

Memorandum



Date: May 3, 2022

To: Honorable Chairman Jose “Pepe” Diaz
and Members, Board of County Commissioners

Agenda Item No. 8(L)(4)

From: Daniella Levine Cava
Mayor

Subject: Resolution Approving Seven Separate Interlocal Agreements for Stormwater Management between the Miami-Dade County Stormwater Utility and Town of Medley, the City of North Miami, the City of Sweetwater, the City of Miami Gardens, the Town of Miami Lakes, the City of Doral, and the Village of Palmetto Bay; Authorizing Execution of the Seven Interlocal Agreements; and Delegating Authority for Execution of Future Agreements, Within Certain Parameters, for a Ten Year Period

Recommendation

It is recommended that the Board of County Commissioners (Board) approve the attached resolution authorizing the execution of seven retroactively starting Interlocal Agreements (collectively, the “Agreements”) for Stormwater Management between the Miami-Dade County Stormwater Utility (Utility) and each of the following seven municipalities: Town of Medley (Medley), the City of North Miami (North Miami), the City of Sweetwater (Sweetwater), the City of Miami Gardens (Miami Gardens), the Town of Miami Lakes (Miami Lakes), the City of Doral (Doral), and the Village of Palmetto Bay (Palmetto Bay). These Agreements, attached as Exhibits 1 through 7 to the resolution, provide for the Utility to be reimbursed for canal maintenance work performed by County staff on various secondary canals that traverse these municipalities. All seven Agreements have a five-year term with effective retroactive start dates of October 1, 2020 or October 1, 2021, and expire on September 30, 2025 or September 30, 2026, respectively.

It is also recommended that the Board delegates authority to the County Mayor or County Mayor’s designee, for a period of 10 years, to execute future Stormwater Maintenance Agreements, within certain parameters, between the Utility and each of above mentioned seven municipalities, as well as the Town of Cutler Bay (Cutler Bay), the City of Florida City (Florida City), the City of Opa-Locka (Opa-Locka), and the City of South Miami (South Miami)

Scope

This resolution authorizes Interlocal Agreements for Stormwater Management within the municipalities of Medley, Sweetwater, Doral, North Miami, Miami Gardens, Miami Lakes, Palmetto Bay, Cutler Bay, Florida City, Opa-Locka, and South Miami. These municipalities are located within Commission Districts 1, 2, 3, 4, 7, 8, 9, 12, and 13.

Fiscal Impact/Funding Source

These various stormwater maintenance agreements provide for the Utility to be reimbursed for canal maintenance work performed by County staff on various secondary canals that traverse the respective municipalities, and there is no negative fiscal impact to the County that would be anticipated from any of these agreements. The total five-year cost of work to be performed by

the County under all seven Agreements (attached as Exhibits 1-7 to the resolution) is \$11,153,020.00, of which the County will be reimbursed up to \$5,835,665.00. The County’s costs are to be funded through the County’s Stormwater Utility fees.

This resolution’s delegation of authority would authorize the County Mayor or County Mayor’s designee to negotiate and execute future stormwater agreements for a period of up to 10 years, within certain parameters, and each such future stormwater agreement with a municipality would provide for a comparable level of reimbursement to the County.

Track Record/Monitor

The Chief of Water Management within the Department of Regulatory and Economic Resources, Division of Environmental Resources Management, Marina Blanco-Pape, P.E., will be responsible for monitoring the proposed Agreements.

Delegation of Authority

In addition to the seven Agreements (Exhibits 1-7) between the Utility and Medley, North Miami, Sweetwater, Miami Gardens, Miami Lakes, Doral, and Palmetto Bay, respectively, this Board has previously approved stormwater maintenance Agreements between the Utility and Cutler Bay, Florida City, Opa-locka, and South Miami. For each of those four municipalities, the most recently approved Board agreement with resolution number, is attached hereto as Exhibits 8 through 11, respectively.

Pursuant to this resolution, the County Mayor or County Mayor's designee would be authorized to execute future stormwater maintenance Agreements between the Utility and each of the above-mentioned 11 municipalities, provided that the future stormwater maintenance agreement is substantially in the form of the prior stormwater maintenance agreement for each respective municipality, as attached in Exhibits 1-11; and that the respective cost share attachment (Attachment A in each respective agreement attached as Exhibits 1-11 to the resolution) remain unchanged. For the list of services and costs (Attachment B in each respective agreement attached as Exhibits 1-11), the County Mayor or County Mayor's designee is authorized to adjust the number of cycles only for any or all of the task tables, provided that the tables otherwise remain consistent with the cost chart (Attachment B in each respective agreement), and that the County Mayor or County Mayor's designee is authorized to increase the municipality's maximum reimbursable costs for any of the cost estimates in the respective Attachment B (as shown in the Exhibits 1-11) by up to 10 percent. This delegation of authority for future stormwater agreements shall only apply for municipalities that have been exempted from the provisions of the Miami-Dade County Stormwater Ordinance by the Board of County Commissioners, or as otherwise provided by Code.

In addition, in the Agreement between the Utility and Miami Lakes attached to the resolution as Exhibit 5, Miami Lakes elected to perform certain canal maintenance tasks itself instead of having the Utility perform such tasks and then having Miami Lakes reimburse the Utility. Should Miami Lakes wish to ask the Utility to perform those tasks as part of a future stormwater maintenance agreement with the Utility, the County Mayor or County Mayor's designee is authorized to add certain canal maintenance tasks to the future stormwater maintenance

agreement with Miami Lakes, provided that such tasks and estimated costs are consistent with respective tables in Exhibit 12, and further, that the County Mayor or County Mayor's designee is also authorized to increase the maximum reimbursable costs for any of the cost estimates shown in Exhibit 12 by up to 10 percent.

Background

On June 18, 1991, the Board adopted Ordinance No. 91-66 (hereinafter, the “Miami-Dade Stormwater Utility Ordinance”), creating the Miami-Dade County Stormwater Utility (Utility) and establishing a County-wide approach to stormwater management. As provided by the Code, the Board has, over time, permitted municipalities to be exempted from the provisions of the Miami-Dade Stormwater Utility Ordinance.

County-owned canals provide drainage and flood protection service countywide, including in municipalities. Municipalities which have been exempted from the Miami-Dade County Stormwater Utility Ordinance, but receive drainage and flood protection service from secondary canals, can share the cost of maintenance for such canals through stormwater management interlocal agreements with the County.

Medley was exempted from the provisions of Ordinance No. 91-66 by the Board on July 21, 1998, via Resolution No. R-866-98. On October 6, 2015, the Board adopted Resolution No. R-860-15, approving the most recent interlocal agreement for stormwater management between Medley and the County that established the responsibilities for the operation, maintenance, and cost-sharing of stormwater systems within Medley’s boundaries. That five-year agreement expired on September 30, 2020, thus requiring a new agreement. Medley signed a new five-year agreement on September 8, 2020, which is attached as Exhibit 1 to the resolution. The estimated total five-year cost of canal maintenance work to be performed by the County on secondary canals which traverse Medley is \$831,000.00, of which Medley will reimburse the County up to \$193,500.00 over the term of this agreement.

North Miami was exempted from the provisions of Ordinance No. 91-66 by the Board on December 2, 1997, via Resolution No. R-1417-97. On December 15, 2015, the Board adopted Resolution No. R-1158-15, approving the most recent interlocal agreement for stormwater management between North Miami and the County that established the responsibilities for the operation, maintenance, and cost-sharing of stormwater systems within North Miami’s boundaries. That five-year agreement expired on September 30, 2020, thus requiring a new agreement. North Miami signed a new five-year agreement on September 30, 2020, which is attached as Exhibit 2 to the resolution. The estimated total five-year cost of canal maintenance work to be performed by the County on secondary canals which traverse North Miami is \$880,020.00, of which North Miami will reimburse the County up to \$492,460.00 over the term of this agreement.

Sweetwater was exempted from the provisions of Ordinance No. 91-66 by the Board on October 3, 2000, via Resolution No. R-1046-00. On February 2, 2016, the Board adopted Resolution No. R-121-16, approving an interlocal agreement for stormwater management between Sweetwater and the County that established the responsibilities for the operation, maintenance, and cost-

sharing of stormwater systems within Sweetwater’s boundaries. That five-year agreement expired on September 30, 2020, thus requiring a new agreement. Sweetwater signed a new five-year agreement on October 8, 2020, which is attached as Exhibit 3 to the resolution. The estimated total five-year cost of canal maintenance work to be performed by the County on secondary canals which traverse Sweetwater is \$1,326,000.00, of which Sweetwater will reimburse the County up to \$340,465.00 over the term of this agreement.

Miami Gardens was exempted from the provisions of Ordinance No. 91-66 by the Board on March 6, 2007, via Resolution No. R-277-07. On November 1, 2016, the Board adopted Resolution No. R-990-16, approving an interlocal agreement for stormwater management between Miami Gardens and the County that established the responsibilities for the operation, maintenance, and cost-sharing of stormwater systems within Miami Gardens’ boundaries. That five-year agreement expired on September 30, 2021, thus requiring a new agreement. Miami Gardens signed a new five-year Agreement on August 11, 2021, which is attached as Exhibit 4 to the resolution. The estimated total five-year cost of canal maintenance work to be performed by the County on secondary canals which traverse Miami Gardens is \$3,060,000.00, of which Miami Gardens will reimburse the County up to \$1,983,870.00 over the term of this agreement.


Miami Lakes was exempted from the provisions of Ordinance No. 91-66 by the Board on October 7, 2003, pursuant to Resolution No. R-1159-03. On March 7, 2017, the Board adopted Resolution No. R-250-17, approving an interlocal agreement for stormwater management between Miami Lakes and the County, that established the responsibilities for the operation, maintenance, and cost-sharing of stormwater systems within Miami Lakes’ boundaries. That five-year agreement expired on September 30, 2021, thus requiring a new agreement. Miami Lakes signed a new five-year Agreement on June 10, 2021, which is attached as Exhibit 5 to the resolution. The estimated total five-year cost of canal maintenance work to be performed by the County on secondary canals which traverse Miami Lakes is \$2,325,000.00, of which Miami Lakes will reimburse the County up to \$794,590.00 over the term of this agreement.

Doral was exempted from the provisions of Ordinance No. 91-66 by the Board on September 8, 2005, via Resolution No. R-988-05. On December 15, 2015, the Board adopted Resolution No. R-1157-15, approving the interlocal agreement for stormwater management between Doral and the County that established the responsibilities for the operation, maintenance, and cost-sharing of stormwater systems within Doral’s boundaries. That five-year agreement expired on September 30, 2020, thus requiring a new agreement. Doral signed a new five-year Agreement on August 13, 2021, which is attached as Exhibit 6 to the Resolution. The estimated total five-year cost of canal maintenance work to be performed by the County on secondary canals which traverse Doral is \$2,691,000.00, of which Doral will reimburse the County up to \$1,990,780.00 over the term of this agreement with Doral.

Palmetto Bay was exempted from the provisions of Ordinance No. 91-66 by the Board on October 1, 2006, via Resolution No. R-1133-06. On November 1, 2016, the Board adopted Resolution No. R-991-16, approving the interlocal agreement for stormwater management between Palmetto Bay and the County that established the responsibilities for the operation, maintenance, and cost-sharing of stormwater systems within Palmetto Bay’s boundaries. That

five-year agreement expired on September 30, 2021, thus requiring a new agreement. Palmetto Bay signed a new five-year Agreement on August 29, 2021, which is attached as Exhibit 7 to the Resolution. The estimated total five-year cost of canal maintenance work to be performed by the County on secondary canals which traverse Palmetto Bay is \$40,000.00, of which Palmetto Bay will reimburse the County up to \$40,000.00 over the term of this agreement.

The attached Agreements are substantially similar to the agreements they are intended to replace, and similar to stormwater management agreements with other municipalities. The seven proposed Agreements were executed on behalf of the respective municipality at different times as some required additional discussions or meetings with municipal officials. Now that all proposed Agreements are received, they are being provided together to consolidate the Board’s review and approval. All seven proposed Agreements have effective dates between October 1, 2020 and October 1, 2021, which is not anticipated to affect canal maintenance activities performed by the County. The County is committed to maintaining the level of service throughout these municipalities as doing so provides regional and localized flood protection; adoption of these agreements is beneficial in that they allow the County to be partially reimbursed for these expenses. During execution of the Agreements, it is understood and expected by the municipalities that the County will continue to provide canal maintenance service which is essential to ensure water flow and flood protection. Municipalities are normally invoiced after December of each year, allowing time to enter field sheets and check data for accuracy from the previous fiscal year. The Fiscal Year 2021 canal maintenance invoicing process began in early December 2021.



Jimmy Morales
Chief Operations Officer



MEMORANDUM
(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: May 3, 2022

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 8(L)(4)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(L)(4)
5-3-22

RESOLUTION NO. _____

RESOLUTION RETROACTIVELY APPROVING SEVEN INTERLOCAL AGREEMENTS FOR STORMWATER MANAGEMENT BETWEEN THE MIAMI-DADE COUNTY STORMWATER UTILITY (“UTILITY”) AND SEVEN MUNICIPALITIES, BY WHICH THE UTILITY WOULD BE REIMBURSED A COMBINED TOTAL OF UP TO \$5,835,665.00 OVER THE FIVE YEAR TERM OF THE AGREEMENTS; APPROVING INTERLOCAL AGREEMENTS BETWEEN THE UTILITY AND THE TOWN OF MEDLEY, THE CITY OF NORTH MIAMI, CITY OF SWEETWATER, THE CITY OF MIAMI GARDENS, THE TOWN OF MIAMI LAKES, CITY OF DORAL, AND THE VILLAGE OF PALMETTO BAY; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR’S DESIGNEE TO EXECUTE THE SEVEN INTERLOCAL AGREEMENTS, AND EXERCISE ANY TERMINATION PROVISIONS AND ALL OTHER RIGHTS CONTAINED THEREIN; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR’S DESIGNEE TO EXECUTE FUTURE STORMWATER AGREEMENTS, WITHIN CERTAIN PARAMETERS, BETWEEN THE UTILITY AND A MUNICIPALITY

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:

Section 1. This Board hereby retroactively approves the seven interlocal agreements for stormwater management between the Miami-Dade County Stormwater Utility and each of the following seven municipalities: (a) the Town of Medley, (b) the City of North Miami, (c) the City of Sweetwater, (d) City of Miami Gardens, (e) the Town of Miami Lakes, (f) the City of Doral, and (g) the Village of Palmetto Bay, all in substantially the form attached respectively as Exhibits 1 through 7 and made a part hereof, which provide for reimbursement by the respective municipalities to the Miami-Dade County Stormwater Utility for stormwater management.

Section 2. This Board hereby authorizes the County Mayor or County Mayor's designee to execute the agreements attached as Exhibits 1 through 7 and exercise any termination provisions and rights contained therein.

Section 3. The Board hereby delegates authority to the County Mayor or County Mayor's designee, for a period of ten years from the effective date of this resolution, to execute future stormwater maintenance agreements between the Utility and each of the seven municipalities listed in section 1 of this resolution, as well as the Town of Cutler Bay, the City of Florida City, the City of Opa-Locka, and the City of South Miami. This delegation of authority is conditioned upon all of the following requirements and limitations: (a) the future stormwater maintenance agreement must be substantially in the form of the prior stormwater maintenance agreement for the respective municipality, as attached in Exhibits 1-11; (b) the respective cost share attachment (Attachment A in each respective agreement attached hereto as Exhibits 1-11) must remain unchanged; (c) for the list of services and costs (Attachment B in each respective agreement attached hereto as Exhibits 1-11), the County Mayor or County Mayor's designee is authorized to adjust only the number of cycles for any or all of the task tables, provided that the tables otherwise remain consistent with the cost chart in Attachment B in each respective agreement (attached hereto as Exhibits 1-11); (d) the County Mayor or County Mayor's designee is authorized to increase the municipality's maximum reimbursable costs for any of the cost estimates in the respective Attachment B (as shown in the Exhibits 1-11) by up to 10 percent; and (e) this delegation of authority for future stormwater agreements shall only apply for municipalities that have been exempted from the provisions of the Miami-Dade County Stormwater Ordinance by the Board of County Commissioners, or as otherwise provided by Code. In addition, with

respect to such future stormwater agreements with the Town of Miami Lakes, the County Mayor or County Mayor's designee is authorized to add certain canal maintenance tasks to the future stormwater maintenance agreement with the Town of Miami Lakes, provided that such tasks and estimated costs are consistent with the respective tables in Exhibit 12, and further, that the County Mayor or County Mayor's designee is also authorized to increase the maximum reimbursable costs for any of the cost estimates shown in Exhibit 12 by up to 10 percent.

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

Jose "Pepe" Diaz, Chairman	
Oliver G. Gilbert, III, Vice-Chairman	
Sen. René García	Keon Hardemon
Sally A. Heyman	Danielle Cohen Higgins
Eileen Higgins	Joe A. Martinez
Kionne L. McGhee	Jean Monestime
Raquel A. Regalado	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared this resolution duly passed and adopted this 3rd day of May, 2022. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.

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

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Abbie Schwaderer-Raurell



**FIVE (5) YEAR
INTERLOCAL AGREEMENT**

between

**THE TOWN OF MEDLEY
AND
THE MIAMI-DADE COUNTY STORMWATER UTILITY
FOR
STORMWATER MANAGEMENT**

MIAMI-DADE COUNTY
STORMWATER UTILITY (305) 372-6688
701 NORTHWEST FIRST COURT, SUITE 500
MIAMI, FL 33136



**INTERLOCAL AGREEMENT
BETWEEN
THE TOWN OF MEDLEY (TOWN)
AND
THE MIAMI-DADE COUNTY STORMWATER UTILITY (UTILITY)
FOR STORMWATER MANAGEMENT**

THIS FIVE (5) 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 TOWN of MEDLEY, a Florida Municipal Corporation, through its governing body, the MEDLEY TOWN Council of the TOWN of MEDLEY, Florida [hereinafter sometimes referred to as "TOWN",] is entered into as follows:

WITNESSETH

WHEREAS, Section 403.0893, Florida Statutes (F.S.), 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 TOWN, through this Agreement, to establish relationships and responsibilities for the maintenance of shared stormwater systems by the TOWN and the UTILITY; and

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

WHEREAS, the UTILITY and the TOWN 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 TOWN 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, depicted on the map in Attachment "A-2", 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, prevailing environmental conditions, and the level of service established.
- (8) to provide a mechanism for the UTILITY and the TOWN 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 TOWN 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.

TOWN Stormwater Utility Budget shall mean the TOWN'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 TOWN'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 TOWN or the UTILITY to which both the TOWN and the UTILITY contribute stormwater runoff and which is further identified in Attachment "A".

Costs allocable to the TOWN 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 TOWN based on the TOWN's relative stormwater runoff contribution to the shared portion of the stormwater drainage system of the UTILITY.

Costs allocable to the Utility shall mean those portions of the actual maintenance and operating outlays budgeted by the TOWN 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 TOWN.

Operating Outlays shall mean expenses budgeted by the TOWN 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 TOWN 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 TOWN 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" or other related stormwater drainage tasks agreed to by both parties' Project Managers.

Project Manager shall mean the persons designated by the TOWN 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 between the Project Managers.

ARTICLE III STATEMENT OF WORK

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

The TOWN shall maintain and repair shared stormwater systems located within the limits of the drainage service areas, depicted on the map in Attachment "A-2", in accordance with this Agreement and the TOWN's stormwater management plan. The TOWN shall be responsible for maintaining aesthetic conditions only on canals and other water bodies within the TOWN's boundary by providing for litter and minor debris removal as needed.

The UTILITY shall maintain, repair, and enhance shared stormwater management systems located within the limits of the drainage service areas in accordance with Attachment "A" and Attachment "B".

The TOWN'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 five (5) years commencing on October 1, 2020 and ending on September 30, 2025, 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.

ARTICLE V TOWN AND UTILITY RESPONSIBILITIES

A. Upon the request of either the TOWN 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 TOWN 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. Commencing with Fiscal Year 2021, and after approval of the Agreement, the costs allocable to the TOWN 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 five (5) year term of this Agreement are also included and shall not be exceeded.

D. The tasks and levels of service set forth in Attachment "B" may be adjusted by the UTILITY due to prevailing environmental conditions, maintenance needs, or ownership, provided that the total annual estimated expenditures are not exceeded. The TOWN may also request modifications to the tasks or level of services set forth in Attachment "B". Any such work requested by the TOWN shall commence within reasonable time after the request has been made to the UTILITY. If the tasks and level of service must be adjusted in such a manner that the annual estimated expenditure will be exceeded in any given year, then approval by both parties' Project Managers must be obtained. However, the total five-year cost of the Agreement shall not be exceeded.

E. Payments by the TOWN are to be made within 30 days after the bill presentation. In the event of a dispute on the billed amount, the TOWN 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 TOWN, as indicated under Article V (H) of this Agreement. Upon resolution of the dispute, payments by the TOWN are to be made within 30 days. In the event of an overpayment by the TOWN, the UTILITY shall reimburse the TOWN within 30 days after verification of the overpayment by the UTILITY.

F. The TOWN and the UTILITY shall maintain financial records pertaining to this Agreement for 5 years after the expiration of this Agreement, and shall make them available for inspection and copying at the place where the records are maintained within a reasonable time after receiving a records request.

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

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

I. If requested, the UTILITY will provide a tentative yearly maintenance schedule at the beginning of each fiscal year. As an update to the yearly maintenance schedule, the UTILITY will coordinate (via e-mail or telephone) with the TOWN within 48 hours prior to commencing work in the TOWN. The UTILITY contact for maintenance activities will be the Chief of Miami-Dade County Department of Transportation and Public Works - Road, Bridge, and Canal Maintenance Division.

**ARTICLE VI
COMPENSATION/CONSIDERATION**

A. It is the intent and understanding of the parties that this Agreement is solely for the TOWN and the UTILITY. No person or entity other than the TOWN 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**

TOWN Event of Default

Without limitation, the failure by the TOWN to substantially fulfill any of its material obligations in accordance with this Agreement, unless such failures are justified by Force Majeure, shall constitute a "TOWN event of default". The UTILITY shall not be required to provide one year prior notice as required under Article IV before terminating this Agreement for default. If the UTILITY determines that a TOWN event of default has occurred, the UTILITY shall provide written notice of such default to the TOWN and allow the TOWN a thirty (30) calendar day period to rectify the "TOWN event of default".

In the event that the UTILITY determines that the TOWN event of default has not been rectified, the UTILITY shall have the right to terminate the Agreement with the following cumulative and independent rights and remedies:

1. The right to declare that this Agreement together with all rights granted to the TOWN 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 TOWN shall not be required to provide one year prior notice as required under Article IV before terminating this Agreement for default. If the TOWN determines that a UTILITY event of default has occurred, the TOWN shall provide written notice of such default to the UTILITY and allow the UTILITY a thirty (30) calendar day period to rectify the "UTILITY event of default".

In the event that the TOWN determines that the UTILITY event of default has not been rectified, the TOWN shall have the right to terminate the Agreement with the following cumulative and independent rights and remedies:

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

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 TOWN 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

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 hereto any rights or remedies under or by reasons of this Agreement.

ARTICLE XII REPRESENTATION OF TOWN

The TOWN represents that this Agreement has been duly authorized, executed and delivered by the TOWN Council of the TOWN of MEDLEY, as the governing body of the TOWN and it has the required power and authority to perform this Agreement and has granted the TOWN Mayor or the TOWN Mayor's Designee 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 the Mayor's 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 this 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**

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

The UTILITY shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant, or employee of the TOWN. 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 TOWN.

ARTICLE XVII INDEMNIFICATION


The TOWN shall indemnify and hold harmless the UTILITY and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorney's fees and costs of defense, which the UTILITY 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 TOWN or its employees, agents, servants, partners, principals or subcontractors. TOWN 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 the UTILITY, where applicable, including appellate proceedings, and shall pay all costs, judgements and attorney's fees which may issue thereon. Provided, however, this indemnification shall only be to the extent and within the limitations of Section 768.28 Fla. Stat., subject to the provisions of that Statute whereby the TOWN shall not be held liable to pay a personal injury or property damage claim or judgement by any one person which exceeds the sum of \$200,000, or any claim or judgement or portions thereof, which, when totaled with all other claims or judgement paid by the TOWN arising out of the same incident or occurrence, exceed the sum of \$300,000 from any and all personal injury or property damage claims, liabilities, losses or causes of action which may arise as a result of the negligence of the TOWN.

The UTILITY does hereby agree to indemnify and hold harmless the TOWN to the extent and within the limitations of Section 768.28 Fla. Stat., subject to the provisions of that Statute whereby the UTILITY shall not be held liable to pay a personal injury or property damage claim or judgement by any one person which exceeds the sum of \$200,000, or any claim or judgements or portions thereof, which, when totaled with all other occurrence, exceeds the sum of \$300,000 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 the UTILITY. However, nothing herein shall be deemed to indemnify the TOWN from any liability or claim arising out of the negligent performance or failure of performance of the TOWN or any unrelated third party.

IN WITNESS THEREOF, the parties hereto through their duly authorized representatives hereby execute this Agreement.

Attest:

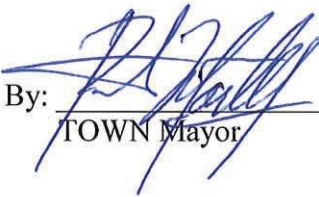
TOWN OF MEDLEY, FLORIDA
7777 N.W. 72 Avenue
Medley, FL 33166
Attn: Mr. Roberto Martell, Town Mayor
(305) 397-7361



TOWN Clerk 9/8/2020
Date

Authorized signature on behalf
of the TOWN of MEDLEY, Florida.

Town Attorney
L. Cuevas, W. Jose Senota
Helfman Cole & Bierman

By: 

TOWN Mayor 9/8/2020
Date

MIAMI-DADE COUNTY BOARD OF COUNTY
COMMISSIONERS, FLORIDA AS GOVERNING
BODY OF THE MIAMI-DADE COUNTY
STORMWATER UTILITY

By: _____
Mayor or Mayor's Date
Designee

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

HARVEY RUVIN, CLERK
Attest:

By: _____
Deputy Clerk Date

ATTACHMENT “A”

“A.1” - Percent Share Calculation Table

“A.2” - Canals and Drainage Areas Map

ATTACHMENT "A.1"

TOWN OF MEDLEY CANAL DRAINAGE AREAS % SHARE

<u>CANAL</u>	<u>DRAINAGE AREAS (SQ MILE)</u>	<u>% SHARE</u>
NW 58 ST CANAL		
1. Medley	0.06	2%
2. Doral	0.96	25%
3. Miami-Dade County	2.82 (2.45+0.37)	73%
RUSSIAN COLONY CANAL		
1. Medley	2.06	69%
2. Miami-Dade County	0.93	31%

ATTACHMENT “B”

Five (5) Year Cost Share Table

(see attached exhibit)

ATTACHMENT "B"
Canal Maintenance Estimated Costs for FY 2020/21 to 2024/25
TOWN OF MEDLEY

Selected Level of Service Shown Shaded

Culvert Cleaning - Above Water

Canal Name	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
NW 58 Street	\$7,000	\$14,000	\$21,000	\$28,000	2	\$560
Russian Colony	\$500	\$1,000	\$1,500	\$2,000	69	\$1,380
sub-total	\$7,500	\$15,000	\$22,500	\$30,000		\$1,940

Town's Annual Cost at Current Level of Service (4 cycles) **\$1,940**

Line Item 1

Culvert Cleaning - Below Water

Canal Name	Cycles per Year				Municipality	
	1	2	3	4	% Share	Cost
NW 58 Street	\$9,000	\$18,000	\$27,000	\$36,000	2	\$180
Russian Colony	\$4,000	\$8,000	\$12,000	\$16,000	69	\$2,760
sub-total	\$13,000	\$26,000	\$39,000	\$52,000		\$2,940

Town's Annual Cost at Current Level of Service (1 cycle) **\$2,940**

Line Item 2

Herbicide Treatment (submerged, emergent, and bank acres treated)

Canal Name	Cycles per Year				Municipality	
	1	2	3	4	% Share	Cost
NW 58 Street	\$15,000	\$30,000	\$45,000	\$60,000	2	\$1,200
sub-total	\$15,000	\$30,000	\$45,000	\$60,000		\$1,200

Town's Annual Cost at Current Level of Service (4 cycles) **\$1,200**

Line Item 3

¹Herbicide Treatment (or Mechanical Harvesting / Dragline)

Canal Name	Cycles per Year				Municipality	
	1	2	3	4	% Share	Cost
Russian Colony	\$7,000	\$14,000	\$21,000	\$28,000	69	\$19,320
sub-total	\$7,000	\$14,000	\$21,000	\$28,000		\$19,320

Town's Annual Cost at Current Level of Service (4 cycles) **\$19,320**

Line Item 4

Mowing - Flat

Canal Name	Cycles per Year				Municipality	
	1	2	3	4	% Share	Cost
NW 58 Street	\$600	\$1,200	\$1,800	\$2,400	2	\$48
Russian Colony	\$200	\$400	\$600	\$800	69	\$552
sub-total	\$800	\$1,600	\$2,400	\$3,200		\$600

Town's Annual Cost at Current Level of Service (4 cycles) **\$600**

Line Item 5

ATTACHMENT "B"
Canal Maintenance Estimated Costs for FY 2020/21 to 2024/25
TOWN OF MEDLEY

Mowing - Slope

Canal Name	Cycles per Year				Municipality	
	1	2	3	4	% Share	Cost
NW 58 Street	\$2,000	\$4,000	\$6,000	\$8,000	2	\$160
Russian Colony	\$1,500	\$3,000	\$4,500	\$6,000	69	\$4,140
sub-total	\$3,500	\$7,000	\$10,500	\$14,000		\$4,300

Town's Annual Cost at Current Level of Service (4 cycles) **\$4,300**
 Line Item 6

² Obstruction Removal - As Needed

Canal Name	Events per year				Municipality	
	1	2	3	4	% Share	Cost
NW 58 Street	\$1,000	\$2,000	\$3,000	\$4,000	2	\$80
Russian Colony	\$2,000	\$4,000	\$6,000	\$8,000	69	\$5,520
sub-total	\$3,000	\$6,000	\$9,000	\$12,000		\$5,600

Town's Annual Cost at Current Level of Service (4 events) **\$5,600**
 Line Item 7

³ Preventative Mitigation / Emergency Repair - Contingency

Canal Name	per Event				Municipality	
	1				% Share	Cost
NW 58 Street	\$10,000				2	\$200
Russian Colony	\$20,000				69	\$13,800
sub-total	\$30,000					\$14,000

Town's Cost at Current Level of Service (1 event) **\$14,000**
 Line Item 8

Summary of Costs

MDC ESTIMATED TOTAL ANNUAL COST (before Medley's reimbursement to MDC)	Annual	\$160,200
MDC ESTIMATED TOTAL 5-YEAR COST (before Medley's reimbursement to MDC)	5-Year	\$801,000
MDC ESTIMATED TOTAL 5-YEAR COST WITH 1 EVENT PREVENTATIVE MITIGATION / EMERGENCY REPAIR (before Medley's reimbursement to MDC)	Total	\$831,000
<hr/>		
MEDLEY'S MAXIMUM ANNUAL REIMBURSEMENT TO MDC (Line Items 1 to 7)	Annual	\$35,900
MEDLEY'S MAXIMUM 5-YEAR REIMBURSEMENT TO MDC	5-Year	\$179,500
MEDLEY'S MAXIMUM 5-YEAR REIMBURSEMENT TO MDC WITH 1 EVENT PREVENTATIVE MITIGATION / EMERGENCY REPAIR	Total	\$193,500

NOTES:

(1) If necessary, and at the County's discretion, Mechanical Harvesting / Dragline may be performed instead of Herbicide Treatment on the Russian Colony Canal.

(2) Obstruction Removal may include tasks such as Debris Removal by Hand, Remove Dead Animals, and Cut Vegetation

(3) Line Item 8: Emergency Repair / Preventative Mitigation: Requires Medley's written approval of cost-share estimate prior to performance of any such work (e.g. culvert blockage removal after a storm, canal bank stabilization, headwall repair) on the canal and its related appurtenances, in order to invoice Medley for the work. Total cost = \$30,000: Medley = \$14,000 & Miami-Dade County = \$16,000



**FIVE (5) YEAR
INTERLOCAL AGREEMENT**

between

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

MIAMI-DADE COUNTY
STORMWATER UTILITY (305) 372-6688
701 NORTHWEST FIRST COURT, SUITE 500
MIAMI, FL 33136



**FIVE (5) YEAR
INTERLOCAL AGREEMENT
BETWEEN
THE CITY OF NORTH MIAMI (CITY)
AND
THE MIAMI-DADE COUNTY STORMWATER UTILITY (UTILITY)
FOR STORMWATER MANAGEMENT**

THIS FIVE (5) 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 North Miami, a Florida Municipal Corporation, through its governing body, the North Miami City Council of the City of North Miami, Florida [hereinafter sometimes referred to as "CITY",] is entered into as follows:

WITNESSETH

WHEREAS, Section 403.0893, Florida Statutes (F.S.), 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 the 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, depicted on the map in Attachment "A-2", 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, prevailing environmental conditions, 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 further 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.

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.

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" or other related stormwater drainage tasks agreed to by both parties' Project Managers.

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 between 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, depicted on the map in Attachment "A-2", in accordance with this Agreement and the CITY's stormwater management plan. The CITY shall be responsible for maintaining aesthetic conditions only on canals and other water bodies within the CITY's boundary by providing for litter and minor debris removal as needed.

The UTILITY shall maintain, repair, and enhance shared stormwater management systems located within the limits of the drainage service areas in accordance with Attachment "A" and Attachment "B".

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 five (5) years commencing on October 1, 2020 and ending on September 30, 2025, 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.

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. Commencing with fiscal year 2020-2021, and after approval of the Agreement, 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 five (5) year term of this Agreement are also included and shall not be exceeded.

D. The tasks and levels of service set forth in Attachment "B" may be adjusted by the UTILITY due to prevailing environmental conditions, maintenance needs, or ownership, provided that the total annual estimated expenditures are not exceeded. The CITY may also request modifications to the tasks or level of services set forth in Attachment "B". Any such work requested by the CITY shall commence within reasonable time after the request has been made to the UTILITY. If the tasks and level of service must be adjusted in such a manner that the annual estimated expenditure will be exceeded in any given year, then approval by both parties' Project Managers must be obtained. However, the total five-year cost of the Agreement shall not be exceeded.

E. Payments by the CITY are to be made within 30 days after the bill presentation. In the event of a dispute on the billed 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. Upon resolution of the dispute, payments by the CITY are to be made within 30 days. In the event of an overpayment by the CITY, the UTILITY shall reimburse the CITY within 30 days after verification of the overpayment by the UTILITY.

F. The CITY and the UTILITY shall maintain financial records pertaining to this Agreement for 5 years after the expiration of this Agreement, and shall make them available for inspection and copying at the place where the records are maintained within a reasonable time after receiving a records request.

G. 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.

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

I. If requested, the UTILITY will provide a tentative yearly maintenance schedule at the beginning of each fiscal year. As an update to the yearly maintenance schedule, the UTILITY will coordinate (via e-mail or telephone) with the CITY within 48 hours prior to commencing work in the CITY. The UTILITY contact for maintenance activities will be the Division Chief of the Miami-Dade County Department of Transportation and Public Works - Road, Bridge, and Canal Maintenance Division.

**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 shall not be required to provide one year prior notice as required under Article IV before terminating this Agreement for default. If the UTILITY determines that a CITY event of default has occurred, the UTILITY shall provide written notice of such default to the CITY and allow the CITY a thirty (30) calendar day period to rectify the "CITY event of default".

In the event that the UTILITY determines that the CITY event of default has not been rectified, the UTILITY shall have the right to terminate the Agreement with the following cumulative and independent rights and remedies:

1. The right to declare that this Agreement together with all rights granted to the 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 shall not be required to provide one year prior notice as required under Article IV before terminating this Agreement for default. If the CITY determines that a UTILITY event of default has occurred, the CITY shall provide written notice of such default to the UTILITY and allow the UTILITY a thirty (30) calendar day period to rectify the "UTILITY event of default".

In the event that the CITY determines that the UTILITY event of default has not been rectified, the CITY shall have the right to terminate the Agreement with the following cumulative and independent rights and remedies:

1. The right to declare that this Agreement together with all rights granted to the 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

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 hereto 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 Council of the City of North Miami, as the governing body of the CITY and it has the required power and authority to perform this Agreement and has granted the City Manager or the City Manager's Designee 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 the Mayor's 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 this 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**

The CITY shall perform all work and services described herein 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.

The 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

The CITY shall indemnify and hold harmless the UTILITY and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorney's fees and costs of defense, which the UTILITY 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 the UTILITY, where applicable, including appellate proceedings, and shall pay all costs, judgements and attorney's fees which may issue thereon. Provided, however, this indemnification shall only be to the extent and within the limitations of Section 768.28 Fla. Stat., subject to the provisions of that Statute whereby the CITY shall not be held liable to pay a personal injury or property damage claim or judgement by any one person which exceeds the sum of \$200,000, or any claim or judgement or portions thereof, which, when totaled with all other claims or judgement paid by the CITY arising out of the same incident or occurrence, exceed the sum of \$300,000 from any and all personal injury or property damage claims, liabilities, losses or causes of action which may arise as a result of the negligence of the CITY.

The UTILITY does hereby agree to indemnify and hold harmless the CITY to the extent and within the limitations of Section 768.28 Fla. Stat., subject to the provisions of that Statute whereby the UTILITY shall not be held liable to pay a personal injury or property damage claim or judgement by any one person which exceeds the sum of \$200,000, or any claim or judgements or portions thereof, which, when totaled with all other occurrence, exceeds the sum of \$300,000 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 the UTILITY. However, nothing herein shall be deemed to indemnify the CITY from any liability or claim arising out of the negligent performance or failure of performance of the CITY or any unrelated third party.

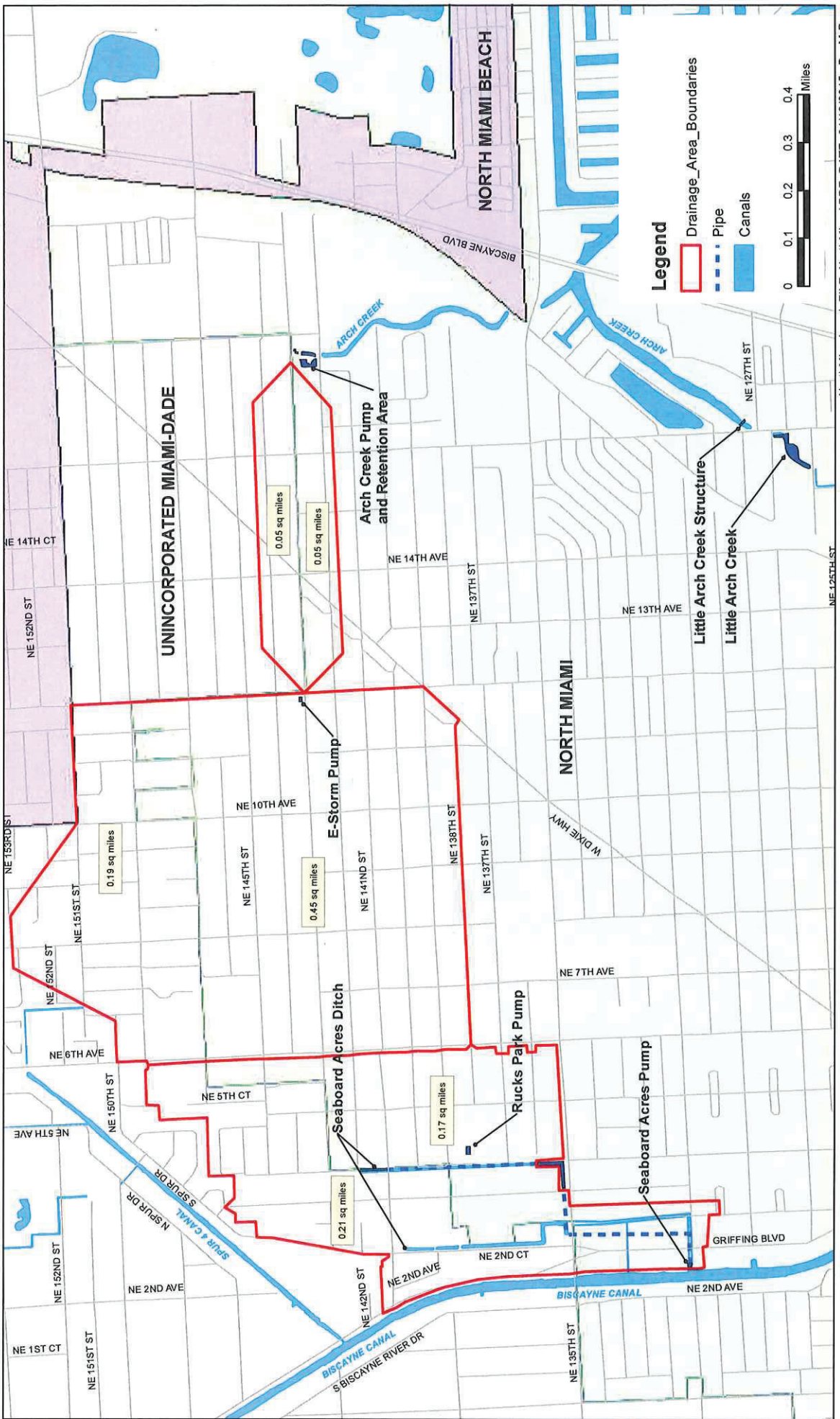
ATTACHMENT "A"

"A.1" - Percent Share Calculation Table

"A.2" - Canals and Drainage Areas Map



ATTACHMENT "A-2"
CITY OF NORTH MIAMI
CANALS AND DRAINAGE AREAS



NorthMiami.mxd FILE: NorthMiami.PDF DATE: 04/13/2015 By: M. Pong

ATTACHMENT “B”

Five (5) Year Cost Share Table

(see attached exhibit)

ATTACHMENT "B"

Canal Maintenance Estimated Costs - FY2021 to 2025

CITY OF NORTH MIAMI

Selected Level of Service Shown Shaded

Culvert Cleaning - Above Water

Canal Name	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
Arch Creek	\$0	\$0	\$0	\$0	100	\$0
Little Arch Creek	\$100	\$200	\$300	\$400	100	\$400
Seaboard Acres	\$1,500	\$3,000	\$4,500	\$6,000	45	\$2,700
sub-total	\$1,600	\$3,200	\$4,800	\$6,400		\$3,100

City's Cost at Selected Level of Service (4 cycles)

\$3,100

Line Item 1

Culvert Cleaning - Below Water

Canal Name	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
Arch Creek	\$100	\$200	\$300	\$400	100	\$100
Little Arch Creek	\$100	\$200	\$300	\$400	100	\$100
Seaboard Acres	\$3,000	\$6,000	\$9,000	\$12,000	45	\$1,350
sub-total	\$3,200	\$6,400	\$9,600	\$12,800		\$1,550

City's Cost at Selected Level of Service (1 cycle)

\$1,550

Line Item 2

Mechanical Harvesting

Canal Name	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
Arch Creek	N/A	N/A	N/A	N/A	100	\$0
Little Arch Creek	N/A	N/A	N/A	N/A	100	\$0
Seaboard Acres	N/A	N/A	N/A	N/A	45	\$0
sub-total						\$0

City's Cost at Selected Level of Service (0 cycles)

\$0

Line Item 3

Herbicide Treatment (submersed, bank and emergent areas treated)

Canal Name	Cycles per Year				Municipality's	
	1	2	3	5	% Share	Cost
Arch Creek	\$100	\$200	\$300	\$500	100	\$500
Arch Creek PS	\$200	\$400	\$600	\$1,000	50	\$500
Little Arch Creek	\$300	\$600	\$900	\$1,500	100	\$1,500
Seaboard Acres	\$1,000	\$2,000	\$3,000	\$5,000	45	\$2,250
sub-total	\$1,600	\$3,200	\$4,800	\$8,000		\$4,750

City's Cost at Selected Level of Service (5 cycles)

\$4,750

Line Item 4

Mowing - Flat

Canal Name	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
Arch Creek	\$0	\$0	\$0	\$0	100	\$0
Little Arch Creek	\$0	\$0	\$0	\$0	100	\$0
Seaboard Acres	\$250	\$500	\$750	\$1,000	45	\$450
sub-total	\$250	\$500	\$750	\$1,000		\$450

City's Cost at Selected Level of Service (4 cycles)

\$450

Line Item 5

ATTACHMENT "B"

Canal Maintenance Estimated Costs - FY2021 to 2025

CITY OF NORTH MIAMI

Mowing - Slope

Canal Name	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
Arch Creek	\$0	\$0	\$0	\$0	100	\$0
Little Arch Creek	\$0	\$0	\$0	\$0	100	\$0
Seaboard Acres	\$250	\$500	\$750	\$1,000	45	\$450
sub-total	\$250	\$500	\$750	\$1,000		\$450

City's Cost at Selected Level of Service (4 cycles)

\$450

Line Item 6

Obstruction Removal - as needed

Canal Name	Events per Year				Municipality's	
	1	2	3	4	% Share	Cost
Arch Creek	\$100	\$200	\$300	\$400	100	\$400
Little Arch Creek	\$100	\$200	\$300	\$400	100	\$400
Seaboard Acres	\$1,000	\$2,000	\$3,000	\$4,000	45	\$1,800
sub-total	\$1,200	\$2,400	\$3,600	\$4,800		\$2,600

City's Cost at Selected Level of Service (4 events)

\$2,600

Line Item 7

Salinity Control Structure - Labour & Energy

Structure Name	Cycles per Year				Municipality's	
	1	52	N/A	N/A	% Share	Cost
Little Arch Creek	\$300	\$15,600	N/A	N/A	100	\$15,600
sub-total		\$15,600				\$15,600

City's Cost at Selected Level of Service (52 cycles)

\$15,600

Line Item 8

Pump Station - Labour & Energy

Pump Station Name	Cycles per Year				Municipality's	
	1	52			% Share	Cost
Arch Creek Pump	\$1,900	\$98,800			50	\$49,400
Seaboard Acres	\$500	\$26,704			45	\$12,017
sub-total		\$125,504				\$61,417

City's Cost at Selected Level of Service (52 cycles)

\$61,417

Line Item 9

***Preventative Mitigation / Emergency Repair - Contingency**

Canal Name	Event per Year				Municipality's	
	1	2	3	4	% Share	Cost
Arch Creek	\$3,500	\$7,000	\$10,500	\$14,000	100	\$3,500
Little Arch Creek	\$3,500	\$7,000	\$10,500	\$14,000	100	\$3,500
Seaboard Acres	\$3,500	\$7,000	\$10,500	\$14,000	45	\$1,575
sub-total	\$10,500	\$21,000	\$31,500	\$42,000		\$8,575

City's Cost at Selected Level of Service (1 event)

\$8,575

Line Item 10

ATTACHMENT "B"

Canal Maintenance Estimated Costs - FY2021 to 2025

CITY OF NORTH MIAMI

E-Storm Pump Station - Labour & Energy

Pump Station Name	North Miami Cost per Year				MDC Utility's	
	Annual	N/A	N/A	N/A	% Share	Cost
NE 12 Av & 144 St.	\$35,000		N/A	N/A	30	\$10,500
sub-total	\$35,000					\$10,500

CITY'S CREDIT at Selected Level of Service (annually)

\$10,500
Line item 11

Summary of Costs

MDC ESTIMATED ANNUAL TOTAL COST (before North Miami's reimbursement to MDC) **\$176,004**

MDC ESTIMATED 5-YEAR TOTAL COST (before North Miami's reimbursement to MDC) **\$880,020**

NORTH MIAMI MAXIMUM ANNUAL COST (BEFORE CREDIT FOR E-STORM PUMP STATION) **\$98,492**
Line Items 1 through 10

NORTH MIAMI MAXIMUM 5-YEAR COST (BEFORE CREDIT FOR E-STORM PUMP STATION) **\$492,460**

NORTH MIAMI ANNUAL COST (WITH MAXIMUM \$10,500 CREDIT FOR E-STORM PUMP STATION) **\$87,992**
Line Item 11

Notes:

- 1 Level of Service and Costs Provided by Miami-Dade County Public Works Department. Some values may be rounded.
- 2 Annual maximum credit of \$10,500 to the City, based on actuals for the E-Storm Pump Station maintenance by the City: Line Item 11
- 3 Rucks Park Pump Station included in the Seaboard Acres drainage basin.
- 4 * Requires prior City and County staff written approval of cost-share estimate prior to performance of any such work (e.g. culvert blockage removal after a storm, canal bank stabilization, headwall repair) on the canal and its related apputenances, in order to invoice the City for the work: Line Item 10
- 5 Obstruction Removal may include tasks such as Debris Removal by Hand, Remove Dead Animals, and Cut Vegetation: Line Item 7



EXHIBIT 3

FIVE (5) YEAR INTERLOCAL AGREEMENT

between

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

MIAMI-DADE COUNTY
STORMWATER UTILITY (305) 372-6688
701 NORTHWEST FIRST COURT, SUITE 500
MIAMI, FL 33136



**FIVE (5) YEAR
INTERLOCAL AGREEMENT
BETWEEN
THE CITY OF SWEETWATER (CITY)
AND
THE MIAMI-DADE COUNTY STORMWATER UTILITY (UTILITY)
FOR STORMWATER MANAGEMENT**

THIS FIVE (5) 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 Sweetwater, a Florida Municipal Corporation, through its governing body, the Sweetwater City Commission of the City of Sweetwater, Florida [hereinafter sometimes referred to as "CITY",] is entered into as follows:

WITNESSETH

WHEREAS, Section 403.0893, Florida Statutes (F.S.), 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 the 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, depicted on the map in Attachment "A-2", 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, prevailing environmental conditions, 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 further 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.

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.

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" or other related stormwater drainage tasks agreed to by both parties' Project Managers.

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 between 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, depicted on the map in Attachment "A-2", in accordance with this Agreement and the CITY's stormwater management plan. The CITY shall be responsible for maintaining aesthetic conditions only on canals and other water bodies within the CITY's boundary by providing for litter and minor debris removal as needed.

The UTILITY shall maintain, repair, and enhance shared stormwater management systems located within the limits of the drainage service areas in accordance with Attachment "A" and Attachment "B".

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 five (5) years commencing on October 1, 2020 and ending on September 30, 2025, 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.

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. Commencing with Fiscal Year 2021, and after approval of the Agreement, 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 five (5) year term of this Agreement are also included and shall not be exceeded.

D. The tasks and levels of service set forth in Attachment "B" may be adjusted by the UTILITY due to prevailing environmental conditions, maintenance needs, or ownership, provided that the total annual estimated expenditures are not exceeded. The CITY may also request modifications to the tasks or level of services set forth in Attachment "B". Any such work requested by the CITY shall commence within reasonable time after the request has been made to the UTILITY. If the tasks and level of service must be adjusted in such a manner that the annual estimated expenditure will be exceeded in any given year, then approval by both parties' Project Managers must be obtained. However, the total five-year cost of the Agreement shall not be exceeded.

E. Payments by the CITY are to be made within 30 days after the bill presentation. In the event of a dispute on the billed 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. Upon resolution of the dispute, payments by the CITY are to be made within 30 days. In the event of an overpayment by the CITY, the UTILITY shall reimburse the CITY within 30 days after verification of the overpayment by the UTILITY.

F. The CITY and the UTILITY shall maintain financial records pertaining to this Agreement for 5 years after the expiration of this Agreement, and shall make them available for inspection and copying at the place where the records are maintained within a reasonable time after receiving a records request.

G. 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.

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

I. If requested, the UTILITY will provide a tentative yearly maintenance schedule at the beginning of each fiscal year. As an update to the yearly maintenance schedule, the UTILITY will coordinate (via e-mail or telephone) with the CITY within 48 hours prior to commencing work in the CITY. The UTILITY contact for maintenance activities will be the Chief of Miami-Dade County Department of Transportation and Public Works - Road, Bridge, and Canal Maintenance Division.

**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 shall not be required to provide one year prior notice as required under Article IV before terminating this Agreement for default. If the UTILITY determines that a CITY event of default has occurred, the UTILITY shall provide written notice of such default to the CITY and allow the CITY a thirty (30) calendar day period to rectify the "CITY event of default".

In the event that the UTILITY determines that the CITY event of default has not been rectified, the UTILITY shall have the right to terminate the Agreement with the following cumulative and independent rights and remedies:

1. The right to declare that this Agreement together with all rights granted to the 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 shall not be required to provide one year prior notice as required under Article IV before terminating this Agreement for default. If the CITY determines that a UTILITY event of default has occurred, the CITY shall provide written notice of such default to the UTILITY and allow the UTILITY a thirty (30) calendar day period to rectify the "UTILITY event of default".

In the event that the CITY determines that the UTILITY event of default has not been rectified, the CITY shall have the right to terminate the Agreement with the following cumulative and independent rights and remedies:

1. The right to declare that this Agreement together with all rights granted to the 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

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 hereto 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 Sweetwater, 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 or the City Mayor's Designee 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 the Mayor's 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 this 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**

The CITY shall perform all work and services described herein 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.

The 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


The CITY shall indemnify and hold harmless the UTILITY and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorney's fees and costs of defense, which the UTILITY 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 the UTILITY, where applicable, including appellate proceedings, and shall pay all costs, judgements and attorney's fees which may issue thereon. Provided, however, this indemnification shall only be to the extent and within the limitations of Section 768.28 Fla. Stat., subject to the provisions of that Statute whereby the CITY shall not be held liable to pay a personal injury or property damage claim or judgement by any one person which exceeds the sum of \$200,000, or any claim or judgement or portions thereof, which, when totaled with all other claims or judgement paid by the CITY arising out of the same incident or occurrence, exceed the sum of \$300,000 from any and all personal injury or property damage claims, liabilities, losses or causes of action which may arise as a result of the negligence of the CITY.

The UTILITY does hereby agree to indemnify and hold harmless the CITY to the extent and within the limitations of Section 768.28 Fla. Stat., subject to the provisions of that Statute whereby the UTILITY shall not be held liable to pay a personal injury or property damage claim or judgement by any one person which exceeds the sum of \$200,000, or any claim or judgements or portions thereof, which, when totaled with all other occurrence, exceeds the sum of \$300,000 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 the UTILITY. However, nothing herein shall be deemed to indemnify the CITY from any liability or claim arising out of the negligent performance or failure of performance of the CITY or any unrelated third party.

IN WITNESS THEREOF, the parties hereto through their duly authorized representatives hereby execute this Agreement.

Attest:

CITY OF SWEETWATER, FLORIDA
500 S.W. 109 Avenue
Sweetwater, FL 33174
Attn: Mr. Orlando Lopez, City Mayor
(305) 221-0411



City Clerk
Date 10/14/2020
*Deputy city clerk
for city clerk*

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

By: 

City Mayor
Date 10/8/20

MIAMI-DADE COUNTY BOARD OF COUNTY
COMMISSIONERS, FLORIDA AS GOVERNING
BODY OF THE MIAMI-DADE COUNTY
STORMWATER UTILITY

By: _____
Mayor or Mayor's
Designee
Date _____

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

HARVEY RUVIN, CLERK
Attest:

By: _____
Deputy Clerk
Date _____

ATTACHMENT “A”

“A.1” - Percent Share Calculation Table

“A.2” - Canals and Drainage Areas Map

ATTACHMENT A.1

CITY OF SWEETWATER
CANAL DRAINAGE AREAS % SHARE

<u>CANALS</u>	<u>DRAINAGE AREA (SQ MILES)</u>	<u>% SHARE</u>
SNAPPER CREEK EXTENSION CANAL (from NW 25 St to SW 8 St)		
1. City of Sweetwater	1.47 (0.05 + 0.81 + 0.12 + 0.09 +0.003+ 0.4)	49%
2. Miami-Dade County	1.55 (0.34 + 0.62 + 0.44 + 0.11 +0.04)	51%
NORTHLINE / NW 25 STREET CANAL		
1. City of Sweetwater	0.39	6%
2. Miami-Dade County	0.87 (0.06 + 0.23 + 0.19 + 0.2 +0.19)	14%
3. City of Doral	5.19 (2.24 + 2.83 + 0.12)	80%

ATTACHMENT “B”

Five (5) Year Cost Share Table

(see attached exhibit)

ATTACHMENT "B"
Canal Maintenance Estimated Costs - FY2021 to FY2025
CITY OF SWEETWATER

Selected Level of Service Shown Shaded

Culvert Cleaning - Above Water

Canal Name	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
North Line aka NW 25 St Canal	\$3,500	\$7,000	\$10,500	\$14,000	6	\$840
Snapper Creek (NW 25 St to SW 8 St)	\$2,500	\$5,000	\$7,500	\$10,000	49	\$3,675
sub-total	\$6,000	\$12,000	\$18,000	\$24,000		\$4,515

City's Annual Cost at Current Level of Service (4 cycles)

\$4,515
Line Item 1

Culvert Cleaning - Below Water

Canal Name	Cycles per Year				Municipality	
	1	2	3	4	% Share	Cost
North Line aka NW 25 St Canal	\$1,000	\$2,000	\$3,000	\$4,000	6	\$120
Snapper Creek (NW 25 St to SW 8 St)	\$1,500	\$3,000	\$4,500	\$6,000	49	\$1,470
sub-total	\$2,500	\$5,000	\$7,500	\$10,000		\$1,590

City's Annual Cost at Current Level of Service (2 cycles)

\$1,590
Line Item 2

Chemical/Herbicide Treatment (submerged, emergent, and bank acres treated)

Canal Name	Cycles per Year				Municipality	
	1	2	3	4	% Share	Cost
North Line aka NW 25 St Canal	\$3,500	\$7,000	\$10,500	\$14,000	6	\$840
Snapper Creek (NW 25 St to SW 8 St)	\$8,000	\$16,000	\$24,000	\$32,000	49	\$15,680
sub-total	\$11,500	\$23,000	\$34,500	\$46,000		\$16,520

City's Annual Cost at Current Level of Service (4 cycles)

\$16,520
Line Item 3

Mechanical Harvesting (submerged, emergent, and bank acres treated)

Canal Name	Cycles per Year				Municipality	
	1	2	3	4	% Share	Cost
North Line aka NW 25 St Canal	\$22,500	\$45,000	\$67,500	\$90,000	6	\$5,400
Snapper Creek (NW 25 St to SW 8 St)	\$15,000	\$30,000	\$45,000	\$60,000	49	\$29,400
sub-total	\$37,500	\$75,000	\$112,500	\$150,000		\$34,800

City's Annual Cost at Current Level of Service (4 cycles)

\$34,800
Line Item 4

Mowing - Flat

Canal Name	Cycles per Year				Municipality	
	1	2	3	4	% Share	Cost
North Line aka NW 25 St Canal	\$500	\$1,000	\$1,500	\$2,000	6	\$120
Snapper Creek (NW 25 St to SW 8 St)	\$1,300	\$2,600	\$3,900	\$5,200	49	\$2,548
sub-total	\$1,800	\$3,600	\$5,400	\$7,200		\$2,668

City's Annual Cost at Current Level of Service (4 cycles)

\$2,668
Line Item 5

ATTACHMENT "B"
Canal Maintenance Estimated Costs - FY2021 to FY2025
CITY OF SWEETWATER

Mowing - Slope

Canal Name	Cycles per Year				Municipality	
	1	2	3	4	% Share	Cost
North Line aka NW 25 St Canal	\$3,500	\$7,000	\$10,500	\$14,000	6	\$840
Snapper Creek (NW 25 St to SW 8 St)	\$2,500	\$5,000	\$7,500	\$10,000	49	\$4,900
sub-total	\$6,000	\$12,000	\$18,000	\$24,000		\$5,740

City's Annual Cost at Current Level of Service (4 cycles) **\$5,740**
 Line Item 6

¹Obstruction Removal - As Needed (unscheduled)

Canal Name	Events per Year				Municipality	
	1	2	3	4	% Share	Cost
North Line aka NW 25 St Canal	\$1,000	\$2,000	\$3,000	\$4,000	6	\$120
Snapper Creek (NW 25 St to SW 8 St)	\$1,000	\$2,000	\$3,000	\$4,000	49	\$980
sub-total	\$2,000	\$4,000	\$6,000	\$8,000		\$1,100

City's Annual Cost at Current Level of Service (2 events) **\$1,100**
 Line Item 7

²Preventative Mitigation / Emergency Repair - Contingency

Canal Name	per Event				Municipality	
	1	2	3	4	% Share	Cost
North Line aka NW 25 St Canal	\$15,000				6	\$900
Snapper Creek (NW 25 St to SW 8 St)	\$10,000				49	\$4,900
sub-total	\$25,000					\$5,800

City's Annual Cost at Current Level of Service (1 event) **\$5,800**
 Line Item 8

Summary of Costs

MDC ESTIMATED TOTAL ANNUAL COST (before Sweetwater's reimbursement to MDC) Annual \$260,200

MDC ESTIMATED TOTAL 5-YEAR COST (before Sweetwater's reimbursement to MDC) 5-Year \$1,301,000

MDC ESTIMATED TOTAL 5-YEAR COST WITH 1 EVENT PREVENTATIVE MITIGATION / EMERGENCY REPAIR (before Sweetwater's reimbursement to MDC) Total \$1,326,000

SWEETWATER'S MAXIMUM ANNUAL REIMBURSEMENT TO MDC (Line Items 1 to 7) Annual \$66,933

SWEETWATER'S MAXIMUM 5-YEAR REIMBURSEMENT TO MDC 5-Year \$334,665

SWEETWATER'S MAXIMUM 5-YEAR REIMBURSEMENT TO MDC WITH 1-EVENT PREVENTATIVE MITIGATION / EMERGENCY REPAIR Total \$340,465

NOTES:

- Obstruction Removal may include tasks such as Debris Removal by Hand, Remove Dead Animals, and Cut Vegetation
- Line Item 8: Requires City's written approval of cost-share estimate prior to performance of any such work (e.g. culvert blockage removal after a storm, canal bank stabilization, headwall repair) on the canal and its related appurtenances, in order to invoice the City for the work. Total cost = \$25,000: Sweetwater = \$5,800 & MDC = \$19,200.



**FIVE (5) YEAR
INTERLOCAL AGREEMENT**

between

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

MIAMI-DADE COUNTY
STORMWATER UTILITY (305) 372-6688
701 NORTHWEST FIRST COURT, SUITE 500
MIAMI, FL 33136



**FIVE (5) YEAR
INTERLOCAL AGREEMENT
BETWEEN
THE CITY OF MIAMI GARDENS (CITY)
AND
THE MIAMI-DADE COUNTY STORMWATER UTILITY (UTILITY)
FOR STORMWATER MANAGEMENT**

THIS FIVE (5) 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 MIAMI GARDENS, a Florida Municipal Corporation, through its governing body, the MIAMI GARDENS City Council of the City of MIAMI GARDENS, Florida [hereinafter sometimes referred to as "CITY",] is entered into as follows:

WITNESSETH

WHEREAS, Section 403.0893, Florida Statutes (F.S.), 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 the 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, depicted on the map in Attachment "A-2", 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, prevailing environmental conditions, 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 further 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.

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.

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" or other related stormwater drainage tasks agreed to by both parties' Project Managers.

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 between 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, depicted on the map in Attachment "A-2", in accordance with this Agreement and the CITY's stormwater management plan. The CITY shall be responsible for maintaining aesthetic conditions only on canals and other water bodies within the CITY's boundary by providing for, and at no cost to the COUNTY, litter and minor debris removal as needed, culvert cleaning above water, flat mowing, and slope mowing.

The UTILITY shall maintain, repair, and enhance shared stormwater management systems located within the limits of the drainage service areas in accordance with Attachment "A" and Attachment "B".

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 five (5) years commencing on October 1, 2021 and ending on September 30, 2026, 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.

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. Commencing with fiscal year 2021-2022, and after approval of the Agreement, 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 five (5) year term of this Agreement are also included and shall not be exceeded.

D. The tasks and levels of service set forth in Attachment "B" may be adjusted by the UTILITY due to prevailing environmental conditions, maintenance needs, or ownership, provided that the total annual estimated expenditures are not exceeded. The CITY may also request modifications to the tasks or level of services set forth in Attachment "B". Any such work requested by the CITY shall commence within reasonable time after the request has been made to the UTILITY. If the tasks and level of service must be adjusted in such a manner that the annual estimated expenditure will be exceeded in any given year, then approval by both parties' Project Managers must be obtained. However, the total five-year cost of the Agreement shall not be exceeded.

E. Payments by the CITY are to be made within 30 days after the bill presentation. In the event of a dispute on the billed 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 (F) of this Agreement. Upon resolution of the dispute, payments by the CITY are to be made within 30 days. In the event of an overpayment by the CITY, the UTILITY shall reimburse the CITY within 30 days after verification of the overpayment by the UTILITY.

F. The CITY and the UTILITY shall maintain financial records pertaining to this Agreement for 5 years after the expiration of this Agreement, and shall make them available for inspection and copying at the place where the records are maintained within a reasonable time after receiving a records request.

G. 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.

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

I. If requested, the UTILITY will provide a tentative yearly maintenance schedule at the beginning of each fiscal year. As an update to the yearly maintenance schedule, the UTILITY will coordinate (via e-mail or telephone) with the CITY within 48 hours prior to commencing work in the CITY. The UTILITY contact for maintenance activities will be the Division Director of the Miami-Dade County Transportation and Public Works Department's Road, Bridge, and Canal Maintenance Division.

**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 shall not be required to provide one year prior notice as required under Article IV before terminating this Agreement for default. If the UTILITY determines that a CITY event of default has occurred, the UTILITY shall provide written notice of such default to the CITY and allow the CITY a thirty (30) calendar day period to rectify the "CITY event of default".

In the event that the UTILITY determines that the CITY event of default has not been rectified, the UTILITY shall have the right to terminate the Agreement with the following cumulative and independent rights and remedies:

1. The right to declare that this Agreement together with all rights granted to the 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 shall not be required to provide one year prior notice as required under Article IV before terminating this Agreement for default. If the CITY determines that a UTILITY event of default has occurred, the CITY shall provide written notice of such default to the UTILITY and allow the UTILITY a thirty (30) calendar day period to rectify the "UTILITY event of default".

In the event that the CITY determines that the UTILITY event of default has not been rectified, the CITY shall have the right to terminate the Agreement with the following cumulative and independent rights and remedies:

1. The right to declare that this Agreement together with all rights granted to the 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**

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 hereto 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 Council of the City of MIAMI GARDENS, as the governing body of the CITY and it has the required power and authority to perform this Agreement and has granted the City Manager or the City Manager's Designee 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 the Mayor's 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 this 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**

The CITY shall perform all work and services described herein 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.

The 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

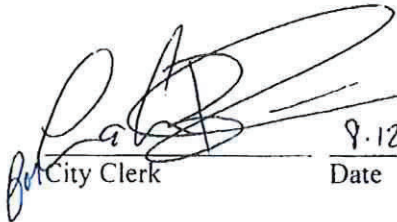
The CITY shall indemnify and hold harmless the UTILITY and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorney's fees and costs of defense, which the UTILITY or its officers, employees, agents or instrumentalities may incur as a result 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 the UTILITY, where applicable, including appellate proceedings, and shall pay all costs, judgements and attorney's fees which may issue thereon. Provided, however, this indemnification shall only be to the extent and within the limitations of Section 768.28 Fla. Stat., subject to the provisions of that Statute whereby the CITY shall not be held liable to pay a personal injury or property damage claim or judgement by any one person which exceeds the sum of \$200,000, or any claim or judgement or portions thereof, which, when totaled with all other claims or judgement paid by the CITY arising out of the same incident or occurrence, exceed the sum of \$300,000 from any and all personal injury or property damage claims, liabilities, losses or causes of action which may arise as a result of the negligence of the CITY.

The UTILITY does hereby agree to indemnify and hold harmless the CITY to the extent and within the limitations of Section 768.28 Fla. Stat., subject to the provisions of that Statute whereby the UTILITY shall not be held liable to pay a personal injury or property damage claim or judgement by any one person which exceeds the sum of \$200,000, or any claim or judgements or portions thereof, which, when totaled with all other occurrence, exceeds the sum of \$300,000 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 the UTILITY. However, nothing herein shall be deemed to indemnify the CITY from any liability or claim arising out of the negligent performance or failure of performance of the CITY or any unrelated third party.

IN WITNESS THEREOF, the parties hereto through their duly authorized representatives hereby execute this Agreement.

Attest:

CITY OF MIAMI GARDENS, FLORIDA
18605 N.W. 27th Avenue
Miami Gardens, FL 33056
Attn: Mr. Cameron Benson, City Manager
(305) 364-6100



City Clerk 8.12.2021
Date

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

By:  _____ 8/11/21
City Attorney Date

By:  _____ 8/12/2021
City Manager Date

MIAMI-DADE COUNTY BOARD OF COUNTY
COMMISSIONERS, FLORIDA AS GOVERNING
BODY OF THE MIAMI-DADE COUNTY
STORMWATER UTILITY

By: _____
Mayor or Mayor's Date
Designee

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

HARVEY RUVIN, CLERK
Attest:

By: _____
Deputy Clerk Date

ATTACHMENT “A”

A.1 - Percent Share Calculation Table

A.2 - Canals and Drainage Areas Map

ATTACHMENT "A.1"

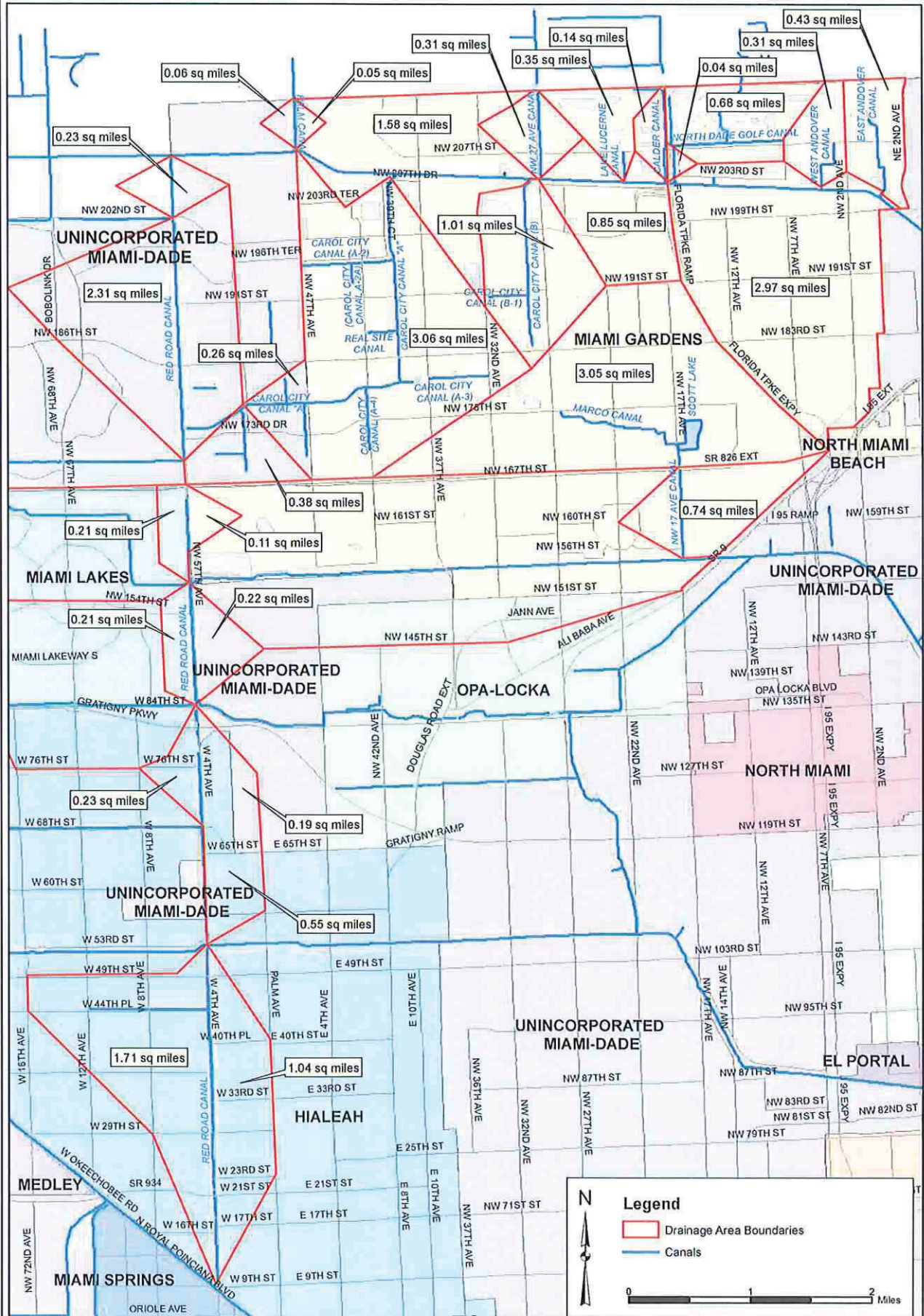
**CITY OF MIAMI GARDENS
CANAL DRAINAGE AREAS % SHARE TABLE**

<u>CANAL</u>	<u>DRAINAGE AREAS (SQ MILE)</u>		<u>% SHARE</u>
RED ROAD CANAL			
1. Miami Gardens	0.11		2%
2. Hialeah	3.53	(1.71+1.04+0.55+0.23)	50%
3. Miami-Dade County	2.95	(0.19+0.22+2.31+0.23)	42%
4. Miami Lakes	0.42	(0.21+0.21)	6%
PALM CANAL			
1. Miami Gardens	0.05		45%
2. Miami-Dade County	0.06		55%
<u>CANAL, LAKE</u>	<u>FULLY ENCLOSED</u>		<u>% SHARE</u>
CAROL CITY CANALS "A " (A, A2, A2A, A3, A4) & CANALS "B" (B, B1)			100%
ANDOVER EAST CANAL			100%
ANDOVER WEST CANAL			100%
CALDER CANAL			100%
LAKE LUCERNE CANAL			100%
MARCO CANAL			100%
NORTH DADE GOLF CANAL			100%
NW 17 AVENUE CANAL			100%
NW 27 AVENUE CANAL			100%
REAL SITE CANAL			100%
SCOTT LAKE			100%

ATTACHMENT "A-2"



CITY OF MIAMI GARDENS CANALS AND DRAINAGE AREAS



Legend

- Drainage Area Boundaries
- Canals

0 1 2 Miles

ATTACHMENT “B”

Five (5) Year Cost Share Table

(see attachment)

ATTACHMENT "B"

CITY OF MIAMI GARDENS
Canal Maintenance Estimated Costs (FY 2021/22 - 2025/26)

Selected level of service shown shaded

Culvert Cleaning - Above Water

Canal	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
* ANDOVER EAST	\$0	\$0	\$0	\$0	100	\$0
* ANDOVER WEST	\$0	\$0	\$0	\$0	100	\$0
* CAROL CITY A	\$0	\$0	\$0	\$0	100	\$0
* CAROL CITY A2	\$0	\$0	\$0	\$0	100	\$0
* CAROL CITY A2A	\$0	\$0	\$0	\$0	100	\$0
* CAROL CITY A3	\$0	\$0	\$0	\$0	100	\$0
* CAROL CITY A4	\$0	\$0	\$0	\$0	100	\$0
* CAROL CITY B	\$0	\$0	\$0	\$0	100	\$0
* LAKE LUCERNE	\$0	\$0	\$0	\$0	100	\$0
* MARCO	\$0	\$0	\$0	\$0	100	\$0
* N. DADE GOLF	\$0	\$0	\$0	\$0	100	\$0
* N.W. 17 AVE.	\$0	\$0	\$0	\$0	100	\$0
* N. W. 27 AVE.	\$0	\$0	\$0	\$0	100	\$0
RED ROAD	\$4,500	\$9,000	\$13,500	\$18,000	2	\$360
sub-total	\$4,500	\$9,000	\$13,500	\$18,000		\$ 360

City's Annual Cost at Selected Level of Service (4 cycles) \$ 360

Culvert Cleaning - Below Water

Canal	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
ANDOVER EAST	\$1,500	\$3,000	\$4,500	\$0	100	\$3,000
ANDOVER WEST	\$1,600	\$3,200	\$4,800	\$0	100	\$3,200
CAROL CITY A	\$1,200	\$2,400	\$3,600	\$0	100	\$2,400
CAROL CITY A2	\$400	\$800	\$1,200	\$0	100	\$800
CAROL CITY A3	\$400	\$800	\$1,200	\$0	100	\$800
CAROL CITY A4	\$500	\$1,000	\$1,500	\$0	100	\$1,000
CAROL CITY B	\$500	\$1,000	\$1,500	\$0	100	\$1,000
LAKE LUCERNE	\$900	\$1,800	\$2,700	\$0	100	\$1,800
MARCO	\$1,400	\$2,800	\$4,200	\$0	100	\$2,800
N.W. 17 AVE.	\$1,800	\$3,600	\$5,400	\$0	100	\$3,600
N. W. 27 AVE.	\$1,600	\$3,200	\$4,800	\$0	100	\$3,200
REAL SITE	\$1,700	\$3,400	\$5,100	\$0	100	\$3,400
RED ROAD	\$4,300	\$0	\$12,900	\$17,200	2	\$344
sub-total	\$17,800	\$27,000	\$53,400	\$17,200		\$ 27,344

City's Annual Cost at Selected-Level of Service (2 & 4 cycles) \$ 27,344

Mechanical Harvesting (submerged, emergent, and bank areas treated)

Canal	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
CAROL CITY A	\$22,000	\$44,000	\$0	\$88,000	100	\$88,000
CAROL CITY A2	\$3,700	\$7,400	\$11,100	\$0	100	\$11,100
CAROL CITY A2A	\$2,500	\$5,000	\$7,500	\$0	100	\$7,500
CAROL CITY A3	\$1,500	\$3,000	\$4,500	\$0	100	\$4,500
CAROL CITY A4	\$3,800	\$7,600	\$11,400	\$0	100	\$11,400
CAROL CITY B	\$6,500	\$13,000	\$0	\$26,000	100	\$26,000
CAROL CITY B1	\$2,000	\$4,000	\$6,000	\$0	100	\$6,000
REAL SITE	\$2,500	\$5,000	\$0	\$10,000	100	\$10,000
RED ROAD ¹	\$24,500	\$49,000	\$0	\$98,000	2	\$1,960
sub-total	\$69,000	\$138,000	\$40,500	\$222,000		166,460

City's Annual Cost at Selected Level of Service (3 & 4 cycles) 166,460

ATTACHMENT "B"

CITY OF MIAMI GARDENS
Canal Maintenance Estimated Costs (FY 2021/22 - 2025/26)

Herbicide Treatment (submerged, emergent, and bank areas treated)

Canal	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
ANDOVER EAST	\$2,500	\$5,000	\$7,500	\$10,000	100	\$10,000
ANDOVER WEST	\$2,200	\$4,400	\$6,600	\$8,800	100	\$8,800
CALDER	\$900	\$1,800	\$2,700	\$3,600	100	\$3,600
CAROL CITY A	\$10,500	\$21,000	\$31,500	\$42,000	100	\$42,000
CAROL CITY A2	\$1,900	\$3,800	\$5,700	\$7,600	100	\$7,600
CAROL CITY A2A	\$650	\$1,300	\$1,950	\$2,600	100	\$2,600
CAROL CITY A3	\$1,000	\$2,000	\$3,000	\$4,000	100	\$4,000
CAROL CITY A4	\$1,200	\$2,400	\$3,600	\$4,800	100	\$4,800
CAROL CITY B	\$4,500	\$9,000	\$13,500	\$18,000	100	\$18,000
CAROL CITY B1	\$1,700	\$3,400	\$5,100	\$6,800	100	\$6,800
LAKE LUCERNE	\$1,000	\$2,000	\$3,000	\$4,000	100	\$4,000
MARCO	\$2,700	\$5,400	\$8,100	\$10,800	100	\$10,800
N. DADE GOLF	\$3,400	\$6,800	\$10,200	\$13,600	100	\$13,600
N.W. 17 AVE.	\$2,800	\$5,600	\$8,400	\$11,200	100	\$11,200
N. W. 27 AVE.	\$2,800	\$5,600	\$8,400	\$11,200	100	\$11,200
PALM	\$2,000	\$4,000	\$6,000	\$8,000	45	\$3,600
REAL SITE	\$850	\$1,700	\$2,550	\$3,400	100	\$3,400
RED ROAD	\$15,000	\$30,000	\$45,000	\$60,000	2	\$1,200
SCOTT LAKE	\$1,600	\$3,200	\$4,800	\$6,400	100	\$6,400
sub-total	\$59,200	\$118,400	\$177,600	\$236,800		\$ 173,600

City's Annual Cost at Selected Level of Service (4 cycles)

\$ 173,600

Mowing - Slope

Canal	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
* CAROL CITY A	\$0	\$0	\$0	\$0	100	\$0
* CAROL CITY A2	\$0	\$0	\$0	\$0	100	\$0
* CAROL CITY A2A	\$0	\$0	\$0	\$0	100	\$0
* CAROL CITY A3	\$0	\$0	\$0	\$0	100	\$0
* CAROL CITY A4	\$0	\$0	\$0	\$0	100	\$0
* CAROL CITY B	\$0	\$0	\$0	\$0	100	\$0
* CAROL CITY B1	\$0	\$0	\$0	\$0	100	\$0
* LAKE LUCERNE	\$0	\$0	\$0	\$0	100	\$0
* NW 17 AVE	\$0	\$0	\$0	\$0	100	\$0
* NW 27 AVE	\$0	\$0	\$0	\$0	100	\$0
PALM	\$900	\$1,800	\$2,700	\$3,600	45	\$1,620
RED ROAD	\$3,500	\$7,000	\$10,500	\$14,000	2	\$ 280
sub-total	\$4,400	\$8,800	\$13,200	\$17,600		\$ 1,900

City's Annual Cost at Selected Level of Service (4 cycles)

\$ 1,900

Mowing - Flat

Canal	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
* CAROL CITY A	\$0	\$0	\$0	\$0	100	\$0
* CAROL CITY A2	\$0	\$0	\$0	\$0	100	\$0
* CAROL CITY A2A	\$0	\$0	\$0	\$0	100	\$0
* CAROL CITY A3	\$0	\$0	\$0	\$0	100	\$0
* CAROL CITY A4	\$0	\$0	\$0	\$0	100	\$0
* CAROL CITY B	\$0	\$0	\$0	\$0	100	\$0
* LAKE LUCERNE	\$0	\$0	\$0	\$0	100	\$0
* NW 17 AVE	\$0	\$0	\$0	\$0	100	\$0
PALM	\$600	\$1,200	\$1,800	\$2,400	45	\$1,080
RED ROAD	\$500	\$1,000	\$1,500	\$2,000	2	\$40
sub-total	\$1,100	\$2,200	\$3,300	\$4,400		\$1,120

City's Annual Cost at Selected Level of Service (4 cycles)

\$ 1,120

ATTACHMENT "B"

CITY OF MIAMI GARDENS
Canal Maintenance Estimated Costs (FY 2021/22 - 2025/26)

Obstruction Removal / Preventative Mitigation / Emergency Repair (contingency)

Canal	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
17 CANALS	\$25,500	\$51,000	\$76,500	\$102,000	100	\$25,500
PALM	\$1,000	\$2,000	\$3,000	\$4,000	45	\$450
RED ROAD	\$2,000	\$4,000	\$6,000	\$8,000	2	\$40
sub-total	\$28,500	\$57,000	\$85,500	\$114,000		\$ 25,990

City's Annual Cost at Selected Level of Service (1 cycle) \$ 25,990

TOTAL ANNUAL COST	\$612,000
MDC STORMWATER UTILITY ANNUAL COST	\$215,226
MDC STORMWATER UTILITY 5-YEAR COST	\$1,076,130
MIAMI GARDENS MAXIMUM ANNUAL COST	\$396,774
MIAMI GARDENS MAXIMUM 5-YEAR COST	\$1,983,870

Notes: Estimates based on recent actual expenditures

- * To be performed by the City within the City's boundaries and at no cost to the County
- † Obstruction Removal to be performed as needed, and may include such tasks as Dead Animal Reoval, Cut Vegetation, Debris Removal by Hand, and Clean Trash Interceptors. Does not include aesthetic cleaning such as minor debris and litter removal. Preventative Mitigation / Emergency Repair requires City's written approval of cost-share estimate prior to performance of any such work (e.g. canal bank stabilization, headwall repair, culvert blockage after a storm) in order to invoice the City. Costs are not to exceed the total annual amounts unless modified in accordance with Article V, Paragraph D Level of Service and cost estimates based on FY2016 to 2020 expenditures



**FIVE (5) YEAR
INTERLOCAL AGREEMENT**

between

**THE TOWN OF MIAMI LAKES
AND
THE MIAMI-DADE COUNTY STORMWATER UTILITY
FOR
STORMWATER MANAGEMENT**

MIAMI-DADE COUNTY
STORMWATER UTILITY (305) 372-6688
701 NORTHWEST FIRST COURT, SUITE 500
MIAMI, FL 33136



**FIVE (5) YEAR
INTERLOCAL AGREEMENT
BETWEEN
THE TOWN OF MIAMI LAKES (TOWN)
AND
THE MIAMI-DADE COUNTY STORMWATER UTILITY (UTILITY)
FOR STORMWATER MANAGEMENT**

THIS FIVE (5) 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 Town of MIAMI LAKES, a Florida Municipal Corporation, through its governing body, the MIAMI LAKES Town Council of the Town of MIAMI LAKES, Florida [hereinafter sometimes referred to as "TOWN",] is entered into as follows:

WITNESSETH

WHEREAS, Section 403.0893, Florida Statutes (F.S.), 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 TOWN, through this Agreement, to establish relationships and responsibilities for the maintenance of shared stormwater systems by the TOWN and the UTILITY; and

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

WHEREAS, the UTILITY and the TOWN 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 TOWN 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, depicted on the map in Attachment "A-2", 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, prevailing environmental conditions, and the level of service established.
- (8) to provide a mechanism for the UTILITY and the TOWN 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 TOWN 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.

TOWN Stormwater Utility Budget shall mean the TOWN'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 TOWN'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 TOWN or the UTILITY to which both the TOWN and the UTILITY contribute stormwater runoff and which is further identified in Attachment "A".

Costs allocable to the TOWN 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 TOWN based on the TOWN's relative stormwater runoff contribution to the shared portion of the stormwater drainage system of the UTILITY.

Costs allocable to the Utility shall mean those portions of the actual maintenance and operating outlays budgeted by the TOWN 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 TOWN.

Operating Outlays shall mean expenses budgeted by the TOWN 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 TOWN 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 TOWN 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" or other related stormwater drainage tasks agreed to by both parties' Project Managers.

Project Manager shall mean the persons designated by the TOWN 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 between the Project Managers.

ARTICLE III STATEMENT OF WORK

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

The TOWN shall maintain and repair shared stormwater systems located within the limits of the drainage service areas, depicted on the map in Attachment "A-2", in accordance with this Agreement and the TOWN's stormwater management plan. The TOWN shall be responsible for maintaining aesthetic conditions only on canals and other water bodies within the TOWN's boundary by providing for litter and minor debris removal as needed. The TOWN has elected to perform culvert cleaning above water, flat mowing, and slope mowing within the TOWN's boundaries, and at no cost to the UTILITY.

The UTILITY shall maintain, repair, and enhance shared stormwater management systems located within the limits of the drainage service areas in accordance with Attachment "A" and Attachment "B".

The TOWN'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 five (5) years commencing on October 1, 2021 and ending on September 30, 2026, 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.

ARTICLE V TOWN AND UTILITY RESPONSIBILITIES

A. Upon the request of either the TOWN 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 TOWN 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. Commencing with fiscal year 2021-2022, and after approval of the Agreement, the costs allocable to the TOWN 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 five (5) year term of this Agreement are also included and shall not be exceeded.

D. The tasks and levels of service set forth in Attachment "B" may be adjusted by the UTILITY due to prevailing environmental conditions, maintenance needs, or ownership, provided that the total annual estimated expenditures are not exceeded. The UTILITY must notify the TOWN in writing of such changes prior to the next maintenance cycle. The TOWN may also request modifications to the tasks or level of services set forth in Attachment "B". Any such work requested by the TOWN shall commence within reasonable time after the request has been made to the UTILITY. If the tasks and level of service must be adjusted in such a manner that the annual estimated expenditure will be exceeded in any given year, then approval by both parties' Project Managers must be obtained. However, the total five-year cost of the Agreement shall not be exceeded.

E. Payments by the TOWN are to be made within 30 days after the bill presentation. In the event of a dispute on the billed amount, the TOWN 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 TOWN, as indicated under Article V (H) of this Agreement. Upon resolution of the dispute, payments by the TOWN are to be made within 30 days. In the event of an overpayment by the TOWN, the UTILITY shall reimburse the TOWN within 30 days after verification of the overpayment by the UTILITY.

F. The TOWN and the UTILITY shall maintain financial records pertaining to this Agreement for 5 years after the expiration of this Agreement, and shall make them available for inspection and copying at the place where the records are maintained within a reasonable time after receiving a records request.

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

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

I. If requested, the UTILITY will provide a tentative yearly maintenance schedule at the beginning of each fiscal year. As an update to the yearly maintenance schedule, the UTILITY will coordinate (via e-mail or telephone) with the TOWN within 48 hours prior to commencing work in the TOWN. The UTILITY contact for maintenance activities will be the Division Director or the Director's Designee of the Miami-Dade County Transportation and Public Works Department's Road, Bridge, and Canal Maintenance Division.

J. Upon request by the TOWN, the UTILITY shall provide quarterly reports showing the tasks performed, dates of work completed, number of crews, and pre-audited cost of service.

ARTICLE VI COMPENSATION/CONSIDERATION

A. It is the intent and understanding of the parties that this Agreement is solely for the TOWN and the UTILITY. No person or entity other than the TOWN 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

TOWN Event of Default

Without limitation, the failure by the TOWN to substantially fulfill any of its material obligations in accordance with this Agreement, unless such failures are justified by Force Majeure, shall constitute a "TOWN event of default". The UTILITY shall not be required to provide one year prior notice as required under Article IV before terminating this Agreement for default. If the UTILITY determines that a TOWN event of default has occurred, the UTILITY shall provide written notice of such default to the TOWN and allow the TOWN a thirty (30) calendar day period to rectify the "TOWN event of default".

In the event that the UTILITY determines that the TOWN event of default has not been rectified, the UTILITY shall have the right to terminate the Agreement with the following cumulative and independent rights and remedies:

1. The right to declare that this Agreement together with all rights granted to the TOWN 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 TOWN shall not be required to provide one year prior notice as required under Article IV before terminating this Agreement for default. If the TOWN determines that a UTILITY event of default has occurred, the TOWN shall provide written notice of such default to the UTILITY and allow the UTILITY a thirty (30) calendar day period to rectify the "UTILITY event of default".

In the event that the TOWN determines that the UTILITY event of default has not been rectified, the TOWN shall have the right to terminate the Agreement with the following cumulative and independent rights and remedies:

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

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 hereto any rights or remedies under or by reasons of this Agreement.

**ARTICLE XII
REPRESENTATION OF TOWN**

The TOWN represents that this Agreement has been duly authorized, executed and delivered by the Town Council of the Town of Miami Lakes, as the governing body of the TOWN and it has the required power and authority to perform this Agreement and has granted the Town Manager or the Town Manager's Designee 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 the Mayor's 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 this 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**

The TOWN shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant, or employee of the UTILITY. TOWN shall have control of the work performed in accordance with the terms of this Agreement and of all persons

performing the same, and TOWN shall be responsible for the acts and omissions of its officers, agents, employees, contractors, and subcontractors, if any.

The UTILITY shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant, or employee of the TOWN. 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 TOWN.

ARTICLE XVII INDEMNIFICATION

The TOWN shall indemnify and hold harmless the UTILITY and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorney's fees and costs of defense, which the UTILITY 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 TOWN or its employees, agents, servants, partners, principals or subcontractors. TOWN 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 the UTILITY, where applicable, including appellate proceedings, and shall pay all costs, judgements and attorney's fees which may issue thereon. Provided, however, this indemnification shall only be to the extent and within the limitations of Section 768.28 Fla. Stat., subject to the provisions of that Statute whereby the TOWN shall not be held liable to pay a personal injury or property damage claim or judgement by any one person which exceeds the sum of \$200,000, or any claim or judgement or portions thereof, which, when totaled with all other claims or judgement paid by the TOWN arising out of the same incident or occurrence, exceed the sum of \$300,000 from any and all personal injury or property damage claims, liabilities, losses or causes of action which may arise as a result of the negligence of the TOWN.

The UTILITY does hereby agree to indemnify and hold harmless the TOWN to the extent and within the limitations of Section 768.28 Fla. Stat., subject to the provisions of that Statute whereby the UTILITY shall not be held liable to pay a personal injury or property damage claim or judgement by any one person which exceeds the sum of \$200,000, or any claim or judgements or portions thereof, which, when totaled with all other occurrence, exceeds the sum of \$300,000 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 the UTILITY. However, nothing herein shall be deemed to indemnify the TOWN from any liability or claim arising out of the negligent performance or failure of performance of the TOWN or any unrelated third party.


IN WITNESS THEREOF, the parties hereto through their duly authorized representatives hereby execute this Agreement.

Attest:

TOWN OF MIAMI LAKES, FLORIDA
6601 Main Street
Miami Lakes, FL 33014
Attn: Mr. Edward Pidermann, Town Manager
(305) 364-6100


Town Clerk
Date 6/10/2021

Authorized signature on behalf
of the TOWN of MIAMI LAKES, Florida.

By: 
Town Attorney
Date 6/11/21

By: 
Town Manager
Date 6/10/2021
Edward Pidermann
Town Manager

MIAMI-DADE COUNTY BOARD OF COUNTY
COMMISSIONERS, FLORIDA AS GOVERNING
BODY OF THE MIAMI-DADE COUNTY
STORMWATER UTILITY

By: _____
Mayor or Mayor's
Designee
Date _____

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

HARVEY RUVIN, CLERK
Attest:

By: _____
Deputy Clerk
Date _____

ATTACHMENT “A”

A.1 - Percent Share Calculation Table

A.2 - Canals and Drainage Areas Map

ATTACHMENT "A.1"

TOWN OF MIAMI LAKES
CANAL DRAINAGE AREAS % SHARE

<u>CANAL</u>	<u>DRAINAGE AREAS (SQ MILE)</u>		<u>% SHARE</u>
RED ROAD CANAL			
1. Miami Lakes	0.42	(0.21+0.21)	6%
2. Miami Gardens	0.11		2%
3. Hialeah	3.53	(1.71+1.04+0.55+0.23)	50%
4. Miami-Dade County	2.95	(0.19+0.22+2.31+0.23)	42%
PETER'S PIKE CANAL			
1. Miami Lakes	0.46	NW 138 St to NW 170 St	88%
2. Dade County	0.06	NW 138 St to NW 170 St	12%
GOLDEN GLADES CANAL			
1. Miami Lakes	1.21		19%
2. Miami-Dade County	3.60	(0.25+0.29+0.77+0.39+1.9)	57%
3. Hialeah	1.54		24%
GRAHAM'S DAIRY CANAL			
1. Miami Lakes	2.74	(1.45+0.84+0.45)	45%
2. Hialeah	3.12	(2.04+0.34+0.74)	51%
3. Hialeah Gardens	0.24	(0.24)	4%

ATTACHMENT “B”

Five (5) Year Cost Share Table

(see attachment)

ATTACHMENT "B"
TOWN OF MIAMI LAKES
Canal Maintenance Estimated Costs (FY 2021/22 - 2025/26)

Selected Level of Service Shown Shaded

Culvert Cleaning - Above Water¹

Canal Name	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
Red Road	\$0	\$0	\$0	\$0	6.0	\$0
Peter's Pike	\$0	\$0	\$0	\$0	88.0	\$0
Golden Glades	\$0	\$0	\$0	\$0	19.0	\$0
Grahams Dairy	\$0	\$0	\$0	\$0	45.0	\$0
sub-total	\$0	\$0	\$0	\$0		\$0

Town's Annual Cost at Current Level of Service (0 cycles) \$0
 Line Item 1

Culvert Cleaning - Below Water

Canal Name	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
Red Road	\$4,300	\$8,600	\$12,900	\$17,200	6.0	\$1,032
Peter's Pike	\$1,500	\$3,000	\$4,500	\$6,000	88.0	\$5,280
Golden Glades	\$700	\$1,400	\$2,100	\$2,800	19.0	\$532
Grahams Dairy	\$1,000	\$2,000	\$3,000	\$4,000	45.0	\$1,800
sub-total	\$7,500	\$15,000	\$22,500	\$30,000		\$8,644

Town's Annual Cost at Current Level of Service (4 cycles) \$8,644
 Line Item 2

Mechanical Harvesting (submerged, emergent, and bank areas treated)

Canal Name	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
Red Road	\$26,000	\$52,000	\$78,000	\$104,000	6.0	\$6,240
Peter's Pike	\$12,500	\$25,000	\$37,500	\$50,000	88.0	\$44,000
Golden Glades	\$14,000	\$28,000	\$42,000	\$56,000	19.0	\$10,640
Grahams Dairy	\$7,800	\$15,600	\$23,400	\$31,200	45.0	\$14,040
sub-total	\$60,300	\$120,600	\$180,900	\$241,200		\$74,920

Town's Annual Cost at Current Level of Service (4 cycles) \$74,920
 Line Item 3

Herbicide Treatment (submerged, emergent, and bank areas treated)

Canal Name	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
Red Road	\$15,000	\$30,000	\$45,000	\$60,000	6.0	\$3,600
Peter's Pike	\$11,200	\$22,400	\$33,600	\$44,800	88.0	\$39,424
Golden Glades	\$7,000	\$14,000	\$21,000	\$28,000	19.0	\$5,320
Grahams Dairy	\$13,250	\$26,500	\$39,750	\$53,000	45.0	\$23,850
sub-total	\$46,450	\$92,900	\$139,350	\$185,800		\$72,194

Town's Annual Cost at Current Level of Service (4 cycles) \$72,194
 Line Item 4

ATTACHMENT "B"
TOWN OF MIAMI LAKES
Canal Maintenance Estimated Costs (FY 2021/22 - 2025/26)

Mowing - Flat¹

Canal Name	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
Red Road	\$0	\$0	\$0	\$0	6.0	\$0
Peter's Pike	\$0	\$0	\$0	\$0	88.0	\$0
Golden Glades	\$0	\$0	\$0	\$0	19.0	\$0
Grahams Dairy	\$0	\$0	\$0	\$0	45.0	\$0
sub-total	\$0	\$0	\$0	\$0		\$0

Town's Annual Cost at Current Level of Service (0 cycles) \$0
 Line Item 5

Mowing - Slope¹

Canal Name	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
Red Road	\$0	\$0	\$0	\$0	6.0	\$0
Peter's Pike	\$0	\$0	\$0	\$0	88.0	\$0
Golden Glades	\$0	\$0	\$0	\$0	19.0	\$0
Grahams Dairy	\$0	\$0	\$0	\$0	45.0	\$0
sub-total	\$0	\$0	\$0	\$0		\$0

Town's Annual Cost at Current Level of Service (0 cycles) \$0
 Line Item 6

Obstruction Removal / Preventative Mitigation / Emergency Repair (contingency)²

Canal Name	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
Red Road	\$2,000	\$4,000	\$6,000	\$8,000	6.0	\$120
Peter's Pike	\$2,000	\$4,000	\$6,000	\$8,000	88.0	\$1,760
Golden Glades	\$2,000	\$4,000	\$6,000	\$8,000	19.0	\$380
Grahams Dairy	\$2,000	\$4,000	\$6,000	\$8,000	45.0	\$900
sub-total	\$8,000	\$16,000	\$24,000	\$32,000		\$3,160

Town's Annual Cost at Current Level of Service (1 cycle) \$3,160
 Line Item 7

TOTAL ANNUAL COST	\$465,000
MDC STORMWATER UTILITY ANNUAL COST	\$306,082
MDC STORMWATER UTILITY 5-YEAR COST	\$1,530,410
MIAMI LAKES ANNUAL COST (Line Items 1 through 7)	\$158,918
MIAMI LAKES 5-YEAR COST	\$794,590

NOTES:

¹ To be performed by the Town, within the Town boundaries, at no cost to the County

² Obstruction Removal to be performed as needed and may include such tasks as Dead Animal Removal, Cut Vegetation, Debris Removal by Hand, and Clean Trash Interceptors. Preventative Mitigation / Emergency Repair requires Town's written approval of cost-share estimate prior to performance of any such work (e.g canal bank stabilization, headwall repair, culvert blockage removal after a storm) in order to invoice the Town.

Scheduled tasks do not include aesthetic cleaning such as debris or litter removal

Costs are not to exceed the total annual amounts unless modified in accordance with Article V, Paragraph D

Level of Service and Costs based on FY2016 to 2020 expenditures and cost projections



**FIVE (5) YEAR
INTERLOCAL AGREEMENT
FOR STORMWATER MANAGEMENT**

between

**THE CITY OF DORAL
AND
THE MIAMI-DADE COUNTY STORMWATER UTILITY**

MIAMI-DADE COUNTY
STORMWATER UTILITY (305) 372-6688
701 NORTHWEST FIRST COURT, SUITE 500
MIAMI, FL 33136



**FIVE (5) YEAR
INTERLOCAL AGREEMENT FOR STORMWATER MANAGEMENT
BETWEEN
THE CITY OF DORAL (CITY)
AND
THE MIAMI-DADE COUNTY STORMWATER UTILITY (UTILITY)**

THIS FIVE (5) 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 Doral, a Florida Municipal Corporation, through its governing body, the Doral City Council of the City of Doral, Florida [hereinafter sometimes referred to as "CITY",] is entered into as follows:

WITNESSETH

WHEREAS, Section 403.0893, Florida Statutes (F.S.), 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 the 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, depicted on the map in Attachment "A-2", 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, prevailing environmental conditions, 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 further 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.

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.

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" or other related stormwater drainage tasks agreed to by both parties' Project Managers.

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 between 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, depicted on the map in Attachment "A-2", in accordance with this Agreement and the CITY's stormwater management plan. The CITY shall be responsible for maintaining aesthetic conditions only on canals and other water bodies within the CITY's boundary by providing for litter and minor debris removal as needed.

The CITY shall maintain and repair, at no cost to the UTILITY, canal bank areas where the CITY has performed or will perform canal bank stabilization projects.

The UTILITY shall maintain, repair, and enhance shared stormwater management systems located within the limits of the drainage service areas in accordance with Attachment "A" and Attachment "B".

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 five (5) years, retroactively commencing on October 1, 2020 and ending on September 30, 2025, 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.

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. Commencing with Fiscal Year 2020-2021, and after approval of the Agreement, 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 five (5) year term of this Agreement are also included and shall not be exceeded.

D. The tasks and levels of service set forth in Attachment "B" may be adjusted by the UTILITY due to prevailing environmental conditions, maintenance needs, or ownership, provided that the total annual estimated expenditures are not exceeded. The CITY may also request modifications to the tasks or level of services set forth in Attachment "B". Any such work requested by the CITY shall commence within reasonable time after the request has been made to the UTILITY. If the tasks and level of service must be adjusted in such a manner that the annual estimated expenditure will be exceeded in any given year, then approval by both parties' Project Managers must be obtained. However, the total five-year cost of the Agreement shall not be exceeded.

E. The UTILITY is representing that it has similar stormwater management agreements with other municipalities with similar tasks and levels of service. The UTILITY agrees to notify the CITY within a reasonable timeframe if the UTILITY makes changes to the tasks or levels of service related to the same canals set forth in Attachment "B". The CITY may contact the UTILITY to re-negotiate the terms of the Agreement with respect to services that may have been changed and have not yet been provided. If the CITY understands that other municipalities are being offered changes to the tasks and levels of service for the same canals set forth in Attachment "B", the CITY may request the same contract conditions. If the UTILITY refuses to re-negotiate or if after six months of continuous discussions for re-negotiation, an agreement between the CITY and the UTILITY cannot be reached, the CITY may immediately request termination of the Agreement. If terminated, the CITY agrees to pay all canal maintenance costs incurred by the UTILITY prior to the date of termination, which to date have not been invoiced for, and in accordance with Attachment "B" of this Agreement.

F. Payments by the CITY are to be made within 30 days after the bill presentation. In the event of a dispute on the billed 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. Upon resolution of the dispute, payments by the CITY are to be made within 30 days. In the event of an overpayment by the CITY, the UTILITY shall reimburse the CITY within 30 days after verification of the overpayment by the UTILITY.

G. The CITY and the UTILITY shall maintain financial records pertaining to this Agreement for 5 years after the expiration of this Agreement, and shall make them available for inspection and copying at the place where the records are maintained within a reasonable time after receiving a records request.

H. 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.

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

J. If requested, the UTILITY will provide a tentative yearly maintenance schedule at the beginning of each fiscal year. As an update to the yearly maintenance schedule, the UTILITY will coordinate (via e-mail or telephone) with the CITY within 48 hours prior to commencing work in the CITY. The UTILITY contact for maintenance activities will be the Division Chief of the Miami-Dade County Department of Transportation and Public Works (DPTW) - Road, Bridge, and Canal Maintenance Division.

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 shall not be required to provide one year prior notice as required under Article IV before terminating this Agreement for default. If the UTILITY determines that a CITY event of default has occurred, the UTILITY shall provide written notice of such default to the CITY and allow the CITY a thirty (30) calendar day period to rectify the "CITY event of default".

In the event that the UTILITY determines that the CITY event of default has not been rectified, the UTILITY shall have the right to terminate the Agreement with the following cumulative and independent rights and remedies:

1. The right to declare that this Agreement together with all rights granted to the 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 shall not be required to provide one year prior notice as required under Article IV before terminating this Agreement for

default. If the CITY determines that a UTILITY event of default has occurred, the CITY shall provide written notice of such default to the UTILITY and allow the UTILITY a thirty (30) calendar day period to rectify the "UTILITY event of default".

In the event that the CITY determines that the UTILITY event of default has not been rectified, the CITY shall have the right to terminate the Agreement with the following cumulative and independent rights and remedies:

1. The right to declare that this Agreement together with all rights granted to the 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

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 hereto 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 Council of the City of Doral, as the governing body of the CITY and it has the required power and authority to perform this Agreement and has granted the City Manager or the City Manager's Designee 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 the Mayor's 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 this 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**

The CITY shall perform all work and services described herein 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.

The 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**

The CITY shall indemnify and hold harmless the UTILITY and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorney's fees and costs of defense, which the UTILITY 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 the UTILITY, where applicable, including appellate proceedings, and shall pay all costs, judgements and attorney's fees which may issue thereon. Provided, however, this indemnification shall only be to the extent and within the limitations of Section 768.28 Fla. Stat., subject to the provisions of that Statute whereby the CITY shall not be held liable to pay a personal injury or property damage claim or judgement by any one person which exceeds the sum of \$200,000, or any claim or judgement or portions thereof, which, when totaled with all other claims or judgement paid by the CITY arising out of the same incident or occurrence, exceed the sum of \$300,000 from any and all personal injury or property damage claims, liabilities, losses or causes of action which may arise as a result of the negligence of the CITY.

The UTILITY does hereby agree to indemnify and hold harmless the CITY to the extent and within the limitations of Section 768.28 Fla. Stat., subject to the provisions of that Statute whereby the UTILITY shall not be held liable to pay a personal injury or property damage claim or judgement by any one person which exceeds the sum of \$200,000, or any claim or judgements or portions thereof, which, when totaled with all other occurrence, exceeds the sum of \$300,000 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 the UTILITY. However, nothing herein shall be deemed to indemnify the CITY from any liability or claim arising out of the negligent performance or failure of performance of the CITY or any unrelated third party.

IN WITNESS THEREOF, the parties hereto through their duly authorized representatives hereby execute this Agreement.

Attest:

CITY OF DORAL, FLORIDA
8401 N.W. 53 Terrace
Doral, FL 33166
Attn: Mr. Herman M. Organvidez, Interim
City Manager
(305) 593-6697

 8/17/2021

City Clerk Date

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

By:  8/13/21

Interim City Manager Date

MIAMI-DADE COUNTY BOARD OF COUNTY
COMMISSIONERS, FLORIDA AS GOVERNING
BODY OF THE MIAMI-DADE COUNTY
STORMWATER UTILITY

By: _____
Mayor or Mayor's Date
Designee

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

HARVEY RUVIN, CLERK
Attest:

By: _____
Deputy Clerk Date

ATTACHMENT “A”

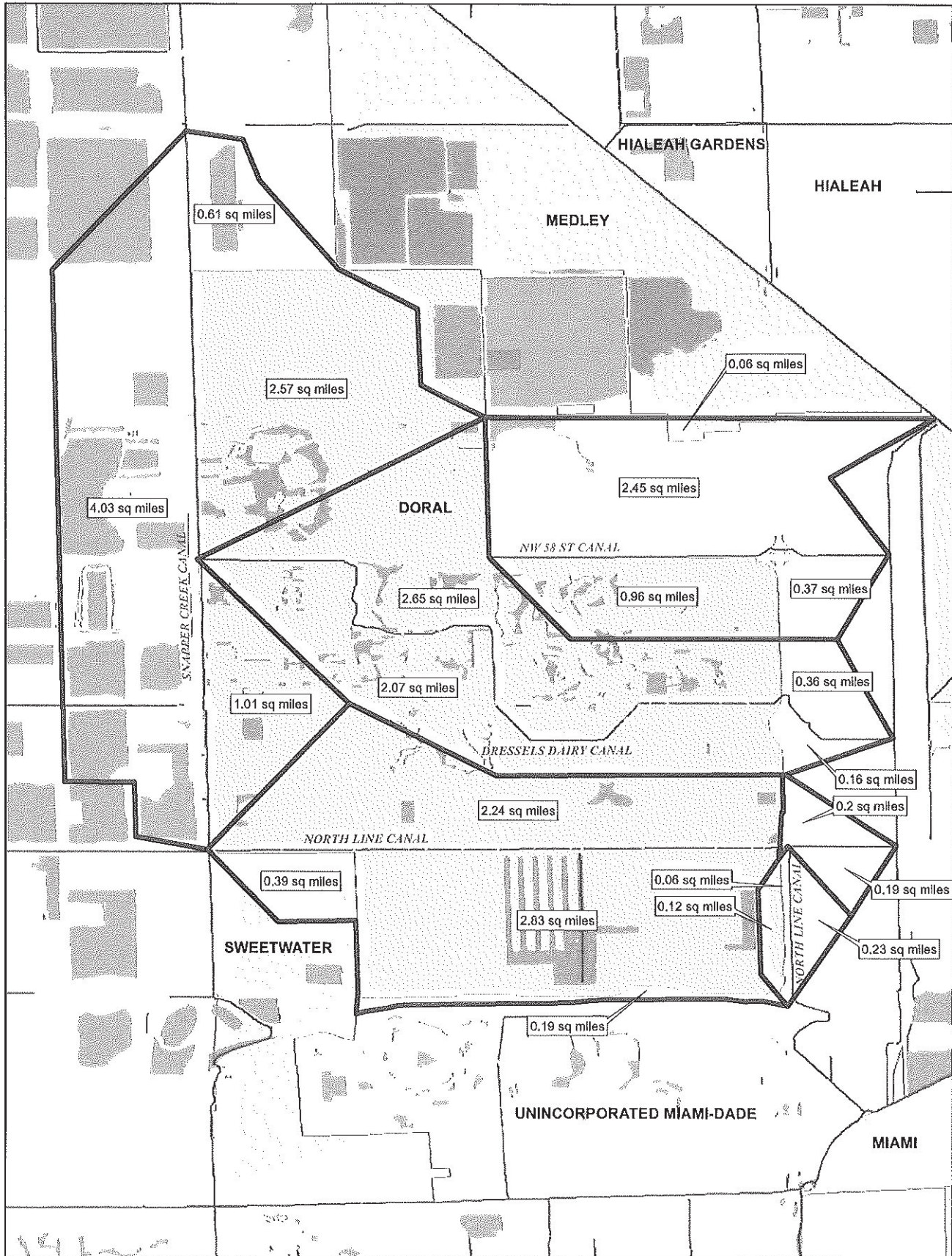
“A-1” - Percent Share Calculation Table

“A-2” - Canals and Drainage Basins Map

ATTACHMENT "A-1"

CITY OF DORAL CANAL DRAINAGE AREAS % SHARE

<u>CANAL</u>	<u>DRAINAGE AREAS (SQ MILE)</u>	<u>% SHARE</u>
NW 58 ST CANAL		
1. Doral	0.96	25%
2. Medley	0.06	2%
3. Miami-Dade County	2.82	73%
DRESSELS DAIRY CANAL		
1. Doral	4.72	90%
2. Miami-Dade County	0.52	10%
NORTH LINE CANAL		
1. Doral	5.19	80%
2. Miami-Dade County	1.26	20%
SNAPPER CREEK EXT. CANAL		
1. Doral	3.58	44%
2. Miami-Dade County	4.64	56%



Legend

Doral Drainage Area Boundaries

canals



ATTACHMENT “B”

Five (5) Year Cost Share Table

(see attached exhibit)

ATTACHMENT "B"
Canal Maintenance Estimated Costs - FY2021 to 2025
CITY OF DORAL

Selected Level of Service Shown Shaded

Culvert Cleaning - Above Water

Canal Name	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
Dressels Dairy	\$5,000	\$10,000	\$15,000	\$20,000	90	\$13,500
North Line (NW 25 St Canal)	\$6,400	\$12,800	\$19,200	\$25,600	80	\$15,360
NW 58 Street	\$6,700	\$13,400	\$20,100	\$26,800	25	\$5,025
Snapper Creek	\$1,300	\$2,600	\$3,900	\$5,200	44	\$1,716
sub-total	\$19,400	\$38,800	\$58,200	\$77,600		\$35,601

City's Annual Cost at Current Level of Service (3 cycles) **\$35,601**
 Line Item 1

Culvert Cleaning - Below Water

Canal Name	Cycles per Year				Municipality	
	1	2	3	4	% Share	Cost
Dressels Dairy	\$2,500	\$5,000	\$7,500	\$10,000	90	\$2,250
North Line (NW 25 St Canal)	\$5,000	\$10,000	\$15,000	\$20,000	80	\$4,000
NW 58 Street	\$8,500	\$17,000	\$25,500	\$34,000	25	\$2,125
Snapper Creek	\$1,000	\$2,000	\$3,000	\$4,000	44	\$440
sub-total	\$17,000	\$34,000	\$51,000	\$68,000		\$8,815

City's Annual Cost at Current Level of Service (1 cycle) **\$8,815**
 Line Item 2

Chemical/Herbicide Treatment (submerged, emergent, and bank acres treated)

Canal Name	Cycles per Year				Municipality	
	1	2	3	4	% Share	Cost
Dressels Dairy	\$15,000	\$30,000	\$45,000	\$60,000	90	\$54,000
North Line (NW 25 St Canal)	\$3,500	\$7,000	\$10,500	\$14,000	80	\$11,200
NW 58 Street	\$9,000	\$18,000	\$27,000	\$36,000	25	\$9,000
Snapper Creek	\$4,500	\$9,000	\$13,500	\$18,000	44	\$7,920
sub-total	\$32,000	\$64,000	\$96,000	\$128,000		\$82,120

City's Annual Cost at Current Level of Service (4 cycles) **\$82,120**
 Line Item 3

Mechanical Harvesting (submerged, emergent, and bank acres treated)

Canal Name	Cycles per Year				Municipality	
	1	2	3	4	% Share	Cost
Dressels Dairy	\$48,000	\$96,000	\$144,000	\$192,000	90	\$129,600
North Line (NW 25 St Canal)	\$40,000	\$80,000	\$120,000	\$160,000	80	\$96,000
NW 58 Street	\$1,000	\$2,000	\$3,000	\$4,000	25	\$750
Snapper Creek	\$2,000	\$4,000	\$6,000	\$8,000	44	\$2,640
sub-total	\$91,000	\$182,000	\$273,000	\$364,000		\$228,990

City's Annual Cost at Current Level of Service (3 cycles) **\$228,990**
 Line Item 4

Mowing - Flat

Canal Name	Cycles per Year				Municipality	
	1	2	3	4	% Share	Cost
Dressels Dairy	\$1,500	\$3,000	\$4,500	\$6,000	90	\$5,400
North Line (NW 25 St Canal)	\$750	\$1,500	\$2,250	\$3,000	80	\$2,400
NW 58 Street	\$500	\$1,000	\$1,500	\$2,000	25	\$500
Snapper Creek	\$250	\$500	\$750	\$1,000	44	\$440
sub-total	\$3,000	\$6,000	\$9,000	\$12,000		\$8,740

City's Annual Cost at Current Level of Service (4 cycles) **\$8,740**
 Line Item 5

ATTACHMENT "B"
Canal Maintenance Estimated Costs - FY2021 to 2025
CITY OF DORAL

Mowing - Slope

Canal Name	Cycles per Year				Municipality	
	1	2	3	4	% Share	Cost
Dressels Dairy	\$3,000	\$6,000	\$9,000	\$12,000	90	\$10,800
North Line (NW 25 St Canal)	\$2,800	\$5,600	\$8,400	\$11,200	80	\$8,960
NW 58 Street	\$1,700	\$3,400	\$5,100	\$6,800	25	\$1,700
Snapper Creek	\$1,000	\$2,000	\$3,000	\$4,000	44	\$1,760
sub-total	\$8,500	\$17,000	\$25,500	\$34,000		\$23,220

City's Annual Cost at Current Level of Service (4 cycles)

\$23,220
Line Item 6

¹Obstruction Removal - As needed

Canal Name	per Occurrence				Municipality	
	1	2	3	4	% Share	Cost
Dressels Dairy	\$1,000	\$2,000	\$3,000	\$4,000	90	\$900
North Line (NW 25 St Canal)	\$1,000	\$2,000	\$3,000	\$4,000	80	\$800
NW 58 Street	\$1,000	\$2,000	\$3,000	\$4,000	25	\$250
Snapper Creek	\$1,000	\$2,000	\$3,000	\$4,000	44	\$440
sub-total	\$4,000	\$8,000	\$12,000	\$16,000		\$2,390

City's Annual Cost at Current Level of Service (1 occurrence)

\$2,390
Line Item 7

²Preventative Mitigation / Emergency Repair - Contingency

Canal Name	Event				Municipality	
	1	2	3	4	% Share	Cost
Dressels Dairy	\$25,000				90	\$22,500
North Line (NW 25 St Canal)	\$15,000				80	\$12,000
NW 58 Street	\$10,000				25	\$2,500
Snapper Creek	\$10,000				44	\$4,400
sub-total	\$60,000					\$41,400

City's Cost at Current Level of Service (1 event)

\$41,400
Line Item 8

Summary of Costs

MDC ESTIMATED TOTAL ANNUAL COST (before Doral's reimbursement to MDC) Annual **\$526,200**

MDC ESTIMATED TOTAL 5-YEAR COST (before Doral's reimbursement to MDC) 5-Year **\$2,631,000**

MDC ESTIMATED TOTAL 5-YEAR COST WITH 1 EVENT OF PREVENTATIVE MITIGATION / EMERGENCY REPAIR (before Doral's reimbursement to MDC) Total **\$2,691,000**

DORAL MAXIMUM ANNUAL REIMBURSEMENT TO MDC (Line Items 1 to 7) Annual **\$389,876**

DORAL MAXIMUM 5-YEAR REIMBURSEMENT TO MDC 5-Year **\$1,949,380**

DORAL MAXIMUM 5-YEAR REIMBURSEMENT TO MDC WITH 1 EVENT PREVENTATIVE MITIGATION / EMERGENCY REPAIR Total **\$1,990,780**

NOTES:

1. Obstruction Removal may include tasks such as Debris Removal by Hand, Remove Dead Animals, and Cut Vegetation.

2. Line Item 8: Requires City's written approval of cost-share estimate prior to performance of any such work (e.g. culvert blockage removal after a storm, canal bank stabilization, headwall repair) on the canal and its related appurtenances, in order to invoice the City for the work. Total cost = \$60,000; Doral = \$41,400 & MDC SWU = \$18,600



EXHIBIT 7

**FIVE (5) YEAR
INTERLOCAL AGREEMENT**

between

**THE VILLAGE OF PALMETTO BAY
AND
THE MIAMI-DADE COUNTY STORMWATER UTILITY
FOR
STORMWATER MANAGEMENT**

MIAMI-DADE COUNTY
STORMWATER UTILITY (305) 372-6688
701 NORTHWEST FIRST COURT, SUITE 500
MIAMI, FL 33136



**FIVE (5) YEAR
INTERLOCAL AGREEMENT
BETWEEN
THE VILLAGE OF PALMETTO BAY (VILLAGE)
AND
THE MIAMI-DADE COUNTY STORMWATER UTILITY (UTILITY)
FOR STORMWATER MANAGEMENT**

THIS FIVE (5) 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 VILLAGE of PALMETTO BAY, a Florida Municipal Corporation, through its governing body, the PALMETTO BAY VILLAGE Council of the VILLAGE of PALMETTO BAY, Florida [hereinafter sometimes referred to as "VILLAGE",] is entered into as follows:

WITNESSETH

WHEREAS, Section 403.0893, Florida Statutes (F.S.), 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 VILLAGE, through this Agreement, to establish relationships and responsibilities for the maintenance of shared stormwater systems by the VILLAGE and the UTILITY; and

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

WHEREAS, the UTILITY and the VILLAGE 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 VILLAGE 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, depicted on the map in Attachment "A-2", 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, prevailing environmental conditions, and the level of service established.
- (8) to provide a mechanism for the UTILITY and the VILLAGE 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 VILLAGE 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.

VILLAGE Stormwater Utility Budget shall mean the VILLAGE'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 VILLAGE'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 VILLAGE or the UTILITY to which both the VILLAGE and the UTILITY contribute stormwater runoff and which is further identified in Attachment "A".

Costs allocable to the VILLAGE 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 VILLAGE based on the VILLAGE's relative stormwater runoff contribution to the shared portion of the stormwater drainage system of the UTILITY.

Costs allocable to the Utility shall mean those portions of the actual maintenance and operating outlays budgeted by the VILLAGE 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 VILLAGE.

Operating Outlays shall mean expenses budgeted by the VILLAGE 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 VILLAGE 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 VILLAGE 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" or other related stormwater drainage tasks agreed to by both parties' Project Managers.

Project Manager shall mean the persons designated by the VILLAGE 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 between the Project Managers.

ARTICLE III STATEMENT OF WORK

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

The VILLAGE shall maintain and repair shared stormwater systems located within the limits of the drainage service areas, depicted on the map in Attachment "A-2", in accordance with this Agreement and the VILLAGE's stormwater management plan. The VILLAGE shall be responsible for maintaining aesthetic conditions only on canals and other water bodies within the VILLAGE's boundary by providing for litter and minor debris removal as needed.

The UTILITY shall maintain, repair, and enhance shared stormwater management systems located within the limits of the drainage service areas in accordance with Attachment "A" and Attachment "B".

The VILLAGE'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 are depicted in Attachment "A".

ARTICLE IV TERM OF THE AGREEMENT

The term of this Agreement shall be for a period of five (5) years commencing on October 1, 2021 and ending on September 30, 2026, 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.

ARTICLE V VILLAGE AND UTILITY RESPONSIBILITIES

A. Upon the request of either the VILLAGE 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 VILLAGE 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. Commencing with fiscal year 2021-2022, and after approval of the Agreement, the costs allocable to the VILLAGE 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 five (5) year term of this Agreement are also included and shall not be exceeded.

D. The tasks and levels of service set forth in Attachment "B" may be adjusted by the UTILITY due to prevailing environmental conditions, maintenance needs, or ownership, provided that the total annual estimated expenditures are not exceeded. The VILLAGE may also request modifications to the tasks or level of services set forth in Attachment "B". Any such work requested by the VILLAGE shall commence within reasonable time after the request has been made to the UTILITY. If the tasks and level of service must be adjusted in such a manner that the annual estimated expenditure will be exceeded in any given year, then approval by both parties' Project Managers must be obtained. However, the total five-year cost of the Agreement shall not be exceeded.

E. Payments by the VILLAGE are to be made within 30 days after the bill presentation. In the event of a dispute on the billed amount, the VILLAGE 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 VILLAGE, as indicated under Article V (H) of this Agreement. Upon resolution of the dispute, payments by the VILLAGE are to be made within 30 days. In the event of an overpayment by the VILLAGE, the UTILITY shall reimburse the VILLAGE within 30 days after verification of the overpayment by the UTILITY.

F. The VILLAGE and the UTILITY shall maintain financial records pertaining to this Agreement for 5 years after the expiration of this Agreement, and shall make them available for inspection and copying at the place where the records are maintained within a reasonable time after receiving a records request.

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

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

I. If requested, the UTILITY will provide a tentative yearly maintenance schedule at the beginning of each fiscal year. As an update to the yearly maintenance schedule, the UTILITY will coordinate (via e-mail or telephone) with the VILLAGE within 48 hours prior to commencing work in the VILLAGE. The UTILITY contact for maintenance activities will be the Division Director of the Miami-Dade County Transportation and Public Works Department's Road, Bridge, and Canal Maintenance Division.

**ARTICLE VI
COMPENSATION/CONSIDERATION**

A. It is the intent and understanding of the parties that this Agreement is solely for the VILLAGE and the UTILITY. No person or entity other than the VILLAGE 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**

VILLAGE Event of Default

Without limitation, the failure by the VILLAGE to substantially fulfill any of its material obligations in accordance with this Agreement, unless such failures are justified by Force Majeure, shall constitute a "VILLAGE event of default". The UTILITY shall not be required to provide one year prior notice as required under Article IV before terminating this Agreement for default. If the UTILITY determines that a VILLAGE event of default has occurred, the UTILITY shall provide written notice of such default to the VILLAGE and allow the VILLAGE a thirty (30) calendar day period to rectify the "VILLAGE event of default".

In the event that the UTILITY determines that the VILLAGE event of default has not been rectified, the UTILITY shall have the right to terminate the Agreement with the following cumulative and independent rights and remedies:

1. The right to declare that this Agreement together with all rights granted to the VILLAGE 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 VILLAGE shall not be required to provide one year prior notice as required under Article IV before terminating this Agreement for default. If the VILLAGE determines that a UTILITY event of default has occurred, the VILLAGE shall provide written notice of such default to the UTILITY and allow the UTILITY a thirty (30) calendar day period to rectify the "UTILITY event of default".

In the event that the VILLAGE determines that the UTILITY event of default has not been rectified, the VILLAGE shall have the right to terminate the Agreement with the following cumulative and independent rights and remedies:

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

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 VILLAGE 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

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 hereto any rights or remedies under or by reasons of this Agreement.

**ARTICLE XII
REPRESENTATION OF VILLAGE**

The VILLAGE represents that this Agreement has been duly authorized, executed and delivered by the VILLAGE Council of the VILLAGE of PALMETTO BAY, as the governing body of the VILLAGE and it has the required power and authority to perform this Agreement and has granted the VILLAGE Manager or the VILLAGE Manager's Designee 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 the Mayor's 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 this 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**

The VILLAGE shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant, or employee of the UTILITY. VILLAGE shall have control of the work performed in accordance with the terms of this Agreement and of all

persons performing the same, and VILLAGE shall be responsible for the acts and omissions of its officers, agents, employees, contractors, and subcontractors, if any.

The UTILITY shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant, or employee of the VILLAGE. 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 VILLAGE.

ARTICLE XVII INDEMNIFICATION

The VILLAGE shall indemnify and hold harmless the UTILITY and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorney's fees and costs of defense, which the UTILITY 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 VILLAGE or its employees, agents, servants, partners, principals or subcontractors. VILLAGE 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 the UTILITY, where applicable, including appellate proceedings, and shall pay all costs, judgements and attorney's fees which may issue thereon. Provided, however, this indemnification shall only be to the extent and within the limitations of Section 768.28 Fla. Stat., subject to the provisions of that Statute whereby the VILLAGE shall not be held liable to pay a personal injury or property damage claim or judgement by any one person which exceeds the sum of \$200,000, or any claim or judgement or portions thereof, which, when totaled with all other claims or judgement paid by the VILLAGE arising out of the same incident or occurrence, exceed the sum of \$300,000 from any and all personal injury or property damage claims, liabilities, losses or causes of action which may arise as a result of the negligence of the VILLAGE.

The UTILITY does hereby agree to indemnify and hold harmless the VILLAGE to the extent and within the limitations of Section 768.28 Fla. Stat., subject to the provisions of that Statute whereby the UTILITY shall not be held liable to pay a personal injury or property damage claim or judgement by any one person which exceeds the sum of \$200,000, or any claim or judgements or portions thereof, which, when totaled with all other occurrence, exceeds the sum of \$300,000 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 the UTILITY. However, nothing herein shall be deemed to indemnify the VILLAGE from any liability or claim arising out of the negligent performance or failure of performance of the VILLAGE or any unrelated third party.

ATTACHMENT “A”

“A-1” - Percent Share Calculation Table

“A-2” - Canals and Drainage Basins Map

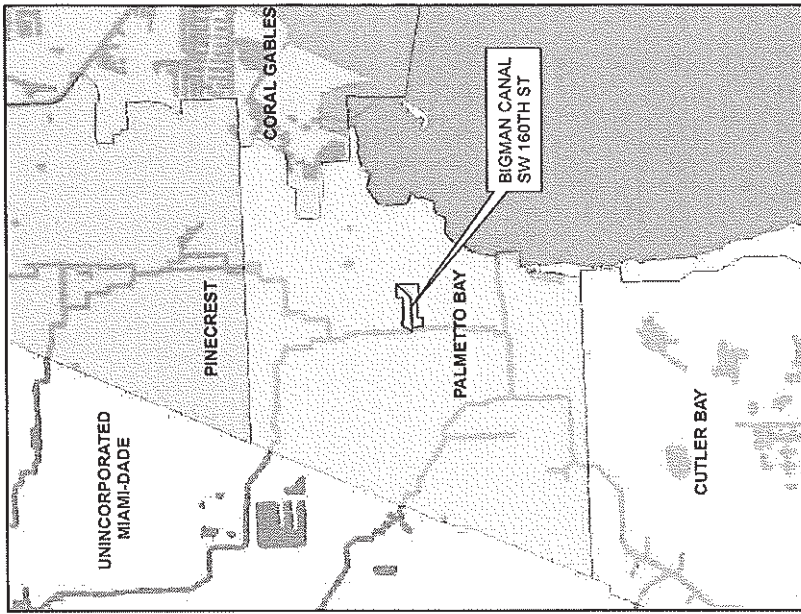
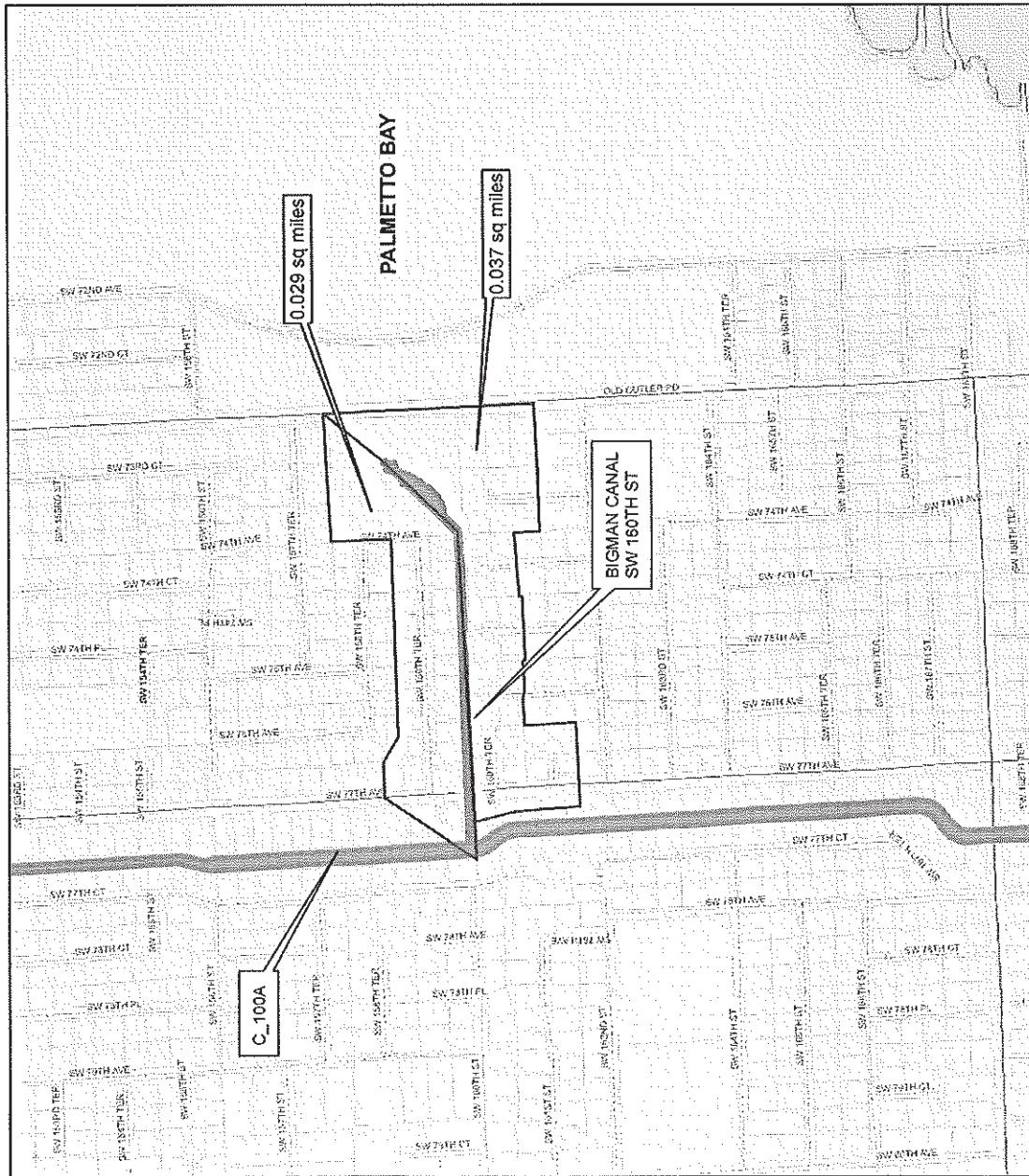
ATTACHMENT "A"

VILLAGE OF PALMETTO BAY CANAL DRAINAGE AREAS & % SHARE

<u>CANAL NAME</u>	<u>FULLY ENCLOSED</u>	<u>% SHARE</u>
SW 160 ST CANAL	Yes	100%



VILLAGE OF PALMETTO BAY CANALS AND DRAINAGE AREAS



KEY MAP

Legend

- DRAINAGE AREAS
- PALMETTO BAY
- MUNICIPALITIES
- PINECREST
- CORAL GABLES
- UNINCORPORATED MIAMI-DADE
- CUTLER BAY

ATTACHMENT "B"

Five (5) Year Cost Share Table

(see attachment)

ATTACHMENT "B"

**CANAL MAINTENANCE ESTIMATED COSTS (FY 2021/22 to 2025/26)
Village of Palmetto Bay**

Selected Level of Service Shown Shaded

Culvert Cleaning - Above Water

Canal	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
SW 160 St	\$0	\$0	\$0	\$0	100	\$0
sub-total	\$0	\$0	\$0	\$0		\$0

Villages's Cost at Selected Level of Service (0 cycles) \$0

Line Item 1

Culvert Cleaning - Below Water

Canal	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
SW 160 St	\$0	\$0	\$0	\$0	100	\$0
sub-total	\$0	\$0	\$0	\$0		\$0

Village's Cost at Selected Level of Service (0 cycle) \$0

Line Item 2

Mechanical Harvesting

Canal	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
SW 160 St	\$0	\$0	\$0	\$0	100	\$0
sub-total						\$0

Village's Cost at Selected Level of Service (0 cycles) \$0

Line Item 3

Herbicide Treatment (submersed, bank and emergent areas treated)

Canal	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
SW 160 St	\$1,300	\$2,600	\$3,900	\$5,200	100	\$5,200
sub-total	\$1,300	\$2,600	\$3,900	\$5,200		\$5,200

Village's Cost at Selected Level of Service (4 cycles) \$5,200

Line Item 4

Mowing - Flat

Canal	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
SW 160 St	\$0	\$0	\$0	\$0	100	\$0
sub-total	\$0	\$0	\$0	\$0		\$0

Village's Cost at Selected Level of Service (0 cycles) \$0

Line Item 5

ATTACHMENT "B"

**CANAL MAINTENANCE ESTIMATED COSTS (FY 2021/22 to 2025/26)
Village of Palmetto Bay**

Mowing - Slope

Canal	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
SW 160 St	\$0	\$0	\$0	\$0	100	\$0
sub-total	\$0	\$0	\$0	\$0		\$0

Village's Cost at Selected Level of Service (0 cycles) **\$0**
Line Item 6

*** Obstruction Removal / Emergency Repair / Preventative Mitigation - Contingency**

Canal	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
SW 160 St	\$1,400	\$2,800	\$4,200	\$5,600	100	\$2,800
sub-total	\$1,400	\$2,800	\$4,200	\$5,600		\$2,800

Village's Cost at Selected Level of Service (2 cycles) **\$2,800**
Line Item 7

ANNUALLY SCHEDULED TASKS (Line Item #1 through #6)	\$5,200
UNSCHEDULED TASKS / CONTINGENCY (Line Item #7)	\$2,800
PALMETTO BAY ANNUAL MAXIMUM COST (Line Item #1 through #7)	\$8,000
PALMETTO BAY 5-YEAR MAXIMUM COST	\$40,000

NOTES:

- Includes two cycles of obstruction / debris removal to be performed annually at the request of the Village's Public Works Director. Requires Village and County staff approval prior to performance of task.

Costs based on the previous 4 years' invoices and cost projections



**FIVE (5) YEAR
INTERLOCAL AGREEMENT**

between

**THE TOWN OF CUTLER BAY
AND
THE MIAMI-DADE COUNTY STORMWATER UTILITY
FOR
STORMWATER MANAGEMENT**

MIAMI-DADE COUNTY
STORMWATER UTILITY (305) 372-6688
701 NORTHWEST FIRST COURT, SUITE 500
MIAMI, FL 33136



**FIVE (5) YEAR
INTERLOCAL AGREEMENT
BETWEEN
THE TOWN OF CUTLER BAY (TOWN)
AND
THE MIAMI-DADE COUNTY STORMWATER UTILITY (UTILITY)
FOR STORMWATER MANAGEMENT**

THIS FIVE (5) 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 Town of Cutler Bay, a Florida Municipal Corporation, through its governing body, the Cutler Bay Town Council of the Town of Cutler Bay, Florida [hereinafter sometimes referred to as "TOWN",] is entered into as follows:

WITNESSETH

WHEREAS, Section 403.0893, Florida Statutes (F.S.), 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 TOWN, through this Agreement, to establish relationships and responsibilities for the maintenance of shared stormwater systems by the TOWN and the UTILITY; and

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

WHEREAS, the UTILITY and the TOWN 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 TOWN 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, prevailing environmental conditions, and the level of service established.
- (8) to provide a mechanism for the UTILITY and the TOWN 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 TOWN 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.

TOWN Stormwater Utility Budget shall mean the TOWN'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 TOWN'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 TOWN or the UTILITY to which both the TOWN and the UTILITY contribute stormwater runoff and which is further identified in Attachment "A".

Costs allocable to the TOWN 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 TOWN based on the TOWN's relative stormwater runoff contribution to the shared portion of the stormwater drainage system of the UTILITY.

Costs allocable to the Utility shall mean those portions of the actual maintenance and operating outlays budgeted by the TOWN 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 TOWN.

Operating Outlays shall mean expenses budgeted by the TOWN 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 TOWN 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 TOWN 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" or other related stormwater drainage tasks agreed to by both parties' Project Managers.

Project Manager shall mean the persons designated by the TOWN 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 between the Project Managers.

ARTICLE III STATEMENT OF WORK

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

The TOWN shall maintain and repair shared stormwater systems located within the limits of the drainage service areas in accordance with this Agreement and the TOWN's stormwater management plan. The TOWN shall be responsible for maintaining aesthetic conditions only on canals and other water bodies within the TOWN's boundary by providing for litter and minor debris removal as needed, flat and slope mowing, and culvert cleaning above water at no cost to the County.

The UTILITY shall maintain, repair, and enhance shared stormwater management systems located within the limits of the drainage service areas in accordance with Attachment "A" and Attachment "B".

The TOWN'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 five (5) years commencing on October 1, 2017 and ending on September 30, 2022, 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.

ARTICLE V TOWN AND UTILITY RESPONSIBILITIES

A. Upon the request of either the TOWN 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 TOWN 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. Commencing with fiscal year 2017-2018, and after approval of the Agreement, the costs allocable to the TOWN 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 five (5) year term of this Agreement are also included and shall not be exceeded.

D. The tasks and levels of service set forth in Attachment "B" may be adjusted by the UTILITY with prior notice to the TOWN due to prevailing environmental conditions, maintenance needs, or ownership, provided that the total annual estimated expenditures are not exceeded. The TOWN may also request modifications to the tasks or level of services set forth in Attachment "B". Any such work requested by the TOWN shall commence within reasonable time after the request has been made to the UTILITY. If the tasks and level of service must be adjusted in such a manner that the annual estimated expenditure will be exceeded in any given year, then prior written approval by both parties' Project Managers must be obtained. However, the total five-year cost of the Agreement shall not be exceeded.

E. Payments by the TOWN are to be made within 30 days after the bill presentation. In the event of a dispute on the billed amount, the TOWN 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 TOWN, as indicated under Article V (H) of this Agreement. Upon resolution of the dispute, payments by the TOWN are to be made within 30 days. In the event of an overpayment by the TOWN, the UTILITY shall reimburse the TOWN within 30 days after verification of the overpayment by the UTILITY.

F. The TOWN and the UTILITY shall maintain financial records pertaining to this Agreement for 5 years after the expiration of this Agreement, and shall make them available for inspection and copying at the place where the records are maintained within a reasonable time after receiving a records request.

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

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

I. If requested, the UTILITY will provide a tentative yearly maintenance schedule at the beginning of each fiscal year. As an update to the yearly maintenance schedule, the UTILITY will coordinate (via e-mail or telephone) with the TOWN within 48 hours prior to commencing work in the TOWN. The UTILITY contact for maintenance activities will be the Chief of Miami-Dade County Department of Transportation and Public Works Road, Bridge and Canal Maintenance Division.

ARTICLE VI
NO THIRD PARTY BENEFICIARIES OR OTHER PARTIES TO THE AGREEMENT

- A. It is the intent and understanding of the parties that this Agreement is solely for the TOWN and the UTILITY. No person or entity other than the TOWN or the UTILITY shall have any rights or privileges under this Agreement in any capacity whatsoever, either as a third-party beneficiary or otherwise.
- B. Nothing in this Agreement expressed or implied is intended to confer upon any person other than the parties hereto any rights or remedies under or by reasons of this Agreement.

ARTICLE VII
DEFAULT

TOWN Event of Default

Without limitation, the failure by the TOWN to substantially fulfill any of its material obligations in accordance with this Agreement, unless such failures are justified by Force Majeure, shall constitute a "TOWN event of default". The UTILITY shall not be required to provide one year prior notice as required under Article IV before terminating this Agreement for default. If the UTILITY determines that a TOWN event of default has occurred, the UTILITY shall provide written notice of such default to the TOWN and allow the TOWN a thirty (30) calendar day period to rectify the "TOWN event of default".

In the event that the UTILITY determines that the TOWN event of default has not been rectified, the UTILITY shall have the right to terminate the Agreement with the following cumulative and independent rights and remedies:

- 1. The right to declare that this Agreement together with all rights granted to the TOWN 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 TOWN shall not be required to provide one year prior notice as required under Article IV before terminating this Agreement for default. If the TOWN determines that a UTILITY event of default has occurred, the TOWN shall provide written notice of such default to the UTILITY and allow the UTILITY a thirty (30) calendar day period to rectify the "UTILITY event of default".

In the event that the TOWN determines that the UTILITY event of default has not been rectified, the TOWN shall have the right to terminate the Agreement with the following cumulative and independent rights and remedies:

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

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 (intentionally left blank)

**ARTICLE XII
REPRESENTATION OF TOWN**

The TOWN represents that this Agreement has been duly authorized, executed and delivered by the Town Council of the Town of Cutler Bay, as the governing body of the TOWN and it has the required power and authority to perform this Agreement and has granted the TOWN Manager or the TOWN Manager's Designee 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 the Mayor's 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 this 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**

The TOWN shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant, or employee of the UTILITY. TOWN shall have control of the work performed in accordance with the terms of this Agreement and of all persons

performing the same, and TOWN shall be responsible for the acts and omissions of its officers, agents, employees, contractors, and subcontractors, if any.

The UTILITY shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant, or employee of the TOWN. 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 TOWN.

ARTICLE XVII INDEMNIFICATION

The TOWN shall indemnify and hold harmless the UTILITY and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorney's fees and costs of defense, which the UTILITY 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 TOWN or its employees, agents, servants, partners, principals or subcontractors. TOWN 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 the UTILITY, where applicable, including appellate proceedings, and shall pay all costs, judgements and attorney's fees which may issue thereon. Provided, however, this indemnification shall only be to the extent and within the limitations of Section 768.28 Fla. Stat., subject to the provisions of that Statute whereby the TOWN shall not be held liable to pay a personal injury or property damage claim or judgement by any one person which exceeds the sum of \$200,000, or any claim or judgement or portions thereof, which, when totaled with all other claims or judgement paid by the TOWN arising out of the same incident or occurrence, exceed the sum of \$300,000 from any and all personal injury or property damage claims, liabilities, losses or causes of action which may arise as a result of the negligence of the TOWN.

The UTILITY does hereby agree to indemnify and hold harmless the TOWN to the extent and within the limitations of Section 768.28 Fla. Stat., subject to the provisions of that Statute whereby the UTILITY shall not be held liable to pay a personal injury or property damage claim or judgement by any one person which exceeds the sum of \$200,000, or any claim or judgements or portions thereof, which, when totaled with all other occurrence, exceeds the sum of \$300,000 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 the UTILITY. However, nothing herein shall be deemed to indemnify the TOWN from any liability or claim arising out of the negligent performance or failure of performance of the TOWN or any unrelated third party.

IN WITNESS THEREOF, the parties hereto through their duly authorized representatives hereby execute this Agreement.

Attest:

TOWN OF CUTLER BAY, FLORIDA
10720 Caribbean Boulevard, Suite 105
Cutler Bay, FL 33189
Attn: Mr. Ralph Casals, Town Manager
(305) 234-4262

[Signature] 7/25/17
Deputy Town Clerk Date

Authorized signature on behalf
of the Town of Cutler Bay, Florida.

By: [Signature] 7/25/17
Town Manager Date



Town Resolution No. 17-45

MIAMI-DADE COUNTY BOARD OF COUNTY
COMMISSIONERS, FLORIDA AS GOVERNING
BODY OF THE MIAMI-DADE COUNTY
STORMWATER UTILITY

By: [Signature] 12/26/17
Mayor or Mayor's Date
Designee

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

HARVEY RUVIN, CLERK
Attest:



By: [Signature] 12/29/17
Deputy Clerk Date

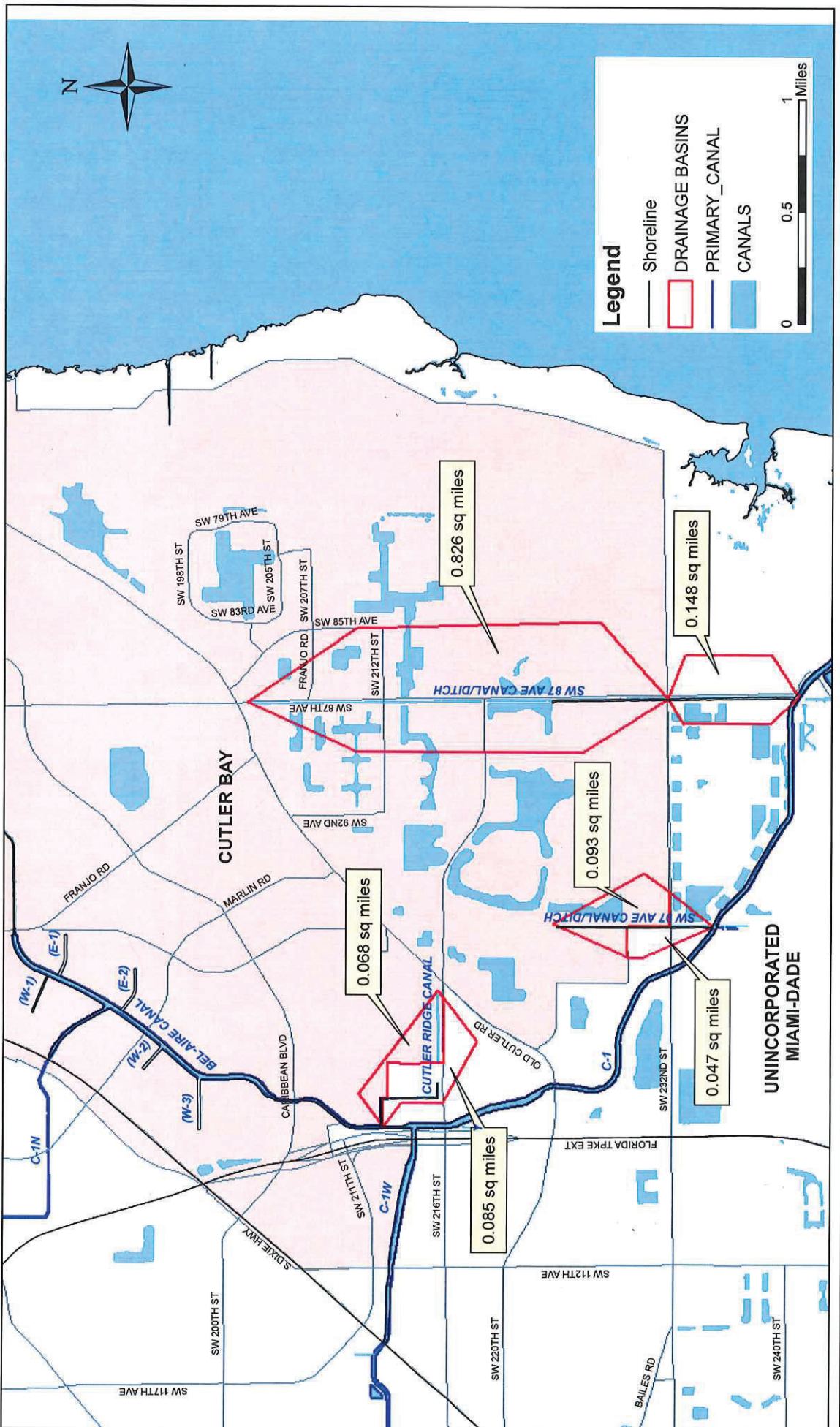
ATTACHMENT "A.1"

TOWN OF CUTLER BAY
CANAL DRAINAGE AREAS and % SHARE

<u>CANAL</u>	<u>DRAINAGE AREAS (SQ MILE)</u>	<u>% SHARE</u>
<u>BEL-AIRE CANALS (W-1, W-2, W-3, E-1, E-2)</u>		
1. Cutler Bay	Fully Enclosed	100%
<u>CUTLER RIDGE CANAL</u>		
1. Cutler Bay	0.068	44%
2. Miami-Dade County	0.085	56%
<u>SW 97 AVENUE CANAL/DITCH</u>		
1. Cutler Bay	0.093	66%
2. Miami-Dade County	0.047	34%
<u>SW 87 AVENUE CANAL/DITCH</u>		
1. Cutler Bay	0.826	85%
2. Miami-Dade County	0.148	15%



TOWN OF CUTLER BAY CANALS AND DRAINAGE AREAS



ATTACHMENT “B”

Five (5) Year Cost Share Table

(see attached exhibit)

ATTACHMENT "B"

**Town of Cutler Bay
Canal Maintenance Cost Estimates FY 2017/18 - 2021/22**

Proposed Levels of Service Shown Shaded

Culvert Cleaning - Above Water

Canal Name	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
Bel Aire E-1	\$0	\$0	\$0	\$0	100%	\$0
Bel Aire E-2	\$0	\$0	\$0	\$0	100%	\$0
Bel Aire W-1	\$0	\$0	\$0	\$0	100%	\$0
Bel Aire W-2	\$200	\$400	\$600	\$800	100%	\$400
Bel Aire W-3	\$0	\$0	\$0	\$0	100%	\$0
Cutler Ridge Canal	\$1,000	\$2,000	\$3,000	\$4,000	44%	\$880
S.W. 87 Ave. Ditch	\$3,000	\$6,000	\$9,000	\$12,000	85%	\$5,100
S.W. 97 Ave. Ditch	\$0	\$0	\$0	\$0	66%	\$0
sub-total	\$4,200	\$8,400	\$12,600	\$16,800		\$6,380

Town's Annual Cost at Proposed Level of Service (2 cycles) \$6,380
Line Item #1

Culvert Cleaning - Below Water

Canal Name	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
Bel Aire E-1	\$0	\$0	\$0	\$0	100%	\$0
Bel Aire E-2	\$0	\$0	\$0	\$0	100%	\$0
Bel Aire W-1	\$0	\$0	\$0	\$0	100%	\$0
Bel Aire W-2	\$500	\$1,000	\$1,500	\$2,000	100%	\$1,000
Bel Aire W-3	\$0	\$0	\$0	\$0	100%	\$0
Cutler Ridge Canal	\$1,000	\$2,000	\$3,000	\$4,000	44%	\$880
S.W. 87 Ave. Ditch	\$4,000	\$8,000	\$12,000	\$16,000	85%	\$6,800
S.W. 97 Ave. Ditch	\$1,000	\$2,000	\$3,000	\$4,000	66%	\$1,320
sub-total	\$6,500	\$13,000	\$19,500	\$26,000		\$10,000

Town's Annual Cost at Proposed Level of Service (2 cycles) \$10,000
Line Item #2

Mechanical Treatment / Harvesting (submerged, emergent, and bank areas)

Canal Name	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
Bel Aire E-1	\$2,000	\$4,000	\$6,000	\$8,000	100%	\$8,000
Bel Aire E-2	\$1,500	\$3,000	\$4,500	\$6,000	100%	\$6,000
Bel Aire W-1	\$2,000	\$4,000	\$6,000	\$8,000	100%	\$8,000
Bel Aire W-2	\$1,500	\$3,000	\$4,500	\$6,000	100%	\$6,000
Bel Aire W-3	\$2,000	\$4,000	\$6,000	\$8,000	100%	\$8,000
Cutler Ridge Canal	\$0	\$0	\$0	\$0	44%	\$0
S.W. 87 Ave. Ditch	\$0	\$0	\$0	\$0	85%	\$0
S.W. 97 Ave. Ditch	\$0	\$0	\$0	\$0	66%	\$0
sub-total	\$9,000	\$18,000	\$27,000	\$36,000		\$36,000

Town's Annual Cost at Proposed Level of Service (4 cycles) \$36,000
Line Item #3

ATTACHMENT "B"

**Town of Cutler Bay
Canal Maintenance Cost Estimates FY 2017/18 - 2021/22**

Chemical Treatment (submerged, emergent, and bank areas)

Canal Name	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
Bel Aire E-1	\$700	\$1,400	\$2,100	\$2,800	100%	\$2,800
Bel Aire E-2	\$700	\$1,400	\$2,100	\$2,800	100%	\$2,800
Bel Aire W-1	\$700	\$1,400	\$2,100	\$2,800	100%	\$2,800
Bel Aire W-2	\$700	\$1,400	\$2,100	\$2,800	100%	\$2,800
Bel Aire W-3	\$700	\$1,400	\$2,100	\$2,800	100%	\$2,800
Cutler Ridge Canal	\$2,000	\$4,000	\$6,000	\$8,000	44%	\$3,520
S.W. 87 Ave. Ditch	\$4,000	\$8,000	\$12,000	\$16,000	85%	\$13,600
S.W. 97 Ave. Ditch	\$1,500	\$3,000	\$4,500	\$6,000	66%	\$3,960
sub-total	\$11,000	\$22,000	\$33,000	\$44,000		\$35,080

Town's Annual Cost at Proposed Level of Service (4 cycles) \$35,080

Line Item #4

Obstruction Removal (contingency)¹

Canal Name	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
Bel Aire E-1	\$500	\$1,000	\$1,500	\$2,000	100%	\$1,000
Bel Aire E-2	\$500	\$1,000	\$1,500	\$2,000	100%	\$1,000
Bel Aire W-1	\$500	\$1,000	\$1,500	\$2,000	100%	\$1,000
Bel Aire W-2	\$500	\$1,000	\$1,500	\$2,000	100%	\$1,000
Bel Aire W-3	\$500	\$1,000	\$1,500	\$2,000	100%	\$1,000
Cutler Ridge Canal	\$500	\$1,000	\$1,500	\$2,000	44%	\$440
S.W. 87 Ave. Ditch	\$1,000	\$2,000	\$3,000	\$4,000	85%	\$1,700
S.W. 97 Ave. Ditch	\$500	\$1,000	\$1,500	\$2,000	66%	\$660
sub-total	\$4,500	\$9,000	\$13,500	\$18,000		\$7,800

Town's Annual Cost at Proposed Level of Service (2 cycles) \$7,800

Line Item #5

Emergency Repair / Preventative Mitigation (contingency)²

Canal Name	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
Bel Aire E-1	\$1,500	\$3,000	\$4,500	\$6,000	100%	\$3,000
Bel Aire E-2	\$1,500	\$3,000	\$4,500	\$6,000	100%	\$3,000
Bel Aire W-1	\$1,500	\$3,000	\$4,500	\$6,000	100%	\$3,000
Bel Aire W-2	\$1,500	\$3,000	\$4,500	\$6,000	100%	\$3,000
Bel Aire W-3	\$1,500	\$3,000	\$4,500	\$6,000	100%	\$3,000
Cutler Ridge Canal	\$700	\$1,400	\$2,100	\$2,800	44%	\$616
S.W. 87 Ave. Ditch	\$700	\$1,400	\$2,100	\$2,800	85%	\$1,190
S.W. 97 Ave. Ditch	\$700	\$1,400	\$2,100	\$2,800	66%	\$924
sub-total	\$9,600	\$19,200	\$28,800	\$38,400		\$17,730

Town's Annual Cost at Proposed Level of Service (2 cycles) \$17,730

Line Item #6

ATTACHMENT "B"

**Town of Cutler Bay
Canal Maintenance Cost Estimates FY 2017/18 - 2021/22**

Mowing - Flat

Canal Name	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
Bel Aire E-1	\$0	\$0	\$0	\$0	100%	\$0
Bel Aire E-2	\$0	\$0	\$0	\$0	100%	\$0
Bel Aire W-1	\$0	\$0	\$0	\$0	100%	\$0
Bel Aire W-2	\$0	\$0	\$0	\$0	100%	\$0
Bel Aire W-3	\$0	\$0	\$0	\$0	100%	\$0
Cutler Ridge Canal	\$500	\$1,000	\$1,500	\$2,000	44%	\$880
S.W. 87 Ave. Ditch	\$0	\$0	\$0	\$0	85%	\$0
S.W. 97 Ave. Ditch	\$0	\$0	\$0	\$0	66%	\$0
sub-total	\$500	\$1,000	\$1,500	\$2,000		\$880

Town's Annual Cost at Proposed Level of Service (4 cycles) \$880
Line Item #7

Mowing - Slope

Canal Name	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
Bel Aire E-1	\$0	\$0	\$0	\$0	100%	\$0
Bel Aire E-2	\$0	\$0	\$0	\$0	100%	\$0
Bel Aire W-1	\$0	\$0	\$0	\$0	100%	\$0
Bel Aire W-2	\$0	\$0	\$0	\$0	100%	\$0
Bel Aire W-3	\$0	\$0	\$0	\$0	100%	\$0
Cutler Ridge Canal	\$500	\$1,000	\$1,500	\$2,000	44%	\$880
S.W. 87 Ave. Ditch	\$0	\$0	\$0	\$0	85%	\$0
S.W. 97 Ave. Ditch	\$500	\$1,000	\$1,500	\$2,000	66%	\$1,320
sub-total	\$1,000	\$2,000	\$3,000	\$4,000		\$2,200

Town's Annual Cost at Proposed Level of Service (4 cycles) \$2,200
Line Item #8

TOTAL ANNUAL COST \$135,600

MDC STORMWATER UTILITY ANNUAL COST \$19,530

MDC STORMWATER UTILITY 5-YEAR COST \$97,650

CUTLER BAY ANNUAL COST (Line Items #1 through #8) \$116,070

CUTLER BAY NOT TO EXCEED 5-YEAR COST \$580,350

NOTES:

1 Non-scheduled task, to be performed at the request of the Town, with County's approval. May include tasks such as debris removal by hand in the Bel-Aire Canals, and remove dead animal in all canals. Does not include minor debris and litter removal.

2 Non-scheduled task. Requires Town's written approval of cost share estimate prior to performance of any such work (e.g. canal bank stabilization, headwall repair, culvert blockage after a storm) in order to invoice the Town.

Costs are not to exceed the total annual amounts unless modified in accordance with Article V, Paragraph D



**FIVE (5) 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) 372-6688
701 NORTHWEST FIRST COURT, SUITE 500
MIAMI, FL 33136



**FIVE (5) YEAR
INTERLOCAL AGREEMENT
BETWEEN
THE CITY OF FLORIDA CITY (CITY)
AND
THE MIAMI-DADE COUNTY STORMWATER UTILITY (UTILITY)
FOR STORMWATER MANAGEMENT**

THIS FIVE (5) 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 Florida Municipal Corporation, 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 (F.S.), 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 the 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, prevailing environmental conditions, 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 further 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.

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.

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" or other related stormwater drainage tasks agreed to by both parties' Project Managers.

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 between 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. The CITY shall be responsible for maintaining aesthetic conditions only on canals and other water bodies within the CITY's boundary by providing for litter and minor debris removal as needed. In addition to the County's cycles, the CITY may perform additional flat and slope mowing, and culvert cleaning above water at no cost to the County.

The UTILITY shall maintain, repair, and enhance shared stormwater management systems located within the limits of the drainage service areas in accordance with Attachment "A" and Attachment "B".

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 five (5) years commencing on October 1, 2014 and ending on September 30, 2019, 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.

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. Commencing with fiscal year 2014-2015, and after approval of the Agreement, 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 five (5) year term of this Agreement are also included and shall not be exceeded.

D. The tasks and levels of service set forth in Attachment "B" may be adjusted by the UTILITY with prior notice to the CITY due to prevailing environmental conditions, maintenance needs, or ownership, provided that the total annual estimated expenditures are not exceeded. The CITY may also request modifications to the tasks or level of services set forth in Attachment "B". Any such work requested by the CITY shall commence within reasonable time after the request has been made to the UTILITY. If the tasks and level of service must be adjusted in such a manner that the annual estimated expenditure will be exceeded in any given year, then prior written approval by both parties' Project Managers must be obtained. However, the total five-year cost of the Agreement shall not be exceeded.

E. Payments by the CITY are to be made within 30 days after the bill presentation. In the event of a dispute on the billed 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. Upon resolution of the dispute, payments by the CITY are to be made within 30 days. In the event of an overpayment by the CITY, the UTILITY shall reimburse the CITY within 30 days after verification of the overpayment by the UTILITY.

F. The CITY and the UTILITY shall maintain financial records pertaining to this Agreement for 5 years after the expiration of this Agreement, and shall make them available for inspection and copying at the place where the records are maintained within a reasonable time after receiving a records request.

G. 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.

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

I. If requested, the UTILITY will provide a tentative yearly maintenance schedule at the beginning of each fiscal year, and notify the CITY (via e-mail or telephone) within 48 hours prior to commencing work in the CITY. The UTILITY contact for maintenance activities will be the Chief of Miami-Dade County Transportation and Public Works Department's Road, Bridge, and Canal Maintenance Division.

**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 shall not be required to provide one year prior notice as required under Article IV before terminating this Agreement for default. If the UTILITY determines that a CITY event of default has occurred, the UTILITY shall provide written notice of such default to the CITY and allow the CITY a thirty (30) calendar day period to rectify the "CITY event of default".

In the event that the UTILITY determines that the CITY event of default has not been rectified, the UTILITY shall have the right to terminate the Agreement with the following cumulative and independent rights and remedies:

1. The right to declare that this Agreement together with all rights granted to the 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 shall not be required to provide one year prior notice as required under Article IV before terminating this Agreement for default. If the CITY determines that a UTILITY event of default has occurred, the CITY shall provide written notice of such default to the UTILITY and allow the UTILITY a thirty (30) calendar day period to rectify the "UTILITY event of default".

In the event that the CITY determines that the UTILITY event of default has not been rectified, the CITY shall have the right to terminate the Agreement with the following cumulative and independent rights and remedies:

1. The right to declare that this Agreement together with all rights granted to the 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

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 hereto 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 or the City Mayor's Designee 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 the Mayor's 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 this 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**

The CITY shall perform all work and services described herein 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.

The 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

The CITY shall indemnify and hold harmless the UTILITY and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorney's fees and costs of defense, which the UTILITY 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 the UTILITY, where applicable, including appellate proceedings, and shall pay all costs, judgements and attorney's fees which may issue thereon. Provided, however, this indemnification shall only be to the extent and within the limitations of Section 768.28 Fla. Stat., subject to the provisions of that Statute whereby the CITY shall not be held liable to pay a personal injury or property damage claim or judgement by any one person which exceeds the sum of \$200,000, or any claim or judgement or portions thereof, which, when totaled with all other claims or judgement paid by the CITY arising out of the same incident or occurrence, exceed the sum of \$300,000 from any and all personal injury or property damage claims, liabilities, losses or causes of action which may arise as a result of the negligence of the CITY.

The UTILITY does hereby agree to indemnify and hold harmless the CITY to the extent and within the limitations of Section 768.28 Fla. Stat., subject to the provisions of that Statute whereby the UTILITY shall not be held liable to pay a personal injury or property damage claim or judgement by any one person which exceeds the sum of \$200,000, or any claim or judgements or portions thereof, which, when totaled with all other occurrence, exceeds the sum of \$300,000 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 the UTILITY. However, nothing herein shall be deemed to indemnify the CITY from any liability or claim arising out of the negligent performance or failure of performance of the CITY or any unrelated third party.

IN WITNESS THEREOF, the parties hereto through their duly authorized representatives hereby execute this Agreement.

Attest:

CITY OF FLORIDA CITY, FLORIDA
404 West Palm Drive
Florida City, FL 33034
Attn: Honorable Otis Wallace, City Mayor
(305) 242-8135

[Signature]
City Clerk
Date
09-02-15

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

By: [Signature] 09-02-15
City Mayor Date

MIAMI-DADE COUNTY BOARD OF COUNTY
COMMISSIONERS, FLORIDA AS GOVERNING
BODY OF THE MIAMI-DADE COUNTY
STORMWATER UTILITY

By: [Signature] 2/26/16
Mayor or Mayor's Date
Designee

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

HARVEY RUVIN, CLERK
Attest:



By: [Signature] 2/29/16
Deputy Clerk Date

ATTACHMENT "A"

"A.1" - Percent Share Calculation Table

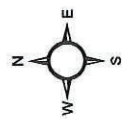
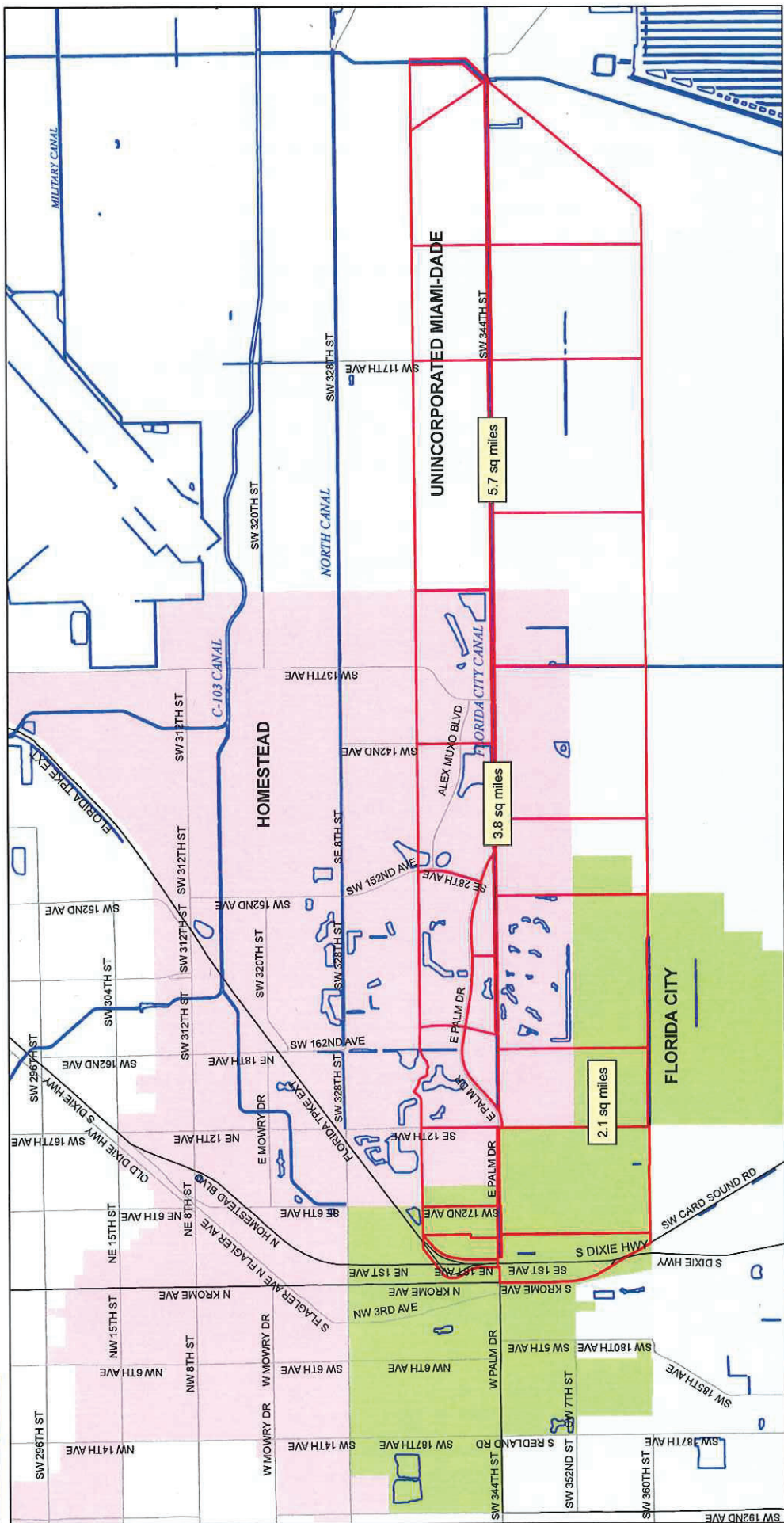
"A.2" - Canals and Drainage Areas Map

ATTACHMENT "A"

CITY OF FLORIDA CITY
CANAL DRAINAGE AREAS % SHARE

<u>CANALS</u>	<u>DRAINAGE AREAS (SQ MILES)</u>	<u>% SHARE</u>
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%

CITY OF FLORIDA CITY CANALS AND DRAINAGE AREAS



- LEGEND**
- FLORIDA CITY
 - HOMESTEAD
 - CANALS
 - DRAINAGE AREA BOUNDARIES

D:\Curt Joba\2009_0616_FloridaCity_CurtFloridaCity.mxd / DATE: 06/16/2009 / BY: MPong
Fcity_Canal_Drainage_Areas.PDF

ATTACHMENT “B”

Five (5) Year Cost Share Table

(see attached exhibit)

ATTACHMENT "B"

CITY OF FLORIDA CITY Canal Maintenance Estimated Costs (FY 2014/15 to 2018-19)

Selected Level of Service Shown Shaded

Culvert Cleaning - Above Water

Canal	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
Florida City Canal	\$2,500	\$5,000	\$7,500	\$10,000	18%	\$1,800
sub-total	\$2,500	\$5,000	\$7,500	\$10,000		\$1,800

City's Annual Cost at Current Level of Service (4 cycles) \$1,800

Line Item 1

Culvert Cleaning - Below Water

Canal	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
Florida City Canal	\$15,000	\$30,000	\$45,000	\$60,000	18%	\$2,700
sub-total	\$15,000	\$30,000	\$45,000	\$60,000		\$2,700

City's Annual Cost at Current Level of Service (1 cycle) \$2,700

Line Item 2

Mechanical Harvesting

Canal	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
Florida City Canal	\$69,900	\$139,800	\$209,700	\$279,600	18%	\$25,164
sub-total	\$69,900	\$139,800	\$209,700	\$279,600		\$25,164

City's Annual Cost at Current Level of Service (2 cycles) \$25,164

Line Item 3

Chemical Treatment

Canal	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
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

City's Annual Cost at Current Level of Service (4 cycles) \$7,854

Line Item 4

Obstruction Removal

Canal	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
Florida City Canal	\$688	\$1,376	\$2,064	\$2,752	18%	\$495
sub-total	\$688	\$1,376	\$2,064	\$2,752		\$495

City's Annual Cost Share at Current Level of Service (4 cycles) \$495

Line Item 5

ATTACHMENT "B"

CITY OF FLORIDA CITY Canal Maintenance Estimated Costs (FY 2014/15 to 2018-19)

Mowing - Flat

Canal	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
Florida City Canal	\$2,100	\$4,200	\$6,300	\$8,400	18%	\$1,512
sub-total	\$2,100	\$4,200	\$6,300	\$8,400		\$1,512

City's Annual Cost at Current Level of Service (4 cycles) \$1,512

Line Item 6

Mowing - Slope

Canal	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
Florida City Canal	\$9,600	\$19,200	\$28,800	\$38,400	18%	\$6,912
sub-total	\$9,600	\$19,200	\$28,800	\$38,400		\$6,912

City's Annual Cost at Current Level of Service (4 cycles) \$6,912

Line Item 7

Debris

Canal	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
Florida City Canal	\$504	\$1,008	\$1,512	\$2,016	18%	\$363
sub-total	\$504	\$1,008	\$1,512	\$2,016		\$363

City's Annual Cost at Current Level of Service (4 cycles) \$363

Line Item 8

TOTAL ANNUAL MAXIMUM COST TO THE UTILITY (WITHOUT THIS AGREEMENT) \$260,000

TOTAL 5-YEAR MAXIMUM COST TO THE UTILITY (WITHOUT THIS AGREEMENT) \$1,300,000

MDC STORMWATER UTILITY NET ANNUAL COST (WITH THIS AGREEMENT) \$213,200

MDC STORMWATER UTILITY NET 5-YEAR COST (WITH THIS AGREEMENT) \$1,066,000

CITY OF FLORIDA CITY MAXIMUM ANNUAL COST \$46,800

Line Items 1 through 8

CITY OF FLORIDA CITY MAXIMUM 5-YEAR COST \$234,000

NOTES:

1. Level of Service and Costs Provided by Miami-Dade County Public Works Department.
2. Some values may be rounded.



**FIVE (5) YEAR
INTERLOCAL AGREEMENT**

between

**THE CITY OF OPA-LOCKA
AND
THE MIAMI-DADE COUNTY STORMWATER UTILITY
FOR
STORMWATER MANAGEMENT**

MIAMI-DADE COUNTY
STORMWATER UTILITY (305) 372-6688
701 NORTHWEST FIRST COURT, SUITE 500
MIAMI, FL 33136



**FIVE (5) YEAR
INTERLOCAL AGREEMENT
BETWEEN
THE CITY OF OPA-LOCKA (CITY)
AND
THE MIAMI-DADE COUNTY STORMWATER UTILITY (UTILITY)
FOR STORMWATER MANAGEMENT**

THIS FIVE (5) 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 Opa-locka, a Florida Municipal Corporation, through its governing body, the Opa-locka City Council of the City of Opa-locka, Florida [hereinafter sometimes referred to as "CITY",] is entered into as follows:

WITNESSETH

WHEREAS, Section 403.0893, Florida Statutes (F.S.), 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 the 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, prevailing environmental conditions, 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 further 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.

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.

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" or other related stormwater drainage tasks agreed to by both parties' Project Managers.

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 between 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. The CITY shall be responsible for maintaining aesthetic conditions only on canals and other water bodies within the CITY's boundary by providing for litter and minor debris removal as needed.

The UTILITY shall maintain, repair, and enhance shared stormwater management systems located within the limits of the drainage service areas in accordance with Attachment "A" and Attachment "B".

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 five (5) years commencing on October 1, 2019 and ending on September 30, 2024, 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.

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. Commencing with fiscal year 2019-2020, and after approval of the Agreement, 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 five (5) year term of this Agreement are also included and shall not be exceeded.

D. The tasks and levels of service set forth in Attachment "B" may be adjusted by the UTILITY with prior notice to the CITY due to prevailing environmental conditions, maintenance needs, or ownership, provided that the total annual estimated expenditures are not exceeded. The CITY may also request modifications to the tasks or level of services set forth in Attachment "B". Any such work requested by the CITY shall commence within reasonable time after the request has been made to the UTILITY. If the tasks and level of service must be adjusted in such a manner that the annual estimated expenditure will be exceeded in any given year, then prior written approval by both parties' Project Managers must be obtained. However, the total two-year cost of the Agreement shall not be exceeded.

E. Payments by the CITY are to be made within 30 days after the bill presentation. In the event of a dispute on the billed 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. Upon resolution of the dispute, payments by the CITY are to be made within 30 days. In the event of an overpayment by the CITY, the UTILITY shall reimburse the CITY within 30 days after verification of the overpayment by the UTILITY.

F. The CITY and the UTILITY shall maintain financial records pertaining to this Agreement for 5 years after the expiration of this Agreement, and shall make them available for inspection and copying at the place where the records are maintained within a reasonable time after receiving a records request.

G. 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.

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

I. If requested, the UTILITY will provide a tentative yearly maintenance schedule at the beginning of each fiscal year. As an update to the yearly maintenance schedule, the UTILITY will coordinate (via e-mail or telephone) with the CITY within 48 hours prior to commencing work in the CITY. The UTILITY contact for maintenance activities will be the Division Chief of the Miami-Dade County Department of Transportation and Public Works; Road, Bridge, and Canal Maintenance Division.

**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 shall not be required to provide one year prior notice as required under Article IV before terminating this Agreement for default. If the UTILITY determines that a CITY event of default has occurred, the UTILITY shall provide written notice of such default to the CITY and allow the CITY a thirty (30) calendar day period to rectify the "CITY event of default".

In the event that the UTILITY determines that the CITY event of default has not been rectified, the UTILITY shall have the right to terminate the Agreement with the following cumulative and independent rights and remedies:

1. The right to declare that this Agreement together with all rights granted to the 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 shall not be required to provide one year prior notice as required under Article IV before terminating this Agreement for default. If the CITY determines that a UTILITY event of default has occurred, the CITY shall provide written notice of such default to the UTILITY and allow the UTILITY a thirty (30) calendar day period to rectify the "UTILITY event of default".

In the event that the CITY determines that the UTILITY event of default has not been rectified, the CITY shall have the right to terminate the Agreement with the following cumulative and independent rights and remedies:

1. The right to declare that this Agreement together with all rights granted to the 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**

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 hereto 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 Opa-locka, as the governing body of the CITY and it has the required power and authority to perform this Agreement and has granted the City Manager or the City Manager's Designee 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 the Mayor's 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 this 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**

The CITY shall perform all work and services described herein 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.

The 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

The CITY shall indemnify and hold harmless the UTILITY and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorney's fees and costs of defense, which the UTILITY 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 the UTILITY, where applicable, including appellate proceedings, and shall pay all costs, judgements and attorney's fees which may issue thereon. Provided, however, this indemnification shall only be to the extent and within the limitations of Section 768.28 Fla. Stat., subject to the provisions of that Statute whereby the CITY shall not be held liable to pay a personal injury or property damage claim or judgement by any one person which exceeds the sum of \$200,000, or any claim or judgement or portions thereof, which, when totaled with all other claims or judgement paid by the CITY arising out of the same incident or occurrence, exceed the sum of \$300,000 from any and all personal injury or property damage claims, liabilities, losses or causes of action which may arise as a result of the negligence of the CITY.

The UTILITY does hereby agree to indemnify and hold harmless the CITY to the extent and within the limitations of Section 768.28 Fla. Stat., subject to the provisions of that Statute whereby the UTILITY shall not be held liable to pay a personal injury or property damage claim or judgement by any one person which exceeds the sum of \$200,000, or any claim or judgements or portions thereof, which, when totaled with all other occurrence, exceeds the sum of \$300,000 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 the UTILITY. However, nothing herein shall be deemed to indemnify the CITY from any liability or claim arising out of the negligent performance or failure of performance of the CITY or any unrelated third party.

IN WITNESS THEREOF, the parties hereto through their duly authorized representatives hereby execute this Agreement.

Attest:

CITY OF OPA-LOCKA, FLORIDA
780 Fisherman Street, 4th Floor
Opa-locka, FL 33054
Attn: Mr. Newall J. Daughtrey
City Manager
(305) 953-2821

Jocelyn Flans 05/17/2019
City Clerk Date

Authorized signature on behalf
of the City of Opa-locka, Florida.

By: Newall Daughtrey 05/17/2019
City Manager Date

MIAMI-DADE COUNTY BOARD OF COUNTY
COMMISSIONERS, FLORIDA AS GOVERNING
BODY OF THE MIAMI-DADE COUNTY
STORMWATER UTILITY

By: Jack Osterholt 2/24/2020
Mayor or Mayor's
Designee DEPUTY MAYOR Date
MIAMI-DADE CTY. FL

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

HARVEY RUVIN, CLERK
Attest:

Harvey Ruvins 2/26/20
By: Deputy Clerk Date



ATTACHMENT "A"

A.1 - Percent Share Calculation Table

A.2 - Canals and Drainage Basins Map

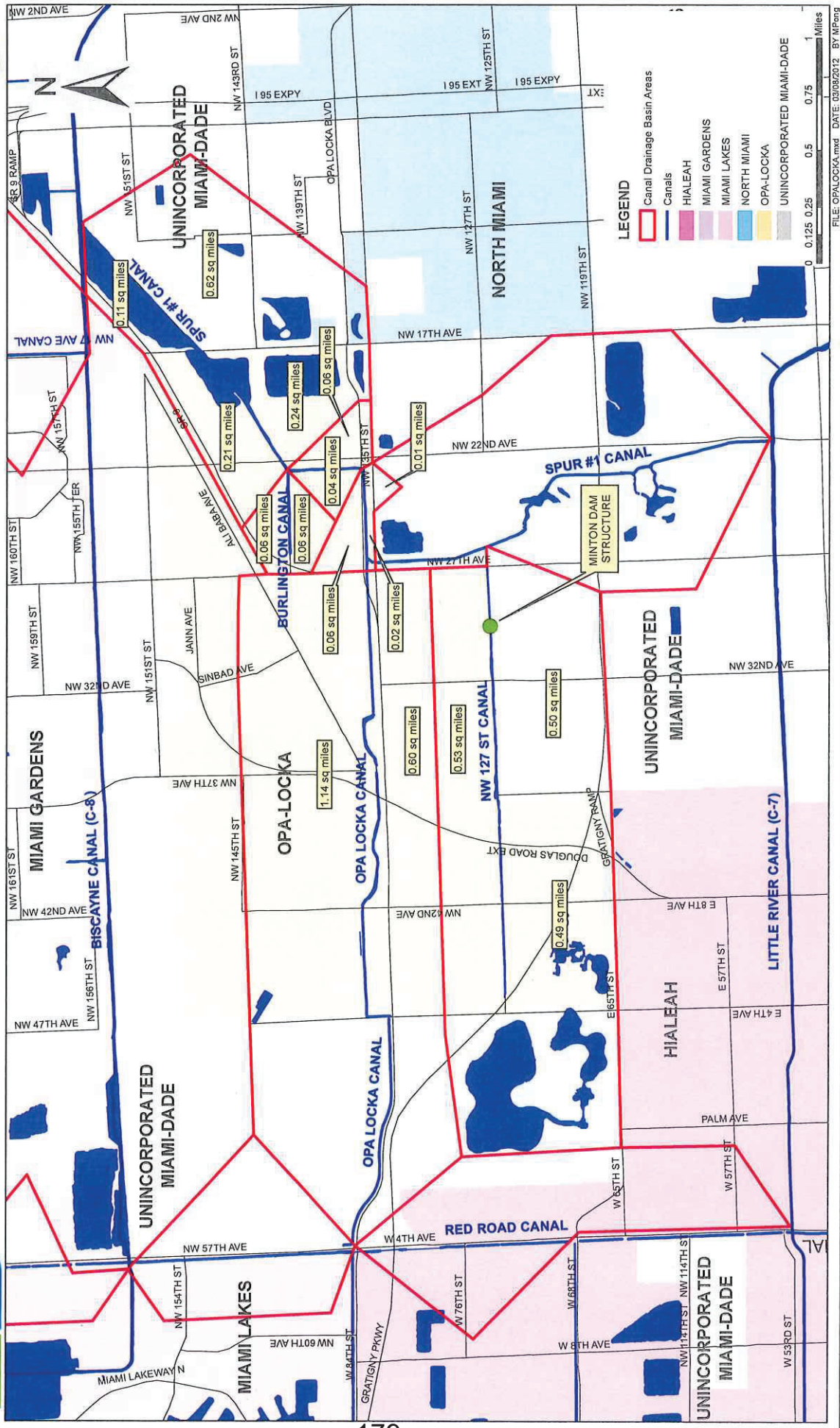
ATTACHMENT "A.1"

CITY OF OPA-LOCKA
CANAL DRAINAGE AREAS and % SHARE

<u>CANAL</u>	<u>TOTAL AREA (SQ MILES)</u>	<u>SUB-AREAS</u>	<u>% SHARE</u>
<u>BURLINGTON CANAL (NW 22 Ct. to NW 26 Ave.)</u>			
1. Opa-locka	0.12	(0.06+0.06)	100%
2. Miami-Dade County	0.00	0	0%
<u>SPUR #1 CANAL (Biscayne Canal to NW 27 Ave.)</u>			
1. Opa-locka	0.63	(0.21+0.24+0.04+0.06+0.06+0.02)	46%
2. Miami-Dade County	0.74	(0.11+0.62+0.01)	54%
<u>OPA-LOCKA CANAL (NW 27 Ave. to NW 47 Ave.)</u>			
1. Opa-locka	1.74	(1.14+0.60)	100%
2. Miami-Dade County	0.00	0	0%
<u>NW 127 STREET CANAL (NW 27 Ave. to NW 47 Ave.)</u>			
1. Opa-locka	1.02	(0.53+0.49)	67%
2. Miami-Dade County	0.50	(0.50)	33%
<u>MINTON DAM - (on NW 127 St Canal, at 32 Ave)</u>			
1. Opa-locka			67%
2. Miami-Dade County			33%



ATTACHMENT "A.2"
CITY OF OPA-LOCKA
CANAL DRAINAGE BASIN AREAS



ATTACHMENT “B”

Five (5) Year Cost Share Table

(see attached)

ATTACHMENT "B"

CITY OF OPA-LOCKA

Canal Maintenance Estimated Costs (FY 2020 to FY 2024)

Selected Level of Service Shown Shaded

Culvert Cleaning - Above Water

Canal Name	Cycles per Year				Municipality	
	1	2	3	4	% Share	Cost
Burlington (from NW 22 Ct to 26 Ave)	\$1,000	\$2,000	\$3,000	\$4,000	100	\$4,000
NW 127 Street (from NW 27 Ave to 45 Ave)	\$1,500	\$3,000	\$4,500	\$6,000	67	\$4,020
Opa-locka (from NW 27 Ave to 47 Ave)	\$1,500	\$3,000	\$4,500	\$6,000	100	\$6,000
Spur #1 (from Biscayne to NW 27 Ave)	\$2,000	\$4,000	\$6,000	\$8,000	46	\$3,680
sub-total	\$6,000	\$12,000	\$18,000	\$24,000		\$17,700

City Cost at Current Level of Service (4 cycles) \$17,700

Culvert Cleaning - Below Water

Canal Name	Cycles per Year				Municipality	
	1	2	3	4	% Share	Cost
Burlington (from NW 22 Ct to 26 Ave)	\$1,000	\$2,000	\$3,000	\$4,000	100	\$1,000
NW 127 Street (from NW 27 Ave to 45 Ave)	\$2,000	\$4,000	\$6,000	\$8,000	67	\$1,340
Opa-locka (from NW 27 Ave to 47 Ave)	\$2,500	\$5,000	\$7,500	\$10,000	100	\$2,500
Spur #1 (from Biscayne to NW 27 Ave)	\$2,500	\$5,000	\$7,500	\$10,000	46	\$1,150
sub-total	\$8,000	\$16,000	\$24,000	\$32,000		\$5,990

City Cost at Current Level of Service (1 cycle) \$5,990

Mechanical Harvesting (submerged, emergent, and bank acres treated)

Canal Name	Cycles per Year				Municipality	
	1	2	3	4	% Share	Cost
Burlington (from NW 22 Ct to 26 Ave)	\$8,000	\$16,000	\$24,000	\$32,000	100	\$24,000
NW 127 Street (from NW 27 Ave to 45 Ave)	\$0	\$0	\$0	\$0	67	\$0
Opa-locka (from NW 27 Ave to 47 Ave)	\$28,000	\$56,000	\$84,000	\$112,000	100	\$84,000
Spur #1 (from Biscayne to NW 27 Ave)	\$13,000	\$26,000	\$39,000	\$52,000	46	\$17,940
sub-total	\$49,000	\$98,000	\$147,000	\$196,000		\$125,940

City Cost at Current Level of Service (3 cycles) \$125,940

Chemical/Herbicide Treatment (submerged, emergent, and bank acres treated)

Canal Name	Cycles per Year				Municipality	
	1	2	3	4	% Share	Cost
Burlington (from NW 22 Ct to 26 Ave)	\$1,000	\$2,000	\$3,000	\$4,000	100	\$4,000
NW 127 Street (from NW 27 Ave to 45 Ave)	\$5,500	\$11,000	\$16,500	\$22,000	67	\$14,740
Opa-locka (from NW 27 Ave to 47 Ave)	\$6,500	\$13,000	\$19,500	\$26,000	100	\$26,000
Spur #1 (from Biscayne to NW 27 Ave)	\$6,500	\$13,000	\$19,500	\$26,000	46	\$11,960
sub-total	\$19,500	\$39,000	\$58,500	\$78,000		\$56,700

City Cost at Current Level of Service (4 cycles) \$56,700

ATTACHMENT "B"

CITY OF OPA-LOCKA

Canal Maintenance Estimated Costs (FY 2020 to FY 2024)

Mowing - Flat

Canal Name	Cycles per Year				Municipality	
	1	2	3	4	% Share	Cost
Burlington (from NW 22 Ct to 26 Ave)	\$0	\$0	\$0	\$0	100	\$0
NW 127 Street (from NW 27 Ave to 45 Ave)	\$1,400	\$2,800	\$4,200	\$5,600	67	\$3,752
Opa-locka (from NW 27 Ave to 47 Ave)	\$1,400	\$2,800	\$4,200	\$5,600	100	\$5,600
Spur #1 (from Biscayne to NW 27 Ave)	\$500	\$1,000	\$1,500	\$2,000	46	\$920
sub-total	\$3,300	\$6,600	\$9,900	\$13,200		\$10,272

City Cost at Current Level of Service (4 cycles) \$10,272

Mowing - Slope

Canal Name	Cycles per Year				Municipality	
	1	2	3	4	% Share	Cost
Burlington (from NW 22 Ct to 26 Ave)	\$0	\$0	\$0	\$0	100	\$0
NW 127 Street (from NW 27 Ave to 45 Ave)	\$1,500	\$3,000	\$4,500	\$6,000	67	\$4,020
Opa-locka (from NW 27 Ave to 47 Ave)	\$4,000	\$8,000	\$12,000	\$16,000	100	\$16,000
Spur #1 (from Biscayne to NW 27 Ave)	\$2,000	\$4,000	\$6,000	\$8,000	46	\$3,680
sub-total	\$7,500	\$15,000	\$22,500	\$30,000		\$23,700

City Cost at Current Level of Service (4 cycles) \$23,700

Obstruction Removal (contingency)¹

Canal Name	per Event				Municipality	
	1	2	3	4	% Share	Cost
Burlington (from NW 22 Ct to 26 Ave)	\$1,000	\$2,000	\$3,000	\$4,000	100	\$1,000
NW 127 Street (from NW 27 Ave to 45 Ave)	\$1,000	\$2,000	\$3,000	\$4,000	67	\$670
Opa-locka (from NW 27 Ave to 47 Ave)	\$1,000	\$2,000	\$3,000	\$4,000	100	\$1,000
Spur #1 (from Biscayne to NW 27 Ave)	\$2,500	\$5,000	\$7,500	\$10,000	46	\$1,150
sub-total	\$5,500	\$11,000	\$16,500	\$22,000		\$3,820

City Cost at Current Level of Service (1 event) \$3,820

Flood Control Structure Maintenance

Structure Name	Cycles per Year				Municipality	
	1	12	26	52	% Share	Cost
NW 127 St Canal Structure / Minton Dam	\$1,000	\$12,000	\$26,000	\$52,000	67	\$8,040
sub-total	\$1,000	\$12,000	\$26,000	\$52,000		\$8,040

City Cost at Current Level of Service (12 cycles) \$8,040

ATTACHMENT "B"

CITY OF OPA-LOCKA

Canal Maintenance Estimated Costs (FY 2020 to FY 2024)

Emergency Repair / Preventative Mitigation (contingency)²

Canal Name	per Event				Municipality	
	1	2	3	4	% Share	Cost
Burlington (from NW 22 Ct to 26 Ave)	\$20,000	\$40,000	\$60,000	\$80,000	100	\$20,000
Spur #1 (from Biscayne to NW 27 Ave)	\$20,000	\$40,000	\$60,000	\$80,000	46	\$9,200
Opa-locka (from NW 27 Ave to 47 Ave)	\$20,000	\$40,000	\$60,000	\$80,000	100	\$20,000
127 Street (from NW 27 Ave to 45 Ave)	\$20,000	\$40,000	\$60,000	\$80,000	67	\$13,400
sub-total	\$80,000	\$160,000	\$240,000	\$320,000		\$62,600

City Cost at Current Level of Service (1 event) \$62,600

Summary of Costs

TOTAL ANNUAL COST	\$317,700
MDC STORMWATER UTILITY ANNUAL COST	\$65,538
MDC STORMWATER UTILITY 5-YEAR COST	\$327,690
MDC STORMWATER UTILITY 5-YEAR COST WITH 1 EMERGENCY REPAIR EVENT	\$345,090
CITY OF OPA-LOCKA ANNUAL COST	Annual \$252,162
CITY OF OPA-LOCKA 5-YEAR COST	5-Year \$1,260,810
CITY OF OPA-LOCKA MAXIMUM 5-YEAR COST WITH 1 EMERGENCY REPAIR EVENT	\$1,323,410

NOTES:

1. May include tasks such as Debris Removal by Hand, Cut Vegetation, Obstruction Removal, and Remove Dead Animals

2. Requires City's written approval of cost-share estimate prior to performance of any such work (e.g. culvert blockage removal after a storm, canal bank stabilization, headwall repair) on the canal and its related appurtenances, in order to invoice the City for the work. Total cost = \$80,000: Opa-locka = \$62,600 & MDC SWU = \$17,400



**STORMWATER MANAGEMENT
INTERLOCAL AGREEMENT**

between

**THE CITY OF SOUTH MIAMI
AND
THE MIAMI-DADE COUNTY STORMWATER UTILITY**

MIAMI-DADE COUNTY
STORMWATER UTILITY (305) 372-6688
701 NORTHWEST FIRST COURT, SUITE 500
MIAMI, FL 33136



**STORMWATER MANAGEMENT
INTERLOCAL AGREEMENT
BETWEEN
THE CITY OF SOUTH MIAMI (CITY)
AND
THE MIAMI-DADE COUNTY STORMWATER UTILITY (UTILITY)**

THIS 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 South Miami, a Florida Municipal Corporation, through its governing body, the South Miami City Commission of the City of South Miami, Florida [hereinafter sometimes referred to as "CITY",] is entered into as follows:

WITNESSETH

WHEREAS, Section 403.0893, Florida Statutes (F.S.), 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 the 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 help preserve 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, prevailing environmental conditions, 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 further 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.

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.

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" or other related stormwater drainage tasks agreed to by both parties' Project Managers.

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 between 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. The CITY shall be responsible for maintaining aesthetic conditions only on canals and other water bodies within the CITY's boundary by providing for litter and minor debris removal as needed, and at no cost to the County.

The UTILITY shall maintain, repair, and enhance shared stormwater management systems located within the limits of the drainage service areas in accordance with Attachment "A" and Attachment "B".

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

This Agreement shall commence on March 1, 2018 and end on September 30, 2020, 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.

Upon mutual written consent of the parties, this Agreement may be extended for a term of two (2) additional years, from October 1, 2020 to September 30, 2022.

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. Commencing with Fiscal Year 2018, and after approval of the Agreement, 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 term of this Agreement are also included and shall not be exceeded.

D. The tasks and levels of service set forth in Attachment "B" may be adjusted by the UTILITY with prior notice to the CITY due to prevailing environmental conditions, maintenance needs, or ownership, provided that the total annual estimated expenditures are not exceeded. The CITY may also request modifications to the tasks or level of services set forth in Attachment "B". Any such work requested by the CITY shall commence within reasonable time after the request has been made to the UTILITY. If the tasks and level of service must be adjusted in such a manner that the annual estimated expenditure will be exceeded in any given year, then prior written approval by both parties' Project Managers must be obtained. However, the total five-year cost of the Agreement shall not be exceeded.

E. Payments by the CITY are to be made within 30 days after the bill presentation. In the event of a dispute on the billed 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. Upon resolution of the dispute, payments by the CITY are to be made within 30 days. In the event of an overpayment by the CITY, the UTILITY shall reimburse the CITY within 30 days after verification of the overpayment by the UTILITY.

F. The CITY and the UTILITY shall maintain financial records pertaining to this Agreement for five (5) years after the expiration of this Agreement, and shall make them available for inspection and copying at the place where the records are maintained within a reasonable time after receiving a records request.

G. 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.

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

I. If requested, the UTILITY will provide a tentative yearly maintenance schedule at the beginning of each fiscal year. As an update to the yearly maintenance schedule, the UTILITY will coordinate (via e-mail or telephone) with the CITY within 48 hours prior to commencing work in the CITY. The UTILITY contact for maintenance activities will be the Chief of Miami-Dade County Department of Transportation and Public Works Road, Bridge, and Canal Maintenance Division.

ARTICLE VI
NO THIRD PARTY BENEFICIARIES OR OTHER PARTIES TO THE AGREEMENT

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

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 shall not be required to provide one year prior notice as required under Article IV before terminating this Agreement for default. If the UTILITY determines that a CITY event of default has occurred, the UTILITY shall provide written notice of such default to the CITY and allow the CITY a thirty (30) calendar day period to rectify the "CITY event of default".

In the event that the UTILITY determines that the CITY event of default has not been rectified, the UTILITY shall have the right to terminate the Agreement with the following cumulative and independent rights and remedies:

- 1. The right to declare that this Agreement together with all rights granted to the 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 shall not be required to provide one year prior notice as required under Article IV before terminating this Agreement for default. If the CITY determines that a UTILITY event of default has occurred, the CITY shall provide written notice of such default to the UTILITY and allow the UTILITY a thirty (30) calendar day period to rectify the "UTILITY event of default".

In the event that the CITY determines that the UTILITY event of default has not been rectified, the CITY shall have the right to terminate the Agreement with the following cumulative and independent rights and remedies:

1. The right to declare that this Agreement together with all rights granted to the 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

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 (intentionally left blank)

**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 South Miami, as the governing body of the CITY and it has the required power and authority to perform this Agreement and has granted the CITY Manager or the CITY Manager's Designee 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 the Mayor's 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 this 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**

The CITY shall perform all work and services described herein 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.

The 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

The CITY shall indemnify and hold harmless the UTILITY and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorney's fees and costs of defense, which the UTILITY 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 the UTILITY, where applicable, including appellate proceedings, and shall pay all costs, judgements and attorney's fees which may issue thereon. Provided, however, this indemnification shall only be to the extent and within the limitations of Section 768.28 Fla. Stat., subject to the provisions of that Statute whereby the CITY shall not be held liable to pay a personal injury or property damage claim or judgement by any one person which exceeds the sum of \$200,000, or any claim or judgement or portions thereof, which, when totaled with all other claims or judgement paid by the CITY arising out of the same incident or occurrence, exceed the sum of \$300,000 from any and all personal injury or property damage claims, liabilities, losses or causes of action which may arise as a result of the negligence of the CITY.

The UTILITY does hereby agree to indemnify and hold harmless the CITY to the extent and within the limitations of Section 768.28 Fla. Stat., subject to the provisions of that Statute whereby the UTILITY shall not be held liable to pay a personal injury or property damage claim or judgement by any one person which exceeds the sum of \$200,000, or any claim or judgements or portions thereof, which, when totaled with all other occurrence, exceeds the sum of \$300,000 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 the UTILITY. However, nothing herein shall be deemed to indemnify the CITY from any liability or claim arising out of the negligent performance or failure of performance of the CITY or any unrelated third party.

IN WITNESS THEREOF, the parties hereto through their duly authorized representatives hereby execute this Agreement.

Attest:

CITY OF SOUTH MIAMI, FLORIDA
6130 Sunset Drive
South Miami, FL 33143
Attn: Mr. Steven Alexander, City Manager
(305) 663-6338

Phyllis 7/9/18
City Clerk Date

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

By: [Signature] 7-9-18
City Manager Date

MIAMI-DADE COUNTY BOARD OF COUNTY
COMMISSIONERS, FLORIDA AS GOVERNING
BODY OF THE MIAMI-DADE COUNTY
STORMWATER UTILITY

By: [Signature] 11/28/18
Mayor or Mayor's Date
Designee

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

HARVEY RUVIN, CLERK

Attest:

By: [Signature] 12/4/18
Deputy Clerk Date



ATTACHMENT “A”

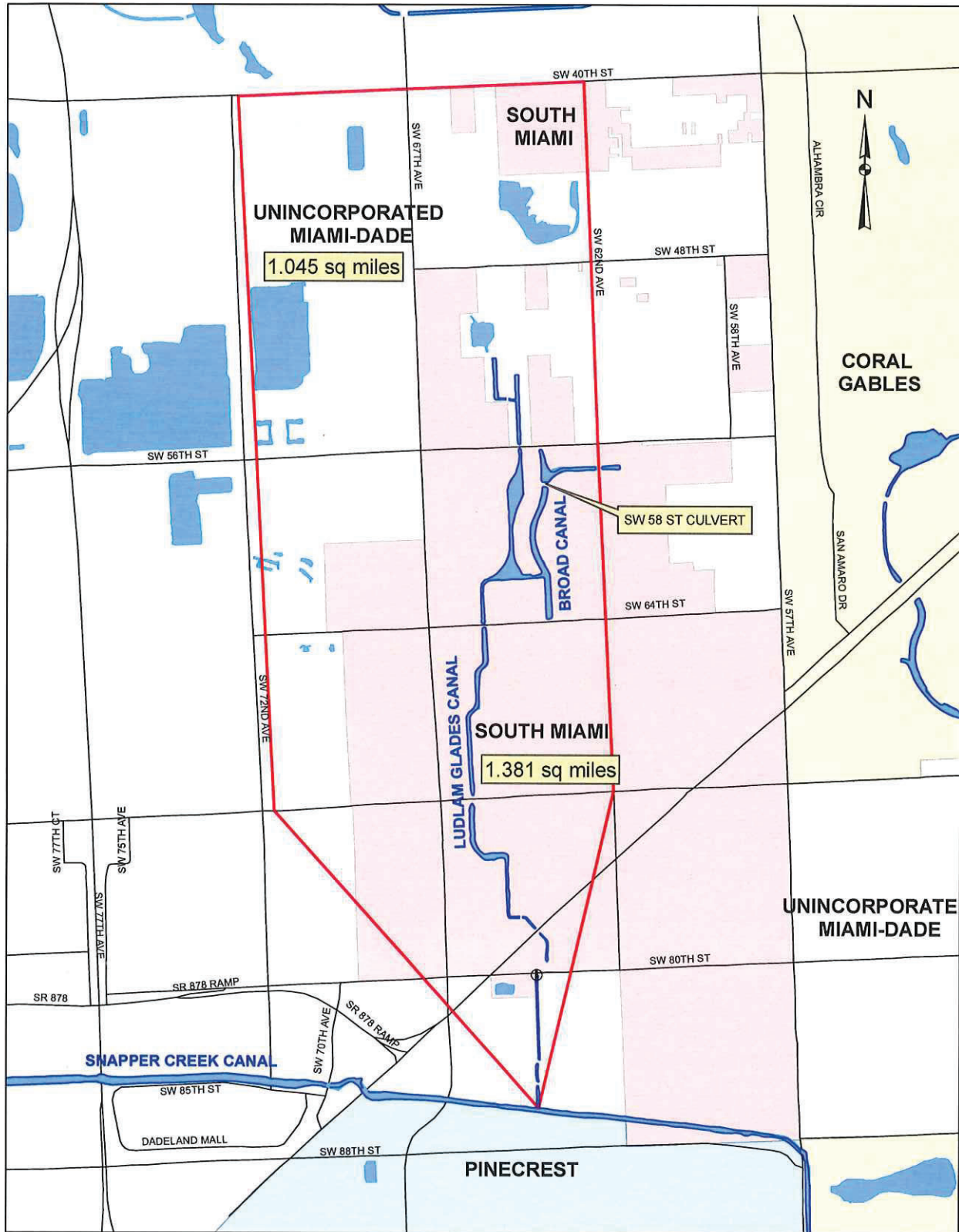
A.1 - Percent Share Calculation Table

A.2 - Canals and Drainage Basins Map

ATTACHMENT "A.1"

CITY OF SOUTH MIAMI
CANAL DRAINAGE AREAS and % SHARE

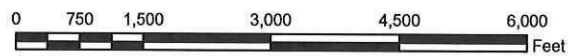
<u>CANALS AND FLOOD CONTROL STRUCTURES</u>	<u>DRAINAGE AREA (SQ MILES)</u>	<u>% SHARE</u>
LUDLAM GLADES CANAL:		
1. City of South Miami	1.381	57%
2. Miami-Dade County	1.045	43%
LUDLAM GLADES STRUCTURE: Same percent share as above		
BROAD CANAL (N of SW 58 St culvert): Fully enclosed by City	N/A	100%
BROAD CANAL (S of SW 58 St culvert): Fully enclosed by City	N/A	100%



LEGEND

- ① Ludlam Glades Structure
- Drainage Basin Boundary
- City of South Miami
- Unincorporated Miami-Dade

TOTAL DRAINAGE AREA = 2,426 sq miles



Map: SouthMiami.mdx / File:SouthMiami.pdf
Date:03/19/2009 / By: MP

ATTACHMENT “B”

Five (5) Year Cost Share Table

(see attached exhibit)

ATTACHMENT "B"

Canal Maintenance Estimated Costs
City of South Miami
FY 2018 to 2020

Selected Level of Service Shown Shaded

Culvert Cleaning - Above Water

Canal	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
Ludlam Glades Canal	\$2,000	\$4,000	\$6,000	\$8,000	57%	\$2,280
Broad Canal (SW 58 St culvert)	\$150	\$300	\$450	\$600	100%	\$300
Broad Canal (SW 62 Av culvert)	\$250	\$500	\$750	\$1,000	100%	\$500
sub-total	\$2,400	\$4,800	\$7,200	\$9,600		\$3,080

City's Annual Cost at Current Level of Service (2 cycles) **\$3,080**

Line Item 1

Culvert Cleaning - Below Water

Canal	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
Ludlam Glades Canal	\$5,000	\$10,000	\$15,000	\$20,000	57%	\$5,700
Broad Canal (SW 58 St culvert)	\$500	\$1,000	\$1,500	\$2,000	100%	\$1,000
Broad Canal (SW 62 Av culvert)	\$500	\$1,000	\$1,500	\$2,000	100%	\$1,000
sub-total	\$6,000	\$12,000	\$18,000	\$24,000		\$7,700

City's Annual Cost at Current Level of Service (2 cycles) **\$7,700**

Line Item 2

Herbicide Treatment (Not scheduled: performed if needed)

Canal	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
Ludlam Glades Canal	\$10,500	\$21,000	\$31,500	\$42,000	57%	\$11,970
Broad Canal (S of SW 58 St culvert)	\$3,000	\$6,000	\$9,000	\$12,000	100%	\$6,000
Broad Canal (N of SW 58 St culvert)	\$2,500	\$5,000	\$7,500	\$10,000	100%	\$5,000
sub-total	\$16,000	\$32,000	\$48,000	\$64,000		\$22,970

City's Annual Cost at Current Level of Service (2 cycles) **\$22,970**

Line Item 3

Mechanical Harvesting

Canal	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
Ludlam Glades Canal	\$44,000	\$88,000	\$132,000	\$176,000	57%	\$25,080
Broad Canal (S of SW 58 St culvert)	\$7,000	\$14,000	\$21,000	\$28,000	100%	\$7,000
Broad Canal (N of SW 58 St culvert)	\$6,500	\$13,000	\$19,500	\$26,000	100%	\$6,500
sub-total	\$57,500	\$115,000	\$172,500	\$230,000		\$32,080

City's Annual Cost at Current Level of Service (1 cycle) **\$32,080**

Line Item 4

ATTACHMENT "B"

Canal Maintenance Estimated Costs
City of South Miami
FY 2018 to 2020

Mowing - Flat

Canal	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
Ludlam Glades Canal					57%	
Broad Canal (S of SW 58 St culvert)					100%	
Broad Canal (N of SW 58 St culvert)					100%	
sub-total						

City's Annual Cost at Current Level of Service (0 cycles) \$0

Line Item 5

Mowing - Slope

Canal	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
Ludlam Glades Canal	\$500	\$1,000	\$1,500	\$2,000	57%	\$1,140
Broad Canal (S of SW 58 St culvert)	\$0	\$0	\$0	\$0	100%	\$0
Broad Canal (N of SW 58 St culvert)	\$0	\$0	\$0	\$0	100%	\$0
sub-total	\$500	\$1,000	\$1,500	\$2,000		\$1,140

City's Annual Cost at Current Level of Service (4 cycles) \$1,140

Line Item 6

Obstruction Removal (Not scheduled; performed if needed)

Canal	Per occurrence				Municipality's	
	1				% Share	Cost
Ludlam Glades Canal	\$2,000				57%	\$1,140
Broad Canal (S of SW 58 St culvert)	\$2,000				100%	\$2,000
Broad Canal (N of SW 58 St culvert)	\$2,000				100%	\$2,000
sub-total	\$6,000					\$5,140

City's Annual Cost at Current Level of Service (1 event) \$5,140

Line Item 7

Emergency Repair / Preventative Mitigation (Not scheduled; performed if needed)

Canal	Per occurrence				Municipality's	
	1				% Share	Cost
Ludlam Glades Canal	\$13,000				57%	\$7,410
Broad Canal (S of SW 58 St culvert)	\$5,000				100%	\$5,000
Broad Canal (N of SW 58 St culvert)	\$5,000				100%	\$5,000
sub-total	\$23,000					\$17,410

City's Annual Cost at Current Level of Service (1 event) \$17,410

Line Item 8

ATTACHMENT "B"

Canal Maintenance Estimated Costs
City of South Miami
FY 2018 to 2020

Flood Control Structure Maintenance

Structure Name	Cycles per Year				Municipality's	
	1	12	26	52	% Share	Cost
Ludlam Glades Structure	\$390	\$4,680	\$10,140	\$20,280	57%	\$5,779.80
sub-total	\$390	\$4,680	\$10,140	\$20,280		\$5,780

City's Annual Cost at Current Level of Service (26 cycles) \$5,780

Line Item 9

SUMMARY OF COSTS

(numbers may appear off due to rounding)

COMBINED TOTAL ANNUAL COST	\$147,440
MDC STORMWATER UTILITY ANNUAL COST SHARE	\$52,140
MDC STORMWATER UTILITY 3-YEAR COST SHARE (FY 2018 to 2020)	156,421
MDC STORMWATER UTILITY 2-YEAR COST SHARE (FY 2021 to 2022): option to renew	104,280
MDC STORMWATER UTILITY TOTAL 5-YEAR COST	\$260,701
CITY OF SOUTH MIAMI MAXIMUM ANNUAL COST	\$95,300
	Line Items 1 through 9
CITY OF SOUTH MIAMI MAXIMUM 3-YEAR COST (FY 2018 to FY 2020)	\$285,899
CITY OF SOUTH MIAMI MAXIMUM 2-YEAR COST (FY 2021 to FY 2022): option to renew	\$190,600
CITY OF SOUTH MIAMI MAXIMUM 5 YEAR COST	\$476,499

NOTES:

- (1) Costs are estimated costs based on the proposed Level of Service.
- (2) Canal maintenance does not include aesthetic cleaning such as debris or litter removal.
- (3) Obstruction Removal will be performed at the County's discretion, and may include tasks such as Dead Animal Removal, Cut Vegetation, and Debris Removal by Hand.
- (4) Emergency Repair/Preventative Mitigation requires City's approval of cost-share estimate prior to performing any such work (e.g. canal bank stabilization, headwall repair, post-storm cleanup) in order to invoice the City.
- (5) In-water Herbicide Treatment to be performed only as an alternative to Mechanical Harvesting, to ensure flow, and at the discretion of the County.
- (6) Out-of-water Herbicide Treatment will be performed within the limits of the City, only at the City's request. If not requested, the City will be responsible to maintain vegetation on the banks of the canals within the boundaries of the City, and at no cost to the County.
- (7) The City agrees to pay its cost share of post Hurricane Irma canal cleanup through this Agreement.

ATTACHMENT "B"

**TOWN OF MIAMI LAKES
Canal Maintenance Estimated Costs (FY 2021/22 - 2025/26)**

Selected number of cycles for future Agreement will be shown in shading and dollar totals adjusted accordingly

Culvert Cleaning - Above Water

Canal Name	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
Red Road	\$4,500	\$9,000	\$13,500	\$18,000	6.0	\$1,080
Peter's Pike	\$600	\$1,200	\$1,800	\$2,400	88.0	\$2,112
Golden Glades	\$1,200	\$2,400	\$3,600	\$4,800	19.0	\$912
Grahams Dairy	\$3,400	\$6,800	\$10,200	\$13,600	45.0	\$6,120
sub-total	\$9,700	\$19,400	\$29,100	\$38,800		\$10,224

Town's Annual Cost at Current Level of Service (4 cycles) \$10,224

Line Item 1

Mowing - Flat

Canal Name	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
Red Road	\$500	\$1,000	\$1,500	\$2,000	6.0	\$120
Peter's Pike	\$2,800	\$5,600	\$8,400	\$11,200	88.0	\$9,856
Golden Glades	\$3,300	\$6,600	\$9,900	\$13,200	19.0	\$2,508
Grahams Dairy	\$2,800	\$5,600	\$8,400	\$11,200	45.0	\$5,040
sub-total	\$9,400	\$18,800	\$28,200	\$37,600		\$17,524

Town's Annual Cost at Current Level of Service (4 cycles) \$17,524

Line Item 5

Mowing - Slope

Canal Name	Cycles per Year				Municipality's	
	1	2	3	4	% Share	Cost
Red Road	\$3,500	\$7,000	\$10,500	\$14,000	6.0	\$840
Peter's Pike	\$1,300	\$2,600	\$3,900	\$5,200	88.0	\$4,576
Golden Glades	\$4,700	\$9,400	\$14,100	\$18,800	19.0	\$3,572
Grahams Dairy	\$2,300	\$4,600	\$6,900	\$9,200	45.0	\$4,140
sub-total	\$11,800	\$23,600	\$35,400	\$47,200		\$13,128

Town's Annual Cost at Current Level of Service (4 cycles) \$13,128

Line Item 6