

Memorandum



Date: January 20, 2021

To: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

Agenda Item No 3(B)(4)

From: Daniella Levine Cava
Mayor

Daniella Levine Cava Resolution No. R-8-21

Subject: Resolution Ratifying a Memorandum of Agreement, Pursuant to Section 2-9 and 2-10 of the Miami-Dade County Code, with the Florida Department of Health in Miami-Dade County for Water Quality Testing at County Beaches and Atoll Pools

Recommendation

It is recommended that the Board of County Commissioners approve the attached resolution, pursuant to Section 2-9 and 2-10 of the Miami-Dade County Code, and ratify the execution of a Memorandum of Agreement (Agreement) with the Florida Department of Health in Miami-Dade (Provider) for water quality testing and sampling at County beaches and atoll pools, and authorizing the County Mayor or County Mayor's designee to execute the Agreement on behalf of the County and to exercise all rights and provisions in the Agreement.

Scope

The Parks, Recreation and Open Spaces Department's (PROS) Crandon Park Beach and Haulover Beach are located within County Commission Districts 7 and 4, which are represented by Commissioners Raquel Regalado and Sally A. Heyman, respectively. PROS' atoll pools are adjacent to Biscayne Bay at Homestead Bayfront Park and Matheson Hammock Park and are located within County Commission Districts 9 and 7, which are represented by Commissioners Kionne L. McGhee and Raquel Regalado, respectively. Larry and Penny Thompson Park bathing beach is located in County Commission District 9.

Fiscal Impact/Funding Source

The fiscal impact for the one-year agreement is \$41,342.84 and the funding source is the general fund expense index codes of the parks listed above.

Track Record/Monitor

Mark Richard, Manager of PROS' Heritage Parks, Beaches and Marinas, will monitor the Agreement.

Delegation of Authority

This item authorizes the County Mayor or Mayor's designee to execute the Agreement, and to exercise all rights conferred therein, as provided in the resolution, with the exception of the renewal term in Section VIII. PROS will obtain Board approval for any renewal terms.

Background

PROS has contracted with the Provider to perform recreational water quality monitoring including laboratory and analysis services through an annual agreement for several years. This effort is aimed at reducing potential swimming related illnesses associated with the use of those public beach sites. The Provider has the necessary components in place to perform environmental services to test for pathogens, waterborne diseases and pollutants that may increase swimming-related illnesses among

beachgoers. Recreational beach quality water sampling will be analyzed as recommended by Florida Department of Health (FDOH) and US Environmental Protection Agency to assess the microbiological and sanitary water quality in marine and lake waters. The FDOH is nationally accredited by the Public Health Accreditation Board, and under Chapter 514.023 of the Florida Statutes has the authority to adopt and enforce rules and issue health advisories to protect the health of persons using beach waters and public bathing places in the state. Chapter 154 of the Florida Statutes states that it is the intent of the Florida Legislature to protect the health and safety of citizens and visitors through a system of coordinated county health department services, and recognizes the unique partnership which necessarily exists between the state and its counties in meeting the public health needs of the state. FDOH’s laboratory collects the water samples, analyzes, stores and manages the data from the samples, and provides guidance on the testing results. Currently, the City of Miami Beach, City of Miami, and the Town of Golden Beach use the FDOH lab for their sampling. For these reasons, it is recommended that the County contract directly with the FDOH without competitive bidding.

This Agreement (Attachment A) is retroactive due to timing in obtaining Board approval by the Agreement’s start date, March 1, 2020. This is necessary to maintain continuity of water testing for the health and safety of County residents and visitors.



Jimmy Morales
Chief of Operations

Attachment

ATTACHMENT A

MEMORANDUM OF AGREEMENT

BETWEEN

STATE OF FLORIDA
DEPARTMENT OF HEALTH (MIAMI-DADE)

AND

MIAMI-DADE COUNTY PARKS, RECREATION AND OPEN SPACES DEPARTMENT

THIS MEMORANDUM OF AGREEMENT is made and entered into by and between the Miami-Dade County Parks, Recreation and Open Spaces Department, hereafter referred to as the "County", and the State of Florida, Department of Health (Miami-Dade), hereafter referred to as the "Provider".

WHEREAS, the County desires to engage the Provider to perform recreational water quality monitoring including laboratory and analysis services to identify and evaluate significant point and non-point sources of fecal pollution occurring in public beaches or swimming sites operated and/or maintained by the County. This effort is aimed at reducing potential swimming related illnesses associated with the use of public beach sites.

WHEREAS, the County, realizes that the Provider has the necessary components in place to perform environmental services to ensure that its beaches and public swimming sites used by its residents and visitors are safe from pathogens, waterborne diseases or pollutants that may increase swimming related illnesses amongst its beach goers.

NOW, THEREFORE, in consideration of the mutual covenants and considerations set forth herein, the Parties execute this Memorandum of Agreement so same becomes binding and enforceable by and through the Parties, their heirs and assigns, and agree heretofore:

I. TERMS AND DEFINITIONS

1. Memorandum of Agreement (MOA). Document contains and constitutes the legal and binding language between the Provider and the County, including but not limited to all Attachments, Exhibits, and Amendments.
2. Sites: The geographical areas listed in Exhibit B.
3. Clean Water Act (CWA): The Act ,33 U.S.C. § 1251, *et seq*, is the primary federal law in the United States governing water pollution. The act established the goals of eliminating releases of high amounts of toxic substances into water, eliminating additional water pollution, and ensuring that surface waters would meet standards necessary for human sports and recreation.
4. Invoice: A mechanism by which the Provider requests payment from the County for services rendered for a specific cost and period.

II. RECITALS

The Parties mutually agree that the foregoing recitals are true and correct and incorporated herein by reference.

III. The Provider agrees to the following:

1. To provide recreational water testing/sampling for those sites and locations operated and/or maintained by the County outlined in Exhibit B to determine and/or evaluate significant point and non-point sources of fecal pollution. Recreational beach quality water sampling will be analyzed for the fecal microbe (fmi) Enterococci- as recommended by Florida Department of Health and US EPA to assess the microbiological and sanitary water quality in marine waters.
2. To perform recreational water testing/sampling at those sites specified in Exhibit B not less than the frequencies and intervals specified during the summer season (Memorial Day through Labor Day) and once per month throughout the remainder of the year as specified in Exhibit B, or at other active sites upon request. Crandon North, Crandon South, Haulover South, Haulover North will be sampled as per the Florida Healthy Beaches Program Guidelines, herein incorporated by reference.
3. To adhere to and to conduct recreational water quality monitoring/sampling services applicable to and within federal and state laws, regulations, and guidelines.
4. To provide and maintain adequate staffing to conduct the required services in a timely manner.
5. To monitor/sample recreational water quality at the County designated sites at the intervals outlined in Exhibit B.
6. To invoice the County for actual water tests/samplings completed at each site by submitting a properly completed Requests for Payment, Exhibit A.
7. To notify the County of any beach advisories, clearances (re-openings) and/or updates (advisories) via email and/or phone call.
8. To maintain or retain records relevant to the performance of services including laboratory data, beach advisories, complaint investigations and any other documents pertinent to this Agreement for a period of six (6) years after termination of the agreement.

IV. The County agrees to the following:

1. To provide the Provider with access to the designated sites outlined per Exhibit B for sampling or testing for contaminants or pollutants in beaches or public swimming sites operated and/or maintained by the County.
2. To notify the public of any beach advisories and rescission advisories through utilization of various local media networks.
3. To pay the Provider on receipt of a properly completed invoice, Exhibit A, for all work completed at the designated sites within thirty (30) calendar days following the end of the period for which payment is requested. The Provider shall perform recreational water testing and analysis services at the County's designated sites according to the periods listed below, for the terms:

March 1- April 30

May 1 – September 30

October 1 – December 31

January 1 – February 28 (except when it is a Leap Year; then, February 29.)

V. Both Parties mutually agree:

V. Both Parties mutually agree:

1. The total cost for the performance of this service is estimated at Forty-One Thousand Three Hundred Forty-Two Dollars and Eight-Four Cents (\$41,342.84) annually.
2. That all activity pursuant to this Agreement will be in accordance with applicable current federal, state and local laws, rules, and regulations.
3. Agree to be fully responsible for its acts, actions, omissions, and negligence of its agents, officers, and employees during the performance or operation of this Agreement. Nothing herein is intended to serve as a waiver of sovereign immunity by any party to which sovereign immunity may be applicable. Nothing herein shall be construed as consent by a state agency or political subdivision as defined in Chapter 768.28, Florida Statutes, State of Florida, to be sued by third parties in any matter arising out of this Agreement, any other contract or any subsequent modifications thereof, whether direct or indirect and whether to any person or tangible or intangible property.
4. During the term of this Agreement, the Provider shall complete no less than one (1) recreational water sampling and analysis per week, including the repeat sampling at no more than 5% of the total number of sampling per year. If the County requests repeat sampling during the year, then the County will be invoiced for each additional repeat water sampling completed at the appropriate rate specified in Exhibit B*.

**The Environmental Fees will be increased automatically by 3%, or the current inflation rate, whichever is higher, annually, beginning the 1st of October of each year as approved by the County Mayor or County Mayors designee.*

VI. Termination at Will:

This Memorandum of Agreement may be terminated by either Party upon no less than thirty (30) calendar days' notice in writing to the other Party, without cause, unless a lesser time is mutually agreed upon in writing by both Parties. Said notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery.

VII. Modification:

Modifications of provisions of this Agreement shall only be valid when they have been reduced to writing and duly signed by both Parties.

VIII. Renewal:

This Agreement may be renewed on a yearly basis. Such renewals shall be made by mutual agreement and shall be in writing no less than thirty (30) calendar days' notice in writing to the other Party.

IX. NOTICE:

All notices whenever required to be given under the terms of this Agreement, shall be giving in writing, deemed delivered when sent via facsimile or electronic mail to each party, or three (3) days after sent by certified mail, registered mail, return receipt requested, or hand delivered, with proof of delivery, addressed to the party for whom intended or actually received by the party for whom intended, whichever is earlier, to the following addresses:

To Provider:

Samir Elmir, PhD, PE, BCEE, CEHP
Florida Department of Health in Miami-Dade County
Director of Environmental Health & Engineering Services
1725 NW 167 Street, Room 220
Miami, FL 33056
Phone: (305) 623-3595
Email: Samir.Elmir@flhealth.gov
Copy to:

Contract Manager
Florida Department of Health in Miami-Dade County
8323 NW 12th Street, Suite 214
Doral, FL 33126
Phone: 786-845-0300

To County:

David Livingstone
Assistant to the Director
272 NW 2nd Street, Suite 555
Miami, FL 33128
Phone: 305-755-7824
Email: David.Livingstone@miamidade.gov

X. Effective and Ending Dates:

This Memorandum of Agreement shall begin on March 1, 2020 or on the date, on which both Parties have signed the Memorandum of Agreement, or whichever is later, and it shall end on September 30, 2020.

XI. Independent Capacity of the Contractor:

In the performance of this Memorandum of Agreement, it is agreed between the parties that the provider is an independent contractor and that the provider is solely liable for the performance of all tasks contemplated by this Agreement.

XII. Governing Law:

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

XIII. Benefit/Assignment:

Subject to provisions herein to the contrary, this Memorandum of Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective legal representatives, successors and permitted assigns. No Party may assign this Memorandum of Agreement without the prior consent of the other Party, the consent of which shall be given at that Party's sole discretion.

XIV. Waiver of Breach:

Waiver of breach of any provisions of this Agreement shall not be deemed to be a waiver of any other breach and shall not be construed to be a modification of the terms of this Agreement. The provisions herein do not limit any party's right to remedies at law or in equity.

XV. Severability:

This Agreement contains all the terms and conditions agreed upon by the parties. There are no provisions, terms, conditions or obligations other than those contained herein, and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written between the parties. If any term or provision of the Agreement is found to be illegal or unreasonable, the remainder of the Agreement shall remain in full force and effect, and such term or provision shall be stricken.

XVI. Entire Agreement:

The parties acknowledge that this Agreement, including reference exhibits represents all terms and conditions agreed upon by both parties; expresses their entire understanding and agreement, and that there have been no warranties, representations oral or otherwise, covenants or understandings made by either Party to the other except such as are expressly set forth in this section. The parties further acknowledge that this Agreement supersedes, terminates, and otherwise renders null and void any prior agreements or contracts entered into between the parties with respect to the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

IN WITNESS WHEREOF, the Parties hereto have caused this 7-page Memorandum of Agreement to be executed by their officials thereunto duly authorized.

Miami-Dade County Parks, Recreation and
Open Spaces Department

State of Florida, Department of Health
(Miami-Dade)

Name: Michael Spring

Name: Yesenia Villalta, APRN, DNP, MSN

Signature: _____

Signature: _____

Title: Senior Advisor

Title: Administrator/Health Officer

Date: _____

Date: _____

END OF TEXT

Mission:

To protect, promote & improve the health
of all people in Florida through integrated
state, county & community efforts.



Scott A. Rivkees, MD
State Surgeon General

Vision: To be the Healthiest State in the Nation

Exhibit A

Date: _____ **Invoice #:** _____

Bill To:

David Livingston
Special Project Administrator
Miami-Dade County Parks, Recreation
And Open Spaces Department
275 NW Second Street
Miami, FL 33128

Bill From:

Milda Belette
Operations Analyst II
Account Payables
Miami-Dade County Health Department
8175 NW 12th Street, #306
Doral, FL 33126

SERVICES PROVIDED	BILLING PERIOD	TOTAL SERVICES PROVIDED	RATE PER SERVICES	AMOUNT REQUESTED FOR PAYMENT

Payment requested for monitoring completed at the locations per Exhibit B.

Total amount requested for payment: \$ _____

Please make check payable to:

State of Florida, Department of Health
8175 NW 12th Street, Suite 306
Doral, FL 33126

**Florida Department of Health
in Miami-Dade County**

8323 NW 12 Street, Suite 214 • Miami, Florida 33126
PHONE: 786-845-0300 • FAX: 786-845-0306

FloridaHealth.gov



Accredited Health Department
Public Health Accreditation Board

M-DC Parks Surface Water Sampling Site and Calculations 2020-2021 EXHIBIT B								
LN #	Site	Location	Weekly Sample (Year Round)	May - Sept (2 X Month)	Oct - April (1 x Month)	Total # of Samplings	Rate	Extended Cost
1	4ND	Haulover Park South 10800 Collins Ave.	1	N/A	N/A	52	\$95.48	\$ 4,964.96
2	6ND	Haulover Park North 10800 Collins Ave.	1	N/A	N/A	52	\$95.48	\$ 4,964.96
3	7ND	Haulover Park - Inlet 10800 Collins Ave.	N/A	10	7	17	\$95.48	\$ 1,623.16
4	6KB	Crandon Park -North 4000 Crandon Blvd., Key Biscayne	1	N/A	N/A	52	\$95.48	\$ 4,964.96
5	8KB	Crandon Park -South 4000 Crandon Blvd., Key Biscayne	1	N/A	N/A	52	\$95.48	\$ 4,964.96
6	1MH	Matheson Hammock Atoll Poll North 9610 Old Cutler RD., Coral Gables, FL	1	N/A	N/A	52	\$95.48	\$ 4,964.96
7	2MH	Matheson Hammock Atoll Poll Center 9610 Old Cutler RD., Coral Gables, FL	N/A	10	7	17	\$95.48	\$ 1,623.16
8	3MH	Matheson Hammock Atoll Pool - South	N/A	10	7	17	\$95.48	\$ 1,623.16
9	1HB	Homestead Bayfront Atoll North 9698 N Canal Drive	N/A	10	7	17	\$95.48	\$ 1,623.16
10	2HB	Homestead Bayfront Atoll - Center 9698 North Canal Drive	N/A	10	7	17	\$95.48	\$ 1,623.16
11	3HB	Homestead Bayfront Atoll - South 9698 South Canal Drive	N/A	10	7	17	\$95.48	\$ 1,623.16
12	1LP	L & P Thompson Bathing Beach - North 12451 SW 184th Street, Miami, FL	N/A	10	7	17	\$95.48	\$ 1,623.16
13	2LP	L & P Thompson Bathing Beach - Center 12451 SW 184th Street, Miami, FL	N/A	10	7	17	\$95.48	\$ 1,623.16
14	3LP	L & P Thompson Bathing Beach - South (Water) 12451 SW 184th Street, Miami, FL	N/A	10	7	17	\$95.48	\$ 1,623.16
Sampling Cost:						413	\$95.48	\$ 39,433.24
RES Conformation as required for Advisory: 20 Samplings.*						20	\$95.48	\$ 1,909.60
Sampling Total Cost (including Conformation Sampling):						433		\$ 41,342.84

*Based upon the number of conformation samples collected from May 2019 to April 2020. This number may vary and the and County will be charged accordingly.

13H27_Samir



MEMORANDUM

(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: January 20, 2021

FROM: 
Gen Bonzon-Keenan
Successor County Attorney

SUBJECT: Agenda Item No. 3(B)(4)

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 present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____ 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)(4)
1-20-21

RESOLUTION NO. R-8-21

RESOLUTION RATIFYING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE'S EXECUTION OF A MEMORANDUM OF AGREEMENT FOR \$41,342.84 BETWEEN MIAMI DADE COUNTY AND THE STATE OF FLORIDA, DEPARTMENT OF HEALTH, FOR WATER QUALITY SAMPLING AND TESTING AT CRANDON PARK, HAULOVER PARK, MATHESON HAMMOCK PARK, HOMESTEAD BAYFRONT PARK, AND LARRY AND PENNY THOMPSON PARK, FOR A ONE-YEAR TERM PURSUANT TO SECTION 2-9 AND 2-10 OF THE MIAMI-DADE COUNTY CODE; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXERCISE CERTAIN RIGHTS HEREIN

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:

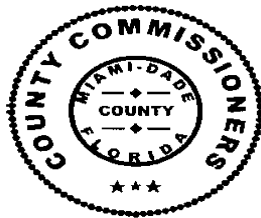
Section 1. Ratifies the County Mayor or County Mayor's designee's execution of a Memorandum of Agreement for recreational water quality monitoring including laboratory and analysis services between the State of Florida, Department of Health (Miami-Dade) and Miami-Dade County, attached to the Mayor's Memorandum as Attachment A.

Section 2. Authorizes the County Mayor or County Mayor's designee to exercise all rights conferred therein, with the exception of the renewal term in Section VIII. Renewal terms will require Board approval.

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

Jose "Pepe" Diaz, Chairman	aye		
Oliver G. Gilbert III, Vice-Chairman	aye		
Sen René Garcia	aye	Keon Hardemon	aye
Sally A. Heyman	aye	Danielle Cohen Higgins	aye
Eileen Higgins	aye	Joe A. Martinez	aye
Kionne L. McGhee	aye	Jean Monestime	aye
Raquel A. Regalado	aye	Rebeca Sosa	aye
Sen. Javier D. Souto	aye		

The Chairperson thereupon declared this resolution duly passed and adopted this 20th day of January, 2021. 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: **Melissa Adames**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

mjs

Melanie J. Spencer