

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date:	March 12, 2013	(X) Consent	() Regular
		() Workshop	() Public Hearing

Department

Submitted By:	<u>Environmental Resources Management</u>
Submitted For:	<u>Environmental Resources Management</u>

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

A) approve Cooperative Agreement with the South Florida Water Management District (District) for the collection and analysis of water quality data in the Lake Worth Lagoon (LWL); and


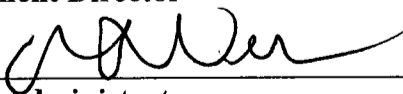
B) authorize the County Administrator or his designee to sign all future time extensions, task assignments, certifications, and other forms associated with the Agreement, and necessary minor amendments that do not change the scope of work or terms and conditions of the Agreement.

Summary: The five year Agreement outlines the cooperative process in which Palm Beach County Environmental Resources Management (PBCERM) will collect surface water quality samples and associated field parameters at 14 stations in the LWL. The District shall analyze the samples and post the data on the District's data base, DBHYDRO. Countywide (SF)

Background and Justification: The Cooperative Agreement formalizes the partnership between the District and the County for water quality data collection resulting from the establishment of the LWL Initiative through County and District Resolutions (R2008-0569) and (R2008-421). The water quality protocol outlined in the Agreement is a continuation of an informal water quality collection and data processing arrangement between the PBCERM and the District since 2008. The water quality data is utilized to establish the LWL water quality baseline, establish Total Maximum Daily Load values (TMDL) and Numeric Nutrient Criteria (NNC). It is the desire of both parties to formalize this arrangement through the Cooperative Agreement.

Attachments:

1. Cooperative Agreement

Recommended by:		<u>2-14-13</u>
	Department Director	Date
Approved by:		<u>3/4/13</u>
	County Administrator	Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2013	2014	2015	2016	2017
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	_____	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes _____ No _____

Budget Account No.: Fund _____ Department _____ Unit _____ Object _____
 Program _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

There is no fiscal impact associated with this item.

C. Department Fiscal Review:

Handwritten initials

III. REVIEW COMMENTS

A. OFMB Fiscal and /or Contract Dev. and Control Comments:

Handwritten signatures and dates:
 OFMB *2/19/13*
cc 2/15/13 PM 2-15-13
 Contract Development and Control *2-20-13 B. Wheeler*

B. Legal Sufficiency:

Handwritten signature

 Assistant County Attorney

C. Other Department Review:

_____ Department Director

ORIGINAL

4600002755

**COOPERATIVE AGREEMENT
BETWEEN THE
SOUTH FLORIDA WATER MANAGEMENT DISTRICT
AND
PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS**

THIS COOPERATIVE AGREEMENT ("AGREEMENT") is made and entered into on _____ by and between the **SOUTH FLORIDA WATER MANAGEMENT DISTRICT (DISTRICT)** and the **PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS (COUNTY)** hereinafter referred to as "the Parties".

WITNESSETH THAT:

WHEREAS, the **DISTRICT**, a government agency of the State of Florida, the mailing address of which is P.O. Box 24680, West Palm Beach, Florida, 33416-4860, is authorized to enter into agreements pursuant to Section 373.083, Florida Statutes; and

WHEREAS, the **COUNTY** is authorized to enter into agreements pursuant to its Home Rule Charter, and shall have all powers of county self government granted by the laws of the state of Florida; and

WHEREAS, Section 163.01, Florida Statutes, known as the "Florida Interlocal Cooperation Act of 1969" authorizes units and agencies of local governments to make the most efficient use of their respective powers by enabling them to cooperate with other governmental agencies on a basis of mutual advantage and thereby provide services and facilities that will harmonize the geographic, economic, population and other factors influencing the needs and development of local communities and residential developments; and

WHEREAS, the **COUNTY** desires to enter into an **AGREEMENT** with the **DISTRICT** to partner on the collection and analysis of water quality data in the Lake Worth Lagoon; and

WHEREAS, the project will provide a cooperative process in which the **COUNTY's** Department of Environmental Resources Management (PBCERM) will collect surface water quality samples (discrete "grab" samples) and associated field parameter data from 14 stations, as shown on Attachment A Table 1 using agreed upon methods and protocol and collect physio-chemical data at each station in accordance with Attachment A Table 2 attached hereto and made a part of this **AGREEMENT**; and

WHEREAS, the **DISTRICT** agrees to analyze said samples for seventeen (17) physical and water quality parameters as shown on Attachment A Table 3, perform quality assurance and quality control on the sample data and post the data on the **DISTRICT**'s data base, DBHYRO.

NOW, THEREFORE, in consideration of the covenants and representations set forth herein and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

ARTICLE 1 – RECITALS

- 1.1 The foregoing recitals are true and correct and are incorporated herein as if fully set forth.

ARTICLE 2 - TERM OF THE AGREEMENT

- 2.1 This **AGREEMENT** shall be effective upon the date of execution of both Parties and shall continue in full force and effect for a period of five (5) years unless terminated in accordance with Article 7 below. No changes to the **AGREEMENT** will occur unless they are in writing and agreed upon by both Parties in a signed amendment.

ARTICLE 3 – AREAS OF RESPONSIBILITIES BETWEEN THE PARTIES

- 3.1 Responsibilities of the **COUNTY**:

The **COUNTY** shall be responsible for collection of water samples using methods described in the **DISTRICT**'S Field Sampling Quality Manual (SFWMD-FIELD-QM); and supporting metadata in accordance with the **DISTRICT**'S Standard Operating Procedure for Quality Assessment of Data (SFWMD-FIELD-SOP). The **DISTRICT**'S Field Sampling Quality Manual and Standard Operating Procedure for Quality Assessment of Data are attached hereto as Attachments B and C, respectively, and made a part of this **AGREEMENT**. They are updated annually and the **DISTRICT** will provide updated documents to the **COUNTY** annually, in a timely manner.

The **COUNTY** will be responsible for delivering the samples in a timely manner as dictated in the District's Field Sampling Quality Manual to the **DISTRICT** at the following address:

South Florida Water Management District
Analytical Services
Field Operations Center B-374
8894 Belvedere Road
West Palm Beach, FL 33411

3.2 Responsibilities of the **DISTRICT**:

The **DISTRICT** hereby will analyze the samples in accordance with South Florida Water Management District 2012 Chemistry Laboratory Quality Manual (SFWMD-LAB-QM-2012). The **DISTRICT**'s Chemistry Laboratory Quality Manual is attached hereby as Attachment D and made a part of this **AGREEMENT**. They are updated annually and the **DISTRICT** will provide this updated document to the **COUNTY** annually, in a timely manner.

ARTICLE 4 - COMPENSATION/CONSIDERATION

- 4.1 This **AGREEMENT** defines in general terms the basis on which the Parties to this **AGREEMENT** will cooperate on the subject matter hereof. No funds will be exchanged between the Parties on the basis of this **AGREEMENT** and each party shall be responsible for the costs incurred for its work under the **AGREEMENT**

ARTICLE 5 - PROJECT MANAGEMENT/NOTICE

- 5.1 The **DISTRICT** and the **COUNTY** shall each designate a Project Manager. The Parties shall direct all matters, including notices, to the attention of the Project Managers for attempted resolution or action. The Project Managers shall be responsible for overall coordination and oversight relating to the performance of this **AGREEMENT**.
- 5.2 All notices to the **COUNTY** under this **AGREEMENT** shall be in writing and shall be deemed received if sent by certified mail to:

Palm Beach County
Attn: Robert Robbins
Director, Environmental Resources Management
2300 N. Jog Road
West Palm Beach, FL 33411
(561) 233-2400

- 5.3 All notices to the **DISTRICT** under this **AGREEMENT** shall be in writing and shall be deemed received if sent by certified mail to:

South Florida Water Management District
Attn: Michael Tompkins
Water Quality Monitoring Section
Field Operations Center B-374
8894 Belvedere Road
West Palm Beach, FL 33411
(561) 753-2400 x4762

Should either party change its address, written notice of the new address shall promptly be sent to the other party.

All correspondence under this **AGREEMENT** shall reference the **SFWMD's AGREEMENT** Number 460002755.

ARTICLE 6 – INDEMNIFICATION

- 6.1 Both Parties under this **AGREEMENT** assume any and all risks of personal injury, bodily injury and property damage attributable to their own negligent acts or the negligent acts or omissions of its officers, employees, servants, and agents thereof, up to the limits in Section 768.28, Fla. Stat. Both Parties under this **AGREEMENT** warrant and represent that they are self-funded for worker's compensation and liability insurance, covering at a minimum bodily injury, personal injury and property damage with protection being applicable to the officers, employees, servants and agents while acting within the scope of their employment during performance under this **AGREEMENT**. Both Parties under this **AGREEMENT** further agree that nothing contained herein shall be construed or interpreted as (1) denying to either party any remedy or defense available to such party under the laws of the State of Florida; (2) the consent of the State of Florida or its agents and agencies to be sued; or (3) a waiver of sovereign immunity of the State of Florida beyond the waiver provided in Section 768.28, Florida Statutes.
- 6.2 In the event the **COUNTY** subcontracts any part or all of the work hereunder to any third party, the **COUNTY** shall require each and every subcontractor to identify the **DISTRICT** as an additional named insured on all insurance policies as required by the **COUNTY**. Any contract awarded by the **COUNTY** for work under this **AGREEMENT** shall include a provision whereby the **COUNTY's** subcontractor agrees to defend, indemnify, and pay on the behalf, save and hold the **DISTRICT** harmless from all damages arising in connection with the **COUNTY's** subcontract.
- 6.3 The **COUNTY** further acknowledges that it is solely responsible for ensuring the compliance of its employees and contractors with the terms of this **AGREEMENT**. This paragraph shall survive the expiration or termination of this **AGREEMENT**.

ARTICLE 7 - TERMINATION/REMEDIES

- 7.1 Either party may terminate this **AGREEMENT** at any time for convenience by providing thirty (30) calendar days prior written notice to the other party in accordance with Article 5.2 and 5.3. In the event of termination, both Parties shall be relieved of any and all future obligations hereunder, including but not limited to, lost profits and consequential damages under this **AGREEMENT**.
- 7.2 In the event a dispute arises which the project managers cannot resolve between themselves, the parties shall have the option to submit to non-binding mediation. The mediator or mediators shall be impartial, shall be selected by the parties, and the cost of the mediation

shall be borne equally by the Parties. The mediation process shall be confidential to the extent permitted by law.

ARTICLE 8 - STANDARDS OF COMPLIANCE

- 8.1 The Parties to this **AGREEMENT**, their employees, subcontractors or assigns, shall comply with all applicable federal, state, and local laws and regulations relating to the performance of this **AGREEMENT**.
- 8.2 All actions pursuant to the **AGREEMENT** shall be conducted in compliance with the **DISTRICT** statutes and rules and permit conditions, including, but not limited to, water shortage orders declared by the Governing Board of the **DISTRICT**.
- 8.3 The laws of the State of Florida shall govern all aspects of this **AGREEMENT**. In the event it is necessary for either party to initiate legal action regarding this **AGREEMENT**, venue shall be in the Fifteenth Judicial Circuit for claims under state law and in the Southern District of Florida for any claims which are justifiable in federal court.
- 8.4 This **AGREEMENT**, and any work performed hereunder, is subject to the laws of the State of Florida. Nothing in this **AGREEMENT** will bind any of the Parties to perform beyond their respective authority, nor does this **AGREEMENT** alter the legal rights and remedies which the respective Parties would otherwise have, under law or at equity.
- 8.5 The Parties to this **AGREEMENT** hereby assure that no person shall be discriminated against on the grounds of race, color, creed, national origin, handicap, age, or sex, from participation in, denied the benefits of, or otherwise subjected to discrimination in any activity under this **AGREEMENT**.
- 8.6 The Parties shall allow public access to all project documents and materials in accordance with the provisions of Chapter 119, Florida Statutes. Should the Parties assert any exemptions to the requirements of Chapter 119 and related Statutes, the burden of establishing such exemption, by way of injunctive or other relief as provided by law, shall be upon the Parties.
- 8.7 The Parties agree to retain and make available for inspection upon request all records, collected data, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to this **AGREEMENT** during the term hereof and for a period of five (5) years from the expiration or termination of this **AGREEMENT** in accordance with section 92.29, FS and paragraph 1B-24.003(9)(a), F.A.C. and the QA Rule (62-160 F.A.C.). In the event the Parties shall become involved in a legal dispute with a non-party arising from performance under this **AGREEMENT**, the period of performance for all records relating to the **AGREEMENT** shall be extended until the final disposition of the legal dispute. The Parties shall have full access to and the right to examine any of said records and documents during the term of this **AGREEMENT** and retention periods.

ARTICLE 9 – RELATIONSHIP BETWEEN THE PARTIES

- 9.1 The Parties to this **AGREEMENT** are independent entities and are not employees or agents of the other party. Nothing in this **AGREEMENT** shall be interpreted to establish any relationship other than that of independent entities, between the Parties, their employees, agents, subcontractors or assigns, during or after the term of this **AGREEMENT**. The Parties to this **AGREEMENT** shall not assign, delegate or otherwise transfer their rights and obligations as set forth in this **AGREEMENT** without the prior written consent of the other party.
- 9.2 This Agreement may not be assigned or transferred without the prior written consent of **DISTRICT**, which consent may be withheld by **DISTRICT** in its sole and absolute discretion.

ARTICLE 10 – MISCELLANEOUS PROVISIONS

- 10.1 Notwithstanding any provisions of this **AGREEMENT** to the contrary, the Parties shall not be held liable for any failure or delay in the performance of this **AGREEMENT** that arises from fires, floods, strikes, embargoes, acts of a public enemy, unusually severe weather, outbreak of war, restraint of Government, riots, civil commotion, force majeure, act of God, or for any other cause of the same character which is unavoidable through the exercise of due care and beyond the control of the Parties. Failure to perform shall be excused during the continuance of such circumstances, but this **AGREEMENT** shall otherwise remain in effect.
- 10.2 In the event any provisions of this **AGREEMENT** shall conflict, or appear to conflict, the **AGREEMENT**, including all exhibits, attachments and all documents specifically incorporated by reference, shall be interpreted as a whole to resolve any inconsistency.
- 10.3 Failures or waivers to insist on strict performance of any covenant, condition, or provision of this **AGREEMENT** by the Parties, their successors and assigns shall not be deemed a waiver of any of its rights or remedies, nor shall it relieve the other party from performing any subsequent obligations strictly in accordance with the terms of this **AGREEMENT**. No waiver shall be effective unless in writing and signed by the party against whom enforcement is sought. Such waiver shall be limited to provisions of this **AGREEMENT** specifically referred to therein and shall not be deemed a waiver of any other provision. No waiver shall constitute a continuing waiver unless the writing states otherwise.
- 10.4 Should any term or provision of this **AGREEMENT** be held, to any extent, invalid or unenforceable, as against any person, entity or circumstance during the term hereof, by force of any statute, law, or ruling of any forum of competent jurisdiction, such invalidity shall not affect any other term or provision of this **AGREEMENT**, to the extent that the **AGREEMENT** shall remain operable, enforceable and in full force and effect to the extent permitted by law.

10.5 This **AGREEMENT** states the entire understanding and agreement between the Parties and supersedes any and all written or oral representations, statements, negotiations, or agreements previously existing between the Parties with respect to the subject matter of this **AGREEMENT**. The **COUNTY** recognizes that any representations, statements or negotiations made by **DISTRICT** staff do not suffice to legally bind **DISTRICT** in a contractual relationship unless they have been reduced to writing and signed by an authorized **DISTRICT** representative. This **AGREEMENT** shall inure to the benefit of and shall be binding upon the Parties, their respective assigns, and successors in interest.

IN WITNESS WHEREOF, the Parties or their duly authorized representatives hereby execute this **AGREEMENT** on the date first written above.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT

By: _____
Dorothy Bradshaw, Procurement Bureau Chief

Date: _____

SFWMD Office of Counsel Approved

By: Frank S. Bartolone Date: 1/30/13
FRANK S. BARTOLONE

SFWMD Procurement Approved

By: OKay Date: 1.30.13

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

By: _____
Steven L. Abrams, Mayor

APPROVED AS TO FORM AND CORRECTNESS:

Man Joe
Assistant County Attorney Date: 2/28/13

OK 2-14-13
**APPROVED AS TO TERMS
AND CONDITIONS.**

ATTACHMENT A

Table 1. Water Quality Monitoring Station Names and Codes for Lake Worth Lagoon

Code	Station Name	Station Description	Latitude	Longitude
A	LWL-1	Former DEP station (28010724) located on south side of PGA Bridge	265036.96	800327.03
B	LWL-2	Station located in north segment of LWL	264917.63	800258.29
D	LWL-4	Located in north segment of LWL in expansive seagrass beds in LWL	264808.2	800216.59
E	LWL-5	Located in north segment of LWL; representative of heavy recreational use	264652.81	800245.71
F	LWL-6	Located in north segment of LWL; contains seagrass beds. Port of Palm Beach	264555.23	800249.7
G	LWL-7	Located in north segment of LWL; within urban WPB/south part of seagrass bed	264336.29	800249.881
H	LWL-8	Located in central segment of LWL; south of Everglades Island	264112.85	800238.98
J	LWL-10	Station is located in central segment of LWL, just north of C-51 canal.	263939.64	800238.21
K	LWL-11	Former DEP sta (28010766) located near LW Cswy, on S side of bridge, W of ICW	263654.69	800240.74
M	LWL-13	DEP stat (28010783) at Ocean Ave Cswy, on S side bridge, W of ICW, E of Marina	263502.55	800246.14
O	LWL-15	This station is located in S segment of LWL, S of Hypoluxo Island.	263323.92	800240.22
P	LWL-16	Located in the S segment of LWL, W of Ocean Inlet Park	263241.46	800247.05
Q	LWL-17	Located in the S segment of LWL, in area of the C-16	263220.56	800307.23
R	LWL-18	DEP station (28010771) near Ocean Ave Cswy in Boynton, N of cswy/W of ICW	263143.99	800313.2

Table 2. In Situ Parameters, Analytical Methods, Reporting Units and Accuracy Objectives

Salinity		PSU	
pH	SM 4500-H+ B	S.U.	± 0.2 pH units
Dissolved Oxygen (DO)	FDEP SOP FT1500 SM 4500-O G	mg/L	0-20 mg/L, ± 0.2 mg/L
Specific Conductance	FDEP SOP FT1200 SM 2510 A	μ S/cm	+ 0.5% of reading + 0.001 μ S/cm
Temperature	FDEP SOP FT1400 SM 2550 B	$^{\circ}$ C	$\pm 0.15^{\circ}$ C
Secchi Depth		meters	± 0.01 meter
Depth		meters	± 0.01 meter

Table 3. Parameters and Frequency of Collection for Project LWL.

Ammonia (NH ₄)	EPA 351.2 or SM 4500-NH3H	0.005 mg/L	Monthly
Nitrite-Nitrate (NO _x)	SM 4500-NO3F	0.005 mg/L	Monthly
Orthophosphorus (OPO ₄)	SM 4500 P F	0.002 mg/L	Monthly
Total Kjeldahl Nitrogen (TKN)	EPA 351.2	0.05 mg/L	Monthly
Total Phosphorus (TP O ₄)	SM 4500 PF	0.002 mg/L	Monthly
Total Suspended Solids (TSS)	SM 2540 D	3 mg/L	Monthly
Turbidity	SM 2130 B	0.10 NTU	Monthly
Chlorophyll-a	EPA 447.0 ,analyzed using Liquid chromatography	0.1 µg/L	Monthly
Chlorophyll-b	EPA 447.0 ,analyzed using Liquid chromatography	0.1 µg/L	Monthly
Phaeophytin ¹	EPA 447.0 ,analyzed using Liquid chromatography	0.2 µg/L	Monthly

**ATTACHMENT B
FIELD SAMPLING QUALITY MANUAL
SFWMD-FIELD-QM-001-07**

Field Sampling Quality Manual

SFWMD-FIELD-QM-001-07

Effective Date: 06/21/11

Uncontrolled Copy

Subject to periodic change*

Prepared by

**Water Quality Monitoring Section
8894 Belvedere Road, West Palm Beach, FL 33411
(561) 753-2400**

**Water Quality Bureau
South Florida Water Management District**

****Controlled copies, designated with colored control number and QA officer initials, are distributed to WQM and limited SFWMD employees only. Copies distributed by other means are considered uncontrolled and may not be the current version.***

Complies with F.A.C. 62-160 (FDEP's QA Rule)

ATTACHMENT C
STANDARD OPERATING PROCEDURE FOR QUALITY ASSESSMENT OF DATA
SFWMD-FIELD-SOP-002-02

SFWMD-FIELD-SOP-002-02

Standard Operating Procedure for Quality Assessment of Data

Version: 02

Document Preparation Date: January 2011
Effective Date: Upon Final Approval

Controlled Copy #: _____

Notice: Every controlled copy of this document has a unique controlled copy number. If the controlled copy number entry above is blank, this copy is uncontrolled.

Prepared by: Kara Mills 1/24/11
(Signature) (Date)

Kara Mills

Scientist 2

Approved by: Tonya Jilek 01/24/11
(Signature) (Date)

Tonya Jilek

Scientist 1

Approved by: John Moorman 1/25/11
(Signature) (Date)

John Moorman

Field QA Officer

Restoration Sciences Department
South Florida Water Management District
3301 Gun Club Road
West Palm Beach, Florida 33406

Controlled copies, designated with control number and QA Administrator initials, are distributed to limited South Florida Water Management District employees and contractors. Any copies distributed by other means are considered uncontrolled and may not be current.

ATTACHMENT D
CHEMISTRY LABORATORY QUALITY MANUAL
SFWMD-LAB-QM-2012-01

**South Florida Water Management District
2012
Chemistry Laboratory
Quality Manual**

