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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Memorandum

MIAMI-DADE COUNTY

Date: December 4, 2012

To: Honorable Vice Chairwoman Audrey M. Edmonson and Members, Board of County Commissioners

From: Carlos A. Gimenez, Mayor

Agenda Item No. 8(M)(8)

Resolution No. R-1032-12

Subject: Resolution Authorizing the Execution of Interlocal Agreements between Miami-Dade County and the Co-Permittees Named in the National Pollutant Discharge Elimination System Permit No. FLS000003-003 Providing for Performance of Professional Services by Miami-Dade County and for Establishing Responsibility for Identification and Control of Pollutant Discharges in Municipal Separate Storm Sewer Systems Shared Between Co-Permittees

Recommendation

It is recommended that the Board of County Commissioners (Board) approve the attached resolution authorizing the execution of interlocal agreements between Miami-Dade County and the co-permittees named in the National Pollutant Discharge Elimination System Permit No. FLS000003-003. These interlocal agreements provide for performance of professional services conducted by Miami-Dade County on behalf of the co-permittees, establish responsibilities for pollutants detected in storm sewer systems that are shared by co-permittees, and allow annual changes to the participation by co-permittees.

Scope

These agreements involve all Commission Districts.

Fiscal Impact/Funding Source

Under the proposed agreements, the County will perform professional services not to exceed $1,670,000 annually, for which the County would be reimbursed approximately 60%, or $1,001,713, pursuant to the co-permittees' cost share amounts. Without the proposed agreements, the County would be responsible for all costs. The County work is funded by stormwater utility fees.

Track Record/Monitor

The Water Management Division Chief, Marina Blanco-Pape, P.E., Public Works and Waste Management Department, will monitor these agreements.

Background

The Florida Department of Environmental Protection is delegated by the U.S. Environmental Protection Agency to implement the stormwater element of the National Pollutant Discharge Elimination System (NPDES) as mandated by the federal Clean Water Act. On June 21, 2011, the Florida Department of Environmental Protection issued Permit No.FLS000003-003 to 33 co-permittees in Miami-Dade County for the discharge of stormwater to State waters from municipal storm sewer systems located in Miami-Dade County. The 33 co-permittees consist of 29 municipalities, the Florida Department of Transportation District VI, the Florida Department of Transportation Turnpike Enterprise, the Miami-Dade County Expressway Authority and Miami-Dade County. Having 35% of the County's stormwater outfalls, Miami-Dade County is the lead co-permittee under Permit No. FLS000003-003. The five (5) year permit term expires June 20, 2016.

Both the prior and current NPDES permits required a Stormwater Management Plan from each co-permittee that may be implemented through cooperative participation with other permit holders. Pursuant to this requirement, on November 3, 2005, the Board adopted Resolution No. R-1237-05, approving an interlocal agreement between Miami-Dade County and the co-permittees to implement the Stormwater Management Plan. Because the existing interlocal agreement expires November 17, 2012, the proposed interlocal agreements would replace the expiring agreement.

Under the proposed interlocal agreements, Miami-Dade County would perform professional services on behalf of the co-permittees to comply with the conditions of the NPDES Permit No.FLS000003-003. Professional services include water sampling, monitoring, analysis of storm sewer systems and related tasks. The proposed interlocal agreements also establish responsibilities for control, reduction and identification of non-stormwater pollutant discharges from municipal systems to State waters. The proposed agreements also set forth the annual not-to-exceed shared costs that are based on the number and percentage of outfalls for each co-permittee (See Attachment A of Interlocal Agreement). Finally, the proposed agreements allow each co-permittee to modify their selection of tasks for joint participation under the agreement. However, co-permittees that opt to perform tasks on their own must satisfy the permit requirements themselves and coordinate with the FDEP directly.

The proposed interlocal agreements have a five (5) year term from October 1, 2012 to September 30, 2017. The resolution authorizing their execution is hereby presented to the Board and recommended for approval.

Jack Osterholt, Deputy Mayor

MEMORANDUM

(Revised)

TO: Honorable Vice Chairwoman Audrey M. Edmonson and Members, Board of County Commissioners

DATE: December 4, 2012

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

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

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**

3

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(M)(8)
12-4-12

RESOLUTION NO. R-1032-12

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

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

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

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

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

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

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

HARVEY RUVIN, CLERK

By: **Christopher Agrippa**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

ASR/DGK

Abbie Schwaderer-Raurell

EXHIBIT A

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

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

Section I
Definitions

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

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

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

COUNTY shall mean Miami-Dade County

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

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

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

Section II
Term of Agreement

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

Section III
Scope of Work

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

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

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

Section IV
COUNTY's Obligations

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

2. **Permits** The **COUNTY** shall obtain all applicable federal, state and local permits and approvals (with the exception of permits and approvals required by **CO-PERMITTEES**, if any, which shall be obtained by the respective **CO-PERMITTEE**), which are required to perform activities under the NPDES MS4 Operating Permit.

3. **Report** The **COUNTY** shall provide the **CO-PERMITTEES** with a report, on an annual basis, with the results of the monitoring and sampling activities required under the NPDES Operating Permit.

4. **Notice of COUNTY Meeting** The **COUNTY** shall provide the **CO-PERMITTEES** with oral or written notice of all regular meetings held by **COUNTY** staff for the purpose of reviewing the compliance status with the NPDES MS4 Operating Permit.

Section V
CO-PERMITTEES' Obligations

1. **Prevention of Theft of COUNTY Equipment** The **CO-PERMITTEES** shall take reasonable steps to prevent theft or vandalism of **COUNTY** equipment located within the **CO-PERMITTEE'S** geographic boundary. The **CO-PERMITTEES** agree that such equipment may be placed within each **CO-PERMITTEE'S** geographic boundary for extended periods of time, as necessary to complete the sampling and monitoring tasks contemplated by this Agreement and the NPDES MS4 Operating Permit.

2. **Compensation** Each **CO-PERMITTEE** will reimburse the **COUNTY** for costs of activities performed over the preceding fiscal year in accordance with Attachment "A", and as specified in the Execution in Counterparts form for that fiscal year. The **COUNTY** will bill each **CO-PERMITTEE** annually, within six (6) months after the end of the fiscal year, for actual amounts expended during the prior fiscal year. Payment by the **CO-PERMITTEE** is to be made not later than forty-five (45) days after the bill presentation. Failure to pay the agreed-upon costs to the **COUNTY** in accordance with this Agreement shall be deemed default by the **CO-PERMITTEE** that fails to pay pursuant to this Agreement. The expenditures for the final fiscal year that this Agreement is valid will be invoiced by the **COUNTY** and paid by the **CO-PERMITTEES** during the following fiscal year.

3. **Access** The **CO-PERMITTEES** shall provide the **COUNTY** with reasonable access at all times as necessary to perform the sampling and monitoring required by this Agreement of any storm sewer systems which may be located within the **CO-PERMITTEE'S** geographic boundary.

Section VI
Indemnification

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

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

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

Section VII
County Event of Default

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

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

1. The right to declare that this Agreement together with all rights granted to **COUNTY** hereunder are terminated, effective upon such date as is designated by the **CO-PERMITTEE**;

2. Any and all rights provided under federal laws and the laws of the State of Florida.

Section VIII
Co-Permittee Event of Default

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

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

1. The right to declare that this Agreement together with all rights granted to **CO-PERMITTEE** hereunder are terminated, effective upon such date as is designated by the **COUNTY**;

2. Any and all rights provided under federal laws and the laws of the State of Florida.

Section IX
General Provisions

1. **Authorization to Represent the CO-PERMITTEE in NPDES MS4 Operating Permit** The **CO-PERMITTEE** hereby authorizes the **COUNTY** to act on its behalf only with respect to: the activities under this Agreement; and compliance with requirements of those monitoring, sampling, BMP, and BMAP portions under the NPDES MS4 Operating Permit.

2. **Attendance at COUNTY Permit Review Meetings.** The **CO-PERMITTEE** may, but is not required to, attend any or all regular meetings held by **COUNTY** staff for the purpose of reviewing the status of the NPDES MS4 Operating Permit.

3. **Responsibility for Discharges** The **CO-PERMITTEES** shall each be responsible for the control, investigation of and remedial activities relating to discharges of pollutants from within their respective MS4 or boundaries to the municipal separate storm sewer system of another NPDES MS4 **CO-PERMITTEE**, pursuant to the requirements of 40CFR 122.26(d)(2)(i)(D).

4. **Identification of Discharges** Both the **CO-PERMITTEE** whose stormwater system generates a pollutant discharge that impacts another **CO-PERMITEE'S** system and the impacted **CO-PERMITTEE** agree to cooperate by providing the staff and equipment necessary to identify the source of pollutant discharges emanating from the separate storm sewer system of one **CO-PERMITTEE** to the separate storm sewer system of another **CO-PERMITTEE.**

5. **Notification** When pollutant discharges to a shared separate storm sewer system are discovered, the **CO-PERMITTEES,** or **COUNTY,** or any of the foregoing, as applicable, which are the source of the discharge(s) agree to report said discharges to the other affected parties sharing the particular MS4. The **COUNTY** shall assist, as needed, in any investigation and identification of a source of the discharge. If the **COUNTY** discovers a discharge in the separate storm sewer system of a **CO-PERMITTEE** or the **COUNTY**, the **COUNTY** will investigate the source of the discharge and report its findings to the affected NPDES **CO-PERMITTEES.** When an investigation specifically identifies a NPDES **CO-PERMITTEE** as the source of a pollutant discharge, then that **CO-PERMITTEE** shall be responsible

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

6. **Dispute Resolution** When the parties sharing a MS4 cannot agree on the source of a discharge to their shared MS4, the State of Florida Department of Environmental Protection, Bureau of Watershed Management, shall be the final arbiter in determining jurisdiction and responsibility for cessation of discharge, remediation, and final resolution.

7. **Termination** Each party may terminate that particular party's participation in this Agreement without cause by providing sixty (60) days prior written notice of termination to the other parties to this Agreement. **CO-PERMITTEES** shall be entitled to reimbursement of monies paid to the **COUNTY** only in the event of termination without cause by the **COUNTY**, and the **CO-PERMITTEE** shall then be entitled to such reimbursement only to the extent that services providing information useful to the NPDES MS4 Permit have not been rendered by the **COUNTY**. Upon termination by any party, the NPDES MS4 Operating Permit status of that party shall be the sole responsibility of that party.

8. **Entire Agreement; Prior Agreements Superseded; Amendment to Agreement** This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein. The parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this Agreement, and that this Agreement contains the entire agreement between the parties as to matters contained herein. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that any oral representations or modifications concerning this Agreement shall be of no force or effect, and that this Agreement may be modified, altered or amended only by a written amendment duly executed by the parties hereto or their representatives.

9. **Headings** Captions and headings in this Agreement are for ease of reference only and do not constitute a part of this Agreement and shall not affect the meaning or interpretation of any provisions herein.

10. **Notices and Approval** Notices and approvals required or contemplated by this Agreement shall be written and personally served or mailed, registered or certified United States mail, with return receipt requested, addressed to the parties listed in Section I of this Agreement.

11. **Performance by Parties** Except as otherwise provided in this Agreement, in the event of any dispute arising over the provisions of this Agreement, the parties shall proceed with the timely performance of their obligations during the pendency of any legal or other similar proceedings to resolve such dispute.

12. **Rights of Others** Nothing in the Agreement express or implied is intended to confer upon any person other than the parties hereto any rights or remedies under or by reason of this Agreement.

13. **Time is of Essence** It is mutually agreed that time is of the essence in the performance of all terms and conditions to be met and performed pursuant to this Agreement.

14. **Governing Law** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida and the United States. The **COUNTY** and the **CO-PERMITTEE** agree to submit to service of process and jurisdiction of the State of Florida for any controversy or claim arising out of or relating to this Agreement or a breach of this Agreement. Venue for any court action between the parties for any such controversy arising from or related to this Agreement shall be in the Eleventh

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

15. **Severability** The invalidity of one or more of the phrases, sentences, clauses, or Sections contained in this Agreement shall not affect the validity of the remaining portion of the Agreement, provided the material purposes of this Agreement can be determined and effectuated.

16. **Waiver** There shall be no waiver of any right related to this Agreement unless in writing signed by the party waiving such right. No delay or failure to exercise a right under this Agreement shall impair such right or shall be construed to be a waiver thereof. Any waiver shall be limited to the particular right so waived and shall not be deemed a waiver of the same right at a later time, or of any other right under this Agreement.

17. **Number of Outfalls** The **COUNTY** will review and adjust on an annual basis the number of outfalls and MS4 drainage area of each **CO-PERMITTEE** during the month of March for each fiscal year the Agreement is in effect. Adjustments made, if any, will be in effect for the upcoming fiscal year, to recalculate each **CO-PERMITTEE'S** share of the total annual costs. **CO-PERMITTEES** may submit relevant outfall information to be included in the review during a two month period, from January1st to February 28th of the year immediately preceding the start of the fiscal year of the intended changes. An updated Attachment "A" shall be provided to **CO-PERMITTEES** annually by March 31st for budgetary purposes.

18. **Maximum Annual Costs** Each **CO-PERMITTEE'S** maximum (not to exceed) financial commitment under this Agreement is shown in Attachment "A". It should be noted that the **CO-PERMITTEE's** cost share may change (+/-) based on any changes made to the Number of Outfalls or Drainage Area during the annual reviews. Such changes shall be reflected in an updated Attachment "A". Actual annual expenditures invoiced by the **COUNTY** for water monitoring, sampling, BMP, and BMAP activities performed, will not exceed the **CO-PERMITTEE'S** total annual cost shown in Attachment "A" for that fiscal year.

Execution in Counterparts

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

IN WITNESS WHEREOF, _____, FLORIDA,

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

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

Activity 1 (Water Monitoring)

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

Activity 2 (Best Management Practices, BMP)

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

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

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

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

_____
Name of Manager (print)

_____
Signature Date

_____
Name of Clerk / Legal Representative (print)

_____
Signature Date

Execution in Counterparts

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

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

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

_____

Mayor or Mayor's Designee Date

HARVEY RUVIN, CLERK
Attest:

_____

Deputy Clerk Date

FY 12-13 (ANNUAL) MONITORING COSTS FOR MIAMI-DADE COUNTY AND CO-PERMITTEES

Municipality/Agency	Number of Outfalls	Percent of Total Outfalls	Activity 1: Water Monitoring Annual Costs (not to exceed)	MS4 Drainage Area (square feet)	Percent of Total MS4 Drainage Area	Activity 2: BMP Annual Costs (not to exceed)	Activity 3: BMAP/WTW Annual Costs (not to exceed)	Activity 1+2: Co-Permittee's Total Annual Cost (not to exceed)	Activity 1+2+3: Co-Permittee's Total Annual Cost (not to exceed)
Aventura, City of	168	2.1	$9,763	3,692,775	0.17	$60	$2,003	$9,822	$11,826
Bal Harbour Village	10	0.1	$581	1,047,127	0.05	$17	$568	$598	$1,166
Bay Harbor Islands, Town of	54	0.7	$3,138	2,016,058	0.09	$33	$1,094	$3,171	$4,264
Coral Gables, City of	109	1.4	$6,334	52,297,467	2.42	$849	$28,372	$7,183	$35,555
Cutler Bay, Town of	157	2.0	$9,123	26,080,350	1.21	$423	$14,149	$9,547	$23,696
Doral, City of	352	4.4	$20,455	15,535,462	0.72	$252	$8,428	$20,707	$29,135
El Portal, Village of	6	0.1	$349	1,983,107	0.09	$32	$1,076	$381	$1,457
Golden Beach, Town of	8	0.1	$465	932,283	0.04	$15	$506	$480	$986
Hialeah Gardens, City of	7	0.1	$407	9,875,350	0.46	$160	$5,358	$567	$5,925
Homestead, City of	168	2.1	$9,763	34,072,903	1.58	$553	$18,485	$10,316	$28,801
Indian Creek Village	16	0.2	$930	482,118	0.02	$8	$262	$938	$1,199
Key Biscayne, Village of	33	0.4	$1,918	5,750,201	0.27	$93	$3,120	$2,011	$5,131
Medley, Town of	44	0.5	$2,557	10,707,972	0.50	$174	$5,809	$2,731	$8,540
Miami Beach, City of	306	3.8	$17,782	30,511,682	1.41	$495	$16,553	$18,277	$34,830
Miami Gardens, City of	298	3.7	$17,317	71,074,976	3.30	$1,153	$38,559	$18,470	$57,030
Miami Lakes, Town of	221	2.8	$12,842	18,869,747	0.87	$306	$10,237	$13,149	$23,386
Miami Shores, Village of	32	0.4	$1,860	11,599,210	0.54	$188	$6,293	$2,048	$8,341
Miami Springs, City of	23	0.3	$1,337	14,444,585	0.67	$234	$7,836	$1,571	$9,407
North Bay Village, City of	65	0.8	$3,777	1,417,155	0.07	$23	$769	$3,800	$4,569
North Miami Beach, City of	204	2.5	$11,855	23,802,524	1.10	$386	$12,913	$12,241	$25,154
North Miami, City of	115	1.4	$6,683	29,505,817	1.37	$479	$16,007	$7,162	$23,169
Opa-locka, City of	18	0.2	$1,046	11,570,829	0.54	$188	$6,277	$1,234	$7,511
Palmetto Bay, Village of	98	1.2	$5,695	31,564,566	1.46	$512	$17,124	$6,207	$23,331
Pinecrest, Village of	58	0.7	$3,370	31,645,995	1.47	$514	$17,169	$3,884	$21,053
South Miami, City of	31	0.4	$1,801	10,831,867	0.50	$176	$5,876	$1,977	$7,854
Sunny Isles Beach, City of	66	0.8	$3,835	1,924,058	0.09	$31	$1,044	$3,867	$4,910
Surfside, Town of	5	0.1	$291	2,717,687	0.13	$44	$1,474	$335	$1,809
[1] Virginia Gardens, Village of	1	0.0	$58	1,557,857	0.07	$25	$845	$83	$929
[1] West Miami, City of	1	0.0	$58	4,464,032	0.21	$72	$2,422	$131	$2,552
FDOT District VI	1,469	18.4	$85,364	473,738,425	21.97	$7,688	$257,011	$93,053	$350,064
FDOT Turnpike Enterprise	574	7.2	$33,355	176,417,284	8.18	$2,863	$95,709	$36,219	$131,928
MDX	456	5.7	$26,498	142,654,138	6.61	$2,315	$77,392	$28,814	$106,206
Unin. Miami-Dade County	2,829	35.4	$164,395	901,826,504	41.82	$14,636	$489,257	$179,030	$668,287
Totals (NOT TO EXCEED)	**8,002**	**100.0**	**$465,000**	**2,156,612,110**	**100**	**$35,000**	**$1,170,000**	**$500,000**	**$1,670,000**

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

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

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