

# MEMORANDUM

Agenda Item No. 8(O)(1)

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

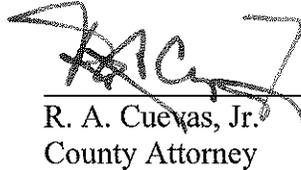
**DATE:** December 17, 2013

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

**SUBJECT:** Resolution approving the  
settlement agreement between  
Miami-Dade County and Crown  
Linen, LLC for payment to the  
County in the amount of eight  
hundred thousand dollars  
(\$800,000.00)

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The accompanying resolution was prepared by the Water and Sewer Department and placed on the agenda at the request of the County Attorney's Office.

  
\_\_\_\_\_  
R. A. Cuevas, Jr.  
County Attorney

RAC/smm

# Memorandum



Date: December 17, 2013

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

From: Carlos A. Gimenez  
County Mayor

Handwritten signature of Carlos A. Gimenez in black ink.

Robert A. Cuevas, Jr.  
County Attorney

Handwritten signature of Robert A. Cuevas, Jr. in black ink.

Subject: Resolution approving settlement of Case Number 11-02235 CA 08 between Miami-Dade County and Crown Linen, LLC in the amount of \$800,000.00 to be paid to the County by Crown Linen, LLC to settle a dispute regarding unpaid sewer disposal service charges

## RECOMMENDATION

It is recommended that the Board of County Commissioners (Board) approve the attached resolution authorizing the County Mayor or his designee to execute a settlement agreement between Miami-Dade County through the Water and Sewer Department (WASD) and Crown Linen, LLC in the amount of \$800,000.00 to be paid to the County by Crown Linen, LLC to settle a dispute regarding unpaid sewer disposal service charges.

## SCOPE OF AGENDA ITEM

This settlement agreement serves to settle an ongoing dispute regarding unpaid sewage disposal services provided by the County to Crown Linen, LLC between the years 2004 and 2009. Crown Linen, LLC is located at 3235 NW 62 Street, Miami, Florida 33117 in Commission District 3, Audrey M. Edmonson.

## FISCAL IMPACT/FUNDING SOURCE

There is no fiscal impact to the County. Crown Linen, LLC will make 80 payments to WASD, each in the amount of \$10,000.00, over a period of 80 months.

## TRACK RECORD/MONITOR

The execution of this agreement will be overseen by WASD's Deputy Director of Operations, Joseph A. Ruiz.

## BACKGROUND

In 2004, Crown Linen, LLC, a commercial laundry business, sought to obtain sewer disposal services from WASD. Crown Linen, LLC received water service from the City of Hialeah and sewer disposal services are based upon water consumption. As such, WASD entered into an agreement with Crown Linen, LLC to submit copies of their water bills from the City of Hialeah to WASD so WASD could invoice for sewer disposal service charges based on Crown Linen, LLC's water consumption from the City of Hialeah. The City of Hialeah bills its customers on a bi-monthly basis. The original agreement was based upon one (1) water meter providing sewer disposal service to their administrative office. Between 2004 and 2009, Crown Linen, LLC expanded its laundry business facilities and added two (2) additional water meters for a total of three (3) meters. During that time period, Crown Linen, LLC did

not provide the water bills it received from the City of Hialeah for each meter to WASD on a consistent basis.

An internal audit revealed that WASD had under-billed Crown Linen, LLC by \$865,214.40 for sewer disposal services fees and other charges from 2004 through 2009. In this regard, Crown Linen, LLC disputes the amount owed and alleges 1) it paid all sewer bills sent by WASD, 2) it provided WASD with copies of the water bills from the City of Hialeah for each of the three (3) meters, and 3) it should not be penalized for WASD's inability to properly bill them over the four-year period in question.

Based on an audit of the Department's records, WASD asserts 1) Crown Linen, LLC submitted only the water bill for the first meter on a *regular* basis, the water bills from the first meter reflected a lower water consumption because the meter only measured domestic water use such as bathrooms, as opposed to the second and third meters that measured industrial water use by their large commercial washers, and 2) WASD received the water bill for the second meter which was installed in 2004 only five (5) times beginning in October 2007 and never received any water bills for the third meter, which was installed in 2008.

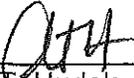
Based on the above, it is WASD's position that Crown Linen, LLC should have known that the sewer disposal service bills sent by WASD were too low considering the industrial purpose and the amount of water being used as utility costs are the second largest expense for a commercial laundry business. Crown Linen, LLC's position is that WASD should have known the bills were incorrect. This contention is made on the part of Crown Linen, LLC because in June 2007, WASD received notice of Crown Linen, LLC's request to expand its laundry business facilities and the request to increase its water usage. WASD had collected over \$90,000.00 in connection charges from Crown Linen, LLC's related to the expansion of the facilities.

Additionally, Crown Linen, LLC asserts that if it had known the monthly sewer disposal service charges would be so high, approximately \$50,000.00, it would have instituted water-saving measures including the installation of a water reclamation system. In fact, upon receiving notice of the under-billing from WASD, Crown Linen, LLC immediately began obtaining proposals for a water reclamation system and has installed such a system.

Crown Linen, LLC also asserts that it has entered into long-term contracts with its clients and the demand for a one-time payment of \$865,214.40 would substantially affect the business's operations. Since March 2010, Crown Linen, LLC has paid WASD the full amount of fees and charges for current sewer services, which is approximately \$50,000.00 per month. Crown Linen, LLC is also in the process of obtaining sewer meters.

Based on the unique facts and circumstances of this case including the 2004 billing arrangement and various payments made by Crown Linen, LLC, WASD believes the settlement is in the County's best interest. The County Attorney's Office concurs with this recommendation.

Under the settlement agreement, Crown Linen, LLC shall pay WASD a total of \$800,000.00 at \$10,000.00 per month over eighty (80) months. If Crown Linen complies with the payment schedule, any accrued interest will be waived.

  
\_\_\_\_\_  
Alina F. Hudak  
Deputy Mayor



# MEMORANDUM

(Revised)

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

**DATE:** December 17, 2013

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

**SUBJECT:** Agenda Item No. 8(0)(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(0)(1)  
12-17-13

RESOLUTION NO. \_\_\_\_\_

RESOLUTION APPROVING THE SETTLEMENT AGREEMENT BETWEEN MIAMI-DADE COUNTY AND CROWN LINEN, LLC FOR PAYMENT TO THE COUNTY IN THE AMOUNT OF EIGHT HUNDRED THOUSAND DOLLARS (\$800,000.00); AUTHORIZING THE MAYOR OR MAYOR'S DESIGNEE TO EXECUTE SAME AND TO ENFORCE ALL TERMS THEREIN

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 this Board hereby approves and authorizes the County Mayor or Mayor's designee to execute the settlement agreement between Miami-Dade County and Crown Linen, LLC for payment to the County in the amount of \$800,000.00, in substantially the form attached hereto and made a part thereof; and authorizing the Mayor or Mayor's designee to enforce all terms therein on behalf of Miami-Dade County.

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 17<sup>th</sup> day of December, 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.

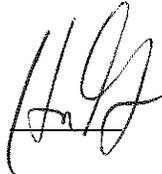
MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: \_\_\_\_\_  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.

Henry N. Gillman



IN THE CIRCUIT COURT OF THE 11<sup>TH</sup>  
JUDICIAL CIRCUIT IN AND FOR  
MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO. 11-02235 CA 08

MIAMI-DADE COUNTY, a  
political subdivision of the  
State of Florida,

Plaintiff,

vs.

CROWN LINEN, LLC, a Florida  
Limited Liability Company,

Defendant.

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CROWN LINEN, LLC, a Florida  
Limited Liability Company,

Counter-Plaintiff,

vs.

MIAMI-DADE COUNTY, a political  
subdivision of the State of Florida,

Counter-Defendant.

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**SETTLEMENT AGREEMENT**

**THIS SETTLEMENT AGREEMENT** (the "*Agreement*") is made and entered into this \_\_\_\_ day of November, 2013, by and between Crown Linen, LLC ("*Crown Linen*") and Miami-Dade County (the "*County*"). Crown Linen and the County are each a "*Party*," and collectively the "*Parties*."

**WHEREAS**, the County filed a lawsuit against Crown Linen in Miami-Dade County Circuit Court, case number 11-02235 CA 08 for unpaid sewer charges (the "*Litigation*"); and

**WHEREAS**, Crown Linen asserted affirmative defenses and a counterclaim in the *Litigation*; and

WHEREAS, the Parties seek to resolve all claims and defenses asserted in the Litigation;  
and

WHEREAS, nothing contained herein shall be deemed an admission of liability by any  
of the Parties;

NOW, THEREFORE, in consideration of the promises, covenants and undertakings  
contained herein, and other good and valuable consideration, the sufficiency of which is hereby  
acknowledged, the Parties agree as follows:

1. Recitals. The recitals above are true and correct, and are incorporated and fully  
restated herein.

2. Terms.

- (i) Crown Linen shall pay the County \$800,000 (the "*Settlement Amount*")  
in 80 equal monthly installments of \$10,000.00. The first installment  
payment is due within five business days of the Effective Date of this  
Agreement, with all additional installment payments due prior to or on the  
fifteenth of each subsequent month.
- (ii) All payments shall be made to the Miami-Dade Water and Sewer  
Department.
- (iii) The Parties' execution of this Settlement Agreement and General Release,  
and satisfaction of the obligations contained herein, discharges and settles  
any and all claims arising out of Miami-Dade County v. Crown Linen,  
LLC, Case No. 11-02235 CA 08.
- (iv) In the event that Crown Linen fails to pay an installment payment when  
due, the County will provide Crown Linen with a notice of default, after  
which Crown Linen has fifteen (15) days from the date of notice of default  
to cure the default. If Crown Linen fails to cure the default by making the  
missed installment payment, the entire balance of \$865,214.39 ("*Original  
Claim Amount*") less any installment payments previously made prior to  
the default date will be payable immediately to the County. In the event  
Crown Linen does not immediately make full payment of the balance of  
the Original Claim Amount due, the County shall have the right to obtain a  
Final Judgment against Crown Linen for the remaining balance of the  
Settlement Amount owed plus accrued interest on past due amounts from  
the date sewer services were provided. The County shall be entitled to  
submit a Final Judgment to the Court for execution upon the filing of an  
Affidavit of Nonpayment. Additionally, the County may avail itself of any  
other legal remedy for nonpayment of monthly installments or invoices for  
current service.

- (v) The County acknowledges that Crown Linen is in the process of obtaining permits to install sewer meters. The County, in good faith, agrees to promptly review and respond to any application by Crown Linen for sewer meter permits.
- (vi) The Court shall retain jurisdiction to enforce this Settlement Agreement.
- (vii) The failure of either Party to insist upon strict performance of any term hereof shall not be deemed to be a waiver of any term of this Settlement Agreement.
- (viii) Upon Crown Linen fulfilling all of its obligations as set forth in Paragraph (i), (ii), (iii) and (iv) hereof, the County shall file a Voluntary Dismissal with Prejudice in the above-styled action.
- (ix) In the event that the County has not secured all necessary approvals of this Agreement prior to two months before the trial date in the Litigation, the Parties will jointly move to continue the trial date for six months.

3. Mutual General Releases.

- (i) The County, for and in consideration of the covenants made herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and conclusively established, by or on behalf of itself, its divisions, departments, attorneys, employees, or agents (together, the "*County Releasors*"), hereby remise, release, acquit, waive, and forever discharge Crown Linen and all of its parent or subsidiary companies, affiliates, past and present officers, shareholders, members, directors, attorneys, employees, agents, partners (whether general or limited), successors, administrators, licensees, or assigns (together, the "*Crown Linen Releasees*") of and from any and all, and all manner of, claims, actions, causes of action, suits, debts, costs, covenants, obligations, sums of money, accounts, reckonings, contracts, controversies, agreements, promises, damages, deficiencies, and demands whatsoever, in law or in equity, that the County now has or ever had against the Crown Linen Releasees, direct or indirect, known or unknown, contingent or otherwise, from the beginning of time to the Payment Date, relating to any matter that was or could have been asserted in the Litigation.
- (ii) Crown Linen, for and in consideration of the covenants made herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and conclusively established, by or on behalf of its parent or subsidiary companies, affiliates, past and present officers, shareholders, members, directors, attorneys, employees, agents, partners (whether general or limited), successors, administrators,

licensees, or assigns (together, the "*Crown Linen Releasors*"), hereby remise, release, acquit, waive, and forever discharge the County and its divisions, departments, attorneys, employees, or agents (together, the "*County Releasees*") of and from any and all, and all manner of, claims, actions, causes of action, suits, debts, costs, covenants, obligations, sums of money, accounts, reckonings, contracts, controversies, agreements, promises, damages, deficiencies, and demands whatsoever, in law or in equity, that Crown Linen now has or ever had against the County Releasees, direct or indirect, known or unknown, contingent or otherwise, from the beginning of time to the Payment Date, relating to any matter that was or could have been asserted in the Litigation.

4. **Approval.**

This settlement agreement, and each and every provision herein, shall be subject to the express approval of the Miami-Dade County Board of County Commissioners. This agreement becomes effective eleven (11) days after approval by the Miami-Dade County Board of County Commissioners, unless vetoed by the Mayor. In the event the Mayor vetoes the Commission action, the Commission action shall not be effective in the absence of an override of the Mayor's veto at the next regularly scheduled meeting of the Board after the veto occurs. The actions of the Commission and the Mayor in connection with the approval or rejection of this agreement rests within their sole discretion.

5. **Effective Date.** Except as otherwise provided, this Agreement becomes effective on the date when (1) all necessary County approvals have been obtained (the "*Effective Date*") and (2) it has been executed by all Parties.

6. **Governing Law.** This Agreement must be construed and enforced according to the laws of the State of Florida. Venue for any enforcement action must be in Miami-Dade County, Florida.

7. **Entire Agreement.** The Parties acknowledge that this Agreement contains the full and complete agreement between and among them regarding the matters set forth herein, and that there are no oral or implied agreements or understandings not specifically set forth herein. Each Party acknowledges that no other Party, or agent or attorney of any other Party, or any person, firm, company, or any other entity has made any promise, representation, or warranty, whatsoever, express or implied, or statutory, not specifically set forth herein, concerning the subject matter hereof, to induce the execution of, or modifying the terms of, this Agreement. Each Party also hereby acknowledges that it has not executed this Agreement in reliance on any promise, representation, or warranty not specifically set forth herein. The Parties further agree that no modifications of this Agreement can be made except in a written agreement signed by all of the Parties. The Parties agree that the waiver of any breach of this Agreement by any Party is not a waiver of any other subsequent or prior breach.

8. **Legal Advice.** All Parties acknowledge and represent that they are executing this Agreement after having received full legal advice from counsel of their choice. The Parties

certify that they have read the entirety of this Agreement and fully understand the terms and conditions of settlement.

9. **Additional Documents.** All Parties must execute any additional documents reasonably necessary to effectuate the provisions of this Agreement.

10. **Notice.** All notices under this agreement must be in writing and must be sent via electronic mail and U.S. Mail, certified, return receipt requested. Notice will be deemed made as of the date and time stamped on the electronic mail. Notice(s) must be sent to the following addresses:

(i) Notice to Crown Linen:

Mark S. Meland, Esq.  
Eric Ostroff, Esq.  
Meland Russin & Budwick, P.A.  
3200 Southeast Financial Center  
200 South Biscayne Boulevard  
Miami, Florida 33131  
[mmeland@melandrussin.com](mailto:mmeland@melandrussin.com)  
[estroff@melandrussin.com](mailto:estroff@melandrussin.com)

(ii) Notice to the County:

Chief, Retail Customer Service Division  
3071 SW 38th Avenue  
Miami, Florida 33146  
[HaroldC@miamidade.gov](mailto:HaroldC@miamidade.gov)

With a copy to:

County Attorney's Office  
111 NW First St. #2810  
Miami, Florida 33128  
[atty@miamidade.gov](mailto:atty@miamidade.gov)

11. **Warranties.** The signatories hereto warrant and represent that they have full authority to execute this Agreement and to bind themselves and any entities on whose behalf they sign.

12. **Headings and Captions.** The headings and captions used in this Agreement are for convenience of reference only, and in no way define, limit or expand the meaning or construction of any provision of this Agreement.

13. Attorneys' Fees and Costs. Each Party will bear its own attorneys' fees and costs in connection with the negotiation and drafting of this Agreement. In the event of any litigation between the Parties under this Agreement or arising as a result of a default under this Agreement, the prevailing Party is entitled to recover reasonable attorneys' fees and costs expended therein, including, but not limited to, those incurred at all trial and appellate levels.

14. Time is of the Essence. The Parties agree that time is of the essence in all respects regarding this Agreement.

15. Miscellaneous. All parties participated in the drafting of this Agreement, and thus the language of this Agreement must be construed as a whole according to its fair meaning and must not be strictly construed against either Party. This Agreement may be executed in counterparts which, taken together, constitute one and the same agreement and are effective as of the Effective Date. A facsimile signature will be deemed an original. If any term or provision of this Agreement is held invalid or unenforceable to any extent, the remaining terms and provisions of this Agreement will not be affected thereby and each of the remaining terms and provisions will be valid and enforceable to the fullest extent permitted by law. This Agreement is binding upon the Parties hereto, and inures to the benefit of their heirs, agents, attorneys, officers, directors, employees, executors, administrators, legal representatives, successors, and assigns, and all those deriving by and through the Parties.

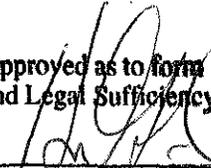
IN WITNESS WHEREOF, the Parties, as of the Effective Date of this Agreement, have caused this Settlement Agreement and General Release to be executed by a duly authorized officer or agent:

CROWN LINEN, LLC

  
By: Pablo Lucchini  
Its: Managing Partner  
Dated: 11/14/13

MIAMI-DADE COUNTY

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Dated: \_\_\_\_\_

  
Approved as to form  
and Legal Sufficiency

Assistant County Attorney

12/10/13  
Date