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

MEMORANDUM

Agenda Item No. 3(B)(1)

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

DATE: November 1, 2016

FROM: Abigail Price-Williams County Attorney

SUBJECT: Resolution ratifying the County Mayor's submittal of a grant application to the City Energy Project for a water and energy benchmarking stakeholder engagement and policy development process for large buildings; approving Memorandum of Understanding for the grant for a total of up to $590,000.00 in cash and in-kind services, including County matching funds of up to $150,000.00 in cash and $80,000.00 of in-kind services; authorizing the County Mayor to execute same, to receive and expend grant funds, and execute grant award agreements and certain other documents as required for the grant upon review and final approval of the County Attorney's Office for legal sufficiency

Resolution No. R-954-16

The accompanying resolution was prepared by the Regulatory and Economic Resources Department and placed on the agenda at the request of Prime Sponsor Commissioner Daniella Levin Cava.

Abigail Price-Williams
County Attorney

APW/lmp

Memorandum

MIAMI-DADE COUNTY

Date: November 1, 2016

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

From: Carlos A. Gimenez
Mayor

Subject: Resolution Ratifying Submittal of Grant Application and Approving a Memorandum of Understanding for a Water and Energy Benchmarking Stakeholder Engagement and Policy Development Process For Large Buildings

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Recommendation

It is recommended that the Board of County Commissioners (Board) approve this item, which does the following:

- Ratifies the County Mayor's action of submitting a grant application to the Natural Resources Defense Council and the Institute for Market Transformation's City Energy Project grant program for a water and energy benchmarking stakeholder engagement and policy development process for large buildings. Ratification of this application is necessary because the proposal did not allow time to obtain the Board's approval prior to submission; and
- Approves the Memorandum of Understanding for the grant and authorizes the County Mayor or County Mayor's designee to execute it and further authorizes the County Mayor or the County Mayor's designee to receive and expend funds and execute grant agreements, certain amendments and other documents to accomplish the purposes referenced herein, to the extent required by the grant upon review and final approval of the County Attorney's Office.

Scope

The grant would provide funding and technical support to spearhead a stakeholder engagement process to work on the development of a flexible program aimed at significantly reducing energy and water consumption and associated greenhouse gas pollution emissions in the largest private and public sector buildings countywide.

Fiscal Impact/Funding Source

All funds for this item have already been allocated/approved by the Board as part of the FY 2016-17 Budget. This item will not approve any additional County funding beyond what has been approved in the FY 2016-17 Budget.

The grant award from the City Energy Project's grant program will provide $230,000.00 in cash and $360,000 of in-kind services, for a total value of $590,000.00, to implement the proposed project through December 31, 2018.

A County cash match of $150,000.00 will be provided from the operating budgets of the Water and Sewer Department (Fund #EW101, Account #722430) and the Office of Resilience within the Department of Regulatory and Economic Resources (index code PEOFRES) through December 31, 2018. In addition, the County will provide $80,000 of in-kind services from budgeted resources in the Department of Regulatory and Economic Resources' Office of Resilience to support related program activities. As a condition of the Memorandum of Understanding, the County will use its required cash match to pay a portion of the salary of a new County employee (temporary overage) that would serve as the Technical Advisor and would also manage the benchmarking stakeholder engagement and policy development process. In the event that the County receives additional grant funds during the two-year period, no more County matching funds will be required.

Track Record/Monitor
Patricia Gómez in the Office of Resilience within the Department of Regulatory and Economic Resources will monitor the grant agreement. The start date of the grant will depend upon the execution date of the Memorandum of Understanding, but the grant period will end on December 31, 2018.

Background
The City Energy Project, which is funded by Bloomberg Philanthropies, the Doris Duke Charitable Foundation, and the Kresge Foundation, is aimed at providing grants to and working with local governments to identify innovative solutions that improve the energy and water efficiency of private and public buildings. This initiative aims to develop new market demand for efficient buildings and products, thereby demonstrating that energy and water efficiency and economic benefits go hand in hand.

As outlined in the Memorandum of Understanding, the grant will support the County's efforts to focus on a stakeholder engagement process that entails working with local stakeholder groups (such as building managers and owners, realtor associations, green building and design associations, businesses and business associations of the energy and water efficiency industry, among others) and the public to develop and implement a flexible benchmarking policy that is tailored specifically to Miami-Dade County and focused on large buildings. The benchmarking policies that will be developed will require future Board approval. If, for example, buildings greater than 50,000 square feet (large buildings) are included in a future benchmarking policy or program, approximately 5,000 targeted buildings countywide (including all 34 municipalities) could potentially be covered by the program. The stakeholder engagement process for this grant involves municipalities because the goal is to have a future benchmarking program throughout all of Miami-Dade County.

Through benchmarking, the County will facilitate the collection of energy and water consumption data from individual facilities that will be measured against data from other comparable facilities. More than 8,000 buildings in Florida are currently being benchmarked. To date, 16 local governments (including, but not limited to Atlanta, GA; Austin, TX; Minneapolis, MN; Washington, DC; San Francisco, CA; Houston, TX; Los Angeles, CA; Montgomery County, MD; New York City, NY; and Seattle, WA) are participating in benchmarking programs.

This grant project supports goals emphasized repeatedly by the Mayor and the Board related to accountability, efficiency, fiscal responsibility, economic growth and job creation, and the use of data analytics to drive effective decision-making. Benchmarking will allow building owners (both private and public) to determine how efficient their buildings are and lead to better management practices that reduce costs and consumption. The project supports efforts to transform the County into a hub for technology and innovation by helping to grow the market for associated jobs and products. In addition the project supports the resiliency of the electric grid and water system, the County's expanding Property Assessed Clean Energy program, and the County's Rockefeller 100 Resilient Cities grant initiative.

The City of Miami; Ygrene Energy (a Board-approved Property Assessment Clean Energy Administrator); the United States Green Building Council – Miami-Dade Branch; Miami Foundation, Southeast Florida Regional Climate Change Compact; and Dream in Green have indicated their interest in performing various activities for the City Energy Project initiative as detailed in letters of support and commitment that were submitted as part of the County's application for the City Energy Project grant.

Jack Osterholt
Deputy Mayor

MEMORANDUM

(Revised)

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

DATE: November 1, 2016

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 3(B)(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**

_____ **Statement of social equity 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. 3(B)(1)
11-1-16

RESOLUTION NO. R-954-16

RESOLUTION RATIFYING THE COUNTY MAYOR'S SUBMITTAL OF A GRANT APPLICATION TO THE CITY ENERGY PROJECT FOR A WATER AND ENERGY BENCHMARKING STAKEHOLDER ENGAGEMENT AND POLICY DEVELOPMENT PROCESS FOR LARGE BUILDINGS; APPROVING MEMORANDUM OF UNDERSTANDING FOR THE GRANT FOR A TOTAL OF UP TO $590,000.00 IN CASH AND IN-KIND SERVICES, INCLUDING COUNTY MATCHING FUNDS OF UP TO $150,000.00 IN CASH AND $80,000.00 OF IN-KIND SERVICES; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SAME, TO RECEIVE AND EXPEND GRANT FUNDS, AND EXECUTE GRANT AWARD AGREEMENTS AND CERTAIN OTHER DOCUMENTS AS REQUIRED FOR THE GRANT UPON REVIEW AND FINAL APPROVAL OF THE COUNTY ATTORNEY'S OFFICE FOR LEGAL SUFFICIENCY

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:

Section 1. This Board hereby ratifies the County Mayor's submittal of a grant application to the Natural Resources Defense Council's and the Institute for Market Transformation's City Energy Project (CEP) for a water and energy benchmarking stakeholder engagement and policy development process for large buildings. Pursuant to this grant, the City Energy Project will provide up to $230,000.00 in cash and $360,000.00 of in-kind services, for a total value of up to $590,000.00, to implement the proposed project through December 31, 2018. The County will provide a cash match of up to $150,000.00, provided from the approved

operating budgets of the Water and Sewer Department and the Office of Resilience within the Department of Regulatory and Economic Resources through December 31, 2018. In addition, the County will provide up to $80,000.00 of in-kind services from approved budgeted resources in the Department of Regulatory and Economic Resources' Office of Resilience to support related program activities. Both the County's cash match funds and in-kind support have already been allocated in the FY 2016-2017 budget that was approved by this Board, and this resolution does not approve any additional funds.

Section 2. This Board hereby approves the Memorandum of Understanding (attached as Attachment A) with the Natural Resources Defense Council and the Institute for Market Transformation to develop a water and energy benchmarking stakeholder engagement and policy development process for large buildings.

Section 3. This Board hereby authorizes the County Mayor or County Mayor's designee to execute the Memorandum of Understanding in substantially the form attached hereto and made part hereof; authorizes the County Mayor or County Mayor's designee to agree to joint press releases related to CEP; and authorizes the County Mayor or County Mayor's designee to receive and expend funds, accept additional funds pursuant to this grant provided that no additional County matching funds are required, and execute grant award agreements and certain other documents to the extent required for the grant, to accomplish the specific purposes referenced herein, upon review and final approval of the County Attorney's Office for legal sufficiency.

The foregoing resolution was offered by Commissioner **Esteban L. Bovo, Jr.** , who moved its adoption. The motion was seconded by Commissioner **Rebeca Sosa** 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	**absent**	Daniella Levine Cava	**aye**
Jose "Pepe" Diaz	**aye**	Audrey M. Edmonson	**aye**
Sally A. Heyman	**aye**	Barbara J. Jordan	**absent**
Dennis C. Moss	**absent**	Rebeca Sosa	**aye**
Sen. Javier D. Souto	**aye**	Xavier L. Suarez	**absent**
Juan C. Zapata	**aye**		

The Chairperson thereupon declared the resolution duly passed and adopted this 1st day of November, 2016. 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

ATTACHMENT A

MEMORANDUM OF UNDERSTANDING
BETWEEN THE
INSTITUTE FOR MARKET TRANSFORMATION
THE
NATURAL RESOURCES DEFENSE COUNCIL
AND MIAMI-DADE COUNTY, OFFICE OF RESILIENCE

I. PURPOSE

This Memorandum of Understanding ("MOU") establishes the terms and conditions for the working agreement between the Institute for Market Transformation ("IMT") and Natural Resources Defense Council, Inc. ("NRDC"), collectively known as the "Project Partners", and Miami-Dade County, acting through the Office of Resilience (the "County"), in support of the City Energy Project. The Project Partners together with the County are also referred to as the "parties". The parties are in agreement that this MOU establishes the commitments of the parties. Other documents referred to in this MOU are work planning documents, and as such are to be prepared jointly by the parties once this MOU has been executed.

II. BACKGROUND

The City Energy Project (the "CEP") is a national initiative to create healthier and more prosperous American cities by improving the energy efficiency of buildings. The partnership between the CEP and the participating cities will support bold solutions that can be replicated by other municipalities nationwide and around the world to advance local economic prosperity and reduce pollution. Funding for the CEP is provided jointly by Bloomberg Philanthropies, Doris Duke Charitable Foundation and The Kresge Foundation (collectively, the "Project Funders"), and administered through the Project Partners.

IMT is a 501(c)3 nonprofit corporation with the mission to promote energy efficiency in buildings. NRDC is a 501(c)(3) nonprofit corporation with the mission to safeguard the Earth: its people, its plants and animals and the natural systems on which all life depends. The Project Partners together have the experience and ability to support the countywide execution of energy and water efficiency initiatives, which will enhance the County's ability to achieve the long-term success of those initiatives and benefit other communities seeking to implement similar initiatives.

III. AGREEMENT TO PARTICIPATE

The County will participate in the CEP and agrees to pursue the successful execution of all such initiatives, measures and other actions and goals to which it has committed. The Project Partners will support the County in the achievement of all such initiatives, measures and other actions and goals to which it has committed, for the duration of the County's participation in the CEP, as more specifically set forth in this MOU.

IV. COMMITMENTS BY THE COUNTY

The County commits to pursue, to the best of its ability and in a manner that facilitates collaboration among the County and its major stakeholders, the implementation of the following initiatives, within 12 months of the execution of this MOU, to increase the energy and water efficiency of large buildings located within the County:

1. A countywide energy and water benchmarking and transparency policy for large buildings;
2. A countywide energy and water audit/retro-commissioning policy designed to drive improved energy and water efficiency for large buildings;

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3. A countywide initiative to increase financing opportunities for and to remove barriers to energy efficiency improvements;
4. A County initiative to expand and improve energy and water efficiency efforts in County operations including the County's participation in U.S. Department of Energy's Better Buildings Program; and
5. A County initiative to improve energy code compliance in the unincorporated area of the County with potential to expand to municipalities.

In support of the implementation of these initiatives, the County commits to undertake the following actions:

1. Provide one-to-one matching funds through December 31, 2018 of (a) $150,000 cash match to pay or partially pay for the salary of the Technical Advisor and related activities (b) $80,000 in-kind match to support related program activities (stakeholder engagement, training, benchmarking, energy efficiency financing, and energy code compliance efforts), with a total package value of up to $230,000. The Technical Advisor will be retained as an employee of the County to manage the CEP grant's stakeholder engagement, training programs, financing programs, code compliance, and municipal operation programs. Please refer to Sections V(1) and VI below for details regarding the retainment process.
2. In collaboration with the Project Partners, develop a multi-year plan (the "Initiatives Plan") describing the goals of the initiatives and key actions the County intends to undertake to achieve such initiatives. The Initiatives Plan may be developed with expertise from the Project Partners and other third parties, and must be approved by the Project Partners. The Initiatives Plan shall be delivered to the Project Partners within five (5) months of the execution of this MOU. The Initiatives Plan must include, but need not be limited to, the following items:
    a. An overall timeline for the design, adoption and implementation of the initiatives, including time-based milestones;
    b. Key elements of the intended design and structure of each initiative;
    c. The detailed activities and deliverables required to reach the milestones that will occur during the first twelve (12) months of the Initiatives Plan;
    d. County-based and non-County based resources and support needed by the County to achieve each initiative;
    e. The plan to engage select cities within the County on the Project;
    f. Estimated amount of time that key staff employed by the County can commit to the design, adoption and implementation of the initiatives; and
    g. A designated employee of the County to serve as the CEP lead (the "County CEP Lead") and who shall bear overall responsibility for the County's execution of its Initiatives Plan.
3. Develop an overall funding plan that reflects grant funding provided by the Project Partners, match funding provided by the County, and funding provided by non-County entities, if any. The funding plan shall also include the anticipated timing for the commitment of funding allocations from each of these three sources (the "Funding Plan").
4. Provide a written update every three (3) months that includes the detailed activities and deliverables for the milestones that will occur within the next 12 months of the Initiatives Plan (as further defined in Section VIII).
5. Provide the Project Partners with all information that will enable the Project Partners to successfully assist the County as set forth in this MOU, including information related to buildings and energy metrics.

6. Participate in the CEP network of peer cities to share best practices, including work products and materials, programmatic concepts, and successful processes, with the Project Partners and other cities participating in the CEP.
7. Directly retain a Technical Advisor (as further defined in Sections V(1) and VI below) who will be a County employee and provide on-site assistance to the County in developing and executing the Initiatives Plan. The Technical Advisor will develop planning documents in collaboration with the Project Partners and will implement or oversee implementation of the activities outlined therein. The Technical Advisor shall be hired using the established qualifications, salary, fringe, and overhead for the existing County position of Energy Management Analyst.
8. Require the County CEP Lead to meet with designees of the Project Partners at least once every three (3) months for the life of the County's involvement with the CEP.
9. Require the Technical Advisor to meet with the designees of the Project Partners once per week for the life of the County's involvement with CEP.
10. Provide the Technical Advisor, at no expense to the Project Partners:
    a. Work space, including the use of a desk, chair, and file cabinet space, with the exact location of the work space to be determined by the County;
    b. A computer, monitor, mouse, keyboard, and internet access;
    c. Access to shared printers, copiers, scanner, and fax machine; telephone;
    d. Cleaning, recycling, and maintenance of space; and
    e. Access to information and materials within the County as necessary for the Technical Advisor to perform his or her duties.

V. COMMITMENTS BY THE PROJECT PARTNERS

The Project Partners, for the duration of the County's participation in the CEP and at no expense to the County, will use commercially reasonable efforts to provide the following support, resources and opportunities to assist the County in achieving the goals contained in its Initiatives Plan:

1. Provide partial funds for one (1) technical advisor reporting to the CEP County Lead, Patricia Gomez, for day-to-day direction on work schedule, tasks and assignments for the sole purpose of advancing the Initiatives Plan (the "Technical Advisor"), and for efforts identified in Section IV 1-5 including but not limited to support local organization involvement in the Project, stakeholder engagement, compliance with programs, and enhanced technical, analytical, and communications capabilities of the County. The funds provided shall total $230,000 through December 31, 2018. The Project Partners will provide additional in-kind services valued at $360,000 to support related program activities (technical assistance, resources and conferences) for a total package value of $590,000. Within that total, funds for areas of work other than the Technical Advisor will be directed by the Project Partners in consultation with the County. Recognizing that the County's hiring process may take several months, the Project Partners may contract with a short-term contractor or employee of another independent organization to perform the duties of the Technical Advisor until such time when a Technical Advisor is hired by the County as a County employee and begins such County employment (an "Interim Technical Advisor"). Any such Interim Technical Advisor shall be funded entirely by the Project Partners and not by the County;
2. For the Interim Technical Advisor, the Project Partners shall collaborate with the County to jointly determine the retaining process, including which party should lead the retaining process for an Interim Technical Advisor; the creation of a scope of work; and the advertisement of the position. The retaining process for the Interim Technical Advisor shall be in accordance with all applicable laws. At a minimum, the Project Partners shall

interview the candidates identified as finalists, and must approve the final selection of the Interim Technical Advisor. The Project Partners shall, in collaboration with the County, jointly determine the management of the Interim Technical Advisor. At a minimum, the parties will conduct periodic performance reviews, not less than (1) review annually, to evaluate the work related performance of the Interim Technical Advisor;

3. Share best practices and expertise on all aspects of initiative design and implementation including regular access to staff at NRDC and IMT;
4. Provide a project portal containing best practices, strategies and materials for use by the County;
5. As needed, and as determined by the Project Partners, identify and assist the County in securing additional funding and other resources to achieve the goals in its Initiatives Plan and its resource commitment requirements; and
6. Assist the County in peer-to-peer networking with cities, including hosting in-person forums involving other cities and partners participating in the CEP.

VI. SELECTION AND MANAGEMENT OF THE TECHNICAL ADVISOR

The parties shall jointly determine the retaining process for a Technical Advisor, including which party should lead the retaining process; the creation of a scope of work; and the advertisement of the position. At a minimum, the Project Partners shall interview those candidates identified by the County as finalists, and must approve the County's final selection of the Technical Advisor. The parties shall jointly determine the management of the Technical Advisor. At a minimum, the parties will conduct periodic performance reviews, not less than one (1) review annually, to evaluate the work-related performance of the Technical Advisor. If the Project Partners reasonably believe that the retained Technical Advisor is unable to support the County in achieving the commitments set forth in Section IV above, the Project Partners will advise the County together with any recommendations by the Project Partners, and the County will consider the Project Partners recommendations in good faith when determining how to proceed. The Project Partners may invite, or require the Technical Advisor to participate in Project events and meetings, or attend conferences or other offsite meetings or events, including meeting with designees of the Project Partners on a regular basis. In the case that an event is a requirement, the Project Partners shall bear the expenses for any such travel, meetings, and events within reason.

VII. TERM

This MOU shall be for an initial term commencing on December 1, 2016 and shall expire on December 31, 2017, unless earlier terminated or extended in accordance with the provisions herein. This MOU may be renewed for a second term with an end date not to exceed December 31, 2018, provided each party hereto agrees to such renewal in writing. An MOU renewal will require an accompanying update to the Initiatives Plan, Funding Plan and any other planning documents regarding initiative implementation and budget sources and timelines, as necessary.

VIII. REPORTING

The County shall provide Quarterly Progress Reports ("Quarterly Reports") to the Project Partners prior to the quarterly meeting with the Project Partners. These Quarterly Reports shall follow the reporting template provided by the Project Partners. All Quarterly Reports submitted to the Project Partners shall be signed by the County CEP Lead, and shall include the following information, as well as any other information reasonably requested by the Project Partners:

1. Summary of progress toward achieving the goals and milestones contained in the County's Initiatives Plan; and
2. Explanation of challenges (if any) and proposed actions to overcome such challenges.

Semi-Annual Reports shall be due to the Project Partners once every six months or as otherwise reasonably requested by the Project Partners in order to comply with their respective reporting obligations to the Project Funders. The Project Partners may request a meeting with the County CEP Lead to discuss the findings of each Semi-Annual Report.

IX. AFFILIATION WITH THE CEP

The Project Partners support the integration of all initiatives which are undertaken by the County with support from the CEP into the County's own long-term vision for sustainability, including any applicable sustainability or climate action plans. The Project Partners may use the County's name and describe the activities the County undertakes in conjunction with the CEP, including in web and print materials produced for public consumption, subject to the terms and conditions in Section XIV of this MOU. Furthermore, the Project Partners may promote the involvement of the County in the CEP through case studies, reports, and other media, subject to the conditions in Sections X and XIV of this MOU.

X. OTHER PUBLIC COMMUNICATIONS

The County agrees to provide a quote from the mayor for the announcement of the launch of the second phase of CEP. The County and the Project Partners jointly agree to not promote the County's participation in CEP publicly until after the formal launch announcement. The County will be available to work with Project Partners on future communication needs from high-level County officials during the life of the CEP.

The County agrees to use its best efforts to coordinate with the Project Partners on public communications by or on behalf of the County that refer to the CEP. Any joint communications or materials will require the prior written approval of both the County and the Project Partners.

XI. MODIFICATION OF THE INITIATIVES PLAN

Any one of the parties to this MOU may propose modifications to the Initiatives Plan based upon internal or external circumstances that affect the County's ability to achieve the milestones and goals outlined in the plan. All substantive modifications, such as to the programs the County will pursue or to the CEP timeline, must be agreed upon by the County CEP Lead and the Directors of the CEP who bear primary responsibility for day-to-day management and execution of the CEP, and are also accountable for the overarching structure and strategy of the CEP. Directors of the CEP shall not unreasonably withhold approval. If the County CEP Lead and the Directors of the CEP cannot reach an agreement about the terms of any such proposed modification, the Project Partners shall have the right to terminate this MOU in accordance with Section XII.

XII. TERMINATION OF MOU

The parties hereby agree that this MOU is a non-binding commitment. Termination of this MOU is defined as the County ceasing to participate in the CEP. In the event of termination, the County shall return remaining unused funds to the Project Partners; provided that the Project Partners will not require the County to return funds already expended in connection with the CEP. Termination will result in no further obligation to consult with respect to the CEP, or any other obligation on behalf of either party with respect to the CEP or this MOU. This MOU may be terminated or not renewed by the parties according to the following conditions:

1. Failure by the County to Create the Initiatives Plan: The Project Partners may terminate this MOU if the County fails to submit a complete the Initiatives Plan within two months after

the Initiatives Plan due date, assuming no reasonable communications have been made with the County that explain the delay in submission.

2. Failure by the County to Achieve Milestones: The Project Partners may terminate this MOU if, after their receipt of the second consecutive 6-month progress report, they determine that the County is substantially unable to achieve the milestones and goals outlined in its Initiatives Plan or related planning documents, or that the County has demonstrated an inability to dedicate the required resources to the achievement of the milestones and goals in its Initiatives Plan or related planning documents. Prior to terminating this MOU as provided in this Section XII.1, the Project Partners may (at their sole discretion) initiate a process under Section XI to modify the original Initiatives Plan or related planning documents and clearly communicate revised objectives and milestones to the County.
3. Failure by the County to Secure Matching Funds: The Project Partners may terminate this MOU if, after January 1, 2017, they determine that the County is substantially unable to secure the agreed upon matching funds as outlined in the Funding Plan. Prior to terminating this MOU as provided in this Section XII.1, the Project Partners may (at their sole discretion) initiate a process under Section XI to modify the original Funding Plan and clearly communicate revised funding milestones to the County.
4. Failure by the County to retain Technical Advisor: The Project Partners may terminate this MOU if the County has failed to retain or accept placement of a Technical Advisor within 6 months of the execution of this MOU.
5. Failure to determine Grant Agreement: The MOU will be terminated if the parties fail to agree on the terms of a grant agreement between one of the Project Partners and the County that will provide funding for the Technical Advisor per Section V(1) above by December 31, 2016 (the "Grant Agreement"). The parties agree to make good faith efforts to come to terms on such Grant Agreement.
6. For Cause: The County may terminate this MOU if the Project Partners are in material breach of their obligations under Section V of this MOU, and such breach has not been corrected to the County's reasonable satisfaction in a timely manner after written notice of such breach has been provided to the Project Partners.
7. Notice: Unless otherwise specified herein, written notice of termination pursuant to this section shall be given by the party terminating this MOU to the other not less than thirty (30) days prior to the effective date of termination.

XIII. RELATIONSHIP

This MOU shall not be construed as a joint venture or so as to make any one of the parties an agent of any of the other parties. Each of the parties hereto expressly disclaims any intention to enter into any such agency or joint venture and agrees to conduct itself so as not to act or purport to act on behalf of the other. This MOU does not authorize any party to act as the agent or legal representative of any other party for any purpose whatsoever and no party is granted any express or implied right or authority to assume or create any obligation or responsibility on behalf of or in the name of any other party, or to bind any other party in any manner or thing whatsoever.

XIV. CONFIDENTIALITY OF INFORMATION AND PUBLIC RECORDS

Nothing in this "Confidentiality of Information" Section (XIV), or in this MOU, shall be interpreted as contravening any law in the State of Florida. Notwithstanding anything herein to the contrary, the Project Partners and the County understand that any information shared, provided, or distributed related to or arising from this MOU may be subject to disclosure and retention to the extent required by laws governing disclosure and retention of public documents, including, but not limited to, Chapter 119, Florida Statutes. Florida Statutes governing public records

disclosure and retention apply to both the County and may apply to parties acting on the County's behalf.

Each party recognizes that it may have access to information of a proprietary, private or confidential nature owned by another party (a "Disclosing Party."). Each party acknowledges that any proprietary, private and confidential information it shares with any other party under this MOU must be identified as such at the time of communication. As such, each party that receives or has access to information that has been so identified (a "Receiving Party") agrees to keep such information in strictest confidence and protect it from disclosure; provided that the parties may disclose such information as required by law, as determined in the discretion of the disclosing party and with good faith effort to notify the other party. The Project Partners retain the right to aggregate otherwise confidential information for use in publications or other materials intended for public consumption.

IF THE PROJECT PARTNERS HAVE QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE PROJECT PARTNERS'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 305-375-5593, LZK@miamidade.gov, or 111 NW 1st Street, 12th Floor, Miami, FL 33128.

To the extent required by applicable Florida law, the Project Partners shall:

1. Keep and maintain public records required by the County in connection with this MOU.
2. Upon request from the County's custodian of public records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Chapter 119 of the Florida Statutes, or as otherwise provided by law.
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this MOU and following completion or termination of this MOU if the Project Partners do not transfer the records to the County.
4. Upon completion or termination of this MOU, transfer, at no cost, to the County all public records in possession of the Project Partners or keep and maintain public records required by the County in connection with this MOU. If the Project Partners transfer all public records to the County upon completion or termination of this MOU, the Project Partners shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Project Partners keep and maintain public records upon completion or termination of this MOU, the Project Partners shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County, upon request from the County's custodian of public records, in a format that is compatible with the information technology systems of the County.

All rights and intellectual property rights (including copyrights), in any work, including, without limitation, all plans, research results, publications, developments, reports, processes, programs, analyses, website content, and other materials created or developed by or on behalf of the County

or a Technical Advisor employed by the County ("Works") will be licensed to NRDC and IMT on a royalty-free basis. In the event that the County hires the Technical Advisor as an independent contractor, the County shall furthermore contractually obligate any Technical Advisor that it retains as an independent contractor pursuant to this MOU to comply with the terms of Section XIV of this MOU and also provide a license for all Works to NRDC and IMT on a royalty-free basis.

XV. DISPUTE RESOLUTION

Any dispute or misunderstanding that may arise under this MOU shall first be addressed through informal negotiations of senior personnel, if possible, between the parties. If the official representatives of the parties do not reach a resolution within a reasonable period of time, the parties may pursue other legal means to resolve such disputes, including (but not limited to) alternative dispute resolution processes, such as mediation.

XVI. LIMITATION OF LIABILITY

No party shall be liable to any other party for any incidental, indirect, special or consequential damages of any kind arising out of this MOU or the relationship between the County and the Project Partners. The provisions of this section will survive the expiration or earlier termination of this MOU.

The parties acknowledge that the County is a local government and therefore entitled to sovereign immunity. Nothing herein shall constitute a waiver of Section 768.28 of the Florida Statutes or shall be construed as impacting or modifying the protections set forth therein.

XVII. NOTICES

All notices and other communications pursuant to this MOU must be in writing, addressed to the parties at the applicable address set forth on the signature page hereof (or such other address as a party may from time to time specifically designate in writing), must be sent by a nationally recognized overnight courier and will be deemed given on the date delivery is first accepted or refused.

XVIII. NO THIRD PARTY BENEFICIARIES

Nothing in this MOU, express or implied, is intended to (i) confer upon any entity or person other than the parties and their successors or assigns any rights or remedies under or by reason of the MOU as a third party beneficiary or otherwise, except as specifically provided in this MOU; or (ii) authorize anyone not a party to this MOU to maintain an action pursuant to or based upon this MOU.

XIX. MISCELLANEOUS PROVISIONS

Neither this MOU, nor any rights or obligations hereunder, may be assigned, delegated, transferred or sublicensed by any party, by operation of law or otherwise, without the express prior written approval of the other parties. This MOU cannot be modified orally, and none of the terms hereof will be deemed to be waived or modified except by an express agreement in writing signed by the party against whom such waiver or modification is sought to be enforced. This MOU contains the entire agreement between the parties with respect to the subject matter hereof, and supersedes and replaces all prior or contemporaneous understandings or agreements, written or oral, regarding such subject matter.

[*Signature page follows*]

IN WITNESS WHEREOF, the parties to this MOU have affixed their signatures:

_____ Date: _____

Jack Osterholt
Deputy Mayor
Miami-Dade County
111 NW 1st Street, 29th Floor
Miami, Florida 33128

_____ Date: _____

Patricia Gomez
Energy Program Manager and County CEP Lead
Miami-Dade County
111 NW 1st Street, 12th Floor
Miami, Florida 33128

_____ Date: _____

Christina Angelides
Director, City Energy Project, NRDC
Natural Resources Defense Council, Inc.
40 West 20th Street
New York, NY 10011

_____ Date: _____

Julie Hughes
Director, City Energy Project, IMT
Institute for Market Transformation
1707 L St. NW
Washington DC 20036

[Signature Page to MOU with Miami Dade County]