

**INTERLOCAL AGREEMENT BETWEEN CO-PERMITTEES NAMED IN NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT NO. FLS000003 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**

This Interlocal Agreement ("Agreement") is made and entered into by, and between, **CO-PERMITTEES** named in Florida Department of Environmental Protection Permit Number FLS000003, 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**.

**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 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 District Six (FDOT District Six), , Miami-Dade Expressway Authority (MDX), and Miami-Dade County. For the purposes of this Interlocal Agreement, Florida Department of Transportation Turnpike Enterprise (FDOT Turnpike Enterprise) is not included in this definition of CO-PERMITTEE or CO-PERMITTEES.

**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, 2022, and expire on September 30, 2027.

**Section III**  
**Scope of Work**

The parties hereto agree that the DEP 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 historical water monitoring annual costs (Activity 1) and Pollutant Loading Calculations and/or other required tasks related to Impaired Waters Rule (IWR) monitoring and analyses costs (Activity 2) attributable to this operating permit shall be shared by all **CO-PERMITTEES**, and the costs shall be based on a percentage rate obtained by dividing the number of outfalls of each **CO-PERMITTEE** by the total number of outfalls of all **CO-PERMITTEES** in accordance with 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**

Each **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. Each **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-PERMITTEE'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.

Nothing herein shall constitute a waiver of Section 768.28 of the Florida Statutes or shall be construed as impacting or modifying the protections set forth therein.

**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** Each 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-PERMITTEES may, but are 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-PERMITTEE'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.

In the event of termination by a **CO-PERMITTEE**, that **CO-PERMITTEE** shall owe the **COUNTY** for all services rendered or performed by the **COUNTY**, including those which had not yet been invoiced or billed to the **CO-PERMITTEE**. Upon receiving invoice from the **COUNTY** for such services, the **CO-PERMITTEE** shall promptly pay the **COUNTY** in full, no later than thirty (30) days from receipt of invoice.

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** If requested, the COUNTY will review and adjust on an annual basis the number of outfalls 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 January 1<sup>st</sup> to February 28<sup>th</sup> of the year immediately preceding the start of the fiscal year of the intended changes. In the event of a change, an updated Attachment "A" shall be provided to CO-PERMITTEES annually by March 31<sup>st</sup> 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 during the annual reviews. Such changes shall be reflected in an updated Attachment "A". Actual annual expenditures invoiced by the COUNTY for water quality monitoring and related activities, IWR, and Pollutant Loading Calculation 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. The FDOT District Six will execute a separate agreement with Miami-Dade County, which is similar in scope and intent to this Agreement, due to State of Florida requirements.

IN WITNESS WHEREOF,

\_\_\_\_\_, FLORIDA,

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

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

Activity 1 (Water Monitoring and Annual Analyses Report)

- By signing this Agreement, we agree to participate and be invoiced for this Activity.

Activity 2 (Pollutant Loading Calculations or other NPDES Permit-required Task)

- 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, and any such modifications shall only apply prospectively to work that has not yet been performed.

\_\_\_\_\_  
Name of Manager / Mayor (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



**ATTACHMENT "A"**

**Miami-Dade County Co-Permittees NPDES Interlocal Agreement  
Water Monitoring Annual Estimated Costs  
Fiscal Year 2023 to 2026**

	Municipality/Agency	Number of Outfalls	Percent of Total Outfalls	Activity 1	Activity 2	Activity 1+2
				Historical Monitoring and Analyses	Pollutant Loading or Other Permit Requirements	Co-Permittee Annual Cost (not-to-exceed)
1	Aventura, City of	175	2.10	\$13,646	\$2,099	\$15,745
2	Bal Harbour Village	10	0.12	\$780	\$120	\$900
3	Bay Harbor Islands, Town of	58	0.70	\$4,523	\$696	\$5,218
4	Coral Gables, City of	113	1.36	\$8,811	\$1,356	\$10,167
5	Cutler Bay, Town of	194	2.33	\$15,127	\$2,327	\$17,454
6	Doral, City of	368	4.41	\$28,695	\$4,415	\$33,109
7	El Portal, Village of	11	0.13	\$858	\$132	\$990
8	Golden Beach, Town of	12	0.14	\$936	\$144	\$1,080
9	Hialeah Gardens, City of	12	0.14	\$936	\$144	\$1,080
10	Homestead, City of	182	2.18	\$14,191	\$2,183	\$16,375
11	Indian Creek Village	33	0.40	\$2,573	\$396	\$2,969
12	Key Biscayne, Village of	36	0.43	\$2,807	\$432	\$3,239
13	Medley, Town of	45	0.54	\$3,509	\$540	\$4,049
14	Miami Beach, City of	312	3.74	\$24,328	\$3,743	\$28,071
15	Miami Gardens, City of	402	4.82	\$31,346	\$4,822	\$36,168
16	Miami Lakes, Town of	350	4.20	\$27,291	\$4,199	\$31,490
17	Miami Shores, Village of	34	0.41	\$2,651	\$408	\$3,059
18	Miami Springs, City of	27	0.32	\$2,105	\$324	\$2,429
19	North Bay Village, City of	71	0.85	\$5,536	\$852	\$6,388
20	North Miami Beach, City of	211	2.53	\$16,453	\$2,531	\$18,984
21	North Miami, City of	207	2.48	\$16,141	\$2,483	\$18,624
22	Opa-locka, City of	74	0.89	\$5,770	\$888	\$6,658
23	Palmetto Bay, Village of	106	1.27	\$8,265	\$1,272	\$9,537
24	Pinecrest, Village of	72	0.86	\$5,614	\$864	\$6,478
25	South Miami, City of	30	0.36	\$2,339	\$360	\$2,699
26	Sunny Isles Beach, City of	69	0.83	\$5,380	\$828	\$6,208
27	Surfside, Town of	11	0.13	\$858	\$132	\$990
28	<sup>1</sup> Virginia Gardens, Village of	5	0.06	\$390	\$60	\$450
29	<sup>1</sup> West Miami, City of	5	0.06	\$390	\$60	\$450
30	FDOT District VI	1,687	20.24	\$131,544	\$20,238	\$151,781
31	MDX	456	5.47	\$35,557	\$5,470	\$41,027
32	Unin. Miami-Dade County	2,958	35.48	\$230,650	\$35,485	\$266,135
	<b>ANNUAL TOTALS (Not to Exceed)</b>	<b>8,336</b>	<b>100.00</b>	<b>\$650,000</b>	<b>\$100,000</b>	<b>\$750,000</b>

**NOTES:**

<sup>1</sup> Co-Permittees with no outfalls have been assigned a value of 5 outfalls. Activity 1 fixed annual cost = \$390

Activity 1 (mandatory) - Historical sampling, monitoring, lab analyses, and annual water monitoring report

Activity 2 (optional) - Pollutant Loading Calculations or other tasks to satisfy required permit conditions