OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Memorandum

Date:	**September 4, 2012**
To:	Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners
From:	Carlos A. Gimenez Mayor
Subject:	Resolution ratifying the actions of the County Mayor or Mayor's designee of submitting a grant to the United States Department of Agriculture (USDA) and entering into a Cooperative Agreement with the United States Department of Agriculture to receive funding from the Farm and Ranch Lands Protection Program for Miami-Dade County's Purchase of Development Rights Program

Agenda Item No. 8(M)(4)

Resolution No. 703-12

Recommendation

It is recommended that the Board of County Commissioners (Board) adopt the attached resolution ratifying the actions of the County Mayor or Mayor's designee in submitting a grant to the United States Department of Agriculture (USDA) for up to $6 million to continue to receive funding from the Farm and Ranch Lands Protection Program (FRPP) for Miami-Dade County's Purchase of Development Rights (PDR) Program. The resolution further authorizes the County Mayor or County Mayor's Designee to accept and expend the funds awarded; and to enter into a cooperative agreement in substantially the form attached hereto, including authorization for extensions to the agreement and modifications to the list of properties included for funding. This is to provide flexibility should purchase agreements not be consummated and a need arises to substitute alternative parcels. Any acquisitions of development rights including those utilizing these funds are still required to be approved by the Board in a separate public hearing.

This is the fourth FRPP grant awarded to the PDR program. Ratification of this application is necessary because the proposal did not allow time to submit the resolution to the Board prior to submitting the application by April 2, 2012. The County was notified on the first week of June 2012 of the award and that a contract will need to be signed and returned to the USDA before the end of September 2012 as the granting authority requires the funds be obligated prior to October 1, 2012.

Scope

These parcels are located in Commission District 9, however the PDR Program is countywide in nature as it contributes to the cultural heritage and environmental quality of the region.

Fiscal Impact/Funding Source

The PDR Program is funded through the Building Better Communities General Obligation Bond Program (BBC GOB), with a total allocation of $30 million, of which $27 million remains. Under this Cooperative Agreement the USDA will provide a 50 percent match up to $6 Million. Miami-Dade County's match will come from BBC GOB Project 10 funds currently allocated for expenditure in 2011-2012.

The purchase of conservation easement(s) will require Board approval. Acceptance of the grant does not obligate Miami-Dade County to purchase an easement. However, to receive funding an approved purchase must be consummated prior to March 31, 2014.

Acceptance of this grant will have no fiscal impact on the current or future County budgets. Acquisition of development rights may have an impact on future County budgets.

Track Record/Monitor
This program is monitored by the County's Agricultural Manager, Charles LaPradd, who serves as the PDR Administrator.

Background
In November 2004, Miami-Dade County voters approved the Building Better Communities General Obligation Bond Program which included $30 million to preserve viable farmland through the acquisition of development rights on property suitable for agricultural use. The value of land for agricultural use often is significantly less than the value of land sold for development. For that reason, many agricultural landowners choose to sell their farmland for development, threatening the community's agricultural heritage and quality of life. Without programs to help farmers find alternatives to liquidating businesses, farms will continue to disappear at an increasing rate. The PDR Program allows agricultural landowners to retain their existing agricultural use rights while receiving compensation for the land's development value. To increase the viability of the PDR Program, staff has applied for grants to increase the funding available to the program. To date, $6.09 million in grant funds have been awarded to the program with $2 million of those grant funds expended to date with development rights having been acquired on 165 acres of farmland by the program.

Jack Osterholt, Deputy Mayor

MEMORANDUM

(Revised)

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

DATE: September 4, 2012

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

SUBJECT: Agenda Item No. 8(M)(4)

Resolution No. R-703-12

Please note any items checked.

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

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

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

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

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Ordinance creating a new board requires detailed County Manager'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(M)(4)
9-4-12

RESOLUTION NO. R-703-12

RESOLUTION RATIFYING SUBMISSION OF A GRANT APPLICATION TO THE UNITED STATES DEPARTMENT OF AGRICULTURE FOR UP TO $6 MILLION TO RECEIVE CONTINUED FUNDING FROM THE UNITED STATES DEPARTMENT OF AGRICULTURE'S FARM AND RANCH LANDS PROTECTION PROGRAM FOR MIAMI-DADE COUNTY'S PURCHASE OF DEVELOPMENT RIGHTS PROGRAM FUNDED BY THE BUILDING BETTER COMMUNITIES GENERAL OBLIGATION BOND PROGRAM AND FURTHER AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO ACCEPT AND EXPEND THE FUNDS AWARDED, AND TO ENTER INTO THE COOPERATIVE AGREEMENT IN SUBSTANTIALLY THE FORM ATTACHED HERETO, UPON REVIEW AND APPROVAL BY THE COUNTY ATTORNEY'S OFFICE, THE COUNTY MAYOR OR MAYOR'S DESIGNEE IS FURTHER AUTHORIZED TO EXECUTE EXTENSIONS TO THE AGREEMENT AND TO MODIFY THE LIST OF PROPERTIES TO RECEIVE FUNDING IN THE AGREEMENT AS MAY BE NECESSARY

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 ratifies the actions of the County Mayor or County Mayor's Designee in submitting a grant application to the United States Department of Agriculture and authorizing the County Mayor or County Mayor's Designee to enter into a Cooperative Agreement with the United States Department of Agriculture in substantially the form attached hereto, upon review and approval by the County Attorney's Office to continue to receive funding from the Farm and Ranch Lands Protection Program for Miami-Dade County's Purchase of Development Rights Program which is funded

by the Building Better Communities General Obligation Bond. The County Mayor or County Mayor's Designee is further authorized to execute extensions to the agreement and to modify the list of properties to receive funding in the agreement as may be necessary.

The foregoing resolution was offered by Commissioner **José "Pepe" Diaz**, who moved its adoption. The motion was seconded by Commissioner **Audrey M. Edmonson** and upon being put to a vote, the vote was as follows:

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

The Chairperson thereupon declared the resolution duly passed and adopted this 6 day of September, 2012. This resolution shall become effective upon the earlier of (1) ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

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

HARVEY RUVIN, CLERK

By: **Christopher Agrippa**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency. JME/B.I. for

Jorge Martinez-Esteve

Agreement No. _____

NEST Agreement No. _____

COOPERATIVE AGREEMENT
BETWEEN THE
UNITED STATES OF AMERICA
COMMODITY CREDIT CORPORATION
ACTING THROUGH THE
NATURAL RESOURCES CONSERVATION SERVICE
and the
Miami-Dade County
for the
FARM AND RANCH LANDS PROTECTION PROGRAM

This Cooperative Agreement is entered into by and between the **United States of America (the United States),** acting by and through the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) on behalf of the Commodity Credit Corporation (CCC), and the **Miami- Dade County** for the implementation of the Farm and Ranch Lands Protection Program (FRPP). The CCC shall utilize the expertise and services of NRCS to administer this program and perform the duties set forth within this Cooperative Agreement. The term "Parties" as used herein refers collectively to the United States and the **Miami- Dade County.**

I. AUTHORITY.

This Cooperative Agreement is entered into by the United States under the authorities of the Commodity Corporation Credit Charter Act, 15 U.S.C. 714 et seq. and Title II, Subtitle E, Section 2401 of the Food, Conservation, and Energy Act of 2008, Public Law 110–246, 16 U.S.C. 3838h and i. In addition to these authorities, this Cooperative Agreement will be administered in accordance with the policies and procedures set forth in the FRPP regulation, 7 CFR part 1491. The CCC administers the FRPP under the general supervision of the Chief of the NRCS who is a Vice President of the CCC.

II. BACKGROUND AND PURPOSE.

Section 2401 of the Food, Conservation, and Energy Act of 2008 authorizes the Secretary of Agriculture to facilitate and provide funding for the purchase of conservation easements that are subject to pending offers from eligible State, Tribal or units of local government or nongovernmental organizations for the purpose of protecting the agricultural uses and related conservation values of eligible land by limiting non-agricultural uses of the land. To be eligible, the farm or ranch land must meet one of three criteria: contain prime, unique, or other productive soil; contain historical or archaeological resources; or further a State or local policy consistent with the purposes of the program. The Food, Conservation, and Energy Act of 2008 authorized FRPP funding for fiscal years 2008 through 2012.

WHEREAS, the **Miami- Dade County** and the United States have mutual interests in preventing the conversion of agricultural lands to non-agricultural uses; and

WHEREAS, the United States administers the FRPP through NRCS on behalf of the CCC; and

WHEREAS, the **Miami- Dade County** administers a farmland protection program and has pending offers for acquiring agricultural conservation easements from landowners within the **Miami-Dade County**, County of Miami- Dade, State of Florida, and the United States and the **Miami- Dade County** have agreed to combine their resources to assure that such areas are protected from conversion to nonagricultural uses.

THEREFORE, the parties agree to enter into this Cooperative Agreement.

III. BENEFITS

The benefit of this Cooperative Agreement is that funds will be provided to the cooperating entity for the protection of farm and ranch lands from conversion to non-agricultural use. Section 1238H-I of the Food, Conservation, and Energy Act of 2008 authorizes the Secretary of Agriculture to provide funding for the purchase of conservation easements by eligible State, Tribal or units of local government or nongovernmental organizations and authorizes the Secretary of Agriculture to enter into agreements with eligible entities.

IV. OBLIGATION OF FUNDS

Upon execution of this agreement, the United States shall obligate the sum of **$4,120,000** for the acquisition by the **Miami- Dade County** of conservation easements for the parcels listed on the Attachment. This agreement may be amended to obligate funds in Fiscal Years 2012 and 2013 if the cooperating entity submits parcels that rank high enough to warrant the obligation of funds. The **Miami-Dade County** must close on the easement acquisition and request payment of this amount in accordance with Part VII of this Cooperative Agreement before the dates in Table 2. The **Miami- Dade County** must request payment in accordance with Part VII of this Cooperative Agreement no later than 23 months after the end of the fiscal year of fund obligation. Should the cooperating entity not meet the Closing Deadline or the Payment Request Deadline dates established in Table 2, any remaining funds may be de-obligated from this agreement unless the agreement is amended as provided for in paragraph XI D.

Table 1

Fiscal Year	Attachment with Associated Parcels	Funds Obligated	Fund Citation	Budget Object Code
2011	A	$		
2012	B	$		
2013	C	$		

Table 2

Fiscal Year of Fund Obligation	Attachment with Associated Parcels	Closing Deadline	Payment Request Deadline	Attachment Expiration Date
2012	A	March 31, 2014	August 31, 2014	September 30, 2014
2013	B	March 31, 2015	August 31, 2015	September 30, 2015
2014	C	March 31, 2016	August 31, 2016	September 30, 2016

This Cooperative Agreement is the authorizing document that obligates CCC funds to acquire conservation easements. Attachment A to this Cooperative Agreement specifies the properties on which FY 2011 CCC funds will be used. Attachments B and C to this Cooperative Agreement , if funded, will specify the properties on which the appropriate fiscal year of funding will be used (as referenced in the chart above). The attachment will specify the properties on which CCC funds will be used within the Miami- Dade County, County of Miami- Dade, State of Florida, and will include a list with a detailed breakdown of the:

(1) name and mailing address of the landowner(s);

(2) number of acres to be acquired;

(3) the estimated conservation easement value;

(4) estimated Federal contribution to the estimated conservation easement value, and

(5) offered parcels approved for funding.

However, nothing in this document obligates the United States or the **Miami-Dade County** to purchase all or any of the conservation easement parcels listed in the Attachment.

V. FEDERAL CONTRIBUTION

The Federal contribution for the acquisition of each conservation easement acquired by the **Miami- Dade County** shall be up to but not more than 50% of the appraised fair market value of the conservation easement. The United States' contribution cannot be used for closing and related administrative costs incurred by the **Miami- Dade County** in acquiring the conservation easement. The Federal contribution for parcels must be based on an appraisal of the conservation easement performed by a certified general appraiser in accordance with either the Uniform Standards of Professional Appraisal Practices (USPAP) or the Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA) (Interagency Land Acquisition Conference, 2000) and policies and procedures in the NRCS Conservation Programs Manual, Part 519.

VI. COOPERATING ENTITY'S CONTRIBUTION

The **Miami- Dade County,** herein the Cooperating Entity, or its designated escrow agent must disburse 100 percent of the payment, representing the easement purchase price, to the landowner at the time of closing. The Cooperating Entity must contribute in cash at least 25 percent of the purchase price (appraised fair market value minus the landowner donation) of the easement.

Before NRCS accepts the conservation easement and issues a payment, the **Miami- Dade County** must self-certify on the NRCS Form 230, Confirmation of Matching Funds (Exhibit 1), that the **Miami- Dade County's** share of matching funds has not come from additional donations, payments, loans or fees made by or charged to the Grantor of the Conservation Easement, immediate family members, or organizations controlled by or funded by the Grantor of the Conservation Easement, either through formal or informal agreements.

The Cooperating Entity must make all contributions in accordance with the policies and procedures in the NRCS Conservation Programs Manual, Part 519.

VII. PAYMENTS

The **Miami- Dade County** shall notify the United States when the CCC funds are to be paid. CCC funds shall be paid to the **Miami- Dade County** when the United States is provided a copy of the recorded Conservation Easement Deed and the **Miami- Dade County** has paid the landowner(s). Where the **Miami- Dade County** cannot obtain 100 percent of the funds to be paid at closing to the landowner(s) and requires the United States to make its payment at closing rather than on a reimbursable basis, the **Miami- Dade County** may request a waiver for the United States to pay its share of the Conservation Easement purchase at closing. When a waiver is requested, the **Miami- Dade County** shall notify NRCS at least 60 days prior to closing. If the waiver is approved, the United States will make payment to an authorized closing agent via electronic transfer. Upon receipt of the funds, the closing agent will sign a payment receipt form and return it to the United States. The closing agent will hold the funds in escrow for a period not to exceed 14 calendar days. If interest is earned on CCC funds, the closing agent must return any interest earned to the United States.

All Conservation Easement Deeds used by the **Miami- Dade County** must be approved by NRCS prior to purchase of the conservation easement. All conservation easement deeds or proposed deed provisions must be submitted to NRCS 45 days prior to the Cooperating Entity ordering the appraisal report of the first parcel for which the deed will be used.

To obtain payment of FRPP funds, whether after closing or in advance of closing, the **Miami-Dade County** will submit Form SF-270, Request for Advance/Reimbursement of Funds (Form SF-270 Exhibit 2), and the information specified below to the Florida NRCS State Office. Prior to submitting the

SF-270 for an advance of funds, the **Miami- Dade County** must also request a copy of closing agent requirements from the United States and ensure that the closing agent meets these requirements. The **Miami- Dade County** may submit the Form SF-270 prior to closing when a payment is issued at closing, or after all the deeds have been recorded and the landowner has been paid, or on a quarterly basis for each quarter that Conservation Easement Deeds have been recorded and the landowner(s) have been paid.

At a minimum, the following information shall be included in, or attached to, the SF-270, before NRCS will accept the conservation easement and disbursing payment:

(1) The name of the Cooperating Entity
(2) Tax Identification Number (TIN) for the Cooperating Entity
(3) Cooperative Agreement number
(4) Conservation Easement numbers (if applicable)
(5) Landowner(s) name(s), address and telephone number
(6) Total amount of dollars paid the landowner for each conservation easement, specifying the CCC share and the non-CCC share of the Conservation Easement cost
(7) Acres acquired for each Conservation Easement
(8) Copy of the Conservation Easement Deed(s) for each easement
(9) NRCS Form 230, Confirmation of Matching Funds, for each easement
(10) Copy of the American Land Title Association (ALTA) title insurance policy for each Conservation Easement.

VIII. CONSERVATION EASEMENT REQUIREMENTS

The **Miami- Dade County** shall ensure that conservation easements acquired under this agreement meet the following requirements:

1. Run with the land in perpetuity or for the maximum duration allowable under State law, where State law prohibits a permanent easement.

2. Protect agricultural use and related conservation values by limiting nonagricultural uses of the land;

3. Provide for the administration, management, and enforcement of the Conservation Easement by the **Miami- Dade County** or its successors;

4. Require management of highly erodible land on the property in accordance with a conservation plan that is developed utilizing the standards and specifications of the NRCS field office technical guide, and consistent with 7 CFR part 12. The following paragraphs shall be included in all Conservation Easements acquired using FRPP funds:

   As required by section 1238I of the Food Security Act of 1985, as amended, the Grantor, his heirs, successors, or assigns, shall conduct agricultural operations on highly erodible land on the Protected Property in a manner consistent with a conservation plan prepared in consultation with NRCS and the Conservation District. This conservation plan shall be developed using the standards and specifications of the NRCS Field Office Technical Guide and 7 CFR part 12 that are in effect on the date of this Conservation Easement Deed. However, the Grantor may develop and implement a conservation plan that proposes a higher level of conservation and is consistent with the NRCS Field Office Technical Guide standards and specifications. NRCS shall have the right to enter upon the Protected Property, with advance notice to the Grantor, in order to monitor compliance with the conservation plan.

   In the event of noncompliance with the conservation plan, NRCS shall work with the Grantor to explore methods of compliance and give the Grantor a reasonable amount of time, not to exceed twelve months, to take corrective action. If the Grantor does not comply

with the conservation plan, NRCS will inform Grantee of the Grantor's noncompliance. The Grantee shall take all reasonable steps (including efforts at securing voluntary compliance and, if necessary, appropriate legal action) to secure compliance with the conservation plan following written notification from NRCS that (a) there is a substantial, ongoing event or circumstance of non-compliance with the conservation plan, and (b) NRCS has worked with the Grantor to correct such noncompliance.,

If the NRCS standards and specifications for highly erodible land are revised after the date of this Conservation Easement Deed based on an Act of Congress, NRCS will work cooperatively with the Grantor to develop and implement a revised conservation plan. The provisions of this section apply to the highly erodible land conservation requirements of the Farm and Ranch Lands Protection Program and are not intended to affect any other natural resources conservation requirements to which the Grantor may be or become subject.

5. Where parcels are being enrolled in FRPP based on historical or archeological resources, certify that management, maintenance and oversight/monitoring of historic and archaeological properties shall follow the Secretary of Interior's Standards and Guidelines for Archeology and Historic Preservation or those of the State Historic Preservation Officer or American Indian Tribe, as appropriate, if the parcel includes contributing historic and archaeological resources. To contribute to the eligibility of farm or ranch lands for FRPP, the historic and archeological resources must be listed in or meet the National Register of Historic Places eligibility criteria or must be included on a State or Tribal register or inventory of historic properties. The deed must include a statement setting forth the historic and/or archaeological values being protected and identify a third party (entity) and briefly document their professional capacity to carry out the commitment to manage and protect the historic and archaeological resources. If the entity does not have the expertise to meet these responsibilities and has acquired such expertise through a formal agreement with a historic preservation entity, this third-party must be identified in the easement deed.

6. Include the following "Right of Enforcement" provision:
   *Under this Conservation Easement, the United States is granted the right of enforcement in order to protect the public investment. The Secretary of the United States Department of Agriculture (the Secretary) or his or her assigns, on behalf of the United States, may exercise this right of enforcement under any authority available under State or Federal law if the **Miami- Dade County**, or its successors or assigns, fails to enforce any of the terms of this Conservation Easement, as determined in the sole discretion of the Secretary.*

7. Include the following "General Indemnification" provision:
   ***"General Indemnification**. Grantor shall indemnify and hold harmless the United States, its employees, agents, and assigns for any and all liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions, and costs of actions, sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys' fees and attorneys' fees on appeal) to which Grantee and the United States may be subject or incur relating to the Protected Property, which may arise from, but are not limited to, Grantor's negligent acts or omissions or Grantor's breach of any representation, warranty, covenant, agreements contained in this Conservation Easement Deed, or violations of any Federal, State, or local laws, including all Environmental Laws."*

8. Include the following "Environmental Warranty" provision:

*"**Environmental Warranty.** Grantor warrants that it is in compliance with, and shall remain in compliance with, all applicable Environmental Laws. Grantor warrants that there are no notices by any governmental authority of any violation or alleged violation of, non-compliance or alleged non-compliance with or any liability under any Environmental Law relating to the operations or conditions of the Property. Grantor further warrants that it has no actual knowledge of a release or threatened release of Hazardous Materials, as such substances and wastes are defined by applicable federal and state law.*

Moreover, Grantor hereby promises to hold harmless and indemnify the Grantee and the United States against all litigation, claims, demands, penalties and damages, including reasonable attorneys' fees, arising from or connected with the release or threatened release of any Hazardous Materials on, at, beneath or from the Protected Property, or arising from or connected with a violation of any Environmental Laws by Grantor or any other prior owner of the Protected Property. Grantor's indemnification obligation shall not be affected by any authorizations provided by Grantee or the United States to Grantor with respect to the Protected Property or any restoration activities carried out by Grantee at the Protected Property; provided, however, that Grantee shall be responsible for any Hazardous Materials contributed after this date to the Protected Property by Grantee.

"Environmental Law" or "Environmental Laws" means any and all Federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct (including common law) concerning air, water, solid waste, hazardous materials, worker and community right-to-know, hazard communication, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection and similar environmental health, safety, building and land use as may now or at any time hereafter be in effect.

"Hazardous Materials" means any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials and any other element, compound, mixture, solution or substance which may pose a present or potential hazard to human health or the environment."

9. Include provisions regarding the amount of impervious surfaces permitted on the Property, in accordance with the provisions of the NRCS Conservation Programs Manual, Part 519 in effect when this cooperative agreement was executed.

10. Include signature of the NRCS State Conservationist or responsible official as delegated by the State Conservationist on the Conservation Easement Deed, accepting the property interest of the United States.

11. Address the following permitted uses of the Protected Property by the Grantor in the Conservation Easement Deed. Other permitted uses may be added if they do not conflict with the conservation values of the Protected Property. For further explanation of these provisions, see the NRCS Conservation Programs Manual, Part 519.64.

    a. Agricultural Production - the production, processing, and marketing of agricultural crops for 2 purposes consistent with the terms of the Conservation Easement Deed.

    b. Forest Management and Timber Harvest - forest management and timber harvesting shall be performed in accordance with a written forest management plan consistent with the Conservation Easement Deed. Parcels containing more than 40 contiguous acres or

20% of the easement area (whichever is greater) of forested land must have a forest management plan.

c. Wetland Pond Restoration and Creation - permitted if it is consistent with the terms and purposes of the Conservation Easement Deed.

d. Non-developed Passive Recreation and Educational Activities - permitted if it does not impact the soils and the agricultural operations and is consistent with the purpose of the Conservation Easement Deed.

e. Customary Rural Enterprises - permitted on the Protected Property and in the buildings constructed and maintained for the agricultural use of the Protected Property. Customary rural enterprises that require their own buildings are prohibited.

f. Agri-tourism - Low impact agri-tourism activities are permitted, such as farm tours, work experiences, field trips, petting zoos, corn mazes, and hay rides.

g. Roads - permitted if they are already in place or if new roads are necessary to carry out the agricultural operations on the Protected Property.

h. Fences - may be maintained and replaced and new fences installed if they are necessary for agricultural operations on the Protected Property or to mark boundaries of the Protected Property.

i. Oil and Gas Exploration and Extraction -

Where the mineral rights are leased or owned by a third party, the NRCS State Conservationist will conduct an assessment of each offered parcel to determine if the offered parcel will be accepted into FRPP.

Where the mineral rights are owned by the landowner and not leased by a third party, these mineral rights must be subordinated to the conservation easement, or if not subordinated, the NRCS State Conservationist will conduct an assessment of each offered parcel to determine the impact any exploration or extraction will have on the conservation easement.

Any method of extraction will be from outside of the easement area, or if allowed within the easement area, the amount of disturbance associated with exploration and extraction activities including access roads and construction disturbance is within the impervious surface limits. These activities may be allowed and must be carried out in accordance with State and local regulations, minimal impact on the Protected Property and the agricultural operation.

j. On Farm Energy Production --renewable energy production is allowed for the purpose of generating energy for the agricultural and residential needs of the Protected Property. Renewable energy sources must be built and maintained in accordance with any local zoning ordinance and applicable State and Federal law and be built and maintained within impervious surface limits and with minimal impact on the Protected Property.

12. Include the following prohibited uses of the Protected Property and any other prohibited uses necessary to protect the conservation values of the Protected Property. The following activities may be prohibited subject to qualification. Other provisions may be added when they are necessary to protect the conservation values of the Protected Property. The introduction to this section of the Conservation Easement Deed must include a statement that all activities that are inconsistent with the purposes of the Conservation Easement are prohibited. For further explanation of these provisions, see the NRCS Conservation Programs Manual, Part 519.64.

a. Industrial or Commercial Uses - prohibited unless expressly permitted for agricultural purposes.

b. Construction on the Protected Property - limited to structures and improvements with a designated building envelope that support the agricultural use of the Protected Property.

c. Mining – prohibited, except for limited mining to the extent that the materials mined (e.g. sand, gravel, or shale) are used for agricultural operations on the Protected Property. In that case, extraction must be limited to a small, defined area or acreage.

d. Motorized Vehicle Use - prohibited except to support agricultural use, forestry, habitat management, law enforcement and public safety, or conservation uses of the Protected Property, and residential and recreational uses permitted by the conservation easement deed.

e. Granting of easements for utilities and roads – prohibited when the utility or road will adversely impact the conservation values of the easement deed, including the land's use for agriculture.

f. Waste and Dumping - prohibited. Composting and storage of manure and agricultural wastes produced on the farm or ranch is permitted.

g. Signage – prohibited except for signs to identify the farm or ranch, signs to advertise products and services provided by the farm or ranch, and signs to identify the farm or ranch as a participant in FRPP and the Local Grantee's program. Conservation easement deeds should specify limitations on sign size.

h. Subdivision – generally prohibited unless required by state or local regulations to construct residences for employees working on the Protected Property.

i. Surface Alteration – prohibited unless it is in accord with general agricultural uses of the Protected Property.

IX. RESPONSIBILITIES.

A. Those of the United States -

1. The United States, by and through the NRCS, shall provide technical and other services required to assist the landowner in developing an appropriate conservation plan in accordance with 7 CFR part 12. To ensure that the conservation plan is implemented in accordance with 7 CFR part 12, the NRCS will be provided the opportunity to conduct periodic field visits on lands that are enrolled in the FRPP and associated lands owned or managed by the landowner which are also subject to 7 CFR part 12.

2. The CCC shall, subject to the availability of funds, disburse the appropriate funds to the **Miami- Dade County** in accordance with Part IV and VII of this Cooperative Agreement.

3. Prior to NRCS accepting the conservation easement and processing the payment, the NRCS State Conservationist shall:

- ensure that a conservation plan for highly erodible lands is developed in accordance with 7 CFR part 12 and that an AD-1026 has been filed;
- obtain approval of the conservation easement deed or Conservation Easement Deed provisions from the National Headquarters;
- when funds are advanced to the cooperating entity prior to closing, acquire a signed letter from the closing agent indicating that the agent meets FRPP closing agent requirements,

an executed NRCS Form 230, Confirmation of Matching Funds, and a copy of the title commitment.

4. NRCS shall conduct technical reviews of appraisals in accordance with NRCS Conservation Programs Manual, Part 519.

5. NRCS shall certify payment for all conservation easements for parcels listed on each attachment acquired by the fund disbursement deadline for each attachment.

B. Those of the **Miami- Dade County**

1. The **Miami- Dade County** will be registered with the Central Contractor Registration (CCR) database, maintain an active CCR with current information, and provide its Dun and Bradstreet Data Universal Numbering System (DUNS) number below prior to NRCS obligating funds under this agreement. Exhibit 3 provides reporting requirements.

   DUNS #048732531

2. The **Miami- Dade County** shall perform necessary legal and administrative actions to ensure proper acquisition and recordation of valid Conservation Easement Deeds.

3. The **Miami- Dade County** shall pay all costs of conservation easement procurement and will operate and manage each conservation easement in accordance with the **Miami- Dade County** program, this Cooperative Agreement, and 7 CFR part 1491. The United States shall have no responsibility for the costs or management of the conservation easements purchased by the **Miami- Dade County** unless the United States exercises its rights under a Conservation Easement Deed. The **Miami- Dade County** shall indemnify, and hold the United States harmless for any costs, damages, claims, liabilities, and judgments arising from past, present, and future acts or omissions of the **Miami- Dade County** in connection with its acquisition and management of the conservation easements acquired pursuant to this Cooperative Agreement. This indemnification and hold harmless provision includes but is not limited to acts and omissions of the **Miami- Dade County** agents, successors, assigns, employees, contractors, or lessees in connection with the acquisition and management of the conservation easements acquired pursuant to this Cooperative Agreement which result in violations of any laws and regulations which are now or which may in the future become applicable.

4. Non-governmental organizations shall continue to meet the requirements specified in Title II, Subtitle E, Section 2401 of the Food, Conservation, and Energy Act of 2008. The Act states an eligible organization is "any organization that—

   (A) is organized for, and at all times since the formation of the organization has been operated principally for, 1 or more of the conservation purposes specified in clause (i), (ii), (iii), or (iv) of section 170(h)(4)(A) of the Internal Revenue Code of 1986;

   (B) is an organization described in section 501(c)(3) of that Code that is exempt from taxation under 501 (a) of that Code;

   (C) is described in section 509 (a)(1) or (2) of that Code; or

   (D) is described in section 509(a) (3) of that Code and is controlled by an organization described in section 509 (a) (2) of that Code."

5. The **Miami-Dade County** shall address in each Conservation Easement Deed in which CCC funds are used as part of the acquisition the permitted/prohibited uses set forth in Paragraph VIII of this Cooperative Agreement.

6. Prior to payment certification, the **Miami-Dade County** shall ensure that all lands for which a conservation easement has been acquired will have a conservation plan, as described in Paragraph VIII of this Cooperative Agreement.

7. The ***Miami-Dade County*** shall prohibit all non-agricultural uses of the encumbered properties, except for recreational uses, such as hiking, hunting, fishing, boating, and horseback riding to the extent those activities do not conflict with the purpose of Section 2401 of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110 – 246).

8. At a minimum, the **Miami-Dade County** shall monitor FRPP Protected Properties on an annual basis to ensure that the Conservation Easement Deeds are being implemented according to the deed provisions. An annual report of the status of acquired Conservation Easements will be submitted to the NRCS representative at the State level. The NRCS representative will define the format of this report.

9. In acquiring Conservation Easements, the **Miami-Dade County** shall ensure that the title to the lands or interests therein shall be unencumbered or, if encumbered by outstanding or reserved interests, the **Miami-Dade County** shall ensure that any outstanding interests are subordinated to the Conservation Easement Deed or that any exceptions from this subordination requirement are approved by the NRCS and are consistent with the purposes of the Farm and Ranch Lands Protection Program. The **Miami-Dade County** shall provide to NRCS a copy of the title commitment or title report 90 days before the intended closing date and any other requested documentation related to title so that NRCS can review the title commitment to ensure there are no encumbrances that would allow non-agricultural use of the property that are not acceptable to NRCS. The **Miami-Dade County** shall assure that proper title evidence is secured using an Owner's ALTA policy 06/17/06 with the entity listed as the insured on the policy and the policy issued for an amount at least equal to the FRPP funds received for the acquisition.

10. The **Miami-Dade County** shall have an appraisal conducted on the Protected Property prior to NRCS accepting an interest in the Conservation Easement and within 12 months of closing on the conservation easement. The appraisal shall be conducted by a certified general appraiser and shall conform to the Uniform Standards of Professional Appraisals Practices OR the Uniform Appraisal Standards for Federal Land Acquisitions (Interagency Land Acquisition Conference, 2000). A copy of the NRCS appraisal specifications (Exhibit 4) will be provided to each appraiser conducting appraisals for the cooperating entity. The **Miami-Dade County** will be listed as the client and NRCS will be listed as a user in the appraisal report. Under no circumstances will the **Miami-Dade County** allow the landowner to approve or disapprove of the appraiser selected to prepare the appraisal report. The completed appraisal report must be provided to NRCS within 90 days of closing the conservation easement. NRCS will conduct a technical review of the appraisal. The conservation easement will not be closed until the appraisal report has been accepted by the technical reviewer.

11. The **Miami-Dade County** shall not use FRPP funds to place an easement on a property in which a **Miami-Dade County** employee or board member, with decision-making involvement in matters related to easement acquisition and management, has a property interest. The **Miami-Dade County** shall not use FRPP funds to place an easement on a property in which a person who is an immediate family member or household member of an employee or board member, with decision-making involvement in matters related to easement acquisition and management, has a property interest. Further, the **Miami-Dade County** agrees to generally conduct itself in a manner so as to protect the integrity of conservation easement deeds which it holds as well as avoid the appearance of impropriety or actual conflicts of interests in its acquisition and management of conservation easements.

12. The **Miami-Dade County** agrees that it will not at any time, when the **Miami-Dade County** is named as a Grantee on the Conservation Easement Deed, seek to acquire the remaining fee interest in the Protected Property. Likewise, if the **Miami-Dade County** enters into an agreement with another entity to manage/monitor the Conservation Easement, and the **Miami-Dade County** seeks to acquire the underlying fee, the **Miami-Dade County** agrees to immediately terminate such a relationship and arrange for an uninterested party to manage/monitor the Conservation Easement.

13. The **Miami-Dade County** may substitute parcels approved for funding in the same fiscal year as the Attachment. Unfunded parcels may only be deferred forward to the next fiscal year. Substitute parcels cannot be added to the Attachment after September 30th of the fiscal year of funding. Landowners associated with substitute parcels must submit a Conservation Program Application (NRCS CPA-1200), meet Adjusted Gross Income (AGI) eligibility and HEL/WC eligibility for the fiscal year of funding. Substitute parcels do not require a pending offer to be listed on the Attachment, however, prior to the substitute parcel being eligible for funding, there must be a pending offer, and the land must meet eligibility criteria. The State Conservationist may require substitute parcels to be reranked.

14. When a conservation plan violation is reported to the ***Miami-Dade County*** by NRCS, after all administrative and appeal rights have been exhausted by the landowner in accordance with 7 CFR part 12 and 7 CFR part 614, the ***Miami-Dade County*** shall implement easement enforcement procedures.

15. The ***Miami-Dade County*** will provide the Federal Cash for the advance of any funds and the Federal Expenditures and Unobligated Balance of funds using the Federal Financial Report Standard Form 425 (Exhibit 5). This will be submitted to the NRCS State office within 5 business days prior to December 31, March 31, June 30, and September 30 during the life of this agreement. Reports shall be submitted on an accrual accounting basis. Failure to submit reports in accordance with the above schedule may result in suspension or termination of award. A final report shall be submitted no later than 90 days after the completion of the award. For final FFRs, reporting end date shall be the end date of the project or agreement period. Additionally, this report will be used to monitor the progress the entity is making to accomplish the objectives of this agreement.

16. Paragraphs 3, 6, 7, 8, 11, 12 and 14 of this Section shall survive the termination or expiration of this agreement.

X. PUBLIC INFORMATION and CIVIL RIGHTS

A. The **Miami-Dade County** agrees to include USDA Natural Resources Conservation Service in any public news releases, events, brochures, fact sheets, etc. related to acquisition of the properties in the Attachments listing properties acquired with FRPP funds under with this agreement.

B. The **Miami-Dade County** agrees to provide to the NRCS Florida State Public Affairs Specialist for review and comment before public release draft copies of fact sheets or success stories developed for FRPP funded properties acquired under this agreement. This will be provided to NRCS a minimum of three (3) business days before publication. NRCS will return any comments to the **Miami-Dade County** within two (2) business days of receipt of the draft publication.

C. The **Miami-Dade County** agrees to comply with NRCS guidelines and requirements regarding the disclosure of information protected under Section 1619 of the Food, Conservation, and Energy Act. (PL 110-246) Activities performed under this agreement may involve access to confidential and potentially sensitive information

about governmental and landowner issues. Confidential information means information or data of a personal nature, proprietary about an individual, or information or data submitted by or pertaining to an organization. This information shall not be disclosed without prior written consent of NRCS. The FOIA officer should be contacted if there are any questions surrounding the disclosure of information pursuant to one of the exceptions of Section 1619.

XI. GENERAL PROVISIONS.

A. The term of this Cooperative Agreement shall be from the date of the last signature affixed hereto through September 30, 2015.

B. If Conservation Easements on all the parcels listed on Attachments A, B, and C or the substitutions for those parcels are not closed or reimbursement is not requested by the dates indicated in Section III, any remaining funds may be released from this obligation unless a written request to extend the closing or reimbursement date is sent to the State Conservationist within 30 days of such date. A request to amend the Attachment expiration date for specific Conservation Easements must be sent to the State Conservationist a minimum of 60 days prior to the expiration date of the Attachment or these funds will be released from this obligation.

C. No assignment in whole or in part shall be made of any right or obligation under this Cooperative Agreement without the joint approval of both the United States and the **Miami-Dade County**. Nothing herein shall preclude the United States or the **Miami-Dade County** from entering into other mutually acceptable arrangements or agreements, except as identified in Part IX of this cooperative agreement. Such documents shall be in writing, reference this Cooperative Agreement, and shall be maintained as part of the official Cooperative Agreement file.

D. This Cooperative Agreement may be amended or modified by written amendment signed by the authorized officials of the United States and the **Miami-Dade County**. The Cooperative Agreement may be extended only if extenuating circumstances occur with the individual Conservation Easements for which an extension is requested.

E. The United States may terminate this Cooperative Agreement if the United States determines that the **Miami-Dade County** has failed to comply with the provisions of this Cooperative Agreement or if it determines that it is in the best interests of the United States to terminate. In the event that this agreement is terminated for any reason, the financial obligations of the parties will be as set forth in 7 CFR parts 1403, 3016 and 3019, as applicable.

F. This Cooperative Agreement constitutes financial assistance and, therefore, the following provisions are applicable:

1. 7 CFR Part 3015, Uniform Federal Assistance Regulations;
2. 7 CFR Part 3016, Uniform Federal Assistance Regulations;
3. 7 CFR Part 3019, Uniform Federal Assistance Regulations;
4. 7 CFR Part 3017, Government Debarment and Suspension;
5. 7 CFR Part 3021, Government-wide Requirements for a Drug-free Workplace;
6. 7 CFR Part 3052, Audits of Institutions of Higher Learning and Non-Profit Institutions;
7. 2 CFR Part 25, Universal Identifier (Data Universal Numbering System (DUNS)) and Central Contractor Registration (CCR)

8. 2 CFR Part 170, Reporting Subaward and Executive Compensation Information

9. 2 CFR Part 175 (b), Award Term for Trafficking in Persons

10. 2 CFR Part 230, Office of Management and Budget (OMB) Circular A-122, Cost Principles for Non-Profit Organizations; or 2 CFR part 225, Cost Principles for State, Local and Indian Tribal Governments, OMB Circular A-87, OMB Circular A-133, Audits of States, Local Governments and Non-Profit organizations, and

11. Treasury Circular 1075, Withdrawal of Cash from Treasury for Advance under Federal and Other Programs

G. It is the intent of the United States to fulfill its obligations under this Cooperative Agreement. However, NRCS cannot make commitments in excess of funds authorized by law or made administratively available. If NRCS cannot fulfill its obligations under this Cooperative Agreement because of insufficient funds, this Cooperative Agreement will automatically terminate.

H. The **Miami-Dade County** shall give CCC, the United States, or the Comptroller General, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to this Cooperative Agreement.

I. The **Miami-Dade County** agrees to comply with all applicable Federal, State, and local laws.

J. USDA employees shall be familiar and comply with Federal, State, local and USDA motor vehicle safety requirements and policies, including USDA's mandatory ban on text messaging as outlined in this regulation. (EO 13513, "Federal Leadership on Reducing Text Messaging While Driving," dated October 1, 2009 and 5 U.S.C. 7902(d) "Safety Programs").

K. If any recipient of Federal funds under this Cooperative Agreement materially fails to comply with the terms of this Cooperative Agreement, the United States reserves the right to wholly or partially recapture funds provided in accordance with applicable regulations.

XII. EXHIBITS.

Exhibit 1 – 519.110 Form 230 Confirmation of Matching Funds

Exhibit 2 – Standard Form 270 (SF-270) Request for Advance or Reimbursement

Exhibit 3 – Reporting Requirements for Central Contractor Registration (CCR) and Data Universal Number System (DUNS)

Exhibit 4 – 519.102 NRCS Appraisal and 519.105 Technical Review Specifications

Exhibit 5 – Standard Form 425 (SF-425) Federal Financial Report

XII. PRINCIPAL CONTACTS.

The United States representative for this Cooperative Agreement is:

Carlos Suarez, State Conservationist
Natural Resources Conservation Service
on behalf of the Commodity Credit Corporation
2614 NW 43rd Street
Gainesville, FL 32606
(352) 338- 9503

The **Miami-Dade County** representative for this Cooperative Agreement is:

Carlos A. Gimenez, Mayor
Miami- Dade County
Stephen P. Clark Center
111 NW 1st Street, 29th Floor
Miami, Florida 33128
(305) 375-3618

IN WITNESS WHEREOF, the following authorized representatives of the United States and the **Miami-Dade County** have executed this Cooperative Agreement.

Miami-Dade County

_____

By: Mayor Date
Miami- Dade County

UNITED STATES OF AMERICA
COMMODITY CREDIT CORPORATION

_____

By: State Conservationist Date

This action was authorized at an official meeting of the Miami- Dade County on the ___ day of _____, 2011 at Miami-Dade County.

Attest: _____

Title: _____ Date: _____

Programs Funds: Authorized

_____
Name/Title Date

FNM Funds: Available

_____
Name/Title Date

Amount: $_____

Acct. Code: _____

Attachment A[1]

List of Pending Conservation Easement Offers with Obligation of FY 2011 Funds

This attachment must include offered parcels and parcels considered as substitutions under Section IX B. 13. of this agreement. Parcels not included in the attachment when funds are obligated will not be eligible for funding.

A copy of this Attachment will be uploaded into NEST within 14 days of the execution of the cooperative agreement

[1] Funding obligated under this attachment will expire on September 30, 2013 unless a request for extension for this funding year has been approved by the State Conservationist and the Cooperative Agreement is amended with a new Attachment Expiration date.