RESOLUTION NO. 2014-146

RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AUTHORIZING THE MAYOR AND THE CITY CLERK, ON BEHALF OF THE CITY, TO ENTER INTO A MUTUAL AID AGREEMENT WITH THE CITY OF MIAMI BEACH AS A PARTICIPATING MUNICIPAL POLICE DEPARTMENT TO PROVIDE FOR THE REQUESTING AND RENDERING OF ASSISTANCE FOR ROUTINE AND INTENSIVE LAW ENFORCEMENT SITUATIONS FROM THE EFFECTIVE DATE OF THE AGREEMENT THROUGH DECEMBER 31, 2018.

WHEREAS, the City of Hialeah and the City of Miami Beach are so located in relation to each other that it is to the advantage of each to receive and extend mutual aid in the form of law enforcement services and resources to adequately respond to law enforcement situations; and

WHEREAS, Chapter 23, Florida Statutes, the "Florida Mutual Aid Act," permits law enforcement agencies to enter into a combined mutual aid agreement which permits voluntary cooperation and assistance of a routine or emergency law enforcement nature; and

WHEREAS, a Mutual Aid Agreement of this nature would be beneficial to the City of Hialeah.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The City of Hialeah, Florida hereby authorizes the Mayor and the City Clerk, on behalf of the City, to enter into a mutual aid agreement with the City of Miami Beach as a participating municipal police department to provide for requesting and rendering assistance for routine and intensive law enforcement situations from the

effective date of the agreement through December 31, 2018.

PASSED AND ADOPTED this 25 day of November, 2014.

Isis Garcia-Martinez
Council President

Attest:

Approved on this 05 day of December, 2014.

for-

Marbelys Fatjo, City Clerk

Mayor Carlos Hernandez

Approved as to legal sufficiency and as to form:

Lorena Bravo, Acting City Attorney

Resolution was adopted by a 6-0-1vote with Council Members Caragol, Casáls-Muñoz, Cue-Fuente, Gonzalez, Hernandez, & Lozano voting "Yes", & Councilmember Garcia-Martinez, absent.

VOLUNTARY COOPERATION AND OPERATIONAL ASSISTANCE MUTUAL AID AGREEMENT BETWEEN THE CITY OF HIALEAH, FLORIDA AND THE CITY OF MIAMI BEACH, FLORIDA

This Voluntary Cooperation and Operational Assistance Mutual Aid Agreement ("Cooperation Agreement") is made as of this ____ day of _____, 2014 (Effective Date), by and between the CITY OF MIAMI BEACH, FLORIDA, a municipal corporation having its principal office at 1700 Convention Center Drive, Miami Beach, Florida 33139, and the City of Hialeah, Florida, a municipal corporation having its principal office at 501 Palm Ave, Hialeah FL 33010, state as follows:

RECITALS

WHEREAS, it is the responsibility of the governments of the City of Hialeah, Florida, and the City of Miami Beach, Florida, to ensure the public safety of their respective citizens by providing adequate levels of police services to address any foreseeable routine or emergency situation; and

WHEREAS, because of the existing and continuing possibility of the occurrence of law enforcement problems and other natural and man-made conditions which are, or are likely to be, beyond the control of the services, personnel, equipment, or facilities of the City of Hialeah Police Department or the City of Miami Beach Police Department; and

WHEREAS, in order to ensure that preparation of these law enforcement agencies will be adequate to address any and all of these conditions, to protect the public peace and safety, and to preserve the lives and property of the people of the City of Hialeah, Florida, and the City of Miami Beach, Florida; and

WHEREAS, it is to the advantage of each law enforcement agency to receive and extend mutual aid in the form of law enforcement services and resources to adequately respond to:

(1) Continuing, multi jurisdiction law enforcement problems, so as to protect the public peace and safety, and preserve the lives and property of the people; and
(2) Intensive situations including but not limited to emergencies as defined under Section 252.34 of the Florida Statutes, or requests for certain law enforcement services specified herein and as defined under Section 23.1225 of the Florida Statutes; and

WHEREAS, the City of Hialeah and the City of Miami Beach have the voluntary cooperation and assistance authority under the Florida Mutual Aid Act, Sections 23.12-23.127 of the Florida Statutes, to enter into this Voluntary Cooperation and Operational Assistance Mutual Aid Agreement ("Cooperation Agreement") for law enforcement service which:

(1) Permits voluntary cooperation and operational assistance of a routine law enforcement nature across jurisdictional lines as allowed under Section 23.1225, of the Florida Statutes; and
(2) Provides for rendering of assistance in a law enforcement emergency as defined in Section 252.34 of the Florida Statutes.

NOW THEREFORE, BE IT KNOWN that the City of Hialeah, Florida, and the City of Miami Beach, Florida, in consideration for mutual promises to render valuable aid in times of necessity, do hereby agree to fully and faithfully abide by and be bound by the following terms and conditions:

SECTION I. PROVISIONS FOR VOLUNTARY COOPERATION

Each of the aforesaid law enforcement agencies hereby approve and enter into this Cooperation Agreement whereby each of the agencies may request and render law enforcement assistance to the other in dealing with any violations of Florida Statutes to include, but not necessarily be limited to, investigating sex offenses, robberies, assaults, batteries, burglaries, larcenies, gambling, motor vehicle thefts, drug violations pursuant to Chapter 893 of the Florida Statutes, backup services during patrol activities, and interagency task forces and/or joint investigation as set forth pursuant to, and under the authority of Chapter 23 of the Florida Statutes.

SECTION II. PROVISIONS FOR OPERATIONAL ASSISTANCE

The aforesaid law enforcement agencies hereby approve and enter into this Cooperation Agreement whereby each of the agencies may request and render law enforcement assistance to the other to include, but not necessarily be limited to dealing with, the following:

1. Joint multi-jurisdictional criminal investigations.
2. Civil affray or disobedience, disturbances, riots, large protest demonstrations and assemblies, controversial trials, political conventions, labor disputes, and strikes.
3. Any natural disaster.
4. Incidents which require rescue operations and crowd and traffic control measures including, but not limited to, large-scale evacuations, aircraft and shipping disasters, fires, explosions, gas line leaks, radiological incidents, train wrecks and derailments, chemical or hazardous waste spills, and electrical power failures.
5. Terrorist activities including, but not limited to, acts of sabotage.
6. Escapes from, or disturbances within, prisoner processing facilities.
7. Hostage and barricaded subject situations, and aircraft piracy.
8. Control of major crime scenes, area searches, perimeter control, back-ups to emergency and in-progress calls, pursuits, and missing person calls.
9. Enemy attack.
10. Transportation of evidence requiring security.
11. Major events, e.g., sporting events, concerts, parades, fairs, festivals, and conventions.
12. Security and escort duties for dignitaries.
13. Incidents requiring utilization of specialized units; e.g., underwater recovery, aircraft, canine, motorcycle, bomb, crime scene and police information.
14. Emergency situations in which one agency cannot perform its functional objective.
15. Joint training in areas of mutual need.
16. Joint multi-jurisdictional marine interdiction operations.

The following procedures will apply in mutual aid operations:

1. Mutual aid requested or rendered will be approved by the Chief of Police, or designee.

2. Specific reporting instructions for personnel rendering mutual aid will be included in the request for mutual aid. In the absence of such instructions, personnel will report to the ranking on-duty supervisor on the scene.
3. Communications instructions will be included in each request for mutual aid and each agency's communications centers will maintain radio contact with each other until the mutual aid situation has ended.
4. Incidents requiring mass processing of arrestees, transporting prisoners, and operating temporary detention facilities will be handled per established procedures of the requesting agency, or directors involved.

SECTION III. PROCEDURE FOR REQUESTING ASSISTANCE AND LIMITATIONS OF ASSISTANCE

In the event that a party to this Cooperation Agreement is in need of assistance as set forth above, the Chief of Police or his/her designee, shall notify the Chief of Police or his/her designee from whom such assistance is requested. The Chief of Police or authorized agency representative whose assistance is sought shall evaluate the situation and the agency's available resources, consult with his/her supervisors, if necessary, and will respond in a manner he/she deems appropriate.

The Chief of Police in whose jurisdiction assistance is being rendered may determine who is authorized to lend assistance in his/her jurisdiction, for how long such assistance is authorized, and for what purpose such authority is granted. This authority may be granted either verbally or in writing as the particular situation dictates.

Should a law enforcement officer be in another subscribed agency's jurisdiction for matters of a routine nature, such as traveling through the area on routine business, attending a meeting or going to or from work, and a violation of Florida Statutes occurs in the presence of said party, representing his/her respective agency, **HE/SHE SHALL ONLY BE EMPOWERED TO RENDER ENFORCEMENT ASSISTANCE AND ACT IN ACCORDANCE WITH FLORIDA LAW**. Should enforcement assistance be taken, said party shall notify the agency having normal jurisdiction, and upon the latter's arrival, turn the situation over to them and offer any assistance requested, including but not limited to, a follow-up written report documenting the event and the actions taken. This provision, so prescribed in this paragraph, shall not grant general authority to conduct investigations, serve warrants, and/or subpoenas or to respond without request to emergencies already being addressed by the agency of normal jurisdiction, but is intended to address critical, life-threatening or public safety situations, prevent bodily injury to citizens, or secure apprehension of criminals whom the law enforcement officer may encounter and such encounter results in a breach of the peace.

The parties acknowledge that the policy of the Florida Mutual Aid Act is to provide a means to deal with disasters, emergencies, and other major law enforcement problems. This Cooperation Agreement shall not extend police powers beyond the specific additional authority granted by the Legislature in Chapter 23 of the Florida Statutes, which intent was to assure the continued functioning of law enforcement in times of emergencies or in areas where major law enforcement efforts were being thwarted by jurisdictional barriers, and the respective parties, police officers and authority are limited to those instances where the subject matter of the investigation originates inside the municipal city limits.

SECTION IV. COMMAND AND SUPERVISORY RESPONSIBILITY

The personnel and equipment that are assigned by the assisting Agency shall be under the immediate command of a supervising officer designated by the assisting Agency. Such supervising officer shall be under the direct supervision and command of the Chief of Police or his/her designee of the agency requesting assistance.

SECTION V. CONFLICTS

Whenever an officer is rendering assistance pursuant to this Cooperation Agreement, the officer shall abide by and be subject to the rules and regulations, personnel policies, general orders, and standard operating procedures of his/her own employer. If any such rule, regulation, personnel policy general order or standard operating procedure is contradicted, contravened or otherwise in conflict with a direct order of a superior officer of the requesting agency, then such rule, regulation, policy, general order or procedure shall control and shall supersede the direct order.

SECTION VI. HANDLING COMPLAINTS

Whenever there is cause to believe that a complaint has arisen as a result of a cooperative effort as it may pertain to this Cooperation Agreement, the Chief of Police or his/her designee of the requesting agency shall be responsible for the documentation of said complaint to ascertain at a minimum:

1. The identity of the complainant.
2. An address where the complaining party can be contacted.
3. The specific allegation
4. The identity of the employees accused without regard as to agency affiliation.

If it is determined that the accused is an employee of the assisting agency, the above information, with all pertinent documentation gathered during the receipt and processing of the complaint, shall be forwarded without delay to the agency for administrative review. The requesting agency may conduct a review of the complaint to determine if any factual basis for the complaint exists and/or whether any of the employees of the requesting agency violated any of their agency's policies or procedures.

SECTION VII. LIABILITY

Each party engaging in any mutual cooperation and assistance, pursuant to this Cooperation Agreement, agrees to assume full and final responsibility for the acts, omissions or conduct of such party's own employees while engaged in rendering such aid pursuant to this Cooperation Agreement, subject to the provisions of Section 768.28 of the Florida Statutes, where applicable.

SECTION VIII. POWERS, PRIVILEGES, IMMUNITIES AND EXPENDITURES

(a) Employees of the City of Hialeah and the City of Miami Beach, when actually engaging in mutual cooperation and assistance outside of their normal jurisdictional limits but inside this State, under the terms of this Agreement, shall pursuant to the provisions of Section 23.127(1) of the Florida Statutes (as amended), have the same powers, duties, rights, privileges and immunities as if the employee was performing duties inside the employee's political subdivision in which normally employed.

(b) Each party agrees to furnish necessary personnel equipment, resources and facilities and to render services to each other party to this Cooperation Agreement as set forth above; provided however, that no party shall be required to deplete unreasonably its own personnel, equipment, resources, facilities, and services in furnishing such mutual aid.

(c) A party that furnishes equipment pursuant to this Cooperation Agreement must bear the cost of loss or damage to that equipment and must pay any expense incurred in the operation and maintenance of that equipment.

(d) The agency furnishing aid pursuant to this Cooperation Agreement shall compensate its appointees/employees during the time such aid is rendered and shall defray the actual travel and maintenance expenses of its employees while they are rendering such aid, including any amounts paid or due for compensation due to personal injury or death while such employees are engaged in rendering such aid.

(e) To the extent provided by applicable law, ordinance, or rule, the privileges and immunities from liability, exemption from laws, ordinances and rules, and all pension, insurance, relief, disability, worker's compensation, salary, death and other benefits that apply to the activity of an employee of an agency when performing the employee's duties within the territorial limits of the employee's agency apply to the employee to the same degree, manner, and extent while engaged in the performance of the employee's duties extraterritorially under the provisions of this Cooperation Agreement. The provisions of this section shall apply to paid, volunteer, reserve, and auxiliary employees.

(f) Nothing herein shall prevent the requesting agency from requesting supplemental appropriations from the governing authority having budgeting jurisdiction to reimburse the assisting agency for any actual costs or expenses incurred by the assisting agency performing hereunder.

(g) Should the City of Hialeah receive reimbursement for expenditures from a third party for a mutual aid event covered by this Cooperation Agreement, the City of Miami Beach shall be eligible to receive an equitable reimbursement share for any actual costs or expenses incurred that are directly attributable to the event, provided such costs and expenses are authorized by the third party for reimbursement purposes.

(h) Should the City of Miami Beach receive reimbursement for expenditures from a third party for a mutual aid event covered by this Cooperation Agreement, the City of Hialeah shall be eligible to receive an equitable reimbursement share for any actual costs or expenses incurred that are directly attributable to the event, provided such costs and expenses are authorized by the third party for reimbursement purposes.

(i) **Forfeitures:** It is recognized that during the course of the operation of this Agreement, property subject to forfeiture under the Florida Contraband Forfeiture Act, may be seized. The property shall be seized, forfeited, and equitably distributed among the participating agencies in proportion to the amount of investigation and participation performed by each agency, less the costs associated with the forfeiture action. Any participating agency must request sharing, in writing before the entry of the Final Order of Forfeiture, or they will be barred from claiming any portion of the property forfeited. The municipality in which any property is seized pursuant to the Florida Contraband Forfeiture Act shall have priority to initiate forfeiture proceedings under the Florida Contraband Forfeiture Act for any matters which arise from a mutual aid event that is covered by this Agreement, but may allow the other municipality to prosecute the forfeiture with the written authorization of the legal counsel for each municipality. The agency pursuing the forfeiture action shall have the exclusive right to control and the responsibility to maintain the property, including, but not limited to, the complete discretion to bring the action, or to dismiss the action, or settlement. This shall occur pursuant to the provisions of the Florida Contraband Forfeiture Act.

SECTION IX. INSURANCE

Each party shall provide satisfactory proof of liability insurance by one or more of the means specified in Section 768.28(16)(a) of the Florida Statutes (2010), in an amount which is, in the judgment of the governing body of that party, at least adequate to cover the risk to which that party may be exposed. Should the insurance coverage, however provided, of any party be canceled or undergo material change, that party shall notify all parties to this agreement of such change within ten (10) days of receipt of notice or actual knowledge of such change.

SECTION X. EFFECTIVE DATE

This Agreement shall take effect upon execution and approval by both parties and shall continue in full force and effect until December 31, 2018. Under no circumstances may this agreement be renewed, amended, or extended except in writing.

SECTION XI. CANCELLATION

Either party may cancel its participation in this Agreement at any time upon delivery of written notice to the other party.

In witness whereof, the parties hereto cause to these presents to be signed on the date specified.

AGREED TO AND ACKNOWLEDGED this _____ day of _____, 2014.

CITY OF MIAMI BEACH, FLORIDA

_____
DANIEL J. OATES
POLICE CHIEF

Date: _____

_____
JIMMY MORALES
CITY MANAGER

Date:_____

_____
MAYOR PHILIP LEVINE

Date: _____

CITY OF HIALEAH, FLORIDA

_____
SERGIO VELAZQUEZ
POLICE CHIEF

Date: _____

_____
MAYOR CARLOS HERNANDEZ

Date: _____

ATTEST:

_____
RAFAEL E. GRANADO, CITY CLERK

_____
MARBELYS FATJO, CITY CLERK

Approved as to form and legal sufficiency:

_____
RAUL AGUILA, CITY ATTORNEY

_____
LORENA BRAVO
ACTING CITY ATTORNEY