

RESOLUTION NO. ~~R2011-31~~ R2011-31A

A RESOLUTION OF WELLINGTON, FLORIDA'S COUNCIL AUTHORIZING THE MAYOR AND CLERK TO EXECUTE THE NPDES THIRD TERM PERMIT INTERLOCAL AGREEMENT WITH NORTHERN PALM BEACH COUNTY IMPROVEMENT DISTRICT; AND PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, Northern Palm Beach County Improvement District and the Acme Improvement District entered into an Interlocal Agreement dated September 24, 1997, and Northern Palm Beach County Improvement District and Wellington entered into a First Amendment for Extension of Term of NPDES Interlocal Agreement dated August 28, 2002, regarding a National Pollutant Discharge Elimination System Permit No. FLS 000018 and a Second Term Extension dated March 18, 2003; and

WHEREAS, Wellington wishes to enter into the NPDES Third Term Permit Interlocal Agreement with Northern Palm Beach County Improvement District; and

WHEREAS, such Interlocal Agreement has been prepared and is attached hereto.

NOW, THEREFORE, BE IT RESOLVED BY WELLINGTON, FLORIDA'S COUNCIL that:

SECTION 1. The foregoing recitals are hereby affirmed and ratified.

SECTION 2. The Wellington Council hereby accepts and approves the NPDES Third Term Permit Interlocal Agreement with Northern Palm Beach County Improvement District and hereby authorizes the Mayor and Clerk to execute the Agreement.

SECTION 3. This Resolution shall become effective immediately upon adoption.

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RESOLUTION NO. R2011-31

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AUTHORIZING THE MAYOR AND CLERK TO EXECUTE
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AGREEMENT WITH NORTHERN PALM BEACH COUNTY
IMPROVEMENT DISTRICT; AND PROVIDING AN
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PASSED AND ADOPTED this 26th day of April, 2011.

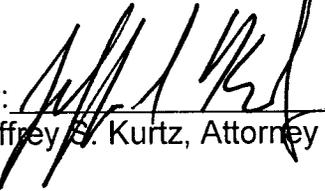
ATTEST:

By: 
Awilda Rodriguez, Wellington Clerk

WELLINGTON

By: 
Darell Bowen, Mayor

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY**

By: 
Jeffrey S. Kurtz, Attorney for Wellington

RECEIVED
OCT 11 2011

**NPDES THIRD TERM PERMIT
INTERLOCAL AGREEMENT**

This Interlocal Agreement (the "Agreement") is being entered into by and between NORTHERN PALM BEACH COUNTY IMPROVEMENT DISTRICT, 359 Hiatt Drive, Palm Beach Gardens, Florida 33418 (hereinafter referred to as the "Lead Permittee"), and VILLAGE OF WELLINGTON (hereinafter referred to as "the Co-Permittee").

WITNESSETH:

WHEREAS, the United States Environmental Protection Agency (hereinafter referred to as "EPA") on the 9th day of December, 1996, issued its National Pollutant Discharge Elimination System ("NPDES") Permit No. FLS000018 (with it and all such subsequent permits being hereinafter referred to as the "MS4 NPDES Permit") to approximately forty (40) governmental entities designated as the Palm Beach County-Municipal Separate Storm Sewer System ("MS4") Permittees (hereinafter referred to jointly as the "Permittees"); and

WHEREAS, EPA has since delegated its regulatory and enforcement authority relating to the MS4 NPDES Permit to the Florida Department of Environmental Protection ("FDEP"); and

WHEREAS, Section 403.0885, Florida Statutes, established the federally approved state NPDES Program; and

WHEREAS, FDEP Rule 62-4.052, F.A.C., implemented an annual regulatory program and also set fees to effect the legislative intent that FDEP's costs for administering the NPDES Permit be borne by the regulated entities; and

WHEREAS, at or before the expiration of each MS4 NPDES Permit, the Permittees must file a re-application to FDEP for renewal of the MS4 NPDES Permit for a subsequent term; and

WHEREAS, the MS4 NPDES Permits granted by FDEP to the Permittees contain separate obligations and responsibilities for each individual Permittee, as well as obligations and responsibilities that may be performed jointly by the Permittees; and

WHEREAS, due to the number of Permittees and the tasks that must be performed pursuant to each MS4 NPDES Permit, it would be more economically and administratively feasible to allocate duties, responsibilities, and costs associated with the MS4 NPDES Permits pursuant to individual interlocal agreements between each Co-Permittee and the Lead Permittee; and

WHEREAS, the Permittees previously established a 7-member Steering Committee comprised of 2 representatives of large municipalities, 2 representatives of smaller municipalities, 1 representative of special districts, 1 representative from Palm Beach County, and the Lead Permittee, which Committee will continue to coordinate the joint activities required under the MS4 NPDES

Permit, including but not limited to recommending to the Lead Permittee retention of necessary consultants to execute each MS4 NPDES Permit; and

WHEREAS, the parties hereto are authorized pursuant to Chapter 163, Part I, Florida Statutes, as amended, to enter into this Agreement and do hereby adopt, ratify and confirm the provisions and incorporation herein of Subparagraph (9), Section 163.01, Florida Statutes.

NOW, THEREFORE, in accordance with Chapter 163, Part I, Florida Statutes, as amended, the undersigned parties, for and in consideration of the mutual benefits set forth herein, do hereby enter into this Agreement and represent, covenant, and agree with each other as follows:

SECTION ONE
REPRESENTATIONS

1.01. Recitals. The recitals and representations as set forth hereinabove are true and correct to the best of the knowledge of the parties and are incorporated herein by this reference.

SECTION TWO
DESIGNATION OF PARTIES

2.01. Lead Permittee. Northern Palm Beach County Improvement District is hereby designated as the Lead Permittee for the purposes of this Agreement and each MS4 NPDES Permit.

2.02. Co-Permittee. The Village of Wellington is hereby designated as a Co-Permittee for the purposes of this Agreement and each MS4 NPDES Permit.

SECTION THREE
TERM OF AGREEMENT

3.01. Agreement Term. The term of this Agreement begins as of the date it is signed by the last of the parties, and shall continue from year to year, subject to the annual Funding Year (as hereinafter defined) renewal process set forth in following Section 3.03, unless otherwise terminated in accordance with other provisions of this Agreement. The parties to this Agreement shall undertake a mutual review of this Agreement during the final year of the term of each Permit.

3.02. Funding Year. The term "Funding Year" is defined as a fiscal year beginning on October 1 and ending on September 30.

3.03. Renewal. This Agreement shall be automatically renewed as of the beginning date of each Funding Year and continue in full force and effect from Funding Year to Funding Year, unless: (i) a party to this Agreement provides written notice of non-renewal to the other party at least thirty (30) days prior to the end of the then-current Funding Year, or (ii) the Agreement has been previously terminated as provided herein.

SECTION FOUR
SCOPE OF WORK AND ALLOCATION OF DUTIES AND OBLIGATIONS

4.01. Allocation of Duties and Obligations

(i) The Lead Permittee shall be responsible for those duties and obligations which are specifically identified and delineated in Exhibit "A" which is attached hereto and incorporated herein (the "Lead Permittee Services"). The Lead Permittee Services may be revised from time to time as required by the MS4 NPDES Permit. Any such revisions shall be agreed to in writing by the Co-Permittee and incorporated into Exhibit "A" and made a part of this Agreement. All revisions to Exhibit "A" shall be attached sequentially to the original Agreement so that all modifications to the Lead Permittee Services that occur over time may be determined.

(ii) The Co-Permittee shall be responsible for such other duties and obligations which are specifically identified as being its individual responsibility in the MS4 NPDES Permit.

4.02. Modifications to MS4 NPDES Permit

In accordance with Section 403.067, Florida Statutes, NPDES permits must be consistent with the requirements of adopted TMDLs. A MS4 NPDES Permit may be reopened and revised during its term to adjust effluent limitations or monitoring requirements should future adopted TMDL, water quality studies, FDEP-approved changes in water quality standards, or other information show a need for a different limitation or monitoring requirement. It is understood and agreed that any other changes, modifications, revisions, or additions to the terms of the MS4 NPDES Permit made subsequent to the Effective Date of this Agreement are expressly excluded from and not a subject of this Agreement unless and until incorporated herein by written agreement of the parties.

SECTION FIVE
BUDGET AND FUNDING

5.01. Administrative Procedures. The procedures to be followed by the Lead Permittee regarding the collection, management and disbursement of the Co-Permittee payments are set forth in a resolution titled "Resolution of the Board of Supervisors of Northern Palm Beach County Improvement District Approving the NPDES Steering Committee Administrative Procedures for Collection, Management and Disbursement of NPDES Interlocal Agreement Funds" (the "Resolution"), which was adopted by the Lead Permittee, a copy of which is attached hereto as Exhibit "B."

Section 2 of the Resolution incorporates by reference the "NDPES Steering Committee Administrative Procedures for Collection, Management and Disbursement of NPDES Interlocal Agreement Funds" (the "Procedures") which are incorporated into this Agreement and are to be followed by the parties to this Agreement.

The Resolution and the Procedures may be amended from time to time upon the approval of the NPDES Steering Committee and the Lead Permittee. However, the Co-Permittee shall be given a minimum of 60 days advance written notice of any proposed amendments to the Resolution or the Procedures, and shall be afforded the opportunity to offer comments to the Lead Permittee and/or the NPDES Steering Committee prior to any action being taken on said proposed amendments. Any amendment that is incorporated into this Agreement shall also be agreed to in writing by the Co-Permittee.

5.02. Annual Budget. Since this Agreement is anticipated to be renewed for a number of Funding Years, the parties acknowledge that it is not in their respective best interests to project the potential costs the Lead Permittee may be required to incur for future Funding Years in order to carry out the Lead Permittee Services. Therefore, the parties agree to arrive at a mutually acceptable payment amount on a per Funding Year basis in order to more accurately calculate the amount that will be required to be paid by the Co-Permittee to the Lead Permittee for the provision of Lead Permittee Services during each Funding Year.

5.03. Prior Funding. The parties agree that any surplus funds previously paid by the Co-Permittee to the Lead Permittee pursuant to any prior interlocal agreement it has entered into with the Lead Permittee involving a MS4 NPDES Permit shall be applied to and used for the provision of Lead Permittee Services during the next Funding Year period.

5.04. First Funding Year Payment. In addition to the surplus funds referenced in Section 5.03 above, the parties agree that for the upcoming 2011/2012 Funding Year, the Co-Permittee has paid the Lead Permittee the sum of TWENTY THOUSAND EIGHT HUNDRED FIFTY-ONE AND NO/100 (\$20,851.00) DOLLARS, which sum represents payment of both the Lead Permittee's Services for the upcoming Funding Year of this Agreement and the ten percent (10%) Reserve Fund Contingency required pursuant to Section 5.05.

5.05. Reserve Contingency. The parties acknowledge that each Funding Year payment will include a ten percent (10%) reserve fund contingency (the "Reserve Fund Contingency") for unexpected additional costs and expenses incurred in the preparation and implementation of a MS4 NPDES Permit.

5.06. Current Funding. The parties believe that the funding specified in above Section 5.04 will be sufficient to satisfy the current MS4 NPDES Permit requirements for the 2011/2012 Fiscal Year unless unexpected additional costs and expenses of the nature described in following Section 6.03 are incurred.

5.07. Future Funding Year Payments. The parties: (i) acknowledge that on or before January 31, 2011, the Lead Permittee provided a budget to the Steering Committee of the amount the Permittees will each be requested to pay during the next Funding Year, and (ii) agree that all subsequent Funding Year budget estimates will be provided on or about January 31st of each following year. The Lead Permittee and Co-Permittee shall have until July 31st of each year to arrive at a mutually acceptable dollar amount to be paid by the Co-Permittee to the Lead Permittee for the immediately upcoming Funding Year, which shall be paid pursuant to Section Six of this

Agreement. If the parties cannot agree upon a mutually acceptable dollar amount by the aforementioned deadline, this Agreement shall be deemed terminated unless otherwise agreed to in writing by and between the parties.

5.08. Final Funding Year of a MS4 NPDES Permit Term. It is assumed that during the last Funding Year of the term of each MS4 NPDES Permit, the Permittees and FDEP will commence to negotiate the provisions of the next MS4 NPDES Permit. As a result, allocation of the Scope of Services that are required to be provided hereunder may be modified. Due to this uncertainty, each party's duties and obligations hereunder, together with the funding process for provision of Lead Permittee Services, will be reexamined during the last Funding Year of the term of each MS4 NPDES Permit.

5.09. Separate Co-Permittee Expenses. In addition to the payments required to be paid by the Co-Permittee to the Lead Permittee pursuant to Sections 5.03 through 5.07, the Co-Permittee shall be responsible for all other costs and expenses relating to its individual duties and obligations under a MS4 NPDES Permit, including, but not limited to: (1) all costs of the Co-Permittee's preparation and submittal of such of its own individual annual report(s) that may be separately required by a MS4 NPDES Permit, (2) costs of all monitoring that may be the Co-Permittee's individual responsibility, (3) costs of gathering, compiling, coordinating, and submitting all necessary data that may be individually required of the Co-Permittee by a MS4 NPDES Permit, and (4) all other costs of carrying out any other individual responsibility of the Co-Permittee according to the requirements of a MS4 NPDES Permit.

SECTION SIX PAYMENT PROCEDURE

The Co-Permittee agrees to pay each of its Funding Year payments as follows:

6.01. First Funding Year. The First Funding Year payment for the current MS4 NPDES Permit Term will be paid in either a single lump sum payment on or before November 15, 2011 or in twelve (12) equal monthly installments commencing on October 15, 2011, and thereafter on the 15th day of each subsequent month during the First Funding Year (such payment dates being hereinafter referred to as "Payment Due Date(s)"). In addition, an alternative payment schedule allowing for quarterly payments, pursuant to the Procedures found herein may be utilized by the Co-Permittee, unless and until such time as the Procedures are amended to eliminate said alternate payment schedule. The initial Funding Year for all future MS4 NPDES Permits shall be referred as the First Funding Year.

6.02. Subsequent Funding Year Payments. Once a Funding Year payment amount has been agreed upon, the Co-Permittee may, at its option, pay the entire agreed-upon amount in a single lump sum on or before November 15 of that particular Funding Year, or in twelve (12) equal monthly installments commencing on October 15th of that Funding Year and thereafter on the 15th day of each subsequent month during that Funding Year (such payment dates also being hereinafter referred to as "Payment Due Date(s)"). In addition, an alternative payment schedule allowing for quarterly payments, pursuant to the Procedures found herein may be utilized by the Co-Permittee, unless and

until such time as the Procedures are amended to eliminate said alternate payment schedule.

6.03. Additional Costs. Since it is possible that following the parties' agreement as to a particular Funding Year's payment amount, unexpected additional costs and expenses may arise which will need to be paid in order for the Lead Permittee to carry out its Lead Permittee Services for that Funding Year, the parties agree as follows:

(i) If the Lead Permittee determines that unexpected additional costs and expenses must be incurred in order for it to timely provide its Lead Permittee Services, the Lead Permittee shall promptly notify the Co-Permittee, in writing, of the nature and estimated amount of the Co-Permittee's allocable share of these unexpected additional costs and expenses, as well as the Lead Permittee's intent to draw down funds from the Co-Permittee's Reserve Fund Contingency in order to pay said Co-Permittee's allocable share of the unfunded and unexpected additional costs and expenses.

(ii) If the Co-Permittee's allocable share of the unexpected additional costs and expenses exceeds the amount held in the Co-Permittee's Reserve Fund Contingency account, the Lead Permittee shall address the need for such excess amount in the above subparagraph (i) notice to the Co-Permittee. The Lead Permittee and Co-Permittee shall then attempt to negotiate a payment procedure for the unfunded and unexpected additional costs and expenses.

(iii) If the Lead Permittee and Co-Permittee agree as to the need and amount of the unfunded and unexpected additional costs and expenses, their agreement shall be reduced to writing. The agreed upon unfunded and unexpected additional costs and expenses shall be paid either by a lump sum payment within thirty (30) days of their agreement in writing or divided by the remaining months of that particular Funding Year and paid to the Lead Permittee in equal monthly installments for the remainder of the subject Funding Year.

(iv) If the Lead Permittee and Co-Permittee are not able to timely agree as to the need and/or amount of the unfunded and unexpected additional costs and expenses, the Lead Permittee may suspend or terminate this Agreement, at its sole discretion, following the provision of thirty (30) days prior written notice to the Co-Permittee.

6.04. Failure to Pay. Unless otherwise agreed to in writing by and between the parties hereto, if a Funding Year payment or agreed upon unfunded and unexpected additional costs and expenses payment is not timely paid within thirty (30) days of a Payment Due Date, the duties and obligations assumed by the Lead Permittee under the terms of this Agreement may be suspended and/or terminated by the Lead Permittee, at its sole discretion, following the provision of thirty (30) days prior written notice to the Co-Permittee unless cured by the Co-Permittee by payment in full of the omitted payment within said thirty (30) day notice time period.

SECTION SEVEN OPTION TO TERMINATE

7.01. Termination. Either party to this Agreement shall have the right to terminate this

Agreement at will and without cause, provided that the party wishing to terminate the Agreement must provide thirty (30) days prior written notice to the other party of said terminating party's decision to terminate this Agreement. Said termination shall not be effective until said thirty (30) day prior notice period has elapsed (the "Termination Date"). In addition to the aforementioned termination rights, the Agreement may be terminated as provided in Sections 5.07, 6.03(iv), and 6.04.

7.02. Effect of Termination. In the event of termination of this Agreement by the Co-Permittee, the Co-Permittee shall thereupon be individually and solely responsible for all requirements of the applicable MS4 NPDES Permit which are designated therein as the individual responsibility of said Co-Permittee. Thereafter, the Lead Permittee and other Permittees shall not be responsible for said terminating Co-Permittee's individual obligations under the applicable MS4 NPDES Permit.

7.03. Costs and Expenses. Irrespective of which party elects to terminate this Agreement or in the event of a failure to pay by the Co-Permittee to the Lead Permittee the amounts due under and pursuant to the terms of this Agreement, the parties agree that any costs and expenses previously incurred or obligated to be paid by the Lead Permittee as of the Termination Date shall still be due and owing and the right to collect said amount(s) shall survive termination of this Agreement.

7.04. Refunds. The parties acknowledge that the Lead Permittee anticipates entering into contracts with one or more consultants or contractors for the provision of services required in order for the Lead Permittee to provide some or all of its Lead Permittee Services. Since the Co-Permittee's payments under this Agreement represent only a portion of what the Lead Permittee will have to pay its consultants and contractors for their services, the Co-Permittee will not be entitled to receive a refund from the Lead Permittee for any monies that the Co-Permittee has previously paid pursuant to this Agreement unless the Lead Permittee is able to obtain a reduction in its contractual obligations with its consultants or contractors as a result of the termination of this Agreement. In that event, the Lead Permittee shall be obligated to reimburse the Co-Permittee for its allocable share of the amount of such reduction in costs and expenses.

7.05. Documentation and Data. In the event this Agreement is cancelled or terminated, all documentation and data previously collected by the Lead Permittee in accordance with its duties and obligations as assumed herein, shall be made available to the Co-Permittee.

SECTION EIGHT ENFORCEMENT, VIOLATIONS, AND/OR DEFAULT

8.01. Enforcement. The designation herein of the Lead Permittee is not intended nor shall it be construed as authorizing, granting or permitting the Lead Permittee to accept or assume any powers of enforcement of the applicable MS4 NPDES Permit as to the other party.

8.02. Violations. Neither party to this Agreement shall be deemed to have assumed any liability for any negligent or wrongful acts or omissions of the other party, and in no event shall any of the provisions of this Agreement be construed as a waiver by either party of its sovereign

immunity rights or of the liability limits established in Section 768.28, Florida Statutes.

8.03. Dispute Resolution Process. Any dispute or conflict between the parties that arises from any of the terms or conditions of this Agreement, including any exhibits thereto, shall be presented in writing by the complaining party to the other party. The parties' representatives shall then meet to discuss the disputed issues and attempt in good faith to resolve the dispute or conflict prior to either party initiating the intergovernmental conflict resolution process per Ch. 164, F.S., or litigation or any other formal dispute resolution process.

SECTION NINE
MISCELLANEOUS PROVISIONS

9.01. Notices. All notices, requests, consents and other communications required or permitted under this Agreement shall be in writing and shall be (as elected by the person giving such notice) hand delivered by prepaid express overnight courier or messenger service, telecommunicated (including telex, facsimile, telegraphic, or electronic mail (e-mail) communication) with confirmation of receipt, or mailed by registered or certified mail (postage prepaid), return receipt requested, to the following addresses:

As to Lead Permittee: Northern Palm Beach County Improvement District
359 Hiatt Drive
Palm Beach Gardens, Florida 33418
Attn: Executive Director
Phone: (561) 624-7830
Fax: (561) 624-7839

With a copy to: Betsy S. Burden, Esq.
Caldwell Pacetti Edwards Schoech & Viator LLP
One Clearlake Centre
250 South Australian Avenue, Suite 600
West Palm Beach, Florida 33401
Phone: (561) 655-0620
Fax: (561) 655-3775

As to Co-Permittee: Village of Wellington
14000 Greenbriar Blvd.
Wellington, FL 33414
Attn: Mitch Fleury
Phone: (561) 791-4000
Fax: (561) 791-4045

9.02. Entire Agreement. This Agreement represents the entire understanding and agreement between the parties with respect to the subject matter hereof.

9.03. Construction. The preparation of this Agreement is considered a joint effort of the

parties and accordingly this Agreement shall not be construed more severely against one of the parties than the other.

9.04. Discrimination. The Lead Permittee and the Co-Permittee agree that no person shall on the grounds of race, color, sex, national origin, disability, religion, ancestry, marital status or sexual orientation be excluded from the benefits of or be subjected to any form of discrimination under any activity carried out by the performance of this Agreement.

9.05. Binding Effect. All of the terms and provisions of this Agreement, whether so expressed or not, shall be binding upon, inure to the benefit of, and be enforceable by the parties and their respective legal representatives, successors, and permitted assigns.

9.06. Assignability. The responsibility for carrying out any task assumed by a party to this Agreement, but not the obligation to pay, may be assigned by the party upon receipt of written approval from the other party, which approval shall not be unreasonably withheld.

9.07. Severability. If any part of this Agreement is contrary to, prohibited by or deemed invalid under applicable law or regulation, such provision shall be inapplicable and deemed omitted to the extent so contrary, prohibited or invalid, but the remainder hereof shall not be invalidated thereby and shall be given full force and effect so far as possible, unless the prohibited or invalid provision reduces the payment obligations of the Co-Permittee, in which event this Agreement may be thereupon terminated by the Lead Permittee.

9.08. Governing Law and Venue. This Agreement and all transactions contemplated by this Agreement shall be governed by, and construed and enforced in accordance with, the internal laws of the State of Florida without regard to any contrary conflicts of laws principle. Venue of all proceedings in connection herewith shall be exclusively in the Fifteenth Judicial Circuit in and for Palm Beach County, Florida, and each party hereby waives whatever their respective rights may have been in the selection of venue.

9.09. Headings. The headings contained in this Agreement are for convenience of reference only, and shall not limit or otherwise affect in any way the meaning or interpretation of this Agreement.

9.10. Remedies. The failure of any party to insist on a strict performance of any of the terms and conditions hereof shall be deemed a waiver of the rights or remedies that the party may have regarding that specific instance only, and shall not be deemed a waiver of any subsequent breach or default in any terms and conditions.

9.11. NPDES Permit. If there is any inconsistency between the terms of this Agreement and the applicable MS4 NPDES Permit, then the applicable MS4 NPDES Permit shall preempt, supersede, and control the provisions of this Agreement.

9.12. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same

instrument.

9.13. Clerk of Court. A copy of this Agreement shall be filed with the Clerk of the Circuit Court of the Fifteenth Judicial Circuit, in and for Palm Beach County, Florida.

9.14. Termination of Prior Agreements. All previous interlocal agreements entered into between the parties to this Agreement regarding the application or execution of a MS4 NPDES Permit shall terminate as of the Effective Date of this Agreement.

9.15. Effective Date. This Agreement shall be effective as of the date it is filed with the Clerk of the Circuit Court of the Fifteenth Judicial Circuit, in and for Palm Beach County, Florida.

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IN WITNESS WHEREOF, the parties have set their hand and seals the day and year hereafter written.

EXECUTED by Lead Permittee this 8th day of JUNE, 2011.

ATTEST:

NORTHERN PALM BEACH COUNTY
IMPROVEMENT DISTRICT

By: 
Secretary

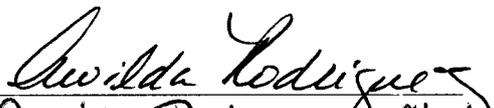
By: 
Print: Matthew J. Boykin
Title: NPBCID Board Supervisor

[DISTRICT SEAL]

EXECUTED by Co-Permittee this 26 day of April, 2011.

ATTEST:

Village of Wellington

By: 
Awilda Rodriguez, Clerk

By: 
Print: Darrell Bowen
Title: Mayor

[SEAL]

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

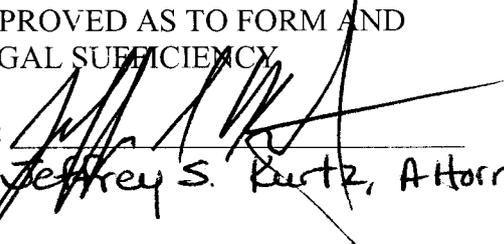
By: 
Jeffrey S. Kurtz, Attorney

EXHIBIT "A"

LEAD PERMITTEE RESPONSIBILITIES

The responsibilities of the Lead Permittee as to the implementation and execution of the MS4 NPDES Permit No. FLS000018 are generally as follows:

- I. The timely preparation, coordination, and execution of interlocal agreements necessary to establish and implement the joint activities required by the Permit.
- II. The timely preparation, coordination, and submittal to FDEP each year during the term of this Agreement, of an annual report describing the activities carried out jointly to fulfill requirements in the permit.
- III. The timely preparation, coordination, and distribution of standardized forms and guidance documents as approved by NPDES Steering Committee to assist permittees in carrying out the terms of the MS4 NPDES Permit.
- IV. The timely preparation, coordination, and execution of a countywide public education and outreach program required by Part III.A.6, Part III.A.7.e. and Part III.A.7.f. as approved by the NPDES Steering Committee.
- V. The timely preparation and coordination of training materials to fulfill the requirements of Part III.A.6, Part III.A.7.c, Part III.A.7.d., Part III.A.9.b, and Part III.A.9.c of the MS4 NPDES permit, as approved by the NPDES Steering Committee.
- VI. The timely preparation, coordination, and submittal to FDEP of major watershed pollutant load estimates required by Part V.A. of the MS4 NPDES Permit.
- VII. The timely preparation, coordination, and execution of a monitoring program required by Part V.B. of the MS4 NPDES Permit.
- VIII. The timely coordination, assessment, monitoring, and execution of activities associated with FDEP's Total Maximum Daily Load (TMDL Program) as required by Part VIII.
- IX. The preparation and coordination of all MS4 NPDES Steering Committee workshops and meetings.
- X. The timely remittance of all necessary permit fees to FDEP, subject to the timely and sufficient collection of same for all other permittees.

The Lead Permittee Services described herein may be revised from time to time as required by each MS4 NPDES Permit, as agreed to in writing between the MS4 NPDES Steering Committee and Northern Palm Beach County Improvement District, which revisions shall be incorporated herein and made a part of this agreement.

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EXHIBIT "B"

**RESOLUTION NO. 2011-04
RESOLUTION OF THE BOARD OF SUPERVISORS OF
NORTHERN PALM BEACH COUNTY IMPROVEMENT DISTRICT
APPROVING THE NPDES STEERING COMMITTEE ADMINISTRATIVE
PROCEDURES FOR COLLECTION, MANAGEMENT AND DISBURSEMENT
OF NPDES INTERLOCAL AGREEMENT FUNDS.**

WHEREAS, NORTHERN PALM BEACH COUNTY IMPROVEMENT DISTRICT ("Northern") is an independent special district duly organized and validly existing under the Constitution and the Laws of the State of Florida, including applicable provisions of Chapter 298, Florida Statutes, and Chapter 59-994, Laws of Florida, as amended and/or supplemented; and

WHEREAS, the United States Environmental Protection Agency issued its National Pollutant Discharge Elimination System Permit No. FLS000018 (the "MS4 NPDES Permit") which is applicable to a number of governmental entities located in Palm Beach County, including Northern; and

WHEREAS, the Co-Permittees who make up the governmental bodies subject to the NPDES Permit have nominated and appointed Northern as the "Lead Permittee" for the purposes of assisting all Co-Permittees in the collection of general data required to be collected pursuant to the MS4 NPDES Permit and submission of reports to the Florida Department of Environmental Protection and the United States Environmental Protection Agency; and

WHEREAS, the Lead Permittee, Northern, is entering into separate Interlocal or Joint Participation Agreements with each of the Co-Permittees, which Agreements set forth the parties' respective duties and obligations regarding fulfillment of the terms and conditions of the MS4 NPDES Permit; and

WHEREAS, a seven member NPDES Steering Committee has been selected by the Co-Permittees, which Steering Committee is comprised of two (2) representatives of large municipalities, two (2) representatives of smaller municipalities, one (1) representative of special districts, one (1) representative for Palm Beach County, and the Lead Permittee; and

WHEREAS, on January 19, 2011 the NPDES Steering Committee, in order to provide a level of accountability and fiscal control for the benefit of all NPDES Co-Permittees as it relates to the Interlocal and/or Joint Participation Agreements being entered into between Northern and each Co-Permittee, adopted Administrative Procedures for the collection, management and disbursement of NPDES Interlocal Agreement Funds, a true and correct copy of which is attached hereto and identified as the NPDES Steering Committee Administrative Procedures; and

WHEREAS, Northern has been requested to adopt and comply with the aforementioned NPDES Steering Committee Administrative Procedures for purposes of

administering the funds to be paid to it pursuant to each NPDES Interlocal or Joint Participation Agreement.

NOW, THEREFORE, be it resolved by the Board of Supervisors of Northern Palm Beach County Improvement District as follows:

1. Northern Palm Beach County Improvement District does hereby adopt and agree to comply with the terms and conditions of the NPDES Steering Committee Administrative Procedures.

2. That Northern Palm Beach County Improvement District does hereby incorporate by reference the NPDES Steering Committee Administrative Procedures into each NPDES Interlocal and/or Joint Participation Agreement that it enters into with a Committee.

3. All resolutions or parts of resolutions in conflict herewith are hereby repealed.

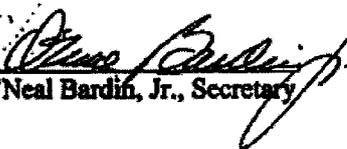
4. This resolution shall take effect immediately upon its adoption.

THIS RESOLUTION PASSED AND WAS ADOPTED THE 23RD DAY OF FEBRUARY, 2011.

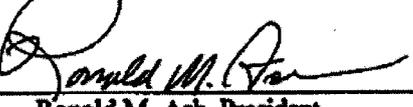
(DISTRICT SEAL)

NORTHERN PALM BEACH COUNTY
IMPROVEMENT DISTRICT

ATTEST:


O'Neal Bardin, Jr., Secretary

BY:


Ronald M. Ash, President

**NPDES STEERING COMMITTEE ADMINISTRATIVE PROCEDURES
FOR COLLECTION, MANAGEMENT AND DISBURSEMENT
OF NPDES INTERLOCAL AGREEMENT FUNDS**

The NPDES Steering Committee (which is comprised of two (2) representatives of large municipalities, two (2) representatives of smaller municipalities, one (1) representative of special districts, one (1) representative for Palm Beach County, and the Lead Permittee), has adopted the following administrative procedures in order to provide a level of accountability and fiscal control for the benefit of the NPDES Co-Permittees.

The administrative procedures adopted by the Steering Committee are as follows:

1. Alternative NPDES Interlocal Agreement Payment Schedules. In addition to the two (2) payment options set forth in Paragraphs 6.01 and 6.02 of the NPDES Interlocal Agreement, a Co-Permittee shall also be entitled to elect to pay the annual Funding Year payments on an equal quarterly installment basis. If this additional payment option is selected by a Co-Permittee, the quarterly payments for the First Funding Year are required to be paid on or before October 1, 2010, January 1, 2011, April 1, 2011 and July 1, 2011, with all future Funding Year quarterly payments to be paid in accordance with the same quarterly payment schedule.

NPBCID will be issuing one (1) invoice to each Co-Permittee for its annual Funding Year payment amount, following which the Co-Permittee shall then have thirty (30) days from the date of receipt of the invoice within which to select one of the three (3) payment options and to make its initial payment in accordance with the option so selected.

2. Income and Disbursement Accounting Documentation.

(A) A quarterly income and disbursement report shall be prepared by NPBCID. The report shall be delivered to the Steering Committee within forty-five (45) days following the end of each Funding Year quarter and thereafter distributed by the Steering Committee to the representative(s) of each Co-Permittee as identified in the NPDES Interlocal Agreements.

(B) The quarterly income and disbursement report shall be prepared by NPBCID in accordance with the format set forth in attached Attachment "A."

3. Budget Accounting Documentation. A quarterly budget accounting report shall be prepared by NPBCID. The report shall be delivered to the Steering Committee within forty-five (45) days following the end of each Funding Year quarter and thereafter distributed by the Steering Committee to the representative(s) of each Co-Permittee as identified in the NPDES Interlocal Agreement.

4. Reserve Fund Contingency Expenditures. Prior to any expenditures by NPBCID of funds contained in the Reserve Fund Contingency account identified in the NPDES Interlocal Agreement, NPBCID shall be required to subject its request to the Steering Committee members and receive approval from a super-majority of at least five (5) of the Steering Committee members.

5. Unexpected Additional Costs and Expenses. Prior to NPBCID incurring an obligation that will require a Co-Permittee to pay unexpected additional costs and expenses exceeding the amount held in the Reserve Fund Contingency, NPBCID shall be required to submit to the Steering Committee the nature of the event and the amount of the unexpected additional cost and expense. Upon receipt of such notification, the Steering Committee shall present the matter to the Co-Permittees at the next regularly scheduled Steering Committee NPDES meeting (unless it is an emergency matter in which event a special meeting will be promptly scheduled and notice given to all Co-Permittees) for consideration and vote by those representatives of the Co-Permittees present at the meeting. An affirmative vote by a simple majority (i.e., over fifty percent) of those representatives of the Co-Permittees present at the meeting (with only one (1) representative of each Co-Permittee being entitled to vote on the matter at issue) will be required before NPBCID is authorized to incur the subject unexpected additional costs and expenses.

6. NPDES Interlocal Agreement Budget Adoption Process. All future NPDES Interlocal Agreement Funding Year budgets shall be adopted in accordance with the following procedure:

(A) On or before Jan 31st ^{of} each Funding Year, NPBCID shall prepare and present to the Steering Committee a proposed budget for the next Funding Year.

(B) The Steering Committee shall consider the proposed next Funding Year budget at a regular Steering Committee meeting and open the matter to discussion by those Co-Permittee representatives present and attending the meeting.

(C) Adoption of the next Funding Year's budget shall require the approval of a super-majority of at least five (5) members of the Steering Committee.

(D) As a part of the Steering Committee's consideration of the next Funding Year's budget and calculation of each Co-Permittee's allocable share and responsibility for the funding of the budget, the Steering Committee may consider the application of any existing surplus funds as a credit towards each Co-Permittee's allocable funding shares. "Surplus funds" for the purpose of this administrative guideline may include unexpended and unencumbered present Funding Year funds or Reserve Fund Contingency amounts, plus accrued interest thereon, if any.

(E) The Steering Committee shall also be responsible for approving, by a simple majority of those Steering Committee members in attendance (provided there is a quorum) at a Steering Committee meeting, line item budget transfers.

APPROVED AND ADOPTED THIS 19TH DAY OF JANUARY, 2011.

ATTACHMENT "A"

NPDES QUARTERLY INCOME AND DISBURSEMENT REPORT
FISCAL YEAR _____
FOR PERIOD _____ TO _____

<u>CASH ON HAND</u> (date)		<u>XXX.XXX.XX</u>
REVENUE: _____ TO _____		
AGREEMENT FEES	<u>XXX.XXX.XX</u>	
<u>TOTAL REVENUES</u>	<u>XXX.XXX.XX</u>	<u>XXX.XXX.XX</u>
TOTAL CASH AND REVENUES AVAIL FOR EXPENDITURES		<u>XXX.XXX.XX</u>
EXPENDITURES PAID DURING _____ TO _____		
ENGINEERING	X.XX	
OTHER PROFESSIONAL FEES	X.XX	
MISCELLANEOUS EXPENSES	X.XX	
GOVERNMENTAL REGISTRATION FEES	X.XX	
LEGAL	X.XX	
<u>TOTAL EXPENDITURES</u>	<u>XXX.XXX.XX</u>	<u>XXX.XXX.XX</u>
<u>FUND BALANCE AT</u> (date)		<u>XXX.XXX.XX</u>
RESERVE FOR CONTINGENCIES		<u>-XX.XXX.XX</u>
<u>UNRESERVED FUND BALANCE</u>		<u>XXX.XXX.XX</u>

RECEIVED
OCT 17 2011

**CALDWELL PACETTI
EDWARDS SCHOECH & VIATOR LLP**
ATTORNEYS AT LAW

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KENNETH W. EDWARDS
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October 12, 2011

Mr. Rachel R. Callovi
Deputy Clerk, Wellington
12300 W. Forest Hill Blvd.
Wellington, FL 33414

Re: Northern Palm Beach County Improvement District (NPBCID)
NPDES Third Term Permit Interlocal Agreement

Dear Ms. Callovi:

Enclosed for your records is one fully executed original Interlocal Agreement regarding the NPDES Third Term Permit that has been filed with the Clerk of Court. Corrections were made to some minor scrivener's errors.

As had been announced at the September NPDES Steering Committee meeting, the Clerk's office had requested that we file all the Agreements at once. We appreciate your patience in this matter.

Thank you very much for your assistance.

Sincerely,
Betsy S. Burden
Betsy S. Burden

Enc.

**CALDWELL PACETTI
EDWARDS SCHOECH & VIATOR LLP**

ATTORNEYS AT LAW

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OF COUNSEL
BETSY S. BURDEN

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March 10, 2011

RECEIVED
MAR 14 2011

Mitch Fleury
Public Works Director
Village of Wellington
14000 Greenbriar Blvd.
Wellington, FL 33414

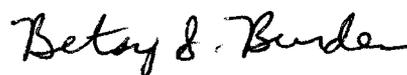
RE: Northern Palm Beach County Improvement District (NPBCID)/Lead Permittee
NPDES Third Term Permit Interlocal Agreement

Dear Mr. Fleury,

Enclosed please find three (3) original Agreements to be executed as required by the NPDES Third Term Permit. Please have these Agreements approved and signed by the appropriate representatives and return all three to our office as soon as possible. We will then have them executed by the Lead Permittee and filed with the Clerk of Court. One fully executed original will be returned to you for your files.

Please let us know if you have any questions concerning the above. Thank you very much for your assistance.

Sincerely,



Betsy S. Burden

BSB/ccw
Enclosures