

Approved _____ Mayor

Agenda Item No. 8(L)(1)(A)

Veto _____

9-4-07

Override _____

**OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA**

RESOLUTION NO. R-976-07

RESOLUTION RELATING TO THE DISTRIBUTION OF ELECTRICAL FRANCHISE FEES; AUTHORIZING THE COUNTY MAYOR OR HIS DESIGNEE TO EXECUTE ADDENDUMS TO THE SECOND INTERLOCAL AGREEMENTS BETWEEN THE COUNTY AND THE CITY OF AVENTURA, THE CITY OF SUNNY ISLES BEACH AND THE VILLAGE OF PINECREST; AUTHORIZING THE COUNTY MAYOR OR HIS DESIGNEE TO EXECUTE INTERLOCAL AGREEMENTS WITH THE VILLAGE OF KEY BISCAZYNE, THE TOWN OF MIAMI LAKES, VILLAGE OF PALMETTO BAY, CITY OF DORAL, CITY OF MIAMI GARDENS, AND TOWN OF CUTLER BAY

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 approves the addendum to the second interlocal agreement between the County and the City of Aventura, City of Sunny Isles Beach and Village of Pinecrest and the interlocal agreement between the County and the Village of Key Biscayne, Town of Miami Lakes, Village of Palmetto Bay, City of Doral, City of Miami Gardens, and the Town of Cutler Bay for the distribution of Florida Power and Light Company franchise fees, substantially in accordance with the forms attached hereto and made part hereof; and authorizes the County Mayor or his designee to execute same for and on behalf of Miami-Dade County.



MEMORANDUM

(Revised)

TO: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

DATE: September 4, 2007

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

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

Please note any items checked.

- "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- Housekeeping item (no policy decision required)
- No committee review

The foregoing resolution was offered by Commissioner ~~Barbara J. Jordan~~ who moved its adoption. The motion was seconded by Commissioner ~~Carlos A. Gimenez~~ and upon being put to a vote, the vote was as follows:

Bruno A. Barreiro, Chairman	aye		
Barbara J. Jordan, Vice-Chairwoman	aye		
Jose "Pepe" Diaz	aye	Audrey M. Edmonson	aye
Carlos A. Gimenez	aye	Sally A. Heyman	absent
Joe A. Martinez	absent	Dennis C. Moss	aye
Dorrin D. Rolle	aye	Natacha Seijas	may
Katy Sorenson	aye	Rebeca Sosa	absent
Sen. Javier D. Souto	aye		

The Chairperson thereupon declared the resolution duly passed and adopted this 4th day of September, 2007. 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: **KAY SULLIVAN**
Deputy Clerk

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

Craig H. Collier

ADDENDUM TO SECOND INTERLOCAL AGREEMENT

This Addendum to the Second Interlocal Agreement is made and entered into this ____ day of _____, 2006, by and between Miami-Dade County, a political subdivision of the State of Florida (the "County"), and the Village of Pinecrest, a Florida municipality (the "Village").

WHEREAS, the County and the Village, (collectively, the "Parties"), have reviewed the Second Interlocal Agreement entered into on June 17, 1997 and have agreed to amend it to state a methodology to determine the amount of Franchise Fees paid by Florida Power and Light Company (FP&L) to the County for rights to utilize public rights-of-way located within the Village that should be subsequently remitted annually by the County to the Village (the "Village Fees") beginning in Fiscal Year 2005-2006 (which constitutes the FP&L reporting period of the calendar year 2005 and continuing; and

WHEREAS, the County and the Village agree that the methodology to determine the amount of Village Fees to be remitted annually by the County should be applied retroactively for Fiscal Years 2001-02, 2002-03 and 2003-04; and

WHEREAS, the County and the Village have determined that the retroactive application of the methodology agreed by the Parties has resulted in additional Village Fees that should be remitted by the County to the Village.

NOW, THEREFORE, in consideration of the mutual benefits derived therefrom, the Parties covenant and agree to amend section 1 of the Second Interlocal Agreement dated June 17, 1997 as follows:




Memorandum



Date: September 4, 2007

To: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

From: George M. Burgess
County Manager 

Agenda Item No. 8(L)(1)(A)

Subject: Interlocal Agreement between Miami-Dade County and the Village of Key Biscayne, City of Aventura, Village of Pinecrest, City of Sunny Isles Beach, Town of Miami Lakes, Village of Palmetto Bay, City of Doral, City of Miami Gardens and Town of Cutler Bay for the distribution of franchise fees

RECOMMENDATION

It is recommended that the Board of County Commissioners (BCC) approve and adopt the attached resolution authorizing execution of an addendum to the interlocal agreements with the City of Aventura, the City of Sunny Isles Beach and the Village of Pinecrest; and the interlocal agreements with the Village of Key Biscayne, Town of Miami Lakes, Village of Palmetto Bay, City of Doral, City of Miami Gardens and the Town of Cutler Bay in substantially the form attached for the distribution of electrical franchise fees.

BACKGROUND

On July 25, 1989, the BCC approved Ordinance No. 89-81 relating to the Franchise Agreement (Agreement) with the Florida Power & Light Company (FPL). This agreement allows FPL the right to operate in public places/rights of way in unincorporated Miami-Dade County. The Agreement became effective May 25, 1990 and has a thirty year term. The Agreement requires FPL to pay the County six percent of the gross revenues billed to residential and commercial customers within the Unincorporated Municipal Service Area (UMSA) based on the previous calendar year's billing minus a credit for real and tangible personal property taxes paid by FPL.

Since the approval of this Agreement, nine areas of UMSA have incorporated; Village of Key Biscayne, City of Aventura, Village of Pinecrest, City of Sunny Isles Beach, Town of Miami Lakes, Village of Palmetto Bay, City of Doral, City of Miami Gardens, and Town of Cutler Bay. FPL currently has separate franchise fee agreements with municipalities incorporated prior to 1990. As the new municipalities were formed, the County entered into agreements with the municipalities for the FPL franchise fee distribution.

The methodology used by the County to calculate the corresponding payments to the municipalities prior to FY 2001-02 was based on the six (6) percent of gross revenues generated in the particular municipality, minus the FPL property taxes paid to the particular municipality, and minus Countywide, Fire, Library, Florida Inland Navigation District (FIND), South Florida Water Management District (SFWMD), and Everglades property taxes paid by FPL for property within that particular municipality.

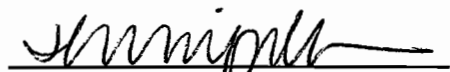
FPL, in addition to the credit for the Countywide taxes it pays in UMSA, also receives a credit for the Countywide taxes it pays in municipalities in existence prior to 1990. Realizing that the franchise fee distribution methodology used prior to FY 2001-02 produced an undue burden to UMSA, County staff re-evaluated the distribution methodology to include a pro-ration of the countywide payments made in municipalities existing prior to 1990 that have their own agreements. The methodology used since FY 2001-02 was based on six (6) percent of gross revenues generated in the municipality minus municipal taxes paid to the municipality, minus countywide taxes paid to the municipality, then the pro-rated countywide taxes paid in the municipalities with their own agreements.

In late 2005, the Village of Pinecrest, City of Aventura, City of Sunny Isles Beach, Town of Miami Lakes and Village of Key Biscayne retained Public Resources Management Group, Inc. to review the franchise fee payments made by the County. In early 2006, the municipalities met with the County to discuss the revised franchise fee distribution methodology. After several meetings with the municipalities, the methodology was adjusted to prorate the impact of the taxes paid associated with the power plants located in some municipalities among all of the new municipalities and UMSA.

The new methodology pro-rates all of the countywide payments made in municipalities between UMSA and the municipalities listed above. Additionally, it prorates the power plants in the new municipalities so that no one municipality is negatively affected by having a power plant within its boundaries (Turkey Point and Cutler Power Generating Facilities). Under this methodology the impact of all the Countywide taxes are applied proportionately between the new cities and UMSA.

Because the methodology used from FY 2001-02 through FY 2004-05 negatively affected the franchise fee payments for the Village of Pinecrest, City of Sunny Isles Beach, and the City of Aventura, the County agreed to retroactively apply the new methodology for those fiscal years. By applying the new methodology to these municipalities, the Village of Pinecrest realized an additional \$879,954, the City of Sunny Isles Beach realized an additional \$782,886, and the City of Aventura realized an additional \$1,651,278. The payments to the municipalities will occur in three equal installments.

The attached addendums to the interlocal agreements between the City of Sunny Isles Beach, City of Aventura, and the Village of Pinecrest outline the new methodology for the calculation of the FPL franchise fee payments. The Office of Strategic Business Management is currently in the process of obtaining the remaining franchise fee agreements from the Village of Key Biscayne, Town of Miami Lakes, Village of Palmetto Bay, City of Doral, City of Miami Gardens, and the Town of Cutler Bay.



Jennifer Glazer-Moon, Director
Office of Strategic Business Management

cmo13507

I. OBLIGATIONS OF THE COUNTY

A. The County shall:

1.1.1 In addition to the Village Fees previously paid by the County to the Village for Fiscal Years 2001-02, 2002-03, and 2003-04 (the "Historical Period"), the County agrees to pay the Village \$879,954 in additional Village Fees for such Historical Period. Such payment of additional Village Fees shall be paid by the County in three annual installments of \$293,318.00 per year during the three fiscal years 2005-06, 2006-07 and 2007-08). The Village agrees that these payments will satisfy any outstanding payment liability of the County for the Historical Period and for fiscal year 2004-2005 and that no additional Village Fees will be due to the Village upon the satisfactory payment by the County.

1.1.2 Beginning with the remittance of the Village Fees for the Fiscal Year 2005-2006 which are to be paid on or before August 15, 2006 and for so long as the Franchise Ordinance is in effect and enforceable, the County shall determine the amount of the Village Fees to be remitted by the County to the Village utilizing the methodology as outlined in this amendment. Regarding the determination of the Franchise Fees to be submitted to the municipalities of Aventura, Key Biscayne, Pinecrest, Sunny Isles Beach, Palmetto Bay, Doral, Miami Gardens and Miami Lakes (collectively, the "Cities") by the County, the following methodology shall be utilized, which is also illustrated in Table 1 for the determination of the Franchise Fees to be remitted by the County to each City for the Fiscal Year 2004-05, as follows:

- a. Determine from FP&L's records the total amount due to the Cities, Unincorporated Miami-Dade County Service Area (UMSA), and any new municipality which is created after the effective date of this addendum but before the expiration of the Franchise Ordinance (collectively, the "Recipients") based on six percent of FP&L gross revenues attributable to service being provided within the corporate limits and service area of the Recipients for the respective calendar year ("Gross Revenues"). See Column A.¹
- b. Subtract from Gross Revenues the amount of municipal real and personal property taxes paid by FP&L on its real and personal property within the respective corporate limits and service areas of the Recipients during the respective calendar year ("Municipal Taxes"). See Column B.

¹ References to Columns in paragraph 1.1.9 relate to columns in Table 1, which illustrates the application of the formula in paragraph 1.1.2. for the Fiscal Year 2004-05.

7

- c. Subtract from the Gross Revenues the total Countywide operating and debt service, Fire, Library, Florida Inland Navigation, and Everglades Project, South Florida Water Management District property taxes and other applicable taxes ("Regional Taxes") paid by FP&L on its real and personal property within the respective corporate limits and service areas of the Recipients excluding any Regional Taxes paid on real and property associated with the Turkey Point and Cutler Power Generating Facility properties. See Column C.
- d. Determine the difference of the Gross Revenues less the Municipal Taxes and the Regional Taxes as defined above in items b and c (Adjusted Franchise Fees"). See Column D.
- e. Subtract from the Adjusted Franchise Fees for each City the equivalent Regional Taxes paid by FP&L for property in cities which have a separately executed franchise agreement with FP&L which was in effect as of the date of the Franchise Ordinance and the Regional Taxes paid by FP&L on Turkey Point and Cutler Power Generating Facilities that is recognized as a deduction by FP&L for the remittance of Franchise Fees to the County apportioned among the Recipients and based on the percent of each recipient's Adjusted Recipient Revenue to the total Adjusted Recipient for all recipients, (Prorated Amount). See Column E.
- f. The amount of the Franchise Fees to be paid by the County to the Cities shall be determined by subtracting from the Adjusted Recipient Revenue the apportioned Regional Taxes paid by FP&L on property in cities which have a separately executed franchise agreement as referenced in item e above (the Net Franchise Fees). See Column F.

TABLE 1	A	B	C	D	E	F
	Gross Revenue	Municipal Taxes	Regional Taxes (without PP)	Subtotal (without PP)	Prorate Old Cities and PPs	NEW METHOD
NEW METHOD:						
Key Biscayne	1,052,948 54	(30,067 17)	(65,751 72)	957,129 65	(183,488 76)	773,640 89
Aventura	2,935,149 30	(52,721 24)	(249,678 96)	2,632,749 10	(504,717 28)	2,128,031 82
Pinecrest	1,410,244 51	(26,993 61)	(115,092 80)	1,268,158 10	(243,115 19)	1,025,042 90
Sunny Isles	1,154,787 41	(44,890 94)	(141,328 73)	968,567 74	(185,681 53)	782,886 21
Palmetto Bay	1,318,971 46	(113,681 82)	(271,532 87)	933,756 77	(179,008 01)	754,748 76
Doral	2,183,185 46	(28,207 91)	(115,562 24)	2,039,415 31	(390,970 85)	1,648,444 47
Miami Gardens	3,559,496 12	(57,675 45)	(166,726 69)	3,335,093 98	(639,361 93)	2,695,732 04
Miami Lakes	1,884,173 36	(44,918 20)	(162,685 02)	1,676,570 14	(321,410 77)	1,355,159 37
UMSA	54,913,188 18	(4,093,088 04)	(6,602,362 23)	42,217,737 91	(8,093,449 45)	34,124,288 46
Total	70,412,144.34	(4,492,244.38)	(9,890,721.27)	56,029,178.69	(10,741,203.77)	45,287,974.92

1.1.3 Following request of the Village, coincident with the annual calculation of the Net Franchise Fees to be remitted to the Village by the County, the County will provide all supporting documentation supporting its

8

calculation of Net Franchise Fees for each of the Recipients, including source documents², including when requested, for each of the local governments shown on Table 1 the following: i) Gross Revenues; ii) Municipal Taxes; iii) Regional Taxes by individual tax component; iv) the determination of the Regional Taxes for all cities which have a separately executed franchise agreement with FP&L which was in effect as of the date of the Franchise Ordinance by individual tax component by individual municipality reflected in the calculation and the Regional Taxes paid by FP&L on Turkey Point and Cutler Power Generating Facilities; v) the percentage for allocation of the Prorated Amount; and vi) the calculation of the Net Franchise Fees determined on the same basis as discussed above and shown on Table.

- 1.1.4 To the extent that the County does not pay the Net Franchise Fees to the Village by August 15th of each respective year or by 30 days from the date the funds are received from FPL, whichever is later, an interest charge for each day that payment is delinquent shall accrue. The interest rate will be based on the monthly 30-day investment rate published by the Florida State Board of Administration for the Local Government Investment Pool (SBA) for each month that payment is considered delinquent based on the number of days the payment is delinquent in such month. The delinquent payment will be paid by the County to the Village and will be in addition to the payment of the Net Franchise Fees.

IN WITNESS WHEREOF, the parties hereto have caused this Addendum to be executed on their behalf as of the date first above written.

VILLAGE OF PINECREST,
a municipal corporation

ATTEST:

Village Clerk

By: _____
Mayor Gary C. Matzner

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

Village Attorney

² Source documents include (1) FP&L worksheets, which include the franchise fee revenue by each jurisdiction, (2) Property Appraiser records providing the real and personal taxable values for FP&L within each municipality, (3) Property Appraiser records providing the real and personal taxable values for the Cutler and Turkey Point power plants, and (4) the Miami-Dade County spreadsheet calculating the franchise fee spreadsheets.

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

ATTEST:
HARVEY RUVIN, Clerk

By its Board of County
Commissioners

Deputy Clerk

By: _____
George Burgess

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

County Attorney

JA

ADDENDUM TO SECOND INTERLOCAL AGREEMENT

This Addendum to the Interlocal Agreement is made and entered into this ____ day of _____ 2006, by and between Miami-Dade County, a political subdivision of the State of Florida (the "County"), and the City of Sunny Isles Beach, a Florida municipality (the "City").

WHEREAS, the County and the City, (collectively, the "Parties"), have reviewed the Interlocal Agreement entered into on January 21, 1999 and have agreed to amend it to state a methodology to determine the amount of Franchise Fees paid by Florida Power and Light Company (FP&L) to the County for rights to utilize public rights-of-way located within the City that should be subsequently remitted annually by the County to the City (the "City Fees") beginning in Fiscal Year 2005-2006 (which constitutes the FP&L reporting period of the calendar year 2005 and continuing; and

WHEREAS, the County and the City agree that the methodology to determine the amount of City Fees to be remitted annually by the County should be applied retroactively for Fiscal Years 2001-02, 2002-03 and 2003-04; and

WHEREAS, the County and the City have determined that the retroactive application of the methodology agreed by the Parties has resulted in additional City Fees that should be remitted by the County to the City.

NOW, THEREFORE, in consideration of the mutual benefits derived therefrom, the Parties covenant and agree to amend the Interlocal Agreement dated January 21, 1999 as follows:

1. OBLIGATIONS OF THE COUNTY

1.1. The County shall:

1.1.1 In addition to the City Fees previously paid by the County to the City for Fiscal Years 2001-02, 2002-03, and 2003-04 (the "Historical Period"), the County agrees to pay the City \$782,886 in additional City Fees for such Historical Period. Such payment

11

of additional City Fees shall be paid by the County in three annual installments of \$260,962 per year during the three fiscal years 2005-06, 2006-07 and 2007-08). The City agrees that these payments will satisfy any outstanding payment liability of the County for the Historical Period and for fiscal year 2004-2005 and that no additional City Fees will be due to the City upon the satisfactory payment by the County.

1.1.2 Beginning with the remittance of the City Fees for the Fiscal Year 2005-2006 which are to be paid on or before August 15, 2006 and for so long as the Franchise Ordinance is in effect and enforceable, the County shall determine the amount of the City Fees to be remitted by the County to the City utilizing the methodology as outlined in this amendment. Regarding the determination of the Franchise Fees to be submitted to the municipalities of Aventura, Key Biscayne, Pinecrest, Sunny Isles Beach, Palmetto Bay, Doral, Miami Gardens and Miami Lakes (collectively, the "Cities") by the County, the following methodology shall be utilized, which is also illustrated in Table 1 for the determination of the Franchise Fees to be remitted by the County to each City for the Fiscal Year 2004-05, as follows:

- a. Determine from FP&L's records the total amount due to the Cities, Unincorporated Miami-Dade County Service Area (UMSA), and any new municipality which is created after the effective date of this addendum but before the expiration of the Franchise Ordinance (collectively, the "Recipients") based on six percent of FP&L gross revenues attributable to service being provided within the corporate limits and service area of the Recipients for the respective calendar year ("Gross Revenues"). See Column A.¹
- b. Subtract from Gross Revenues the amount of municipal real and personal property taxes paid by FP&L on its real and personal property within the respective corporate limits and service areas of the Recipients during the respective calendar year ("Municipal Taxes"). See Column B.
- c. Subtract from the Gross Revenues the total Countywide

¹ References to Columns in paragraph 1.1.9 relate to columns in Table 1, which illustrates the application of the formula in paragraph 1.1.2. for the Fiscal Year 2004-05.

operating and debt service, Fire, Library, Florida Inland Navigation, and Everglades Project, South Florida Water Management District property taxes and other applicable taxes ("Regional Taxes") paid by FP&L on its real and personal property within the respective corporate limits and service areas of the Recipients excluding any Regional Taxes paid on real and property associated with the Turkey Point and Cutler Power Generating Facility properties. See Column C.

d. Determine the difference of the Gross Revenues less the Municipal Taxes and the Regional Taxes as defined above in items b and c (Adjusted Franchise Fees"). See Column D.

e. Subtract from the Adjusted Franchise Fees for each City the equivalent Regional Taxes paid by FP&L for property in cities which have a separately executed franchise agreement with FP&L which was in effect as of the date of the Franchise Ordinance and the Regional Taxes paid by FP&L on Turkey Point and Cutler Power Generating Facilities that is recognized as a deduction by FP&L for the remittance of Franchise Fees to the County apportioned among the Recipients and based on the percent of each recipient's Adjusted Recipient Revenue to the total Adjusted Recipient for all recipients, (Prorated Amount). See Column E.

f. The amount of the Franchise Fees to be paid by the County to the Cities shall be determined by subtracting from the Adjusted Recipient Revenue the apportioned Regional Taxes paid by FP&L on property in cities which have a separately executed franchise agreement as referenced in item e above (the Net Franchise Fees). See Column F.

TABLE 1	A	B	C	D	E	F
	Gross Revenue	Municipal Taxes	Regional Taxes (without PP)	Subtotal (without PP)	Prorate Old Cities and PPs	NEW METHOD
NEW METHOD:						
Key Biscayne	1,052,948.54	(30,067.17)	(65,751.72)	957,129.65	(183,488.76)	773,640.89
Aventura	2,935,149.30	(52,721.24)	(249,678.96)	2,632,749.10	(504,717.28)	2,128,031.82
Pinecrest	1,410,244.51	(26,993.61)	(115,092.80)	1,268,158.10	(243,115.19)	1,025,042.90
Sunny Isles	1,154,787.41	(44,890.94)	(141,328.73)	968,567.74	(185,681.53)	782,886.21
Palmetto Bay	1,318,971.46	(113,681.82)	(271,532.87)	933,756.77	(179,008.01)	754,748.76
Doral	2,183,185.46	(28,207.91)	(115,562.24)	2,039,415.31	(390,970.85)	1,648,444.47
Miami Gardens	3,559,496.12	(57,675.45)	(166,726.69)	3,335,093.98	(639,361.93)	2,695,732.04
Miami Lakes	1,884,173.36	(44,918.20)	(162,685.02)	1,676,570.14	(321,410.77)	1,355,159.37
UMSA	54,913,188.18	(4,093,088.04)	(8,602,362.23)	42,217,737.91	(8,093,449.45)	34,124,288.46
Total	70,412,144.34	(4,492,244.38)	(9,890,721.27)	56,029,178.69	(10,741,203.77)	45,287,974.92

1.1.4 Following request of the City, Coincident with the annual calculation of the Net Franchise Fees to be remitted to the City by the County, the County will provide all supporting documentation supporting its calculation of Net Franchise Fees for each of the Recipients, including source documents², including when requested, for each of the local governments shown on Table 1 the following: i) Gross Revenues; ii) Municipal Taxes; iii) Regional Taxes by individual tax component; iv) the determination of the Regional Taxes for all cities which have a separately executed franchise agreement with FP&L which was in effect as of the date of the Franchise Ordinance by individual tax component by individual municipality reflected in the calculation and the Regional Taxes paid by FP&L on Turkey Point and Cutler Power Generating Facilities; v) the percentage for allocation of the Prorated Amount; and vi) the calculation of the Net Franchise Fees determined on the same basis as discussed above and shown on Table 1.

1.1.8 To the extent that the County does not pay the Net Franchise Fees to the City by August 15th of each respective year, an interest charge for each day that payment is delinquent shall accrue. The interest rate will be based on the monthly 30-day investment rate published by the Florida State Board of Administration for the Local Government Investment Pool (SBA) for each month that payment is considered delinquent based on the number of days the payment is delinquent in such month. The delinquent payment will be paid by the County to the City and will be in addition to the payment of the Net Franchise Fees.

² Source documents include (1) FP&L worksheets, which include the franchise fee revenue by each jurisdiction, (2) Property Appraiser records providing the real and personal taxable values for FP&L within each municipality, (3) Property Appraiser records providing the real and personal taxable values for the Cutler and Turkey Point power plants, and (4) the Miami-Dade County spreadsheet calculating the franchise fee spreadsheets.

IN WITNESS WHEREOF, the parties hereto have caused this Addendum to be executed on their behalf as of the date first above written.

ATTEST:

Jane A. Hines
Jane Hines, CMC, City Clerk

CITY OF SUNNY ISLES BEACH,
a municipal corporation

By: Norman S. Edelcup
Norman Edelcup, Mayor

APPROVED AS TO FORM AND
LEGAL

Hans Ottinot
Hans Ottinot, City Attorney

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

Attest:
HARVEY RUVIN, Clerk

By its Board of County
Commissioners

Deputy Clerk

By: _____
George Burgess

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

County Attorney

ADDENDUM TO SECOND INTERLOCAL AGREEMENT

This Addendum to the Second Interlocal Agreement is made and entered into this 12th day of September, 2006, by and between Miami-Dade County, a political subdivision of the State of Florida (the "County"), and the City of Aventura, a Florida municipality (the "City").

WHEREAS, the County and the City, (collectively, the "Parties"), have reviewed the Second Interlocal Agreement entered into on June 17, 1997 and have agreed to amend it to state a methodology to determine the amount of Franchise Fees paid by Florida Power and Light Company (FP&L) to the County for rights to utilize public rights-of-way located within the City that should be subsequently remitted annually by the County to the City (the "City Fees") beginning in Fiscal Year 2005-2006 (which constitutes the FP&L reporting period of the calendar year 2005 and continuing; and

WHEREAS, the County and the City agree that the methodology to determine the amount of City Fees to be remitted annually by the County should be applied retroactively for Fiscal Years 2001-02, 2002-03 and 2003-04; and

WHEREAS, the County and the City have determined that the retroactive application of the methodology agreed by the Parties has resulted in additional City Fees that should be remitted by the County to the City.

NOW, THEREFORE, in consideration of the mutual benefits derived therefrom, the Parties covenant and agree to amend section 1 of the Second Interlocal Agreement dated June 17, 1997 as follows:

I. OBLIGATIONS OF THE COUNTY

A. The County shall:

1.1.1 In addition to the City Fees previously paid by the County to the City for Fiscal Years 2001-02, 2002-03, and 2003-04 (the "Historical Period"), the County agrees to pay the City \$1,651,278 in additional City Fees for such Historical Period. Such payment of additional City Fees shall be paid by the County in three annual installments of \$550,426.00 per year during the three fiscal years 2005-06, 2006-07 and 2007-08). The City agrees that these payments will satisfy any outstanding payment liability of the County for the Historical Period and for fiscal year 2004-2005 and that no additional City Fees will be due to the City upon the satisfactory payment by the County.

1.1.2 Beginning with the remittance of the City Fees for the Fiscal Year 2005-2006 which are to be paid on or before August 15, 2006 and for so long as the Franchise Ordinance is in effect and enforceable, the County shall determine the amount of the City Fees to be remitted by the County to the City utilizing the methodology as outlined in this amendment. Regarding the determination of the Franchise Fees to be submitted to the municipalities of Aventura, Key Biscayne, Pinecrest, Sunny Isles Beach, Palmetto Bay, Doral, Miami Gardens and Miami Lakes (collectively, the "Cities") by the County, the following methodology shall be utilized, which is also illustrated in Table 1 for the determination of the Franchise Fees to be remitted by the County to each City for the Fiscal Year 2004-05, as follows:

- a. Determine from FP&L's records the total amount due to the Cities, Unincorporated Miami-Dade County Service Area (UMSA), and any new municipality which is created after the effective date of this addendum but before the expiration of the Franchise Ordinance (collectively, the "Recipients") based on six percent of FP&L gross revenues attributable to service being provided within the corporate limits and service area of the Recipients for the respective calendar year ("Gross Revenues"). See Column A.¹
- b. Subtract from Gross Revenues the amount of municipal real and personal property taxes paid by FP&L on its real and personal property within the respective corporate limits and service areas of the Recipients during the respective calendar year ("Municipal Taxes"). See Column B.

¹ References to Columns in paragraph 1.1.9 relate to columns in Table 1, which illustrates the application of the formula in paragraph 1.1.2. for the Fiscal Year 2004-05.

- c. Subtract from the Gross Revenues the total Countywide operating and debt service, Fire, Library, Florida Inland Navigation, and Everglades Project, South Florida Water Management District property taxes and other applicable taxes (“Regional Taxes”) paid by FP&L on its real and personal property within the respective corporate limits and service areas of the Recipients excluding any Regional Taxes paid on real and property associated with the Turkey Point and Cutler Power Generating Facility properties. See Column C.
- d. Determine the difference of the Gross Revenues less the Municipal Taxes and the Regional Taxes as defined above in items b and c (Adjusted Franchise Fees”). See Column D.
- e. Subtract from the Adjusted Franchise Fees for each City the equivalent Regional Taxes paid by FP&L for property in cities which have a separately executed franchise agreement with FP&L which was in effect as of the date of the Franchise Ordinance and the Regional Taxes paid by FP&L on Turkey Point and Cutler Power Generating Facilities that is recognized as a deduction by FP&L for the remittance of Franchise Fees to the County apportioned among the Recipients and based on the percent of each recipient’s Adjusted Recipient Revenue to the total Adjusted Recipient for all recipients, (Prorated Amount). See Column E.
- f. The amount of the Franchise Fees to be paid by the County to the Cities shall be determined by subtracting from the Adjusted Recipient Revenue the apportioned Regional Taxes paid by FP&L on property in cities which have a separately executed franchise agreement as referenced in item e above (the Net Franchise Fees). See Column F.

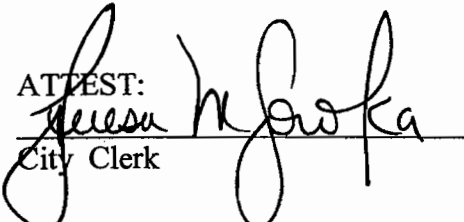
TABLE 1	A	B	C	D	E	F
	Gross Revenue	Municipal Taxes	Regional Taxes (without PP)	Subtotal (without PP)	Prorate Old Cities and PPs	NEW METHOD
Key Biscayne	1,052,948.54	(30,067.17)	(65,751.72)	957,129.65	(183,488.76)	773,640.89
Aventura	2,935,149.30	(52,721.24)	(249,678.96)	2,632,749.10	(504,717.28)	2,128,031.82
Pinecrest	1,410,244.51	(26,993.61)	(115,092.80)	1,268,158.10	(243,115.19)	1,025,042.90
Sunny Isles	1,154,787.41	(44,890.94)	(141,328.73)	968,567.74	(185,681.53)	782,886.21
Palmetto Bay	1,318,971.46	(113,681.82)	(271,532.87)	933,756.77	(179,008.01)	754,748.76
Doral	2,183,185.46	(28,207.91)	(115,562.24)	2,039,415.31	(390,970.85)	1,648,444.47
Miami Gardens	3,559,496.12	(57,675.45)	(166,726.69)	3,335,093.98	(639,361.93)	2,695,732.04
Miami Lakes	1,884,173.36	(44,918.20)	(162,685.02)	1,676,570.14	(321,410.77)	1,355,159.37
UMSA	54,913,188.18	(4,093,088.04)	(8,602,362.23)	42,217,737.91	(8,093,449.45)	34,124,288.46
Total	70,412,144.34	(4,492,244.38)	(9,890,721.27)	56,029,178.69	(10,741,203.77)	45,287,974.92

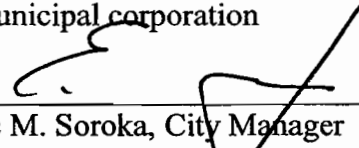
1.1.3 Following request of the City, coincident with the annual calculation of the Net Franchise Fees to be remitted to the City by the County, the County will provide all supporting documentation supporting its

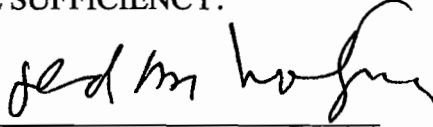
calculation of Net Franchise Fees for each of the Recipients, including source documents², including when requested, for each of the local governments shown on Table 1 the following: i) Gross Revenues; ii) Municipal Taxes; iii) Regional Taxes by individual tax component; iv) the determination of the Regional Taxes for all cities which have a separately executed franchise agreement with FP&L which was in effect as of the date of the Franchise Ordinance by individual tax component by individual municipality reflected in the calculation and the Regional Taxes paid by FP&L on Turkey Point and Cutler Power Generating Facilities; v) the percentage for allocation of the Prorated Amount; and vi) the calculation of the Net Franchise Fees determined on the same basis as discussed above and shown on Table.

1.1.4 To the extent that the County does not pay the Net Franchise Fees to the City by August 15th of each respective year, an interest charge for each day that payment is delinquent shall accrue. The interest rate will be based on the monthly 30-day investment rate published by the Florida State Board of Administration for the Local Government Investment Pool (SBA) for each month that payment is considered delinquent based on the number of days the payment is delinquent in such month. The delinquent payment will be paid by the County to the City and will be in addition to the payment of the Net Franchise Fees.

IN WITNESS WHEREOF, the parties hereto have caused this Addendum to be executed on their behalf as of the date first above written.

ATTEST:

City Clerk

CITY OF AVENTURA,
a municipal corporation
By: 
Eric M. Soroka, City Manager

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

City Attorney

² Source documents include (1) FP&L worksheets, which include the franchise fee revenue by each jurisdiction, (2) Property Appraiser records providing the real and personal taxable values for FP&L within each municipality, (3) Property Appraiser records providing the real and personal taxable values for the Cutler and Turkey Point power plants, and (4) the Miami-Dade County spreadsheet calculating the franchise fee spreadsheets.

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

ATTEST:
HARVEY RUVIN, Clerk

By its Board of County
Commissioners

Deputy Clerk

By: _____
George Burgess

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

County Attorney

INTERLOCAL AGREEMENT

This Interlocal Agreement (the "Agreement") is made and entered into this _____ day of _____, 2007, by and between Miami-Dade County, a political subdivision of the State of Florida (the "County"), and the _____, a Florida municipality (the "City").

RECITALS

Whereas, in 1989, County enacted Ordinance 89-81 (the "Franchise Ordinance"), which granted a non-exclusive electric franchise to Florida Power & Light ("FP&L") to utilize public rights of way throughout the unincorporated and incorporated areas of Miami-Dade County, Florida, in return for FP&L paying County certain franchise fees (the "Franchise Fees"); and

WHEREAS, the City was created on _____, as authorized by Miami-Dade County Ordinance _____; and

WHEREAS, County and City wish to enter into this agreement for payment of that portion of the Franchise Fees remitted by FP&L to County for rights to utilize public right-of-way located within City "(City Fees").

NOW, THEREFORE, in consideration of the mutual benefits derived therefrom, the parties covenant and agree as follows:

I. **OBLIGATIONS OF THE COUNTY**

1.1 The County shall:

1.1.1 For so long as the Franchise Ordinance is in effect and enforceable, pay to the City all City fees received by County from FP&L on July 1, 2007 and on each July 1 thereafter. Such payment shall be made within forty-five (45) days of County's receipt of City Fees from FP&L.

1.1.2 Execute any and all documents which FP&L may reasonably require in order to identify City Fees:

1.1.3 Beginning with the remittance of the City Fees for the Fiscal Year 2006-07 and for so long as the Franchise Ordinance is in effect and enforceable, the County shall determine that amount of the City Fees to be remitted by the County to the City utilizing the methodology as outlined in this agreement. Regarding the determination of the Franchise Fees to be submitted to the municipalities of Aventura, Key Biscayne, Pinecrest, Sunny Isles Beach, Palmetto Bay, Doral, Miami Gardens, Cutler Bay and Miami Lakes (collectively, the "Cities") by the County, the following methodology shall be utilized, which is also illustrated in Table 1 for the determination of Franchise Fees to be remitted by the County to each City for the Fiscal Year 2004-05, as follows:

- a. Determine from FP&L's records the total amount due to the Cities, the Unincorporated Municipal County Service Area (UMSA), and any new municipality which is created after the effective date of this addendum but before the

expiration of the Franchise Ordinance (collectively, the "Recipients") based on six percent of the FP&L gross revenues attributable to service being provided within the corporate limits and service area of the Recipients for the respective calendar year ("Gross Revenues"). See Table 1 Column A.

b. Subtract from Gross Revenues the amount of municipal real and personal property taxes paid by FP&L on its real and personal property within the respective corporate limits and service areas of the Recipients during the respective calendar year ("Municipal Taxes"). See Table 1 Column B.

c. Subtract from the Gross Revenues the total Countywide operating and debt service, Fire, Library, Florida Inland Navigation, and Everglades Project, South Florida Water Management District property taxes and other applicable taxes ("Regional Taxes") paid by the FP&L on its real and personal property within the respective corporate limits and service areas of the Recipients excluding any Regional Taxes paid on real and property associated with the Turkey Point and Cutler Power Generating Facilities properties. See Table 1 Column C.

d. Determine the difference of the Gross Revenue less the Municipal Taxes and the Regional Taxes as defined above in items b and c ("Adjusted Franchise Fees"). See Table 1 Column D.

e. Subtract from the Adjusted Franchise Fees for each City the equivalent Regional Taxes paid by FP&L for property in cities which have a separately executed franchise agreement with FP&L which was in effect as of the date of the Franchise Ordinance and the Regional Taxes paid by FP&L on Turkey Point and Cutler Power Generating Facilities that is recognized as a deduction by FP&L for the remittance of Franchise Fees to the County apportioned among the Recipients and based on the percent of each recipient's Adjusted Recipient Revenue to the total Adjusted Recipient for all recipients, (Prorated Amount). See Table 1 Column E.

f. The amount of the Franchise Fees to be paid by the County to the Cities shall be determined by subtracting from the Adjusted Recipient Revenue the apportioned Regional

Taxes paid by FP&L on property in cities which have a separately executed franchise agreement as referenced in item e above (the Net Franchise Fees). See Table 1 Column F.

TABLE 1	A	B	C	D	E	F
NEW METHOD	Gross Revenue	Municipal Taxes	Regional Taxes (w/o PP)	Subtotal (w/o PP)	Prorate Old Cities and PP	NEW METHOD
Key Biscayne	1,052,948.54	(30,067.17)	(65,751.72)	957,129.65	(183,488.76)	773,640.89
Aventura	2,935,149.30	(52,721.24)	(249,678.96)	2,632,749.10	(504,717.28)	2,128,031.82
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Miami Lakes	1,884,173.36	(44,918.20)	(162,685.02)	1,676,570.14	(321,410.77)	1,355,159.37
UMSA	54,913,188.18	(4,093,088.04)	(8,602,362.23)	42,217,737.91	(8,093,449.45)	34,124,288.46
TOTAL	70,412,144.34	(4,492,244.38)	(9,890,721.26)	56,029,178.70	(10,741,203.77)	45,287,974.92

1.1.4 Following request of the City, Coincident with the annual calculation of the Net Franchise Fees to be remitted to the City by the County, the County simultaneous with each payment of City Fees to the City, shall provide copies of all supporting documentation that is received from FP&L;

1.1.4 Maintain accurate and complete books, records and documents, sufficient to reflect properly all receipt of City Fees for a period of three years following receipt and payment to the City under this Agreement, and

2. TERM

The provisions of this Agreement relating to Franchise Fees shall be in full force and effect for a period commencing on the day of execution and terminating upon expiration of the full term of the Franchise Ordinance.

3. **GOVERNING LAW**

This agreement shall be governed by and construed in accordance with the laws of the State of Florida. Venue for any litigation between the parties for any controversy arising from or related to this Agreement shall be in the Eleventh Judicial Circuit in and for Miami-Dade County, Florida.

4. **ENTIRETY OF AGREEMENT**

This Agreement incorporated and includes all prior negotiation, correspondence, conversations, agreements and understanding applicable to the City Fees and contains the entire agreement between the parties. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written, and that this Agreement may be modified, altered or amended only by written agreement duly executed by all parties hereto to their authorized representatives.

5. **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.

6. **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.

7. **REPRESENTATION BY CITY AND COUNTY**

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

8. **INVALIDATION OF PROVISIONS, SEVERABILITY**

Wherever possible, each provision of this 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 provision of this Agreement, provided that the material purposes of this Agreement can be determined and effectuated.

9. **NOTICE**

Notices to the parties as provided for herein shall be sufficient if sent by hand-delivery, federal express or certified mail, return receipt requested, addressed as follows:

if to the County:

Miami-County Manager
Suite 2900
Stephen P. Clark Center
111 NW First Street
Miami, Florida 33128-1993

with a required copy to:

Miami-Dade County Attorney
Suite 2800
Stephen P. Clark Center
111 NW First Street
Miami, Florida 33128-1993

if to the City:

City Manager

with a required copy to:

City Attorney

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 caused the Agreement to be executed on their behalf as of the date first above written.

CITY OF _____, a municipal corporation

ATTEST:

City Clerk

By: _____
City Manager

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

City Attorney

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

ATTEST:
HARVEY RUVIN, Clerk

By its Board of County Commissioners

Deputy Clerk

By: _____
County Mayor or designee

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

County Attorney