

MEMORANDUM

Agenda Item No. 11(A)(10)

TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

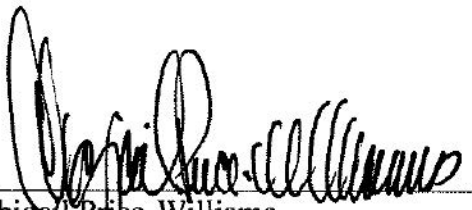
DATE: October 6, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Resolution approving an Interlocal Agreement between Miami-Dade County and the City of North Miami in connection with the proposed annexation of the unincorporated area known as Sunkist Grove; approving Solid Waste Collection Agreement between Miami-Dade County and the City of North Miami by which such collection in the annexation area would be delegated to the City of North Miami; approving second amended and restated Solid Waste Disposal Agreement between Miami-Dade County and City of North Miami for the disposal of solid waste collected in the City of North Miami; authorizing the County Mayor to execute the agreements and to exercise all rights contained therein

Resolution No. R-1027-20

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Jean Monestime.



Abigail Price-Williams
County Attorney

APW/uw



MEMORANDUM

(Revised)

TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: October 6, 2020

FROM: 
Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 11(A)(10)

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 present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____ 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. 11(A)(10)
10-6-20

RESOLUTION NO. _____ R-1027-20

RESOLUTION APPROVING AN INTERLOCAL AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE CITY OF NORTH MIAMI IN CONNECTION WITH THE PROPOSED ANNEXATION OF THE UNINCORPORATED AREA KNOWN AS SUNKIST GROVE; APPROVING SOLID WASTE COLLECTION AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE CITY OF NORTH MIAMI BY WHICH SUCH COLLECTION IN THE ANNEXATION AREA WOULD BE DELEGATED TO THE CITY OF NORTH MIAMI; APPROVING SECOND AMENDED AND RESTATED SOLID WASTE DISPOSAL AGREEMENT BETWEEN MIAMI-DADE COUNTY AND CITY OF NORTH MIAMI FOR THE DISPOSAL OF SOLID WASTE COLLECTED IN THE CITY OF NORTH MIAMI; AUTHORIZING THE COUNTY MAYOR OR DESIGNEE TO EXECUTE THE AGREEMENTS AND TO EXERCISE ALL RIGHTS CONTAINED THEREIN

WHEREAS, section 6.04 B of the Miami-Dade County Home Rule Charter and chapter 20 of the Code of Miami-Dade County (“Code”) authorize the Board of County Commissioners (“Board”) to approve changes to municipal boundaries; and

WHEREAS, on October 14, 2014 the City of North Miami (“City”) submitted an application for the annexation of the unincorporated area known as Sunkist Grove (the “annexation area”) adjacent to the City; and

WHEREAS, on February 19, 2020, the Board adopted Resolution No. R-203-20 directing the County Attorney to prepare the appropriate ordinance and interlocal agreement to effectuate the annexation of the annexation area to the City; and

WHEREAS, the City represented that it will enter into the interlocal agreement with the County in substantially the form that is attached to this resolution as Exhibit 1 (hereinafter, the “Interlocal Agreement;”) and

WHEREAS, in exercising the County’s discretion to approve this annexation, the County has relied upon all of the representations in the Interlocal Agreement; and

WHEREAS, on October 6, 2020, the Board adopted Ordinance No. 20-106 providing that this annexation shall not take effect unless and until the City executes the Interlocal Agreement and that the Interlocal Agreement must remain in effect; and

WHEREAS, on May 26, 2020, the City Commission adopted Resolution No. 2020-R-54 (“City resolution”) approving the Interlocal Agreement, and the City has executed the Interlocal Agreement; and

WHEREAS, this Board wishes to approve the Interlocal Agreement and authorize the County Mayor or designee to execute such agreement; and

WHEREAS, in addition, in accordance with sections 20-8.4 and 15-13 of the Code, the City and the County wish to also enter into a Solid Waste Collection Agreement for the annexation area in generally the form attached hereto as Exhibit 2, by which solid waste collection services would be delegated to the City in the annexation area, and a Second Amended and Restated Solid Waste Disposal Agreement in generally the form attached as Exhibit 3, for the disposal of solid waste collected in the City, including the annexation area; and

WHEREAS, the City resolution also authorized the City’s administration to finalize and execute a Solid Waste Collection Agreement and the Second Amended and Restated Solid Waste Disposal Agreement for the City; and

WHEREAS, this Board wishes to authorize the County Mayor or designee to finalize the Solid Waste Collection Agreement and the Second Amended and Restated Solid Waste Disposal Agreement with the City and to execute such agreements,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board:

Section 1. Approves the foregoing recitals and incorporates them into this resolution.

Section 2. Approves the Interlocal Agreement, in substantially the form attached hereto as Exhibit 1, by and between the County and the City.

Section 3. Approves the Solid Waste Collection Agreement, in generally the form attached hereto as Exhibit 2, by and between the County and the City for the delegation of solid waste collection services to the City for the annexation area.

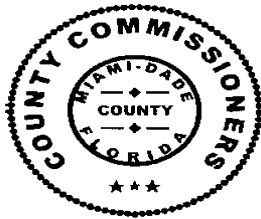
Section 4. Approves the Second Amended and Restated Solid Waste Disposal Agreement, in generally the form attached hereto as Exhibit 3, by and between the County and the City for the disposal of solid waste collected in the City.

Section 5. Authorizes the County Mayor or designee to finalize the Solid Waste Collection Agreement and the Second Amended and Restated Solid Waste Disposal Agreement, to execute the three above-referenced agreements, and to exercise all rights contained therein.

The Prime Sponsor of the foregoing resolution is Commissioner Jean Monestime. It was offered by Commissioner **Jean Monestime**, who moved its adoption. The motion was seconded by Commissioner **José "Pepe" Diaz** and upon being put to a vote, the vote was as follows:

	Audrey M. Edmonson, Chairwoman	aye
	Rebeca Sosa, Vice Chairwoman	absent
Esteban L. Bovo, Jr.	absent	Daniella Levine Cava aye
Jose "Pepe" Diaz	aye	Sally A. Heyman aye
Eileen Higgins	aye	Barbara J. Jordan aye
Joe A. Martinez	nay	Jean Monestime aye
Dennis C. Moss	aye	Sen. Javier D. Souto aye
Xavier L. Suarez	absent	

The Chairperson thereupon declared this resolution duly passed and adopted this 6th day of October, 2020. 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: **Melissa Adames**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

A handwritten signature in dark ink, appearing to read "ASR", is written over a horizontal line.

Abbie Schwaderer-Raurell
James Eddie Kirtley

Interlocal Agreement

Sunkist Area Annexation

This Interlocal Agreement (the "Agreement") is entered into this ____ day of _____, 20__, by and between Miami-Dade County, Florida ("County") and the City of North Miami ("City"), a Florida municipal corporation.

W I T N E S S E T H

WHEREAS, section 6.04 of the Home Rule Charter for Miami-Dade County authorizes the County to approve changes to municipal boundaries; and

WHEREAS, the City desires to change its boundary to include and annex the tract of land described in the accompanying ordinance, and in Exhibit A attached hereto and made a part hereof, which is known as Sunkist (the "Annexed Property"); and

WHEREAS, the City has made certain representations to the County in conjunction with, and as part of the consideration of, its annexation application for the Annexed Property, including but not limited to, a representation that it desires to, and will, remain in the Miami-Dade Fire Rescue District in perpetuity; and

WHEREAS, the County has relied upon those representations in exercising its discretion to permit the annexation of the Annexed Property; and

WHEREAS, to memorialize those representations and to provide for points of compromise and other matters, the County and the City wish to enter into this Agreement; and

WHEREAS, pursuant to this Agreement, the City will assume municipal-type services once the annexation has been approved, and the County will retain certain functions, responsibilities, rights, and obligations, as set forth herein,

NOW, THEREFORE, in consideration of the promises and the mutual covenants contained herein, the parties hereby agree as follows:

- A. The above recitals are incorporated as if fully set forth herein.**
- B. Debt Service. Obligations of the City.**

1. **Utility Taxes.** Pursuant to current applicable law and Chapter 20 of the Code of Miami-Dade County, Florida (“County Code”), the County shall continue to receive and retain the utility tax revenues generated from the Annexed Property in perpetuity.
 2. **Stormwater Utility Bond Debt Service.** The City agrees to pay the County the remaining stormwater utility debt service payments for the Annexed Property calculated at \$1,775.00 per year until the year 2029 or as provided in Section 20-8.5. The City will begin the annual debt service payment upon the date that the Annexed Property is included in the City of North Miami’s Stormwater Utility.
- C. Stormwater Management.** The City shall execute or modify a cost-share Interlocal Agreement with the County for canal and/or drainage system maintenance activities to cover expenditure cost-share in the annexed area, and, additionally, the City shall execute or modify an NPDES Interlocal Agreement with the County to satisfy the requirements of the joint NPDES Permit No. FLS000003.
- D. Solid Waste Disposal** Pursuant to Section 20-8.4 of the County Code, the County shall forever continue to collect and dispose of all residential waste within the Annexed Property in the same manner as though such Annexed Property remained part of the unincorporated areas of the County, unless the authority to collect such waste is delegated by the County to the governing body of the City through a 20-year interlocal agreement that provides for the collection services, and a 20-year interlocal agreement that provides for disposal services in substantially the form approved by Resolution R-1198-95. In the event that the City contracts with a private waste hauler to collect residential waste within the Annexed Property, the private hauler will be obligated to pay the Disposal Facility

Fee to the County in accordance with Section 15-25.2 of the County Code, and the City shall include this requirement in the contract with its private waste hauler.

E. Transfer of Public Roads

1. Certain public roads that are currently maintained by and under the jurisdiction of the County are within the Annexed Property (hereinafter referred to as "Road Segments") and, pursuant to Section 335.0415, Florida Statutes, jurisdiction and responsibility for public roads may be transferred by mutual agreement of the County and the City. In addition, Section 337.29(3), Florida Statutes, provides that title to roads transferred pursuant to Section 335.0415, Florida Statutes, shall be in the government entity to which such roads have been transferred upon the recording of a deed or right-of-way map in the public records.
2. In accordance with paragraph 1 of this section E above, upon the Effective Date, the County shall transfer the jurisdiction, ownership, and control of the Road Segments to the City; provided, however, that the County is not transferring, and shall retain, all traffic engineering functions for all of the Road Segments. With the exception of all traffic engineering functions and other matters referenced herein in Section E, the County will not retain control of any roads within the Annexed Property.
3. The right and responsibility of all traffic engineering matters to regulate traffic and determine appropriate measures and install, maintain, modify or remove traffic control devices such as traffic signals, signs, and pavement markings, roundabouts or other traffic-calming devices within the Annexed Property remains with the County. In addition, the County shall retain control over all road closures. Nothing herein diminishes the County's jurisdiction over all traffic engineering matters within the County, including

within municipalities, except for State road rights-of-way. The County has the authority to set the hours and days that construction by any County department or agency shall take place in, or on, any public street, with prior written notice to the City. The rights and responsibility to issue permits or collect fees for construction, including utility work, within the public rights-of-way of all Road Segments are expressly transferred to the City by this Agreement, except those associated with traffic engineering. The City agrees that it shall not levy any fee or require a permit from any County department, agency or instrumentality for work within, beneath, or upon the Road Segments. The City agrees to accept all legal rights, responsibilities and obligations with respect to the Road Segments, including, but not limited to, the operation, maintenance, planning, design, and construction of the Road Segments except for the traffic engineering.

4. As limited by Section 768.28, Florida Statutes the County shall remain responsible for any tort liability for any actions arising out of the County's operation and maintenance of the Road Segments prior to and up to the effective date of the transfer of such roadways. Except as otherwise provided herein, the City and the County agree that this Agreement contains no indemnification or hold harmless agreement or provisions concerning any claims, demands, damages and causes of action that may be brought against either party by third parties relating to the Road Segments. The City and the County shall each individually defend any action or proceedings brought against their respective agencies by third parties relating to the Road Segments and shall be individually responsible for all of their respective costs, attorneys fees, expenses and liabilities incurred as a result of any such claims, demands, suits, actions, damages

and causes of action, including the investigation or the defense thereof, and from and against any orders, judgments or decrees that may be entered as a result thereof.

5. The County shall, within thirty (30) days of the Effective Date, provide the City with all available County's Engineering Division's Section Maps, which generally depict the rights-of-way, inclusive of the Road Segments.
6. Upon the Effective Date, the County Mayor and City Mayor shall determine a mutually agreeable date for the recordation and transfer of the Road Segments after the Effective Date.
7. The County shall provide the City with a list of all completed roadway/sidewalk/stripping projects for the Road Segments and, upon the City Mayor's request, access to any plans, specifications, drawings, and permits for such projects.
8. Whenever one of the parties to this Agreement desires to give notice to the other, such notice must be in writing, sent by U.S. Mail, certified, return receipt requested, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving of notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving notice:

For the COUNTY:

Carlos A. Gimenez
County Mayor
Mayor's Office
Stephen P. Clark Center
111 N.W. 1st Street, Suite 2910
Miami, Florida 33128
Telephone: (305) 375-5311
Facsimile: (305) 375-4658

For the City:

Arthur H. Sorey III
Interim City Manager
776 NE 125 Street
North Miami, FL 33161
Telephone: (305) 305-893-6511

F. Department of Regulatory and Economic Resources.

1. Permitting

The Miami-Dade Department of Regulatory and Economic Resources, hereinafter "RER", shall process and issue building permits for all applications received prior to the effective date of the annexation, for new construction, alterations, repairs or demolitions on real property within the boundaries of the Annexed Property. RER shall process and issue all subsidiary building permits associated with a master permit issued or applied for prior to the effective date of the annexation as provided for above to ensure completion of a project. For the purpose of this Agreement, a master permit is defined as the primary building permit issued by the Building Official which enables the permit holder to commence construction, alteration, repair, installation or demolition work. A subsidiary permit is any ancillary permit required under the Building Code to complete a project commenced under a master building permit as determined by the Building Official. A subsidiary permit may be in the same or a different trade as the master permit. RER's services contemplated by this paragraph shall include the performance of all required

inspections, plan reviews, and the issuance of the applicable Certificate of Occupancy and/or Certificate of Completion.

2. Permit Records and Reports.

- a. Within thirty (30) days after the Effective Date, RER shall deliver to the City Manager a written report listing each active master building permit and subsidiary building permit issued within the boundaries the Annexed Property. This report shall include the address of the property, the permit numbers, description of permit type, and the dates the permits were issued and the last inspection date and type for the open permits. This report shall be updated monthly until all of the open permits are finalized.
- b. RER shall maintain all other records related to Construction Permitting and Building Code Division services performed by RER within the Annexation Area boundaries in accordance with its current practice for the unincorporated area as required by law. Copies of such records may be obtained from RER upon request of the City at the cost specified for the reproduction of documents contained in the RER's fee schedule.

3. Compensation

RER shall retain all building permit fees, penalties, and other fees and charges collected by RER for any application filed, or permits issued, prior to the City assuming building services. RER shall retain all building permit fees for any required subsidiary permits issued by the RER pursuant to the provisions of the initial paragraph of this section, regardless of the date of issue.

4. Expired Permits

RER shall provide a report, within 30 days of the Effective Date, to the City listing any building permit for work within boundaries of the Annexed Property that

expired prior to the City's assumption of building services. The list shall include the permit number, job address, description of permit type and last inspection date and type. Each month thereafter within 15 days after the end of each month, RER will provide the City with an updated report listing any building permits that expired within the previous calendar month until such time as all permits within the Annexed Property are finalized. Copies of any available permit application, plans, files or other documents related to an expired building permit may be obtained from RER upon written request of the City at the cost specified for the reproduction of documents contained in RER's fee schedule. After the Effective Date, the City shall be responsible for enforcement actions relating to any expired building permit reported to the City by the Construction Permitting and Building Code Division. It is in the complete and sole discretion of the City to engage in any enforcement action relating to any such expired permit.

For permits issued under the South Florida Building Code, an expired permit is any permit issued by the Construction Permitting and Building Code Division which lacks a final inspection approval from the Building Department and/or lacks compliance with the laws, rules or regulations of any other County, State or Federal regulatory authority having jurisdiction and has not had an inspection within 180 days of the date of issuance or from the date of the last inspection under the permit. For permits issued under the Florida Building Code, an expired permit is any building permit issued by the Construction Permitting and Building Code Division which lacks a final inspection approval from the Construction Permitting and Building Code Division and/or lacks compliance with the laws, rules or regulations of any other County, State or Federal regulatory authority having jurisdiction which has not had an approved inspection within 180 days of the date of the issuance of the permit or within 180 days of the date of the last approved

inspection made by RER. Regulatory authorities having jurisdiction include, but are not limited to, the following: Miami-Dade Fire Rescue, Miami-Dade Department of Regulatory and Economic Resources, Miami-Dade Public Works and Solid Waste Department, Miami-Dade Water and Sewer Department, Florida Department of Health and Rehabilitative Services, United States Army Corps of Engineers, State Fire Marshal, Miami-Dade County Public Schools and Miami-Dade Transit.

5. RER Authority/Responsibility

RER in its performance of the services set forth in this Agreement is authorized and designated to continue to act on behalf of the City as the City's Building Official in accordance with any applicable building codes and Chapter 468, Florida Statutes until the City assumes responsibility on the Effective Date. The City will assume responsibility for processing any permit applications submitted on or after the Effective Date, with the exception of certain subsidiary permits, as discussed in paragraph 1, performing inspections on any permits issued by the City and proceeding with enforcement on expired permits and all cases transferred by the County in accordance with the terms of this Agreement. Under this Agreement, as of the Effective Date, with respect to building permits, the County will only retain authority to process applications and issue permits submitted prior to the municipal service assumption date or the date agreed to transfer services and subsidiary permits tied to master permits issued by the County, and perform all inspections for the master and subsidiary permits issued by the County until the issuance of the Certificate of Completion, Certificate of Occupancy, or expiration of the permit.

6. Enforcement

Until the Effective Date, RER shall continue, either directly or through contractors, with any Building Code enforcement case initiated as a result of the receipt of a

complaint or opening of a case file prior to the annexation approval date. Such cases include code enforcement for building permit violations, unsafe structures, and working without permits. As of the Effective Date, RER shall close all active enforcement cases and provide the City with a list of the closed cases. RER shall be entitled to retain all fines, fees, costs and penalties resulting from the investigation and pursuit of any enforcement action initiated under this section above for the cases closed by RER. This includes the payment of any lien filed or amount paid in satisfaction of a court judgment. In the event a Building Code enforcement case is turned over to the City for completion of any enforcement action, RER shall be entitled to collect any fines, fees, or penalties owed to RER as of the date the case is turned over to the City. The City shall negotiate on a case by case basis with RER on any share that it may be entitled to. In addition, RER shall be entitled to collect all enforcement fees and costs accrued in the matter of any unsafe structures enforcement case that is closed by RER after the Effective Date. If the unsafe structures enforcement case is turned over to the City, then RER shall only be entitled to recover those fees and costs which have accrued up to the date the case is transferred to the City.

Notwithstanding the transition of powers and duties provided for in this Agreement, the Building Official for Miami-Dade County and for the City may opt to enter into a separate agreement for the County's completion of specified enforcement cases that may have been commenced by the County and are near completion, all in the interest of efficiency, cost savings and protecting the public safety. Until the execution of such agreement, all enforcement authority and responsibility shall remain with the City. Such agreement shall contain a specific identification of cases to be completed by the County, shall provide for the allocation of fees and costs

relating to those cases, and shall be executed by the County Mayor or his designee and the City Manager not later than sixty (60) days following the Effective Date.

7. Restrictive Covenants

Pursuant to Section 20-8.8, Code of Miami-Dade County, Miami-Dade County shall retain jurisdiction over the modification or deletion of declarations of restrictive covenants accepted by either the Board of County Commissioners or a Miami-Dade County Community Zoning Appeals Board in connection with a Comprehensive Development Master Plan application or zoning application, regardless of whether such declaration provides for modification or deletion by a successor governmental body. It is provided, however, that the Board of County Commissioners may not exercise such jurisdiction unless the City of North Miami has first approved the modification or deletion.

G. Fire Rescue District

The annexation area shall remain within the Miami-Dade Fire Rescue District in perpetuity.

H. Public Safety

Jurisdiction for police service in the areas annexed to the City, including all legal rights, responsibilities, and obligations consistent with its municipal police powers, is hereby assumed by the City of North Miami Police Department commencing on the Effective Date of this Agreement.

I. Representations by the City and the County and Authority to Enter into Agreement

The City has represented that it will enter into this Agreement providing for, among other things, the City to forever remain in the Miami-Dade Fire Rescue District, and the County has relied upon such representations in exercising its discretion to

approve the annexation. In addition, each party acknowledges that this Agreement has been duly approved and executed by its governing body based on the representations referenced above, and that each party has the required power and authority to enter into and perform the obligations hereunder.

J. Invalidation of Provisions, Severability

Wherever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement is prohibited or invalid under applicable law, the remaining provisions of this Agreement shall not be affected by such invalidity.

K. Existing Agreements

Any and all existing interlocal agreements between the County or any of its departments or agencies (such as but not limited to RER, Miami-Dade County Stormwater Utility, Transportation and Public Works, Water and Sewer, Miami-Dade Police Department, etc.) and the City shall remain in full force and effect and shall not be altered, changed, modified, amended, or terminated as a result of this agreement unless specified herein. It is provided, however, that where this Agreement is inconsistent with any such prior Agreement, the terms of this Agreement shall supersede and control.

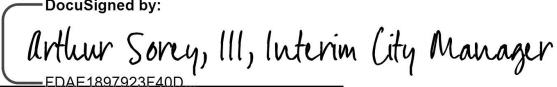
L. Effective Date and Term

The term "Effective Date" as used herein shall mean the effective date of the annexation. The annexation shall not be effective before this Agreement has been fully and properly executed. The Effective Date shall be the later of the following: (1) ten days after the Board of County Commissioners approves the ordinance accomplishing the annexation, unless vetoed by the Mayor; or (2) if an election in the Annexed Property is required, the date after the election results are certified; or (3) the date upon which this Agreement has been fully and properly executed.

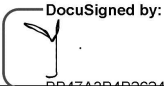
The provisions of this Agreement shall be in full force and effect commencing on the Effective Date and shall continue in perpetuity.

CONTRACT CITY

ATTEST:

By:  EDAE1897923E40D

Interim City Manager

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City Clerk

This 6/18/2020 day of June, 2020

[corporate seal]

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

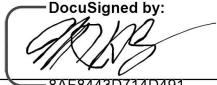
 8AF8443D714D491...
City Attorney

EXHIBIT A

SUNKIST ANNEXATION AREA

Legal Description

Area Comprised of: The unincorporated area E 1/2 of the NW 1/4 and the W 1/2 of the NE 1/4 of Section 26, Township 52 South, Range 41 East.

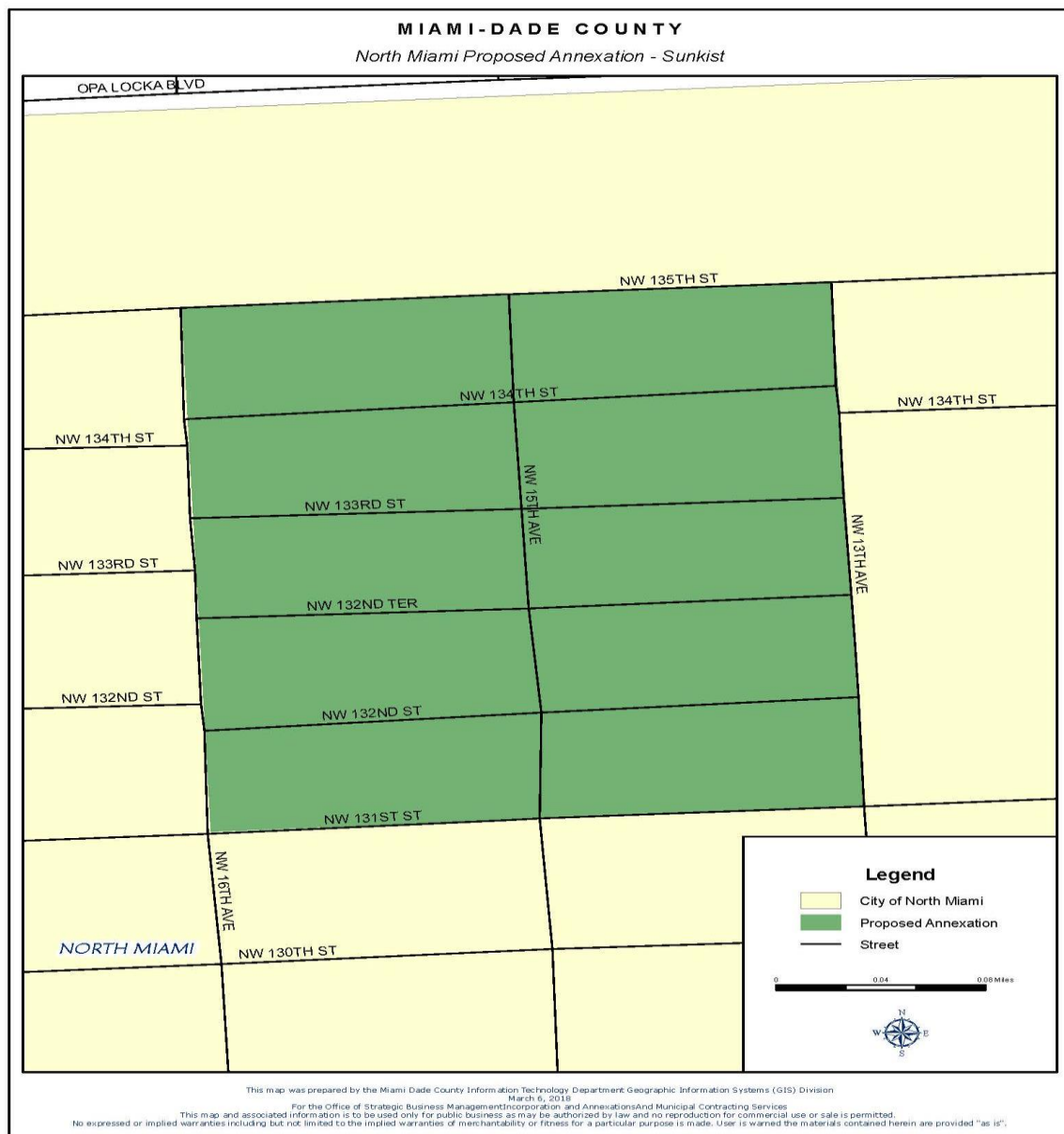


EXHIBIT 2**INTERLOCAL AGREEMENT BETWEEN MIAMI-DADE COUNTY AND CONTRACT CITIES FOR DELEGATION OF SOLID WASTE COLLECTION AUTHORITY IN AREAS ANNEXED FROM UNINCORPORATED MIAMI-DADE COUNTY**

This Interlocal Agreement ("Agreement") is made and entered into this ____ day of _____, _____, by and between Miami-Dade County, by and through its Board of County Commissioners ("County"), and the City of North Miami, its successors and assigns, hereinafter referred to as the Contract City, to authorize Contract City provision of solid waste collection services in the annexed area as described in Exhibit A herein, coincident with the suspension of County provided solid waste collection services in such area for the term of this Agreement.

BACKGROUND RECITALS

Whereas, the Miami-Dade County Board of County Commissioners (the "Board") hereby finds and declares that it is necessary to the health, safety and welfare of the citizens of Miami-Dade County to ensure that adequate Solid Waste collection services are provided countywide; and

Whereas, Section 1.01A(9) of the Miami-Dade County Home Rule Charter authorizes the County to provide and regulate waste collection and disposal services countywide; and

Whereas, pursuant to Section 15-13 of the Code of Miami-Dade County, Florida (Code), the County provides residential Solid Waste collection services in those portions of unincorporated Miami-Dade County located within the County's solid waste collection service area, as defined in Section 15-1 of the Code; and

Whereas, on February 6, 1996, the Board of County Commissioners passed Ordinance 96-30 which created Section 20-8.4 of the Code, which provides that the County shall forever continue to collect and dispose of all residential waste in annexed areas, unless the authority to collect such waste is delegated by the County to the governing body of the municipality through a twenty (20) year Interlocal agreement which provides for collection services, and a twenty (20) year Interlocal agreement which provides for disposal services in substantially the form approved by Resolution No. R-1198-95; and

Whereas, the Contract City has annexed a portion of unincorporated Miami-Dade County which contains a part(s) of the solid waste collection service area, and the Contract City desires and is fully prepared to provide for adequate residential solid waste collection services within the annexed area; and

Whereas, the Contract City has entered into a twenty (20) year interlocal agreement with the County for use of the County Solid Waste Management system dated _____.

NOW THEREFORE, in consideration of the foregoing premises, and the mutual considerations contained herein, the parties hereto, intending to be legally bound, do hereby agree as follows:

DEFINITIONS

For the purposes of this Agreement, the following capitalized words and phrases shall be given the following respective meanings:

Board - the Miami-Dade County Board of County Commissioners.

Contract City - the municipal corporation existing under the laws of the State of Florida, that enters into this Agreement with the County and has previously entered, or simultaneously enters, into a twenty (20) year interlocal agreement with the County for use of the County Solid Waste Management System.

County – Miami-Dade County, Florida by and through its Board of County Commissioners.

Director - the Director of the Department of Solid Waste Management or his/her designee.

Fiscal Year - the period beginning October 1 of each year and ending September 30 of the subsequent year.

Force Majeure - an act of God, epidemic, lightning, earthquake, fire, explosion, storm, hurricane, flood or similar occurrence, strike, and act of a public enemy, or blockade, insurrection, riot, general arrest or restraint of government and people, civil disturbance or similar occurrence, which has had or may reasonably be expected to have a material adverse effect on the rights or obligations under this Agreement, which by the exercise of due diligence the party relying thereon as justification for not performing any obligation under this Agreement shall not have been able to avoid, and which is not the result of a willful or negligent action or omission of such party.

Municipal Solid Waste (MSW) or Solid Waste or Waste - all discarded materials or substances, exclusive of source-separated recyclable materials, including, but not limited to, garbage, trash, yard trash, litter, refuse, rubbish, recycling process residue, or other materials allowed by the State Department of Environmental Protection for disposal in a Class I landfill, Class III landfill or resource recovery facility which result from domestic, commercial, industrial, mining, agricultural or governmental activities, but not including sewage or other highly-diluted, water-carried materials or substances, or those in gaseous form.

Source-Separated Recyclable Materials - materials separated from MSW at their source of generation which are set-out for collection at their source of generation. Such materials shall be limited to: clean yard trash, newspapers, telephone books, household batteries, glass containers, plastic containers, steel cans, aluminum cans, and other source-separated recyclable materials as may be added to this listing from time to time by the County Manager, at his sole discretion; such additions may be made by use of an attachment hereto without need for formal amendment to this Agreement.

ARTICLE 1**CONSTRUCTION OF INTERLOCAL AGREEMENT**

The word "shall" as used in this Agreement shall in all cases be construed to be mandatory and to require the action so modified by the word "shall" to be taken without regard to the exercise of discretion.

ARTICLE 2**RESPONSIBILITIES OF THE PARTIES**

COUNTY. The County shall, and does hereby delegate the authority to collect residential Solid Waste generated in the annexed area, commonly referred to as Sunkist, and geographically described in Exhibit A, to the governing body of the Contract City effective _____.

CONTRACT CITY. The Contract City shall provide for residential solid waste collection service to the annexed area, commonly referred to as Sunkist, and geographically described in Exhibit A effective _____.

ARTICLE 3**RELATIONSHIPS OF THE PARTIES**

Nothing in this Agreement shall be deemed to constitute any party a partner, agent or local representative of the other party or to create any type of fiduciary responsibility of any kind whatsoever between the parties. The obligations to this Agreement are not joint; the obligations are separate and several between the Contract City and County.

ARTICLE 4**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.

ARTICLE 5**DURATION OF AGREEMENT**

The term of this Agreement shall commence with the date of execution and shall remain in effect up to and including _____. In the event that a Contract City's twenty (20) year Interlocal agreement for use of the County Solid Waste Management System is terminated, this Agreement shall terminate simultaneously. This Agreement shall be executed and approved by resolution of the Contract City's governing body. A copy of the resolution of approval shall be transmitted to the County Manager within five (5) days following the date of Contract City approval.

ARTICLE 6**AGREEMENT GOVERNS; ENTIRE AGREEMENT**

This Agreement shall govern and supersede any other Interlocal Agreement between the Contract Cities and the County with regard to residential solid waste collection. This writing embodies the entire Agreement and understanding between the parties hereto, and there are no other agreements or understandings, oral or written with reference to the subject matter hereof that are not merged herein and superseded hereby.

ARTICLE 7

REPRESENTATIONS OF THE COUNTY

The County represents that (A) this Agreement has been duly authorized, executed and delivered by the Board of County Commissioners as the governing body of the County, and (B) it has the required power and authority to perform this Agreement.

ARTICLE 8

REPRESENTATIONS OF THE CONTRACT CITY

The Contract City represents that (A) this Agreement has been duly authorized, executed and delivered by the Governing Body of the Contract City, and (B) it has the required power and authority to perform this Agreement.

ARTICLE 9

APPROVALS AND NOTICES

All notices, consents and other communications required, permitted or otherwise delivered under this Agreement shall be in writing and be delivered either by hand with proof of delivery or mailed by first class United States certified or registered mail, with return receipt requested, postage prepaid, and in any case shall be addressed as provided in this Article.

To County:

Miami-Dade County Florida
Office of the Mayor
111 N.W. 1st Street, 29th Floor
Miami, FL 33128

cc: Department of Solid Waste Management
Director's Office
2525 NW 62nd Street, 5th Floor
Miami, FL 33147

cc: Miami-Dade County
County Attorney's Office
111 N.W. 1st Street, 27th Floor
Miami, FL 33128

To Contract City:

City of North Miami
Office of the City Manager
776 NE 125 Street
North Miami, FL 33161

Changes in the respective addresses may be made from time to time by either party by notice to the other party. Notices and consents given by mail in accordance with this section shall be deemed

to have been given five (5) business days after the day of dispatch, notices and consents given by any other means shall be deemed to have been given when received.

ARTICLE 10

AMENDMENT TO AGREEMENT

This Agreement may be modified, altered or amended only by a written amendment duly executed by the parties hereto, and approved by the governing body of each party. Any oral representations or modifications concerning this Agreement shall be of no force or effect.

ARTICLE 11

NON-ASSIGNMENT

In no case shall the Contract City assign, transfer, convey or otherwise hypothecate any interest, rights, duties, or obligations hereunder, or any part thereof. In the event a Contract City attempts to assign, transfer, convey or otherwise hypothecate this Agreement or the Contract City's rights, duties or obligations hereunder, or any part thereof, the County may at its option, terminate this Agreement.

ARTICLE 12

RIGHTS OF OTHERS

Nothing in this Agreement, either express 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.

ARTICLE 13

WAIVER

There shall be no waiver of any right related to this Agreement unless that such waiver is in writing 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 rights waived and shall not be deemed a waiver of the same right at a later time, or of any other right under this Agreement.

ARTICLE 14

COUNTY EVENT OF DEFAULT

The failure by the County to substantially fulfill any of its material obligations in accordance with this Agreement, unless excuses are justified by Force Majeure, shall constitute a "County event of default". If a County event of default should occur, the Contract City shall have all of the following rights and remedies which each may exercise singly or in combination: 1. the right to declare that this Agreement as it applies to the Contract City together with all rights granted to the County hereunder are terminated, effective upon such date as is designated by the Contract City; 2. any and all other rights provided under federal laws and the laws of the State of Florida. 3. in any event, the County shall maintain responsibility for any debts owed to the Contract City for services provided under the terms of this Agreement. Notwithstanding any other provision of this article, the Contract City shall not terminate this Agreement for a "County event of default" unless the Contract City first gives the County written notice of intent to terminate specifying the alleged default, and providing the County a period of sixty (60) days from receipt of notice within which to cure such default.

ARTICLE 15

CONTRACT CITY EVENT OF DEFAULT

Without limitation, the failure by the Contract City to substantially fulfill any of its material obligations in accordance with this Agreement, unless excuses are justified by Force Majeure, shall constitute a "Contract City event of default". If a Contract City event of default should occur, the County shall have all of the following rights and remedies which it may exercise singly or in combination: 1. the right to declare that all rights granted to the Contract City hereunder are terminated, effective upon such date as is designated by the County; 2. any and all rights provided under federal laws and the laws of the State of Florida. 3. in any event, the Contract City shall maintain responsibility for any debts owed to the County for services provided under the terms of this Agreement. Notwithstanding any other provision of this article, the County shall not terminate this Agreement for a "City event of default" unless the County first gives the Contract City written notice of intent to terminate specifying the alleged default, and providing the Contract City a period of sixty (60) days from receipt of notice within which to cure such default.

ARTICLE 16**FLORIDA LAW GOVERNS; VENUE IN MIAMI-DADE COUNTY, FLORIDA**

This Agreement, regardless of where executed, shall be governed by and construed according to the laws of the State of Florida, and venue shall be in Miami-Dade County, Florida.

ARTICLE 17**TERMINATION**

This Agreement may be terminated upon mutual consent, in writing, between the Contract City and the County.

ARTICLE 18**COUNTERPARTS**

This Agreement may be executed in one or more counterpart(s), each of which shall be deemed an original.

ARTICLE 19**INVALIDITY OF PROVISIONS**

Should any provision, paragraph, sentence, word or phrase contained in this Agreement be determined by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable under the laws of the State of Florida, such provision, paragraph, sentence, word or phrase shall be deemed modified to the extent necessary in order to conform with such laws, and this Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, Miami-Dade County, Florida, has caused this Agreement to be executed in its name by the County Manager or his designee, attested by the Clerk of the Board of County Commissioners and has caused the seal of the Board of County Commissioners to be hereto attached; and the Contract City, has caused this Agreement to be executed by the Manager of the Contract City or his designee, attested by the Clerk of the Contract City's governing body and has caused the seal of the Contract City's governing body to be hereto attached, all on the day and year first written above.

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

ATTEST:
HARVEY RUVIN,
Clerk of the Board

By: _____
Deputy Clerk

By: _____
County Mayor
Miami-Dade County Florida
111 N.W. 1st Street, 29th Floor
Miami, FL 33128

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY BY:
Dade County Attorney's Office
111 N.W. 1st Street
Miami, FL 33128

Assistant County Attorney

CONTRACT CITY

ATTEST:

By: _____

City Manager

City Clerk

This _____ day of _____,

[corporate seal]

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

City Attorney

EXHIBIT A

SUNKIST ANNEXATION AREA

Legal Description

Area Comprised of: The unincorporated area E 1/2 of the NW 1/4 and the W 1/2 of the NE 1/4 of Section 26, Township 52 South, Range 41 East.

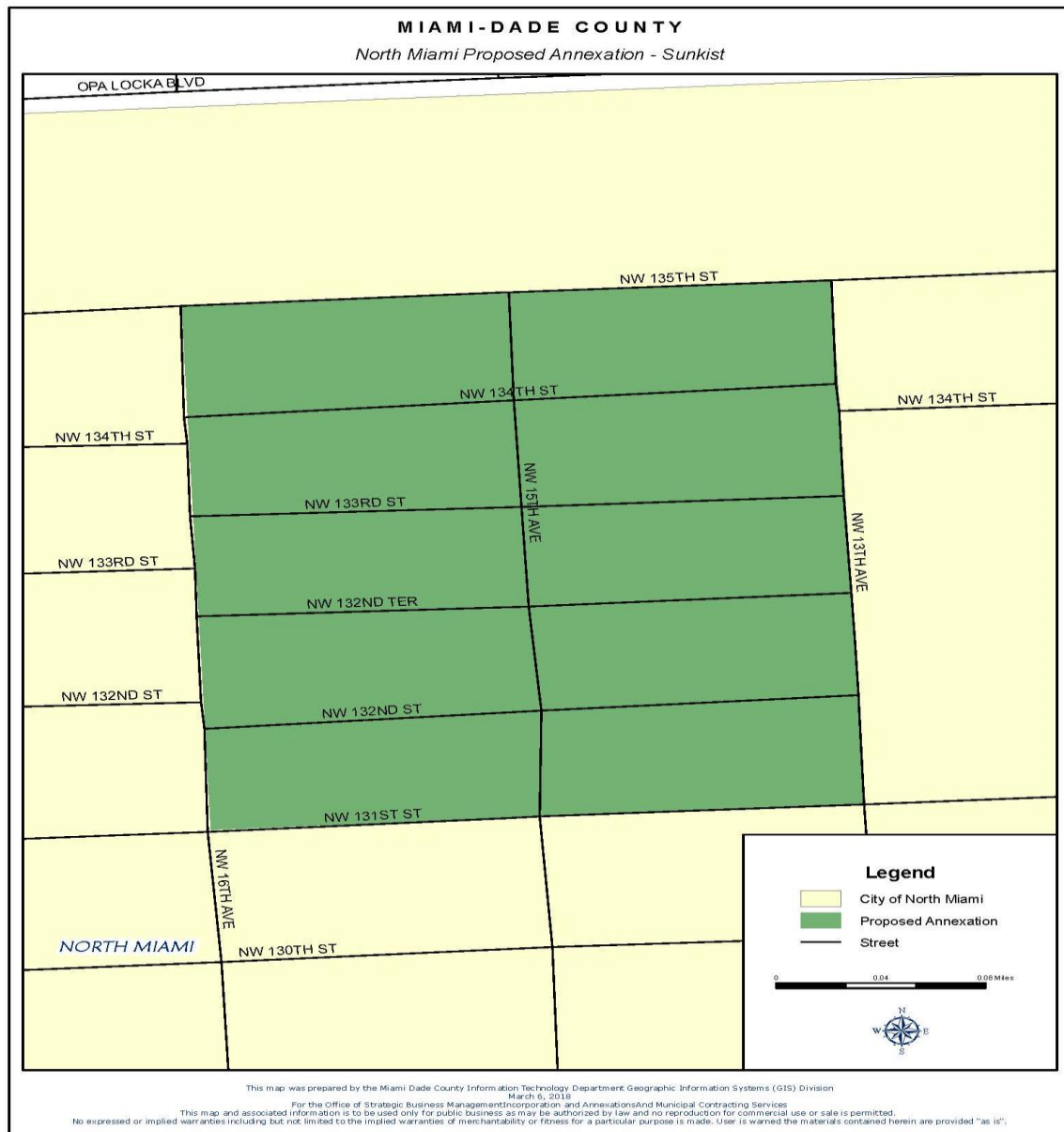


EXHIBIT 3

SECOND AMENDED AND RESTATED INTERLOCAL AGREEMENT BETWEEN MIAMI-DADE COUNTY AND CONTRACT CITIES FOR USE OF THE COUNTY SOLID WASTE MANAGEMENT SYSTEM

This Interlocal Agreement ("**Agreement**") is made and entered into this ____ day of _____, 20____, by and between Miami-Dade County by and through its Board of County Commissioners ("**County**") and the City of North Miami by and through its City Council hereinafter referred to as **Contract City**, to provide for use of the County Solid Waste Management System by the **Contract City** for its municipal solid waste disposal and transfer needs.

BACKGROUND RECITALS

Whereas, the Miami-Dade County Board of **County** Commissioners (the "Board") hereby finds and declares that it is necessary to the health, safety and welfare of the citizens of Miami-Dade County to provide for municipal solid waste disposal and management facilities and services; and

Whereas, the **County** desires to maximize the use of its Resources Recovery facility processes and to extend the life of its landfills; and

Whereas, the **Contract City** desires to use the County Solid Waste Management System for its municipal solid waste disposal needs (and transfer needs, as applicable), at an agreed-upon disposal fee rate (and transfer fee rate as applicable); and

Whereas, the **Contract City** desires to use the County Solid Waste Management System to satisfy Concurrency requirements of the Local Government Comprehensive Planning and Land Development Regulation Act (Chapter 163, Part II, F.S.) only as it applies to disposal capacity for municipal solid waste the **Contract City** collects for disposal and which is committed to the **County** for disposal in the County Solid Waste Management System in accordance with this **Agreement**, and actually disposed of therein; and

Whereas, the **County** and the **Contract City** desire to formalize their relationship regarding municipal solid waste disposal responsibilities consistent with the provisions of Section 403.706, Florida Statutes.

Whereas, the amended agreement as stated herein shall be available to all municipalities.

NOW THEREFORE, in consideration of the foregoing premises, and the mutual considerations contained herein, the parties hereto, intending to be legally bound, do hereby agree as follows:

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DEFINITIONS

For the purposes of this **Agreement**, the following capitalized words and phrases shall be given the following respective meanings:

Board - the Miami-Dade County Board of County Commissioners.

Change in Law - after the date of execution of this **Agreement**, (a) the adoption, promulgation, issuance, modification, or change in interpretation of any federal, state or local law, regulation, rule, requirement, ruling or ordinance, of the United States or any state or territory thereof, unless (i) such law, regulation, rule, requirement, ruling or ordinance was on or prior to such date duly adopted, promulgated, issued or otherwise officially modified or changed in interpretation, in each case in final form, to become effective without any further action by any governmental entity or official having jurisdiction, (provided, that it shall not constitute a Change in Law if an administrative regulation existed on the date of execution of this **Agreement** in temporary or proposed form and was treated as generally applicable to transactions of the type contemplated hereby), or (ii) compliance with such law, regulation, rule requirement, ruling or ordinance was provided for in the **Agreement**; (b) the issuance of an order and/or judgment of any governmental entity or official having jurisdiction, to the extent such order and/or judgment constitutes a reversal of a prior applicable order and/or judgment, or an overturning of prior administrative policy or judicial precedent; or (c) the suspension, termination, interruption or failure of renewal of any permit, license, consent, authorization or approval essential to the acquisition, design, construction, equipping, start-up, operation, ownership or possession of the County Solid Waste Management System facilities or the facilities sites, to the extent such suspension, termination, interruption or failure of renewal is not caused by any action or inaction of the **County** or its contractors (provided that, for the purposes of determining whether a suspension, termination, interruption or failure of renewal was so caused, any reason or finding set forth in writing by the agency responsible for issuance of such permit, license, consent, authorization or approval shall be accorded the rebuttal presumption of accuracy), provided that no change in tax law, change to the Internal Revenue Code of 1954 effected by the Tax Reform Act of 1986 (to the extent applicable on the date of this **Agreement**), change in foreign law, change in law which adversely affects the **County's** legal rights as a licensee, grantee, owner, or user of any patent or other "know-how" in respect of proprietary technology intended to be utilized by it in performing its obligations under this **Agreement** shall constitute a change in law for any purposes of this **Agreement**.

Concurrency - provision of certain public facilities specified in the State of Florida Local Government Comprehensive Planning and Land Development Regulation Act ("the Act") (specifically, Chapter 163, Part II, Section 163.3180 F.S.) by (a) county (ies), or (a) municipality (ies) or a combination thereof, at a specified level-of-service stated in the Capital

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Improvements Element of the comprehensive plan for the applicable jurisdiction(s), adopted pursuant to the Act.

Contract Cities – a municipal corporation or corporations existing under the laws of the State of Florida, that enter into this **Agreement** with the **County**. For the purpose of this **Agreement**, the unincorporated areas of Miami-Dade County as geographically configured on February 16, 1996 shall be considered a **Contract City**.

County – Miami-Dade County, Florida by and through its Board of County Commissioners.

County Disposal Fee - the fee charged to dispose of municipal solid waste or solid waste at County-owned disposal facilities or facilities operated under contract with the **County** for municipal solid waste or solid waste disposal.

County Solid Waste Management System - The aggregate of those solid waste management facilities owned by or operated under contract with Miami-Dade County, which shall include the North Dade Landfill (21500 NW 47th Avenue), South Dade Landfill (23707 SW 97th Avenue), Resources Recovery Facility (6990 NW 97th Avenue), Waste Management of Florida, Inc. Landfill in the City of Medley, Florida (9350 NW 89th Avenue), Northeast Transfer Station (18701 NE 6th Avenue), Central Transfer Station (1150 NW 20th Street) and West Transfer Station (2900 SW 72nd Avenue), and other such facilities as may be added to or deleted from this listing from time to time, by the County Mayor at his/her sole discretion. Such additions or deletions may be made by use of an attachment hereto without need for formal amendment to this **Agreement**.

Director - the Director of the Public Works and Waste Management Department or his/her designee.

Exclusive Franchise or License - (a) contract(s) between a **Contract City** and a (limited number of) third party contractor(s) for the right and privilege to collect municipal solid waste or solid waste from either residential units or commercial establishments, or both residential units and commercial establishments, within (a) designated service area(s) under the terms of which the contractor(s) pay(s) the **Contract City** a fee.

Fiscal Year - the period beginning October 1 of each year and ending September 30 of the subsequent year.

Force Majeure - an act of God, epidemic, lightning, earthquake, fire, explosion, storm, tornado, hurricane, flood or similar occurrence, strike, and act of a public enemy, or blockade, insurrection, riot, general arrest or restraint of government and people, civil disturbance or similar occurrence, which has had or may reasonably be expected to have a material adverse effect on the rights or obligations under this **Agreement**, which by the exercise of due diligence the party relying thereon as justification for not performing any obligation under this

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Agreement shall not have been able to avoid, and which is not the result of a willful or negligent action or omission of such party.

Municipal Solid Waste (MSW) – all discarded materials or substances, exclusive of source-separated recyclable materials, which the **Contract City** collects for disposal or is collected for it by third parties under contract with the **Contract City** for disposal including, but not limited to, garbage, trash, litter, refuse, rubbish, ashes, incinerator residue, recycling process residue, or other materials allowed by the State Department of Environmental Protection for disposal in a Class I landfill which result from domestic, commercial, industrial, mining, agricultural or governmental activities, but not including sewage or other highly-diluted, water-carried materials or substances, or those in gaseous form. This definition is not intended to include any waste collected by any entity whose sole relationship with the Contract City is a franchise or license and which entity does not collect any waste on behalf of the Contract City. In addition, this definition is not intended to include waste collected at any city owned facility.

Non-Exclusive Franchise or License - a regulatory program under which an unlimited number of solid waste haulers are given the right and privilege to collect solid waste from either residential units or commercial establishments, or both residential units and commercial establishments, under the terms of which each hauler pays the **Contract City** a fee.

Short -Term Disposal - delivery of solid waste to the County Solid Waste Management System for disposal without having a minimum ten (10) year waste disposal agreement with the **County**.

Short -Term Disposal Fee(s) - the higher fee(s) paid by private haulers or municipalities for Short-Term disposal of solid waste in the County Solid Waste Management System.

Solid Waste – all discarded materials or substances, exclusive of source-separated recyclable materials, including, but not limited to, garbage, trash, litter, refuse, rubbish, ashes, incinerator residue, recycling process residue, or other materials allowed by the State Department of Environmental Protection for disposal in a Class I landfill which result from domestic, commercial, industrial, mining, agricultural or governmental activities, but not including sewage or other highly-diluted, water-carried materials or substances, or those in gaseous form, which materials or substances are not collected by or on behalf of a **Contract City**.

Source-Separated Recyclable Materials - materials separated from municipal solid waste or solid waste at their source of generation which are set-out for collection at their source of generation. Such materials shall be limited to: clean yard trash, aseptic and gable-top containers, corrugated cardboard, magazines, mixed waste paper, newspapers, telephone books, household batteries, glass containers, plastic containers, steel cans and aluminum cans, and other source-separated recyclable materials as may be approved for addition to this listing from time to time by the County Mayor or his/her designee, which approval shall not be

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unreasonably withheld; such additions may be made by use of an attachment hereto without need for formal amendment to this **Agreement**.

Transfer Fee - the fee charged to transfer municipal solid waste or solid waste from County Solid Waste Management System transfer stations to County Solid Waste Management System disposal facilities.

ARTICLE 1

CONSTRUCTION OF INTERLOCAL AGREEMENT

The word "shall" as used in this **Agreement** shall in all cases be construed to be mandatory and to require the action so modified by the word "shall" to be taken without regard to the exercise of discretion.

ARTICLE 2

RESPONSIBILITIES OF THE COUNTY

A. **Provision of Disposal Capacity.** The **County** shall provide MSW disposal capacity (and transfer, as applicable) for the MSW which each **Contract City** collects or is collected for it for disposal and which is committed to the **County** for disposal in the County Solid Waste Management System in accordance with this **Agreement**. The provision of MSW disposal services under this **Agreement** shall comply with all applicable state and federal laws.

B. **Disposal Capacity for Concurrency.** The **County** shall maintain sufficient MSW disposal capacity in the County Solid Waste Management System to comply with Concurrency requirements of the Local Government Comprehensive Planning and Land Development Regulation Act (Chapter 163, Part II, F.S.) only as it applies to MSW disposal capacity for the MSW which the **Contract City** collects or is collected for it for disposal and which is committed to the **County** for disposal in the County Solid Waste Management System in accordance with this **Agreement**, and actually disposed of therein.

C. **Standardization of Agreement.** The terms of this **Agreement** shall be substantially the same for all Contract Cities.

ARTICLE 3

RESPONSIBILITIES OF THE CONTRACT CITY

A. **Delivery of MSW to County.** The **Contract City** shall deliver all the MSW it collects or is collected for it for disposal, to a County Solid Waste Management System facility(ies) at Disposal Fee rates as specified herein. Delivery of MSW by **Contract City** to the Waste Management Inc. of Florida landfill in Medley, Florida shall be permitted for the term of this agreement; provided that, (1) the **County's** agreement with Waste Management Inc. of Florida, dated July 31, 1998, is in effect, (2) the landfill is accepting MSW for disposal, and (3) MSW from (a) **Contract City(ies)** is not needed at the Resources Recovery facility, as determined by the Director, in his/her sole discretion.

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The Director may identify particular facilities to which the **Contract City** shall deliver its MSW subject to the following:

- (i) The **Contract City** may deliver its MSW to a **County** transfer facility(ies) if the applicable transfer fee is paid to the **County**.
- (ii) At no time during the term of this **Agreement** shall a **Contract City** be required to deliver MSW to a **County** transfer facility unless the County Disposal Fee is the same at all County Solid Waste Management System facilities.
- (iii) The **Contract City** shall not be directed to deliver its MSW to a disposal facility which is farther from the **Contract City's** boundaries than the closest county-owned disposal facility.
- (iv) The **Contract City** shall not be directed to deliver its MSW to a transfer facility which is farther from the **Contract City's** boundaries than the closest county-owned transfer facility. In no case shall the **Contract City** be required to deliver its MSW to a County Solid Waste Management System facility which is farther than twenty (20) miles from the **Contract City's** nearest boundary in order to take full advantage of it rights under this **Agreement**.
- (v) Regardless of the operating status of the County's Resources Recovery Facility, the Contract City shall be entitled to dispose of MSW at the Facility and to pay the regular disposal rate that applies to Contract Cities, which shall be the County's lowest rate for MSW disposal, for the term of this Agreement.

B. Use of Other Facilities Prohibited. The **Contract City** shall not deliver any MSW it collects or is collected for it for disposal to a solid waste disposal or transfer facility other than a County Solid Waste Management System facility for the term of this **Agreement**. The **Contract City** shall not deliver any MSW it collects or is collected for it, to a materials recovery or recycling facility for the term of this **Agreement**.

Notwithstanding the foregoing, in the event that the **County** approves an operating permit for a solid waste disposal or transfer facility located within Miami-Dade County:

Other than:

- (i) A facility that is a part of the County Solid Waste Management System;
- (ii) A facility that is used exclusively to facilitate the delivery of MSW to County Solid Waste Management System facilities; or

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- (iii) A facility that is subject to a solid waste disposal agreement with the County, which agreement shall not allow acceptance of third party waste either by agreement or regulation;

Then in that case:

the **Contract City** shall have the option to either pursue a permit for operation of a solid waste disposal or transfer facility for all or a portion of its MSW disposal needs or deliver all or a portion of its MSW to the permitted solid waste disposal or transfer facility(ies) that meets the criteria established herein, provided however that any portion of the **Contract City's** MSW that is not so disposed must continue to be delivered to the **County** pursuant to the terms of this **Agreement**.

C. Hauler Contracts. The **Contract City** shall include in any MSW collection contracts with Solid Waste haulers, or amendments to such contracts, which it executes, renews or extends after the date of this **Agreement**, a provision that all MSW collected for the **Contract City** shall be delivered to a County Solid Waste Management System facility for disposal. This provision shall apply to exclusive franchise or license agreements with Solid Waste haulers to collect MSW on the **Contract City's** behalf. This provision shall not apply to a non-exclusive franchise or license to haul Solid Waste that is not collected on the **Contract City's** behalf.

D. Disposal and Transfer Fees. The **Contract City** shall pay a Disposal Fee (and a Transfer Fee, as applicable) for each ton of MSW delivered to the County Solid Waste Management System for disposal. As of October 1, 2012, the **Contract City** shall pay a Disposal Fee of sixty-three dollars and sixty-five cents (\$63.65) per ton to the **County** for disposal of MSW delivered to County Solid Waste Management System facilities. This Disposal Fee shall be established by separate administrative order, which shall not become effective until approved by the Board. As applicable, as of October 1, 2012 the **Contract City** shall pay a Transfer Fee of twelve dollars and fifty-two cents (\$12.52) per ton to the **County** for transfer of MSW delivered to County Solid Waste Management System transfer facilities. This Transfer Fee shall be established by separate administrative order, which shall not become effective until approved by the Board. The Disposal Fee and Transfer Fee may be increased or decreased for inflation or deflation beginning on October 1, 2013, and on the first day of each Fiscal Year thereafter, relative to increases or decreases in the U.S. Government Consumer Price Index for All Urban Consumers for the Southeast Region of the United States (CPI) for the prior period of July 1 through June 30. Such CPI increases or decreases shall be capped at four percent (4%) per year for the term of this **Agreement**. In the event that the actual CPI increase or decrease exceeds the four percent (4%) cap in a given Fiscal Year, the amount of CPI increase or decrease above or below the four percent (4%) cap shall be applied to CPI increases or decreases in future years when the CPI increase or decrease is less than four percent (4%). The Disposal Fee and Transfer Fee shall not otherwise increase, unless as required by Change in Law, as defined herein, which may occur at any time during the term of this **Agreement**. The **County** shall notify the **Contract City** of proposed Disposal Fee and

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Transfer Fee adjustments on the basis of change in law. The disposal fee or Transfer Fee increase based on Change in Law shall fully compensate the **County** for its increased costs. Each **Contract City** shall pay prevailing disposal fees for waste materials for which the **County** charges other than the **County** Disposal Fee for the entire term of this **Agreement**, including, without limitation, tires and asbestos, if provided to the **County** for disposal.

E. **Terms of Payment.** The **County** shall invoice the **Contract City** for Disposal Fees, based on **County** weighing records, by means of First Class U.S. Mail, within five (5) days of the last day of each month, commencing in the first month after the effective date of this **Agreement**, and continuing monthly thereafter for the term of this **Agreement**. In accordance with Section 218.74(2), Florida Statutes, as amended from time to time, payment of Disposal Fees owed to the **County** shall be due from, and payment shall be made by, **the Contract City** forty-five (45) days from the date of receipt of the **County's** monthly invoice.

F. **Dispute on Invoicing.** In the event of a dispute on invoicing, the **Contract City** shall first pay the full amount of the disputed charges when due and shall, within thirty (30) days from the date of receipt of the disputed invoice, give written notice of the disputed invoice to the **County**. The notice of dispute shall identify the disputed invoice, state the amount in dispute and set forth a full statement of grounds on which such dispute is based. The County Mayor or his/her designee shall confer with the **Contract City** and the County Mayor or his/her designee shall resolve the dispute not later than sixty (60) days after the date upon which the disputed invoice was received. Should the **Contract City** disagree with the determination of the County Mayor or his/her designee, it may pursue any remedy at law except withholding payment.

ARTICLE 4 **WEIGHING RECORDS**

The **County** shall cause all **County** Solid Waste Management System facilities to operate and maintain motor truck scales calibrated to the accuracy required by Florida law and to weigh all vehicles delivering MSW. Each vehicle delivering MSW from the **Contract City**, or its contract hauler, shall have its tare weight and cubic yard capacity permanently and conspicuously displayed on the exterior of the vehicle. The **County** or its contractor may, from time to time, require revalidation of the tare weight of any vehicle. The **Contract City** shall provide the **County** with information about each private hauler delivering MSW on its behalf to include: name and address, make, body type and motor vehicle registration number of each vehicle used for such purpose. All such haulers shall have and maintain a valid **County** solid waste hauler permit in accordance with Section 15-17 of the Code of Miami-Dade County, as amended from time to time.

The **County** will supply the **Contract City** with monthly weighing records as may be reasonably required by the **Contract City** to administer its waste collection program. Copies of all transaction tickets will be maintained by the **County** for at least two (2) years. If weighing scales are inoperable or are being tested, the facility operator shall estimate the

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quantity of MSW delivered using a schedule of estimated waste material weights in accordance with Section 15-25, Subsections (b) and (d) of the Miami-Dade County Code, as amended from time to time. The estimates shall take the place of actual weighing records, when the scales are not operational. The **County** shall use reasonable efforts to maintain the scales in an operable and accurate weighing condition.

ARTICLE 5

SHORT-TERM DISPOSAL

The **Contract City** agrees that the County Solid Waste Management System may accept Solid Waste on a Short-Term Disposal basis from private or municipal haulers, so long as the capacity to receive MSW delivered on behalf of the **Contract City** is not impaired, and provided that such haulers shall pay (a) Short-Term Disposal Fee(s) of at least ten percent (10%) above that charged to **Contract Cities**. The (a) Short-Term Disposal Fee(s) shall be established by separate administrative order, which shall not become effective until approved by the Board. All Disposal Fee revenues generated pursuant to this **Agreement** shall be used to pay County Solid Waste Management System costs. This provision shall not inhibit the **County** from entering into agreements with private haulers for delivery of Solid Waste to **County** disposal facilities (with the exception of agreements for delivery of Solid Waste collected by (a) private hauler(s) under contract with any municipality that is not a party to this **Agreement**, which shall be prohibited), the minimum duration of which shall be ten (10) years, provided that the **County** shall not offer (a) Disposal Fee(s) less than that agreed to herein by the **Contract City** to any private hauler for the term of this **Agreement**.

ARTICLE 6

RELATIONSHIPS OF THE PARTIES

Nothing in this **Agreement** shall be deemed to constitute any party a partner, agent or local representative of the other party or to create any type of fiduciary responsibility of any kind whatsoever between the parties. The obligations to this **Agreement** are not joint; the obligations are separate and several between the **Contract City** and **County**.

ARTICLE 7

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.

ARTICLE 8

DURATION OF AGREEMENT

County Resolution No. R-167-13

Contract City Resolution No. _____

The term of MSW deliveries by the **Contract City** to the **County** under this **Agreement** shall commence with the date of execution and shall remain in effect up to and including October 1, 20____. The **Agreement** shall be executed and approved by resolution of the **Contract City's** governing body and shall become effective upon execution by the **County**. A copy of the resolution of approval shall be transmitted to the County Mayor within five (5) days following the date of each **Contract City's** approval.

ARTICLE 9

AGREEMENT GOVERNS; ENTIRE AGREEMENT

This **Agreement** shall govern and supersede any other Interlocal agreement between the **Contract City** and the **County** with regard to use of the County Solid Waste Management System. This writing embodies the entire **Agreement** and understanding between the parties hereto, and there are no other agreements or understandings, oral or written with reference to the subject matter hereof that are not merged herein and superseded hereby.

ARTICLE 10

REPRESENTATIONS OF THE COUNTY

The **County** represents that (A) this **Agreement** has been duly authorized, executed and delivered by the Board of County Commissioners as the governing body of the **County**, and (B) it has the required power and authority to perform this **Agreement**.

ARTICLE 11

REPRESENTATIONS OF THE CONTRACT CITY

The **Contract City** represents that (A) this **Agreement** has been duly authorized, executed and delivered by the Governing Body of the **Contract City**, and (B) it has the required power and authority to perform this **Agreement**.

ARTICLE 12

APPROVALS AND NOTICES

All notices, consents and other communications required, permitted or otherwise delivered under this **Agreement** shall be in writing and be delivered either by hand with proof of delivery or mailed by first class United States certified or registered mail, with return receipt requested, postage prepaid, and in any case shall be addressed as follows:

To County -
Miami-Dade County
Office of the Mayor
Stephen P. Clark Center
111 NW 1st Street
Miami, Florida 33128

To Contract City -

County Resolution No. R-167-13
Contract City Resolution No. _____

Changes in the respective addresses above may be made from time to time by either party by notice to the other party. Notices and consents given by mail in accordance with this section shall be deemed to have been given five (5) business days after the day of dispatch, notices and consents given by any other means shall be deemed to have been given when received.

ARTICLE 13

AMENDMENT TO AGREEMENT

This **Agreement** may be modified, altered or amended only by a written amendment duly executed by the parties hereto, and approved by the governing body of each party. Any oral representations or modifications concerning this **Agreement** shall be of no force or effect.

ARTICLE 14

NON-ASSIGNMENT

In no case shall the **Contract City** assign, transfer, convey or otherwise hypothecate any interest, rights, duties, or obligations hereunder, or any part thereof. In the event the a **Contract City** attempts to assign, transfer, convey or otherwise hypothecate this **Agreement** or the **Contract City's** rights, duties or obligations hereunder, or any part thereof, the **County** may at its option, terminate this **Agreement** with respect to the **Contract City**.

ARTICLE 15

RIGHTS OF OTHERS

Nothing in this **Agreement**, either express 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**.

ARTICLE 16

WAIVER

There shall be no waiver of any right related to this **Agreement** unless that such waiver is in writing 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 rights waived and shall not be deemed a waiver of the same right at a later time of any other right under this **Agreement**.

ARTICLE 17

FORCE MAJEURE

County Resolution No. R-167-13

Contract City Resolution No. _____

Neither party hereto shall be liable for its failure to carry out its obligations under this **Agreement** during any period when such party is rendered unable, in whole or in part, by Force Majeure to carry out such obligations, but the obligations of the party relying on such Force Majeure shall be suspended only during the continuance of any inability so caused and for no longer period, and such cause shall, so far as possible, be remedied with all reasonable dispatch. It is further agreed and stipulated that the right of any party hereto to excuse its failure to perform by reason of Force Majeure shall be conditioned upon such party giving, to the other party, written notice of its assertion that a Force Majeure delay has commenced within five (5) working days after such commencement. If there exists good cause for failure to give such notice, such failure shall not prejudice any party's right to justify any non-performance as caused by Force Majeure, unless the failure to give timely notice causes material prejudice to the other party.

ARTICLE 18

COUNTY EVENT OF DEFAULT

The failure by the **County** to substantially fulfill any of its material obligations in accordance with this **Agreement**, unless excuses are justified by Force Majeure, shall constitute a "**County** event of default". If a **County** event of default should occur, the **Contract City** shall have all of the following rights and remedies which each may exercise singly or in combination: 1. the right to declare that this **Agreement**, together with all rights granted to the **County**, hereunder are terminated, effective upon such date as is designated by the **Contract City**; 2. any and all other rights provided under federal laws and the laws of the State of Florida. 3. in any event, the **County** shall maintain responsibility for any debts owed to the **Contract City** for services provided under the terms of this **Agreement**. Notwithstanding any other provision of this article, the **Contract City** shall not terminate this **Agreement** for a "**County** event of default" unless the **Contract City** first give(s) the **County** written notice of intent to terminate specifying the alleged default, and providing the **County** a period of sixty (60) days from receipt of notice within which to cure such default.

ARTICLE 19

CONTRACT CITY EVENT OF DEFAULT

Without limitation, the failure by the **Contract City** to substantially fulfill any of its material obligations in accordance with this **Agreement**, unless excuses are justified by Force Majeure, shall constitute a "**Contract City** event of default". If a **Contract City** event of default should occur, the **County** shall have all of the following rights and remedies which it may exercise singly or in combination: 1. the right to declare that all rights granted to the **Contract City** hereunder are terminated, effective upon such date as is designated by the **County**; 2. any and all rights provided under federal laws and the laws of the State of Florida. 3. in any event, the **Contract City** shall maintain responsibility for any debts owed to the **County** for services provided under the terms of this **Agreement**. Notwithstanding any other provision of this article, the **County** shall not terminate this **Agreement** for a "**City** event of default" unless the **County** first gives the **Contract City** written notice of intent to terminate specifying the alleged default, and providing the **Contract City** a period of sixty (60) days from receipt of notice within which to cure such default.

County Resolution No. R-167-13

Contract City Resolution No. _____

ARTICLE 20

FLORIDA LAW GOVERNS; VENUE IN MIAMI-DADE COUNTY, FLORIDA
This **Agreement**, regardless of where executed, shall be governed by and construed according to the laws of the State of Florida, and venue shall be in Miami-Dade County, Florida.

ARTICLE 21

TERMINATION

This **Agreement** may be terminated upon mutual consent, in writing, between the **Contract City** and the **County**.

ARTICLE 22

COUNTERPARTS

This **Agreement** may be executed in one or more counterpart(s), each of which shall be deemed an original.

ARTICLE 23

INVALIDITY OF PROVISIONS

Should any provision, paragraph, sentence, word or phrase contained in this **Agreement** be determined by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable under the laws of the State of Florida, such provision, paragraph, sentence, word or phrase shall be deemed modified to the extent necessary in order to conform with such laws, and this **Agreement** shall remain in full force and effect.

IN WITNESS WHEREOF, Miami-Dade County, Florida, has caused this **Agreement** to be executed in its name by the County Mayor or his/her designee, attested by the Clerk of the Board of County Commissioners and has caused the seal of the Board of County Commissioners to be hereto attached; and the **Contract City** has caused this **Agreement** to

County Resolution No. R-167-13

Contract City Resolution No. _____

be executed in its name by the Manager/Mayor of the **Contract City** or his/her designee, attested by the Clerk of the **Contract City's** governing body and has caused the seal of the **Contract City's** governing body to be hereto attached, all on the day and year first written above.

Attest: HARVEY RUVIN,
Clerk of the Board

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

By: _____
Deputy Clerk

By: _____
County Mayor
Miami-Dade County Florida
111 N.W. 1st Street, 29th Floor
Miami, FL 33128

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY BY:
Miami-Dade County Attorney's Office
111 N.W. 1st Street
Miami, FL 33128

Assistant County Attorney

County Resolution No. R-167-13
Contract City Resolution No. _____

CONTRACT CITY

_____,
a Florida Municipal Corporation

ATTEST:

By: _____

This day of _____, 20__

[corporate seal]

APPROVED AS TO INSURANCE
REQUIREMENTS:

APPROVED AS TO FORM AND
CORRECTNESS:
