



MEMORANDUM

Supplement No. 2
Agenda Item No. 5(L)

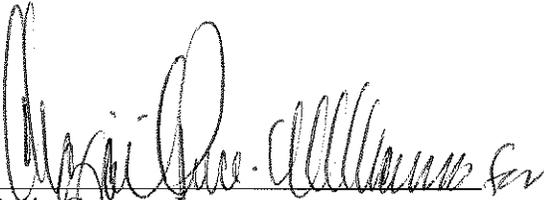
TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: July 17, 2012

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

SUBJECT: Supplemental information to
Public hearing and vote of the
Commission to resolve labor impasse
between Water & Sewer employees,
regarding the terms of a
memorandum of understanding
(MOU) for the gainsharing program
pursuant to Article 20 of the
Collective Bargaining Agreement
approved by Resolution No. R-07-12

The sponsor has requested that the attached Mayor's impasse memorandum and proposal be added to the agenda package for this item.



R. A. Cuevas, Jr.
County Attorney

RAC/jls

Memorandum



Date: July 17, 2012

To: Honorable Chairman Joe A. Martínez
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez", written over the printed name.

Subject: Supplement to Item 5L Resolving the Collective Bargaining Impasse between Miami-Dade County and the American Federation of State, County and Municipal Employees (AFSCME), Local 121, Miami-Dade Water and Sewer Employees

Recommendation

It is recommended that the Board of County Commissioners (Board) resolve the Collective Bargaining Impasse between Miami-Dade County and the American Federation of State, County and Municipal Employees (AFSCME) Local 121, Miami-Dade Water and Sewer Employees by accepting the attached proposed Memorandum of Understanding (Exhibit 1) for a gainsharing program that was developed by Miami-Dade County pursuant to the terms of Article 20, Productivity (Exhibit 2), of the 2011-2014 Collective Bargaining Agreement between Miami-Dade County and the American Federation of State, County and Municipal Employees (AFSCME) Local 121, Water and Sewer Employees.

Scope

The impact of this agenda item is countywide.

Fiscal Impact/Funding Source

The final fiscal impact cannot be determined since no gainsharing projects have been identified at this time. However, any gainsharing bonuses would be paid to employees only from cost savings generated.

Gainsharing programs are generally designed to be self-supporting. Should the Board adopt the County's proposed Memorandum of Understanding:

- 1) 25% of any savings generated from the program will be distributed to Union employees;
- 2) 5% of any savings, up to \$400,000 annually, generated from the program will be used, pursuant to mutual agreement, to hire experts to help develop gainsharing concepts or proposals; and
- 3) Approximately \$136,560 annually will be spent on one additional union employee dedicated to gainsharing development (one "full-time release") and the cost of providing office space, electronic equipment and use of a County vehicle during normal business hours for this employee. This item of cost will be borne by any savings and should the savings not be sufficient over the next two years, the full-time release will be discontinued. Absent any savings, the Miami-Dade Water and Sewer Department's budget would absorb the cost for the position.

Track Record/Monitor

The Assistant Director of the Internal Services Department monitors and oversees the administration of the County's collective bargaining agreements. The Director of the Miami-Dade Water and Sewer Department will be responsible for the day to day implementation of this agreement.

Background:

Article 20, Productivity, of the 2011-14 Collective Bargaining Agreement, requires that the County and the Union develop, within 90 days of ratification, a Memorandum of Understanding to establish the criteria for a gainsharing program for AFSCME Local 121 bargaining unit members. The contract requires the following:

- The County and the Union shall collaborate to effect meaningful performance-based productivity gains that enhance the effectiveness and efficiency of the department;
- A committee, comprised of equal amounts of representatives from both parties, will be established to review Performance Based Compensation Projects;
- The performance based gainsharing program shall be in conformance with County's Gainsharing guidelines (Exhibit 3) and the Memorandum of Understanding;
- A savings pool will be established that consists of the net savings in excess of the performance targets established by the Memorandum of Understanding;
- Twenty-five percent of the savings pool, shall be available for distribution as gainsharing incentive pay to all members of the bargaining unit; and
- The incentive pay shall be distributed in advance of the holiday season.

In the process of developing the Memorandum of Understanding, the Union and the County attended four formal negotiation sessions on February 28, May 3, May 24 and July 14, 2012 and three additional working sessions on March 9, March 22 and April 5, 2012. At the May 3, 2012 negotiation session, the Union submitted to the County a draft of its proposed Memorandum of Understanding. Following its review of the Union's proposal, the County submitted its alternate proposal for a Memorandum of Understanding at the May 24, 2012 negotiation session. During the course of negotiations on May 24th, the County and the Union verbally agreed to certain revisions to the County's proposal. At the conclusion of the session, the Union stated that it would submit its revised proposal to the County.

Subsequent to the May 24, 2012 negotiation session, there were efforts to schedule an additional negotiation session, however, a mutually convenient time could not be agreed upon. In the interim, the Union did not submit its revised proposal to the County. On June 27, 2012, the Union declared impasse.

Following its declaration of impasse, the Union submitted its revised proposal to the County on July 13, 2012. The County immediately contacted the Union to schedule a negotiation session on Saturday, July 14, 2012. The parties met on Saturday morning and the Union was provided with the County's updated counter proposal. The parties were unable to resolve their differences regarding the terms of the Memorandum of Understanding at the July 14, 2012 session. Following the end of the all day session, the Union again submitted another revised proposal to the County in the evening of July 14, 2012 (Exhibit 4).

While significant progress was made on Saturday, July 14, 2012, the County continues to have concerns regarding the Union's latest proposal. In response to the Union's proposal, the County submitted to the Union on July 16, 2012, its counter proposal which you have before you today (Exhibit 1). In accordance with the terms of Article 20 of the 2011-14 Collective Bargaining Agreement, the parties have agreed to bring the matter of a Memorandum of Understanding for a Gainsharing Program to the Board for resolution of this dispute.

The Memorandum of Understanding (MOU) before the Board today conforms with the County's Gainsharing guidelines and contains amendments that reflect the County's position. The County's MOU achieves the following:

- Enables the Union to bid to perform projects with existing bargaining unit members;
- Preserves the County's Management Right to determine which projects will be performed by its employees and which will be performed by outside vendors;
- Recognizes that contracting decisions and the use of vendors are not grievable or subject to arbitration;
- Defines efficiency projects as projects that achieve financial savings through the use of WASD employees;
- Establishes the procedure to calculate a financial target;
- Authorizes the creation of a savings pool;
- Distributes a maximum of 25% of the savings pool as a Gainsharing bonus to eligible employees;
- Caps Gainsharing awards at a maximum of \$5,000 per employee per year;
- Adds one full-time release position to support the gainsharing program;
- Allocates 5% of the savings pool, to a maximum of \$400,000 annually to be available for the purpose of obtaining outside expertise to evaluate or recommend efficiency projects. All services provided shall adhere to the County's procurement rules and procedures. The need for these services will be subject to the mutual agreement of the Department Director and Union President;
- Establishes an appeal procedure for the Mayor or Mayor's designee to review those contracting out decisions rendered by the Department Director that the Union disputes; and
- Establishes a formalized procedure for the Department to assist the Union in evaluating gainsharing projects and developing bids. This represents a significant in-kind dedication of resources to the gainsharing initiative.

As stated above, the Union submitted its final proposal to the County on the evening of July 14, 2012. The County has reviewed and considered the Union's proposal. The County objects to the Union's proposal for the following reasons:

- The Union proposes that 5% of the savings pool, to a maximum of \$400,000, be allocated to the Union for its efforts to improve Water and Sewer Department efficiency. This is in addition to 25% of the savings pool allocated for employee gainsharing awards. Although the County will agree to the allocation of these monies, the Union's proposal does not contemplate adequate fiscal controls nor does it stipulate that the procurement of services must be in compliance with the County's procurement rules and procedures. Further, the County requires that expenditures of these monies be pursuant to the mutual agreement of the Department Director and the Union President.

- The Union's proposal to incorporate the MOU into the Collective Bargaining Agreement would specifically align the term of the MOU with the term of the Collective Bargaining Agreement as opposed to the MOU having a finite termination date. Although the County will agree that the term of the MOU will continue until a successor agreement has been ratified, it must object to the incorporation of the MOU into the Collective Bargaining Agreement since this would submit violations of the provisions of the MOU to the grievance and arbitration process.
- The Union further proposes Article IV, Paragraph H, Relationship with Labor Contracts, "This MOU shall be enforceable pursuant to the grievance and arbitration procedure of the CBA." This provision is in direct violation of Article 21, Management Rights of the Collective Bargaining Agreement (Exhibit 5), which stipulates that the Department Director has the sole authority to determine whether work will be contracted out and the County's Gainsharing procedures which exempt these Memoranda from grievance and arbitration procedures.
- Although the MOU stipulates that the County's established Gainsharing procedures, as agreed to in the Collective Bargaining Agreement, are incorporated in the MOU, some of the proposed terms of the Union's MOU are in conflict with these guidelines, for example, the MOU does not specify that employees must have satisfactory performance to be eligible for a gainsharing award.
- It compels that contemplated outsourced work be presented to the Union and that the Union be provided with all documentation necessary to submit a proposal, including parts and labor costs, except in cases of emergency. This requirement does not contemplate the exclusion of work of "immediate need" as specified in the Collective Bargaining Agreement; also, documentation regarding parts is not always available to the Department, as this information is provided by the vendor, consequently the Department cannot routinely comply with this requirement.

It is the philosophy of the Water and Sewer Department to grant first consideration to Water and Sewer employees for work projects provided that the work project:

- Is within the expertise and skill set of the employees;
- Does not compromise manufacturer's warranty provisions;
- Can be done within the required timeframe and in a cost effective manner;
- Is not an emergency or does not represent an immediate need;
- Can comply with the same terms, conditions and quality standards provided by a vendor; and
- Can be completed in accordance with regulatory and compliance guidelines, including those which require work to be performed under the auspices of a contractor or trades Qualifying agent.

The Department acknowledges that due to specialized equipment or skill requirements, it also has contracted out work for items such as, repairs to electrical motors, variable frequency drives, generators, fences, specialized machine work, fleet body work, elevator maintenance, landscaping and pumps. In accordance with the spirit of this Memorandum of Understanding, the

Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners
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Department will assess future opportunities and work with the Union to identify projects suitable for the gainsharing initiative.

In conclusion, it is recommended that the Board resolve this impasse by accepting the County's Memorandum of Understanding. This agreement is the result of negotiations and includes compromises developed in good faith, adheres to the provisions of the 2011-14 Collective Bargaining Agreement, and will provide AFSCME Local 121 bargaining unit members the opportunity to earn a gainsharing incentive bonus up to \$5,000 per employee per year. The Water and Sewer Department is committed to providing the necessary support to make this program a success and will collaborate with the Union to support this endeavor.

**Miami-Dade County
Proposal July 16, 2012
to
AFSCME Local 121
Water and Sewer Department
Memorandum of Understanding**

I. PREAMBLE

This Memorandum of Understanding (MOU) memorializes an agreement reached on _____, 2012 between the County, Water and Sewer Department, (WASD), and AFSCME Local 121 (Union) hereinafter referred to as "the parties", to establish a departmentwide efficiency and Gainsharing program. The parties agree that this MOU is entered to pursuant to Article 20 and 21 of the CBA.

II. TERM

The term of this MOU will be from Fiscal Year 2011-12 through the Fiscal Year 2013-14 contract period and will remain in place until a successor agreement is ratified.

III. SCOPE

This agreement contemplates defined efficiency projects relating to the performance of bargaining unit work by existing employees as opposed to outsourcing or contracting out the work, with a financial savings target, comparable standards, and performance measures. The agreement includes performance-based Gainsharing in conformance with the Countywide Gainsharing Guidelines specifically incorporated herein. This agreement includes projects that the Union will be able to bid and/or propose to perform with existing WASD employees, with or without the use of part-time and/or temporary workers. The Department agrees to give any Efficiency Project written proposal submitted by Local 121 full and fair consideration. The Union agrees to submit project or work specific proposals using this MOU as a model, which shall contain performance targets, goals and criteria that are specific to that project. The Employer agrees to act in good faith and that it shall not delay, hinder, or obfuscate the development of any such proposal, nor withhold any information relating to the work or which may be relevant to the development of performance targets, goals or criteria. However, the decision of whether any particular activity or project is performed by bargaining unit members or outside vendors remains at all times within the County's complete discretion and the parties agree that such decision is not subject to grievance and not subject to arbitration. This MOU shall conform to Countywide Gainsharing Guidelines.

A. Efficiency Project

An efficiency project is defined as achieving financial savings above the financial savings goal through the use of WASD employees, with or without the use of part-time and/or temporary workers. The Union may submit written proposals on work or projects that the Department is proposing or contemplating to bid to outside vendors

or contractors, or which may be performed by outside vendors hereafter. In accordance with the CBA, except in instances of emergency or immediate need, the Department will continue to provide the Union with advance notice whenever it is considering outsourcing or contracting out bargaining unit work and shall first discuss the contemplated outsourcing or contracting out with the Union. The Department shall provide the Union with all documentation relating to the contemplated work or project in a prompt manner so that the Union has sufficient time to formulate a proposal, which (in the absence of an emergency or immediate need) shall be at least twenty days. The documents provided shall include any applicable requisitions or other documents that show the Department's estimated costs associated with outsourcing or contracting out the work. The Department shall also inform the Union of any perceived impediments to performing the work in-house, if any.

The Department shall provide the Union with any additional documents it requests in order to formulate a proposal. Due to the volume and frequency of requests for outsourcing goods and services, including the submission of requisitions, upon execution of this MOU the Employer shall assign one (1) bargaining unit employee, selected by the Union President, to work on ways to achieve the goals contemplated by this agreement, and to aid in the formulation of Union proposals on a trial basis expiring on September 30, 2014. The costs of this employee shall be paid by the Employer and then deducted from the savings pool at the end of each fiscal year. The employee shall have working space and appropriate resources including a laptop computer with wireless internet capability, wireless internet provided, a scanner, access to a copy machine, access to a County vehicle during normal business hours to travel to various work locations to review or retrieve records, as well as relevant databases and any public records, including any of the information that the Employer is required to provide to the Union under this MOU or the CBA. The Employer shall provide all necessary training to this employee selected by the Union President regarding accessing and retrieving any necessary information from any WASD procurement-related computer database. The Union and the Employer recognize that it is in the interest of both parties and the public to improve the efficiency of the WASD. To that end, upon execution of this Agreement, five (5) percent of the savings pool, up to a maximum of \$400,000 annually, shall be made available to fund experts or other professionals that the parties, by mutual agreement, determine will assist in achieving the purposes of this MOU and whose services shall be procured in accordance with County procurement procedures.

B. Performance and Financial Targets

To the extent possible, performance targets reflect best practice performance levels. Performance targets will reflect a commitment to operating the WASD effectively, efficiently, and in a manner commensurate with a quality working environment and quality customer service. It will be the responsibility of WASD to gather and maintain accurate records of performance data under this MOU. A special ERP Project code will be established to track the savings. The Union will endeavor to include performance measures and performance targets in its proposals.

The scope of work and cost of a Union proposal must include the same comparison of the cost proposed by a vendor/contractor, for the same work. A written proposal for the same scope of work must be provided by the Union. The Union must also accept any terms and conditions, including timelines and extensions of timelines,

that are relevant and applicable to its bargaining unit arising out of contract requirements provided such terms and conditions do not violate the parties' CBA.

In the event the financial savings target with respect to any particular proposal is not achieved, then the cost in excess of the financial savings target will be charged against the savings pool unless circumstances set forth in Section IV F (Uncontrollable Events/Changes of Law) occur.

C. Savings Pool

A savings pool shall be created with the monies actually and verifiably saved by performing work with in-house staff versus the cost of or projected cost of outsourcing or contracting out work. In accordance with the CBA, a Local 121 savings pool shall be funded by the total of net savings, in excess of the contractor/vendor projected or proposed cost (prorated by the percent of total Local 121 Departmental labor costs). A maximum of 25% of the savings pool shall be made available for distribution as employee gainsharing bonuses to eligible employees, consistent with the provisions of the County's Gainsharing Guidelines specifically incorporated herein and another 5% of the savings pool shall be made available for the purposes and in accordance with the restrictions and procedures set forth in Section III A.

IV. ADMINISTRATION OF AGREEMENT

A. Proposal and Evaluation Process

In instances where an outside work requirement is identified by the Department or an efficiency concept is raised by the Union, the Department shall notify the Union of its intent to issue a solicitation for contract services, or alternatively the Union will contact the Department to share its project concept. Therefore, the Department shall: a) meet with the Union to ascertain if the bargaining unit has the expertise to perform the required non-managerial labor tasks, b) help develop a project scope including cost estimates, c) work with the Union to ascertain whether Local 121 intends to seek to have the work done in-house and d) further provide Departmental assistance in designing such a bid response.

The parties agree that consistent with the terms of the Collective Bargaining Agreement, a committee is hereby established to discuss and evaluate Local 121's proposals to perform work pursuant to this MOU. The committee shall be comprised of three individuals selected by the Department and three individuals selected by the Union, who shall meet promptly and without delay whenever the Union submits a written proposal to have work performed in-house. The committee may be guided in its evaluation by the procedures described in the Department's Employee Recognition Program for Efficiency Savings and Process Improvement. The Department shall give full and fair consideration to any written proposal made by the Union and shall not reject any proposal without a legitimate basis. In the event the Department rejects a proposal submitted by the Union, the Department shall provide the Union with a written explanation of the basis for its decision. If the written decision of the WASD Department Director is to reject a Union proposal submitted pursuant to this MOU, the Union may appeal such decision by submitting a written request, within ten (10) calendar days, to the Deputy Mayor designated by the Mayor

to hear such appeals. The Deputy Mayor shall provide the Union an opportunity to meet and present its appeal and shall render a decision within a reasonable period of time not to exceed thirty (30) working days. The Deputy Mayor's decision shall be final and binding and not subject to grievance or arbitration. Notwithstanding the nature of the process used, the decision of whether any particular activity or project is performed by bargaining unit members or outside vendors remains at all times within the County's complete discretion and the parties agree that such decision is not subject to grievance and not subject to arbitration.

B. Annual Review

At the close of each fiscal year, WASD's financial and operational performance will be reviewed for conformity with the standards contained within this MOU. This annual review will involve staff from WASD and Office of Management & Budget (OMB), representatives of AFSCME Local 121, and may involve staff from the Audit and Management Services Department (AMS). The close-out should be completed within 90 days of fiscal year-end and pursued with the intent to distribute Gainsharing bonuses in advance of the holiday season.

This review will be used to determine the amount of savings, if any, available for distribution in accordance with the CBA and this MOU. It will be the responsibility of WASD to gather and maintain accurate records under this MOU.

Meeting the 90-day deadline may necessitate utilization of un-audited figures; if audited figures subsequently prove to be significantly divergent, the savings pool will be adjusted accordingly in future years until the discrepancy is eliminated; provided, however, that if it is determined that bargaining unit employees are entitled to additional distributions from the savings pool, such distributions shall be made within a reasonable period of time upon completion of the final audit.

C. Special Audits

In addition to the annual review, the County reserves the right to have 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 performance targets established herein.

D. Gainsharing Distribution

A maximum of 25% of the savings pool will be available for Gainsharing under this agreement, consistent with the Collective Bargaining Agreement and any Countywide Gainsharing Guidelines specifically incorporated herein. Gainsharing awards will be capped at \$5,000 per employee, per year.

E. Employee Eligibility

All AFSCME Local 121 bargaining unit employees will be eligible for Gainsharing under this MOU provided they meet the rules in this MOU and that the financial savings goals associated with the program are met and exceeded. The following eligibility rules are applicable to this MOU and are consistent with the Countywide Gainsharing Guidelines:

1. General Eligibility Rules:

Award recipients must be County employees regardless of employment status (i.e., full-time, part-time, probationary), and be members of the bargaining unit represented by AFSCME Local 121.

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 the County during the MOU period are eligible for a prorated Gainsharing award.

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

Employees will have had to work at least six pay periods during the applicable fiscal year (the "Gainsharing period") to be eligible for an award.

2. Prorating Bonuses:

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

Employees who transfer to another County department during the Gainsharing period are eligible for the time spent in the WASD.

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

Employees who transfer into or out of WASD during the Gainsharing period, or who are out of pay status, including leave without pay, but not including as a result of disciplinary action, will have their distributions prorated to reflect the portion of the Gainsharing period in pay status. Furlough days shall not count as out of pay status for purposes of this MOU.

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

a. Performance Evaluations:

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

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.

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. If that evaluation is satisfactory or above, the employee will receive a distribution of award.

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.

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.

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

b. Counseling:

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

c. Disciplinary Actions:

Neither a written reprimand nor a suspension during an MOU period will impact an employee's eligibility for a Gainsharing award.

Employees dismissed for disciplinary reasons during the applicable fiscal year will not be eligible for a Gainsharing award, unless through the completion of the appeal process under Section 2-47 of the County Code or the arbitration process under the CBA, the dismissal is reduced and the employee is reinstated to County service. However, even if such reinstatement occurs, the distribution will be contingent upon the employee receiving a satisfactory or above evaluation for at least one-half of the program period.

Employees appealing a Disciplinary Action Report (DAR) 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 Gainsharing period.

d. Other Actions:

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

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.

Employees suspended for disciplinary or other reasons, including as a result of an information or indictment per Section 2-42 (22) of the Code of Miami-Dade County, will have their award held in suspension until their suspension under Section 2-42 (22) is resolved in their favor. If the employee is ultimately suspended, demoted or dismissed by the County, their eligibility for a Gainsharing award will be treated as discussed under "Disciplinary Actions" above. If the employee's suspension is resolved in their favor under Section 2-42 (22) and there is no disciplinary action taken by the Department, the award will be paid, providing the employee receives a satisfactory or above evaluation for at least one-half of the program period.

F. Uncontrollable Events/Changes in Law

While the parties agree on the reasonable assumptions on which this MOU is based, the parties also understand and acknowledge that extraordinary unforeseen events, beyond the reasonable control of employees and management, may result in costs and/or savings that could significantly affect their ability to meet the stated objectives.

1. Uncontrollable Events

For the purposes of this MOU, the financial and performance targets may be adjusted by agreement of the parties in response to events and circumstances beyond WASD's or the employees' reasonable control. These include changes in law and extraordinary forces of nature such as droughts, floods, washouts, major storms, hurricanes, and other acts of nature or circumstances beyond the control of the Department or employees.

2. Changes in Law

"Changes in law" means generally any of the following events which occur after the agreement date:

- a. The promulgation, modification or written change in interpretation by a controlling authority of any applicable law unless WASD had notice or should have had notice such change as of the date of this proposal; or
- b. 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 MOU.

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

The parties shall be responsible for investigating uncontrollable events and/or changes in law to determine materiality, and shall present such findings to the Mayor or designee for approval to issue notice stating the cost and consequence of the event. Depending on the nature of the event and findings, the parties to

this MOU may reconvene to renegotiate the performance or financial goal of this MOU related to the specific event shall be reopened, all other terms and conditions shall remain unchanged.

G. Labor Management Cooperation

The parties to this MOU acknowledge that cooperative labor/management relations, as typified by the relationship established in developing this program and MOU, are critical to meeting the competitive challenge and objectives detailed in this document. The parties commit to maintaining the momentum, energy, and goodwill of this effort.

H. Relationship with Labor Contracts

It is the intent of the parties that this MOU be interpreted in harmony and compliance with the comprehensive labor contract between Miami-Dade County and AFSCME Local 121. All rights and benefits of the parties under existing and future labor contracts are preserved. Any labor disputes related to the collective bargaining agreement shall be resolved through the applicable use of established processes within the labor agreement in effect at the time of the dispute. The decision of whether any particular activity or project is performed by bargaining unit members or outside vendors at all times remains with the County and the County and Local 121 agree that such decision is not subject to grievance and not subject to arbitration.

I. 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.

This agreement shall be effective only after the execution of all parties listed below as evidenced by their respective signatures and approval of the Board of County Commissioners.

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

This Agreement signed this _____ day of July 2012.

Emilio Azoy, President
AFSCME LOCAL 121

John W. Renfrow, P.E., Director
Miami-Dade Water and Sewer Dept.

Witness

Mary Lou Rizzo, Assistant Director
Internal Services Department

Witness

Carlos A. Gimenez
Mayor

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**COLLECTIVE BARGAINING AGREEMENT
BETWEEN
MIAMI-DADE COUNTY,
THE MIAMI-DADE WATER AND SEWER DEPARTMENT,
AND
AMERICAN FEDERATION OF STATE, COUNTY,
AND MUNICIPAL EMPLOYEES, A.F.L.-C.I.O.,
MIAMI-DADE WATER AND SEWER EMPLOYEES LOCAL 121
OCTOBER 1, 2011 - SEPTEMBER 30, 2014**

ARTICLE 20 PRODUCTIVITY

The Parties to this Agreement recognize that the Employer's position in performing the assigned mission is enhance by increased efficiency in the use of labor and employee productivity.

The Parties agree that increased productivity and efficiency depend upon the continuous development and implementation of modern and progressive work practices.

The Union agrees to encourage employees to find better and more efficient methods of performance and to cooperate with the Employer in the conservation of manpower, materials, and supplies; the elimination of wasteful practices and the improvement of the quality and quantity of product and/or service.

The parties agree that a part of the Labor Management Committee Meetings will be to review and evaluate recommendations of employees and management designed to increase productivity either directly or indirectly through identification of inefficiencies in work production, changes in work practices or rules, strengthening morale, or improving communications between employees and management. The Labor Management Committee may make written recommendations to increase productivity which will be presented to the Director of the Department for his consideration.

The parties agree to implement performance-based compensation projects involving bargaining unit classifications. These Performance-based Compensation Projects shall be a collaborative effort between the County and the Union to effect meaningful performance-based productivity gains that are designed to enhance the effectiveness and efficiency of the Department. There will be a committee established to review Performance Based Compensation Projects, which shall be comprised of equal amounts of representatives from each of the parties as mutually agreed upon. Union representatives shall be appointed by the Union President.

The parties agree to work together to develop additional criteria to the gainsharing program through a memorandum of understanding (MOU) within ninety (90) days following the ratification of this agreement. In the event the parties fail to develop a MOU, the parties shall

submit their dispute over the terms of the MOU to the County Commission for resolution in accordance with the provisions of Fla. Stat. Chapter 447.

The performance-based gainsharing provided for in this Article shall be in conformance with established gainsharing guidelines and the MOU. A savings pool will be established which shall consist of the net savings in excess of the performance targets established by the MOU to be developed by the parties. Twenty-five (25) percent of the savings pool shall be available for distribution as gainsharing incentive pay to all members of the bargaining unit. In addition, such incentive pay shall be distributed equally among all members of the bargaining unit and in advance of the holiday season, if feasible, and in accordance with the gainsharing MOU to be developed by the parties.



MEMORANDUM

TO: Department Directors **DATE:** June 13, 2002

FROM: ~~Steve Shiao~~
County Manager **SUBJECT:** Gainsharing Guidelines

I am pleased to transmit guidelines to assist departments in implementing gainsharing programs. Gainsharing is an innovative approach to achieving sustainable improvements in government operations by giving employees monetary incentives for saving money. Examples of successful gainsharing agreements previously established in the County include the Food Services Division in the Corrections and Rehabilitation Department and Marinas Operations within the Park and Recreation Department. The attached Guidelines are intended to promote new gainsharing agreements within the County, while ensuring an equitable and consistent application of the concept.

The Guidelines were developed by the Office of Performance Improvement (OPI) in collaboration with a working group of labor and management representatives, and were subsequently reviewed by a subcommittee of the Efficiency and Competition Commission (ECC). The full ECC endorsed the Guidelines at its May 24, 2002 meeting. County Departments electing to initiate gainsharing programs should use these Guidelines as a blueprint for developing programs; establishing operating standards, performance criteria, and roles and responsibilities; and determining employee participation and payout criteria.

Successful gainsharing programs establish performance targets commensurate with industry standards or best practices; they also challenge, support and reward employees who meet or exceed specified targets. Whether agreements are department-wide or specific to an individual work unit, they should result in sustainable improvements in core business practices. All departmental gainsharing programs should be anchored by a Memorandum of Understanding (MOU) that identifies program specifics, including acceptable performance targets.

Consistent with past practices, the Guidelines stipulate that net savings are generally to be distributed as follows: 25% of the available net savings should be distributed to eligible employees; 25% should be reinvested for improving the workplace; and the remaining 50% should be used by departments to reduce support which would otherwise be required from tax or ratepayers. Departments should work with OPI in establishing program goals, measures, and incentive plans, which may include payment caps for individual payout amounts. In departments where funding or regulatory restrictions limit the County's ability to pay employee bonuses, I encourage Departments to investigate alternatives outside the scope of the guidelines to present to me for consideration.

Development of gainsharing agreements should proceed in a setting of cooperative labor-management relations, with parties seeing each other as partners. Gainsharing agreements do not supersede, alter or

abridge any collective bargaining agreements. All rights and benefits of the parties under existing and future labor contracts are preserved.

When applied in a fair and consistent manner, gainsharing can be a valuable component of the County's strategic management approach that I have sought to advance during my tenure. This integrated approach combines strategic and business planning, accountability through management reporting and performance measurement, and the use of innovative management tools to cultivate efficiency and improved operations in our government. Ultimately, this approach will enable the County to provide better, more cost-effective services to our public. For questions or further assistance regarding gainsharing ideas, you may contact Corinne Brody, Director, Office of Performance Improvement at (305) 349-6126 or Kevin Lynskey, Assistant Director, OPI at (305) 349-6163.

Attachment

cc: Honorable Alex Penelas, Mayor
Honorable Chairperson and Members
Board of County Commissioners
Honorable Joseph P. Farina, Chief Judge
Honorable Harvey Ruvin, Clerk of the Courts
Robert A. Ginsburg, County Attorney
County Manager Assistants
Christopher Mazzella, Inspector General
Eric McAndrew, Chief Legislative Analyst

MIAMI-DADE COUNTY

COUNTYWIDE GAINSHARING GUIDELINES

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PREAMBLE

These Countywide Gainsharing Guidelines have been developed under the auspices of the Mayor's Efficiency and Competition Commission. It is their intent that the Guidelines serve to promote a uniform, cooperative, and mutually rewarding approach to improving government performance; that management and employees alike stand behind efficiency programs; that employees be rewarded for performing at best practices levels; that reinvestment in operations, including employee development, be provided; and that the program strives to be inclusive and equitable.

I. PURPOSE AND SCOPE

This document provides general guidelines to assist departments in establishing forward-looking gainsharing programs. These guidelines are intended to create a uniform and equitable application of gainsharing criteria and resultant monetary awards in the County.

Departments contemplating gainsharing should use these guidelines as a blueprint for developing programs, establishing operating standards, performance criteria, roles and responsibilities, and determining employee participation and payout criteria.

II. BACKGROUND AND PROGRAM SUMMARY

Gainsharing is an innovative management tool that gives employees direct financial incentives for achieving specific goals. The County has demonstrated that gainsharing is an effective method for encouraging and recognizing employee commitment to improving operations. Examples of successful gainsharing agreements include the Food Services Division in the Corrections and Rehabilitation Department and the Marinas Section of the Park and Recreation Department. Encouraged by these programs, the County has endorsed instituting gainsharing concepts countywide and the development of uniform guidelines to ensure consistency.

A key element of any gainsharing program is the development of a Memorandum of Understanding (MOU) that will contain specific performance targets and the terms and conditions for sharing in the resulting gains. Generally, gainsharing agreements will establish performance targets aimed at increasing County efficiency, reflect improved or best practices levels of performance, and produce verifiable savings for the County. Programs eligible for gainsharing should be operating at efficient levels using prudent business practices and be recognized as well managed. Goals should be focused on improving the department's core business and result in permanent and sustainable change.

Employees and their unions, working with management, should have equal involvement in achieving these goals. As a result, development of MOUs should proceed in a setting of cooperative labor-management relations with parties seeing each other as partners. MOUs will not supersede, alter or abridge any collective bargaining agreements.

Gainsharing agreements developed by departments may be department-wide or involve only a particular business unit and will vary with the operating environment. However, each agreement should be consistent with the broad guidelines presented in this document, and will include specific performance targets, a mechanism for monitoring and evaluating outcomes, criteria for sharing the savings, employee participation and eligibility for gainsharing. Financial targets should be prospective as well, and stem from savings generated during the term of the MOU.

To become effective, each MOU should be signed by the participating parties, including appropriate bargaining units and approved by the Board of County Commissioners. The County Manager will maintain the ultimate decision on implementing specific gainsharing programs, and on distributing gainsharing amounts. The County Manager retains authority to cancel or extend programs as he determines to be in the best interest of the County.

III. DEFINITIONS

Annual Closeout – Annual process (usually based on a fiscal year) in which the Closeout Committee calculates the extent to which the participants of the gainsharing program met its targets and determines the savings Award Pool and renewal criteria as appropriate.

Award Pool – Funds available for disbursement to employees participating in a gainsharing program as determined by the Closeout Committee.

Board – Miami-Dade County Board of County Commissioners

Closeout Committee – The Closeout Committee is comprised of the MOU's signatories, or their representatives. The Performance Improvement Division of the Office of Strategic Business Management, the Employee Relations Department and the Audit and Management Services Department may also participate on the Committee. The Closeout Committee is responsible for determining compliance with the terms and conditions of an MOU, for calculating any savings and Award Pool, and for validating payout allocations. Any disagreements between the parties will be forwarded to the County Manager for resolution. In addition, the Closeout Committee may also consider the findings of external or internal financial or operations audits where appropriate.

ECC – Efficiency and Competition Commission

Eligible Employee – An Eligible Employee is a County employee or retiree who worked during the agreement period and is authorized to receive a gainsharing distribution under the conditions laid out in this document and as specified in the MOU.

Employee Suggestion Program (ESP) – A program in which employees of Miami-Dade County submit ideas to improve County services, increase workplace efficiency, effectiveness, safety and employee morale. Administrative Order 7-8 details the methods of recognizing and rewarding employees for these notable ideas.

Gainsharing – An incentive program that includes financial rewards to employees for exceeding specific performance goals, which generate sustainable savings for the County through better use of labor, capital, materials and energy.

Memorandum of Understanding (MOU) – A written agreement signed by participating County parties and approved by the Board. An MOU will outline specific terms and conditions for providing service, include specific performance targets, make provisions for monitoring and evaluation, delineate employee eligibility for gainsharing, and determine how savings will be distributed. An MOU can apply to an entire department or specific work groups. Not all MOUs must include gainsharing provisions; however, MOUs that do include gainsharing provisions should be consistent with the guidelines set out in this document. Typical MOU signatories must include employees and/or their representatives, union officials, senior department management, the Director of the Office of Strategic Business Management, and the County Manager.

Monitoring Committee – A Monitoring Committee may be established and will typically consist of department managers, employees, union officials, and other departments if appropriate

and shall be specified in the MOU. The Monitoring Committee is responsible for ensuring program integrity throughout its term. The Monitoring Committee may also issue reports (usually semi-annually) to the MOU signatories indicating the program's progress.

MOU Development Committee – The MOU Development Committee is responsible for developing an MOU, all of its terms and associated conditions, and for selecting performance and savings targets. In general, the MOU Development Committee should be comprised of department senior management, unions and employee representatives. Advisory assistance and final review will be provided by the Performance Improvement and Budget Divisions of the Office of Strategic Business Management, the Employee Relations Department, and the Audit and Management Services Department as needed.

Performance and Savings Targets – Goals contained within an MOU that define the level of performance or outcomes expected. Performance targets are usually set at best practices levels or other levels normally accepted as efficient. Targets may be established to reflect unique circumstances. Performance goals are typically both financial and technical and are to be clearly listed in the MOU and communicated to participants before the MOU is executed.

Program Savings – Total amount of funds saved in the gainsharing program during a defined period, normally a fiscal year, distinct from the Award Pool, which is the portion eligible for distribution.

Targeted Savings Initiative (TSI) – A performance program that establishes a set of performance targets with generally recognized efficient or best practices performance standards or other standards as the County or department deems fit. TSIs may include private sector benchmarks or other performance goals depending on operating scope. TSI performance standards may be obtained through a competitive process or non-competitively through research of published data. Consultants may also be engaged to assist in developing performance targets. County employees are not required to submit formal bids or respond to formal requests for proposals under these programs. However, targets may reflect the institutional challenges faced by County employees that do not exist in the private sector or other public sector entities, such as procurement regulations and other internal costs.

IV. INITIATION OF GAINSHARING PROGRAMS

Gainsharing programs can be initiated from several sources including unions, employees, departments, and the County Manager's Office. Regardless of the initial source of a program the agreement should be developed using these guidelines and signed by the various parties. The Board should review and approve the MOU, after it has been signed. In addition, the ECC may review the proposed MOU and comment prior to the Board's consideration.

V. DEVELOPING MEMORANDUM OF UNDERSTANDING (MOU)

A. Establish Roles and Responsibilities

Although ideas for gainsharing programs may come from several places, they all will be developed through an MOU Development Committee. The Committee should be comprised of employees and/or their representatives, union officials, and senior department management. The Department management's role is to make certain that the gainsharing program will bolster the organization's core activities.

Other organizations that can be part of, or advisors to, the MOU Development Committee include the Performance Improvement and Budget Divisions of the Office of Strategic Business Management, the Audit and Management Services Department and the Employee Relations Department.

While the MOU is in operation, other groups will be established to ensure that the program runs smoothly. A Monitoring Committee will monitor the program and issue regular progress reports to the MOU's signatories. A Closeout Committee will be responsible for assessing compliance with performance and savings targets, for calculating the Award Pool, and for reviewing allocations. These two groups may be comprised of members that make up the MOU Development Committee. However, the Monitoring and the Closeout Committees should also consist of parties independent of the gainsharing program to ensure an objective final review.

B. Gainsharing MOU Development

An MOU is a good faith agreement between signatory parties, and generally contains sections and language that can be found in Attachment I.

The MOU Development Committee should use these guidelines outlined below to develop the gainsharing MOU, set parameters and determine the savings distribution.

VI. GUIDELINES FOR TYPICAL MOU SECTIONS

A. Preamble

The Preamble acts as a brief introduction to the MOU. It lists the parties involved and states that they have reached agreement regarding the contents contained in the document.

B. Definitions

This section should be used to define terms used in the MOU. Typical terms contained in this section include gainsharing, technical/financial standards, performance and savings targets, employee award, and MOU. This section should also define department and program-specific terminology.

C. Background and Scope

The Background and Scope of the MOU should briefly describe the project's history and how it was initiated. It should also refer to any prior action by the Board or the ECC related to the initiative. The Background and Scope should describe the project's overall goals, briefly explain how the program will operate, and itemize the MOU's various attachments.

D. Terms and Conditions

The Terms and Conditions Section of an MOU should list the time period of the agreement. Although MOUs should generally apply to multi-year periods, they typically should not exceed five years. A multi-year period gives participating work groups time to generate savings or to meet other performance targets that may not be easily achievable during the earlier years. Additionally, a multi-year period provides employees with time to achieve their overall objectives and institute operational changes and work practices.

The MOU should emphasize cooperative labor-management relations in implementing the program, and state clearly that the agreement is in compliance and harmony, and does not supersede, alter or abridge comprehensive labor contracts between Miami-Dade County and authorized employee organizations. The MOU should stipulate any resultant actions, if any, of not meeting the performance targets. The MOU should also address unique costs or institutional barriers to County employees that are not faced by private sector entities or equivalent public sector entities.

At the conclusion of the stipulated MOU period, the parties may reinstate discussions to determine if a subsequent follow-on MOU is warranted.

E. Exclusions and Uncontrollable Events

The Exclusions should explain how uncontrollable events that affect performance are to be treated under the agreement. As a general rule, the Closeout Committee should assess employees' performance based on factors directly within their control. Some types of expenses, savings and revenues should be considered in the closeout process and not normally be eligible for gainsharing. These include but are not limited to:

1. Uncontrollable Events
 - a. Catastrophic acts of nature, acts of god or the public enemy, fire, explosions, riots, strike or war
 - b. Catastrophic breakdowns of major equipment or capital
 - c. Contract delays or default outside the control of the participating work group
2. Market Forces
 - a. Unexpected changes in commodity prices

3. Legislative and Regulatory Actions
 - a. Changes in rules having a material affect on standards or practices
 - b. Mandates for changes in service levels
 - c. Changes in fees
 - d. Tax rate changes
4. Funding Restrictions
 - a. Funds restricted from being used in a gainsharing program
5. Certain Operational Changes
 - a. Savings generated by not filling vacancies
6. Miscellaneous
 - a. Operational changes unrelated to the MOU activity that affect savings
 - b. Unexpected Windfalls Unrelated to the Initiative

F. Eligibility

An MOU should list the work groups that will participate in the gainsharing program. In addition, a Table of Organization should be attached to the MOU that describes the work groups and positions that are participating in the MOU. This section of the MOU should also clarify if managers and/or executives will participate in the program and be eligible for an award. Identifying the positions and work groups before the project begins will help prevent any confusion during the closeout period and when awards are made.

Gainsharing programs do not have to be limited to specific department work groups, and can be extended to entire departments or even to work groups from various departments that work together on common or overlapping functions.

G. Goals

Two different types of targets should be used in gainsharing programs. Financial targets define the savings goal that employees should meet or exceed to be eligible for gainsharing. Non-financial (quality) targets, when applicable, (essentially service level goals, such as customer service ratings, turn-around times, quality measurements, etc.) are goals that employees should also be required to achieve to be eligible for gainsharing. These targets are established to ensure that service levels or quality remain high and are not degraded for purpose of creating additional savings. However, targets should also reflect the institutional challenges faced by County employees that do not exist in the private sector, such as procurement regulations and other internal costs.

Ideally, targets should be set at efficient or best practices performance levels. Where best practices data and industry standards are not available, rational targets may be established that represent improvements on current operations. Parties to the MOU should establish targets that provide savings for the County and gainsharing opportunities for employees.

Although targets should encourage employees to reach higher levels of performance, they should still be considered as achievable. Failure to set achievable targets may discourage participants before they begin. For this reason, employee input in selecting the targets is necessary to build consensus for the program. In addition the MOU should clarify if and how goals can be adjusted prior to the conclusion of a program year. To maintain program integrity, however, adjusting goals before the conclusion of a program year should take place in extreme cases.

An MOU may have few or multiple targets, depending on the best means of balancing quality service, efficiency, and employee incentives. While gainsharing programs are designed to improve employees' level of performance, they should also help a department achieve its overall mission to include improved customer service. Therefore, targets should be aligned with a department's strategic goals.

In particular, financial targets should not be met as a result of changes in accounting, cost transfers to other departments or business units, various cash windfalls or fee increases. MOUs should encourage the establishment of sustainable savings or performance improvement. In addition, financial targets should be forward-looking at the time of execution, and not stem from savings generated prior to the implementation of the gainsharing program.

MOU Development Committees are not prohibited from designing agreements without financial goals or savings targets. It is conceivable that an MOU will contain only quality or service level goals that employees are being encouraged to meet. However, the MOU Development Committee should identify income sources to reward the employees in such unique types of gainsharing agreements.

If targets are met with existing vacancies, the vacant positions should be eliminated from the department's Table of Organization, unless the department, with concurrence from the Office of Strategic Business Management, believe they are required to address other departmental service requirements.

H. Monitoring

Gainsharing programs should be monitored regularly to ensure that the participating work groups are making progress sufficient to achieve their goals. The parties involved in the gainsharing program should be responsible for providing information to the Monitoring Committee, if one is established under an MOU, when requested. This information should be easily verifiable and quantifiable to allow the Committee to evaluate performance. Employee feedback during the program year will help ensure a successful program. As a result, the Monitoring Committee should prepare periodic progress reports to help the participants plan their activities and adjust their strategies if necessary to achieve their goals. Such progress reports should be prepared at least every six months or as determined by the MOU Development Committee.

I. Program Closeout

At the conclusion of each MOU reporting period (normally a fiscal year), the Closeout Committee will convene to determine if the participants met the savings and performance targets established by the MOU. The Closeout Committee should be identified in the MOU and be comprised of the MOU's signatories, or their representatives. The Performance Improvement Division of the Office of Strategic Business Management, the Employee Relations Department and the Audit and Management Services Department and applicable external auditors may also participate if required.

Department management and participating employees are responsible for presenting documentation that provides concrete support for the achievement of savings and performance targets. The Closeout Committee will review the supporting documentation and request additional material, as necessary.

The Closeout Committee will prepare a report indicating the degree to which the MOU participants met the savings and performance targets, and include any special conditions or issues that affected the outcome. The report will include a performance analysis to include Program Savings, an Award Pool amount, and a recommendation to the County Manager for gainsharing distributions. The Closeout Committee may also issue a recommendation on approval of the program for another year.

The County Manager will also use information prepared during the closeout period to advise the Board of the appropriate gainsharing distribution.

This annual closeout process is advantageous because it permits the payment of yearly bonuses and provides work groups with information that can be used to improve their performance. It also offers the MOU's signatories and members of the ECC with an opportunity to evaluate the project's utility.

J. Savings Pool Allocation

Savings calculated during the Closeout Period should be separated into three categories as defined within the MOU. In general, up to 25% of validated savings may be shared with employees, and up to an additional up to 25% of savings may be placed in reserve accounts for special use within the operation or workgroup responsible for the savings. Departments will reserve a minimum of the remaining 50% of savings for their use, to defray general fund support, or to benefit their ratepayers.

K. Employee Gainsharing Distribution

The Closeout Committee's report will also include a listing of Eligible Employees (derived from the positions included under the MOU) and individual distribution amounts. Individual departments will be expected to take the lead in calculating individual award amounts under the direction of the Closeout Committee and coordinate with the Employee Relations Department and the Finance Department to facilitate timely gainsharing distributions. The Employee Relations Department and the Finance

Department will calculate and facilitate timely gainsharing distributions under the direction of the Closeout Committee.

There are various ways that actual awards can be calculated. For instance, each department employee may be eligible for the same award or members of specific work groups may be the only ones eligible for awards. Another method is to calculate a base award for an entire department and an additional award for employees in work groups directly responsible for generating the Program Savings. Depending on the overall goals of the gainsharing program, other alternatives for calculating awards are permitted. However, it is important that they are explained clearly in the MOU.

MOUs may contain award caps, either for the amount of individual payouts or for the total payout, and in no case may exceed \$5,000 per eligible employee per year. Award caps should be considered in order to safeguard the interest of the taxpayer, particularly when a small workgroup has the potential to exceed its savings targets by an extremely wide margin.

The MOU should explain how the awards themselves should be calculated. As a general rule, all similarly situated County employees under an MOU will be treated equally. However, gainsharing distributions will be prorated to reflect time variances in employment under the MOU.

In general, the Closeout Committee will make award decisions based on the following policies:

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. Workgroup participants who separate from the County prior to the time of actual gainsharing distributions are not eligible for an award. However, workgroup employees who retire from County during the MOU period are eligible.
- c. Employees who are delinquent in court-ordered payments will have their awards 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.
- e. Employees who transfer to another County department during the MOU period are eligible for the time spent in the program.

2. Prorating Bonuses

- a. A full-time County employee working the full length of a gainsharing period (normally a fiscal year) whose position was included under the MOU will receive a full share. Employees who spend only a portion of their time on the MOU will receive a prorated amount.
- b. Distributions to part-time County employees will be prorated to reflect the portion of a year worked in relation to a full-time employee.
- c. Employees who transfer into or out of an operation under an MOU, 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 under an MOU.

3. Impact of Employee Performance, Discipline and Other Actions

a. *Job Evaluations*

- i. Employees must have an evaluation of satisfactory or better during the agreement period to be eligible for an award. (Departments should make additional efforts to bring evaluations up to date and evaluations should reflect performance under the MOU as closely as possible.)
- ii. If an evaluation covers more than half of the time an employee works during an MOU program year, and that evaluation is below satisfactory, the employee will not be eligible for an award.
- iii. If the employee's prior evaluation was below satisfactory, but it did not cover a majority of that employee's work during the program year, his distribution will be held until his succeeding evaluation. If that evaluation is satisfactory or above, the employee will receive a distribution.
- iv. If an employee's evaluation was satisfactory or above, but covers less than half of the employee's work during the MOU program year, he will be paid the distribution. If the employee's next evaluation falls below satisfactory, and the MOU is still in operation, that employee's award for the succeeding year will be subtracted by the amount from the prior year. (Employees will not be expected to reimburse the County if the award from the succeeding year is larger than the award from the prior year.)
- v. Any employee who has received a written reprimand during an MOU program period (usually a year) 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 (usually 6 months) of the program period. Consequently,

gainsharing distributions for employees receiving written reprimands will be held until an evaluation covering the specified period is available.

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

b. Counseling

- i. Informal employee counseling should have no effect on an employee's eligibility for an award.
- ii. Formal Records of Counseling should have no effect on an employee's eligibility for an award.

c. Disciplinary Actions

- i. A written reprimand given during an MOU period will have no impact on an employee's eligibility for a gainsharing award.
- ii. A suspension during an MOU period will have no impact on an employee's eligibility for a gainsharing award.
- iii. Employees demoted for disciplinary reasons during an MOU program year will not be eligible for a gainsharing award.
- iv. Employees dismissed for disciplinary reasons during an MOU program year will not be eligible for a gainsharing award, 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 (usually 6 months) of the program period.
- v. Employees appealing a DAR 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 (usually 6 months) of the program period.

d. Other Actions:

- i. Employees with demotions that are voluntary or not due to disciplinary reasons are eligible for a full share of the award.
- ii. Employees under criminal indictment or investigation for a work-related offense will be eligible for an award only if the matter is resolved in the employee's favor. Awards will be held until the outcome is determined.

- iii. Employees suspended under Section 2-42 (22) of the Miami-Dade County Code - automatic suspensions as a result of grand jury indictment - will have their gainsharing award held until their case is settled. If the employee is ultimately suspended, demoted, or dismissed, his eligibility for a gainsharing award will be treated as discussed in the section (c) 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 (usually 6 months) of the program period.

L. Approvals and Signatures

Once the Closeout Committee finalizes its work, it will present a report to the County Manager, who in turn will present it to the ECC. If OSBM is not a member of the Closeout Committee, its review is advisable before the report is presented to the ECC. The County Manager will also prepare an informational report to the Board.

VII. RELATIONSHIP OF GAINSHARING TO OTHER COUNTY INITIATIVES

A. Employee Suggestion Program (ESP)

An employee may submit ideas through the Employee Suggestion Program (ESP) and through gainsharing. ESP includes both group and individual awards and ESP awards are paid to employees who submitted successfully implemented ESP ideas. The Employee Relations Departments and user departments are responsible for identifying employees who are the originators of an implemented ESP idea. Gainsharing awards are paid for reaching specific performance and savings targets under an MOU. The difference between ESP awards and gainsharing should be clearly defined and communicated. Distribution of monetary awards will occur as detailed in Administrative Order 7-8 - Employee Suggestion Program.

B. Employee Participation Program (EPP)

Ideas for an MOU may originate from many sources including EPPs. The source of the idea will have no impact on the terms of the MOU.

VIII. DEPARTMENTS WITH GAINSHARING RESTRICTIONS

In departments where funding or regulatory restrictions limit the County's ability to pay employee bonuses, alternate arrangements have to be considered and approved by the County Manager. Departments are encouraged to investigate alternatives outside the scope of this document to present to the County Manager.

Attachment I

SAMPLE MEMORANDUM OF UNDERSTANDING

Miami-Dade County

Sample Gainsharing Memorandum Of Understanding

I. PREAMBLE

This Memorandum of Understanding (MOU) memorializes an agreement reached between the County Manager, the Director of the Office of Strategic Business Management (OSBM), the Director of [DEPARTMENT], and the employees responsible for _____, hereafter referred to collectively as "the parties". The operational and financial commitments delineated in this MOU become effective [DATE].

II. DEFINITIONS

The following words and expressions shall be construed as follows:

"Additional Net Revenue" shall mean net revenue that exceeds the "Minimum Guarantee."

"Annual Closeout" shall mean the fiscal year-end review used to: establish compliance with the non-Financial and Financial Standards contained in this MOU; determine the amount of Additional Net Revenue, if any, to be distributed through a Gainsharing program; create a list of Eligible Employees; Reestablish the Non-financial Standards; and potentially adjust the Minimum Guarantee for the succeeding year.

"Award Pool" shall mean funds available for disbursement to employees participating in a gainsharing program as determined by the Closeout Committee.

"Board" shall mean Miami-Dade County Board of County Commissioners

"Budget Objective(s)" shall mean the budgeted revenues and expenses identified in Attachment [XXX]. The Budget Objectives are limited to the range of activities found in Attachment [XXX].

"Closeout Committee" This is a committee comprised of the MOU's signatories, or their representatives. The Performance Improvement Division of the Office of Strategic Business Management, the Employee Relations Department and the Audit and Management Services Department may also participate on the Committee. The Closeout Committee is responsible for determining compliance with the terms and conditions of an MOU, for calculating any savings and Award Pool, and for validating payout allocations. Any disagreements between the parties will be forwarded to the County Manager for resolution. In addition, the Closeout Committee may also consider the findings of external or internal financial or operations audits where appropriate.

"ECC" shall mean the Efficiency and Competition Commission

"Eligible Employee(s)" shall mean full- and part-time employees who have held positions at the [DEPARTMENT] during the fiscal year for which bonuses are to be paid, and who have received an employee performance evaluation of satisfactory or better. Said employees may be eligible for Gainsharing, subject to the restrictions contained within this MOU. The list of positions that will be used to determine Eligible Employees will be identified and agreed to by the Parties within 30 days of the signing of this Agreement, and shall be incorporated as Attachment [XXX].

"Financial Standards" shall mean the Minimum Guarantee, Combined Minimum Guarantee, monthly minimum payment and percentage of gross revenue, as detailed in Attachment [XXX]. The Financial Standards are inclusive of certain allocated costs which must be identified and agreed to by the Parties within 30 days of the signing of this Agreement, and shall be incorporated as Attachment [XXX].

"Gainsharing Guidelines" shall mean the Countywide Gainsharing Guidelines approved by the County

Countywide Gainsharing Guidelines

"Gainsharing Program" shall mean the program under which the County may remit as a bonus a portion of Additional Net Revenue, as limited under this MOU, to Eligible Employees.

"Gainsharing" shall mean an incentive program that includes financial rewards to employees for exceeding specific performance goals, which generate sustainable savings for the County through better use of labor, capital, materials and energy.

"Improvement Fund" shall mean that portion of the Special Purpose Account reserved for improvements.

"Minimum Guarantee" shall be that amount for each [DEPARTMENT], which would otherwise require General Fund support. The amount is the greater of the pledged monthly payment or percentage of gross revenue, identified in Attachment [XXX].

"Monitoring Committee" A Monitoring Committee may be established and will typically consist of department managers, employees, union officials, and other departments if appropriate and shall be specified in the MOU. The Monitoring Committee is responsible for ensuring program integrity throughout its term. The Monitoring Committee may also issue reports (usually semi-annually) to the MOU signatories indicating the program's progress.

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

"Net Revenue" shall mean the amount by which revenues exceed expenses.

"Non-financial Standards" shall mean the requirements summarized in Attachment [XXX], and shall be revised annually.

"Performance and Savings Targets" shall mean goals contained within an MOU that define the level of performance or outcomes expected. Performance targets are usually set at best practices levels or other levels normally accepted as efficient. Targets may be established to reflect unique circumstances. Performance goals are typically both financial and technical and are to be clearly listed in the MOU and communicated to participants before the MOU is executed.

"Program Savings" – Total amount of funds saved in the gainsharing program during a defined period, normally a fiscal year, distinct from the Award Pool, which is the portion eligible for distribution.

"Special Purpose Account" shall mean the account used to collect and expend Additional Net Revenue in excess of the Minimum Guarantee, if any, in accordance with the guidelines established under this MOU.

III. BACKGROUND AND SCOPE

[Provide appropriate history and project background in this section.]

IV. NON-FINANCIAL AND FINANCIAL STANDARDS

The [DEPARTMENT] must fulfill the Non-financial and Financial Standards outlined in this MOU and detailed in the Attachments. Failure to meet these standards upon reasonable notice may result in _____. The County Manager shall have the authority to approve adjustments to the Non-financial or Financial standards, except for those requiring Board approval.

A. Non-financial Standards

This MOU commits the [DEPARTMENT] to _____. These standards will be reestablished and adjusted annually as part of the Annual Review

B. Financial Standards

The Budget Objectives and Minimum Guarantee reflect a level of competitive performance and cost efficiency _____. The Budget Objectives and Minimum Guarantee as presented in Attachment [XXX] specify the timing and level of revenues to be yielded from this program. The Financial Standards

are inclusive of certain allocated costs which must be identified and agreed to by the Parties within 30 days of the signing of this Agreement, and shall be incorporated as Attachment [XXX].

C. Minimum Guarantee

The Combined Minimum Guarantee for [DEPARTMENT] for Fiscal Year [XXXX-XXXX] is \$[XXX]. A summary of the individual Minimum Guarantees follows: [INSERT TABLE HERE IF NECESSARY.]

The Minimum Guarantee 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.

V. PERFORMANCE MONITORING

Performance monitoring will take place on a semi-annual basis, and will be supplemented by an Annual Review and special audits.

A. Semi-Annual Reporting

A Monitoring Committee will provide the County Manager with a semi-annual performance report delivered no later than 30 days following the reporting period's end. Substantive variances from either the Non-financial or Financial Standards will be reported to the County Manager along with explanations and any proposed corrective actions, as necessary. In the event that [DEPARTMENT] does not meet the goals and objectives for the fiscal year, OSBM will inform the County Manager who may propose his own corrective action, to potentially include privatization.

B. Annual Closeout

At the close of each fiscal year, the Closeout Committee will review [DEPARTMENT OPERATIONS] for conformity with the standards contained within this MOU. This review will be used to determine compliance with the MOU's Non-financial Standards, to establish year-end financial performance, and to determine adjustments to the succeeding year Minimum Guarantee and Non-financial Standards. The Annual Closeout will also determine the amount of Additional Net Revenue, if any, available for the purpose of Gainsharing, and the final list of employees eligible for bonuses. The Annual Closeout should be completed within 90 days of fiscal year-end.

C. Special Audits

In addition to semi-annual performance reporting and the Annual Review, the County Manager's Office reserves the right to have AMS perform special audits. Special audits may occur at any time during the fiscal year for the purpose of determining compliance with standards. The Closeout Committee shall also consider the findings of external audits if available.

VI. ADJUSTMENTS TO MINIMUM GUARANTEE

At the conclusion of the Annual Closeout, the Budget and Performance Improvement Divisions of the Office of Strategic Business Management will work with [DEPARTMENT] to determine the Minimum Guarantee for the succeeding year. Changes to the Minimum Guarantee may be triggered by: fee schedule changes; extraordinary or unexpected operating expenses, to include inflation; uncontrollable events, acts of god and changes of law that materially affect operations. Adjustments may be made at any point during the year or as part of the Annual Closeout process.

VII. SPECIAL PURPOSE ACCOUNT

All Additional Net Revenue shall be deposited to a Special Purpose Account, the uses of which are detailed in this section and include a Contingency Reserve, the employee Gainsharing Program, and the Improvement Fund. The treatment of the 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 will flow into the Contingency Reserve, Gainsharing Program, and the Improvement Fund in the following manner: 25% of Additional Net Revenues will flow into the Contingency Reserve; 25% will be made available for the Gainsharing Program (subject to the caps described below); and 50% will be reserved for the Work Group Improvement Fund. At any point in time the Contingency Reserve balance reaches 10% of the estimated annual Combined Minimum Guarantee, 75% of Additional Net Revenues shall flow into the Improvement Fund and 25% shall be made available for the Gainsharing Program. At the end of each fiscal year, funds that were available but not distributed as part of Gainsharing will be placed in the Contingency Reserve or, if the Contingency Reserve is fully funded, transferred to the Improvement Fund. The Gainsharing program will have a zero balance at the beginning of each fiscal year.

1. Contingency Reserve

The Contingency Reserve will be available to support [DEPARTMENT] operations in the event that [DEPARTMENT] fails to meet the Minimum Guarantee. The reserve amount shall be set at 10% of the Minimum Guarantee, and will be reviewed and adjusted as needed. Twenty-five percent of Additional Net Revenues will be dedicated to the Contingency Reserve until fully funded each year. Once the reserve requirements have been met, the 25% of Additional Net Revenues that were dedicated to the Contingency Reserve will flow into the Improvement Fund. At year-end, the Contingency Reserve may receive funds remaining in the Gainsharing Program after the distribution of all bonuses, but only up to the amount required under this MOU.

2. Employee Gainsharing Program

Twenty-five percent of Additional Net Revenues produced during any single fiscal year shall be available for distribution as Gainsharing bonuses to Eligible Employees, subject to caps. The list of positions that will be used to determine Eligible Employees will be identified and agreed to by the Parties within 30 days of the signing of this Agreement, and shall be incorporated as Attachment [XXX]. Bonuses distributions will be contingent upon [DEPARTMENT] successfully meeting all Non-financial and Financial Standards. The Annual Review will determine bonus distribution, if any.

Bonuses will be distributed using a capped, two-tier system. Both full- and part-time County employees will be eligible. Employees will receive one bonus based on the overall performance of the [DEPARTMENT], and a second bonus based on the financial performance of [DEPARTMENT] for which the employee worked. Bonuses will be capped at \$[XXX] for the individual [DEPARTMENT] bonus and \$[XXX] for the overall [DEPARTMENT] bonus, or \$[XXX] combined. Bonuses will be prorated 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 [DEPARTMENT] and other similar events.

All employees, subject to the following eligibility rules and occupying Eligible Positions, will be eligible for a bonus, providing that the combined net revenues from [DEPARTMENT] meet the Combined Minimum Guarantee. Gainsharing distribution will occur no later than 120 days after the close of the fiscal year.

[Insert from Gainsharing Guidelines text from the following sections]

- ❖ General Eligibility Rules
- ❖ Prorating Bonuses
- ❖ Impact of Employee Performance, Disciplinary Actions, and Other Actions
- ❖ Job Evaluations
- ❖ Counseling
- ❖ Disciplinary Actions
- ❖ Other Actions

3. Improvement Fund

The Improvement Fund will be used to support the projects and activities identified within the [DEPARTMENT]. The County Manager may authorize the use of these funds to support programs outside of the work group's operating environment. The Improvement Fund will receive no less than 50% of Additional Net Revenues in any one year, and will receive 75% if, at any time, the Contingency Reserve is fully funded. The Improvement Fund will also receive any funds remaining in the Gainsharing Program after all year-end distributions, including the distribution to the Contingency Reserve, have been made.

VIII. ADMINISTRATION OF AGREEMENT

The following terms will be applied in the administration of this contract.

A. Term and Option Years

This MOU is valid for a [XXX]-year term, beginning [DATE] and ending [DATE]. It can be extended by mutual consent of the parties for up to [XXX] additional [XX]-year periods.

B. Uncontrollable Events/Changes in Law

The Minimum 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 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 for purposes of assessing performance under this program. Such events may include, but are not limited to:

- 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 employees and management, including changes in law that have a material effect upon costs or the ability of 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.

"Changes 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 [DEPARTMENT] management had notice or should have had notice of such change as of the date of this 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.

The [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 [DEPARTMENT] for assessing performance, or the parties of this Agreement shall reconvene to renegotiate the Minimum Guarantee in light of the event. In the latter case, only the Minimum Guarantee 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 [DEPARTMENT] operating funds, use of the Special Purpose Account, changes to positions eligible for bonuses 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.

D. Labor-Management Cooperation

The parties to this Agreement acknowledge that cooperative labor/management relations, as typified by the relationship established in developing the program and this Agreement, are critical to meeting the competitive challenge and objectives detailed in this document. The parties commit to maintaining the momentum, energy, and goodwill of this effort.

To that end, [DEPARTMENT] management will establish labor/management committees, as necessary, to monitor progress, identify issues and barriers to success, and to otherwise maintain a mutual commitment to open communications and consensus.

E. 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 [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.

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

Countywide Gainsharing Guidelines

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.

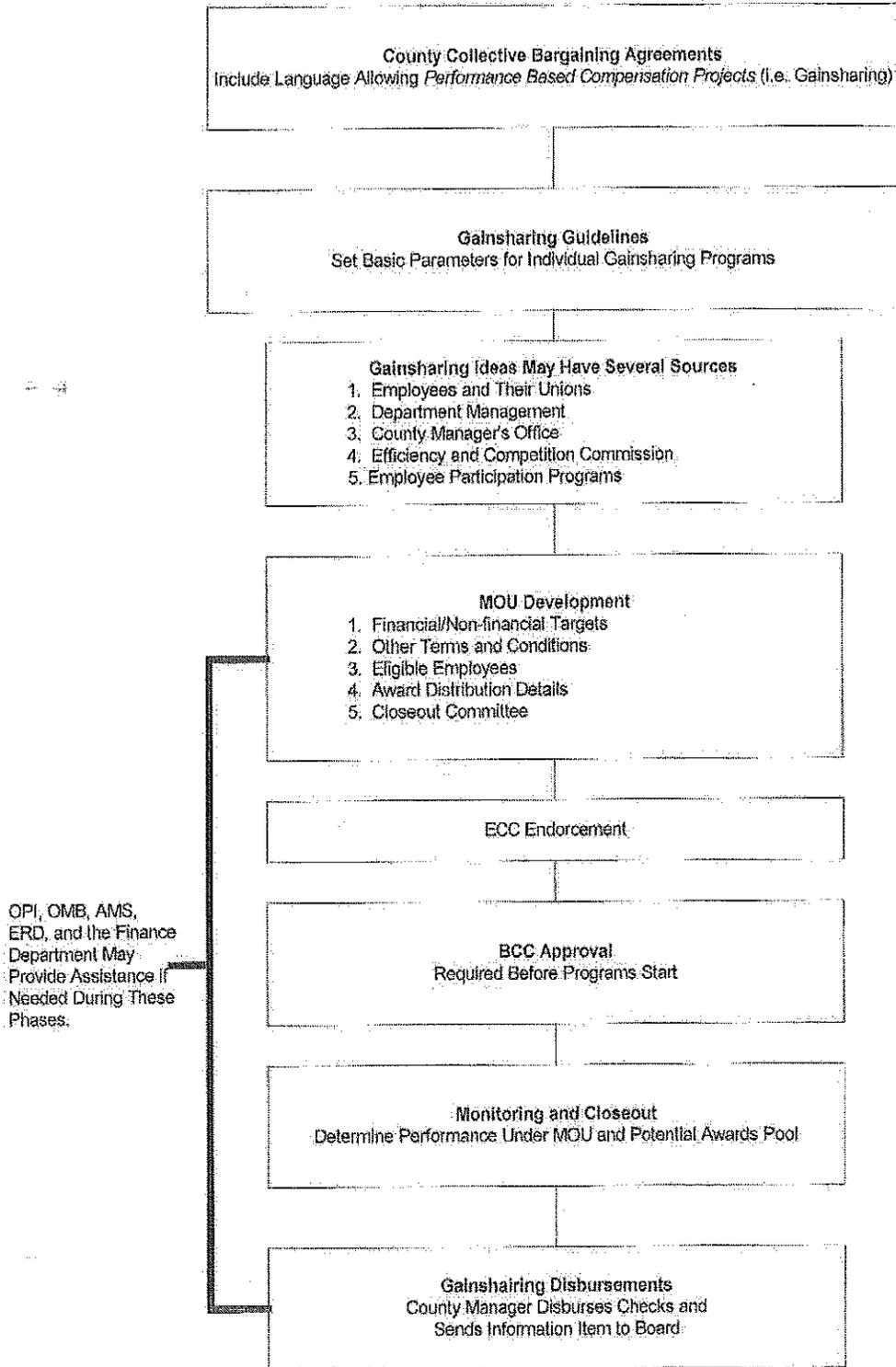
G. Impacts on Staff

The parties understand that a top priority of County management and the Efficiency and Competition Commission 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.

ATTACHMENT II

**STRUCTURAL ENVIRONMENT FOR COUNTY GAINSHARING
PROGRAMS**

Miami-Dade County Structural Environment for County Gainsharing Programs



AFSCME Local 121 Proposal July 14, 2012

Miami-Dade County

Water and Sewer Department

Memorandum of Understanding

I. PREAMBLE

This Memorandum of Understanding (MOU) memorializes an agreement reached on _____, 2012 between the County, Water and Sewer Department, (WASD), and AFSCME Local 121 (Union) hereinafter referred to as "the parties", to establish a department-wide efficiency and Gainsharing program. The parties agree that this MOU is entered to pursuant to Article 20 and 21 of the CBA.

II. TERM

This MOU shall become effective upon ratification and shall be incorporated into the parties' Collective Bargaining Agreement.

III. SCOPE

This agreement contemplates defined efficiency projects relating to the performance of bargaining unit work in-house as opposed to outsourcing the work, with a financial savings goal (defined as the cost or projected cost of outsourcing the work or project), comparable standards, and performance measures. The agreement includes performance-based Gainsharing in conformance with the Countywide Gainsharing Guidelines specifically incorporated herein. This agreement includes projects that the union will be able to bid and/or propose to perform with existing WASD employees, with or without the use of part-time and/or temporary workers. The Department agrees to give any Efficiency Project proposal submitted by Local 121 full and fair consideration. The Union agrees to proffer project or work specific proposals using this MOU as a model, which shall contain performance targets, goals and criteria that are specific to that project. The Employer agrees to act in good faith by aiding in the development of such project-specific proposals, and that it shall not delay, hinder, or obfuscate the development of any such proposal, nor withhold any information relating to the work or which may be relevant to the development of performance targets, goals or criteria.

A. Efficiency Project

An efficiency project is defined as achieving financial savings above the financial savings goal through the use of WASD employees, with or without the use of part-time and/or temporary workers. The Union may proffer proposals on work or projects that the Department is proposing or contemplating to bid to outside vendors or contractors, as

well as work that is currently being performed by outside vendors or contractors, or which may be performed by outside vendors hereafter. In accordance with the CBA, the Department will continue to provide the Union with advance notice whenever it is considering contracting out bargaining unit work and shall first discuss the contemplated outsourcing with the Union. The Department shall provide the Union with all documentation relating to the contemplated work or project in a prompt manner so that the Union has sufficient time to formulate a proposal, which (in the absence of an emergency) shall be at least twenty days. The documents provided shall include any applicable requisitions or other documents that show the estimated costs associated with outsourcing the work, broken down between parts and labor, and the Department's estimated cost of performing the work in-house, broken down between parts and labor. The Department shall also inform the Union of any perceived impediments to performing the work in-house, if any.

- The Department shall provide the Union with any additional documents it requests in order to formulate a proposal. Due to the volume and frequency of requests for outsourcing goods and services, including the submission of requisitions, upon ratification of this MOU the Employer shall assign one (1) bargaining unit employee, selected by the Union President, to work on ways to achieve the goals contemplated by this agreement, and to aid in the formulation of Union proposals on a 24 month trial basis. Thereafter the costs of that employee shall be paid from the the savings pool. The employee shall have working space and appropriate resources including a laptop computer with wireless internet capability, wireless Internet provided, a scanner, access to a copy machine, a County Vehicle to travel to various work locations to review or retrieve records, as well as access to the Office of Capital Improvement (OCI) data base and any public records, including any of the information that the Employer is required to provide to the Union under this MOU or the CBA. In addition the Employer shall provide all necessary training to the employee selected by the Union President regarding accessing and retrieving any necessary information from any computer data base. The Union and the Employer recognize that it is in the interest of both parties and the public to improve the efficiency of the Water and Sewer Department. To that end, the Union shall receive five percent (5%) of the Savings pool annually up to a maximum of \$400,000 annually for its efforts to improve the efficiency of the Water and Sewer Department.

The Department shall, on a monthly basis, provide the Union with a list of all bargaining unit work outsourced during the preceding month.

B. Performance Targets

To the extent possible, performance targets reflect best practice performance levels. Performance targets will reflect a commitment to operating the WASD effectively, efficiently, and in a manner commensurate with a quality working environment and quality customer service. It will be the responsibility of WASD to gather and maintain accurate records of performance data under this MOU. A special ERP Project code will

be established to track the savings. The Union will endeavor to include performance measures and performance targets in its proposals.

A savings pool shall be created and will be the amount saved by performing the work with in-house staff vs. the cost of or projected cost of outsourcing. The scope of work and cost must be a comparable comparison of the cost proposed by a vendor or/ contractor, cost projected by the Department, or actual charges incurred by WASD, for the same work. A written proposal for the same scope of work must be provided by the union. The union must also accept any terms and conditions, including timelines and extensions of such timelines, that are relevant and applicable to its bargaining unit arising out of contract requirements or past practice provided such terms and conditions do not violate the parties' CBA.

In the event the financial saving goal with respect to any particular proposal is not achieved, as determined by the committee, and the failure is directly and solely attributable to the acts of the bargaining unit employees performing the work, then the cost in excess of the financial savings goal will be charged against the savings pool, provided that the Department has given the Union advance notice in writing that its projected cost of the work or project will not be met, and provided that the Department has not contributed to the projected failure by among other things, failing to provide the employees with all necessary parts, tools, equipment, materials, or time to complete the work/project. Such notice must state the reasons for the projected failure and must be given far enough in advance to give the Union the opportunity to try to remedy the projected failure. In no event shall anyone, including but not limited to the Union or its bargaining unit members, be responsible for paying a negative balance in the savings pool. Cost overruns not solely and directly attributable to the acts of the bargaining unit employees performing the work shall not be charged against the savings pool, including but not limited to acts of God or other conditions or circumstances beyond the employees' control.

C. Savings Pool

In accordance with the CBA, a Local 121 savings pool shall be created, which is the total of net savings in excess of the contractor/vendor projected or proposed cost (prorated by the percent of total Local 121 Departmental labor costs .) A maximum of 25 % of the savings pool shall be made available for distribution as employee Gainsharing bonuses to eligible employees, consistent with the provisions of the County's Gainsharing Guidelines and another 5 % shall be for the union for its efficiency efforts described in III A above.

IV. ADMINISTRATION OF AGREEMENT

A. Proposal and Evaluation Process

In instances where an Outside Work requirement is identified by the Department or an efficiency concept is raised by the union, the Department shall notify the union of its intent to issue a solicitation for contract services, or alternatively the union will contact the Department to share its project concept. Thereafter, the Department shall: a) meet with the union to ascertain if the bargaining unit has the expertise to perform the required non-managerial labor tasks; b) help develop a project scope including cost estimates, and c) work with the union to ascertain whether Local 121 intends to seek to have the job done in-house and further provide Departmental assistance in designing such a bid response.

The parties agree that consistent with the terms of the Collective Bargaining Agreement, a committee is hereby established to discuss and evaluate Local 121's proposals to perform work pursuant to this MOU. The committee shall be comprised of three individuals selected by the Department and three individuals selected by the Union, who shall meet promptly and without delay whenever the Union wishes to make a proposal to have work performed in-house. The committee may be guided in its evaluation by the procedures described in the Department's Employee Recognition Program for Efficiency Savings and Process Improvement. The Department shall give full and fair consideration to any proposal made by the Union, and shall not reject any proposal without a legitimate basis. In the event the Department rejects a proposal proffered by the Union, the Department shall at the time of such rejection provide the Union with a detailed explanation of the basis for its decision, including any and all documents that the Department considered, reviewed, or relied on in deciding to outsource the work, activity or project.

B. Annual Review

At the close of each fiscal year, WASD's financial and operational performance will be reviewed for conformity with the standards contained within this MOU. This annual review will involve staff from WASD and Office of Management & Budget (OMB), representatives of AFSCME Local 121, and may involve staff from the Audit and Management Services Department (AMS). The close-out should be completed within 90-days of fiscal year-end and pursued with the intent to distribute Gainsharing bonuses in advance of the holiday season.

This review will be used to determine the amount of savings, if any, available for distribution in accordance with the CBA. It will be the responsibility of WASD to gather and maintain accurate records under this MOU.

Meeting the 90-day deadline may necessitate utilization of un-audited figures; if audited figures subsequently prove to be significantly divergent, the savings pool will be adjusted accordingly in future years until the discrepancy is eliminated; provided, however, that if it is determined that bargaining unit employees are entitled to additional distributions from the savings pool, such distributions shall be made immediately upon completion of the final audit

C. Special Audits

In addition to the annual review, the County reserves the right to have 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.

D. Gainsharing Employee Distribution

A maximum of 25% of the savings pool will be available for employee Gainsharing under this agreement, consistent with the Collective Bargaining Agreement and any Countywide Gainsharing Guidelines specifically incorporated herein. Gainsharing employee awards will be capped at \$5,000 per employee, per year.

E. Employee Eligibility

All AFSCME Local 121 bargaining unit employees will be eligible for Gainsharing under this MOU provided they meet the rules in this MOU and that the financial savings goals associated with the program are met and exceeded. The following eligibility rules are applicable to this MOU and are consistent with the Countywide Gainsharing Guidelines:

1. General Eligibility Rules:

Award recipients must be County employees regardless of employment status (i.e. full-time, part-time, probationary), and be members of the bargaining unit represented by AFSCME Local 121.

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 award.

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

Employees will have had to work at least six pay periods during the applicable fiscal year (the "Gainsharing period") to be eligible for an award.

2. Prorating Bonuses:

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

Employees who transfer to another County department during the Gainsharing period are eligible for the time spent in the WASD.

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

Employees who transfer into or out of WASD during the MOU period, or who are out of pay status,, including leave without pay, but not including as a result of disciplinary action, , will have their distributions prorated to reflect the portion of the Gainsharing

period in pay status. Furlough days shall not count as out of pay status for purposes of this MOU.

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

a. Counseling:

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

b. Disciplinary Actions:

Neither a written reprimand nor a suspension during an MOU period will impact an employee's eligibility for a Gainsharing award.

Employees dismissed for disciplinary reasons during the applicable fiscal year will not be eligible for a Gainsharing award, unless through the completion of the appeal process under Section 2-47 of the County Code or the arbitration process under the CBA, the dismissal is reduced and the employee is reinstated to County service.

F. Uncontrollable Events

While the parties agree on the reasonable assumptions on which this MOU is based, the parties also understand and acknowledge that extraordinary unforeseen events, beyond the reasonable control of employees and management, may result in costs and/or savings that could significantly affect their ability to meet the stated objectives.

Uncontrollable Events:

For the purposes of this MOU, the performance targets may be adjusted by agreement of the parties in response to events and circumstances beyond WASD's or the employees' reasonable control. These include extraordinary forces of nature such as droughts, floods, washouts, major storms, hurricanes, and other acts of nature, changes of law or circumstances beyond the control of the department or employees.

G. Labor-Management Cooperation

The parties to this MOU acknowledge that cooperative labor/management relations, as typified by the relationship established in developing this program and MOU, are critical to meeting the competitive challenge and objectives detailed in this document. The parties commit to maintaining the momentum, energy, and goodwill of this effort.

H. Relationship with Labor Contracts

It is the intent of the parties that this MOU be interpreted in harmony and compliance with the comprehensive labor contract between Miami-Dade County AFSCME Local

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121. All rights and benefits of the parties under existing and future labor contracts are preserved. Any labor disputes related to the collective bargaining agreement shall be resolved through the applicable use of established processes within the labor agreement in effect at the time of the dispute. This MOU shall be enforceable pursuant to the grievance and arbitration procedure set forth in the CBA. .

I. 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.

J. Impacts on Staff

This agreement shall be effective only after the ratification of all parties listed below as evidenced by their respective signatures and approval of the Board of County Commissioners.

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

DATE:

COLLECTIVE BARGAINING AGREEMENT
BETWEEN
MIAMI-DADE COUNTY,
THE MIAMI-DADE WATER AND SEWER DEPARTMENT,
AND
AMERICAN FEDERATION OF STATE, COUNTY,
AND MUNICIPAL EMPLOYEES, A.F.L.-C.I.O.,
MIAMI-DADE WATER AND SEWER EMPLOYEES LOCAL 121
OCTOBER 1, 2011 - SEPTEMBER 30, 2014

ARTICLE 21 MANAGEMENT RIGHTS AND SCOPE OF THIS AGREEMENT

The Union recognizes that the County and the Department possess the sole right to operate and manage the Department and direct the work force, and the rights, powers, authority and discretion which the County and Department deem necessary to carry out their responsibilities and missions shall be limited only by the specific and express terms of this Agreement.

These rights and powers include, but are not limited to the authority to:

- a. Determine the missions and objectives of the Department;
- b. Determine the methods, means, and number of personnel needed to carry out Department responsibilities;
- c. Take such actions as may be necessary to carry out services during emergencies declared by the Water and Sewer Department or the County Manager;
- d. Direct the work of the employees, determine the amount of work needed, and in accordance with such determination relieve employees from duty or reduce hours of work. In addition, relieve employees from duty or reduce their hours of work for lack of work or funds or other legitimate reasons, in accordance with procedures contained in the County Rules and regulations;
- e. The County may for just cause dismiss, suspend, reprimand, demote, reduce in grade, reduce in pay or otherwise discipline employees in accordance with applicable sections of the Code of Miami-Dade County, Florida and/or Personnel Rules;
- f. The right to make reasonable rules and regulations for the purpose of efficiency, safe practices, and discipline. The County

will inform the Union of any changes in the existing rules and regulations before such changes are made effective;

- g. Schedule operations and shifts;
- h. Introduce new or improved methods, operations and facilities;
- i. Hire, promote, transfer, and assign employees;
- j. Schedule overtime work as required.
- k. Contract out for goods and services. The Department will provide the Union at least sixty (60) calendar days written notice in contracting out for services currently being performed by bargaining unit employees. The County will provide to the Union copies of Requests for Proposals that specifically pertain to the contracting out for services that are currently being performed by bargaining unit employees, or which could be performed by bargaining unit employees. The County agrees that such Requests for Proposals shall require proposed vendors to provide detailed pricing proposals that separate the pricing for parts and labor. The County agrees to provide the Union with copies of such pricing proposals at the point that such proposals become public. The County agrees that, when the Department submits a written recommendation to contract out for services currently being performed by bargaining unit employees or which could be performed by bargaining unit members, a copy of such recommendation shall be sent forthwith to the Union. Except in emergencies or other situations of immediate need, whenever the department is considering contracting out work that can be performed by bargaining unit employees or that is currently being performed by bargaining unit employees, it shall first discuss the intended contract with the Union in a regular or special Labor

Management meeting in which the department shall discuss its reasons for the intended contracting. The Union may, within twenty (20) days or less, propose an alternative plan by which the work may be done economically, efficiently and in accordance with required laws and regulations by appropriate members of the Bargaining Unit. The parties agree that any alternative proposal submitted by the Union shall be given full and fair consideration in any decision regarding such contract. To the extent that the implementation of such proposal results in net savings to the Department in excess of the performance targets established by the MOU contemplated by Article 20, such net savings shall be added to the savings pool established by Article 20 and shall be eligible for distribution in the manner set forth in Article 20.

The Union shall be notified, as soon as is practical, of any emergencies or other situations of immediate need for contracting out bargaining unit work.

The Parties acknowledge that during the negotiations which preceded this Agreement each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. This Agreement, including its supplements and exhibits attached hereto, concludes all collective bargaining between the parties during the term hereof, and constitutes the sole, entire and existing Agreement between the parties hereto, and supersedes all prior Agreements and undertakings, oral and written, express or implied, or practices, between the County and the Union or its employees, and expresses all obligations and restrictions imposed on each of the respective parties during its term.