or any claim or judgments of portions thereof, which, when totaled with all other occurrences, exceeds the sum of $200,000, from any and all personal injury or property damage claims, liabilities, losses and causes of action which may arise solely as a result of the negligence of MDC. However, nothing herein shall be deemed to indemnify CITY from any liability or claim arising out of the negligent performance or failure of performance of CITY or any unrelated third party.

IN WITNESS THEREOF, the parties through their duly authorized representatives hereby execute this Agreement with a commencement date of October 1, 2007.

Attest:

City Clerk Date

4/1/08

CITY OF FLORIDA CITY, FLORIDA
404 West Palm Drive
Florida City, FL 33034

Authorized signature on behalf
of the City of Florida City, Florida.

By: _____ 4-1-08
Hon. Otis Wallace Date
City Mayor

MIAMI-DADE COUNTY, FLORIDA

By: _____ _____
Hon. Carlos Alvarez Date
County Mayor

For the Board of County Commissioners, Miami-Dade County, Florida, as Governing Body of the Miami-Dade County Stormwater Utility.

Stephen P. Clark Center
111 N.W. 1st. Street
Miami, Florida 33128

HARVEY RUVIN, CLERK

Attest:

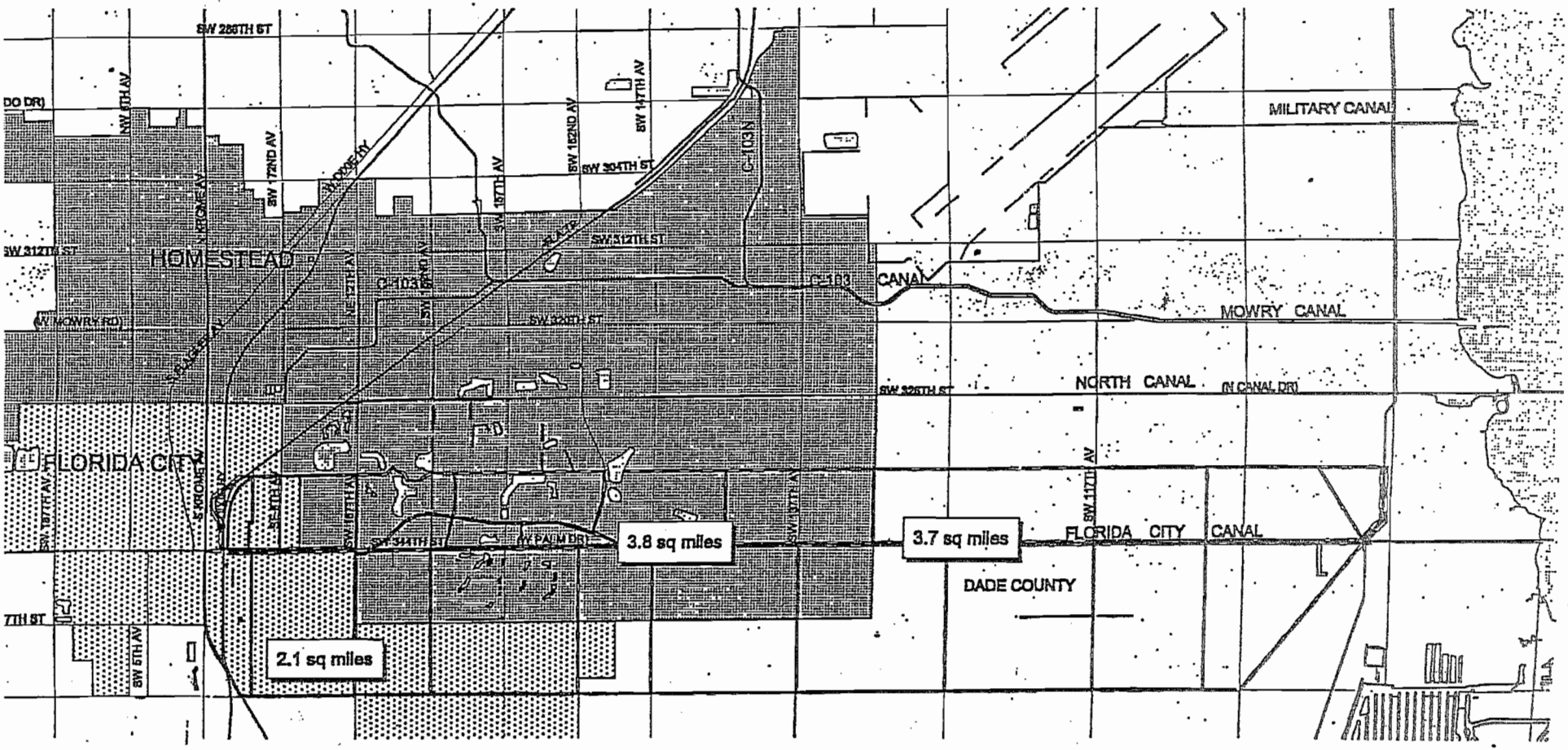
By: _____ _____
Deputy Clerk Date

ATTACHMENT "A"

Drainage Basin Study and % Share

(see attached Exhibit)

CITY OF FLORIDA CITY CANALS AND DRAINAGE AREAS.



Legend:

- Florida City Canal Basin
- City Of Florida City
- City Of Homestead

0.0 0 0.8 1.6 2.4 Miles

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ATTACHMENT "A"

CITY OF FLORIDA CITY
CANAL DRAINAGE AREAS % SHARE

CANAL	DRAINAGE AREAS (SQ MILES)	% SHARE
FLORIDA CITY CANAL		
1. City of Florida City	2.1	18%
2. City of Homestead	3.8	33%
3. Miami-Dade County	5.7	49%

ATTACHMENT "B"

Two (2) Year Cost Share Table

(see attached exhibit)

ATTACHMENT "B"

CITY OF FLORIDA CITY
Canal Maintenance Costs FY 2007/08 - 2008/2009

Culvert Cleaning - Above Water

Culverts Qty.	Canal	Cycles per Year 1	2	3	4	% Share	COST
24	Florida City Canal	$4,704	$9,408	$14,112	$18,816	18%	$1,693
	sub-total	$4,704	$9,408	$14,112	$18,816		$1,693

Cost Share at Current Level of Service $1,693

Culvert Cleaning - Below Water

Culverts Qty.	Canal	Cycles per Year 1	2	3	4	% Share	COST
24	Florida City Canal	$11,088	$22,176	$33,264	$44,352	18%	$1,996
	sub-total	$11,088	$22,176	$33,264	$44,352		$1,996

Cost Share at Current Level of Service $1,996

Mechanical Treatment (None proposed due to recent dredging)

Canal Acres	Canal	Cycles per Year 1	2	3	4	% Share	COST
45	Florida City Canal	$78,255	$156,510	$234,765	$313,020	18%	$0
	sub-total	$78,255	$156,510	$234,765	$313,020		$0

Cost Share at Current Level of Service $0

Chemical Treatment

Canal Acres	Canal	Cycles per Year 1	2	3	4	% Share	COST
54	Florida City Canal	$10,908	$21,816	$32,724	$43,632	18%	$7,854
	sub-total	$10,908	$21,816	$32,724	$43,632		$7,854

Cost Share at Current Level of Service $7,854

Obstruction Removal

Obstruction Hrs.	Canal	Cycles per Year 1	2	3	4	% Share	COST
4	Florida City Canal	$688	$1,376	$2,064	$2,752	18%	$124
	sub-total	$688	$1,376	$2,064	$2,752		$124

Cost Share at Current Level of Service $124

Mowing - Flat

Canal Acres	Canal	Cycles per Year 1	2	3	4	% Share	COST
22.5	Florida City Canal	$5,805	$11,610	$17,415	$23,220	18%	$4,180
	sub-total	$5,805	$11,610	$17,415	$23,220		$4,180

Maximum Credit Amount Due Florida City $4,180

ATTACHMENT "B"

CITY OF FLORIDA CITY
Canal Maintenance Costs FY 2007/08 - 2008/2009

Mowing - Slope

Canal Acres	Canal	Cycles per Year 1	2	3	4	% Share	COST
27.5	Florida City Canal	$12,210	$24,420	$36,630	$48,840	18%	$8,791
	sub-total	$12,210	$24,420	$36,630	$48,840		$8,791

Maximum Credit Amount Due Florida City $8,791

Debris

Culverts Hrs.	Canal	Cycles per Year 1	2	3	4	% Share	COST
4	Florida City Canal	$504	$1,008	$1,512	$2,016	18%	$91
	sub-total	$504	$1,008	$1,512	$2,016		$91

Aesthetic Debris Cleaning function is performed on an as needed basis. Due to lack of Historical Data only 1 cycle is predicted.

Cost Share at Current Level of Service $91

TOTAL ANNUAL COST (Florida City Canal)		$137,380
MDC UTILITY ANNUAL SHARE BEFORE TASK ADJUSTMENT		$112,652
MDC UTILITY TASK ADJUSTMENT (No Mowing Flat & Slope in Florida City)		($12,971)
MDC UTILITY ANNUAL SHARE AFTER TASK ADJUSTMENT		$99,681
CITY OF FLORIDA CITY ANNUAL BEFORE CREDIT		$24,728
CITY OF FLORIDA CITY CREDIT TOTAL (Mowing Flat & Slope in Florida City)		($12,971)
CITY OF FLORIDA CITY ANNUAL SHARE AFTER CREDIT		$11,757
CITY OF FLORIDA CITY 2-YEAR SHARE BEFORE CREDIT	**Agreement Amount**	**$49,456.80**
CITY OF FLORIDA CITY 2-YEAR SHARE WITH MAXIMUM CREDIT ALLOWED		**$23,515**

Notes: Costs provided by Miami-Dade County Public Works Department

Level of Service for Mechanical Treatment reduced to zero due to recent canal dredging activities. If deemed necessary by the UTILITY mechanical treatments will be performed and this Agreement shall be revised accordingly to include such tasks and their associated costs.

Flat and Slope mowing to be performed by Florida City, within City boundaries, a minimum of 4 cycles/year at no cost to the County. Reports with dates, tasks, and actual costs must be presented to receive any credit as stipulated in Article III of the Agreement.