Memorandum

MIAMI-DADE COUNTY

Date: November 5, 2014

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

Agenda Item No. 8(O)(1)

From: Carlos A. Gimenez
Mayor

Subject:: Resolution approving an Interlocal Contract between the City of Miami Beach and Miami-Dade County for the provision of wholesale sewage disposal service by the Miami-Dade Water and Sewer Department to the City of Miami Beach

RECOMMENDATION

It is recommended that the Board of County Commissioners (Board) approve the attached resolution executing an interlocal contract between the City of Miami Beach and the County for the provision of wholesale sewage disposal service by the Miami-Dade Water and Sewer Department (WASD) for a twenty (20) year contract period. The contract may be terminated at any time by mutual consent by the County and the City of Miami Beach.

SCOPE

This interlocal contract will serve to continue to provide sewage disposal services to the City of Miami Beach located in Commission Districts 4 and 5, Commissioners Sally A. Heyman and Bruno A. Barreiro respectively. It will also provide services to North Bay Village, Bal Harbour Village, the Town of Bay Harbor Islands and the Town of Surfside located in Commission District 4, Sally A. Heyman.

FISCAL IMPACT/FUNDING SOURCE

The sewage disposal revenue from the City of Miami Beach to the County in Fiscal Year 2013-2014 is estimated to be $16,380,333.66. Sewage disposal revenue from all of the County's wholesale sewage disposal customers in Fiscal Year 2013-14 is estimated to be $51,316,783.45.

TRACK RECORD/MONITOR

WASD's Assistant Director of Finance, Frances G. Morris, will monitor this interlocal contract.

BACKGROUND

On May 17, 1972, the City of Miami Beach and the Miami-Dade Water and Sewer Authority entered into a contract for the provision of wholesale sewage disposal service for a thirty (30) year term. The County is the successor to the Miami-Dade Water and Sewer Authority and the County's sewage disposal service is operated by WASD.

The 1972 agreement continued to be honored by the City of Miami Beach and the County beyond its formal expiration date as a variety of issues were resolved including the new Consent Decree and the replacement of the 54-inch sewer force main from South Beach to the Central Wastewater Treatment Plant on Virginia Key.

Per the terms and conditions of the attached Interlocal Contract, the City of Miami Beach and the County agree that the County will continue to provide wholesale sewage disposal service to the City of Miami Beach, including sewage received by North Bay Village, Bal Harbour Village, the Town of Bay Harbor Islands, and the Town of Surfside. The County shall own and operate all sanitary sewage facilities up to and including the meters. The City of Miami Beach shall own and operate all sanitary sewage facilities

on the City's side of the meter connections. The City of Miami Beach agrees that it shall operate and maintain its sanitary sewage facilities in accordance with all state, federal and local laws.

WASD provides similar services to the municipalities of Coral Gables, Florida City, Hialeah, Hialeah Gardens, Homestead, Medley, North Miami, North Miami Beach, Opa-locka, and West Miami.

The attached agreement was approved by the City of Miami Beach Commission on July 23, 2014 per Resolution Number 2014-28655.

Jack Osterholt
Deputy Mayor

RESOLUTION NO. 2014-28655

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN INTERLOCAL CONTRACT BETWEEN MIAMI-DADE COUNTY AND THE CITY, FOR A TERM OF TWENTY YEARS, PROVIDING FOR THE CITY'S SEWAGE TREATMENT AND DISPOSAL SERVICES BY MIAMI-DADE COUNTY.

WHEREAS, on May 17, 1972, the City of Miami Department of Water and Sewer (Department) and the City of Miami Beach (City) entered into a contract, for a period of thirty years, wherein the Department agreed to provide the sewage treatment and disposal services to the City; and

WHEREAS, on May 17, 1972, the Department and the City also entered into a separate contract for cost participation in the enlargement of the sewage treatment plant on Virginia Key and the extension of the ocean outfall; and

WHEREAS, Miami-Dade County (County), which currently operates and maintains the County's sewage disposal system, is the legal successor in the interest to the Department and has assumed all rights, duties, and obligations of the Department; and

WHEREAS, the County and City desire to enter into an interlocal contract, for a term of twenty years, attached hereto and incorporated herein by reference, so that the County may continue to provide the sewage treatment and disposal services for the City, including sewage received by the City from Bal Harbour Village, the Town of Bay Harbor Islands, the Town of Surfside, and the City of North Bay Village during the effective period of this contract.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA that the Mayor and City Commission approve and authorize the Mayor and City Clerk to execute an interlocal contract between Miami-Dade County and the City, for a term of twenty years, attached hereto and incorporated herein by reference, providing for the City's sewage treatment and disposal services by Miami-Dade County.

PASSED and **ADOPTED this** 23 day of July, 2014.

ATTEST:

RAFAEL E. GRANADO, CITY CLERK

PHILIP LEVINE, MAYOR

MIAMI BEACH INCORPORATED MARCH 26TH 1915

APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION

City Attorney 7/8/14 Date

T:\AGENDA\2014\July\Public Works\Sewage Disposal Service Agreement.Reso.docx

MEMORANDUM

(Revised)

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

DATE: November 5, 2014

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

SUBJECT: Agenda Item No. 8(O)(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(O)(1)
11-5-14

RESOLUTION NO. _____

RESOLUTION APPROVING AN INTERLOCAL CONTRACT BETWEEN THE CITY OF MIAMI BEACH AND MIAMI-DADE COUNTY PROVIDING FOR WHOLESALE SEWAGE DISPOSAL SERVICE; AND AUTHORIZING THE COUNTY MAYOR OR MAYOR'S DESIGNEE TO EXECUTE SAME AND TO EXERCISE THE PROVISIONS CONTAINED 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 an interlocal contract between the City of Miami Beach and Miami-Dade County providing for wholesale sewage disposal service, in substantially the form attached hereto and made a part hereof; and authorizes the County Mayor or Mayor's designee to execute same for and on behalf of Miami-Dade County, Florida and to exercise the provisions contained therein.

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

The Chairperson thereupon declared the resolution duly passed and adopted this 5th day of November, 2014. 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

INTERLOCAL CONTRACT
BETWEEN
MIAMI-DADE COUNTY
AND
CITY OF MIAMI BEACH, FLORIDA
PROVIDING FOR SEWAGE DISPOSAL SERVICE

THIS CONTRACT, made and entered into this _____ day of _____, 2014, by and between Miami-Dade County, a political subdivision of the State of Florida, hereinafter designated as the "COUNTY", and the City of Miami Beach, a municipal corporation organized and existing under the laws of the State of Florida, hereinafter designated as the "CITY";

W I T N E S S E T H:

WHEREAS, on May 17, 1972, the Department of Water and Sewers of the City of Miami and the City of Miami Beach entered into a contract providing for the rendition of sewage disposal service by the Department of Water and Sewers of the City of Miami to the CITY and into a contract for cost participation for the enlargement of the sewage treatment plant on Virginia Key and the extension of the ocean outfall, and;

WHEREAS, the COUNTY is legal successor in interest to the Department of Water and Sewers of the City of Miami and has assumed all rights, duties and obligations of the Department, and;

WHEREAS, the COUNTY and CITY desire to enter into this Interlocal Contract so the COUNTY can continue to render sewage disposal service to the CITY, and;

WHEREAS, the Miami-Dade Water and Sewer Department, hereinafter referred to as the "Department", operates and maintains the COUNTY'S sewage disposal system;

WHEREAS, pursuant to Resolution No. _____, adopted by the Miami-Dade Board of County Commissioners on _____, and Resolution _____, adopted by the City Commission of the City of Miami Beach on _____, the parties hereunder have the authority to execute this Contract.

NOW, THEREFORE, in consideration of the mutual covenants and obligations set forth, the COUNTY and the CITY agree as follows:

1. Insofar as it may be lawful to do so and pursuant to the terms herein, the CITY shall collect and deliver to the COUNTY, all of the CITY'S sewage for disposal by the COUNTY, including sewage received by the CITY from the Towns of Bal Harbour, Bay Harbor Islands, Surfside, and the City of North Bay Village, during the effective period of this Contract. Sewage shall be transmitted by the CITY to the COUNTY, by means of an existing transmission main from the CITY to the Department's Central District Wastewater Treatment Plant where the flow is metered.

2. The CITY hereby acknowledges and agrees that any right to connect the CITY to the COUNTY'S sanitary sewage system is subject to the terms, covenants and conditions set forth in the First Partial Consent Decree and the Second and Final Partial Consent Decree entered in United States of America Environmental Protection Agency (EPA) vs. Metropolitan Dade County (Case Number 93-1109 CIV-Moreno), as currently in effect or as amended or modified in future contracts and all other current, subsequent or future contracts; and court orders, judgments, consent orders, consent decrees and the like entered into between the COUNTY and the United States, the State of Florida and/or any other governmental entity, and all other current, subsequent or future enforcement and regulatory actions and proceedings.

3. The CITY acknowledges that the responsibility of the COUNTY to provide sewage disposal service under this Contract shall be limited to the CITY'S existing sewer service area, which the CITY is legally authorized to serve. The COUNTY acknowledges that the sanitary sewage received by the COUNTY from the CITY includes flow from the Towns of Bal Harbour, Bay Harbor Islands, and Surfside, and the City of North Bay Village. The COUNTY's master plan for future flows from the CITY and said Towns and City of North Bay Village are projected for each municipality and are based on existing flow from the CITY and expected population increases in each municipality. The Towns of and Bal Harbour, Bay Harbor Islands and the City of North Bay Village may receive sewage disposal service directly from the COUNTY in the future.

4. The CITY agrees and warrants that its sewage collection and transmission system and any extension thereof within its jurisdictional boundaries shall be constructed, operated and maintained in accordance with the requirements of all applicable federal, state and county laws, rules, regulations and permit conditions. The operation and maintenance of all facilities within its jurisdictional boundaries on the CITY'S side of the control valve, located at Jefferson Avenue and Biscayne Street in the CITY, shall be the sole responsibility of the CITY.

5. The CITY, at its sole cost and expense, shall operate and maintain in a diligent manner all CITY structures, force mains, pumps, equipment and other facilities required for the collection of sewage and transmission to the point of connection with the COUNTY'S facilities, but excluding the master meter installations.

6. The COUNTY reserves the right to inspect the CITY'S collection and transmission system and take samples of the sewage composition at no cost to the CITY to ascertain that said system is being properly maintained. Said inspections shall be made at reasonable times and upon reasonable notice in such manner as to least disturb the normal operation of the CITY. The CITY hereby agrees to pursue and maintain diligent efforts on a regular and timely basis to reduce infiltration and inflow and to comply with all local, state and/or federal ordinances, laws and regulations regarding infiltration and inflow correction or reduction as now in effect or as enacted in the future.

7. In order for the COUNTY to adequately plan for future capacity demands, within ninety (90) days following the execution of this Contract and on or before each January 1 thereafter, the CITY shall submit to the COUNTY the CITY'S projected annual capacity demands for the next five (5) years. Within one hundred twenty (120) days of the COUNTY'S receipt of the CITY'S projected annual capacity demands for the next five (5) years, the COUNTY shall notify the CITY of the COUNTY'S ability or inability to meet said demands, which is subject to local, state and federal agencies and other regulatory bodies, including, without limitation, the Miami-Dade Department of Environmental Resources Management, having jurisdiction over such matters.

The CITY agrees that the COUNTY shall not be liable or in any way responsible for any costs, claims or losses incurred by the CITY as a result of actions by such regulatory bodies.

8. The CITY shall not allow or permit construction or installation of any connections of stormwater mains, which allow stormwater to enter the CITY'S sanitary sewage system. Upon notice or discovery of such interconnections, the CITY shall immediately effectuate the lawful disconnection of such interconnections in accordance with local, state and federal laws. In addition, in the event the CITY becomes aware of a stormwater interconnection in the Towns of Bal Harbour, Bay Harbor Islands or Surfside or the City of North Bay Village, the CITY shall immediately notify the COUNTY'S Department of Environmental Resource Management when said interconnections are discovered.

9. The CITY recognizes that the COUNTY'S standards of sewage disposal services are subject to future modifications as a result of future COUNTY, state and federal laws and regulations. Accordingly, the CITY agrees that it will abide by, and be bound by all present and future standards, laws, rules and regulations which are enacted or approved by the COUNTY or as may be necessary to ensure continued compliance with local, state and federal laws and regulations and permit conditions, including, without limitation, the provisions of Chapter 24 of the Code of Miami-Dade County, as amended, and other requirements related to sewage disposal service.

10. The wastewater from all retail customers of the CITY discharged into the CITY'S sewer system shall conform to the requirements of all applicable local, state and federal regulatory agencies pertaining to wastewater discharges. If the COUNTY determines that pretreatment facilities are necessary for a retail customer of the CITY to meet such requirements, prior to construction, the CITY shall cause the retail customer to submit plans and specifications for the proposed design of the facilities to the COUNTY, which shall be subject to COUNTY'S approval. The CITY shall not issue a Certificate of Use or Certificate of Occupancy until the COUNTY has approved the pretreatment facility.

11. In accordance with the provisions of County Ordinance No. 89-95, as amended, the CITY shall not render water, sewer service or both to any new retail user until either the COUNTY'S connection charges are paid to the COUNTY by the CITY'S volume customer or the CITY collects the COUNTY'S connection charges from the retail user and pays the COUNTY and a written receipt from the COUNTY is provided to the CITY. Said connection charges shall be due prior to the issuance of a building permit. In the event that the CITY provides water or sewer service, or both, to any new retail user without first ensuring that connection charges are paid, the CITY shall be liable for damages to the COUNTY in the amount of the connection charges owed by the retail user. The COUNTY reserves the right to audit existing records for a period not to exceed applicable statutory limits for payments of said connection charges.

12. The CITY shall pay the COUNTY as compensation for the transmission; treatment, including reclamation; and any method of disposal of all sewage received from the CITY, the CITY shall pay to the COUNTY a monthly charge for such service based on a uniform rate for all of the COUNTY'S volume customers. That rate shall be calculated for each fiscal year based on projections from the Department's prior fiscal year and shall be the sum of subsections a. – h. below. An annual wholesale wastewater true-up adjustment amount, debit or credit, will be imposed in the following fiscal year after completion of the Department's audited financial report. The true-up adjustment will be determined based on the variances in the Department's

projected wholesale wastewater expenses (rates) and the actual audited wholesale wastewater expenditures (rates) based on the sum of the following:

a. That portion of projected/budgeted annual operating and maintenance expenses, including taxes assessed, if any, incurred by the COUNTY in connection with its regional force main and regional gravity interceptor sewage system divided by the projected total amount of flow used to bill all the COUNTY'S sewage disposal customers over the same time period.

b. That portion of projected/budgeted annual operating and maintenance expenses, including taxes assessed, if any, incurred by the COUNTY in connection with its regional sewage pumping stations, divided by the projected total amount of flow used to bill all the COUNTY'S sewage disposal customers over the same time period.

c. That portion of projected/budgeted annual operating and maintenance expenses, including taxes assessed, if any, incurred by the COUNTY in connection with its regional sewage treatment plants, reclamation facilities and disposal, including sewage effluent outfalls, deep disposal wells and/or any other effluent disposal process, divided by the projected total amount of flow used to bill all the COUNTY'S sewage disposal customers over the same time period.

d. That portion of the projected/budgeted renewal and replacement expenses for all the COUNTY'S regional capital wastewater facilities, according to the COUNTY'S policy in effect at the time for determining a rate consistent with good municipal utility accounting practices and the budgeted renewal and replacement projects for the ensuing fiscal year divided by the projected total amount of flow used to bill all the COUNTY'S sewage disposal customers over the same time period.

e. That portion of the COUNTY'S projected/budgeted annual interest obligations of outstanding loans, lines of credit, notes and bonds for its regional sewage system, divided by the projected total amount of flow used to bill all the COUNTY'S sewage disposal customers over the same time period.

f. That portion of the projected/budgeted annual charge for the amortization of the COUNTY'S outstanding loans, lines of credit and notes and bonds for its regional sewage system, to be consistent with the requirements under law, divided by the total projected amount of flow used to bill all the COUNTY'S sewage disposal customers over the same time period.

g. That portion of the projected/budgeted annual administration and general expenses incurred by the COUNTY in connection with its regional sewage system that is not covered by the minimum charge divided by the total projected amount of flow used to bill all the COUNTY'S sewage disposal customers over the same time period.

h. That portion of the charge for the COUNTY'S debt service coverage requirement for loans, lines of credit and bond issues for the COUNTY'S regional sewage system divided by the total projected amount of flow used to bill all the COUNTY'S sewage disposal customers over the same time period.

13. The CITY recognizes that the COUNTY intends to implement a peak flow rate structure. If imposed, such rate shall also be equally imposed, on all wastewater customers, both retail and wholesale. Such rate shall be imposed on the CITY only after completion of an analysis and review process that is completed in partnership with the CITY. Any peak flow rate charge imposed shall be identified specifically on all sanitary sewage invoices.

14. No costs associated with storm sewer systems or local collection systems shall be included in the computation of said charge. However, the COUNTY reserves the right to revise or modify the service rate and method of calculation included in Section 12 from time to time as may be approved by the Board of County Commissioners in accordance with applicable law, and the CITY agrees to be bound thereby. The COUNTY will attempt to provide the CITY with the preliminary rate a minimum of six (6) weeks in advance of said rate's effective date. The CITY recognizes and agrees that the COUNTY intends to implement in the future such charges or rate structures, including, without limitation, peak flow surcharges, as it deems necessary to fairly recover its costs for any needed infrastructure improvements, and the CITY agrees to be bound to the rates related to peak flow surcharges when approved by the Board of County Commissioners. The CITY further recognizes and agrees that the COUNTY'S right to revise or modify the rate of calculation under this section is not limited solely to revisions or modifications allowing the COUNTY to recover costs for infrastructure improvements.

15. Billings for services provided in accordance with this Contract shall be rendered monthly. Invoices will be mailed by the tenth (10^{th}) day of the month following the month for which service has been provided, based on meter readings taken by Department employees on or about the twenty-eighth (28^{th}) day of each month. Amounts billed on such invoices are due when rendered. In the event the CITY disputes a bill, the CITY shall provide the COUNTY with notice of the reasons for non-payment within thirty (30) days of receipt of the bill and shall escrow such portion of the bill that is disputed in an interest-bearing account. The parties shall promptly meet and use good faith efforts to resolve the dispute within forty-five (45) days of the notice. Except for any portion of the bill disputed by the CITY, payments not received by the Department on or before twenty-five (25) days after the postmark date of the bill shall be considered past due. All past due invoices may be subject to a late charge to be determined by the COUNTY, such charge to defray Department costs in processing and otherwise administering late payments, plus the accrual of interest on the past due balance at the maximum legal rate provided by Florida law for contracts in which no interest rate is specified, for each day, including Saturdays, Sundays and holidays, from the past due date until the date of receipt of payment by the Department. For purposes of this Section, date of receipt of payment shall be the date of physical receipt of the payment by the Department if hand-delivered or mailed, or date of transfer to the Department's bank, if electronic funds transfer is used.

16. It is hereby agreed that a legally accurate meter shall register not greater than one hundred-two percent (102%) of actual consumption and not less than ninety-eight percent (98%) of actual consumption. If a meter is determined by certified test not to be legally accurate, the meter shall be recalibrated at the COUNTY'S expense. Bills for the period following the prior meter accuracy check shall be adjusted to reflect the percentage of inaccuracy. In calculating such billing adjustment it will be assumed that the meter inaccuracy existed for the entire time interval between meter accuracy checks. The billing adjustment shall be made at the same rate established herein, but the volume used in the billing calculations shall be adjusted as described above. Either the COUNTY or the CITY may check the accuracy of the meters at a time mutually agreeable to the CITY and the COUNTY but not more often than once every three

months unless there is a disagreement between parties hereto regarding such accuracy. If the CITY requests such a check and the meter is found to be legally accurate, the cost of the meter check shall be borne by the CITY. Otherwise, the cost of the meter check shall be borne by the COUNTY.

17. The COUNTY hereby grants the CITY the right to audit all Department records related to the computation of the wholesale sanitary sewage rates for each fiscal year. Upon written notice, the COUNTY shall make available to the CITY said records at the offices of the Department on an annual basis. In the event that such audit indicates any discrepancy between the rates used by the COUNTY in computing the monthly service charges to the CITY and those rates determined as a result of the audit, the COUNTY shall make the necessary adjustments, as mutually agreed upon, in subsequent invoices to the CITY to correct any identified discrepancies. The audit must be completed on or before the end of each fiscal year for which the rates apply. Adjustments shall not be made for prior fiscal years.

18. In the event of complete or partial failure of the meter to register the CITY'S sewage disposal flow, the COUNTY may determine the estimated sewage disposal flow based on the most recent twelve (12) full months of sewage disposal measured by the meter when it was operating properly or another method determined by the Department.

19. In consideration of good and valuable consideration received from the COUNTY, and in consideration of the covenants in this Contract, the CITY, to the extent permitted by Florida law, agrees to indemnify and save harmless forever, the COUNTY, its officers, agents and employees from all claims, liabilities, actions, losses, costs and expenses, including attorney's fees, which may be sustained by the COUNTY, its officers, agents, and employees due to, caused by, or arising from the negligence of the CITY, its officers, employees and agents in connection with the performance of this Contract. The CITY agrees to defend against any claims brought or actions filed against the COUNTY, its officers, agents and employees in connection with the subject of the indemnities contained herein.

20. In consideration of good and valuable consideration received from the CITY, and in consideration of the covenants in this Contract, the COUNTY, to the extent permitted by Florida law, agrees to indemnify and save harmless forever, the CITY, its officers, agents and employees from all claims, liabilities, actions, losses, costs and expenses, including attorney's fees, which may be sustained by the CITY, its officers, agents, and employees due to, caused by, or arising from the negligence of the COUNTY, its officers, employees and agents in connection with the performance of this Contract. The COUNTY agrees to defend against any claims brought or actions filed against the CITY, its officers, agents and employees in connection with the subject of the indemnities contained herein.

21. Notwithstanding Sections 19 and 20 above, nothing shall create any liability of the COUNTY or the CITY beyond the scope of Section 768.28 Florida Statutes, and monetary limits thereof, as currently in effect or as lawfully amended in the future.

22. Any cessation of sewage disposal or other service interruptions and any consequences caused by force majeure, inevitable accident or occurrence or cause beyond the reasonable control of the COUNTY shall not constitute a breach of this Contract, and neither party shall be liable to the other or their inhabitants or customers for any damage resulting from such cessation or interruption of sewage disposal service. Force majeure shall mean an act of God, which includes but is not limited to: sudden, unexpected or extraordinary forces of nature, such as

floods, washouts, storms, hurricanes, fires, earthquakes, landslides, epidemics, explosions or other forces of nature. Inevitable accidents or occurrences shall mean those which are unpreventable by the COUNTY and shall include but not be limited to: strikes; lockouts; other industrial disturbances; wars; blockades; acts of terrorism; insurrections; riots; federal, state, county and local governmental restrictions, regulations and restraints; military action; civil disturbances; explosions; and conditions in federal, state, county and local permits.

23. The CITY agrees that if any waters or waste are discharged by the CITY, either directly or by one of the CITY'S retail customers, into the COUNTY'S wastewater system which are prohibited by this Contract or which contain substances or possess characteristics contrary to the requirements of the COUNTY'S rules and regulations or is in violation of any local, state or federal law or regulation, or which otherwise create a hazard to health or property, or constitute a public nuisance, the COUNTY may upon reasonable notice to the CITY:

    a. Terminate this Contract;
    b. Require pretreatment to any acceptable condition as determined by the local, state or federal agency prior to discharge into the COUNTY'S wastewater system;
    c. Require control over the quantities and rates of discharge; and/or
    d. Require payment to cover the cost of handling and treating such waste, including any applicable fines or penalties as provided under the COUNTY'S rules and regulations or state or federal law as the same may be amended from time to time.

24. The CITY shall comply with the terms of Section 32-83 of the Miami-Dade County Code regarding peak flow in as expeditious a manner as possible. The CITY shall take all steps necessary to ensure that peak flows conveyed to the COUNTY do not exceed the peak flow limit established for the CITY'S sewer system. In addition to any remedy provided by law or provided elsewhere in this Contract, in the event that the CITY does not comply with the terms of Section 32-83 of the Miami-Dade County Code, or does not ensure that peak flows are within the peak flow limit, the CITY shall be in default of this Contract, and the COUNTY may upon reasonable notice terminate this Contract.

25. The CITY agrees to cooperate with the COUNTY in the permitting process and/or any other assistance needed for the COUNTY to obtain approval to perform work on the COUNTY'S water and sanitary sewage infrastructure within the CITY'S jurisdiction ("the Work"). The CITY shall not take any action to hinder, interfere or delay the Work. The CITY shall provide any necessary easements, permits or other legal documents required by the COUNTY for performance of the Work without additional expense to the COUNTY. The CITY shall not charge any monies or impose any special conditions on the COUNTY to perform the Work.

26. This Contract shall be governed by and construed in accordance with the laws of the State of Florida, and venue for any court proceeding shall be in Miami-Dade County, Florida.

27. All notices required pursuant to this Contract shall be properly given if mailed by United States registered or certified mail addressed to the party to which notice is given at the following respective addresses:

    Miami-Dade County
    c/o The Director
    Miami-Dade Water and Sewer Department
    3071 S.W. 38th Avenue

Miami, Florida 33146

Mayor's Office
City Of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139

28. This Contract shall be and remain in full force and effect for a period of twenty (20) years from the effective date of this Contract; provided, however, that this Contract may be terminated at any time by mutual consent and agreement of the parties hereto. The CITY agrees that it will notify the COUNTY in writing no later than six (6) months prior to the expiration of this Contract if it intends to request negotiations of an additional Contract term. If the CITY has no valid written Interlocal Contract with the COUNTY for sewage disposal service, the COUNTY shall bill the CITY for sewage disposal service at the retail rate.

29. No rights pursuant to this Contract shall be assignable by the CITY unless the COUNTY agrees in writing.

30. No amendment, alteration, change, or modification of the terms of this Contract shall be valid unless made in writing, signed by authorized officers of all parties, and approved by the COUNTY.

31. This Contract contains the entire Contract between the COUNTY and the CITY with respect to the subject matter and replaces and supersedes all prior contracts or understandings, oral or written, with respect to such subject matter, and such contracts or understandings are now void and no longer in effect.

32. If any Section of this Contract is found to be null and void, the other Sections shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by their respective officials thereunto duly authorized, all as of the day and year written above.

ATTEST: MIAMI-DADE COUNTY

By: _____ By: _____
Deputy Clerk County Mayor

ATTEST:

CITY OF MIAMI BEACH

8

By: _____ 7/29/14
City Clerk

By: _____
Mayor

Approved as to legal form
and Sufficiency

_____
Assistant County Attorney

Approved as to legal form
and Sufficiency

_____
Attorney for the City of Miami Beach BRT