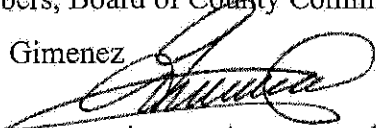


Date: April 5, 2016

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

From: Carlos A. Gimenez
Mayor 

Subject: Resolution Approving an Agreement between the Florida Department of Environmental Protection and Miami-Dade County for Cooperative Air Pollution Control Management in Miami-Dade County

Agenda Item No. 3(B)(2)

Recommendation

It is recommended that the Board of County Commissioners (Board) approve this item, which does the following:

- approves a Specific Operating Agreement with the Florida Department of Environmental Protection for cooperative air pollution control management in Miami-Dade County; and
- authorizes the County Mayor or County Mayor's designee to execute the agreement.

Scope

This resolution will involve countywide environmental permitting and regulation.

Fiscal Impact/Funding Source

Permit fees collected by Miami-Dade County under the proposed agreement will fund a portion of the tasks performed under the agreement. The remaining tasks will be funded by the operating budget of the Air Quality Management Unit of the Division of Environmental Resources Management in the Department of Regulatory and Economic Resources.

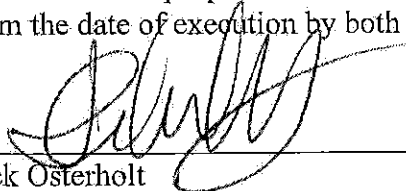
Track Record / Monitor

The Air Quality Management Division Chief within the Department of Regulatory and Economic Resources' Division of Environmental Resources Management, Mallika Muthiah, P.E., will monitor the terms of the Specific Operating Agreement.

Background

Since the 1970s, Miami-Dade County, through the Division of Environmental Resources Management in the Department of Regulatory and Economic Resources, has been designated as an approved local environmental program pursuant to State law. In 1981, a general operating agreement was executed by the Florida Department of Environmental Protection and Miami-Dade County specifying cooperative arrangements for enforcing state and local environmental laws. The general agreement was updated in 1989 to express the intent of developing additional specific operating agreements relating to air programs. Delegation of state air pollution control programs to Miami-Dade County was initiated in 1995 and most recently renewed in 2011.

The attached resolution approves a Specific Operating Agreement between the Florida Department of Environmental Protection and Miami-Dade County, establishing the basis for jointly protecting air quality and delegating to the County certain state permitting activities. Such delegation allows permitted facilities to realize savings in their combined state/county permit fees, streamlines the permitting process, and maximizes the impacts of both state and local efforts pursuant to state air rules. Miami-Dade County will retain 100 percent of the state air permit fees to offset the regulatory activities performed under this agreement. The proposed Air Pollution Specific Operating Agreement will have a term of three (3) years from the date of execution by both parties.



Jack Osterholt
Deputy Mayor

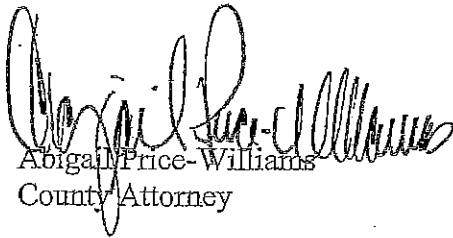


MEMORANDUM

(Revised)

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

DATE: April 5, 2016

FROM: 
Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 3(B)(2)

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. 3(B)(2)
4-5-16

RESOLUTION NO. _____

RESOLUTION APPROVING AN AGREEMENT BETWEEN THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION AND MIAMI-DADE COUNTY FOR COOPERATIVE AIR POLLUTION CONTROL PROGRAM MANAGEMENT IN MIAMI-DADE COUNTY AND WHICH DELEGATES CERTAIN STATE PERMITTING ACTIVITIES TO THE COUNTY; AND AUTHORIZING THE MAYOR OR MAYOR'S DESIGNEE TO EXECUTE SAME AND EXERCISE THE 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 Air Pollution Control Specific Operating Agreement between the Florida Department of Environmental Protection and Miami-Dade County for cooperative air pollution control program management in Miami-Dade County, in substantially the form attached hereto as Exhibit A and made a part hereof; and authorizes the County Mayor or County Mayor's designee to execute same for and on behalf of Miami-Dade County, to execute amendments to this agreement for time extension, and to exercise the cancellation and renewal provisions contained herein.

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 5th day of April, 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.



Abbie Schwaderer-Raurell

EXHIBIT A

AIR POLLUTION CONTROL SPECIFIC OPERATING AGREEMENT

BETWEEN THE
STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION (DEP)

AND

MIAMI-DADE COUNTY

PART I INTRODUCTION

- 1) Purpose. This Agreement is entered into between the Florida Department of Environmental Protection (DEP) and Miami-Dade County (MDC) Department of Regulatory and Economic Resources for the Division of Environmental Resources Management of Miami-Dade County (DERM or MDC) to act on DEP's behalf as an approved local air pollution control program. Both parties will work together to protect the air quality of the county according to the provisions of Section 403.182, Florida Statutes (F.S.).

By signing this Agreement, Miami-Dade County states that, as an approved Local Air Program, MDC is capable of providing the administrative organization, staff, financial and other resources necessary to effectively and efficiently carry out its program. *See* Section 403.182(1)(d), F.S. Further, DERM will coordinate with and assist DEP's Division of Air Resource Management (DARM) in the preparation and submittal to the Environmental Protection Agency (EPA) all State Implementation Plan (SIP) revisions and 111(d) plans that may affect MDC. DARM will be responsible for determining the need and relative priority for any such SIP revisions or 111(d) plans.

As an approved local air pollution control program pursuant to F.S. §403.182, and the terms of, Miami-Dade County is eligible to receive a portion of state tag fee monies pursuant to Section 320.03(6), F.S. In addition, as an approved local air pollution control program, Miami-Dade County is eligible to receive federal grant monies from EPA through 42 USC Section 7403 (the "103 Grant") and 42 USC Section 7405 (the "105 Grant").

- 2) Prior Operating Agreements. On July 7, 1981, the DEP and Miami Dade County entered into a General Operating Agreement (GOA). It was superseded by another GOA executed on February 8, 1990 which is the current GOA. A copy of the GOA is on file at DERM and at DARM.

The GOA, executed pursuant to Section 403.182, F.S., requires that the Secretary of DEP must further authorize the delegation of specific authorities under a Specific Operating Agreement (SOA). The SOA must specify the DEP programs or duties to be conducted by MDC, and will include such specific terms as are necessary to clearly delineate each party's rights and obligations.

This SOA constitutes the sole agreement defining the rights and responsibilities of MDC to act on DEP's behalf as an approved local air pollution control program under Sections 403.182 and 403.087, F.S., and the GOA. This SOA recognizes MDC as an "approved local air pollution control program" for purposes of Sections 320.03 and 376.60, F.S. In the event that DEP disapproves the local air pollution control program for cause, as provided in Section 403.182(4), F.S., DEP and MDC will address fee remittances consistent with the provisions of Sections 320.03, F.S., and 376.60, F.S.

- 3) County Authority. Pursuant to Article VIII, Section 6, of the Constitution of the State of Florida and Sections 1.01 A (8) and (9) of the Miami-Dade County Home Rule Charter (1957), the Miami-Dade Pollution Control Office was created in 1963 when its duties and powers were established by ordinance. That and subsequent ordinances have been codified as Chapter 24, Environmental Protection Ordinance of the Miami-Dade County Code. In 1974, DERM was created, combining functions previously housed in the Pollution Control Office, Health Department, and Public Works Department, centralizing environmental decision-making and programs in the county. Pursuant to Section 403.182(9), F.S., nothing in this SOA will diminish MDC's independent authority as established by law, nor hinder MDC from independently enforcing its own rules, regulations, or orders.
- 4) General Nomenclature. Throughout this document, "county" will mean Miami-Dade County (MDC). Likewise, "DEP" will mean the Florida Department of Environmental Protection and "DARM" will mean DEP's Division of Air Resource Management. "EPA" will mean the U.S. Environmental Protection Agency.
- 5) DEP's Role. DEP administers the following EPA-approved or EPA-delegated programs: the State Implementation Plan (SIP); the Title V permit program; and programs related to Sections 7411 and 7412 of Title 42, United States Code (U.S.C.). Pursuant to EPA delegations or approvals, DEP cannot delegate or sub-delegate such authorities to any approved local air pollution control program. DEP may, however, collectively through this SOA, and through any additional contracts (as applicable), authorize MDC to act on its behalf for purposes of federally delegated or approved programs. Pursuant to Section 403.182, F.S., DEP may assume and retain jurisdiction over a particular area, category, or program of air pollution control. Furthermore, this SOA and any additional contracts constitute the principal agreement between MDC and DEP with regard to air pollution control responsibilities. Compensation for services under additional contracts is contingent upon annual legislative appropriations.
- 6) Records. Program records associated with this SOA or contracts between DEP and MDC will be made available to DEP upon request and will be retained by MDC in accordance with, and for the duration specified in: Chapter 119, F.S.; DEP and the Department of State's records retention schedules; any DEP and MDC contracts; and the Department of State's regulations regarding electronic records, if applicable. If not otherwise specified, air program records will be maintained for a minimum of five (5) years. MDC may reach agreement with the DEP district office such that the DEP district office will retain MDC's air program records in accordance with the above requirements. Effective April 1, 2016, MDC shall add and

maintain permitting, compliance, and enforcement records in DEP's electronic file storage system for compiling such records (e.g., Air Documents Handling System, OCULUS, etc.).

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PART II
ADMINISTRATION OF THE SOA

- 1) Adequate Staff and Financial Resources. DEP has determined that MDC has the adequate and appropriate administration, staff, and financial resources to effectively and efficiently carry out an “approved local air pollution control program” in its county.
- 2) Commencement. This SOA will become effective on the date this document is signed by both DEP and MDC. Notwithstanding the provisions of the GOA, this SOA is entered into by the DARM Director and the Mayor of Miami-Dade County or the Mayor’s designee, both of whom have the authority to execute this SOA and satisfy its terms and conditions.
- 3) Expiration. This SOA will expire at midnight on August 31, 2018. It is the expectation of the parties that SOA renewals will be negotiated well in advance of the expiration deadline. However, if the parties are in good faith negotiations to renew the SOA at the time of the expiration date, the SOA will be automatically extended during the period of negotiation and will remain in effect until negotiations have ended and a new SOA has been signed, or the parties do not reach agreement on a new SOA, in which case the termination procedures in Paragraph Four of this Part will be followed.
- 4) Termination Procedures.
 - a) Termination of SOA. MDC or DEP may terminate this SOA without cause by providing written notice to the other party at least ninety (90) days prior to the effective date of such termination.
 - b) Distribution of Funds. Within ninety (90) days of termination, MDC will refund to DEP any financial support for air pollution control provided by or through DEP which has not been obligated or expended by MDC for that purpose. Conversely, DEP will pay MDC a pro rata share of any such financial support due during that budgetary period which has been obligated or funded by MDC for air pollution control before the effective date of termination.
- 5) Modification. This SOA may be modified in writing at any time by mutual consent of DEP and MDC. The modification will become effective on the date executed by both parties.
- 6) Agreement Conflicts. If this SOA conflicts with any part of the GOA, then that part of the SOA will not apply to DEP or MDC with respect to the air pollution control program in the county.
- 7) Severability. If any part of this SOA is found invalid or unenforceable by any court or through any administrative proceeding, the remaining parts of this SOA will not be affected if DEP and MDC agree that the rights and duties of both parties contained in this SOA are not materially prejudiced, and if the intentions of the parties can continue to be effective.

8) Interpretation of Laws, Ordinances, Rules, and Regulations.

- a) Interpretation of Rules. The governmental agency responsible for promulgating a law, ordinance, rule, or regulation will be the primary interpretative authority for that law, ordinance, rule, or regulation. In the event that there is litigation concerning interpretation of a DEP or MDC rule, the governmental agency responsible for promulgation of the questioned rule will provide testimony concerning the interpretation. All requests for interpretation will be answered as expeditiously as possible. The term "rule" as applied to a local program refers to a local program's duly adopted ordinances, regulations, rules, or other local law.
- b) Federally-Delegated or Approved Programs. It is recognized by MDC that EPA has approved or delegated to DEP all of the federal programs listed in Part I, Paragraph Five. MDC recognizes that DEP is ultimately responsible for any actions or activities related to these federally-delegated or approved programs. DEP has overriding authority regarding any conflicts arising from MDC acting on behalf of DEP in the administration of these federally delegated or approved programs.
- c) Information Dissemination. DEP has the responsibility to oversee the dissemination of information. To ensure consistent state-wide implementation, responsibilities are assigned as follows:
 - i) DARM is responsible for disseminating official policy and guidance regarding the implementation of these federally-delegated or approved programs to the DEP district offices and approved local air pollution control programs.
 - ii) MDC may distribute pre-existing state or federal documents (e.g., EPA guidance documents or applicability determinations) regarding federally delegated or approved programs to the public or regulated entities operating in its jurisdiction. MDC will provide a copy of such information to DARM, if requested.
 - iii) To the extent MDC has adopted rules more stringent than a federally delegated or approved program as set forth in this Part, MDC may distribute information to the public, or regulated entities operating in its jurisdiction relating to the applicability, interpretation, or implementation of MDC's own rule. When distributing this information, MDC will provide a copy to DARM in advance of dissemination. This however, shall not apply to Public Records Law requests under Chapter 119, F.S.
 - iv) MDC may create informational material related to the general applicability, interpretation, or implementation of federally delegated or approved programs for the purposes of assisting its regulated community, or other DEP district or approved local air pollution control offices. When distributing this information, the MDC will provide a copy to DARM in advance of dissemination. This however, shall not apply to Public Records Law requests under Chapter 119, F.S.
- d) EPA Regulations. MDC will follow EPA's interpretation of its regulations such as National Ambient Air Quality Standards (NAAQS), New Source Performance Standards

(NSPS), and National Emission Standards for Hazardous Air Pollutants (NESHAP). In the event MDC and DARM disagree about the applicability or requirements of an EPA regulation, MDC may request that DARM seek clarification from EPA. DARM will be responsible for coordinating contact by both parties with EPA regarding such requests for clarification. Whether the request is verbal or in writing, DARM shall coordinate the contact with MDC, and will apprise MDC of any clarification provided by EPA.

- e) SIP Revisions. SIP revisions developed by DEP are considered state-originated rules, except when EPA language is used verbatim.
- 9) Approval of MDC Rules. DEP has determined that MDC's existing rules pertaining to air pollution control –Chapter 24, Article I, Section 24-25, of Miami-Dade County Code, are compatible with or stricter or more extensive than those imposed by Chapter 403, F.S., and rules issued there under. This determination is not applicable to rules not listed above; to the administration or enforcement of any authority other than DEP's authority under Chapter 403, F.S., and EPA's authority under the Clean Air Act; or rules pertaining to noise pollution.
- a) Future MDC Rules. If MDC amends any existing ordinances or rules pertaining to air pollution control, or adopts any new rules, DEP will not enforce such amended or new rules unless and until DEP has determined that such rules are compatible with, or stricter or more extensive than the requirements imposed by Chapter 403, F.S., and rules adopted thereunder. If MDC attempts to implement or enforce such rules, MDC cannot assert that it is acting on behalf of DEP under such circumstances. Nothing in this SOA will limit MDC from adopting more stringent local rules. After any such rule adoption, the rule must be submitted to DEP as set forth in this Part.
 - b) Remaining Current with DEP Referenced Rules. In the event that DEP renumbers, amends, adds, or deletes F.A.C. regulations referenced by MDC, MDC understands that failure to incorporate the changes in the local rules or ordinances within twelve (12) months from the effective date of a DEP rule amendment may result in DEP determining that such local rules or ordinances are incompatible with state requirements.
- 10) Adequate Administrative and Judicial Processes. DEP has determined that MDC provides for enforcement of its requirements by appropriate administrative and judicial processes. MDC may utilize remedies available to DEP as an alternative to its own procedures.

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PART III
AIR PROGRAM MANAGEMENT

- 1) Budget. DARM and MDC will, upon request, exchange summaries of their respective approved budgets, outlining funding and staffing for the respective air programs.
- 2) Adequate Staff and Financial Resources. MDC will maintain an adequate permitting, ambient monitoring, mobile source, emissions monitoring, and compliance and enforcement staff to satisfy the requirements of this SOA. MDC's organizational chart will be periodically updated or supplemented by MDC when there are changes of key personnel or organizational structure, and MDC will provide a copy of any such organizational chart to DARM as expeditiously as possible.
- 3) Plans. DARM and MDC will coordinate and annually exchange, or otherwise make available, upon request of the other party, their respective EPA 105 Air Planning Agreements.
- 4) SIP and 111(d) Plan Revisions. MDC will coordinate with and assist DARM in the preparation and submittal to EPA of all SIP and 111(d) plan revisions that may affect MDC. DARM will be responsible for determining the need and relative priority for any such SIP revisions.
- 5) Proposed Federal Air Rules. MDC will copy DARM on all comments to proposed federal air rules published in the Federal Register. MDC may request a copy of comments submitted by DARM to EPA on a proposed Federal Air Regulation published in the Federal Register.
- 6) Evaluations and Audits. DEP will periodically conduct program performance evaluations, financial audits, and Title V audits of MDC's implementation of air programs and activities. Ambient monitoring program activity evaluations are specifically addressed under Part IV of this SOA.
 - a) Performance Evaluations. DARM may conduct performance evaluations to determine if permit application reviews, permit issuances, emissions inventories, mobile-source activities, compliance activities, and enforcement actions are being effectively conducted in accordance with state requirements and DEP policies.
 - b) Financial Audits. The DEP's Office of Inspector General (OIG) may conduct financial audits to determine if state funds received by MDC for its air program have been properly accounted for and spent appropriately. Upon request of DEP's OIG, MDC is responsible for providing county financial records relating to expenditures from tag fees received under Section 320.03 (6), F.S., asbestos fees received under Section 376.60, F.S, and reimbursements from any contracts entered into between DEP and MDC.
 - c) Title V Program Audit. Pursuant to Section 403.0872(11)(c), F.S., DEP is required to audit its Title V Program once every two years. The purpose of the audit is to determine whether the annual operation license fees collected by DEP are used solely to support any

reasonable direct and indirect costs listed in Section 403.0872(11)(b), F.S. MDC is subject to this audit process.

- d) Coordination of Evaluations and Audits. To the extent practicable, DEP and MDC will coordinate as necessary during evaluations and audits. Where possible, DEP will provide MDC with the opportunity to prepare its response and comment on draft findings. In instances when DEP is subject to an evaluation or audit by a federal agency, and DEP requests MDC's participation, MDC will provide its responses through DEP. In the event MDC is contacted directly by a federal agency regarding any program listed in Part I, Paragraph Five, MDC will coordinate its response with DEP. MDC will provide DEP with a copy of any such response.
- 7) Electronic Communications. Any reference in this SOA to "mail" includes electronic mail as described at Chapter 668, F.S. All reference to "certified mail" includes electronic mail with a receipt notification. All electronic communications relating to a permitting activity will be considered part of the permitting file and will be retained as part of the file. All electronic communications relating to a compliance or enforcement activity will be considered part of the compliance or enforcement file and will be retained as part of the file. Nothing in this SOA will preclude use of electronic files or electronic communications provided that such files and communications are easily identifiable and publicly accessible and provided that such files meet all formatting requirements detailed elsewhere in this SOA or by contract.
- 8) General Information Requests. As time and resources allow, MDC will respond to and attend meetings with individual citizens, the news media, schools, civic groups, and other organizations to provide information about air pollution or about specific program activities.
- 9) Training and Meetings. MDC will ensure that its employees have the requisite training to properly accomplish their work assignments. As time and resources allow, MDC staff will also attend training sessions offered by DEP regarding significant program changes, as well as EPA APTI training courses and Metro 4/SESARM training courses.
- 10) Legal. MDC will have access to adequate legal staff to comply with the permitting and enforcement requirements of this SOA.
- 11) Use of Tag Fees. Use of tag fees by MDC is provided by Section 320.03(6), F.S., and the terms of this SOA. To provide consistency with implementing program requirements, MDC agrees to work closely with DARM to address questions, as they arise, regarding the use of tag fees for program activities. MDC will summarize its activities that have been funded by tag fees in a report to DARM submitted with the tag fee certification, sixty (60) days after the end of each county fiscal year.
- 12) Local Fee Prohibited for Title V Sources. In accordance with Section 403.0873, F.S., MDC will collect no fees from Title V sources, except asbestos fees collected pursuant to Section 376.60, F.S.

- 13) Collection of Title V Emission Fees. Any payments for Title V annual emission fees and forms submitted to MDC will be promptly returned to the applicant with a notice to submit the payment directly to DARM. A copy of the notice will be provided to DARM.
- 14) Distribution of Title V Fees. DEP may enter into a Title V contract with MDC to receive compensation for the Title V Program work that is referenced in this SOA. Funding for the annual Title V Contract is contingent upon the availability of legislative budget authority each state fiscal year. When contracting with DEP, MDC will abide by DEP's timeline regarding contract initiation and execution.
- 15) Emergency Situations. In emergency situations, MDC will defer to DEP's decisions regarding enforcement discretion and interpretations of DEP air program rules and permit conditions, will abide by any air-related portions of a DEP Emergency Order issued by DEP, and will not take action contrary to DEP's decisions. This does not preclude MDC from taking independent action on its own unique local rules (i.e., rules that are not duplicative of DEP requirements).

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PART IV
AMBIENT AIR MONITORING RESPONSIBILITIES

- 1) General Requirements. This SOA establishes how ambient air monitoring will be conducted by MDC within its county. The operation and maintenance of federally required monitoring sites and equipment and other air monitoring sites and equipment deemed necessary by DEP will be MDC's first monitoring priority. Minimum monitoring requirements are described in 40 CFR 58 Appendix D.
 - a) Risk Management Contingency. MDC is deemed to be essential in meeting EPA minimum monitoring criteria as described in 40 CFR 58, Appendix D. Where equipment was purchased with State or federal funds, and where both the State and MDC have a responsibility to see that the site is maintained and operated, MDC shall allow DEP to operate said equipment in the event that MDC either chooses not to operate the monitor or is unable to do so. This includes allowing the DEP access to the necessary shelters, support equipment; and data transfer equipment until such time as a mutually agreeable resolution is reached. If necessary, MDC will assist the State with any access issues including amending access agreements. Continuing operation and maintenance costs, such as utilities, are the operator's responsibility.
 - b) Access Rights for New Sites. MDC will include DEP in access agreements for future sites where federally-required air monitoring is to be established.

- 2) Roles and Responsibilities. MDC will be responsible for calibrating, operating, maintaining, and repairing all ambient air monitoring, calibration, and data acquisition equipment utilized in the State and Local Air Monitoring Station (SLAMS) and Special Purpose Monitoring (SPM) networks, including the N-Core site (if applicable), within its county that would otherwise be operated and maintained by DEP. MDC will also be responsible for operating and maintaining a laboratory, or contracting for laboratory services to perform any needed analyses or air samples, and performing any episodic air quality monitoring. SPM desired by MDC will be the responsibility of MDC. SPM desired by DEP may be negotiated between the two agencies and performed by MDC where the availability of equipment, staffing, and funding allows.
 - a) Coordination. Excluding routine day-to-day operational functions, MDC will coordinate its ambient air monitoring activities with DEP. Program decisions requiring EPA approval, such as the addition, deletion, or relocation of a monitor or the exclusion of SLAMS data, will be submitted to EPA through, and with the approval of, DARM.
 - i) Air Monitoring Procedures. All SLAMS ambient air monitoring activities and SPM activities (from which data are to be used for official purpose) conducted by MDC will be performed in accordance with applicable federal regulations and the appropriate Statewide Quality Assurance Project Plans (QAPPs), using EPA and DEP-approved standard operating procedures (SOPs). DEP will provide technical assistance to MDC to the extent that DEP's resources allow.

- ii) Data Automation. MDC will obtain and maintain data automation equipment that can communicate with, and be linked to, the DEP Florida Air Monitoring Assessment System (FAMAS) database (or subsequent data system). MDC will enter and verify all valid data into the database in accordance with technical guidelines and schedule guidelines provided by DEP.
 - iii) Remote Data Access. On or before June 30, 2016, MDC will upgrade to wireless communication with FAMAS or submit hourly AQCSV files to DEP.
 - iv) Forms. MDC will use EPA's Air Quality System (AQS) data forms or formats, as well as other DEP or EPA-required or approved forms or formats for ambient air monitoring activities as necessary.
- 3) Ambient Air Monitoring Quality Assurance Program. MDC will coordinate all air monitoring quality assurance activities with DEP.
- a) Quality Assurance Procedures. DARM is the Primary Quality Assurance Organization for air monitoring in the state, as determined by EPA. MDC will conduct all ambient monitoring activities in accordance with the Statewide QAPPs, incorporated herein by reference to ensure the collection of legally defensible ambient air quality data. This includes use of DEP's SOPs, which include approved MDC SOPs that have been incorporated into DEP's SOPs, and all applicable state and federal regulations and policies to ensure the acceptability of analytical results.
 - i) All of MDC's monitoring SOPs must be approved by DEP and EPA. DEP will provide "Quality Assurance Standards Laboratory" services on request, as resources allow. DEP will provide other technical assistance to MDC, as resources allow.
 - ii) Ozone Transfer Standards. Ozone certification must provide traceability to National Institute of Standards and Technology (NIST) standards. To that end, before use in the ambient monitoring network, MDC must ensure that its new ozone primary standards has undergone a three-day certification to the state standard, which has been compared to the EPA standard reference photometer (Level 1).
 - iii) Systems and Instrument Performance Audits. DEP will conduct a triennial (or more frequent) ambient air monitoring management systems audit of MDC and utilize the process and schedule as outlined in the "Quality Assurance Systems Audit Protocol." As resources allow, DEP will conduct performance audits on continuous SLAMS (and SPM used for official purposes) instruments and manual PM_{2.5}, and PM₁₀ samplers to meet minimum federal regulations. Written notice will be given if DEP is unable to continue conducting the performance audits. MDC will be responsible for conducting performance audits to complete quarterly requirements on all high volume manual samplers.

- iv) Electronic Record Archiving. MDC will create an archive in electronic form of sufficient documentation and records to provide legal defensibility for all of the ambient monitoring data submitted to the EPA database which address criteria pollutants, and which could be used to determine the attainment status of the county. This archive will be maintained on a calendar year basis, with the annual records being closed and finalized no later than ninety (90) days after the end of the calendar year, and will be maintained for a minimum of five (5) years.
- b) Ambient Monitoring Reporting Requirements. MDC will enter all valid ambient air data collected each month into DEP's FAMAS database according to the schedule provided in the statewide SOP for ambient air monitoring data handling and performing data validation (DEP 18-27). MDC will also adhere to the schedules provided in DEP 18-27 for submitting missing data/information and for verifying data.
 - i) Submitted data must meet or exceed the EPA's data completeness requirement (minimum requirements are prescribed in 40 CFR Part 58, Appendix A, various appendices of 40 CFR Part 50, and the EPA *Quality Assurance Handbook for Air Pollution Measurement Systems*) and must have been collected in accordance with 40 CFR Parts 50 and 58; the *Quality Assurance Project Plans for the State of Florida Ambient Air Quality Monitoring Program*; and EPA- and DEP-approved SOPs.
 - ii) MDC will transmit valid ambient monitoring data to DEP's FAMAS database (or subsequent data system) in accordance with DEP 18-27, unless data transmission problems make this impossible.
 - iii) Missing data forms/information will be submitted to DARM in accordance with DEP 18-27.
 - iv) All data will be verified in DEP's FAMAS database (or subsequent data system) to ensure that the data were transmitted without errors. A verification notice will be transmitted to DEP in accordance with DEP 18-27.
- c) Quality Assurance Reporting Requirements. MDC will use DEP-approved forms and/or formats and will comply with DARM's reporting guidance when submitting data and performing ambient air monitoring and quality assurance activities. All precision, bias and accuracy data will be submitted to DARM within thirty (30) days after the end of the quarterly reporting period.
- d) Air Quality Reporting Requirements. MDC will report to the general public notice of the Air Quality Index in accordance with federal regulations. MDC will correct the concentration values reported, to be used in Florida's Air Quality System (FLAQS) and the Spatial Air Quality System (SAQS), as soon as practicable after discovery of any errors.
- e) Annual Network and 5-year Network Assessment Plans. MDC must respond timely to DARM's requests for assistance in the preparation of the statewide Annual Air

Monitoring Network Plan and, if applicable, the 5-year Air Monitoring Network Assessment Plan. The Annual Network Plan must be submitted to EPA by July 1st of each calendar year. Prior to submission to EPA, the proposed Annual Network Plan must be made available for a 30-day public comment period. The next 5-year Network Assessment Plan must be submitted to EPA by July 1, 2020.

- f) Air Monitoring Technology Status Reporting. An Annual Air Monitoring Technology Status Report describing MDC's air monitoring system must be provided to DARM by March 1 to coincide with development of the statewide Annual Network Plan. The report must include, but not be limited to, the following information:
- i) Status of each of MDC's network monitors;
 - ii) A summary of the areas where MDC is satisfied or not satisfied with its air monitoring technology;
 - iii) An explanation as to why the current technology is still appropriate or if new technology will need to be explored;
 - iv) A summary of MDC's data system capabilities and deficiencies; and
 - v) A plan that corrects deficiencies that threaten data quality and/or data capture rates.

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PART V
PERMITTING RESPONSIBILITIES

1) General Requirements.

- a) Local Air Permitting. DEP authorizes MDC to process federally-delegated air permits on its behalf, and delegates the authority to process or issue state air permits in accordance with the procedures and conditions of this Part. The federally-delegated permit programs mentioned above have been delegated to DEP and are not considered as delegations to MDC under Section 403.182(2), F.S. DEP retains the authority to take final action on all permit applications.
- b) Roles and Responsibilities. MDC assumes the responsibility to receive, process, and take final agency action on air permit applications within its county that otherwise would be administered by DEP's district office, except for applications for the following permits or categories of air sources:
 - i) Electrical power plants and waste-to-energy facilities;
 - ii) Permits for which local air pollution programs are precluded from taking final agency action under Section 403.0872, F.S. (e.g., pulp and paper mills, sugar mills, and chemical manufacturing plants);
 - iii) Facilities owned or operated by the county;
 - iv) New source preconstruction review conducted for the Prevention of Significant Deterioration (PSD) of air quality and Non-Attainment Area air construction permits;
 - v) Air general permit registrations;
 - vi) Construction permits subject to processing under state "expedited permitting" statutes;
 - vii) Landfills; and
 - viii) Innovative technology projects as determined by DARM.
- c) Variances and Waivers. MDC will not issue variances and waivers from state and federal regulations.
- d) PSD Determinations. MDC will consult with DARM when establishing operational and emission limits to avoid PSD, or when making determinations that facility changes are not subject to PSD. In addition, MDC will consult with DARM on all single- versus multi-source determinations with regard to PSD applicability.
- e) Electronic Permit Submittal and Processing System (EPSAP). MDC will promote and use EPSAP (or subsequent data systems) for the submittal and processing of permitting applications electronically.
- f) Public Comments and Meetings. MDC will accept and respond to public comments and requests for public meetings as required by Florida rules and statutes. MDC will hold public meetings for which it is the permitting authority. MDC will assist DEP in

scheduling and coordinating public meetings within its geographic boundaries for which DEP is the permitting authority.

- g) Misdirected Applications. Except as noted in this Part, when MDC receives an application for a state air permit for which DEP is to take final agency action, MDC will return the application to the applicant with instructions to submit the application and fees to DEP. Accordingly, when DEP receives an application for a state air permit for which MDC is to take final agency action, DEP will return the application to the applicant with instructions to submit the application and fees to MDC.
 - h) Permit Fees. MDC will retain one hundred (100) percent of the state fees for non-Title V permits.
- 2) Specific Conditions of Local Air Permitting. MDC will comply with the following specific requirements as a condition of maintaining this air permitting authority:
- a) Permitting Provisions. MDC will comply with applicable permitting provisions of the Florida Air and Water Pollution Control Act, Chapter 403, F.S.; the Florida Administrative Procedures Act (APA), Chapter 120, F.S.; and DEP permitting and air pollution control rules regarding permit processing, permit content and timeframes for various permit applications. MDC will follow DARM permitting guidance procedures, including procedures for electronic submittals when available, and will copy the appropriate district office on all permit-related actions or provide electronic notification.
 - b) Exemptions. MDC is authorized to make determinations for exemptions from air permitting requirements pursuant to DEP rules. A copy of all pertinent correspondence related to any such exemptions will be timely submitted to DEP's district office and DARM.
 - c) Forms. MDC will use permitting forms adopted by DEP. The local air program may affix its name and logo on the forms.
 - d) DEP Air Resource Management System (ARMS) Database.
 - i) MDC will have full access to the ARMS database (or subsequent data systems) and will designate an employee to serve as the primary contact for permitting data. This contact will be the primary person who DEP will contact on permit-related data entered into ARMS by MDC.
 - ii) MDC will enter all permit-related data within thirty (30) days of final permit issuance and in accordance with DARM guidance.
 - iii) MDC will respond promptly to requests from DEP for information, correction and clarification of any data entered into the ARMS database.
 - iv) MDC will notify DEP of any systems-related problems or training needs.

- e) Legal Resources. MDC will have the legal resources to defend MDC permitting decisions in Administrative Hearings under Chapter 120, F.S., or any other legal proceedings. Laws, ordinances, rules and regulations will be interpreted according to Part II of this SOA.
- f) Administrative Hearings and Final Agency Actions for Permits. All air permitting decisions made by MDC on behalf of DEP will be subject to the provisions of the Florida Administrative Procedures Act (APA), Chapter 120, F.S., as if these decisions had been made by DEP.
 - i) Petitions. All petitions for formal administrative hearings on air permitting applications processed by MDC will be processed pursuant to Sections 120.569 and 120.57, F.S. and the applicable rules of the Florida Administration Commission and DEP. MDC will use the Florida Division of Administrative Hearings (DOAH) as fact-finder for all air permitting formal administrative hearings, unless otherwise explicitly directed by DEP. At the time of referral of a petition to DOAH, a copy of the notice of referral, the petition, and the challenged permitting decision will be mailed to DEP's Office of General Counsel (OGC). To the extent that DEP's technical or rule interpretation or guidance is at issue, DEP will provide technical assistance to MDC, DEP retains the right to be a party to any hearing or to intervene in any DOAH proceeding concerning matters addressed under this SOA.
 - ii) Hearings. For all hearings challenging agency action on air permits, MDC will be responsible for preparation for the hearings, appearance at the hearings, and preparation and submittal of the proposed recommended orders to the assigned administrative law judge. No agreement for mediation pursuant to Section 120.573, F.S., or for summary hearing pursuant to Section 120.574, F.S., will be made by MDC unless DEP has been joined as a party to the dispute and has also agreed to the mediation or summary hearing. Prior to all final hearings, MDC's attorneys will consult with DEP's OGC regarding significant issues. All recommended orders resulting from DOAH hearings will be referred to DEP's OGC for preparation of final agency action. Exceptions and responses to exceptions will be filed with DEP's OGC within the times set forth in Rule 28-106, F.A.C.
 - iii) Final Orders. DEP retains sole authority to issue final orders resulting from DOAH hearings. Appeals of final orders entered following a DOAH hearing will be the responsibility of DEP. MDC may join the appeal as a party, upon coordination with DEP's OGC.

3) Permit Documents.

- a) As part of the draft permit package, MDC will write a technical evaluation (or statement of basis, as applicable), including at a minimum: a brief project description; a rule applicability determination; a summary of emissions changes, if any; and other information necessary to support a preliminary determination to issue the draft permit. As part of the final permit package, MDC will provide a written final determination that identifies comments received during the public comment period, the permitting authorities response to these comments, and any changes made to the final permit pursuant thereto.
 - b) For all operating permits, MDC will include applicable permit conditions from previously issued construction permits. Construction permit conditions must be modified or deemed obsolete pursuant to Rule 62-210.300(1), F.A.C. MDC has the authority to change a construction permit except where the construction permit is required by law to be issued by DEP. If any change is warranted to a PSD permit, such change will be made in consultation with DARM.
 - c) MDC will actively support and use DEP's permitting tools including electronic applications, permit templates, and e-permitting.
- 4) Air General Permit Registrations. All air general permit registration forms will be received and reviewed by DEP. When MDC receives a registration form, it will forward the form within three (3) working days to DEP. If fees are enclosed, MDC will forward the form along with the fees to DEP Receipts, P.O. Box 3070, Tallahassee, Florida 32399-3070. Within three (3) working days of receipt, DEP will enter the registration information in the state database and MDC will receive an acknowledgement of receipt.
- 5) Copies to MDC. DEP will provide MDC with a copy of any application, request for additional information and response thereto, and notice of DEP-proposed agency actions for an air source within the county for which DEP has permitting authority.

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PART VI
COMPLIANCE AND ENFORCEMENT RESPONSIBILITIES

- 1) General Requirements. This part of the SOA establishes how air program compliance and enforcement will be conducted by DEP or MDC within its county.
 - a) County Authority. MDC will use its remedies and procedures in its authorizing act(s) and ordinances. MDC may utilize remedies available to DEP as an alternative to its own procedures.
 - b) Roles and Responsibilities. Subject to Part II (Administration of the SOA), and except as provided below, MDC will conduct compliance and enforcement activities within its county. MDC will provide the necessary support for DEP's compliance and/or enforcement actions as requested. DEP's district office will conduct compliance and enforcement activities for permitted facilities owned or operated by the county.
 - c) DEP Action in County. Nothing herein prohibits DEP from initiating compliance and/or enforcement activity for any facility within MDC. In the event that DEP initiates an enforcement activity in MDC, DEP will provide MDC with notice unless circumstances make notice inappropriate. MDC's rules will be enforced by DEP if it elects to exercise its jurisdiction over air pollution sources within the jurisdiction of MDC. If enforcement actions are initiated by DEP and MDC against the same source for the same violations, then the actions should be combined as a joint consolidated enforcement action where possible. Any penalty fees or damages collected as a result of joint action will be divided equitably between the two agencies.
 - d) Federal Facilities. If federal facilities are not responsive to enforcement action initiated pursuant to local rules reflecting federal NSPS or NESHAP requirements and further action is necessary to achieve compliance, MDC shall consult with DARM (not EPA) to determine the appropriate enforcement approach.
- 2) Citizen Complaints. MDC will respond to and investigate complaints from citizens and any such complaints forwarded by DEP, in a timely manner. If there is a non-compliance issue, MDC will attempt to bring about compliance in accordance with this SOA when appropriate and inform the complainant (if not anonymous) of the action taken.
- 3) Sampling of Fuels and Materials. In accordance with the most recent DARM guidance, MDC will collect or assist DEP in collecting and analyzing fuel and material samples for air sources within the county, as needed, to determine compliance with DEP's air pollution control rules or permit conditions.
- 4) Open Burning. AMDC open burning program shall be operated in accordance with Section 590.125 F.S., and Chapter 62-256, F.A.C. MDC will adopt and enforce open burning requirements at least as stringent as DEP's open burning rules and may enter into agreements with local fire control authorities or the Florida Forest Service to assist in the enforcement of

these requirements. A copy of any open burning operating agreement between the Florida Forest Service and MDC shall be provided to DEP upon request.

- 5) Stack Tests. In accordance with the most recent DARM guidance, MDC will witness pollutant stack tests performed in the county, including relative accuracy test audits (RATAs). Witnessing stack tests will, at a minimum, include witnessing the equivalent of one complete stack test run, and may include witnessing any required laboratory procedures preserving a suitable chain of evidence. For all stack tests, MDC is responsible for monitoring compliance with stack test methods that are required by state rules or federal regulations. In addition, MDC shall review 100% of stack test reports and timely enter related data into AirCom. (For purposes of this paragraph, "stack tests" are not considered to include determinations of visible emissions.)

MDC shall follow the most recent stack test audit sample guidance from DEP and the EPA.

- 6) Continuous Emissions Monitoring Systems (CEMS). In accordance with the most recent DARM guidance, MDC is responsible for monitoring compliance with appropriate quality assurance procedures for CEMS that are required by state rules, federal regulations and permits.
- 7) Review of Reports. MDC will receive and review all of the following reports for completeness, accuracy, and compliance with applicable state rules or federal regulations: Excess Emissions Reports; Stack Test Reports; Visible Emissions Test Reports; RATA Reports; and Relative Accuracy Audit (RAA) Reports. For each report that is deficient or requires additional information, MDC will timely send an appropriate written correspondence (letter or e-mail) to the source owner or operator requesting additional information necessary to make the report complete, and take additional action, as appropriate.
- 8) Alternatives to Testing and Monitoring. All requests for alternative testing and monitoring requirements, and determinations of MACT minor source status, will be handled in accordance with the most recent DARM guidance.
- 9) Compliance Planning and Activities.
 - a) Compliance Monitoring Strategy Plan. Compliance monitoring will be done according to applicable federal and state statutes, rules, and guidelines. In accordance with EPA's latest Stationary Source Compliance Monitoring Strategy (CMS) and DARM guidance, MDC will complete and submit to DARM a CMS plan to achieve the inspection frequencies identified by EPA and DEP. MDC will abide by its CMS plan and will notify DEP in advance if it is unable to meet the requirements contained therein to afford DEP the opportunity to meet the federal commitments.

b) Inspection Frequency.

- (1) In accordance with EPA's Stationary Source CMS and DARM guidance, MDC will conduct full compliance evaluations at least once every two (2) years for all Title V major sources.
- (2) In accordance with EPA's Stationary Source CMS and DARM guidance, MDC will conduct full compliance evaluations at least once every five (5) years for all synthetic minor sources within its authority.
- (3) MDC will conduct an on-site inspection or compliance outreach visit for all other permitted air facilities, including those with air general permits, at least once every five (5) years.
- (4) Follow-Up Inspections. MDC will conduct follow-up inspections as necessary to determine if a facility has returned to compliance.
- (5) Identification of Unpermitted Facilities. MDC will identify facilities that are operating without a permit and take appropriate action.
- (6) MDC will enter inspection results into the AirCom database. DEP encourages MDC to utilize portable field computers along with DEP electronic tools to document inspection results.

c) Annual Statement of Compliance. By April 1 of each calendar year, MDC will identify facilities which did not submit the annual statement of compliance by March 1 of that calendar year. In addition, MDC will complete the reviews of the annual statements and make a compliance determination by August 31 of each calendar year and take appropriate action, as needed.

d) Semi-Annual Monitoring Reports. MDC will review each semi-annual monitoring report within thirty (30) days of the date the report was received.

e) Outreach, Compliance Assistance and Pollution Prevention. MDC will conduct outreach activities and compliance assistance as appropriate. MDC will promote pollution prevention as time and resources allow.

10) Enforcement Activities. MDC will follow EPA Guidance for timely and appropriate enforcement response to high priority violations, consult the DEP enforcement manual and its appendices including DARM's Air Penalty Guidelines, and follow any other DARM guidance documents or reference materials in determining appropriate enforcement responses and penalty calculations. MDC will maintain all penalty calculations for each enforcement action in the appropriate enforcement file (including documentation that economic benefit was considered), and will provide information regarding those calculations to DEP upon request. MDC shall add all enforcement records and supporting documents to DEP's electronic file storage system in accordance with this SOA.

- 11) Small Business Environmental Assistance Program. MDC will assist the Small Business Environmental Assistance Program (SBEAP) and provide ongoing support of activities associated with the mission and directives of that program as time and resources allow.
- 12) Asbestos Compliance. Inspections by MDC will be conducted at a minimum frequency as specified by the EPA Section 105 Air Planning Agreement. Upon determining that a violation has occurred, MDC will initiate appropriate enforcement action that is consistent with state and federal requirements. MDC will receive asbestos notifications for facilities located in its county and will input the notification and compliance data into the DEP asbestos database. MDC will encourage the use of DEP's web-based electronic notification system. Notwithstanding exclusions noted in this Part, MDC may inspect any asbestos activity within the county, and take enforcement action pursuant to its local authority. DEP district offices and MDC will coordinate on asbestos inspections for facilities owned or operated by the county to the extent possible.
- 13) Misdirected Asbestos Notifications. Asbestos notifications received by MDC, which should have been sent instead to DEP shall be redirected to DEP no later than two including those received from the County for facilities owned and operated by the County, working days of receipt by MDC, in a format acceptable to DEP. Asbestos notifications received by DEP which should have been sent instead to MDC shall be redirected to MDC no later than two working days of receipt.
- 14) DEP AirCom Database – Compliance and Enforcement Data.
 - a) MDC will have full access to the DEP AirCom database and will designate an employee to serve as the primary contact for AirCom compliance and enforcement data. This contact will be the primary person who DEP will contact on compliance and enforcement data entered into the database by MDC.
 - b) MDC will enter all compliance and enforcement data in a timely manner in accordance with the most recent DARM guidance (e.g., level of service document) with primary emphasis on achieving the commitments made to EPA as part of the State Review Framework (SRF).
 - c) MDC will update AirCom for compliance data, enforcement data, minimum data requirements, excess emissions reports, CEMS data, and stack test and visible emission test results. All applicable inspection and source compliance and enforcement activity data including, but not limited to, NSPS, NESHAP, Title V, and non-Title V minor source facilities will be entered into AirCom as soon as possible, but not later than thirty (30) days from the date the activity was performed by MDC.
 - d) MDC will review 100% of stack test reports and enter the results in the AirCom database within 75 days of the test date. If the test report is received late, MDC shall review the report as soon as possible, but no later than 30 days upon receipt.
 - e) MDC will review and enter related data for each semi-annual monitoring report into AirCom within thirty (30) days of receipt of the report.
 - f) MDC will follow the most recent DARM guidance for reviewing and entering electronic and hardcopy data from the Annual Operating Reports (AOR). MDC will complete its

quality assurance review of the data in AirCom (i.e., the “edit check” process) by September 30th of each year. If DEP finds items of incompleteness or errors in the submitted reports during either the edit check process or the report review, MDC will take the lead on any necessary follow up with the facility. DEP will perform all uploads of Electronic Annual Operating Report (EAOR) data into AirCom.

- g) MDC will respond promptly to requests from DEP for information, correction and clarification of any compliance and enforcement data entered into these databases by MDC.
- h) MDC will notify DEP of any systems-related problems or training needs.

15) DEP Asbestos Database.

- a) MDC will have full access to the DEP asbestos database and will designate an employee to serve as the primary contact for AirCom and asbestos compliance and enforcement data. This contact will be the primary person with whom DEP will consult on asbestos-related data entered into the database by MDC.
- b) MDC will enter all asbestos-related data in a timely manner in accordance with the most recent DARM guidance (e.g., level of service document).
- c) MDC will update DEP Asbestos database for compliance data, enforcement data and minimum data requirements. All applicable inspection and compliance and enforcement activity data for asbestos renovation/demolition data will be entered into the DEP asbestos database as soon as possible, but not later than thirty (30) days from the date the activity was performed by MDC.
- d) MDC will respond promptly to requests from DEP for information, correction and clarification of any asbestos data entered into the database by MDC.
- e) MDC will notify DEP of any systems-related problems or training needs.

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SIGNATURES

State of Florida
Department of Environmental Protection

By _____
Justin B. Green
Director, Division of Air Resource Management

Date: _____

Miami-Dade County
A Political Subdivision of the
State of Florida

By _____
Carlos A. Gimenez
Mayor

Date: _____

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