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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Agenda Item No. 8(M)(5)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: April 21, 2015

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

SUBJECT: Resolution approving an Interlocal Agreement between Miami-Dade County and the City of Hialeah pursuant to which the County will provide certain supplies to the City so that the City may perform specific air monitoring activities in the City of Hialeah

Resolution No. R-318-15

The accompanying resolution was prepared by the Regulatory and Economic Resources Department and placed on the agenda at the request of Prime Sponsor Metropolitan Services Committee.

R. A. Cuevas, Jr.
County Attorney

RAC/cp

Memorandum

MIAMI-DADE COUNTY

Date: April 21, 2015

To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Resolution Authorizing Execution of an Interlocal Agreement with the City of Hialeah to Provide Supplies for the Performance of Specific Air Monitoring Activities in the City of Hialeah

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Recommendation

It is recommended that the Board of County Commissioners (Board) approve the attached resolution authorizing the Mayor or the Mayor's designee to execute an Interlocal Agreement with the City of Hialeah in which the County agrees to provide certain supplies and the City agrees to perform specific air monitoring activities in the City of Hialeah.

Scope

The air monitoring activities will occur within the City of Hialeah, which includes portions of Commission District 2, represented by Chairman Jean Monestime; District 6, represented by Commissioner Rebeca Sosa; District 12, represented by Commissioner Jose "Pepe" Diaz; and District 13, represented by Commissioner Esteban Bovo, Jr.

Delegation

Under the proposed agreement, the Mayor or Mayor's designee has the authority to terminate the agreement and to exercise the provisions therein.

Fiscal Impact/Funding Source

This agenda item does not have a fiscal impact or funding source requirements. No additional staff time will be required to coordinate activities with the City of Hialeah.

Track Record / Monitor

Mallika Muthiah, acting Chief of Air Quality Management for the Department of Regulatory and Economic Resources, Division of Environmental Resources Management, shall monitor this agreement.

Background

On October 10, 2006, the Board approved Resolution No. R-1190-06, authorizing an agreement with the U.S. Department of Homeland Security that provided funding for Miami-Dade County to operate an air monitoring network countywide. The agreement has been extended annually, as requested by the Department of Homeland Security, to allow Miami-Dade County to continue providing the specified services for the federal government.

The proposed Interlocal Agreement allows Miami-Dade County, on behalf of the Department of Homeland Security, to provide Phase I Sampling Kits and materials to the City of Hialeah Fire Department for use by the City when responding to a BioWatch Actionable Result within the City of Hialeah, and allows the County to coordinate with the federal government to provide replacement components for the kits.

Jack Osterholt, Deputy Mayor

MEMORANDUM
(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: April 21, 2015

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

SUBJECT: Agenda Item No. 8(M)(5)

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(M)(5)
4-21-15

RESOLUTION NO. R-318-15

RESOLUTION APPROVING AN INTERLOCAL AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE CITY OF HIALEAH PURSUANT TO WHICH THE COUNTY WILL PROVIDE CERTAIN SUPPLIES TO THE CITY SO THAT THE CITY MAY PERFORM SPECIFIC AIR MONITORING ACTIVITIES IN THE CITY OF HIALEAH; AUTHORIZING THE MAYOR OR MAYOR'S DESIGNEE TO EXECUTE SAME AND 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 approves the Interlocal Agreement attached hereto as Exhibit A, between the City of Hialeah and Miami-Dade County, which would transfer custody of Phase 1 Sampling Kits and materials from the County to the City of Hialeah for use by the City when responding to a BioWatch Actionable Result within the City of Hialeah, in substantially the form attached hereto and made part hereof; authorizes the County Mayor or County Mayor's designee to execute same and to exercise the termination and other provisions contained therein.

The foregoing resolution was offered by Commissioner **Esteban L. Bovo, Jr.** , who moved its adoption. The motion was seconded by Commissioner **Sally A. Heyman** and upon being put to a vote, the vote was as follows:

Jean Monestime, Chairman			**aye**
Esteban L. Bovo, Jr., Vice Chairman			**aye**
Bruno A. Barreiro	**aye**	Daniella Levine Cava	**aye**
Jose "Pepe" Diaz	**aye**	Audrey M. Edmonson	**aye**
Sally A. Heyman	**aye**	Barbara J. Jordan	**aye**
Dennis C. Moss	**aye**	Rebeca Sosa	**aye**
Sen. Javier D. Souto	**absent**	Xavier L. Suarez	**aye**
Juan C. Zapata	**absent**		

The Chairperson thereupon declared the resolution duly passed and adopted this 21st day of April, 2015. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

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

HARVEY RUVIN, CLERK

By: ***Christopher Agrippa***
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Abbie Schwaderer-Raurell

EXHIBIT A

INTERLOCAL AGREEMENT
BETWEEN MIAMI-DADE COUNTY AND THE CITY OF HIALEAH

THIS INTERLOCAL AGREEMENT, (the "Agreement") by and between the Miami-Dade County, a public body corporate and politic, through its governing body, the Board of County Commissioners of Miami-Dade County, Florida (the "COUNTY"), and the City of Hialeah, a public body corporate and politic, through its governing body, the Hialeah City Council of the City of Hialeah, Florida (the "CITY") is entered into this _____ day of _____, 2014 for the purpose of establishing the terms, conditions and responsibilities of the parties with respect to the care and custody of the air quality related "Phase 1 Sampling Kit" provided by the federal government and its agents that is intended to be maintained by the CITY.

I. RESPONSIBILITIES OF THE COUNTY

The COUNTY agrees to the following:

1. The COUNTY, through the County's Department of Regulatory and Economic Resources Division of Environmental Resources Management ("RER DERM"), shall inventory and deliver the Phase 1 Sampling Kit to the CITY, through the City of Hialeah Fire Department.

2. The COUNTY, through RER DERM, shall initiate requests to the federal government and/or its agents for replacement items for the Phase I Sampling Kit upon notification from the CITY, through the City of Hialeah Department Fire Department, that replacement items are needed.

II. RESPONSIBILITIES OF THE CITY

The CITY agrees to the following:

1. The CITY, through its Fire Department, shall identify and assign a responsible individual to track and maintain the condition of the Phase 1 Sampling Kit, ensuring its continued use.

2. The CITY, through its Fire Department, shall ensure that the assigned responsible individual performs an initial inventory upon receipt of the Phase 1 Sampling Kit, ensure that the Phase I Sampling Kit is checked periodically on at least a monthly basis and ensure that the COUNTY, through RER DERM, is notified in writing in a timely manner of any items that require replacement, due either to consumption or passed expiration date.

3. The CITY, through its Fire Department, shall properly store the Phase I Sampling Kit to ensure its efficacy and inform the COUNTY, through RER DERM, of the current location of the Phase I Sampling Kit, including any relocations.

4. The CITY, through its Fire Department, shall be responsible for transporting the Phase I Sampling Kit to and from the location(s) designated by the COUNTY, through RER DERM, upon notification of a BioWatch Actionable Result (BAR), and the CITY, through its Fire Department, shall perform the Phase I sampling as required.

5. The CITY, through its Fire Department, shall ensure that no contents of the Kit are utilized for training purposes, unless such training uses only the expired components of the Phase I Sampling Kit and such training has been approved in writing by the County, through RER DERM.

6. In the event that this AGREEMENT is terminated at any time, the custody and ownership of any and all Phase 1 Sampling Kits and their contents will revert to the COUNTY, through RER DERM, and the CITY, through its Fire Department, shall arrange to have any and all Phase I Sampling Kits and their contents delivered to the COUNTY, through RER DERM, immediately.

III. TERMINATION

The parties agree that this AGREEMENT shall continue in effect until terminated. This AGREEMENT may be terminated by either party upon written notice to the other party, without cause. Said notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery. For the COUNTY, such written notice shall be delivered to: Patrick Wong, Chief, Air Quality Management Division, 701 NW 1st Court, Miami, Florida 33136. For the CITY, such written notice shall be delivered to: Chief Daniel C. Fernandez, 83 E. 5th Street, Hialeah, Florida 33010. Termination of this AGREEMENT shall be effective when both of the following conditions are met: (1) the receipt of written notice, as provided above, and (2) the CITY, through its Fire Department, has delivered any and all Phase I Sampling Kits back to the County, through RER DERM.

IV. MODIFICATION

Modifications of provisions of this AGREEMENT shall only be valid when they have been reduced to writing and duly signed by both parties.

V. BENEFIT/ASSIGNMENT

Subject to provisions herein to the contrary, this AGREEMENT shall inure to the benefit of and be binding upon the parties hereto and their respective legal representatives, successors and permitted assigns. No party may assign this AGREEMENT without the prior consent of the other party, the consent of which shall be given at that party's sole discretion.

VI. INDEMNIFICATION

City shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorney's fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by City or its

employees, agents, servants, partners, principals or subcontractors. City shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments and attorney's fees which may issue thereon. Provided, however, this indemnification shall only be to the extent and within the limitations of Section 768.28 Fla. Stat., subject to the provisions of that Statute whereby City shall not be held liable to pay a personal injury or property damage claim or judgment or portions thereof, which, when totaled with all other claims or judgment by any one person which exceeds the sum of $200,000, or any claim or judgment by any one person which, when totaled with all other claims or judgment paid by City arising out of the same incident or occurrence, exceed the sum of $300,000 from any and all personal injury or property damage claims, liabilities, losses or causes of action which may arise as a result of the negligence of City.

VII. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. The County and the CITY agree to submit to service of process and jurisdiction of the State of Florida for any controversy or claim arising out of or relating to this Agreement or a breach of this Agreement. Venue for any court action between the parties for any such controversy arising from or related to this Agreement shall be in the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, or in the United States District Court for the Southern District of Florida, in Miami-Dade County, Florida.

VIII. NO PAYMENT OF FUNDS BETWEEN THE PARTIES

This AGREEMENT is an inter-cooperation agreement between the COUNTY and the CITY, and no payments will be made or due from the COUNTY to the CITY or from the CITY to the COUNTY in exchange for or with respect to the actions and responsibilities outlined in this agreement.

IX. ENTIRETY OF AGREEMENT

This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained in this Agreement The parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this Agreement, and that this Agreement contains the entire agreement between the parties as to all matters contained herein. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that any oral representations or modifications concerning this Agreement shall be of no force or effect, and that this Agreement may be modified, altered or amended only by a written amendment duly executed by both parties hereto or their authorized representatives.

X. RIGHTS OF OTHERS

Nothing in this Agreement expressed or implied is intended to confer upon any person other than the parties any rights or remedies under or by reasons of this Agreement.

XI. WAIVER

There shall be no waiver of any right related to this Agreement unless in writing and signed by the party waiving such right. No delay or failure to exercise a right under this Agreement shall impair such right or shall be construed to be a waiver thereof. Any waiver shall be limited to the particular right so waived and shall not be deemed a waiver of the same right at a later time or of any other right under this Agreement.

XII. INVALIDITY OF PROVISIONS, SEVERABILITY

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

XIII. EFFECTIVE DATE AND TERM OF AGREEMENT

This AGREEMENT shall be effective on the date of execution by both parties.

IN WITNESS WHEREOF, the parties hereto have caused this Interlocal Agreement to be executed by their officials thereunto duly authorized.

Miami-Dade County

By: _____

Jack Osterholt, Deputy Mayor

Date: _____

City of Hialeah

By: _____

Date: _____

Approved as to form and legal sufficiency:

Lorena Bravo
Acting City Attorney

ATTEST: _____
MARBELYS FATJO
Acting City Clerk