



## Legislation Text

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**File #:** 110650., **Version:** 0

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### STORMWATER INTERLOCAL COOPERATION AGREEMENT (B)

The City Commission 1) approve the terms of the Interlocal Stormwater Cooperation Agreement; 2) approve the Lease Agreement and authorize the Mayor and Clerk of the Commission to execute the agreement subject to approval by the City Attorney as to form and legality; and 3) authorize the City Attorney to settle the lawsuit styled City of Gainesville vs. School Board of Alachua County, Case No. 2010-CA-5432.

The City of Gainesville is involved in a pending lawsuit with the Alachua County School Board over the School Board's continued use of the City Stormwater Management Utility system while refusing to pay the utility fee. In the lawsuit, the City maintains that the School Board is not entitled to utility service if it does not pay for the service like any other user of the utility. The School Board maintains that it is exempt from payment of stormwater fees because of sovereign immunity.

At a mediation on January 4, 2012, representatives of the parties agreed to recommend to their respective public bodies a Interlocal Stormwater Cooperation Agreement. Under the terms of the agreement, the School Board agrees to lease to the City for a term of ninety-nine years certain open spaces on 15 school board properties. The City may use these leased properties to construct stormwater management facilities as part of its stormwater utility. The City will be responsible for maintenance of the facilities once constructed, until then, the School Board will continue to maintain the property. In exchange for the 99-year property leases, the City will pay the School Board an amount equal to what the School Board would pay in Stormwater Utility fees. The lease agreement is attached along with maps of the leased properties.

Once the Interlocal Agreement and the lease are approved by the Parties, the lawsuit, including a counterclaim by the School Board, will be dismissed with prejudice, each side bearing its own fees and costs. The School Board approved the Interlocal Agreement on January 17, 2012.

It is the recommendation of the City Attorney's Office, the City Manager and the Stormwater Utility Director that the recommended settlement and Lease Agreement be approved.