

Memorandum



Date: June 4, 2013

To: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

Agenda Item No. 8(L)(6)

From: Carlos A. Gimenez
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez", written over a white background.

Subject: Resolution Authorizing the Execution of a Joint Participation Agreement in an Amount up to \$252,120.00 between Miami-Dade County and the Florida Department of Transportation, Co-Permittees Named in the National Pollutant Discharge Elimination System Permit No. FLS000003-003

Recommendation

It is recommended that the Board of County Commissioners (BCC) approve the attached resolution authorizing the execution of a Joint Participation Agreement (Agreement) in an amount up to \$252,120.00 between Miami-Dade County (County) and the Florida Department of Transportation (FDOT). This Agreement provides for the performance of professional services conducted by the County on behalf of FDOT, which is one of the co-permittees named in the National Pollutant Discharge Elimination System Permit No. FLS000003-003, establishes responsibilities for pollutants detected in storm sewer systems that are shared by the co-permittees, and allows annual changes to the number of activities performed by the County for the co-permittee. This Agreement is related to an existing National Pollutant Discharge Elimination System Interlocal Agreement, approved by BCC Resolution No. R-1032-12.

The County Mayor is authorized to effectuate this Resolution by approving and filing this Resolution with the Clerk of the Board. This will allow sufficient time to forward the Agreement, once approved by the BCC, to FDOT for their execution of the Agreement prior to the end of FDOT's fiscal year on June 30, 2013.

Scope

This Agreement's impact is Countywide.

Fiscal Impact/Funding Source

Under the proposed Agreement, the Florida Department of Transportation will-reimburse the County up to \$252,120.00 for the term of the Agreement. Without the proposed Agreement, the County would be responsible for all costs of work contemplated by this Agreement. The County work is funded by stormwater utility fees.

Track Record/Monitor

The Stormwater Utility Planning Division's Director, Marina Blanco-Pape, P.E., of the Public Works and Waste Management Department, will monitor this agreement.

Background

The Florida Department of Environmental Protection is delegated by the U.S. Environmental Protection Agency to implement the storm water element of the National Pollutant Discharge Elimination System as mandated by the federal Clean Water Act. On June 21, 2011, the Florida Department of Environmental Protection issued Permit No. FLS000003-003 to 33 co-permittees in the County for the discharge of storm water to state waters from municipal


Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners
Page No. 2

storm-sewer systems. The 33 co-permittees consist of 29 municipalities, FDOT, the Florida Department of Transportation Turnpike Enterprise, Miami-Dade County Expressway Authority, and the County.

Having 35 percent of the County's stormwater outfalls, the County is the lead co-permittee under the Permit. The five (5) year permit term expires on June 20, 2016.

Both the prior and current National Pollutant Discharge Elimination System permits required a Stormwater Management Plan from each co-permittee that may be implemented through cooperative participation with other permit holders. Pursuant to this provision, on November 3, 2005, the BCC adopted Resolution No. R-1237-05, approving an Interlocal Agreement between the County and the co-permittees (including FDOT) to implement the Stormwater Management Plan. This previous agreement expired on November 17, 2012. On December 4, 2012, the BCC adopted Resolution No. R-1032-12, approving the current agreement between the municipal co-permittees and the County. However, due to State of Florida requirements, an agreement with FDOT must be in the format of a Joint Participation Agreement and requires separate approval. However, it is similar in intent to the National Pollutant Discharge Elimination System Interlocal Agreement approved under BCC Resolution R-1032-12.

Under the proposed Agreement, the County would perform professional services on behalf of FDOT, to comply with the conditions of National Pollutant Discharge Elimination System Permit No. FLS000003-003. Professional services include water sampling, monitoring, analysis of storm sewer systems, and related tasks. The proposed Agreement, along with the National Pollutant Discharge Elimination System Interlocal Agreement approved under Resolution R-1032-12, establish responsibilities for control, reduction, and identification of non-stormwater pollutant discharges from municipal systems to State waters. The proposed Agreement also sets forth annual not-to-exceed shared costs. The proposed Agreement will expire on December 20, 2016.



Alina T. Hudak
Deputy Mayor



MEMORANDUM
(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: June 4, 2013

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

SUBJECT: Agenda Item No. 8(L)(6)

Please note any items checked.

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

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(L)(6)
6-4-13

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE EXECUTION OF A JOINT PARTICIPATION AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE FLORIDA DEPARTMENT OF TRANSPORTATION, CO-PERMITTEES NAMED IN THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT NO. FLS000003-003, PROVIDING FOR PERFORMANCE OF PROFESSIONAL SERVICES IN AN AMOUNT UP TO \$252,120.00 BY MIAMI-DADE COUNTY, AND FOR ESTABLISHING RESPONSIBILITY FOR IDENTIFICATION AND CONTROL OF POLLUTANT DISCHARGES IN MUNICIPAL SEPARATE STORM SEWER SYSTEMS SHARED BETWEEN CO-PERMITTEES; AUTHORIZING THE MAYOR OR MAYOR'S DESIGNEE TO EXECUTE AMENDMENTS TO THE AGREEMENT; AND AUTHORIZING THE MAYOR OR MAYOR'S DESIGNEE TO EXERCISE ANY AND ALL RIGHTS CONTAINED THEREIN

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby authorizes the Mayor or Mayor's designee to execute a Joint Participation Agreement in an amount up to \$252,120.00, in substantially the form attached hereto and made a part hereof between Miami-Dade County and the Florida Department of Transportation, co-permittees named in the National Pollutant Discharge Elimination System (NPDES) Permit No. FLS000003-003 for performance of professional services by Miami-Dade County associated with the aforementioned NPDES Permit, and for establishing responsibility for identification and control of pollutant discharges in shared municipal storm sewer systems; authorizes the Mayor or

Mayor's designee to execute amendments to the Agreement that are contemplated in the Agreement or that are necessary to implement the intent of the Agreement; and authorizes the Mayor or Mayor's designee to exercise any and all rights contained therein.

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

Rebeca Sosa, Chairwoman
Lynda Bell, Vice Chair

- | | |
|----------------------|----------------------|
| Bruno A. Barreiro | Esteban L. Bovo, Jr. |
| Jose "Pepe" Diaz | Audrey M. Edmonson |
| Sally A. Heyman | Barbara J. Jordan |
| Jean Monestime | Dennis C. Moss |
| Sen. Javier D. Souto | Xavier L. Suarez |
| Juan C. Zapata | |

The Chairperson thereupon declared the resolution duly passed and adopted this 4th day of June, 2013. This resolution shall become effective upon the earlier of (1) ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

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

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.
Thomas H. Robertson



**JOINT PARTICIPATION AGREEMENT
BETWEEN
STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
AND
MIAMI-DADE COUNTY**

THIS AGREEMENT is made and entered into this _____ day of _____, 20____, between the State of Florida Department of Transportation, a component agency of the State of Florida, hereinafter referred to as the 'DEPARTMENT', and Miami-Dade County, a political subdivision of the State of Florida, acting by and through its Public Works and Waste Management Department, hereinafter referred to as the 'LEAD PERMITTEE'.

RECITALS:

WHEREAS, the DEPARTMENT and the LEAD PERMITTEE are desirous of having the LEAD PERMITTEE perform certain services in connection with the National Pollutant Discharge Elimination System – Municipal Separate Storm Sewer System, hereinafter referred to as 'NPDES-MS4 Permit' in Miami-Dade County, the individual elements of which are outlined in the attached Exhibit "A", 'Scope of Services', which is herein incorporated by reference; and

WHEREAS, Section 403.0885, Florida Statutes (F.S.), established the federally approved state NPDES Program; and

WHEREAS, Florida Department of Environmental Protection (FDEP) Rule 62-4.052, Florida Administrative Code, implemented an annual regulatory program and fees to effect the legislative intent that FDEP's cost for administering the NPDES Program be borne by regulated entities; and

WHEREAS, at or before the expiration of each NPDES-MS4 Permit, the Permittees must file a reapplication to FDEP for renewal of the NPES-MS4 Permit for a subsequent term; and

WHEREAS, the NPDES-MS4 Permits granted by FDEP to the Permittees contain separate obligations and responsibilities for each individual Permittee, as well as obligations and responsibilities that may be performed jointly by the Permittees; and

WHEREAS, due to the number of Permittees and the tasks that must be performed under NPDES-MS4 Permit, it would be more economically and administratively feasible to allocate certain duties, responsibilities and costs associated with the NPDES-MS4 Permits; these tasks are specifically outlined in Exhibit "A" and shall be known as the 'PROJECT'; and

WHEREAS, the improvements are in the interest of both the DEPARTMENT and the LEAD PERMITTEE and it would be more practical, expeditious and economical for the LEAD PERMITTEE to perform such activities; and

WHEREAS, the DEPARTMENT has programmed funding for the PROJECT under Financial Project Number 428325-1-72-01, and has agreed to reimburse the LEAD PERMITTEE for eligible PROJECT costs up to a maximum limiting amount, as outlined in the attached Exhibit "B", 'Financial Summary', which is herein incorporated by reference; and

WHEREAS, the parties hereto mutually recognize the need for entering into an Agreement designating and setting forth the responsibilities of each party; and

WHEREAS, the parties are authorized to enter into this Agreement pursuant to **Section 339.08(e) and 339.12, Florida Statutes (F.S.)**;

NOW, THEREFORE, in consideration of the premises, the mutual covenants and other valuable considerations contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. INCORPORATION OF RECITALS

The foregoing recitals are true and correct and are incorporated into the body of this Agreement, as if fully set forth herein.

2. GENERAL REQUIREMENTS

- a. The LEAD PERMITTEE shall be responsible for assuring that its work on the PROJECT complies with all applicable Federal, State and Local laws, rules, regulations, guidelines and standards. The LEAD PERMITTEE shall also be responsible for the administration and technical coordination required for the PROJECT.
- b. The LEAD PERMITTEE shall submit this Agreement to the Board of County Commissioners for ratification or approval by resolution. A copy of said resolution is attached hereto as Exhibit "C", 'Miami-Dade County Resolution', and is herein incorporated by reference.
- c. The LEAD PERMITTEE shall be responsible for the administration and technical coordination required for the PROJECT until completion, and, as further defined in Exhibit "A", 'Scope of Services'. The LEAD PERMITTEE shall complete the PROJECT on or before December 20, 2016. All aspects of PROJECT administration and technical coordination are subject to DEPARTMENT standards and specifications and must be in compliance with all governing laws and ordinances.
- d. The LEAD PERMITTEE shall not execute any contract or obligate itself in any manner requiring the disbursement of DEPARTMENT funds, including

consulting or construction contracts or amendments thereto, with any third party with respect to the PROJECT without the prior written approval of the DEPARTMENT. The DEPARTMENT specifically reserves the right to review qualifications of any consultant or contractor and to approve or disapprove LEAD PERMITTEE employment of same.

- e. This Agreement and any interest herein shall not be assigned, transferred or otherwise encumbered by the LEAD PERMITTEE under any circumstances without prior written consent of the DEPARTMENT. However, this Agreement shall run to the DEPARTMENT and its successors.
- f. The LEAD PERMITTEE shall have the sole responsibility for resolving claims and requests for additional work for the PROJECT. The LEAD PERMITTEE will make the best efforts to obtain the DEPARTMENT input in its decisions.
- g. The DEPARTMENT shall reimburse the LEAD PERMITTEE for eligible PROJECT costs as defined in Exhibit "B", 'Financial Summary', and in accordance with the financial provisions in Section 3 of this Agreement.
- h. The LEAD PERMITTEE shall comply with all federal, state, and local laws and ordinances applicable with work or payment of work thereof, and will not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the performance of work under this Agreement.

3. FINANCIAL PROVISIONS

- a. Eligible PROJECT costs may not exceed TWO HUNDRED FIFTY TWO THOUSAND ONE HUNDRED TWENTY DOLLARS (\$252,120.00), as outlined in Exhibit "B", 'Financial Summary'. If additional funding is required, contingent upon DEPARTMENT approval, a supplemental agreement between the DEPARTMENT and the LEAD PERMITTEE authorizing the additional funding shall be executed prior to such costs being incurred.
- b. The DEPARTMENT agrees to pay the LEAD PERMITTEE for the herein described services at a compensation as detailed in this Agreement.
- c. The LEAD PERMITTEE shall furnish the services with which to construct the PROJECT. Said PROJECT consists of services as detailed in Exhibit "A" of this Agreement.
- d. Payment shall be made only after receipt and approval of goods and services unless advance payments are authorized by the Department's Comptroller under **Section 334.044(29), F.S.**, or by the Department of Financial Services under **Section 215.422(14), F.S.**

- e. The LEAD PERMITTEE shall provide the following quantifiable, measurable and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion.
 - i. Annual Report describing activities carried out jointly to fulfill permit requirements
 - ii. Major watershed pollutant load estimates, as required by Part V.A. of the MS4 NPDES Permit
 - iii. Water Sampling and Monitoring Program required by Part V.B. of the NPDES-MS4 Permit
- f. Invoices shall be submitted by the LEAD PERMITTEE in detail sufficient for a proper pre-audit and post audit thereof, based on quantifiable, measurable and verifiable units of deliverables as established in Section e above and Exhibit "A". Deliverables must be received and accepted in writing by the DEPARTMENT's Project Manager prior to payments.
- g. Supporting documentation must establish that the deliverables were received and accepted in writing by the LEAD PERMITTEE and that the required minimum level of service to be performed based on the criteria for evaluating successful completion as specified the above Section e has been met.
- h. Travel costs will not be reimbursed.
- i. LEAD PERMITTEE providing goods and services to the DEPARTMENT should be aware of the following time frames. Upon receipt, the DEPARTMENT has five (5) working days to inspect and approve the goods and services. The DEPARTMENT has twenty (20) days to deliver a request for payment (voucher) to the Department of Financial Services. The twenty (20) days are measured from the latter of the date the invoice is received or the goods or services are received, inspected, and approved.
- j. If payment is not available within forty (40) days, a separate interest penalty at a rate as established pursuant to **Section 55.03(1), F.S.**, will be due and payable, in addition to the invoice amount, to the LEAD PERMITTEE. Interest penalties of less than one (1) dollar will not be enforced unless the LEAD PERMITTEE requests payment. Invoices that have to be returned to the LEAD PERMITTEE because of LEAD PERMITTEE preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the DEPARTMENT.
- k. A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate

for the LEAD PERMITTEE who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at 850-413-5516 or by calling the Department of Financial Services Hotline 1-877-693-5236.

- l. Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to the DEPARTMENT at all times during the period of this Agreement and for five (5) years after final payment is made. Copies of these documents and records shall be furnished to the DEPARTMENT upon request. Records of costs incurred include the LEAD PERMITTEE's general accounting records and the project records, together with supporting documents and records, of the contractor and all subcontractors performing work on the project, and all other records of the contractor and subcontractors considered necessary by the DEPARTMENT for a proper audit of costs.
- m. In the event this contract is for services in excess of \$25,000.00 and a term for a period of more than 1 year, the provisions of **Section 339.135(6)(a), F.S.**, are hereby incorporated:

"The DEPARTMENT, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The DEPARTMENT shall require a statement from the Comptroller of the Department that such funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the DEPARTMENT which are for an amount in excess of TWENTY FIVE THOUSAND DOLLARS (\$25,000.00) and which have a term for a period of more than 1 year."

- n. The DEPARTMENT's obligation to pay is contingent upon an annual appropriation by the Florida Legislature.
- o. LEAD PERMITTEE:
 - i. Shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the LEAD PERMITTEE during the term of the contract; and
 - ii. Shall expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the

U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

4. GOVERNING LAW

This Agreement shall be governed and construed in accordance with the laws of the State of Florida.

5. AMENDMENT

This Agreement may be amended by mutual agreement of the DEPARTMENT and the LEAD PERMITTEE expressed in writing, executed and delivered by each party.

6. INVALIDITY

If any part of this Agreement shall be determined to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, if such remainder continues to conform to the terms and requirements of applicable law.

7. COMMUNICATIONS

- a. All notices, requests, demands, consents, approvals and other communications which are required to be served or given hereunder, shall be in writing and hand-delivered or sent by either registered or certified U.S. mail, return receipt requested, postage prepaid, addressed to the party to receive such notices as follows:

To DEPARTMENT: Florida Department of Transportation
1000 Northwest 111 Avenue, Room 6202A
Miami, Florida 33172-5800
Attn: Michelle Rapaport, JPA Coordinator
Ph: (305) 470-5112; Fax: (305) 640-7556

To LEAD PERMITTEE: Miami-Dade County
Public Works and Waste Management
Department
701 NW 1st Court, 5th Floor
Miami, Florida 33136
Attn: Marina Blanco-Pape, P.E., Chief
Ph: 305-372-6950; Fax: 305-372-6425

- b. Either party may, by notice given as aforesaid, change its address for all subsequent notices. Notices given in compliance with this section shall be deemed given when placed in the mail.

8. EXPIRATION OF AGREEMENT

The LEAD PERMITTEE agrees to complete the PROJECT on or before December 20, 2016. If the LEAD PERMITTEE does not complete the PROJECT within this time period, this Agreement will expire unless an extension of the time period is requested by the LEAD PERMITTEE and granted in writing by the DEPARTMENT's District Six Secretary or Designee. Expiration of this Agreement will be considered termination of the PROJECT.

9. INVOICING

The LEAD PERMITTEE will invoice the DEPARTMENT on a quarterly basis for completed work. The fourth quarter invoice for each corresponding year will not be paid until the deliverables defined in Section 3(e) of this Agreement are received by the DEPARTMENT. The LEAD PERMITTEE must submit the final invoice on this PROJECT to the DEPARTMENT within 120 days after the expiration of this Agreement. Invoices submitted after April 20, 2017, will not be paid.

10. AUDITS

State of Florida Single Audit Act requirements as outlined in the attached Exhibit "D", 'Audit Reports', are incorporated herein by reference.

11. ENTIRE AGREEMENT

This Joint Participation Agreement is the entire Agreement between the parties hereto, and it may be modified or amended only by mutual consent of the parties in writing.

12. INDEMNIFICATION

Each party hereto agrees that it shall be responsible for the negligent or wrongful acts of its employees and agents while acting within the scope of the employee's office or employment under circumstances in which the state or agency, if a private person, would be liable to a claimant, in accordance with **Section 768.28, F.S.** However, nothing contained herein shall constitute a waiver by either party of its sovereign immunity or the provisions of **Section 768.28, F.S.**

-- REMAINDER OF PAGE INTENTIONALLY LEFT BLANK --

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, on the day and year above written.

MIAMI-DADE COUNTY:

STATE OF FLORIDA, DEPARTMENT
OF TRANSPORTATION:

BY: _____
COUNTY MAYOR

BY: _____
DISTRICT SECRETARY

ATTEST: _____
(SEAL) COUNTY CLERK

ATTEST: _____
(SEAL) EXECUTIVE SECRETARY

LEGAL REVIEW:

COUNTY ATTORNEY

DISTRICT CHIEF COUNSEL

EXHIBIT "A"

SCOPE OF SERVICES & DELIVERABLES

The responsibilities of the LEAD PERMITTEE, as to the implementation and execution of the NPDES-MS4 Permit No. FLS000003-003, are to include, but not limited to, the following:

- a. The timely preparation, coordination, and execution of interlocal agreements necessary to establish and implement the joint activities required by the MS4 NPDES Permit.
- b. The timely preparation, coordination, and submittal to FDEP and the DEPARTMENT of annual report describing the activities carried out jointly to fulfill requirements in the permit.
- c. The preparation, coordination, and distribution of standardized forms and guidance documents to assist DEPARTMENT (co-permittees) in carrying out the terms of MS4 NPDES Permit.
- d. The timely preparation, coordination, and submittal to FDEP of major watershed pollutant load estimates required by Part V.A. of the MS4 NPDES Permit.
- e. The timely preparation, coordination, and execution of a water sampling and monitoring program required by Part V. B. of the MS4 NPDES Permit.
- f. The preparation and coordination of all MS4 NPDES workshops and meetings with the DEPARTMENT (co-permittees).

The administrative duties of the LEAD PERMITTEE are to include, but not limited to the following:

- a. Issuing one (1) invoice to each co-permittee for its annual Funding Year payment amount, following which the co-permittee shall then have thirty (30) days from the date of receipt of the invoice and to make its initial payment in accordance with the option so selected.
- b. Modifications to MS4 NPDES Permit

In accordance with Section 403.067, F.S., NPDES permits must be consistent with the requirements of adopted Total Maximum Daily Loads (TMDLs). An MS4 NPDES Permit may be reopened and revised during its term to adjust effluent limitations or monitoring requirements should future adopted TMDL, water quality studies, FDEP approved changes in water quality standards, or other information show a need for a different limitation or monitoring requirement. It is understood and agreed that any other changes, modifications,

Page 9 of 17

*Joint Participation Agreement between the Florida Department of Transportation and Miami-Dade County
Financial Project Number # 428325-1-72-01*

revisions, or additions to the terms of a MS4 NPDES Permit made subsequent to the Effective Date of this Agreement are expressly excluded from and not a subject of this Agreement unless and until incorporated herein by written agreement of the parties.

PROJECT Limits: Countywide

FDOT Financial Project Number: 428325-1-72-01

County: Miami-Dade

FDOT Project Manager: Ricardo F. Salazar 305-470-5264

LEAD PERMITTEE Project Manager: Marina Blanco-Pape, P.E. 305-372-6950

EXHIBIT "B"

FINANCIAL SUMMARY

Estimated PROJECT costs and deliverables for reimbursement are below-listed:

Services	1 st Year (FY 12/13)	2 nd Year (FY 13/14)	3 rd Year (FY 14/15)	4 th Year (FY 15/16)
Laboratory Analysis	\$45,000	\$45,000	\$45,000	\$45,000
Water Sampling/Monitoring	\$5,000	\$5,000	\$5,000	\$5,000
Engineering Analysis/Reporting	\$8,750	\$10,790	\$10,790	\$10,790
Field Inspections	\$2,000	\$3,000	\$3,000	\$3,000
Total Estimated Annual Cost	\$60,750	\$63,790	\$63,790	\$63,790

Total PROJECT Cost: \$252,120.00

EXHIBIT "C"

MIAMI-DADE COUNTY RESOLUTION

To be herein incorporated once approved by the LEAD PERMITTEE Board of County Commissioners.

EXHIBIT "D"

AUDIT REPORTS

The administration of resources awarded by the Department to **LEAD PERMITTEE** is subject to audits and/or monitoring by the Department, as described in this section. For further guidance, see the Executive Office of the Governor website, which can be found at: www.fssa.state.fl.us.

MONITORING

In addition to reviews of audits conducted in accordance with OMB Circular A-133 and Section 215.97, F.S., as revised (see "AUDITS" below), monitoring procedures may include, but not be limited to, on-site visits by Department staff, limited scope audits as defined by OMB Circular A-133, as revised, and/or other procedures. By entering into this agreement, the recipient agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. In the event the Department determines that a limited scope audit of the recipient is appropriate, the recipient agrees to comply with any additional instructions provided by the Department staff to **LEAD PERMITTEE** regarding such audit. **LEAD PERMITTEE** further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Chief Financial Officer (CFO) or Auditor General.

AUDITS

PART I: FEDERALLY FUNDED

Recipients of federal funds (i.e. state, local government, or non-profit organizations as defined in OMB Circular A-133, as revised) are to have audits done annually using the following criteria:

1. In the event that the recipient expends \$500,000 or more in Federal awards in its fiscal year, the recipient must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised. EXHIBIT 1 to this agreement indicates Federal resources awarded through the Department by this agreement. In determining the Federal awards expended in its fiscal year, the recipient shall consider all sources of Federal awards, including Federal resources received from the Department. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit of the recipient conducted by the Auditor General in accordance with the provisions OMB Circular A-133, as revised, will meet the requirements of this part.
2. In connection with the audit requirements addressed in Part I, paragraph 1., the recipient shall fulfill the requirements relative to auditee responsibilities as provided in Subpart C of OMB Circular A-133, as revised.
3. If the recipient expends less than \$500,000 in Federal awards in its fiscal year, an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, is not required. In the event that the recipient expends less than \$500,000 in Federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, the cost of the audit must be paid from non-Federal resources (i.e., the cost of such an audit must be paid from recipient resources obtained from other than Federal entities).
4. Federal awards are to be identified using the Catalog of Federal Domestic Assistance (CFDA) title and number, award number and year, and name of the awarding federal agency.

PART II: STATE FUNDED

Recipients of state funds (i.e. a nonstate entity as defined by Section 215.97(2)(f), Florida Statutes) are to have audits done annually using the following criteria:

1. In the event that the recipient expends a total amount of state financial assistance equal to or in excess of \$500,000 in any fiscal year of such recipient, the recipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Executive Office of the Governor and the CFO; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this agreement indicates state financial assistance awarded through the Department by this agreement. In determining the state financial assistance expended in its fiscal year, the recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department, other state agencies, and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.
2. In connection with the audit requirements addressed in Part II, paragraph 1, the recipient shall ensure that the audit complies with the requirements of Section 215.97(7), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2)(d), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
3. If the recipient expends less than \$500,000 in state financial assistance in its fiscal year, an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. In the event that the recipient expends less than \$500,000 in state financial assistance in its fiscal year and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the nonstate entity's resources (i.e., the cost of such an audit must be paid from the recipient's resources obtained from other than State entities).
4. State awards are to be identified using the Catalog of State Financial Assistance (CSFA) title and number, award number and year, and name of the state agency awarding it.

PART III: OTHER AUDIT REQUIREMENTS

The recipient shall follow up and take corrective action on audit findings. Preparation of a summary schedule of prior year audit findings, including corrective action and current status of the audit findings is required. Current year audit findings require corrective action and status of findings.

Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is completed or the dispute is resolved. Access to project records and audit work papers shall be given to the FDOT, the Comptroller, and the Auditor General. This section does not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of state financial assistance or limit the authority of any other state official.

PART IV: REPORT SUBMISSION

1. Copies of reporting packages for audits conducted in accordance with OMB Circular A-133, as revised, and required by PART I of this agreement shall be submitted, when required by Section .320 (d), OMB Circular A-133, as revised, by or on behalf of the recipient directly to each of the following:

- A. The Department at each of the following addresses:

Florida Department of Transportation
1000 Northwest 111th Avenue, Room 6202-B
Miami, Florida 33172
Attention: Michelle Loren Rapaport, JPA Coordinator

The Federal Audit Clearinghouse designated in OMB Circular A-133, as revised (the number of copies required by Sections .320 (d)(1) and (2), OMB Circular A-133, as revised, should be submitted to the Federal Audit Clearinghouse), at the following address:

Federal Audit Clearinghouse
Bureau of the Census
1201 East 10th Street
Jeffersonville, IN 47132

- B. Other Federal agencies and pass-through entities in accordance with Sections .320 (e) and (f), OMB Circular A-133, as revised.

2. In the event that a copy of the reporting package for an audit required by PART I of this agreement and conducted in accordance with OMB Circular A-133, as revised, is not required to be submitted to the Department for reasons pursuant to section .320 (e)(2), OMB Circular A-133, as revised, the recipient shall submit the required written notification pursuant to Section .320 (e)(2) and a copy of the recipient's audited schedule of expenditures of Federal awards directly to each of the following:

Florida Department of Transportation
1000 Northwest 111th Avenue, Room 6202-B
Miami, Florida 33172
Attention: Michelle Loren Rapaport, JPA Coordinator

In addition, pursuant to Section .320 (f), OMB Circular A-133, as revised, the recipient shall submit a copy of the reporting package described in Section .320 (c), OMB Circular A-133, as revised, and any management letters issued by the auditor, to the Department at each of the following addresses:

Florida Department of Transportation
1000 Northwest 111th Avenue, Room 6202-B
Miami, Florida 33172
Attention: Michelle Loren Rapaport, JPA Coordinator

3. Copies of financial reporting packages required by PART II of this agreement shall be submitted by or on behalf of the recipient directly to each of the following:

- A. The Department at each of the following addresses:

Florida Department of Transportation
1000 Northwest 111th Avenue, Room 6202-B
Miami, Florida 33172
Attention: Michelle Loren Rapaport, JPA Coordinator

- B. The Auditor General's Office at the following address:

Auditor General's Office
Room 401, Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1450

4. Copies of reports or the management letter required by PART III of this agreement shall be submitted by or on behalf of the recipient directly to:

A. The Department at each of the following addresses:

Florida Department of Transportation
1000 Northwest 111th Avenue, Room 6202-B
Miami, Florida 33172
Attention: Michelle Loren Rapaport, JPA Coordinator

5. Any reports, management letter, or other information required to be submitted to the Department pursuant to this agreement shall be submitted timely in accordance with OMB Circular A-133, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

6. Recipients, when submitting financial reporting packages to the Department for audits done in accordance with OMB Circular A-133 or Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date that the reporting package was delivered to the recipient in correspondence accompanying the reporting package.

PART V: RECORD RETENTION

1. The recipient shall retain sufficient records demonstrating its compliance with the terms of this agreement for a period of at least five years from the date the audit report is issued, and shall allow the Department, or its designee, the state CFO or Auditor General access to such records upon request. The recipient shall ensure that the independent audit working papers are made available to the Department, or its designee, the state CFO, or Auditor General upon request for a period of at least five years from the date the audit report is issued, unless extended in writing by the Department.

EXHIBIT - 1

STATE RESOURCES

<u>State Agency</u>	<u>Catalog of State Financial Assistance (Number & Title)</u>	<u>Amount</u>
Florida Department of Transportation	55.024 NPDES/TMDL Stormwater Retrofit Projects	\$252,120

Compliance Requirements

1. 55.024 NPDES/TMDL Stormwater Retrofit Projects (See Attached)
2. Agreement Specifications

Approved _____ Mayor

Agenda Item No. 8(M)(8)

Veto _____

12-4-12

Override _____

RESOLUTION NO. R-1032-12

RESOLUTION AUTHORIZING THE EXECUTION OF INTERLOCAL AGREEMENTS BETWEEN MIAMI-DADE COUNTY AND THE CO-PERMITTEES NAMED IN THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT NO. FLS000003-003 PROVIDING FOR PERFORMANCE OF PROFESSIONAL SERVICES BY MIAMI-DADE COUNTY AND FOR ESTABLISHING RESPONSIBILITY FOR IDENTIFICATION AND CONTROL OF POLLUTANT DISCHARGES IN MUNICIPAL SEPARATE STORM SEWER SYSTEMS SHARED BETWEEN CO-PERMITTEES; AUTHORIZING THE MAYOR OR MAYOR'S DESIGNEE TO EXECUTE AMENDMENTS TO THE INTERLOCAL AGREEMENTS; AND AUTHORIZING THE MAYOR OR MAYOR'S DESIGNEE TO EXERCISE ANY AND ALL RIGHTS CONTAINED THEREIN

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby authorizes the Mayor or Mayor's designee to execute the Interlocal Agreements between Miami-Dade County and the co-permittees named in the National Pollutant Discharge Elimination System (NPDES) Permit No. FLS000003-003 for performance of professional services by Miami-Dade County associated with the aforementioned NPDES Permit, and for establishing responsibility for identification and control of pollutant discharges in shared municipal storm sewer systems, in substantially the form attached hereto and made a part hereof; authorizes the Mayor or Mayor's designee to execute amendments to the Interlocal Agreements that are contemplated in the Interlocal Agreement or that are necessary to implement the intent of the Interlocal Agreements; and authorizes the Mayor or Mayor's designee to exercise any and all rights contained therein.

The foregoing resolution was offered by Commissioner José "Pepe" Díaz who moved its adoption. The motion was seconded by Commissioner Rebeca Sosa and upon being put to a vote, the vote was as follows:

Audrey M. Edmonson, Vice Chairwoman	aye		
Bruno A. Barreiro	aye	Lynda Bell	absent
Esteban L. Bovo, Jr.	aye	Jose "Pepe" Diaz	aye
Sally A. Heyman	aye	Barbara J. Jordan	absent
Jean Monestime	aye	Dennis C. Moss	aye
Rebeca Sosa	aye	Sen. Javier D. Souto	absent
Xavier L. Suarez	absent	Juan C. Zapata	aye

The Chairperson thereupon declared the resolution duly passed and adopted this 4th day of December, 2012. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

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

HARVEY RUVIN, CLERK

By: Christopher Agrippa
Deputy Clerk



Approved by County Attorney as
to form and legal sufficiency.

Abbie Schwaderer-Raurell

ASR/DAK

INTERLOCAL AGREEMENT BETWEEN ALL CO-PERMITTEES NAMED IN NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT NO. FLS000003-003 AND MIAMI-DADE COUNTY PROVIDING FOR PERFORMANCE OF PROFESSIONAL SERVICES BY MIAMI-DADE COUNTY, AND ALSO BETWEEN ALL CO-PERMITTEES PROVIDING FOR IDENTIFICATION AND CONTROL OF POLLUTANT DISCHARGES IN SHARED MUNICIPAL SEPARATE STORM SEWER SYSTEMS, AND TO NEGOTIATE AND EXECUTE CHANGES TO THE SELECTION OF ACTIVITY PARTICIPATION BY CO-PERMITTEES

This Interlocal Agreement ("Agreement") is made and entered into by, and between, all CO-PERMITTEES named in Florida Department of Environmental Protection Permit Number FLS000003-003, Authorization to Discharge under the National Pollutant Discharge Elimination System. This Agreement provides for identification and control of discharges from any and all Municipal Separate Storm Sewer Systems (MS4s) that may be shared by any of the parties to this Agreement, as required by the State of Florida Department of Environmental Protection (hereinafter referred to as DEP) pursuant to Section 403.0885, Florida Statutes, and DEP Rule 62-624, Florida Administrative Code, and the Environmental Protection Agency (hereinafter referred to as the "EPA") National Pollutant Discharge Elimination System (hereinafter referred to as "NPDES") Permit Regulations for Storm Water Discharges Final Rule (hereinafter referred to as "NPDES Final Rule"). This Agreement further provides for the professional services required to accomplish the tasks set forth in the NPDES Final Rule and the NPDES MS4 Operating Permit that may be initiated and performed by Miami-Dade County on behalf of both the CO-PERMITTEES and MIAMI-DADE COUNTY. This Agreement also provides for the negotiation and execution of changes to the selection of activity participation by CO-PERMITTEES.

Section I
Definitions

For purposes of this Agreement, the following terms shall apply:

AGREEMENT shall mean this document, including any written amendments thereto, and other written documents or parts thereof which are expressly incorporated herein by reference.

CO-PERMITTEE or CO-PERMITTEES shall mean the following municipalities and agencies named in NPDES Permit No. FLS000003-003 as CO-PERMITTEES: City of Aventura, Bal Harbour Village, Town of Bay Harbor Islands, City of Coral Gables, Town of Cutler Bay, City of Doral, Village of El Portal, Town of Golden Beach, City of Hialeah Gardens, City of Homestead, Indian Creek Village, Village of Key Biscayne, Town of Medley, City of Miami Beach, City of Miami Gardens, Town of Miami Lakes, Village of Miami Shores, City of Miami Springs, City of North Bay Village, City of North Miami, City of North Miami Beach, City of Opa-locka, Village of Palmetto Bay, Village of Pinecrest, City of South Miami, City of Sunny Isles Beach, Town of Surfside, Village of Virginia Gardens, City of West Miami, Florida Department of Transportation (FDOT) District VI, Florida Department of Transportation (FDOT) Turnpike Enterprise, Miami-Dade Expressway Authority (MDX), and Miami-Dade County.

COUNTY shall mean Miami-Dade County

FORCE MAJEURE shall mean an act of God, epidemic, lightning, earthquake, fire, explosion, hurricane, flood or similar occurrence, strike, an act of a public enemy, or blockade, insurrection, riot, general arrest or restraint of government and people, civil disturbance or similar occurrence, which has had or may reasonably be expected to have a material adverse effect on the rights or obligations under this Agreement.

MS4 shall mean municipal separate storm sewer system, as set forth in 40C.F.R.122.26.

In all other instances, terms used in this Agreement shall have the definitions contained in the EPA NPDES Final Rule 40 CFR Parts 122, 123 and 124.

Section II **Term of Agreement**

This Agreement shall become effective, and supersede the current interlocal agreement, on October 1, 2012. This Agreement shall expire on September 30, 2017, or until a replacement interlocal agreement is executed, whichever is later.

Section III **Scope of Work**

The parties hereto agree that the EPA is requiring as part of the NPDES MS4 Operating Permit the sampling, monitoring, and analysis of a variety of storm sewer systems throughout Miami-Dade County. The parties hereby agree that the water monitoring annual costs (Activity 1) attributable to this operating permit shall be shared by those **CO-PERMITTEES** who elect to participate in this Activity, and the costs shall be based on a percentage rate obtained by dividing the number of outfalls which drain to United States bodies of water existing in the geographical boundaries of each **CO-PERMITTEE** by the total number of outfalls existing within the geographic boundaries of all **CO-PERMITTEES**.

The parties further agree that the best management practices (BMP) (Activity 2) and basin management action plan (BMAP/WTW) (Activity 3) costs attributable to this operating permit shall be shared by those **CO-PERMITTEES** who elect to participate in these Activities, and the costs shall be based on a percentage rate obtained by dividing the roadway MS4 drainage area existing in the geographical boundaries of each **CO-PERMITTEE** by the total roadway MS4 drainage area existing within the geographic boundaries of all **CO-PERMITTEES**. These costs are included in Attachment "A" of this Agreement.

Furthermore, 40 CFR 122.26(d)(2)(i)(D) requires control of pollutants through interlocal agreements, making each NPDES **CO-PERMITTEE** responsible for discharges from their MS4 to the MS4 of another NPDES **CO-PERMITTEE** or to the waters of the United States. This Agreement sets forth the agreement of the **CO-PERMITTEES** and the **COUNTY** and between all of the **CO-PERMITTEES** with respect to shared responsibilities in the identification and control of discharges from one MS4 to another.

Section IV **COUNTY's Obligations**

1. **Compliance with NPDES MS4 Operating Permit** The **COUNTY** shall perform monitoring and sampling activities as required in Miami-Dade County's NPDES MS4 Operating Permit.

2. **Permits** The COUNTY shall obtain all applicable federal, state and local permits and approvals (with the exception of permits and approvals required by CO-PERMITTEES, if any, which shall be obtained by the respective CO-PERMITTEE), which are required to perform activities under the NPDES MS4 Operating Permit.
3. **Report** The COUNTY shall provide the CO-PERMITTEES with a report, on an annual basis, with the results of the monitoring and sampling activities required under the NPDES Operating Permit.
4. **Notice of COUNTY Meeting** The COUNTY shall provide the CO-PERMITTEES with oral or written notice of all regular meetings held by COUNTY staff for the purpose of reviewing the compliance status with the NPDES MS4 Operating Permit.

Section V

CO-PERMITTEES' Obligations

1. **Prevention of Theft of COUNTY Equipment** The CO-PERMITTEES shall take reasonable steps to prevent theft or vandalism of COUNTY equipment located within the CO-PERMITTEE'S geographic boundary. The CO-PERMITTEES agree that such equipment may be placed within each CO-PERMITTEE'S geographic boundary for extended periods of time, as necessary to complete the sampling and monitoring tasks contemplated by this Agreement and the NPDES MS4 Operating Permit.
2. **Compensation** Each CO-PERMITTEE will reimburse the COUNTY for costs of activities performed over the preceding fiscal year in accordance with Attachment "A", and as specified in the Execution in Counterparts form for that fiscal year. The COUNTY will bill each CO-PERMITTEE annually, within six (6) months after the end of the fiscal year, for actual amounts expended during the prior fiscal year. Payment by the CO-PERMITTEE is to be made not later than forty-five (45) days after the bill presentation. Failure to pay the agreed-upon costs to the COUNTY in accordance with this Agreement shall be deemed default by the CO-PERMITTEE that fails to pay pursuant to this Agreement. The expenditures for the final fiscal year that this Agreement is valid will be invoiced by the COUNTY and paid by the CO-PERMITTEES during the following fiscal year.
3. **Access** The CO-PERMITTEES shall provide the COUNTY with reasonable access at all times as necessary to perform the sampling and monitoring required by this Agreement of any storm sewer systems which may be located within the CO-PERMITTEE'S geographic boundary.

Section VI

Indemnification

The CO-PERMITTEE shall indemnify and hold harmless the COUNTY and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorney's fees and costs of defense, which the COUNTY or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the CO-PERMITTEE or its employees, agents, servants, partners, principals or subcontractors. The CO-PERMITTEE shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the COUNTY, where applicable, including appellate proceedings, and shall pay all costs, judgements

and attorney's fees which may issue thereon. Provided, however, this indemnification shall only be to the extent of and within the limitations of Section 768.28 Fla Stat., and subject to the provisions of that Statute whereby the **CO-PERMITTEE** shall not be held liable to pay a personal injury or property damage claim or judgment by any one person which exceeds the sum of \$200,000, or any claim or judgement or portions thereof, which, when totaled with all other claims or judgement paid by the **CO-PERMITTEE** arising out of the same incident or occurrence, exceed the sum of \$300,000 from any and all personal injury or property damage claims, liabilities, losses or causes of action which may arise as a result of the negligence of the **CO-PERMITTEE**. Provided further that any **CO-PERMITTEE's** liability hereunder shall be based on that **CO-PERMITTEE's** performance of this Agreement only, and no **CO-PERMITTEE** shall be liable for indemnification based on another **CO-PERMITTEE's** performance of this Agreement.

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

Section VII County Event of Default

Without limitation, the failure by the **COUNTY** to substantially fulfill any of its material obligations in accordance with this Agreement, unless justified by Force Majeure, shall constitute a "**COUNTY** event of Default".

If a **COUNTY** event of default should occur, the **CO-PERMITTEE** shall have all of the following rights and remedies which it may exercise singly or in combination:

1. The right to declare that this Agreement together with all rights granted to **COUNTY** hereunder are terminated, effective upon such date as is designated by the **CO-PERMITTEE**;
2. Any and all rights provided under federal laws and the laws of the State of Florida.

Section VIII
Co-Permittee Event of Default

Without limitation, the failure by the CO-PERMITTEE to substantially fulfill any of its material obligations in accordance with this Agreement, unless justified by Force Majeure, shall constitute a " CO-PERMITTEE Event of Default".

If a CO-PERMITTEE Event of Default should occur, the COUNTY shall have all of the following rights and remedies which it may exercise singularly or in combination:

1. The right to declare that this Agreement together with all rights granted to CO-PERMITTEE hereunder are terminated, effective upon such date as is designated by the COUNTY;
2. Any and all rights provided under federal laws and the laws of the State of Florida.

Section IX
General Provisions

1. **Authorization to Represent the CO-PERMITTEE in NPDES MS4 Operating Permit** The CO-PERMITTEE hereby authorizes the COUNTY to act on its behalf only with respect to: the activities under this Agreement; and compliance with requirements of those monitoring, sampling, BMP, and BMAP portions under the NPDES MS4 Operating Permit.
2. **Attendance at COUNTY Permit Review Meetings.** The CO-PERMITTEE may, but is not required to, attend any or all regular meetings held by COUNTY staff for the purpose of reviewing the status of the NPDES MS4 Operating Permit.
3. **Responsibility for Discharges** The CO-PERMITTEES shall each be responsible for the control, investigation of and remedial activities relating to discharges of pollutants from within their respective MS4 or boundaries to the municipal separate storm sewer system of another NPDES MS4 CO-PERMITTEE, pursuant to the requirements of 40CFR 122.26(d)(2)(i)(D).
4. **Identification of Discharges** Both the CO-PERMITTEE whose stormwater system generates a pollutant discharge that impacts another CO-PERMITTEE'S system and the impacted CO-PERMITTEE agree to cooperate by providing the staff and equipment necessary to identify the source of pollutant discharges emanating from the separate storm sewer system of one CO-PERMITTEE to the separate storm sewer system of another CO-PERMITTEE.
5. **Notification** When pollutant discharges to a shared separate storm sewer system are discovered, the CO-PERMITTEES, or COUNTY, or any of the foregoing, as applicable, which are the source of the discharge(s) agree to report said discharges to the other affected parties sharing the particular MS4. The COUNTY shall assist, as needed, in any investigation and identification of a source of the discharge. If the COUNTY discovers a discharge in the separate storm sewer system of a CO-PERMITTEE or the COUNTY, the COUNTY will investigate the source of the discharge and report its findings to the affected NPDES CO-PERMITTEES. When an investigation specifically identifies a NPDES CO-PERMITTEE as the source of a pollutant discharge, then that CO-PERMITTEE shall be responsible

for ceasing the discharge and remediating the effects of the discharge by restoring the affected MS4 in accordance with applicable standards.

6. **Dispute Resolution** When the parties sharing a MS4 cannot agree on the source of a discharge to their shared MS4, the State of Florida Department of Environmental Protection, Bureau of Watershed Management, shall be the final arbiter in determining jurisdiction and responsibility for cessation of discharge, remediation, and final resolution.
7. **Termination** Each party may terminate that particular party's participation in this Agreement without cause by providing sixty (60) days prior written notice of termination to the other parties to this Agreement. **CO-PERMITTEES** shall be entitled to reimbursement of monies paid to the **COUNTY** only in the event of termination without cause by the **COUNTY**, and the **CO-PERMITTEE** shall then be entitled to such reimbursement only to the extent that services providing information useful to the NPDES MS4 Permit have not been rendered by the **COUNTY**. Upon termination by any party, the NPDES MS4 Operating Permit status of that party shall be the sole responsibility of that party.
8. **Entire Agreement; Prior Agreements Superseded; Amendment to Agreement** This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein. The parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this Agreement, and that this Agreement contains the entire agreement between the parties as to matters contained herein. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that any oral representations or modifications concerning this Agreement shall be of no force or effect, and that this Agreement may be modified, altered or amended only by a written amendment duly executed by the parties hereto or their representatives.
9. **Headings** Captions and headings in this Agreement are for ease of reference only and do not constitute a part of this Agreement and shall not affect the meaning or interpretation of any provisions herein.
10. **Notices and Approval** Notices and approvals required or contemplated by this Agreement shall be written and personally served or mailed, registered or certified United States mail, with return receipt requested, addressed to the parties listed in Section I of this Agreement.
11. **Performance by Parties** Except as otherwise provided in this Agreement, in the event of any dispute arising over the provisions of this Agreement, the parties shall proceed with the timely performance of their obligations during the pendency of any legal or other similar proceedings to resolve such dispute.
12. **Rights of Others** Nothing in the Agreement express or implied is intended to confer upon any person other than the parties hereto any rights or remedies under or by reason of this Agreement.
13. **Time is of Essence** It is mutually agreed that time is of the essence in the performance of all terms and conditions to be met and performed pursuant to this Agreement.
14. **Governing Law** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida and the United States. The **COUNTY** and the **CO-PERMITTEE** agree to submit to service of process and jurisdiction of the State of Florida for any controversy or claim arising out of or relating to this Agreement or a breach of this Agreement. Venue for any court action between the parties for any such controversy arising from or related to this Agreement shall be in the Eleventh

Judicial Circuit in and for Miami-Dade County, Florida, or in the United States District Court for the Southern District of Florida, in Miami-Dade County, Florida.

15. **Severability** The invalidity of one or more of the phrases, sentences, clauses, or Sections contained in this Agreement shall not affect the validity of the remaining portion of the Agreement, provided the material purposes of this Agreement can be determined and effectuated.
16. **Waiver** There shall be no waiver of any right related to this Agreement unless in writing signed by the party waiving such right. No delay or failure to exercise a right under this Agreement shall impair such right or shall be construed to be a waiver thereof. Any waiver shall be limited to the particular right so waived and shall not be deemed a waiver of the same right at a later time, or of any other right under this Agreement.
17. **Number of Outfalls** The COUNTY will review and adjust on an annual basis the number of outfalls and MS4 drainage area of each CO-PERMITTEE during the month of March for each fiscal year the Agreement is in effect. Adjustments made, if any, will be in effect for the upcoming fiscal year, to recalculate each CO-PERMITTEE'S share of the total annual costs. CO-PERMITTEES may submit relevant outfall information to be included in the review during a two month period, from January 1st to February 28th of the year immediately preceding the start of the fiscal year of the intended changes. An updated Attachment "A" shall be provided to CO-PERMITTEES annually by March 31st for budgetary purposes.
18. **Maximum Annual Costs** Each CO-PERMITTEE'S maximum (not to exceed) financial commitment under this Agreement is shown in Attachment "A". It should be noted that the CO-PERMITTEE'S cost share may change (+/-) based on any changes made to the Number of Outfalls or Drainage Area during the annual reviews. Such changes shall be reflected in an updated Attachment "A". Actual annual expenditures invoiced by the COUNTY for water monitoring, sampling, BMP, and BMAP activities performed, will not exceed the CO-PERMITTEE'S total annual cost shown in Attachment "A" for that fiscal year.

Execution in Counterparts

This Agreement shall be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

IN WITNESS WHEREOF, _____, FLORIDA,

by its Commission / Council attest, that this Agreement be executed in its name by the Manager or his designee, attested by the Clerk or Legal Representative.

Co-Permittee selection of Activities detailed in Attachment "A":

Activity 1 (Water Monitoring)

- Yes, we wish to participate
- No, but we reserve the right to request participation in subsequent fiscal years

Activity 2 (Best Management Practices, BMP)

- Yes, we wish to participate
- No, but we reserve the right to request participation in subsequent fiscal years

Activity 3 (Basin Management Action Plan/Walk the WBID, BMAP/WTW)

- Yes, we wish to participate
- No, but we reserve the right to request participation in subsequent fiscal years

The Co-Permittee selections shown above remain in effect for the duration of the Agreement unless otherwise modified by the Co-Permittee. Each Co-Permittee may elect to modify their selections shown above every fiscal year the Agreement remains in place. These modifications must be formally requested between January 1 and February 28 in order to become effective for the following fiscal year and for the duration of the Agreement unless further modifications are made by executing a new "Execution in Counterparts" form.

Name of Manager (print)

Signature Date

Name of Clerk / Legal Representative (print)

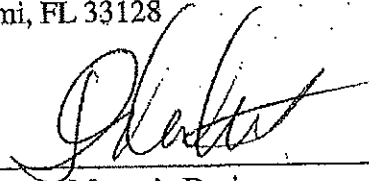
Signature Date

Execution in Counterparts

This Agreement shall be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

IN WITNESS WHEREOF, Miami-Dade County, Florida, has caused this Agreement to be executed in its name by the County Mayor or his designee, attested by the Clerk of the Board of County Commissioners and has caused the seal of the Board of County Commissioners to be hereto attached.

MIAMI-DADE COUNTY
Stephen P. Clark Center
111 N.W. 1 Street
Miami, FL 33128



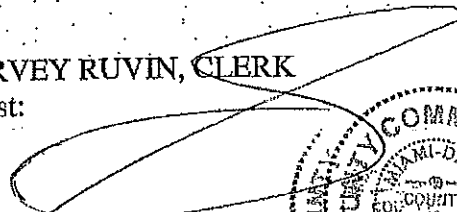
Mayor or Mayor's Designee

2.1.2013

Date

HARVEY RUVIN, CLERK

Attest:



Deputy Clerk



2/1/13

Date

**ATTACHMENT "A" - Interlocal Agreement Optional Activities 1, 2, AND 3
FY 12-13 (ANNUAL) MONITORING COSTS FOR MIAMI-DADE COUNTY AND CO-PERMITTEES**

Municipality/Agency	Activity 1			MS4 Drainage Area (square feet)	Percent of Total MS4 Drainage Area	Activity 2		Activity 3		Activity 1+2		Activity 1+2+3	
	Number of Outfalls	Percent of Total Outfalls	Water Monitoring Annual Costs (not to exceed)			BMP Annual Costs (not to exceed)	BMAP/MTW Annual Costs (not to exceed)	Co-Permittee's Total Annual Cost (not to exceed)	Co-Permittee's Total Annual Cost (not to exceed)	Co-Permittee's Total Annual Cost (not to exceed)	Co-Permittee's Total Annual Cost (not to exceed)		
Aventura, City of	168	2.1	\$9,763	3,692,775	0.17	\$60	\$2,003	\$9,822	\$11,826				
Bal Harbour Village	10	0.1	\$581	1,047,127	0.05	\$17	\$568	\$598	\$1,166				
Bay Harbor Islands, Town of	54	0.7	\$3,138	2,016,058	0.09	\$33	\$1,094	\$3,171	\$4,264				
Coral Gables, City of	109	1.4	\$6,334	52,297,467	2.42	\$849	\$28,372	\$7,183	\$35,555				
Cutler Bay, Town of	157	2.0	\$9,123	26,080,350	1.21	\$423	\$14,149	\$9,547	\$23,696				
Doral, City of	352	4.4	\$20,455	15,535,462	0.72	\$252	\$8,428	\$20,707	\$29,135				
El Portal, Village of	6	0.1	\$349	1,983,107	0.09	\$32	\$1,076	\$381	\$1,457				
Golden Beach, Town of	8	0.1	\$465	932,283	0.04	\$15	\$506	\$480	\$986				
Hialeah Gardens, City of	7	0.1	\$407	9,875,350	0.46	\$160	\$5,358	\$567	\$5,925				
Homestead, City of	168	2.1	\$9,763	34,072,903	1.58	\$553	\$18,485	\$10,316	\$28,801				
Indian Creek Village	16	0.2	\$930	482,118	0.02	\$8	\$262	\$938	\$1,199				
Key Biscayne, Village of	33	0.4	\$1,918	5,750,201	0.27	\$93	\$3,120	\$2,011	\$5,131				
Medley, Town of	44	0.5	\$2,557	10,707,972	0.50	\$174	\$5,809	\$2,731	\$8,540				
Miami Beach, City of	306	3.8	\$17,782	30,511,682	1.41	\$495	\$16,553	\$18,277	\$34,830				
Miami Gardens, City of	298	3.7	\$17,317	71,074,976	3.30	\$1,153	\$38,559	\$18,470	\$57,030				
Miami Lakes, Town of	221	2.8	\$12,842	18,869,747	0.87	\$306	\$10,237	\$13,149	\$23,386				
Miami Shores, Village of	32	0.4	\$1,860	11,599,210	0.54	\$188	\$6,293	\$2,048	\$8,341				
Miami Springs, City of	23	0.3	\$1,337	14,444,585	0.67	\$234	\$7,836	\$1,571	\$9,407				
North Bay Village, City of	65	0.8	\$3,777	1,417,155	0.07	\$23	\$769	\$3,800	\$4,569				
North Miami Beach, City of	204	2.5	\$11,855	23,802,524	1.10	\$386	\$12,913	\$12,241	\$25,154				
North Miami, City of	115	1.4	\$6,683	29,505,817	1.37	\$479	\$16,007	\$7,162	\$23,169				
Opa-locka, City of	18	0.2	\$1,046	11,570,829	0.54	\$188	\$6,277	\$1,234	\$7,511				
Palmetto Bay, Village of	98	1.2	\$5,695	31,564,566	1.46	\$512	\$17,124	\$6,207	\$23,331				
Pinecrest, Village of	58	0.7	\$3,370	31,645,995	1.47	\$514	\$17,169	\$3,884	\$21,053				
South Miami, City of	31	0.4	\$1,801	10,831,867	0.50	\$176	\$5,876	\$1,977	\$7,854				
Sunny Isles Beach, City of	66	0.8	\$3,836	1,924,058	0.09	\$31	\$1,044	\$3,867	\$4,910				
Surfside, Town of	5	0.1	\$291	2,717,687	0.13	\$44	\$1,474	\$335	\$1,809				
Virginia Gardens, Village of	1	0.0	\$68	1,557,857	0.07	\$25	\$845	\$83	\$929				
West Miami, City of	1	0.0	\$68	4,464,032	0.21	\$72	\$2,422	\$131	\$2,552				
FDOT District VI	1,469	18.4	\$85,364	473,738,425	21.97	\$7,688	\$257,011	\$93,053	\$350,064				
FDOT Turnpike Enterprise	574	7.2	\$33,355	176,417,284	8.18	\$2,863	\$95,709	\$36,219	\$131,928				
MDX	456	5.7	\$26,498	142,654,138	6.61	\$2,315	\$77,392	\$28,814	\$106,206				
Unin. Miami-Dade County	2,829	35.4	\$164,395	901,826,504	41.82	\$14,636	\$489,257	\$179,030	\$668,287				
Totals (NOT TO EXCEED)	8,002	100.0	\$465,000	2,156,612,110	100	\$35,000	\$1,170,000	\$500,000	\$1,670,000				

BMP = Best Management Practices; BMAP = Basin Management Action Plan; WTW = Walk the WBID

Municipalities with no outfalls have been assigned a value of one outfall

Note: If a municipality or agency chooses not to participate in one or more of the activities (1, 2, or 3) described above, then sampling, modeling, or mapping may not be conducted within said municipality's or agency's service territory. The not-to-exceed amounts for each Co-Permittee and activity remain unchanged for the fiscal year shown regardless of the participation decisions by Co-Permittees.