

EXHIBIT D

**SECOND AMENDMENT TO
THE INTERLOCAL COOPERATION AGREEMENT**

This Second Amendment to the Interlocal Cooperation Agreement ("Second Amendment") and along with the Agreement and the First Amendment is hereinafter referred to as the "Agreement"), made this 17th day of February, 2016 ("Effective Date"), by and among Miami-Dade County, a political subdivision of the State of Florida (hereinafter referred to as the "County"), the City of North Miami, a municipal corporation under the laws of the State of Florida (hereinafter referred to as the "City"), and the North Miami Community Redevelopment Agency, a public agency and body corporate created pursuant to Section 163.356, Florida Statutes (hereinafter referred to as the "Agency").

WHEREAS, the Miami-Dade County Board of County Commissioners (the "Board") adopted Resolution No. R-837-04 on July 13, 2004, approving, among other things, the finding of necessity and establishment of the Agency; and

WHEREAS, the Board adopted Resolution No. R-610-05 approving the Agency's Redevelopment Plan (the "Plan") and delegated certain powers conferred on the Board by Part III, Chapter 163, Florida Statutes (the "Act"), to implement the Plan to the Mayor and City Commission of the City of North Miami (the "City Commission"), all for the project area; and

WHEREAS, the Board also enacted Ordinance No. 05-109 on June 7, 2005, which among other things, established a trust fund ("Fund" or "Trust Fund") to fund improvements in the Redevelopment Area; and

WHEREAS, the Board adopted Resolution No. R-1113-08, approving an amendment to the Plan to incorporate the development and implementation of community policing initiatives and define affordable housing guidelines; and

WHEREAS, simultaneously with the approval of this Second Amendment, the Board adopted Resolution No. R-_____ -16, approving a further amendment to the Plan (the "Second Amended Plan"),

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants recorded herein, the County, the City and the Agency agree as follows:

A. The recitations set forth above are true and correct and adopted as part of this Second Amendment.

B. The Agreement is amended to add the following in Paragraph III City/County Coordination:

D. Miami-Dade County or Other Taxing Authority Representation

- (1) Pursuant to section 163.356(2), Florida Statutes, one member of the Board or their designee may be appointed to serve on the Agency's Board of Commissioners and said County Commissioner or designee shall be vested with the same rights, duties and obligations as any other Agency commissioner. Said membership on the Agency's Board of Commissioners shall be considered an additional duty of office as prescribed by section 163.356(2) of the Florida Statutes. Such appointment by the Board shall be immediate and will become part of the Agency's board of commissioners without further action from the Agency required.
- (2) The Board, in accordance with Section 163.357(1)(c), Florida Statutes, may appoint two members or designees, who reside or are engaged in a business within the Redevelopment Area to serve as commissioners on the Agency's Board of Commissioners. Such appointment by the Board shall be immediate and will become part of the Agency's board of commissioners without further action from the Agency required.

C. The Agreement is amended by deleting Paragraph VI.G and II and inserting the following:

G. The City and the County hereby agree to limit the amount of Tax Increment Financing (“TIF”) revenues that can be expended by the Agency and provide for annual refunding by the Agency of a portion of such TIF revenues to the County as follows: In each year in which the County and the City shall make TIF revenue payments to the Fund, the budget for expenditures funded by TIF revenues shall be capped, so that an amount equivalent to the TIF revenues as would be derived from the Redevelopment Area, other than properties to the East of Biscayne Boulevard as more particularly described on Exhibit “2,” shall remain un-appropriated and un-expended, except to the extent necessary to pay debt service and related payments on bonds. Annually, an equivalent amount of TIF revenues generated by the Redevelopment Area, other than the property described on Exhibit “2”, and not necessary to pay debt service and related payments on bonds is to be refunded by the Agency to the County by the last day of each fiscal year on a pro-rata basis. Notwithstanding the foregoing, should the amount of TIF revenue contributed by the County remaining in the Trust Fund after the refund back to the County be in excess of One Million Dollars, the Agency shall also refund to the County any excess above the One Million Dollars.

H. The City and the County hereby agree to limit the amount of Tax Increment Financing (“TIF”) revenues that can be expended by the Agency and provide for annual refunding by the Agency of a portion of such TIF revenues to the City as follows: In each year in which the County and the City shall make TIF revenue payments to the Fund, the budget for expenditures funded by TIF revenues shall be capped, so that an amount equivalent to the TIF revenues as would be derived from the Redevelopment Area to the East of Biscayne Boulevard as more particularly described on Exhibit “2,” shall remain un-appropriated and un-expended, except to the extent necessary to pay debt service and related payments on bonds. Annually, an equivalent amount of TIF revenues equal to forty-five percent (45%) generated by the property described on Exhibit “2”, and not necessary to pay debt service and related payments on bonds is to be refunded by the Agency to the City by the last day of each fiscal year on a pro-rata basis.

D. The Agreement is amended to add the following in Paragraph VI Project Financing:

I. Community Benefits Agreements

All entities or contractors contracting with or receiving grants from the Agency for new commercial and residential developments to be constructed within the Redevelopment Area in an amount of \$200,000.00 or more, or such other amount as may be established by this Board, shall enter into a community benefits agreement with the Agency which will benefit primarily the residents of the Redevelopment Area. To the extent allowed by law, a community benefits agreement shall include provisions for hiring the labor workforce for the project financed by the grant or agreement from residents of the Redevelopment Area that are unemployed or underemployed. Depending on the worker or employee to be hired, the community redevelopment agency will be required to ensure that such entity or contractor complies with wage requirements, as applicable, established by Miami-Dade County's Living Wage or Responsible Wage Ordinances, pursuant to Section 2-8.9 and 2-11.16, respectively, of the Code of Miami-Dade County, Florida (the "Code") or pay higher wages and benefits, as are feasible.

J. Contract Requirements

All entities or contractors contracting with or receiving a grant from the community redevelopment agency in an amount of \$500,000.00 or more, or such other amount as may be established by this Board, shall comply with the following Miami-Dade County ordinances contained in the Code, as may be amended, as if expressly applicable to such entities:

- i. Small Business Enterprises (Section 2-8.1.1.1 of the Code);
- ii. Community Business Enterprises (Section 2-10.4.01 of the Code);
- iii. Community Small Business Enterprises (Section 10-33.02 of the Code); and/or
- iv. Conflict of Interest and Code of Ethics Ordinance (Section 2-11.1 of the Code); and/or
- v. Living Wage Ordinance

K. Recovery of Grant Funds

The Agency shall include in their contracts or grant agreements a "clawback" provision that will require the Agency to "clawback" or rescind and recover funding from any entity or contractor to which it provides funding which does not substantially comply with the provisions of its agreement with the Agency by demanding repayment of such funds in writing, including recovery of penalties or liquidated damages, to the extent allowed by law, as

well as attorney's fees and interest, and pursuing collection or legal action, to the fullest extent allowable by law, if feasible.

L. Required Reasonable Opportunity to Be Heard and Project Related Findings

If the Agency proposes to fund a proposed new or rehabilitated commercial or residential project and such project amount is above the delegated person's authority for approval thus requiring approval of the Agency, a public hearing must be held and a reasonable opportunity to be heard shall be afforded to the public and a finding must be made that:

- (1) The proposed project or program will primarily and substantially benefit residents and business owners within the Redevelopment Area.
- (2) The non-public entity or contractor requesting funding will use the Agency's funds to fill in any financial gaps when all other funding has been identified for the project and that, but for the Agency's funding, the project cannot be undertaken.

M. Safeguards for Residents from Displacement

In the event the Agency funds a redevelopment project authorized by the Agency's Plan that may displace persons (including individuals, families, business concerns, nonprofit organizations and others) located in the Redevelopment Area, the Agency shall prepare plans for and assist in the relocation of such persons, including making any relocation payments under the Act and applicable laws and regulations. Further, the Agency shall make or provide for at least a "one-for-one" replacement of each affordable housing unit demolished pursuant to a redevelopment project to ensure that such demolished unit is replaced by a new comparable, affordable housing unit. However, the before-mentioned requirement shall not apply to substandard affordable housing that has been declared unsafe by a governmental entity and subsequently demolished. The Agency shall ensure that individuals and families who are displaced from affordable housing units have a right of first refusal to return to comparably priced affordable housing units located within the Redevelopment Area.

N. Affordable and Mixed Income Housing

Subject to compliance with Paragraph (M) above, the housing component of the Plan shall serve an income mix of extremely low, very low, low, moderate, and workforce housing up to 140 percent of area median income, as may be defined by the U.S. Department of Housing and Urban Development. Developer incentives may be established by the Board that may assist in accomplishing these housing goals. If, however, the Board adopts guidelines for mixed income housing, such projects shall comply with the adopted guidelines. Further, the Agency shall ensure that prior to funding any non-housing project authorized by the Plan, priority shall be given to rehabilitation, conservation or redevelopment of housing for extremely low, very low, low or moderate income persons that is authorized by the Plan, subject to compliance with the applicable comprehensive development plan for the Redevelopment Area. Notwithstanding anything herein to the contrary, a minimum of ten percent (10%) of the Agency's annual budget will be allocated for housing projects (including new construction and rehabilitation) to include mixed income housing with a mix of affordable, workforce and market rate housing, as determined by the Agency.

O. Reporting on Affordable Housing

The Agency shall include a statement in its annual budget that describes its expenditures for the provision of affordable housing in the previous year and that are anticipated in upcoming fiscal years.

E. The Agreement is amended to add the following in Paragraph

VIII Project Management, Administration and Coordination:

E. The Agency shall adopt procurement requirements that are established by the State of Florida, Miami-Dade County or North Miami, as modified to reflect that such requirements are applicable to the community redevelopment agency.

F. The North Miami Community Redevelopment Agency shall not budget in any fiscal year more than 10 percent of the value of the City and County TIF payment for that year on capital maintenance activities or community policing.

F. The Agreement is amended to add the following Paragraph IX:

IX. Extension of Taxing Authorities' Payments; Milestones.

A. Except as specifically set forth herein, the obligation of each taxing authority to deposit into the Trust Fund pursuant to the Act solely for the uses authorized in the Plan and this Agreement including the delegation of powers to implement the Plan is extended until July 13, 2044.

B. Notwithstanding the foregoing, the Board may terminate this Agreement, or take such other actions as authorized herein, for the Agency's failure to meet certain milestones as follows:

(i) By July 1, 2017:

(1) the Agency shall have approved, and shall have submitted to the County for approval, a Plan Amendment which reduces the boundaries of the Redevelopment Area and provides for affordable and workforce housing along major corridors, including 7th Avenue. In order to implement the affordable and workforce housing that will be set forth in the Plan Amendment, the City and the Agency shall take all actions necessary and legal to change City of North Miami zoning and Comprehensive Plan to permit the affordable and workforce housing along the major corridors, including 7th Avenue as required and set forth herein, before September 30, 2024. Such changes to the boundaries of the Redevelopment Area shall be in accordance with Exhibit 3, or some variation of boundaries that are acceptable to the County.

(ii).By September 30, 2024, either:

(1) the Agency shall have implemented two of the following three projects:

(a) Redevelopment of the 7th Avenue corridor by making infrastructure improvements of no less than \$3 million, subject to City of North Miami Zoning developing affordable and workforce housing, and creation of incentives to attract innovative businesses dedicated to science and technology. The City and the Agency shall take all actions necessary and legal to change City of North Miami zoning and Comprehensive Plan to permit the affordable and workforce housing on 7th Avenue as required and set forth herein.;

(b) Redevelopment of the City's downtown core pursuant to the projects in the Plan including one public parking garage with sixty (60) public spaces and ground floor retail, and related infrastructure improvements; and/or

- (c) Rehabilitation of very low and low income housing units pursuant to the Plan based on a minimum commitment of seventy (70) total units.

OR

- (2) The assessed value of the taxable real property contained within the geographic boundaries of the areas set forth on Exhibit 1 and Exhibit 2 shall have increased by at least forty percent (40%) using the 2016 assessment roll as the base year.

The Agency will submit a Plan Amendment to the County consistent with the requirements of B(i)(1) above. In the event the Agency fails to submit an Amended Plan to the County that is acceptable to the County and that reduces the boundaries of the Redevelopment area and provides for affordable and workforce housing along the major corridors before July 1, 2017, then this Agreement, including the delegation of powers to implement the Plan and the obligation of each taxing authority to deposit into the Trust Fund pursuant to the Act and Ordinance No. 16-95, may terminate on July 1, 2017 upon passage of a resolution terminating this Agreement and rescinding the delegation of powers to implement the Plan and the adoption of an ordinance repealing Ordinance No. 16-95 of the Board of County Commissioners.

The Agency will report to the County on an annual basis the progress of the projects and increases in taxable real property. Provided that the Agency reasonably demonstrates to the County that either (1) or (2) has occurred by September 30, 2023, then this Agreement including the delegation of powers to implement the Plan is extended until July 13, 2044, subject to the terms and conditions hereof. In the event that the Agency fails to reasonably demonstrate to the County that either (1) or (2) has occurred by September 30, 2023, then the County shall provide the Agency with written notice to such effect and the Agency shall have one hundred eighty (180) days to cure such failure; provided however, that if the failure cannot be cured within one hundred eighty (180) days, this Agreement shall remain in effect provided that the Agency has commenced cure within the one hundred and eighty (180) day period and is diligently and in good faith proceeding with such cure. In the event that, following the notice and applicable cure periods, the Agency continues to fail to reasonably demonstrate to the County that either (1) or (2) has occurred, then the County may require the Agency to enter into a modification of this Agreement to limit the purpose of this Agreement to solely

provide that the taxing authorities shall, on an annual basis, continue to deposit TIF into the Trust Fund as necessary to satisfy any continuing financial obligations of the Agency including, but not limited to, debt service, developer incentives that have been approved by the County and City.

G. The Agreement is amended to add the following Paragraph XIII:

XIII. Inspector General Review and Ethics Training

- A. The County shall have the right to retain, at its sole cost, the services of an independent private sector inspector general whenever the County deems it appropriate to do so, in accordance with Miami-Dade County Administrative Order No. 3-20. Upon written notice from the County, the Agency shall make available to the independent private sector inspector general retained by the County all requested records and documentation for inspection and reproduction. Additionally, the Agency shall submit to the County's Inspector General's review in accordance with Section 2-1076 of the Code. The County's Inspector General shall be empowered to review the Agency's past, present and proposed contracts, transactions, accounts, records, agreements and programs and audit, investigate, monitor, oversee, inspect and review operations, activities, performance and procurement process, including but not limited to, project design, specifications, proposal submittals, activities of the Agency, its officers, agents and employees, lobbyists, staff and elected officials to ensure compliance with contract specifications and to detect any fraud and/or corruption.
- B. The Agency shall agree to comply with Miami-Dade County's Conflict of Interest and Code of Ethics Ordinance (Section 2-11.1 of the Code). Additionally, upon their appointment or reappointment, all boards of commissioners, all community redevelopment agencies' advisory boards, and the persons who staff each community redevelopment agency or board shall be required to complete an ethics training to be conducted by the Miami-Dade Commission on Ethics and Public Trust.

H. All provisions of the Agreement, other than the provisions specifically amended by this Second Amendment, remain in full force and effect and are hereby ratified by the parties. In the event of any conflict between the Second Amendment and the original Agreement and First Amendment, the Second Amendment shall control. Any defined terms not defined herein shall have the meanings set forth in the original Agreement and First Amendment as applicable.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Second Amendment as of the date first written above.

CITY OF NORTH MIAMI

By:

Larry Spring
Manager

MIAMI-DADE COUNTY

By:

Carlos A. Gimenez
Mayor

ATTEST

By:

Michael A. Etienne, Esq.,
City Clerk

Approved for form and legal sufficiency

ATTEST

By:

Deputy Clerk



Approved for form and legal sufficiency

By:

Jeff P.H. Cazeau, Esq.
City Attorney

NORTH MIAMI REDEVELOPMENT
AGENCY

By:

Dr. Smith Joseph
Chairman

By:

Larry M. Spring, Jr.
Executive Director

By:

Shannon D. Summerset
Assistant County Attorney

ATTEST:

By:



Michael A. Etienne, Esq.
City Clerk

Approved for form and legal sufficiency

By:



Gray Robinson, P.A.
CRA Attorney