MEMORANDUM Agenda Item No. 11(A)(17)

TO: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

DATE: May 5, 2009

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

SUBJECT: Resolution approving an Interlocal Agreement between Miami-Dade County and the City of Homestead in connection with the proposed annexation by the City of Homestead

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The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Board of County Commissioners.

R. A. Cuevas, Jr.
County Attorney

RAC/cp

RESO\2078

MEMORANDUM

(Revised)

TO: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

DATE: May 5, 2009

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

SUBJECT: Agenda Item No. 11(A)(17)

Please note any items checked.

_____ **"4-Day Rule" ("3-Day Rule" for committees) applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Bid waiver requiring County Mayor's written recommendation**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **Housekeeping item (no policy decision required)**

_____ **No committee review**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 11(A)(17)
5-5-09

RESOLUTION NO. _____

RESOLUTION APPROVING AN INTERLOCAL AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE CITY OF HOMESTEAD IN CONNECTION WITH THE PROPOSED ANNEXATION BY THE CITY OF HOMESTEAD; AUTHORIZING THE COUNTY MAYOR OR MAYOR'S DESIGNEE TO EXECUTE THE AGREEMENT IN SUBSTANTIALLY THE FORM ATTACHED AND TAKE ANY ACTION REQUIRED BY THE COUNTY HEREIN

WHEREAS, Section 6.04 of the Home Rule Charter establishes the framework by which the Board of County Commissioners of Miami-Dade County, after obtaining the approval of the municipal governing bodies concerned, after hearing the recommendations of the Planning Advisory Board, and after a public hearing, may by ordinance effect boundary changes; and

WHEREAS, on April 16, 2007, the City of Homestead submitted an application for the annexation of unincorporated areas adjacent to the City; and

WHEREAS, Ordinance _____ of the Code of Miami-Dade County approved the annexation subject to conditions, including that Miami-Dade County and the City of Homestead enter into this Interlocal Agreement,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that the Agreement by and between Miami-Dade County, Florida, and the City of Homestead is hereby approved and the Board authorizes the County Mayor or Mayor's designee to execute the agreement in substantially the form attached and take any action required by the County herein.

The Prime Sponsor of the foregoing resolution is Board of County Commissioners. It was offered by Commissioner , who moved its adoption. The motion was seconded by Commissioner and upon being put to a vote, the vote was as follows:

Dennis C. Moss, Chairman
Jose "Pepe" Diaz, Vice-Chairman

Bruno A. Barreiro	Audrey M. Edmonson
Carlos A. Gimenez	Sally A. Heyman
Barbara J. Jordan	Joe A. Martinez
Dorrin D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

The Chairman thereupon declared the resolution duly passed and adopted this 5th day of May, 2009. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

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

HARVEY RUVIN, CLERK

By:_____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency. CHC

Craig H. Coller

Interlocal Agreement

This agreement is entered into this ___ day of _____, 200__, by and between Miami-Dade County, Florida ("County") and the City of Homestead ("City"), a Florida municipal corporation.

W I T N E S S E T H

WHEREAS, section 6.04 of the Home Rule Charter for Miami-Dade County authorizes the County to approve changes to municipal boundaries; and

WHEREAS, the City desires to change its boundary to include and annex the tract of land described in the accompanying ordinance (the "Annexed Property"); and

WHEREAS, the City and the County desire to enter into an agreement that will provide for points of compromise and other matters.

WHEREAS, certain public roads on the County Road System are within the Annexed Property (hereinafter referred to as "Road Segments"); and

WHEREAS, the COUNTY and the CITY are desirous of transferring the underlying title and responsibility for the operation, maintenance, planning, design and construction of the Road Segments **(excluding traffic engineering functions for all Road Segments and stormwater drainage related functions for the Exempt Roads)** from the COUNTY to the CITY; and

WHEREAS, pursuant to Section 335.0415, Florida Statutes, jurisdiction and responsibility for public roads may be transferred by mutual Agreement of the COUNTY and the CITY; and

WHEREAS, Section 337.29(3), Florida Statutes, provides that title to roads transferred pursuant to Section 335.0415, Florida Statutes, shall be in the government

entity to which such roads have been transferred upon the recording of a right-of-way map in the public records; and

WHEREAS, the COUNTY and the CITY have determined that it is in the best interest of the parties that responsibility for the operation, maintenance, planning, design and construction of the Road Segments and of any future improvements **(excluding traffic engineering functions for all Road Segments and stormwater drainage related functions for the Exempt Roads)** thereto be transferred to the CITY.

NOW, THEREFORE, in consideration of the promises and the mutual covenants contained herein, the parties hereby agree as follows:

A. Debt Service. Obligations of the City.

1. **Utility Taxes and Franchise Fees.** Pursuant to current applicable law and the Code of Miami-Dade County, the County shall continue to receive and retain the electrical franchise fee generated from the Annexed Property area through the life of the franchise agreement granted by Miami-Dade County Ordinance 89-81, and utility tax revenues derived from the Annexed Property in perpetuity.

B. Solid Waste Disposal Pursuant to Section 20-8.4 of the Miami-Dade County Code, the County shall forever continue to collect and dispose of all residential waste within the Annexed Property in the same manner as though such Annexed Property area remained part of the unincorporated areas of the County, unless the authority to collect such waste is delegated by the County to the governing body of the City through a twenty (20) year interlocal agreement which provides for the collection services, and a twenty (20) year interlocal agreement which provides for

disposal services in substantially the form approved by Resolution R1198-95.

C. Transfer of Public Roads

1. The above recitals are true and correct and incorporated herein.

2. The jurisdiction, ownership and control of all public roads, as defined in Section 334.03 (23), Florida Statutes, within the Annexed Property heretofore designated as part of the County road system prior to the effective date of this agreement are hereby transferred and conveyed to the CITY road system, except for the following roads (which are hereafter referred to as "Exempt Roads") as listed in the attached Exhibit "A". In addition, as defined in Section 10-1, Miami-Dade County Code, the Miami-Dade Public Works Department shall remain as the administrative agency with responsibility for issuing permits and collecting fees for work in, on, under, or over public streets, thoroughfares, waterways, and utility easements on Exempt Roads.

3. The right and responsibility of all traffic engineering matters to regulate traffic and determine appropriate measures and install, maintain, modify or remove traffic control devices such as traffic signals, signs and pavement markings, including road closures (except for temporary closures for special events which authority shall remain with the CITY), roundabouts or other traffic-calming devices within the Annexed Property remains with the COUNTY. Nothing herein diminishes the County's jurisdiction over all traffic

engineering matters within the territorial area of Miami-Dade County including within municipalities, except State road rights of way. Setting the hours and days that construction by any Department or Agency of the COUNTY in or on any public street shall be reserved to the COUNTY with prior informed consent of the CITY. The right and responsibility to issue permits or to collect any fees for any construction, including utility work, and within the public rights of way of the Exempt Roads, is not transferred to the CITY. The rights and responsibility to issue permits or collect fees for construction, including utility work, within the public rights of way of all non-exempt roads within the Annexed Property are expressly transferred to the CITY by this agreement except those associated with traffic engineering. The CITY agrees that it shall not levy any fee or require a permit from any County Agency for work within the Annexed Property. The COUNTY shall have the authority to issue permits and collect fees for private driveway connections to the Exempt Roads within the Annexed Property as a part of the overall site plan review and permitting process.

4. The CITY agrees to accept all legal rights, responsibilities and obligations with respect to the Road Segments, including but not limited to the operation, maintenance, planning, design and construction of the Road Segments excluding traffic engineering for all Road Segments and stormwater drainage related functions for Exempt Roads.

5. As limited by Section 768.28, Florida Statutes the COUNTY shall remain responsible for any tort liability for any actions arising out of the COUNTY's operation and maintenance of the Road Segments prior to and up to the effective date of the transfer of such roadways. Except as otherwise provided herein, the CITY and the COUNTY agree that no indemnification or hold harmless agreement shall be in effect concerning any claims, demands, damages and causes of action that may be brought against either party pursuant to this Agreement. The CITY and the COUNTY shall each individually defend any action or proceedings brought against their respective agencies pursuant to this Agreement and shall be individually responsible for all of their respective costs, attorneys fees, expenses and liabilities incurred as a result of any such claims, demands, suits, actions, damages and causes of action, including the investigation or the defense thereof, and from and against any orders, judgments or decrees that may be entered as a result thereof ,provided, however that the County shall to the extent permitted by law and as limited by Section 768.28, Florida Statutes remain liable and defend, indemnify and hold harmless the CITY, its Agents, officers and employees from any claim, dispute, action or suit arising with respect to stormwater related drainage functions on the Exempt Roads. The County shall also to the extent permitted by law and as limited by Section 768.28, Florida Statutes defend, indemnify and hold harmless the CITY its Agents,

officers and employees from any claim, dispute, action or suit alleging any injury as a result of the COUNTY's performance or failure to perform the duties assumed by the COUNTY pursuant to Paragraph (C), hereof.

6. Upon execution of this Agreement, the County Manager and CITY Manager shall determine a mutually agreeable date for the recordation and transfer of the Road Segments (excluding the Exempt Roads) following the approval of this interlocal agreement by the Board of County Commissioners. A listing of all the road segments being transferred to the CITY will be provided to the CITY Manager.

7. The COUNTY shall provide the CITY with a list of all completed, planned and/or unfunded roadway/sidewalk/stripping projects for the Road Segments and, upon the CITY Manager's request, access to Plans, Specifications, Drawings, and Permits for such projects. The COUNTY shall assign to the CITY any existing contractor or manufacturer warranties or guarantees for any completed Roadway Projects.

8. Whenever one of the parties to this Agreement desires to give notice to the other, such notice must be in writing, sent by U.S. Mail, certified, return receipt requested, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving of notice shall remain such until it is changed by written notice in compliance with the provisions of this

paragraph. For the present, the parties designate the following as the respective places for giving notion:

For the COUNTY:

George M. Burgess
County Manager
County Manager's Office
Stephen P. Clark Center
111 N.W. 1st Street, Suite 2910
Miami, Florida 33128
Telephone: (305) 375-5311
Facsimile: (305) 375-4658

For the CITY:

Mike A. Shahadeh, P.E.
City Manager
790 North Homestead Blvd.
Homestead, FL 33030
Telephone: (305) 224-4403
Facsimile: (305) 224-4538

D. Term.

The provisions of this agreement shall be in full force and effect commencing on the date of the execution of this agreement and continuing in perpetuity.

E. Representation by the City and the County.

Each party represents that his agreement has been duly approved and executed by its governing body and that it has the required power and authority to enter into and perform the obligations hereunder.

F. Invalidation of Provisions, Severability.

Wherever possible, each provision of this agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if

any provision of this agreement is prohibited or invalid under applicable law, the remaining provisions of this interlocal agreement shall not be affected by such invalidity.

G. Existing Agreements.

Any and all existing interlocal agreements between the County or any of its departments of agencies (such as but not limited to DERM, WASD, Public Safety, etc.) and The City of Homestead shall remain in full force and effect and shall not be altered, changed, modified, amended or terminated as a result of this agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective and duly authorized representatives.

Attest:

CITY OF HOMESTEAD, FLORIDA

By:_____

By: _____
Date

Approved for legal sufficiency and form:

_____
City Attorney

Attest:

MIAMI-DADE COUNTY, FLORIDA

Harvey Ruvin, Clerk

By:_____
Deputy Clerk

By: _____
Mayor Carlos Alvarez or designee Date

Approved for legal sufficiency and form:

_____
County Attorney

Attachment A

Miami-Dade County Retained Roads

Street Name	From	To	Comments	Centermile	No. of lanes	Lanemiles
SW 328 St	SW 194 Ave	SW 192 Ave	North side (No R/W), undeveloped	0.12	0	0.00