MEMORANDUM

Agenda Item No. 8(L)(1)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: March 5, 2013

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

SUBJECT: Resolution authorizing execution of an Interlocal Agreement between Miami-Dade County, Florida and the City of Miami, Florida for remediation and closure of the Virginia Key Landfill

The accompanying resolution was prepared by the Public Works & Waste Management Department and placed on the agenda at the request of Prime Sponsor Commissioner Xavier L. Suarez.

R. A. Cuevas, Jr.
County Attorney

RAC/lmp

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Memorandum

MIAMI-DADE COUNTY

Date: March 5, 2013

To: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Interlocal Agreement for Remediation and Closure of the Virginia Key Landfill

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RECOMMENDATION

It is recommended that the Board of County Commissioners (Board) approve the attached resolution authorizing execution of an interlocal agreement between Miami-Dade County, Florida and the City of Miami, Florida for remediation and closure of the City's Virginia Key Landfill (Agreement). The proposed Agreement is consistent with Board resolution R-244-04, which approved the conceptual plan to fund closure and remediation of landfill sites throughout the County (Conceptual Landfill Closure Plan). The closure and remediation cost estimated for the Landfill is $46 million.

SCOPE

The Conceptual Landfill Closure Plan specifically identified three (3) landfill sites: (1) Homestead Landfill, (2) Munisport Landfill, and (3) Virginia Key Landfill as candidates for County remediation and closure funding, subject to conditions. At this time, the Homestead Landfill project is complete and the Munisport Landfill project is underway as part of an overall development plan for the landfill site. The Virginia Key Landfill is the final identified site pending a funding agreement for remediation and closure.

FISCAL IMPACT

In 2005, the County issued $73.5 million Solid Waste System revenue bonds to fund a variety of ground water protection and remediation projects, including $28 million programmed for the Virginia Key Landfill remediation and closure project (Project). It is anticipated that a later bond issuance will fund the remaining $18 million ($46 million total). Utility Service Fee (USF) revenues that accrue to the Public Works and Waste Management Department (PWWM) at the current rate of approximately $22 million annually will be the sole source of funding for the Project.

TRACK RECORD/MONITOR

Asok Ganguli, Assistant Director for Technical Services, with the PWWM will oversee the Virginia Key Landfill (Landfill) Project for the County. He will be assisted in this effort by the PWWM Bond Engineer. The Bond Engineer is responsible for determining whether remediation and closure costs are eligible for funding from USF revenues, pursuant to Section 24-34 of the Code of Miami-Dade County.

BACKGROUND

An aerial photograph dating back to 1952 depicts Virginia Key as a nearly pristine vegetated island in Biscayne Bay with a lake at its center, Duck Lake. Shortly thereafter in the late 1950's – early 1960's, Virginia Key was developed for two purposes: (1) a City-owned waste water treatment plant, and (2) a municipal solid waste landfill. The waste water treatment plant was purchased by the County in 1973 and the Landfill, which completely filled in the lake, ceased accepting waste in 1978. Ground water monitoring wells detected violations of County ground water quality standards in 1999 and the site has been under County environmental enforcement action since that time, without a satisfactory resolution to the ground water contamination problem.

In 2004, the Board approved a $650,000 grant to the City to fund a Contamination Assessment Plan (CAP) and Site Assessment Report (SAR) for Virginia Key (R-1309-04), which are needed prior to development of a Request for Proposals to design and construct the landfill remediation and closure systems. The CAP was completed, but the SAR was not, leaving an unspent balance of $370,483 in the grant escrow account. The City has yet to invoice the County for all its work on the SAR, therefore some previous City expenses may be reimbursable under the Agreement, subject to a determination of eligibility by the PWWM Bond Engineer.

On June 5, 2012, the Board approved a resolution directing the Mayor to proceed with the remediation and closure of the Landfill contingent upon City execution of both an interlocal agreement to fund the remediation and closure project and a long-term waste disposal agreement with the County (R-479-12). Attached are the City approved funding interlocal agreement and associated resolution from the City. The long-term waste disposal agreement is contained in a separate companion item.

The proposed Agreement is the product of long and intensive negotiations between the County and the City. The following are the essential elements of the Agreement:

- Unlike the previous grant agreements to the City of North Miami ($31 million) and City of Homestead ($7.5 million) where the grant recipients are responsible for installation of ground water remediation/monitoring systems and closure construction, this Agreement is an interlocal agreement that sets out the terms under which Project elements will be completed by the County.

- Considering the future use of the closed Landfill is a public purpose park and associated facilities, the County has agreed to fund up to $1 million per year in post-closure ground water remediation and monitoring costs, including those costs that may be attributable to the County's use of the Landfill for sewage sludge disposal from the adjacent waste water treatment facility.

- Consistent with the Conceptual Landfill Closure Plan, and as was done by the two prior grant recipients, the City will simultaneously enter into a long-term waste disposal interlocal agreement with the County to support Solid Waste Management System revenues, which are pledged to fund the Project bonds.

Alina T. Hudak
Deputy Mayor

MEMORANDUM

(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: March 5, 2013

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

SUBJECT: Agenda Item No. 8(L)(1)

Please note any items checked.

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

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

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

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

_____ **Budget required**

_____ **Statement of fiscal impact required**

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

_____ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(L)(1)
3-5-13

RESOLUTION NO. _____

RESOLUTION AUTHORIZING EXECUTION OF AN INTERLOCAL AGREEMENT BETWEEN MIAMI-DADE COUNTY, FLORIDA AND THE CITY OF MIAMI, FLORIDA FOR REMEDIATION AND CLOSURE OF THE VIRGINIA KEY LANDFILL

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that the Interlocal Agreement between Miami-Dade County, Florida and the City of Miami, Florida for remediation and closure of the Virginia Key Landfill is approved and the Mayor or Mayor's designee is authorized to execute the Agreement in substantially the form attached hereto after review and approval by the County Attorney. The Mayor or designee is authorized to exercise any and all powers and options within the Agreement including termination.

The foregoing resolution 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:

Rebeca Sosa, Chairwoman
Lynda Bell, Vice Chair

Bruno A. Barreiro
Jose "Pepe" Diaz
Sally A. Heyman
Jean Monestime
Sen. Javier D. Souto
Juan C. Zapata
Esteban L. Bovo, Jr.
Audrey M. Edmonson
Barbara J. Jordan
Dennis C. Moss
Xavier L. Suarez

The Chairperson thereupon declared the resolution duly passed and adopted this 5th day of March, 2013. 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

Approved by County Attorney as
to form and legal sufficiency.

Thomas H. Robertson

By:_____
Deputy Clerk

INTERLOCAL AGREEMENT BETWEEN
MIAMI-DADE COUNTY, FLORIDA
AND
CITY OF MIAMI, FLORIDA FOR REMEDIATION AND CLOSURE OF THE VIRGINIA KEY LANDFILL

This Interlocal Agreement, made and entered this _____ day of _____, 201_, by and between MIAMI-DADE COUNTY, FLORIDA, a political subdivision of the State of Florida (hereafter "COUNTY") and the CITY OF MIAMI, FLORIDA, a Florida municipal corporation (hereafter "CITY").

W I T N E S S E T H

WHEREAS, pursuant to Resolution No. R-1309-04 of the Board of County Commissioners, the COUNTY and the CITY entered into that certain Grant Agreement dated August 24, 2004 whereby the COUNTY agreed to provide certain grant funds ($650,000) to be used toward funding the cost to prepare a contamination assessment plan (CAP) and site assessment report (SAR) for the former Virginia Key Landfill (Landfill); and

WHEREAS, the CITY completed the CAP and a portion of the work necessary for the SAR ; and

WHEREAS, the parties desire to terminate the Grant Agreement and replace it with this Landfill Closure Interlocal Agreement (Agreement); and

WHEREAS, the parties agree that it is in their mutual best interests and the best interests of the citizens of Miami-Dade County to have the COUNTY conduct the Landfill remediation and closure, including completion of the SAR, preparation of a Remedial Action Plan (RAP), construction and implementation of the Regulatory and

Economic Resources Department (RER) [formerly Department of Environmental Resources Management (DERM)] approved remedial system design, performance of Landfill closure construction and securing Landfill closure certification; and

WHEREAS, taking into account the CITY's proposed use of the Landfill as a public purpose park the COUNTY agrees to fund a portion of the post-closure groundwater remediation costs, including those costs that may be attributable to the COUNTY's use of the Landfill for sewage sludge disposal from the adjacent COUNTY operated waste water treatment facility;

NOW, THEREFORE, IN CONSIDERATION of the mutual benefits derived herefrom, the parties covenant and agree as follows:

I. STATUS OF FORMER AGREEMENTS

This Agreement shall replace all prior agreements between the COUNTY and the CITY related to the remediation and closure of the Landfill.

II. SOURCE OF FUNDING

The source of funding for the Landfill remediation, closure and post closure costs shall be exclusively from the Utility Service Fee (USF), which fee has been and may in the future be used to secure the issuance of tax exempt bonds. The current remediation and closure cost estimate for the Landfill is $46 million.

III. LANDFILL REMEDIATION AND CLOSURE

The COUNTY shall be solely responsible for the complete remediation and closure of the Landfill by performing all necessary studies, plans, reports, design plans, permitting activities, agency coordination, construction and waste removal as may be

necessary to comply with all Federal, State, County and local environmental regulations and requirements including but not limited to: (1) completion of the SAR, (2) preparation of the RAP, (3) construction and implementation of the RER approved remedial system design, (4) Landfill closure construction, (5) securing Landfill closure certification. The plans submitted for approval and the work performed by the COUNTY shall be specifically limited to those minimum activities, such as construction of monitoring wells, soil probes and remedial system components required as part of the remediation and closure of the LANDFILL without regard to any future planned use by the CITY. In no instance, will funds be used for construction of facilities which are not required as part of the minimum required remediation and Landfill closure, as set forth in the RER approved remediation and Landfill closure plans.

In addition, the COUNTY shall bear the cost of any modifications to the Landfill remediation and closure that may be required by regulatory agencies subsequent to closure certification resulting from failure to meet any requirements in effect at the time of closure certification.

Notwithstanding the above and to the extent feasible without affecting the cost to the COUNTY of effecting a minimum safe closure of the Landfill, the remediation and Landfill closure plans will attempt to complement the future recreational land use envisioned for the Landfill, as depicted in the Virginia Key Master Plan, adopted by the City of Miami Commission on July 22, 2010, and as may be amended prior to finalization of the remediation and closure plans. . During the closure construction and in the event that the CITY desires to construct utility corridors, foundations or other similar facilities for the future recreational use of the Landfill, the COUNTY will

coordinate with the CITY on this work, provided that the CITY pays the incremental cost for such facilities, including hard and soft costs such as consulting fees.

Again, notwithstanding the above, the soil used as part of the COUNTY'S remediation must meet, as a minimum, the COUNTY's Soil Re-Use guidelines and requirements for Residential Soil. All soil must be tested off-site and the appropriate environmental agencies must provide the City with the necessary clearances prior to the soil being transported to the Landfill.

The CITY shall fully cooperate in the preparation of all plans and reports required by this Agreement and shall provide any and all Owner approvals required by any regulatory agency or contractor. The CITY shall fully cooperate in any construction or work required to complete the closure of the Landfill.

The Department's Bond Engineer will provide oversight for the Landfill remediation and closure work to ensure that the use of USF funds is limited to eligible costs.

IV. TERM OF AGREEMENT

This Agreement shall be in full force and effect from the date hereof and shall continue until the final certification of completion of the Landfill closure is obtained from the appropriate regulatory agency and the POST CLOSURE MAINTENANCE AND MONITORING funding terms prescribed in Section VI are fulfilled. Notwithstanding the above, the parties desire that the COUNTY'S completion of the Landfill remediation take place on or before January 1, 2018.

V. COUNTY ACCESS TO LANDFILL

The COUNTY shall have unrestricted access to the Landfill for the purposes of this Agreement, however, the COUNTY shall conduct the Landfill closure and associated work in a manner that will attempt to minimize its interference with ongoing CITY or third party activities taking place at Virginia Key, including but not limited to: the CITY's clean yard trash mulching operation, the City's mountain bike and nature trails, and the CITY's festivals and overflow event parking. Nothing herein shall require the COUNTY to expend funds in excess of the cost of the approved closure plan to accommodate these operations and events. This shall specifically include costs associated with delays.

VI. POST CLOSURE MAINTENANCE AND MONITORING

The CITY shall be responsible to provide, at its sole cost, for any and all post-closure maintenance and monitoring for the Landfill, including operation, maintenance and monitoring of any groundwater remediation system, until such time as this activity is no longer required by RER, FDEP or EPA. The CITY shall also be obligated to provide post-closure maintenance of the approved Landfill closure cover material.

Notwithstanding the above paragraph, and taking into consideration that the future use of the Landfill is for a public purpose (park and associated facilities), the COUNTY agrees to pay all costs approved by the Bond Engineer up to $1,000,000 per year for the CITY'S post-closure ground water remediation and monitoring costs. The COUNTY agrees to provide these funds on an annual basis beginning on the date that the CITY begins to incur any post-closure expenses for as long a period of time as the CITY maintains an active waste disposal interlocal agreement with the COUNTY.

Further, in the event that the Landfill remediation and closure project is completed for less than the estimated $46 million, the City may submit claims for reimbursement against the remaining estimate balance for remediation, monitoring and long-term care costs at the Landfill or any other Utility Service Fee eligible cost, in accordance with Section 24-34 of the Miami-Dade County Code, which reimbursement claims shall be subject to approval by the Department's Bond Engineer.

VII. COUNTY PAYMENT TO CITY

The CITY has conducted partial studies related to the Landfill. Accordingly, the COUNTY shall reimburse the CITY for any eligible prior work performed by the CITY under this or the prior Grant Agreement related to the Landfill. Reimbursement eligibility for prior work shall be determined by the Department's Bond Engineer. The COUNTY shall reimburse the CITY within 45 days of a finding of eligibility.

VIII. CITY INDEMNIFICATION

Subject to the limitations set forth in Section 768.28, F.S., and all applicable laws, the CITY shall indemnify and hold harmless the COUNTY from and for any losses, claims, causes of action or damages of any nature whatsoever, arising from the act, omission or performance or failure of performance of the CITY or the CITY's agents, contractors, servants and employees hereunder relative to the performance on any work on the Landfill. The CITY shall defend the COUNTY in any action including any action in the name of the COUNTY. In addition, subject to the limitations set forth in Section 768.28, F.S., and all applicable laws, the CITY shall indemnify and hold harmless the COUNTY for any existing or future environmental conditions or violations at the Landfill that are unrelated to or not directly caused by the COUNTY's landfill

remediation and closure work. The duty to defend set out above shall be equally applicable here.

IX. COUNTY INDEMNIFICATION

Subject to the limitations set forth in Section 768.28, F.S., and all applicable laws, the COUNTY shall indemnify and hold harmless the CITY from and for any losses, claims, causes of action or damages of any nature whatsoever, arising from the act, omission or performance or failure of performance of the COUNTY or the COUNTY'S agents, contractors, servants and employees hereunder relative to the performance on any work on the Landfill. The COUNTY shall defend the CITY in any action including any action in the name of the CITY. The duty to defend set out above shall be equally applicable here.

X. FORCE MAJEURE

Neither party hereto shall be liable for its failure to carry out its obligations under the Agreement during any period when such party is rendered unable, in whole or in part, by Force Majeure to carry out such obligations, but the obligations of the party relying on such Force Majeure shall be suspended only during the continuance of any inability so caused and for no longer period of said unexpected or uncontrollable event, and such cause shall, so far as possible, be remedied with all reasonable dispatch.

It is further agreed and stipulated that the right of any party hereto to excuse its failure to perform by reason of Force Majeure shall be conditioned upon such party giving, to the other party, written notice of its assertion that a Force Majeure delay has commenced within ten (10) working days after such commencement, unless there exists good cause for failure to give such notice, in which event, failure to give such

notice shall not prejudice any party's right to justify any non-performance as caused by Force Majeure unless the failure to give timely notice causes material prejudice to the other party. It is further agreed and stipulated that each party hereto shall make all reasonable efforts to carry out its obligations under this Agreement during any period when such party is rendered, unable, in whole or in part, by Force Majeure to carry out such obligations.

Force Majeure shall be defined as an act of God, epidemic, lightning, earthquake, fire, explosion, storm, hurricane, flood or similar occurrence, strike, and acts 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 be reasonably expected to have a material adverse effect on the rights or obligations under this Agreement, which by the exercise of due diligence the party relying thereon as justification for not performing any obligation under this Agreement shall not have been able to avoid, and which is not the result of willful or negligent action or omission of such party.

XI. DEFAULT

A. Without limitation, the failure by the CITY to substantially fulfill any of its material obligations in accordance with this Agreement, unless such failures are justified by Force Majeure, shall constitute a "CITY event of default". If a CITY event of default should occur, the COUNTY 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 the CITY thereunder are terminated, effective upon such date as is

designated by the COUNTY. Provided, however, an event of default shall be defined to consist of a default that shall occur by the default in performance of any of the covenants and conditions required herein to be kept and performed by the CITY and provided that such default continues for a period of thirty (30) days after receipt of written notice from the COUNTY of said default. Notwithstanding the above, if the nature of the default is such that it cannot be cured in a period of thirty (30) days from the date of the default, and the CITY commences reasonable efforts to cure such default no later than thirty (30) days after such notice, and such efforts are prosecuted to completion, to the COUNTY's reasonable satisfaction, then it shall be deemed that no event of default shall have occurred under the provisions of this paragraph.

2. Any and all rights provided under the laws of the State of Florida.

B. Without limitation, the failure by the COUNTY to substantially fulfill any of its material obligations in accordance with this Agreement, unless such failures are justified by Force Majeure, shall constitute a "COUNTY event of default." If a COUNTY event of default should occur, the CITY 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 the COUNTY thereunder are terminated, effective upon such date as is designated by the CITY; provided, however, that an event of default shall be defined to consist of default that shall occur by the default of

performance of any of the covenants and conditions required herein to be kept and performed by the COUNTY and provided that such default continues for a period of thirty (30) days after receipt of written notice from the CITY of said default. Notwithstanding the above, if the nature of the default is such that it cannot be cured in a period of thirty (30) days from the date of the default, and the COUNTY shall commence reasonable efforts to cure such default, no later than thirty (30) days after such notice, and such efforts are diligently prosecuted to completion to the CITY's reasonable satisfaction, then it shall be deemed that no event of default shall have occurred under the provisions of this subsection.

2. Any and all rights provided under the laws of the State of Florida and the United States District Court for the Southern District of Florida.

XII. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. The COUNTY and the CITY 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.

XIII. ENTIRETY OF 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 both parties hereto and their authorized representatives.

XIV. 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.

XV. RIGHTS OF OTHERS

Nothing in this Agreement expressed 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.

XVI. REPRESENTATION OF CITY

The CITY represents that (I) this Agreement has been duty authorized, executed and delivered by the CITY, and (II) it has the required power and authority to perform this Agreement.

XVII. REPRESENTATION OF COUNTY

The COUNTY represents that (I) this Agreement has been duly authorized, executed and delivered by the Board of County Commissioners, as the governing body of the COUNTY, and (II) it has the required power and authority to perform this Agreement.

XVIII. 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.

XIX. INVALIDITY OF PROVISIONS, SEVERABILITY

Wherever possible, each provision of the Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement, provided that the material purposes of this Agreement can be determined and effectuated.

XX. INTERGOVERNMENTAL COOPERATION

The CITY agrees that the CITY shall not pursue a landfill remediation cost recovery action pursuant to CERCLA or RCRA or other Federal or State law against the COUNTY.

XXII. NOTICE

Notices to CITY provided for herein shall be sufficient if sent by Federal Express or certified mail, return receipt requested, postage prepaid, addressed to:

City Manager
City of Miami City Hall
3500 Pan American Drive
Miami, Florida 33133

with copy to:

City Attorney
City of Miami Riverside Center
444 SW 2nd Avenue
Miami, Florida 33130

and notices to COUNTY, if sent by Federal Express or certified mail, return receipt requested, postage prepaid addressed to:

County Mayor
Miami-Dade County
Stephen P. Clark Center
111 N.W. 1st Street, 29th Floor
Miami, FL 33128

with copy to:

County Attorney
Miami-Dade County
Stephen P. Clark Center
111 N.W. 1st Street, 28th Floor
Miami, FL 33128

Or such other respective address as the parties may designate to each other in writing from time to time.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.

ATTEST:

HARVEY RUVIN, CLERK

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

By:_____
DEPUTY CLERK

By:_____
Carlos A. Gimenez
County Mayor

Approved as to form and legal Sufficiency:

_____
Thomas H. Robertson
Assistant County Attorney

ATTEST:

CITY OF MIAMI, a Florida Municipal Corporation

By:_____ 2/1/13
Todd Hannon,
City Clerk

By:_____
Johnny Martinez, P.E.
City Manager

Approved as to Insurance Requirements

_____
Calvin Ellis
Risk Management Director

Approved as to Form and Correctness:

_____
Julie O. Bru
City Attorney

File Number: 12-01328 **Enactment Number: R-13-0036**

A RESOLUTION OF THE MIAMI CITY COMMISSION, WITH ATTACHMENT(S), AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERLOCAL AGREEMENT, IN SUBSTANTIALLY THE ATTACHED FORM, WITH MIAMI-DADE COUNTY ("COUNTY") FOR THE REMEDIATION AND CLOSURE OF THE VIRGINIA KEY LANDFILL; FURTHER TERMINATING THE GRANT AGREEMENT WITH THE COUNTY DATED AUGUST 24, 2004, FOR THE PREPARATION OF A CONTAMINATION ASSESSMENT PLAN AND SITE ASSESSMENT REPORT AND REPLACING IT WITH THIS INTERLOCAL AGREEMENT FOR CLOSURE OF THE VIRGINIA KEY LANDFILL.

WHEREAS, pursuant to Resolution No. 04-0440, adopted July 8, 2004, the City of Miami ("City") and Miami-Dade County ("County") entered into a Grant Agreement dated August 24, 2004, whereby the County agreed to provide certain grant funds ($650,000) to be used toward funding the cost to prepare a contamination assessment plan ("CAP") and site assessment report ("SAR") for the former Virginia Key Landfill ("Landfill"); and

WHEREAS, the City completed the CAP and a portion of the work necessary for the SAR; and

WHEREAS, the parties desire to terminate the Grant Agreement and replace it with the attached Landfill Remediation and Closure Interlocal Agreement ("Agreement"); and

WHEREAS, the parties agree that it is in their mutual best interests and the best interests of the citizens of the County to have the County conduct the Landfill remediation and closure, including completion of the SAR, preparation of a Remedial Action Plan, construction and implementation of the Regulatory and Economic Resources Department) [formerly Department of Environmental Resources Management (DERM)] approved remedial system design, performance of Landfill closure construction and securing Landfill closure certification; and

WHEREAS, taking into account the City's proposed use of the Landfill as a public purpose park, the County agrees to fund a portion of the post-closure groundwater remediation costs, up to $1,000;000 per year, including those costs that may be attributable to the County's use of the Landfill for sewage sludge disposal from the adjacent County operated waste water treatment facility; and

WHEREAS, the attached Agreement has been negotiated between the County and the City, detailing the responsibilities of the parties;

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF MIAMI, FLORIDA:

Section 1. The recitals and findings found in the Preamble to this Resolution are adopted by reference and incorporated as fully set forth in this Section.

Section 2. The City Manager is authorized{1} to execute an Agreement, in substantially the attached form, with the County for the remediation and closure of the Landfill.

Section 3. The Grant Agreement with the County dated August 24, 2004 for the preparation of a contamination assessment plan and site assessment report, is terminated, and is replaced with the attached Agreement for closure of the Landfill.

Section 4. This Resolution shall become effective immediately upon its adoption and signature of the Mayor. {2}

Date:	**DECEMBER 13, 2012**
Mover:	**COMMISSIONER GORT**
Seconder:	**COMMISSIONER CAROLLO**
Vote:	**AYES: 4 - COMMISSIONER(S) GORT, SARNOFF, CAROLLO AND SUAREZ ABSENT: 1 - COMMISSIONER(S) SPENCE-JONES**
Action:	**CONTINUED**
Date:	**JANUARY 10, 2013**
Mover:	**COMMISSIONER SPENCE-JONES**
Seconder:	**COMMISSIONER SUAREZ**
Vote:	**AYES: 5 - COMMISSIONER(S) GORT, SARNOFF, CAROLLO, SUAREZ AND SPENCE-JONES**
Action:	**DEFERRED**
Date:	**JANUARY 24, 2013**
Mover:	**COMMISSIONER SUAREZ**
Seconder:	**COMMISSIONER CAROLLO**
Vote:	**AYES: 5 - COMMISSIONER(S) GORT, SARNOFF, CAROLLO, SUAREZ AND SPENCE-JONES**
Action:	**ADOPTED**
Date:	**JANUARY 31, 2013**
Action:	**SIGNED BY THE MAYOR**

I, Todd B. Hannon, City Clerk of the City of Miami, Florida, and keeper of the records thereof, do hereby certify that this constitutes a true and correct copy of Resolution No. R-13-0036, with attachments, passed by the City Commission on 1/24/2013.

City Clerk, Deputy Clerk (for Todd B. Hannon, City Clerk)

February 01, 2013

Date Certified

{1} The herein authorization is further subject to compliance with all requirements that may be imposed by the City Attorney, including but not limited to those prescribed by applicable City Charter and Code provisions.

{2} If the Mayor does not sign this Resolution, it shall become effective at the end of ten calendar days from the date it was passed and adopted. If the Mayor vetoes this Resolution, it shall become effective immediately upon override of the veto by the City Commission.