

INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT (this “Agreement”) is made and entered into as of July 13, 2021, by and between the **CITY OF NORTH MIAMI**, a Florida municipal corporation (the “City”), and the **NORTH MIAMI COMMUNITY REDEVELOPMENT AGENCY**, a public body corporate and politic (the “NMCRA”) (the City and NMCRA are sometimes hereinafter referred to individually as a “Party” and collectively as the “Parties”).

RECITALS

1. On July 13, 2021, the NMCRA adopted Resolution No. 2021-24 authorizing an Interlocal Agreement between the City and the NMCRA to allocate funding to the City for the purchase of four (4) Freightliner MB-65 30’ American Heritage model trolleys for the City’s NOMI Express program for an amount not-to-exceed \$836,920, plus the cost to operate and maintain one (1) trolley for three (3) years in the amount of \$636,480, thereby resulting in a total allocation of funds by the NMCRA in the amount of \$1,473,400. The trolley that the NMCRA shall fund the operation and maintenance of shall be the trolley whose route lies wholly within the NMCRA Community Redevelopment Area (the “NMCRA Trolley”).

2. The City and NMCRA desire to set forth certain rights and obligations of the parties relative to the Project as set forth in this Agreement.

NOW, THEREFORE, the City and the NMCRA agree as follows:

Section 1. Recitals; Authority.

1.1 Recitals. The Recitals set forth above are true and correct and are incorporated in this Agreement by reference.

1.2 Authority. This Agreement is entered into by the Parties pursuant to Section 163.01, Florida Statutes, known as the “Florida Interlocal Cooperation Act of 1969,” and Section 163.400, Florida Statutes, entitled “Cooperation by Public Bodies.”

Section 2. Project Funding.

Section 2.1 NMCRA Funding to City. For Fiscal Year 2020-2021, the NMCRA shall provide \$209,230 (“NMCRA Contribution #1”) to the City towards the \$836,920 purchase price for the purchase of four (4) Freightliner MB-65 30’ American Heritage model trolleys for the City’s NOMI Express Program (the “Project”). For Fiscal Year 2021-22, the NMCRA shall provide the remaining \$627,690 (“NMCRA Contribution #2”) to the City towards the Project purchase price. For Fiscal Year 2021-22, the NMCRA shall provide \$212,160 (“NMCRA Contribution #3”) to the City for the operation and maintenance of the NMCRA Trolley. For Fiscal Year 2022-23, the NMCRA shall provide \$212,160 (“NMCRA Contribution #4”) to the City for the operation and maintenance of the CRA Trolley. For Fiscal Year 2023-24, the NMCRA shall provide \$212,160 (“NMCRA Contribution #5”) to the City for the operation and maintenance of the NMCRA Trolley. Collectively, NMCRA Contributions #1, #2, #3, #4, and #5 shall be referred

to as the “NMCRA Contributions.”

2.1 City Repayment to NMCRA. In consideration of the NMCRA providing the City with \$627,690 towards the Project purchase price for the trolleys to owned by the City, the City shall pay for the maintenance and operational costs of the NMCRA Trolley commencing in Fiscal Year 2024-25 and every Fiscal Year thereafter until the sunset of the NMCRA.

Section 3. Payment of NMCRA Contributions to City. The NMCRA Contributions shall be paid by the NMCRA to the City, in whole or in part, within thirty (30) days after receipt of a written invoice by the NMCRA from the City along with itemized documentation confirming that the requested payment is for the Project, which documentation shall be in a form and substance acceptable to the NMCRA. The City agrees to use the NMCRA Contributions solely for the Project and for no other purposes whatsoever.

Section 4. NMCRA Obligations. The NMCRA covenants and agrees to take all actions as necessary and appropriate to enable the City to receive the NMCRA Contributions.

Section 5. NMCRA Trolley. The NMCRA Trolley shall at all times be operated along a route designated by the NMCRA and within the NMCRA Community Redevelopment Area. The NMCRA Trolley shall at all times bear the NMCRA logo and any other identification, markings or insignias designated by the NMCRA.

Section 6. Reporting Requirements. On a bi-annual basis, the City will submit to the NMCRA written reports summarizing Project activities including, but not limited to, ridership count, headway times, and customer service satisfaction. From time to time, the parties may agree on additional matters to be included in the monthly reports. The requirement to provide bi-annual reports shall continue until the sunset of the NMCRA or such time as the NMCRA notifies the City that such are no longer needed.

Section 7. Authorization to Enter into Agreement. The Parties hereby represent and warrant to each other (a) that this Agreement has been duly approved by the City Commission and Board Members of the NMCRA, as applicable, executed and delivered by the Parties and constitutes a legal, valid and binding obligation of the Parties enforceable in accordance with its terms and (b) that the execution, delivery and performance by the Parties of this Agreement does not conflict with, or result in a breach of the terms, conditions or provisions of, or constitute a default under or result in any violation of, the terms of any applicable law, charter provision, code provision, regulation, order, judgment or decree of any court or governmental or regulatory body (including the City), or any agreement, document or instrument to which a Party or any of its assets or property is bound.

Section 8. Covenant Not to Challenge. This Agreement has been negotiated by the parties with the expectation and in reliance upon the assumption that it is valid and enforceable. The Parties hereby covenant and agree, to the fullest extent permitted by law, that it shall neither of them shall initiate in any proceeding a challenge to the validity or enforceability of this Agreement.

Section 9. Miscellaneous.

9.1 Headings. The headings of the sections of this Agreement are for convenience only and do not affect meanings of any provisions hereof.

9.2 Amendment. The terms, covenants, conditions and provisions of this Agreement cannot be altered, changed, modified or added to, except in writing signed by the City and the NMCRA and approved by the City Commission and the Board Members of the NMCRA.

9.3 Third Party Beneficiaries. Neither of the Parties intend to directly or substantially benefit any third party by this Agreement. Therefore, Parties agree that there are no third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement.

9.4 Construction. Both Parties have substantially contributed to the drafting and negotiation of this Agreement and this Agreement shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than the other.

9.5 Governing Law; Venue. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Venue for litigation concerning this Agreement shall be in Miami-Dade County, Florida.

9.6 Invalidity. If any term or provision of this Agreement, or the application thereof to any person or circumstance is determined to be invalid or unenforceable, then to the extent that the invalidity or unenforceability thereof does not deprive a Party of a material benefit afforded by this Agreement, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, will not be affected thereby, and each term and provision of this Agreement will be valid and will be enforced to the full extent permitted by law.

9.7 Waiver. No express or implied consent or waiver by a Party to or of any breach or dealt by the other Party in the performance by such other Party of its obligations under this Agreement will be deemed or construed to be a consent or waiver to or of any other breach or dealt in the performance by such other Party of the same or any other obligations of such other Party hereunder. Failure by a Party to complain of any act or failure to act of the other Party or to declare the other Party in default, irrespective of how long such failure continues will not constitute a waiver by such Party of its rights hereunder. The giving of consent by a Party in any one instance will not limit or waive the necessity to obtain such Party's consent in any future instance.

9.8 Notice. Whenever any party desires to give notice unto any other party, it must be given by written notice, sent by certified United States mail, with return receipt requested, or by nationally recognized overnight delivery service, addressed to the party for whom it is intended and the remaining party, at the places last specified, and the places for giving of notice shall remain such until they shall have been changed by written notice in compliance with the provisions of this section. Notice may also be sent by electronic means (facsimile or email) provided such is followed by a hard copy of such notice provided in the manner set forth above. Notice is deemed given

when received. For the present, the City and the NMCRA designate the following as the respective places for giving such notice:

NMCRA: Rasha Cameau
Executive Director
North Miami Community Redevelopment Agency
735 N.E. 125 Street, 1st Floor
North Miami, Florida 33161
Telephone No. (305) 895-9888
Facsimile No. (305) 893-1367

With a copy to: Steven W. Zelkowitz
NMCRA Attorney
Spiritus Law LLC
2525 Ponce De Leon Boulevard, Suite 1080
Coral Gables, FL 33134
Telephone No. (305) 407-1937
Facsimile No. (305) 204-9129

City: Theresa Therilus, Esq.
City Manager
776 NE 125 Street
North Miami, Florida 33161
Telephone No. (305) 893-6511
Facsimile No. () -

With a copy to: Jeff P.H. Cazeau, Esq.
City Attorney
776 NE 125 Street, 3rd Floor
North Miami, Florida 33161
Telephone No. (305) 893-6511, ext. 12201
Facsimile No. (305) 895-7029

9.9 Entire Agreement. No statements, representations, warranties, either written or oral, from whatever source arising, except as expressly stated in this Agreement, shall have any legal validity between the parties or be binding upon any of them. The Parties acknowledge that this Agreement contains the entire understanding and agreement of the parties with respect to the subject matter hereof.

9.10 Prevailing Parties. If either Party is required to engage in litigation against the other Party hereto, either as plaintiff or as defendant, in order to enforce or defend any of its rights under this Agreement, and such litigation results in a final judgment in favor of such Party (“Prevailing Party”), then the Party against whom said final judgment is obtained shall reimburse the Prevailing Party for all direct, indirect or incidental expenses incurred by the Prevailing Party in so enforcing or defending its or his rights hereunder including, but not limited to, all reasonable attorneys’ fees and court costs and other expenses incurred throughout all negotiations, trials or

appeals undertaken in order to enforce the Prevailing Party's rights hereunder including any proceedings to enforce this provision.

Section 10. WAIVER OF JURY TRIAL. THE PARTIES HEREBY WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT A PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY SUIT, ACTION OR PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT.

IN WITNESS WHEREOF, the City and the NMCRA hereto have caused this Agreement to be executed as of the day and year first above written.

CITY OF NORTH MIAMI,
a Florida municipal corporation

By: _____
Theresa Therilus, Esq.
City Manager

ATTEST:

By: _____
Vanessa Joseph, Esq.
City Clerk

Approved as to form and legal sufficiency

By: _____
Jeff P.H. Cazeau, Esq.
City Attorney

**NORTH MIAMI COMMUNITY
REDEVELOPMENT AGENCY,**
a public body corporate and politic

By: _____
Rasha Cameau
Executive Director

Attest:

By: _____
Vanessa Joseph, Esq.
NMCRA Secretary

Approved as to form and legal sufficiency:

By: _____
Spiritus Law LLC
NMCRA Attorney