Memorandum

MIAMI-DADE COUNTY

Date: April 8, 2008

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

Agenda Item No. 8(L)(1)(A)

From: George M. Burgess
County Manager

Subject: Resolution Ratifying the Park and Recreation Department County-owned Marinas Performance-Based Gainsharing Program Memorandum of Understanding

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RECOMMENDATION

It is recommended that the Board approve the attached resolution ratifying the Miami-Dade Park and Recreation Department (MDPR) Marinas Memorandum of Understanding (MOU) (attached) between management and the employees responsible for the management and operation of the six County-owned marinas. The MOU establishes a *performance-based gainsharing* program under which employees can receive financial rewards for achieving specific performance objectives balanced across the areas of finance, quality, customer satisfaction and employee development. The MOU will be effective for a four-year period commencing October 1, 2007 and can be extended by mutual consent of the parties for up to two additional four-year periods.

SCOPE

The six County-owned Marinas are located in the following Commission districts:

Marina	District
Haulover	Four
Pelican	Three
Crandon	Seven
Matheson	Seven
Black Point	Eight
Homestead	Nine

A portion of Marina revenues supports Countywide park operations.

FISCAL IMPACT / FUNDING SOURCE

The MOU will provide employees with financial incentives for increasing Marina net revenues, while providing a dedicated source of funding for ongoing capital improvements at the Marinas. Employees will receive the maximum gainsharing bonus of $4,000 per employee only if Marina net revenues increase by five percent or more over previous levels.

Gainsharing bonuses, if any, will be funded solely by Marina net revenues.

MONITOR

Staff from the MDPR and the Office of Strategic Business Management (OSBM) will be responsible for monitoring the agreement.

BACKGROUND

Since FY 2000-01, employees of the MDPR have operated the six County-owned Marinas under the terms of a Memorandum of Understanding containing specific revenue goals. These goals were established following a formal public-private competition in which MDPR employees successfully bid alongside side private sector marina operators and, as such, represented a competitive level of performance at the time.

The results of the Marinas MOU have been impressive. Employees have exceeded the overall financial target each year by an average of 42 percent, resulting in total additional net revenues to the County of $6.6 million over seven years. A portion of these revenues have been dedicated to offsetting costs for important capital improvements at the Marinas. Additionally, in accordance with the Countywide Gainsharing Guidelines, eligible employees and managers have received gainsharing bonuses annually, totaling $621,000 over the seven-year period.

Notwithstanding this success, by last year, it had become apparent that the original financial targets had become outdated, no longer representing a challenge to Marinas' staff. Consequently, in order to ensure that the agreement continues to conform to the spirit of the County's gainsharing policy, and to continue challenging marinas employees to achieve best practices levels, the parties agreed to renegotiate the terms of the MOU. The development of the County's *Results Oriented Government* framework and, specifically, a Marinas "scorecard" within the County's automated performance management system, has provided the parties with an excellent foundation on which to build a new agreement. Unlike the previous MOU, the new agreement will reward the attainment of specific performance objectives balanced across the areas of finance, quality, customer satisfaction and employee development. Additionally, the agreement provides incentives for continuous revenue growth by linking the amount of employee gainsharing bonuses to the relative increase or decrease in overall Marina net revenues from previous years. Current Minimum Annual Guarantees paid by the Marinas to the County will remain unchanged in order to maintain the existing funding stream for capital improvements.

The following chart highlights the key differences and similarities between the original MOU and the new agreement:

Original MOU	New MOU
No rewards for achievement of non-financial performance objectives	Rewards performance across four areas (financial, quality, customer satisfaction and employee development) linked to the MDPR Business Plan and Countywide Strategic Plan
No incentives for revenue growth at most marinas	Directly links financial rewards to revenue growth

Dedicated funding source for capital improvements at marinas	Maintains current capital funding model to ensure continuity of the marinas capital improvement program
Unbalanced gainsharing opportunities across marinas due to dated financial goals	Provides more balanced opportunities for gainsharing
Effective through FY 2009-10, with two five-year optional extensions	Effective through FY 2010-11, with two four-year optional extensions

The performance targets and incentive structure encompassed within the attached agreement were developed in concert by MDPR management and employees, OSBM and my office and were reviewed by representatives from the Government Supervisors Association and AFSCME Local 1363. This MOU is consistent with the provisions of the Countywide Gainsharing Guidelines and does not amend or abridge, in any way, existing collective bargaining agreements.

The proposed MOU embodies our *Results Oriented Government* philosophy by quantifying performance and rewarding results. I am proud of the MDPR marina employees and management for their achievements during the past seven years, and with this proposed MOU I am challenging and encouraging them to continue to *Deliver Excellence Every Day.*

Alex Muñoz
Assistant County Manager

cmo10908

MEMORANDUM
(Revised)

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

DATE: April 8, 2008

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

SUBJECT: Agenda Item No. 8(L)(1)(A)

Please note any items checked.

_____ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised

_____ 6 weeks required between first reading and public hearing

_____ 4 weeks notification to municipal officials required prior to public hearing

_____ Decreases revenues or increases expenditures without balancing budget

_____ Budget required

_____ Statement of fiscal impact required

_____ Bid waiver requiring County Manager's written recommendation

_____ Ordinance creating a new board requires detailed County Manager's report for public hearing

_____ Housekeeping item (no policy decision required)

_____ No committee review

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(L)(1)(A)
4-8-08

RESOLUTION NO. _____

RESOLUTION RATIFYING THE PARK AND RECREATION DEPARTMENT COUNTY-OWNED MARINAS PERFORMANCE-BASED GAINSHARING PROGRAM MEMORANDUM OF UNDERSTANDING

WHEREAS, the Miami-Dade Park and Recreation Department (MDPR) is responsible for operating and maintaining six County-owned marinas; and

WHEREAS, the County desires to have this service provided in the most effective, efficient and competitive manner possible, while complying with all federal, state, and local rules and regulations; and

WHEREAS, since Fiscal Year 2000-01 the MDPR has operated the marinas in accordance with a Memorandum of Understanding containing specific financial goals; and

WHEREAS, net revenues in excess of these financial goals have helped to fund key capital improvements at the marinas as well as an employee gainsharing program; and

WHEREAS, the parties wish to incorporate balanced performance objectives established in the Miami-Dade County Strategic Plan and the MDPR Business Plan into the Memorandum of Understanding; and

WHEREAS, this program offers an opportunity to improve public service delivery through constructive labor and management cooperation consistent with Miami-Dade County's collective bargaining agreements; and

WHEREAS, the County Mayor, through his designee, has executed the attached Memorandum of Understanding subject to this Board's ratification ,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board ratifies the Miami-Dade Park and Recreation Department County-owned Marinas Performance-Based Gainsharing Program Memorandum of Understanding.

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:

Bruno A. Barreiro, Chairman
Barbara J. Jordan, Vice-Chairwoman

Jose "Pepe" Diaz	Audrey M. Edmonson
Carlos A. Gimenez	Sally A. Heyman
Joe A. Martinez	Dennis C. Moss
Dorrin D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 8th day of April, 2008. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

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

HARVEY RUVIN, CLERK

By:_____
Deputy Clerk

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

Monica Rizo

MIAMI-DADE COUNTY
PARK AND RECREATION DEPARTMENT MARINAS
(Haulover, Pelican Harbor, Crandon, Matheson Hammock, Black Point and Herbert Hoover Marinas)

MEMORANDUM OF UNDERSTANDING

I. PREAMBLE

This Memorandum of Understanding (MOU) memorializes an agreement between the County Manager, the Director of the Office of Strategic Business Management (OSBM), the Director of the Park and Recreation Department (Parks), and the employees responsible for the operation and management of the Haulover Beach, Pelican Harbor, Crandon, Matheson Hammock, Black Point and Herbert Hoover Marinas (the "Marinas"), hereafter referred to collectively as "the parties", to establish a performance-based Gainsharing Program.

II. DEFINITIONS

The following words and expressions shall be construed as follows:

"Additional Net Revenue" shall mean marina Net Revenue that exceeds the Combined Support Payment.

"Annual Review" shall mean the fiscal year-end review used to: establish compliance with the technical and financial standards contained in this MOU; determine the amount of Additional Net Revenue, if any, to be distributed through the Gainsharing Program; create a list of Eligible Employees; re-establish the technical standards; and potentially adjust the Minimum Guarantee and/or Support Payment for the succeeding year.

"Balanced Scorecard" shall mean a management and performance measurement system that enables organizations to clarify their vision and strategy and translate them into action. Performance Measures are organized from the customer, financial, internal processes and personnel learning and growth perspectives within an organization's Balanced Scorecard.

"Board" shall mean Miami-Dade County's Board of County Commissioners.

"Change(s)-in-law" means generally any of the following events which occur after the Agreement date:

- The promulgation, modification or written change in interpretation by a controlling authority of any applicable law unless Marina management had notice or should have had notice of such change as of the date of this Submission of the Parks Proposal; or
- The order or judgment of any court or other controlling authority as long as it was not the result of a willful or negligent act or lack of reasonable diligence by a party to this Agreement.

A "Change-in-law" shall not include a change in any tax or similar law.

"Combined Minimum Guarantee" shall mean the sum of the Minimum Guarantees contained in Table 1.

"Combined Support Payment" shall mean the sum of all six Support Payments derived from Table 1.

"Contingency Reserve" shall mean that portion of the Special Purpose Account that is reserved to fund the Parks Operating Fund in the event that one or more Marinas do not generate sufficient Net Revenue to allow the Marinas to meet their Combined Minimum Guarantee to the County. The reserve amount shall be set at 10% of the Minimum Guarantee, and will be reviewed and adjusted as needed.

"Department" or **"Parks"** shall mean Miami-Dade County Park and Recreation Department.

"Eligible Employee(s)" shall mean full- and part-time Parks employees who have held gainsharing eligible positions at the Marinas during the fiscal year and who have received an employee performance evaluation of satisfactory or better. The list of ***positions*** that will be used to employee eligibility will be identified and agreed to by the Parties within 30 days of the signing of this Agreement, and shall be incorporated as **Attachment 4**.

"Gainsharing Program" shall mean the performance-based program under which Eligible Employees at County Marinas endeavor to meet or exceed the technical and financial standards set forth in this MOU, and if successful, share a portion of Additional Net Revenues with the County, subject to the limitations contained herein.

"Gross Revenue" shall mean marina revenues generated from marina activities as specified in Attachment 2.

"Improvement Fund" shall mean that portion of the Special Purpose Account reserved for improvements related to the Parks Plan or, upon their completion and with concurrence of the County Manager, support of Parks programs outside of Marinas.

"Marinas" shall mean collectively the Haulover Beach, Pelican Harbor, Crandon, Matheson Hammock, Black Point and Herbert Hoover Marinas.

"Minimum Guarantee(s)" shall mean the annual portion of Gross Revenue contained in Table 1 that each marina shall guarantee to support the Parks Operating Fund.

"MOU" or **"Agreement"** shall mean this Memorandum of Understanding.

"Net Revenue" shall mean the amount by which marina revenues exceed expenses. All such revenues and expenses shall be those associated with the marina activities identified in **Attachment 2.**

"Parks Plan" shall mean the Parks and Recreation Department submittal in response to RFP #195.

"Special Purpose Account" shall mean the Parks and Recreation Department account used to collect and expend Additional Net Revenue in excess of the Combined Support Payment, if any, in accordance with the guidelines established under this MOU.

"Support Payment(s)" shall mean for each marina the greater of the Minimum Guarantee or percentage of Gross Revenue contained in Table 1.

III. TERM

This MOU supersedes the existing agreement that became effective on October 1, 2000. This MOU is valid for a four - year term, beginning October 1, 2007 and ending September 30, 2011. It can be extended by mutual consent of the parties for up to two additional four - year periods.

Irrespective of the term of this MOU, the parties share a good faith commitment to the implementation of the Marinas' long term Capital Improvement Program, as reflected in its pro forma.

IV. SCOPE

This MOU establishes a performance-based Gainsharing Program for Parks marina employees in conformance with Countywide Gainsharing Guidelines. This program is designed to increase Additional Net Revenues that will offset General Fund expenditures in order to fund needed capital improvements at County Marinas. In keeping with the principles of results-oriented government, this performance-based program is aligned with the Parks business plan goals and incorporates relevant performance criteria. The performance measures associated with this MOU are balanced across the overall program areas of customer service/quality, financial integrity, internal processes, and employee development.

V. GAINSHARING PROGRAM

A. Performance Targets (Points)

The Gainsharing Program is based on the Marinas, both individually and as a group, meeting agreed upon performance targets. The performance targets are linked to priority objectives identified in Miami-Dade County's Strategic Plan and the Parks Business Plan. The performance targets were established jointly by Parks and OSBM, and are representative of marina operations best practices. The parties agree that the performance targets are measurable, understandable, and achievable by employees.

It will be the responsibility of Parks to gather and maintain accurate records of performance data. Measures and targets will be re-established annually and adjusted, if necessary, during the Annual Review process. The County Manager will have the authority to approve adjustments to the performance measures and targets.

Marinas will earn points for achieving performance targets, based on both individual Marinas and overall performance. In some cases, a set number of points may be awarded for achieving a specific performance target; in other cases, points may be awarded on a sliding scale predicated on performance levels. A summary of the performance points distribution across the overall program areas are follows:

Overall Program Areas	Maximum Available Points – Overall *Marinas*	Maximum Available Points – *Individual Marinas*	Total:
Customer Satisfaction/Quality	100 Points	100 points	200
Financial Integrity	25 points	75 points	100
Internal Processes	25 points	25 points	50
Employee Development	25 points	25 points	50
		Total available points:	**400***

* Each employee can earn a maximum of 400 points

The Balanced Scorecard for both the overall Marina Division and for individual Marinas specifies performance measures, maximum available points per measure and provides an explanation of the methodology used to determine attainment of the agreed upon performance targets (see **Attachment 1**).

B. Point Values

During each year of this MOU, points earned through the achievement of performance targets will be assigned a dollar value. The dollar value per point is based on the relative increase or decrease of the Marinas' overall Net Revenues from historical levels. The potential for performance based gainsharing distributions will be greatest in years of high Net Revenue growth. The parties acknowledge that the maximum aggregate point value is capped at $10 per point ($4,000 per employee maximum) or by the amount of Net Revenue available for gainsharing (25% of Additional Net Revenues), whichever is less. A summary of the performance point dollar values follows:

Change in Overall Net Revenues from the Average of the Previous 3 Years	Dollar Value per Point	Corresponding Value of 400 points
-5% or less	$0	$0
-5% to 0%	$6	$2400
0% to +5%	$8	$3200
+5% change and over	$10	$4000

C. Gainsharing Distributions

Gainsharing distributions will be allocated to Eligible Employees using a capped, two-tier system. Both full- and part-time County employees will be eligible. Employees will receive one distribution based on the overall performance of the Marinas, and a second distribution based on the financial performance of the marina for which the employee worked. Distributions will be capped at $2,250 for performance of the individual marina and $1750 for the performance of the Marinas overall ($4,000 combined). Gainsharing distributions will be pro-rated for employees who worked less than a full year (either because they were part-time or because they were hired during the year) and to reflect transfers, work responsibilities falling outside the Marinas and other similar events. Eligible Employees who work across all Marinas will qualify for 1/6 share of an individual marina gainsharing distribution from each of the six Marinas ($375 per marina, up to $2,250 in total) and for an overall gainsharing distribution. Gainsharing distributions will first be allocated to Eligible Employees for individual marina performance. Any funds remaining after the first-tier distribution will be available for second-tier overall marina distribution.

Gainsharing distributions will be contingent upon Parks successfully meeting all technical and financial standards contained in this MOU, and provided that the combined Net Revenues from all Marinas exceed the Combined Support Payment. The financial standards are inclusive of certain allocated costs which

must be identified and agreed to by the Parties and are incorporated as **Attachment 3** to this Agreement. The Annual Review will determine the gainsharing distribution, if any.

D. Employee Eligibility

All Marina employees below the level of Assistant Director will be eligible for gainsharing provided that performance targets associated with program goals are met. The following eligibility rules are consistent with the Countywide Gainsharing Guidelines.

1. General Eligibility Rules:

   a) Award recipients should be County employees regardless of employment status (i.e. full-time, part-time, temporary, substitute, probationary, exempt, etc.).

   b) Participants who separate from the County prior to the time of actual gainsharing distribution are not eligible for an award. However, employees who retire from County during the MOU period are eligible for a prorated gainsharing distribution.

   c) Employees who are delinquent in court-ordered payments will have their distributions garnished according to state law.

   d) Employees will have had to work at least six pay periods in the Gainsharing Program to be eligible for an award.

2. Prorating Bonuses:

   a) A full-time County employee working the full length of the gainsharing period will receive a full share.

   b) Employees who transfer to another County department during the MOU period are eligible for the time spent in the program.

   c) Distributions to part-time County employees will be prorated to reflect the portion of a year worked in relation to a full-time employee.

   d) Employees who transfer into or out of Parks during the MOU period, or who are out of pay status, on family leave, leave without pay, or extended sick or injury leave, will have their distributions prorated to reflect the portion of the gainsharing period worked.

3. Impact of Job Evaluations, Counseling, Disciplinary Actions, and Other Actions:

a. Job Evaluations:

1) An employee's most recent evaluation must be satisfactory or above to establish eligibility for a gainsharing distribution. Effort should be made by the Department to bring evaluations up to date; evaluations should reflect performance under the MOU as closely as possible.

2) If an employee's evaluation is below satisfactory and covers more than half of the time an employee works during an MOU program year, the employee will not be eligible for an award.

3) If an employee's evaluation is below satisfactory and covers less than half of the time an employee works during an MOU program year, the employee's distribution will be held until the succeeding evaluation. The employee will receive a distribution if the evaluation is satisfactory or above.

4) If an employee's evaluation is satisfactory or above, but covers less than half of the time an employee works during an MOU program year, the employee will receive a distribution on the condition that the satisfactory evaluation is maintained. However, if the employee's next evaluation falls below satisfactory and the MOU is still in operation, that employee's conditional award will be recaptured from the employee's future gainsharing distributions. Employees will not be expected to reimburse the County if the full amount of the conditional award is not recaptured by the end of the MOU term.

5) Any employee who has received a written reprimand during an MOU program period will remain eligible for gainsharing under the above rules. However, the distribution will be contingent upon the employee receiving a satisfactory or above evaluation for at least one-half of the program period. Consequently, gainsharing distributions for employees receiving written reprimands will be held until an evaluation covering the specified period is available.

6) Employees appealing a job evaluation will have their award set aside until the appeal is resolved.

b. Counseling and Disciplinary Actions:

1) Neither informal employee counseling nor formal records of counseling should have an effect on an employee's eligibility for an award.

2) Neither a written reprimand nor a suspension during an MOU period will impact an employee's eligibility for a gainsharing distribution.

3) Employees demoted for disciplinary reasons during an MOU program year will not be eligible for a gainsharing distribution.

4) Employees dismissed for disciplinary reasons during an MOU program year will not be eligible for a gainsharing distribution, unless a hearing examiner or an arbitrator overturns the dismissal or reduces it to a suspension or other disciplinary action. However, the distribution will be contingent upon The employee receiving a satisfactory or above evaluation for at least one-half of the program period.

5) Employees appealing a Disciplinary Action Report that contributed to an unsatisfactory evaluation will have their distribution held until the appeals process is concluded. If the employee wins on appeal, the award will be paid providing the employee receives a satisfactory or above evaluation for at least one-half of the program period.

c. Other Actions:

1) Employees with demotions, which are voluntary or not due to disciplinary reasons, are eligible for a full share of any award.

2) Employees under criminal indictment or investigation for a work-related offense will be eligible for awards only if the matter is resolved in the employee's favor. Any award will be held until the outcome is determined.

3) Employees suspended for disciplinary or other reasons, including as a result of a grand jury indictment per Section 2-42 (22) of the Code of Miami-Dade County, will have their award held in suspension until their case is settled. If the employee is ultimately suspended, demoted, or dismissed, his eligibility for a gainsharing distribution will be treated as discussed under "Disciplinary Actions" above. If the employee wins on appeal, the award will be paid, providing the employee receives a satisfactory or above evaluation for at least one-half of the program period.

The list of positions that will be used to determine Eligible Employees for the Gainsharing Program is included as **Attachment 4** to this MOU.

VI. CONTRIBUTION TO PARKS OPERATING FUND

A. Minimum Guarantee and Support Payment

On an annual basis, each marina shall guarantee a portion of its Gross Revenue to support the Parks Operating Fund, which would otherwise require General Fund support. The Support Payment for each marina shall be the greater of the Minimum Guarantee or percentage of Gross Revenue contained in Table 1, such

that the Marinas annual contribution to the Parks Operating Fund shall never be less than the Combined Minimum Guarantee of $2,090,000.

Table 1 – Marinas Annual Financial Guarantees		
Marina	**Minimum Guarantee**	**Percentage of Gross Revenue**
Haulover Beach	$ 40,000	24%
Pelican Harbor	$ 44,000	12%
Crandon	$ 778,000	50%
Matheson Hammock	$ 763,000	64%
Black Point	$ 375,000	38%
Herbert Hoover	$90,000	16%
Combined Minimum Annual Guarantee:	**$2,090,000**	

B. Adjustments to Minimum Guarantee and Support Payment

The Minimum Guarantee and Support Payment shall be subject to fair and non-discriminatory review and adjustment at the end of each fiscal year as part of the Annual Review, or during the course of the year to reflect changes agreed to by the Parties. At the conclusion of the Annual Review, OSBM will work with Park's to determine the Support Payment for the succeeding year. Changes to the Minimum Guarantee and Support Payment may be triggered by fee schedule changes and/or changes in market conditions; extraordinary or unexpected operating expenses, to include inflation; uncontrollable events, acts of god and changes-in-law that materially affect operations; and capital improvements outside of the Parks Plan or those that require funding not generated through Marinas. Adjustments may be made at any point during the year or as part of the Annual Review process and shall not require the reopening of this MOU.

Capital improvements not contemplated under the Parks Plan or funded from sources outside of Marina operating funds will be negotiated and may result in adjustments to the Minimum Guarantee and Support Payment. Parks is required to inform the County Manager's Office prior to investing funds in Marina activities other than those identified in Attachment 2. The County Manager's Office will approve or deny these requests largely on the basis of appropriate adjustments to the Minimum Guarantee and Support Payment. Parks may make such requests at any point during the fiscal year.

This Agreement has been established using the Implementing Order governing Parks fees that was in effect as of September 2007. The County Manager reserves the right to approve or disapprove any proposed changes within the fee schedule. The Board will continue to exercise ultimate approval of changes to

the fee schedule as part of the Department's normal fee schedule approval process.

VII. MARINA SPECIAL PURPOSE ACCOUNT

All Additional Net Revenue shall be deposited to a Marina Special Purpose Account, which shall be used to fund the Contingency Reserve, Gainsharing Program and Improvement Fund. The treatment of the Marina Special Purpose Account and flow of funds will be re-evaluated periodically and no less than every three years.

A. Flow of Funds

Additional Net Revenues deposited in the Special Purpose Account will be allocated to the Contingency Reserve, Gainsharing Program, and the Improvement Fund in the following manner:

- 25% to the **Contingency Reserve** [1]
- 25% to the **Gainsharing Program** [2] (subject to the caps described below)
- 50% to the **Improvement Fund** [3]

1 - At any point in time the Contingency Reserve balance reaches 10% of the Combined Minimum Guarantee, the 25% of Additional Net Revenue that would have been placed in the Contingency Reserve will instead be placed in the Improvement Fund. At the end of each Fiscal year, the Contingency Reserve, if not yet fully funded, shall have first priority with regard to any funds remaining in the Gainsharing Program after gainsharing distributions have been made.

2 - At the end of each fiscal year, funds that were available but not distributed as part of the Gainsharing Program will be placed in the Contingency Reserve or, if the Contingency Reserve is fully funded as described above, deposited in the Improvement Fund. The Gainsharing Program will have a zero balance at the beginning of each fiscal year.

3 - If, during the term of this MOU, Parks has completed all the improvements contained within the Parks Plan, Additional Net Revenues in the Improvement Fund can be used to support other Parks related programs and activities, as approved by the County Manager.

B. Marina Maintenance Funding

Each marina will be responsible for funding maintenance and repair work each fiscal year. Funding for this work must come from marina operating budgets. The amount of $12,000 is hereby established as the baseline maintenance and repair responsibility for each facility and will be adjusted annually by the 12 month percent change in the Consumer Price Index (Miami Statistical Area). Once budgeted repair amounts have been exceeded, Parks may pay for additional repair expenses from a funding source other than marina operating

funds or the Special Purpose Account. Capital improvements outside of those proposed in the Parks Plan, or that require funding other than produced within the Marinas, must be approved by the County Manager and may result in adjustments to this MOU.

IV. ADMINISTRATION OF AGREEMENT

A. Performance Monitoring

It will be the responsibility of Parks to gather and maintain accurate records under this MOU. Performance monitoring will take place on an annual basis, and may be supplemented by special audits.

1. Annual Review

At the close of each fiscal year, the Marinas' financial and operational performance will be reviewed for conformity with the standards contained within this MOU. Staff from Parks Administration not associated with Marina Operations will conduct an independent performance assessment. OSBM staff will then conduct its Annual Review with Park staff. This assessment should be completed within 90 days of fiscal year-end and pursued with the intent of providing any gainsharing distributions to employees in advance of the holiday season. In any event, gainsharing distributions will occur no later than 120 days after the close of the fiscal year.

During the Annual Review the parties will determine whether adjustments to the performance targets are required. Targets will be established so as to reward superior performance and encourage continual improvement on the part of employees. Details regarding adjustments that may be necessitated by uncontrollable events or changes-in-law are provided in Subsection B of this Section.

2. Special Audits

In addition to the Annual Reviews, the County Manager's Office reserves the right to have the Audit and Management Services Department (AMS) perform special audits of departmental operations. Special audits may occur at any time during the fiscal year for the purpose of determining departmental performance relative to the financial and operational targets established herein.

B. Uncontrollable Events/Changes-in-Law

The Minimum Annual Guarantee has been based on reasonable assumptions of projected revenues, costs, savings and economic conditions. However, the parties understand and acknowledge that extraordinary unforeseen events, beyond the reasonable control of Parks employees and management, may result in costs that could significantly affect the ability to meet the stated objectives.

To protect and promote the objectives of the program, the parties agree that cost impacts associated with extraordinary and unforeseen events may lead to adjustments of the Minimum Guarantee and/or Support Payment for purposes of assessing performance under this program. Such events may include, but are not limited to:

- Change-in-law;
- Mandates for changes in service levels;
- Catastrophic breakdowns of major equipment or capital;
- Catastrophic acts of nature, acts of god or the public enemy, fire explosions, riots, strike or war;
- Contract delays or default outside the control of the Department; and,
- Other events beyond the reasonable control of Parks employees and management, including changes in law that have a material effect upon costs or the ability of Marina employees to perform to the terms of this Agreement and/or corollary service Agreements.

Such events may be cause to reopen negotiations to make appropriate adjustments to the Annual Minimum Guarantee and/or Support Payment.

The Park and Recreation Department Director shall be responsible for investigating uncontrollable events/changes-in-law to determine materiality, as detailed above. Upon such findings, the Director, with the concurrence of the County Manager, shall issue notice to the parties of this Agreement stating the cost and consequence of the event. Depending on the nature of the event and findings, the associated costs may either be removed from the total costs charged against the Marinas for assessing performance, or the parties of this Agreement shall reconvene to renegotiate the Minimum Guarantee and/or Support Payment in light of the event. In the latter case, only the Minimum Guarantee and Support Payment of this Agreement related to the specific event shall be reopened, all other terms and conditions shall remain unchanged.

C. Changes to the MOU

The parties agree to reopen this MOU to address fee changes (either because of fee schedule adjustments approved by the Board, or fee changes approved by the Manager within the fee schedule), capital investments not contemplated in the original Agreement or funded with sources other than Marina operating funds, use of the Special Purpose Account, changes to positions eligible for distributions under the Gainsharing Program, extension of the MOU, uncontrollable events or changes-in-law, findings related to the Annual Review or Special Audits, or for other similar purposes. Adjustments to performance measures and targets, will not require reopening of this MOU.

D. Relationship with Labor Contracts

It is the intent of the parties that this Agreement be interpreted in harmony and compliance with the comprehensive labor contracts between Miami-Dade County and authorized employee organizations representing Park and Recreation Department employees. All rights and benefits of the parties under existing and future labor contracts are preserved. Any labor disputes related to collective bargaining Agreements shall be resolved through the applicable use of established processes within labor Agreements in effect at the time of the dispute.

The parties to this Agreement acknowledge that cooperative labor/management relations are critical to meeting the competitive challenge and objectives detailed in this document.

F. Severability

In the event that any condition, covenant, or provision of this MOU is held to be invalid or void by any court of competent jurisdiction, or is deemed to be contrary to the law or any covenant or condition or provision of any contract to which the County is a party, the same shall be deemed severable from the remainder of this MOU and in no way shall affect any other covenant, condition, or provision. If any covenant, condition, or provision of this MOU is deemed to be invalid due to scope or breadth, such covenant, condition, or provision shall be deemed valid to the extent the scope or breadth is permitted by law.

G. Impacts on Staff

The parties understand that a top priority of County management is to optimize departmental operations and, in the process of doing so, to protect the employment rights of all affected employees. To that end, the parties agree that every reasonable effort will be made to effect staffing reductions, if necessary, through attrition.

MEMORANDUM OF UNDERSTANDING

This Agreement shall be effective only after the ratification of all parties listed below as evidenced by their respective signatures.

IN WITNESS WHEREOF, the undersigned agree to the terms and conditions specified in this MOU.

DATE:

Miami-Dade County

George M. Burgess,
County Manager

Jennifer Glazer-Moon,
Director
Office of Strategic Business Management

Service Provider

Jack Kardys,
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Richard Ellis,
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Robert Glover,
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