Memorandum

Date:	June 7, 2016
To:	Honorable Chairman Jean Monestime and Members, Board of County Commissioners
From:	Carlos A. Gimenez Mayor
Subject:	Resolution Approving an Interlocal Master Agreement Establishing Procedures for the Performance and Reimbursement of Utility Work between the City of Coral Gables and Miami-Dade County and Authorizing Individual Joint Participation Agreements

Agenda Item No. 8(O)(1)

Recommendation

It is recommended that the Board of County Commissioners (Board) approve the attached resolution authorizing the execution of an Interlocal Master Agreement between the City of Coral Gables (City) and Miami-Dade County for a term of ten years.

This Interlocal Master Agreement establishes procedures for the performance and reimbursement of any utility work, utility design work, and utility construction work deemed to be necessary by the County and the City involving the installation, relocation, replacement, or removal of water facilities for projects in the City. It also authorizes individual Joint Participation Agreements between both parties for each project.

Scope

The utility work to be performed will take place inside the limits of the City, which is located in Districts 6 and 7, is represented by Commissioner Rebeca Sosa and Commissioner Xavier L. Suarez, respectively.

Fiscal Impact/Funding Source

The County will provide the funding for the utility work proposed for each project because the County owns the water system and all related appurtenances located in the City. As projects are identified, individual Joint Participation Agreements will be issued listing the funding sources for upgrades to the water system which may include any combination of: Water Revenue Bonds Sold, Water Connection Charge, Future Revenue Bonds, and the Renewal and Replacement Fund.

Track Record/Monitor

Water and Sewer Department's Deputy Director, Antonio Cotarelo, will oversee the implementation of this Interlocal Master Agreement and the associated individual Joint Participation Agreements.

Background

The County, through WASD, owns and operates the water system in the City and provides water service directly to the City's residents of the City. The City provides sewer services to its customers in the City's sewer service area through the provision of wholesale services by the County to the City.

The City engages in projects to construct and/or resurface public roads or other improvements that require utility work in the County's water system, as such, the City and the County wish to enter into this Interlocal Master Agreement and individual Joint Participation Agreements to carry out the necessary utility work more efficiently and without delay. The utility work, which includes design and/or construction of water facilities, will be authorized through individual Joint Participation Agreements (as shown in Exhibit A of the Interlocal Master Agreement) on a project by project basis. Each Joint Participation Agreement will contain project specific terms, conditions and costs.

Approval of this Interlocal Master Agreement will authorize the County Mayor or County Mayor's designee to execute the individual Joint Participation Agreements on an as needed basis with no further action from the Board.

The City of Coral Gables Commission approved this Interlocal Master Agreement on January 12, 2016, under Resolution No. R-2016-03, as attached.

Jack Osterholt, Deputy Mayor

MEMORANDUM

(Revised)

TO: Honorable Chairman Jean Monestime and Members, Board of County Commissioners

DATE: June 7, 2016

FROM: Abigail Price-Williams, County Attorney

SUBJECT: Agenda Item No. 8(O)(1)

Please note any items checked.

_____ **"3-Day Rule" for committees applicable if raised**

_____ **6 weeks required between first reading and public hearing**

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

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Statement of social equity required**

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

_____ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 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(O)(1)
6-7-16

RESOLUTION NO. _____

RESOLUTION APPROVING EXECUTION OF AN INTERLOCAL MASTER AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE CITY OF CORAL GABLES REGARDING UTILITY WORK FOR MIAMI-DADE COUNTY AND ESTABLISHING THE PROCEDURES FOR THE PERFORMANCE AND REIMBURSEMENT OF THE UTILITY WORK; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE INDIVIDUAL JOINT PARTICIPATION AGREEMENTS WITH THE CITY OF CORAL GABLES AS UTILITY WORK PROJECTS ARE IDENTIFIED AND TO EXERCISE ANY PROVISIONS 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 approves the execution of an Interlocal Master Agreement between Miami-Dade County and the City of Coral Gables regarding utility work for Miami-Dade County. The Interlocal Master Agreement establishes the procedures for the performance and reimbursement of the utility work, including the utility design work to be performed and the utility construction work to be carried out. The Board also authorizes the County Mayor or County Mayor's designee to execute individual joint participation agreements with the City of Coral Gables for the specific utility projects as they are identified, in substantially the form attached hereto and made a part hereof.

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:

Jean Monestime, Chairman
Esteban L. Bovo, Jr., Vice Chairman

Bruno A. Barreiro	Daniella Levine Cava
Jose "Pepe" Diaz	Audrey M. Edmonson
Sally A. Heyman	Barbara J. Jordan
Dennis C. Moss	Rebeca Sosa
Sen. Javier D. Souto	Xavier L. Suarez
Juan C. Zapata	

The Chairperson thereupon declared the resolution duly passed and adopted this 7th day of June, 2016. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

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

HARVEY RUVIN, CLERK

By:_____
Deputy Clerk

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

Sarah E. Davis

INTERLOCAL MASTER AGREEMENT BETWEEN MIAMI-DADE COUNTY AND CITY OF CORAL GABLES TO PROVIDE UTILITY WORK FOR MIAMI-DADE COUNTY

THIS AGREEMENT, is made and entered into this _____ day of _____, 201__, (hereinafter, "Effective Date"), by and between Miami-Dade County, a political subdivision of the State of Florida (hereinafter referred to as the "COUNTY") and the City of Coral Gables, a municipal corporation organized and existing under the laws of the State of Florida (hereinafter referred to as the "CITY" and collectively with the COUNTY, the "Parties").

WITNESSTH:

WHEREAS, the COUNTY owns or may, in the future, own certain water and sewer facilities, including but not limited to, gravity sewer pipes, pump stations, reclaimed water pipes, valves and valve covers, manholes and access covers, water pipes, sanitary sewage pipes, meters, hydrants, and all appurtenances thereto, which are or may, in the future, be located in the CITY's public roads or lands (the "FACILITIES"); and

WHEREAS, the CITY owns or may, in the future, own certain wastewater facilities, including but not limited to, gravity sewer pipes, pump stations, valves and valve covers, manholes and access covers, sanitary sewage pipes, and all appurtenances thereto, which are or may, in the future, be located in the CITY's public roads or lands (the "FACILITIES"); and

WHEREAS, the Miami-Dade Water & Sewer Department ("WASD") operates the COUNTY's water and one point of connection of the CITY'S sanitary wastewater system; and

WHEREAS, the CITY operates the CITY'S sanitary wastewater system; and

WHEREAS, the CITY engages in projects that involve constructing, reconstructing or otherwise changing public roads and other improvements located on public roads or lands (hereinafter referred to as either the "Project" or the "Projects"); and

WHEREAS, the CITY and the COUNTY may propose Projects that necessitate the installation, relocation (vertically and/or horizontally), replacement, adjustment or removal of the Facilities or some combination thereof (hereinafter referred to as "Utility Work"); and

WHEREAS, the CITY and the COUNTY desire to minimize delays and costs, and impact to the public, which may result from lack of coordination and communication between or among them and their respective contractors performing the Project and/or the Utility Work; and

WHEREAS, the CITY and the COUNTY desire to enter into a master agreement that establishes the procedure for the performance and reimbursement of the Utility Work, including the utility design work to be performed and the utility construction work to be carried out (the "Interlocal Master Agreement"); and

WHEREAS, the purpose of this Interlocal Master Agreement and the individual joint participation agreements (hereinafter, "JPA") is to perform the Utility Work with the Project in an efficient, coordinated, economical and expeditious manner,

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein, the CITY and the COUNTY hereby agree as follows:

1. Every November, the CITY will prepare and provide to the COUNTY a list of Projects that it intends to begin engineering design for the next two (2) years. The list of Projects will include anything involving roadway or subsurface work as well as Projects involving landscaping, resurfacing, drainage and lighting. The list of Projects will include the scope of work and schedule/timing for each Project. Such list may be amended after the exchange, but it is the intent of the CITY to give the COUNTY advance notice of anticipated Projects with sufficient lead time for planning and funding purposes. Within sixty (60) days of the exchange of the list of Projects, the COUNTY will review and identify the Projects from the CITY's list that are potential candidates for proposed WASD infrastructure improvements within the limits of any Project that is new to the list. Additionally, at this time, the COUNTY will notify the CITY of any projects on the CITY's list that do not correspond with the projects that WASD has placed on its Capital Improvements Plan and, therefore, will constitute Utility Work that is being taken out of order for WASD.

2. In the event the CITY and the COUNTY determines and agree that Utility Work may be necessary for any Project, a Joint Participation Agreement ("JPA"), in substantially the same form as the JPA attached hereto as Exhibit A, will be executed by the CITY and the COUNTY. A JPA will be entered into for design work, if applicable, and a separate JPA will be entered into for construction work, if applicable. Each JPA will specify the Project-specific terms, conditions and costs associated with the design and/or construction of all Utility Work for each Project.

3. Utility Coordination and Identifying/Implementing Projects

   For any Project where the CITY or COUNTY determines that Utility Work may be necessary, the following procedure will be utilized (although the CITY and the COUNTY may mutually agree to combine or eliminate any portion of the procedure that may not be applicable to a specific Project) for purposes of implementing a JPA:

   a. Identifying Projects/Utility Coordination

      (1) Upon receipt of the list of Projects from the City every November, WASD will have sixty (60) days to advise the CITY of its possible interest in entering into a JPA for the Utility Work necessary for the Projects identified. In the event that the CITY is able to undertake additional Projects due to new funding sources not identified in the fiscal budget, the CITY will notify WASD, and all of the above terms will apply.

(2) Upon completion of thirty percent (30%) of the design work for a particular CITY Project, the CITY shall send a written notice to WASD, including the thirty percent (30%) design work, (the "Notice") (see Paragraph 10 herein for requirements of notices), which will set for the scope and timeline of the particular CITY Project.

(3) WASD shall inform the CITY of its interest in entering into a JPA or not within thirty (30) days of the Notice and submittal of thirty percent (30%) of the design of the CITY's Project by the CITY. To the extent possible at this point in the Project, WASD shall inform the CITY of the preliminary proposed scope for the Utility Work and whether the JPA will be for design and/or construction by the CITY.

b. Mandatory Utility Meeting

(1) If WASD sends a written response to the CITY's Notice expressing a desire to enter into a JPA for design and/or construction of the Utility Work, the CITY shall propose in writing a time, date and location for a mandatory meeting (the "Meeting Notice") between the representatives of the CITY and WASD who will be managing and/or supervising the Utility Work to discuss the parameters of the Project and implement the process for a mutually beneficial Project (hereinafter, the "Mandatory Utility Meeting"). Within two (2) business days of receipt of the Meeting Notice, WASD will confirm its availability for the Mandatory Utility Meeting at the time, date and location specified on the Meeting Notice or will suggest in writing other possible dates, times or locations for the Mandatory Utility Meeting.

(2) The CITY's and WASD's representatives will bring any information pertinent to the Project to the Mandatory Utility Meeting, including but not limited to, the CITY's thirty percent (30%) design work for the Project as well as reports and as-built drawings of the existing WASD Facilities.

(3) At the Mandatory Utility Meeting, the CITY and WASD will discuss and identify the scope of the Utility Work to be done by the CITY, and if applicable, the scope of the Utility Work to be done by WASD. Additionally, the minimum qualifications for the CITY designer and contractor will be discussed, if the CITY is to do the design work for the Utility Work. At the Mandatory Utility Meeting, if the CITY and WASD disagree as to the scope of the Utility Work to be performed by each party and the Mandatory Utility Meeting is adjourned before an agreement can be reached, the CITY and WASD will not move forward with a JPA for the design or construction of the Utility Work. WASD, at its own

discretion, will decide whether to proceed with the Utility Work and when it will proceed with such work.

(4) If a JPA is not entered into at the conclusion of the Mandatory Utility Meeting, the CITY will, nevertheless, execute a Letter of Intent to proceed with the Project. The Letter of Intent will be in substantially the same form as that attached hereto as Exhibit B. The purpose of the Letter of Intent is to ensure that, if WASD moves forward with the design work required for the Utility Work necessary for the Project and incurs the expenses associated with such design work, the CITY will not discontinue or unreasonably delay the Project and WASD's resources will not be wasted.

(6) Regardless of whether the CITY or WASD is performing the design work, the roadway plans shall be designed in a manner to reduce and minimize any conflicts with WASD Facilities. Where conflicts are identified, the CITY and WASD agree to resolve the conflicts in the most cost-effective manner that is the least disruptive to the general public and is the least costly to the residents of Miami-Dade County.

(7) Regardless of whether the CITY or WASD is performing the design aspect of the Utility Work, each will fully cooperate with all Right-Of-Way ("ROW") users in the preparation of the design. To the extent a conflict arises in the design process with a ROW user other than WASD or the CITY, the CITY and WASD agree to resolve the conflicts in the manner that is least disruptive to the general public and is the least costly to the residents of Miami-Dade County.

c. CITY to Design Utility Work:

(1) Within two (2) weeks after the Mandatory Utility Meeting, if the parties desire to enter into a JPA for the design work, the CITY/WASD will provide a design cost proposal to WASD/CITY for the design work to be performed by the CITY for the Utility Work.

(2) If WASD agrees with the design cost proposal provided by the CITY for the design work, it will provide written confirmation of its agreement with the design cost proposal within ten (10) business days of its receipt of the design cost proposal. In its written confirmation, WASD will also reconfirm its desire to enter into a JPA with the CITY for the design work.

(3) If WASD does not agree with the design cost proposal provided by the CITY for the design work, it will advise the CITY of its disagreement in writing within five (5) business days of receipt of the proposal and will propose a date, time and location for a second meeting between WASD

and the CITY to discuss the design cost proposal for the design work. The second meeting shall take place no later than ten (10) business days from WASD's receipt of the CITY's design cost proposal for the design work. If either WASD or the CITY do not wish to have a second meeting to discuss the CITY's design cost proposal, whichever party declines the second meeting will also make it clear in writing that it no longer wishes to proceed with a JPA for the Utility Work.

(4) If the CITY's design cost proposal is not acceptable to WASD but the parties conduct a second meeting and reach an agreement as to the design cost proposal, WASD will provide written confirmation of its agreement with the revised design cost proposal and a reconfirmation of its desire to proceed with a JPA for the design work.

(5) If the parties cannot reach an agreement as to the CITY's design cost proposal, WASD will be responsible for the design work. As set forth in Section 3(d) below, the CITY and COUNTY may enter into a construction JPA where WASD will provide the design work to the CITY for inclusion in the CITY's construction contract documents.

(6) If the CITY and WASD agree that the CITY will perform the design work based on the design cost proposal or revised design cost proposal, as applicable, the CITY will prepare, execute and forward two originals of the JPA for the Utility Work to WASD for approval. The COUNTY will execute both original JPAs and return a copy to the CITY within ten (10) business days of its receipt of the CITY's executed JPA.

(7) Once the JPA is executed by WASD, the CITY will submit an invoice to WASD for the design work for a lump sum amount. WASD will pay the invoice within forty-five (45) days of receipt of the invoice. WASD shall have the right to review and audit the CITY's records regarding use of the lump sum payment.

(8) The CITY shall submit the Utility design materials to WASD for review and approval when the design of the Utility Work is thirty percent (30%) complete, again when the design is sixty percent (60%) complete, and again when the design is ninety percent (90%) complete. In the event WASD finds deficiencies in the design materials, it will notify the CITY of such deficiencies in writing within ten (10) business days after each submittal. The CITY's Procurement and Risk Management Directors shall have the right to review WASD comments to ensure that they comply with the CITY's Code. Within thirty (30) days of the CITY's receipt of WASD's notification of deficiencies, the CITY will correct the deficiencies and return the corrected documents for WASD's review and approval.

(9) When the design is one-hundred percent (100%) complete, the CITY shall provide WASD with a final set of coordinated design documents (the "Plans Package"). The Plans Package shall, at a minimum, include: final accepted engineering design drawings; "dry-run" permit approvals; technical specifications and special provisions; an estimated opinion and probable construction cost, including contingency and allowance account funds for the construction of the Utility Work; and the minimum contractor qualifications. The Plans Package will also identify any and all activities and work necessary for the Utility Work, including but not limited to, clearing and grubbing; survey work; and a traffic control plan. WASD shall review and provide final acceptance in writing to the CITY of the Plans Package within ten (10) business days.

(10) If the CITY requests information from WASD's files, WASD shall furnish such information to the CITY within ten (10) business days from the CITY's request. The CITY, however, shall remain solely responsible for the proper preparation of the design materials in accordance with WASD Design and Construction Standards.

d. WASD to Design Utility Work

(1) After the Mandatory Utility Meeting, if the CITY and WASD agree that WASD will perform the design work, then WASD and the CITY will develop a mutually agreeable timeline and coordinate their utility and roadway design efforts.

(2) WASD shall submit the Utility design materials to the CITY for review and approval when the design is thirty percent (30%) complete, again when the design is sixty percent (60%) complete, and again when the design is ninety percent (90%) complete. In the event the CITY finds deficiencies in the design materials, it will notify WASD of such deficiencies in writing within ten (10) business days after each submittal. Within thirty (30) days of WASD's receipt of the CITY's notification of deficiencies, WASD will correct the deficiencies and return the corrected documents.

(3) Ultimately, WASD will submit to the CITY a Plans Package, which shall, at a minimum, include: final accepted engineering design drawings; "dry-run" permit approvals; technical specifications and special provisions; an estimated opinion and probable construction cost, including contingency and allowance account funds for the construction of the Utility Work; and the minimum contractor qualifications. The Plans Package will also identify any and all activities and work necessary for the Utility Work, including but not limited to, clearing and grubbing; survey work; and a

traffic control plan. The CITY shall review and provide final acceptance in writing to WASD of the Plans Package within ten (10) business days.

(4) If WASD requests information from the CITY's files, the CITY shall furnish such information to WASD within ten (10) business days from WASD's request; however, if WASD is to perform the utility design work, it shall, at all times, remain solely responsible for the proper preparation of the design materials.

e. Construction of Utility Work

(1) Upon completion of the design work by either the CITY or WASD, and approval of the design work by the party who did not perform the design work, the CITY will incorporate its design plans or WASD's Plans Package into a request for solicitation. WASD will receive a copy of the request for solicitation fifteen (15) business days before it is advertised and will provide its comments regarding such request for solicitation within ten (10) business days. WASD shall provide any and all procurement language required by the COUNTY that may need to be included in the CITY's solicitation. This should include any COUNTY code requirements or COUNTY procurement requirements that may be necessary. Language should be included in the CITY's solicitation that notifies the bids that the Utility Work is being funded by a JPA with WASD and that funding for the Utility Work will be released after satisfactory inspection by WASD. The solicitation shall include a separate bid item for the Utility Work. The CITY shall procure a contract for construction of the Project, including the Utility Work, in accordance with the CITY's legal and statutory requirements.

(2) Regardless of whether the CITY or the COUNTY will be performing the construction aspect of the Utility Work, the CITY and the COUNTY agree that the Facilities shall, at all times, remain the property of the Utility.

(3) CITY to Construct Utility Work

(i) Before the CITY selects a contractor from the bids received in response to the request for solicitation, WASD shall have an opportunity to review the Utility Work portion of the bids for balance and shall have the right to recommend and/or provide comments/evaluation to the CITY as to which contractor should receive the award.

(ii) If the portion of the bid of the contractor selected by the CITY for performance of the Utility Work is within ten (10) percent of the cost estimate provided in the Plans Package and agreed to by the

CITY and WASD in advance of the publication of the request for solicitation, the CITY will prepare, execute and forward to WASD two (2) originals of the JPA for the construction aspect of the Utility Work. WASD will execute the JPA and return a copy to the CITY within ten (10) business days of its receipt of the CITY's executed JPA. If the bid of the contractor selected by the CITY for the performance of the Utility Work is more than ten percent (10%) of the cost estimate provided in the Plans Package and agreed to by the CITY and WASD in advance of the publication of the request for solicitation, WASD shall have the right to reject the bid for the Utility Work and take over construction of the Utility Work itself.

(iii) Immediately upon award of the contract for the construction aspect of the Project, WASD will receive notice of the award from the CITY and will provide the funds to the CITY in accordance with the terms of the executed construction JPA.

(iv) The CITY's contractor shall begin construction on the Project, including the Utility Work, once a Notice to Proceed has been issued by the CITY.

(v) The CITY shall obtain all necessary permits and utility adjustments and will coordinate the review of construction documents by the utilities and permitting agencies. The CITY shall obtain all necessary permits for the Project, including the Utility Work, in accordance with applicable state, federal and local laws and ordinances. WASD will use good faith efforts to assist the CITY in expeditiously obtaining all permits from COUNTY departments.

(vi) WASD shall fully cooperate with the CITY's contractor in all matters relating to the performance of the Utility Work.

(vii) WASD shall perform all construction inspections, testing and monitoring of the Utility Work to insure that it is properly performed in accordance with the Plans Package or the CITY's designs. When the Utility design work was completed by the CITY, the CITY shall be responsible for reviewing contractor-furnished engineering submittals and will provide its written acceptance of the submittals to WASD for its review and approval. When the Utility design work was completed by WASD, WASD shall be responsible for reviewing contractor-furnished engineering submittals and will provide its written acceptance of the submittals to the CITY for its review and approval. Except for the inspection,

testing, monitoring and reporting to be performed by WASD, the CITY will perform all contract administration for its contract.

(viii) The CITY's engineer has full authority to supervise the Project. The CITY's engineer shall confer with WASD when any adjustments and/or changes to the Plans Package or the CITY's designs affect the Utility Work portion of the Project. If WASD does not agree with the adjustments/changes proposed by the CITY's engineer, WASD will provide the CITY with an explanation from its engineer based on the WASD Standard Utility Specifications, which Specifications will ultimately control in the event of any disagreements related to adjustments or changes to the Plans Package and are available on the WASD website or by request.

(ix) Change Orders related to Utility Work are subject to review and approval of WASD prior to any compensation to the Contractor.

(x) The CITY's Contractor will be required to provide a payment and performance bond in accordance with Florida Statute Section 255.05 that includes the COUNTY as an additional named party on the bond. The CITY's Contractor will also be required to provide a one-year maintenance bond (one-year from the date of completion and final inspection of the work), which bond shall name and benefit the COUNTY directly.

(4) WASD to Construct Utility Work

(i) If the portion of the bid of the contractor selected by the CITY for performance of the Utility Work exceeds the cost estimate agreed to by the CITY and WASD by more than ten (10) percent, WASD may decline to enter into a JPA with the CITY for the construction aspect of the Utility Work. WASD will notify the CITY that it will not enter into a JPA for the construction work in writing within fourteen (14) days of its receipt of the bid/contractor materials.

(ii) If WASD elects to perform the construction of the Utility Work, WASD shall proceed with the construction, as set forth in the Plans Package or the CITY's designs, within fourteen (14) days of its notification to the CITY in writing of its choice to forgo the JPA for construction of the Utility Work and its intent to proceed with the work itself.

(iii) If WASD is to perform the construction, WASD shall be responsible for obtaining all necessary permits and will coordinate

the review of construction documents by the utilities and permitting agencies. The CITY will use good faith efforts to assist WASD in expeditiously obtaining all permits from CITY departments.

f. Cost of Utility Work

(1) The Utility Work will be performed at the sole cost and expense of WASD, unless WASD is entitled to reimbursement or funding for the Utility Work from another source, including but not limited to the following circumstances (collectively, "Reimbursable Work")

- when the Project is federal aid eligible, meaning 50% or more of the Utility Work is for existing facilities;
- when a written agreement incidental to a right-of-way acquisition process requires the CITY to compensate WASD for the costs of any subsequent relocation of the Facilities; or
- when WASD holds a compensable land interest under Florida condemnation law in the existing location of the Facilities at the time of the Project.

(2) Failure of WASD to provide documentation for the basis to obtain reimbursement under one of the bulleted scenarios in provision 3(f)(1) above before it makes payment to the CITY shall result in the Utility Work being deemed non-reimbursable.

(3) WASD shall be responsible for all reasonable and necessary costs of the portion of Utility Work that is WASD's responsibility and all costs associated with any adjustments or changes to the Utility Work that conform to the WASD Standard Utility Specifications and are determined by the CITY's engineer to be necessary, including but not limited to, the cost of changing the Plans Package or the CITY's designs and the increase in the cost of performing the Utility Work, unless such adjustments and changes are necessitated by an error or omission of the CITY; however, WASD shall not be responsible for any costs that exceed ten percent (10%) above the probable construction costs, unless such additional costs are a direct result of a change to WASD's Standard Utility Specifications, or change in the scope of work initiated by WASD, after the design was completed or construction has begun. The CITY shall not bear the burden of costs related to unforeseen construction conditions that may arise. After the Contingency/Allowance Fund (which may be used in accordance with the provisions of Paragraph 3(f)(5) below) has been depleted, no additional funds will be available from WASD or the COUNTY for completion of the Project and the costs for completion of the Utility Work will become the sole responsibility of the CITY and/or its contractor.

Additionally, WASD shall not be responsible for the cost of delays caused by such adjustments or changes unless such changes or adjustments are as a result of errors or omissions made by WASD.

(4) The JPA for the CITY's construction of the Utility Work shall specify the manner and, where applicable, the percentage of payment from the COUNTY. The JPA for the CITY's construction of the Utility Work shall also specify the amounts set aside for Allowance and Contingency accounts.

(5) Upon final payment by the CITY to its contractor, the CITY will have its final and complete accounting of all costs incurred in connection with the work performed on the Project, including the Utility Work completed. The CITY shall provide the COUNTY with Final Releases from the Contractor. All project cost records and accounts shall be available to WASD for a period of three (3) years after the final close of the Project for purposes of review and audit.

(6) Within thirty (30) days after the final close-out of the Project, the CITY will notify WASD of the final cost of the Utility Work. In the event the final cost of the Utility Work is less than the total of deposits by WASD in connection with the Project, a refund of the excess will be made by the CITY to WASD within sixty (60) days of the final close-out.

4. Claims Against the Parties Related to Utility Work

a. In the event the CITY's contractor submits a notice of intent to make a claim against the CITY related to the Utility Work being constructed by WASD, the CITY will notify WASD of the notice of intent to make a claim, and WASD will cooperate with the CITY in analyzing and resolving the claim. In addition, upon notification of the contractor's notice of intent, WASD will keep and maintain daily field reports and records related to the intended claim.

b. In the event the CITY's contractor submits a notice of intent to make a claim against the CITY related to the Utility Work being constructed by the CITY, the CITY will notify WASD of the notice of intent to make a claim, and WASD will cooperate with the CITY in analyzing and resolving the claim. In addition, upon notification of the contractor's notice of intent, the CITY will keep and maintain daily field reports and records related to the intended claim.

c. After the CITY and WASD have analyzed all contractor claims, each party will be responsible for paying its respective liability for its portion of any claim as determined by the analysis by the CITY and WASD. However, each party reserves all rights and defenses to any such claims.

5. Compliance with the Law

The CITY and the COUNTY shall each comply with applicable federal, state and local laws, codes, ordinances, rules and regulations in performing their respective duties, responsibilities, and obligations pursuant to this Agreement and with all applicable laws relating to the Project, including the Utility Work. Neither the CITY nor the COUNTY shall unlawfully discriminate in the performance of their respective duties under this Agreement.

Moreover, whenever COUNTY funds are used, the CITY agrees to comply with applicable COUNTY procurement requirements and regulations, including but not limited to, the Community Small Business Enterprise (CSBE) Program, Community Business Enterprise (CBE) Program, the Community Workforce Program (CWP), and the Responsible Wages and Benefits Ordinance (Ordinance No. 90-143). The CITY also agrees to comply with the COUNTY's Ordinance 2-1076 regarding the Inspector General. Specifically, the CITY agrees to abide by the applicable contract measure recommendation(s) established by the Department of Business Development Project Worksheet for the participation of specified business entities and/or trades, and for CWP requirements, as administered by the COUNTY's Department of Small Business Development (SBD). SBD shall have the right to oversee and perform compliance monitoring, including but not limited to, the right to audit and require reports and documentation related to the Miami-Dade County Code.

6. Force Majeure

Neither the COUNTY nor the CITY shall be liable for any consequences caused by force majeure, inevitable accident or occurrence or cause beyond the reasonable control of the COUNTY or the CITY and such an act shall not constitute a breach of this Agreement on the part of the COUNTY or the CITY. Additionally, neither the COUNTY nor the CITY shall be liable to the other entity, its agents, its inhabitants or its customers for any damage resulting from such act or its consequences. As used herein, force majeure shall mean an act of God, which includes but is not limited to: sudden, unexpected or extraordinary forces of nature such as floods, washouts, storms, hurricanes, fires, earthquakes, landslides, epidemics, explosions or other forces of nature. Inevitable accidents or occurrences shall mean those which are unpreventable by the COUNTY or the CITY and shall include but not be limited to: strikes; lockouts; other industrial disturbances; wars; blockages; acts of terrorism; insurrections; riots; federal, state county and local governmental restrictions, regulations and restrains; military action; civil disturbances; explosions; and conditions in federal, state, county and local permits.

7. Dispute Resolution

The COUNTY and the CITY shall resolve any disputes, controversies or claims between them arising out of this Agreement in accordance with the "Florida Governmental Conflict Resolution Act," Chapter 164, Florida Statutes, as amended. This Agreement

shall be governed by the laws of the State of Florida. Venue in any proceedings shall be in Miami-Dade County, Florida. Each party will bear its own attorneys' fees and costs.

8. Default

If either the CITY or the COUNTY fails to perform its obligations under this Agreement or any project-specific JPA between the CITY and COUNTY, the non-defaulting party shall be entitled to reimbursement in full of all documented costs it has expended in connection with the Utility Work. Moreover, in accordance with the provisions of Paragraph 7above, the non-defaulting party may, but is not required to, seek specific performance against the defaulting party. Further, any payments that have been made as of the date of default by the non-defaulting party, including all Contingency/Allowance Funds, deposits, etc., shall be refunded in full.

9. Entire Agreement, Amendments, Joint Preparation, Severability

a. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein, with the exception of the individual JPAs to be entered into on a Project by Project basis.

b. No modifications, amendments or alterations in the terms herein shall be effective unless made in writing, approved and signed by all parties hereto.

c. Additionally, the CITY and the COUNTY acknowledge that this Agreement was prepared jointly, and each party had an opportunity to seek and receive whatever advice and counsel was necessary for them to form a full and complete understanding of all rights and obligations herein. The language agreed to expresses their mutual intent, and, as a matter of judicial construction, the resulting document shall not be construed more severely against one of the parties.

d. In the event a portion of this Agreement is found to be invalid by a court of competent jurisdiction, the remaining provisions shall continue to be effective unless the CITY or the COUNTY elect to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within ten (10) business days after the finding by the court becomes final.

10. Notice

a. All notices required pursuant to the terms hereof may be sent by first class United States Mail, facsimile transmission, electronic mail, hand delivery or overnight delivery and shall be deemed to have been received by the end of five business days from the proper sending thereof unless proof of prior actual receipt is provided. The parties shall have a continuing obligation to keep one another

apprised of the appropriate persons for notices to be sent to pursuant to this Agreement. Unless otherwise notified in writing, notices shall be sent to the following addresses:

(1) If to the COUNTY/WASD:
Miami-Dade Water & Sewer Department
Attn: Director
3071 S.W. 38th Avenue, 5th Floor
Miami, FL 33146

With a copy to:
Miami-Dade County
Attn: County Attorney
111 N.W. 1st Street, Suite 2810
Miami, FL 33128

(2) If to the CITY:
City of Coral Gables
Attn: City Manager
405 Biltmore Way, First Floor
Coral Gables, Florida 33134

With copies to:
City of Coral Gables
Attn: City Attorney
405 Biltmore Way, 3rd Floor
Coral Gables, Florida 33134

City of Coral Gables
Attn: Director of Public Works
2800 SW 72 Avenue
Miami, Florida 33155

11. Term

This Agreement shall be and remain in full force and effect for a period of ten (10) years from the effective date of this Agreement, provided, however, that this Agreement may be terminated at any time. If either party wishes to terminate this Agreement, that party must provide thirty (30) days notice to the other party. If one of the parties seeks to terminate this Agreement, all projects that have been proceeding pursuant to the terms of this Agreement will survive and be completed in accordance with the Agreement's terms.

12. Miscellaneous

The CITY and the COUNTY agree that time is of the essence in the performance of all obligations under this Agreement.

[SIGNATURES APPEAR ON NEXT PAGE]

IN WITNESS WHEREOF, the parties hereto set their hands and official seals the day and year first above written,

ATTEST:

HARVEY RUVIN
CLERK OF THE BOARD

BY: _____
Deputy Clerk

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

BY: _____
County Mayor

Approved by County Attorney
as to form and legal sufficiency

Susan Elizabeth Davis 2/11/16
County Attorney

JA.

ATTEST:

CITY OF CORAL GABLES, a municipal corporation of the State of Florida.

Cathy Swanson-Rivenbark
City Manager

APPROVED AS TO INSURANCE REQUIREMENTS

David Ruiz
Manager Risk Management

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

FOR Miriam S. Ramos
Deputy City Attorney

ATTEST:

Walter Foeman
City Clerk

EXHIBIT A

CITY OF CORAL GABLES & MIAMI-DADE COUNTY JOINT PARTICIPATION AGREEMENT

City of Coral Gables Project No. ____

Miami-Dade Water & Sewer Department Project No. _____

Location: _____

Date of Work: _____

THIS AGREEMENT, entered into this _____ day of _____, year of _____, by and between the City of Coral Gables (the "CITY") and Miami-Dade County (the "COUNTY"),

WITNESSETH:

WHEREAS, on or about _____, the CITY and the COUNTY entered into an Interlocal Master Agreement, which was approved through CITY Resolution _____ and COUNTY Resolution _____; and

WHEREAS, the Interlocal Master Agreement provides the overall governing terms of the relationship and protocol for the CITY and the COUNTY to follow when they wish to enter into a Joint Participation Agreement ("JPA") in those instances where the CITY intends to engage in a project that involves constructing, reconstructing or otherwise changing or improving a public road (the "Project") and the COUNTY has utility facilities that must be protected, relocated, installed, adjusted or removed within the public road or area that the CITY intends to improve through the Project,

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein, and consistent with the terms of the Interlocal Master Agreement, the CITY and COUNTY hereby agree as follows:

1. The CITY shall perform the:

_____ Design

_____ Construction

of the Utility Work to be done by the CITY in connection with its Project located at _____(approximate address)____ to be performed in or around ____(month)__, __(year)__.

2. _____ As indicated in Paragraph 1 above, the CITY is to perform the design work for the Utility Work. Accordingly, consistent with Paragraph (3)(c)(7),the COUNTY shall pay the CITY a lump sum for the design work within sixty (60) days of the COUNTY's receipt of an invoice from the CITY for the design costs as agreed to based on the design cost proposal provided to the COUNTY by the CITY within two (2) weeks of the Mandatory Utility Meeting.

3. _____ As indicated in Paragraph 1 above, the CITY is to perform the construction of the Utility Work. Based on the cost estimate agreed to by the CITY and the COUNTY in advance of selection of the Contractor, the COUNTY agrees to pay: (a) ___ % of the estimated total cost of the construction portion of the Utility Work for an Allowance account to include the mobilization of equipment for Utility Work, additional maintenance of traffic costs for the Utility Work, (b) ____% of the estimated total cost of the construction portion of the Utility Work for a Contingency Fund, which fund shall be dedicated to cover changes to the Utility Work during construction, and (c) a prorated share of the administrative costs for the Utility Work, which amount shall be 1% of the total estimated cost of the Utility Work.

4. _____ As indicated in Paragraph 1 above, the CITY is to perform the construction of the Utility Work. Accordingly, consistent with Paragraph (3)(f)(4) of the Interlocal Master Agreement, the COUNTY agrees that payments shall be made to the CITY for the construction work in the following manner or at the following times:

_____ Lump Sum

_____ Percentage at completion of phases of construction based on submission of invoice from the CITY and review by COUNTY, which payments shall be made by the COUNTY within sixty (60) days of receipt of CITY invoice

Initial Payment of _____ % at start of Project

First payment at _____ % of completion

Second payment at _____ % of completion

Third payment at _____ % of completion

Final payment at _____ % of completion

5. _____ As indicated in Paragraph 1 above, the CITY is to perform the construction of the Utility Work and the COUNTY is to pay the CITY for that work in the manner indicated in Paragraph 3; however, for the Utility Work related to this Project, the

COUNTY is entitled to reimbursement from _____. The documentation related to the COUNTY's basis for the reimbursement is attached hereto as Exhibit 1.

6. _____ As indicated above, the CITY is to perform the construction of the Utility Work; however, the COUNTY will need to complete connection of the Utility Work to the COUNTY's existing system.

MIAMI-DADE COUNTY, FLORIDA, BY ITS BOARD OF COUNTY COMMISSIONERS	Approved by County Attorney as to form and legal sufficiency
_____ County Mayor or Mayor's Designee	_____ County Attorney
CITY OF CORAL GABLES, a municipal corporation of the State of Florida.	APPROVED AS TO FORM AND LEGAL SUFFICIENCY
_____ City Manager	_____ City Attorney

EXHIBIT B

SAMPLE LETTER OF INTENT TO PROCEED WITH PROJECT

Date

VIA HAND-DELIVERY
Miami-Dade Water & Sewer Department
Attn: Director
3071 S.W. 38th Avenue, 5th Floor
Miami, FL 33146

Re: City of Coral Gables' Intent to Proceed with City Project at Location Identified Below

Dear Director:

On (date), a Mandatory Utility Meeting was conducted between the designees from the City of Coral Gables (the "City") and the Miami-Dade Water & Sewer Department (the "Department") in order to discuss the possibility of entering into a design, construction or design/construction Joint Participation Agreement for work to be done at (approximate address) on or around (date) (the "Project"). At the conclusion of the meeting, the Department opted to perform its own design work for the Utility Work needed at the Project.

In light of the expense the Department will incur in performing such design work, the City hereby acknowledges to the Department, pursuant to the authority granted to it through City of Miami Resolution _____, that it intends to proceed with the Project in accordance with (1) the schedule set forth in the list of Projects provided to the Department every November as well as (2) the discussion held at the Mandatory Utility Meeting.

In the event the City fails to go forward with the Project for any reason after the date of this letter, the City agrees that it will reimburse the Department for fifty percent (50%) of the costs incurred by the Department for the design of the Utility Work through and including the date that the City provides written notice to the Department of its termination or rescheduling by more than one (1) year of the Project.

Sincerely,

Name
City of Coral Gables Title

CITY OF CORAL GABLES, FLORIDA

RESOLUTION NO. 2016-03

A RESOLUTION AUTHORIZING THE EXECUTION OF AN INTERLOCAL MASTER AGREEMENT WITH MIAMI-DADE COUNTY TO PROVIDE FOR A COOPERATIVE AND COORDINATED EFFORT IN THE COMPLETION OF MIAMI-DADE COUNTY WATER AND SEWER DISTRICT (WASD) UTILITY WORK WITHIN THE CITY'S RIGHT-OF-WAY.

WHEREAS, this agreement provides for a coordinated effort between the City and WASD to assure, to the degree practical and feasible, that WASD utilities get upgraded prior, to or in conjunction with City projects; and

WHEREAS, this agreement allows for the City to include design and construction of WASD facilities with City projects when it makes sense to do so and to receive reimbursement from WASD for costs incurred; and

WHEREAS, this agreement improves efficiency between the City and WASD which should result in overall reduced costs, reduced disruption of facilities, and improved service to our community; and

WHEREAS, it is in the best interest of the City to execute this Interlocal Master Agreement between the City and the Miami-Dade County;

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF CORAL GABLES:

SECTION 1. The foregoing "Whereas" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Resolution upon adoption hereof.

SECTION 2. That the City Commission does hereby authorize the execution of an Interlocal Master Agreement with Miami-Dade County to provide for a cooperative and coordinated effort in the completion of Miami-Dade County Water and Sewer District (WASD) utility work within the City's right-of-way.

SECTION 3. That this resolution shall become effective upon the date of its passage and adoption herein.

PASSED AND ADOPTED THIS TWELFTH DAY OF JANUARY, A.D., 2016.
(Moved: Lago / Seconded: Slesnick)
(Yeas: Quesada, Slesnick, Keon, Lago, Cason)
(Unanimous: 5-0 Vote)
(Agenda Item: C-3)

APPROVED:

JIM CASON
MAYOR

ATTEST:

WALTER J. FOEMAN
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

CRAIG E. LEEN
CITY ATTORNEY