

RESOLUTION NO. R-5-2006-9

A RESOLUTION OF THE CHAIRMAN AND BOARD MEMBERS OF THE NORTH MIAMI COMMUNITY REDEVELOPMENT AGENCY, APPROVING THE EMPLOYMENT AGREEMENT BETWEEN THE NORTH MIAMI COMMUNITY REDEVELOPMENT AGENCY AND TONY E. CRAPP, SR. FOR THE POSITION OF CRA EXECUTIVE DIRECTOR; AUTHORIZING THE CHAIRMAN AND EXECUTIVE DIRECTOR TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the North Miami Community Redevelopment Agency (the "CRA") desires to employ Tony E. Crapp, Sr. as the CRA Executive Director pursuant to the terms and provisions of the Employment Agreement attached hereto as Exhibit "A" and by this reference made a part hereof.

NOW, THEREFORE, BE IT RESOLVED BY THE CHAIRMAN AND BOARD MEMBERS OF THE NORTH MIAMI COMMUNITY REDEVELOPMENT AGENCY:

Section 1. The recitals in the whereas clauses are true and correct, and incorporated into this Resolution.

Section 2. The Employment Agreement attached hereto as Exhibit "A" is hereby approved.


Section 3. The Chairman and Interim Executive Director of the CRA are hereby authorized to execute the Employment Agreement.


Section 4. This resolution shall take effect immediately upon approval.

PASSED AND ADOPTED by a 3-2 vote of the Board of the North Miami Community Redevelopment Agency, this 23rd day of May, 2006.

ATTEST:

NORTH MIAMI COMMUNITY
REDEVELOPMENT AGENCY


Deputy
FRANK WOHLAND, CITY CLERK


KEVIN A. BURNS, CHAIR

APPROVED AS TO FORM:



GRAY ROBINSON, P.A.
CRA ATTORNEY

SPONSORED BY: ADMINISTRATION

Moved by: Councilman Despinosse

Seconded by: Councilwoman Steril

Vote:

Chair Kevin A. Burns	<u>X</u>	(Yes)	<u> </u>	(No)
Boardmember Michael R. Blynn	<u> </u>	(Yes)	<u>X</u>	(No)
Boardmember Jacques A. Despinosse	<u>X</u>	(Yes)	<u> </u>	(No)
Boardmember Scott Galvin	<u> </u>	(Yes)	<u>X</u>	(No)
Boardmember Marie Erlande Steril	<u>X</u>	(Yes)	<u> </u>	(No)

**EMPLOYMENT AGREEMENT
BETWEEN
TONY E. CRAPP, SR.
AND
NORTH MIAMI COMMUNITY REDEVELOPMENT AGENCY**

THIS EMPLOYMENT AGREEMENT (the "Agreement") is made and entered into this 23rd day of May, 2006 by and between the **NORTH MIAMI COMMUNITY REDEVELOPMENT AGENCY**, a public body corporate and politic (the "CRA") and **TONY E. CRAPP, SR.** (the "EXECUTIVE DIRECTOR"). The CRA and the EXECUTIVE DIRECTOR are sometimes hereinafter referred to individually as a "Party" and collectively as the "Parties").

RECITALS

1. The CRA desires to employ the EXECUTIVE DIRECTOR as the Executive Director of the CRA, and the EXECUTIVE DIRECTOR desires to accept such employment under the terms and conditions hereinafter set forth below.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the CRA and the EXECUTIVE DIRECTOR agree as follows:

1. Appointment of the Executive Director; Term. Pursuant to Section 2.4 of the By-Laws of the CRA, Tony E. Crapp, Sr. is hereby appointed as the Executive Director of the CRA effective as of June 5, 2006 (the "Effective Date"). The initial term of this Agreement will commence upon the Effective Date and, unless terminated sooner pursuant to the provisions hereof, end three (3) years from the Effective Date (the "Term"). The Parties shall have the right, subject to their mutual agreement, to extend the Term for successive one (1) year renewal terms. All references in this Agreement to the Term shall include the Term as it may be extended.

2. Duties. The EXECUTIVE DIRECTOR shall perform the function and duties of the Executive Director as generally set forth in the By-Laws of the CRA and to otherwise perform other associated and legally required duties and functions as the CRA Board may direct from time to time and assign to the EXECUTIVE DIRECTOR. The EXECUTIVE DIRECTOR agrees to perform all such functions and duties faithfully, competently, professionally and promptly to the best of EXECUTIVE DIRECTOR's ability.

3. Termination. Nothing in the Agreement shall prevent, limit or otherwise interfere with the absolute right of the CRA Board to terminate the services of the EXECUTIVE DIRECTOR at any time, with or without cause. A vote of "no confidence" by the CRA Board may be considered by the EXECUTIVE DIRECTOR as a termination under this Agreement.

Nonetheless, the EXECUTIVE DIRECTOR has agreed, to devote a minimum of three (3) years to the CRA, unless there occur special circumstances when it may be in the best interests of the CRA and the EXECUTIVE DIRECTOR to end the relationship in shorter time. In the event the EXECUTIVE DIRECTOR voluntarily resigns, then the EXECUTIVE DIRECTOR shall give the CRA thirty (30) days written notice, in advance, unless the Parties agree to waive such notice requirement.

4. Severance Terms and Conditions. The EXECUTIVE DIRECTOR and the CRA recognize and agree that the EXECUTIVE DIRECTOR shall receive severance in the event the CRA Board terminates his services in the following amounts under the following circumstances:

- A. If at any time during the first (1st) year of the initial Term, the EXECUTIVE DIRECTOR shall receive nine (9) months salary.
- B. If at any time during the second (2nd) year of the initial Term, the EXECUTIVE DIRECTOR shall receive six (6) months salary.
- C. If at any time during the third (3rd) year of the initial Term, the EXECUTIVE DIRECTOR shall receive three (3) months salary.
- D. If at any time during any annual renewal Term, the EXECUTIVE DIRECTOR shall receive three (3) months salary.

The EXECUTIVE DIRECTOR shall not receive any severance if he voluntarily resigns or if he is terminated for cause including, but not limited to, failure to perform his duties as required by this Agreement, misfeasance, malfeasance and/or violation of any CRA employment policies now or hereinafter in effect (e.g., personal use of computers). The EXECUTIVE DIRECTOR shall not receive or be entitled to any other CRA benefit and shall not be considered an employee of the CRA during such severance period.

5. Annual Base Salary. The EXECUTIVE DIRECTOR shall be paid at an initial annual rate of One Hundred Ninety Thousand and 00/100 Dollars (\$190,000.00), payable in bi-weekly installments. The EXECUTIVE DIRECTOR shall receive periodic merit increases as determined by the CRA Board in its reasonable discretion; provided, however, that the EXECUTIVE DIRECTOR shall receive an automatic yearly cost of living adjustment on the anniversary of the Effective Date.

6. Social Security (FICA and MICA); Deductions and Taxes. The CRA shall pay the employer share of Social Security (FICA and MICA) benefits. Deductions shall be made from the EXECUTIVE DIRECTOR's compensation for withholding tax and other such taxes as may from time to time be required by federal, state and or local governmental authorities. Except as set forth above, the EXECUTIVE DIRECTOR shall be responsible for any and all personal income, estate, gift and or other taxes of any kind whatsoever due and payable with respect to any compensation received by the EXECUTIVE DIRECTOR from CRA.

7. Deferred Compensation. The CRA agrees to authorize all necessary arrangements to pay ten percent (10%) of the EXECUTIVE DIRECTOR's annual base salary into a deferred compensation plan of the EXECUTIVE DIRECTOR, which shall be in addition to the base salary. The Parties acknowledge and agree that the CRA currently does not have a deferred compensation plan and shall take all reasonable steps as necessary to establish a deferred compensation plan or to designate the CRA as an affiliate of the City of North Miami (the "CITY") in order to entitle the EXECUTIVE DIRECTOR to participate in the CITY's deferred compensation plan, all subject to the mutual agreement of the Parties.

8. Automobile/Auto Allowance. The EXECUTIVE DIRECTOR shall have the exclusive and unrestricted use at all times during employment of a CRA vehicle. The CRA shall be responsible for providing liability, property damage and comprehensive insurance and for the purchase or lease, operation, maintenance, repair and regular replacement of the vehicle. Entitlement to use of the CRA vehicle shall cease five (5) days after the EXECUTIVE DIRECTOR's termination or resignation. Alternatively, the EXECUTIVE DIRECTOR may choose to accept \$500.00 per month as an auto allowance.

9. Medical, Dental and Life Insurance. The CRA agrees to provide comprehensive medical, dental and life insurance for the EXECUTIVE DIRECTOR and his family on the same basis as provided to unclassified Administrative Staff of the CITY until such time as the CRA adopts its own employment policies.

10. Disability Insurance. The CRA agrees to provide disability insurance for the EXECUTIVE DIRECTOR at the benefit level provided to unclassified Administrative Staff of the CITY until such time as the CRA adopts its own employment policies.

11. Sick, Annual, Holiday and Military Leave. The EXECUTIVE DIRECTOR shall accrue sick, annual and holiday at the same frequency as other unclassified personnel of the CITY, but without accrual caps or other limitations, until such time as the CRA adopts its own employment policies. The EXECUTIVE DIRECTOR shall, upon resignation or termination, receive the cash value of 100% of accrued annual and 50% of accrued sick leave.

12. Dues and Subscriptions. The CRA agrees to pay the reasonable and customary professional dues and subscriptions of the EXECUTIVE DIRECTOR necessary for continued professional participation, growth and advancement, including national, state and local professional associations, as shall be approved in the annual CRA budget.

13. Professional Development. The CRA agrees to pay the reasonable and customary travel and subsistence expenses for the EXECUTIVE DIRECTOR's travel and attendance at conferences, committee meetings and other reasonably necessary seminars, conferences and committee meetings customary to the position of EXECUTIVE DIRECTOR, as shall be approved in the annual CRA budget.

14. Indemnification and Insurance.

A. Indemnification. The CRA shall indemnify the EXECUTIVE DIRECTOR in connection with any action, suit or proceeding, civil or criminal, actual or threatened, to which he shall be made a party or is threatened to be made a party by reason of his being or having been, or by reason of any actual or alleged acts performed or omitted to be performed in connection with his being or having been an employee of the CRA against all expenses (including, but not limited to, attorneys' fees, judgments and payments in settlement) actually incurred; provided, however, that the EXECUTIVE DIRECTOR shall not be so indemnified or reimbursed in relation to any matter in such action, suit or proceeding as to which he shall finally be adjudged to have been guilty of a criminal act or liable for gross negligence or willful misconduct in the performance of his duties to the CRA; and provided further, that the EXECUTIVE DIRECTOR shall not be so indemnified or reimbursed in relation to any matters in such action, suit or proceeding which has been made the subject of a compromise settlement except with the approval of a court of competent jurisdiction, or the CRA acting by vote of Commissioners not parties to the same or substantially the same action, suit or proceeding, constituting a majority of the remaining Commissioners. The foregoing right of indemnification or reimbursement shall not be exclusive of other rights to which the EXECUTIVE DIRECTOR, his heirs, executors or administrators may be entitled as a matter of law.

B. The CRA may purchase insurance for indemnifying the EXECUTIVE DIRECTOR to the extent that such indemnification is allowed in Section 14.A herein.

15. General Provisions.

- A. The provisions of this Agreement constitute the entire understanding between the parties. Only the representations and understandings contained shall be binding upon the CRA and the EXECUTIVE DIRECTOR. No other representations or understandings are binding on the CRA and the EXECUTIVE DIRECTOR unless contained in this or a subsequently adopted Agreement.
- B. Upon the EXECUTIVE DIRECTOR's death, the CRA's obligations shall terminate except for:
- (i) Transfer of balances in the EXECUTIVE DIRECTOR's deferred compensation plan to designated beneficiary(ies);
 - (ii) Payment of accrued leave balances in accordance with Section 11 above;
 - (iii) Payment of all outstanding hospitalization, medical and dental bills in accordance with CRA's insurance policies or plans for the EXECUTIVE DIRECTOR;

- (iv) Payment of all life insurance and disability benefits; and
 - (v) Provision of such other benefits the CRA has with respect to its unclassified employees generally.
- C. No alteration, modification or amendment to the terms of this Agreement shall be effective unless contained in writing and executed by the EXECUTIVE DIRECTOR and the CRA following approval by the CRA Board.
- D. The CRA and the EXECUTIVE DIRECTOR each waive the privilege of jurisdiction and venue and agree that any litigation involving this Agreement shall take place in the appropriate State Court, in and for Miami-Dade County, Florida.
- E. This Agreement shall be construed and administered with the laws of Florida.

16. Severability. 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.

17. 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.

18. 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.

19. Notices. Unless otherwise provided herein, all notices or other communications hereunder shall be in writing and shall be deemed to have been received (i) when delivered personally by hand to the recipient or when transmitted by facsimile to the recipient (with telephonic confirmation by the sender to the recipient), (ii) one business day after mailing by

over-night courier, or (iii) three days after mailing by United States registered or certified first class mail (postage prepaid).

20. Representations and Warranties.

A. No Prior Obligations. EXECUTIVE DIRECTOR represents and warrants to CRA that he is free to accept employment with CRA as contemplated herein, and he has no other prior obligations or commitments of any kind, written or oral, to any person or entity which would in any way interfere with his acceptance, or the full performance of his obligations and responsibilities, or the exercise of his best efforts and judgment to his employment hereunder.

B. Ability. EXECUTIVE DIRECTOR represents and warrants to CRA that the EXECUTIVE DIRECTOR is fully qualified and possesses the requisite skills and experience to perform his duties as set forth herein.

21. Exclusive Relationship. EXECUTIVE DIRECTOR agrees that, during the Term of this Agreement and for a period of two (2) years following the termination or expiration of this Agreement, EXECUTIVE DIRECTOR shall not (a) have any direct or indirect interest as a disclosed or beneficial owner in any business selling products or providing services to the CRA; and/or (b) perform services as a director, officer, manager, employee, representative, agent or otherwise for any business selling products or performing services to the CRA.

22. Work made for Hire; Work Products.

A. Work Made for Hire. EXECUTIVE DIRECTOR agrees that the CRA shall have the perpetual and nonexclusive right to use EXECUTIVE DIRECTOR ideas, concepts, methods and techniques relating to the development and/or operation of CRA. EXECUTIVE DIRECTOR shall not be entitled to any additional compensation for the same. Any development by the EXECUTIVE DIRECTOR of patentable or copyrightable material shall be considered "work for hire" under the United States patent and copyright laws, and the patent or copyright in and to such material shall belong to CRA. To the extent the development may not be deemed a "work for hire," the EXECUTIVE DIRECTOR shall be deemed to have assigned all patent and copyright rights therein to CRA, and EXECUTIVE DIRECTOR shall execute all document required by CRA to effect such assignment.

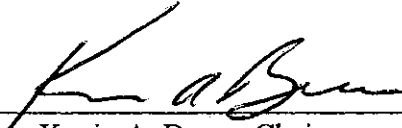
B. Work Product. All documents including any computer digital records relating thereto, prepared by the EXECUTIVE DIRECTOR pursuant to this Agreement, shall be the sole and exclusive property of the CRA. Upon request of the CRA and/or upon the termination or completion of this Agreement, the EXECUTIVE DIRECTOR shall promptly deliver to the CRA all or any portion of the above referenced documents including the digital information relating thereto.

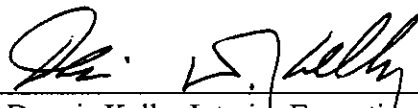
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IN WITNESS WHEREOF, the CRA and the EXECUTIVE DIRECTOR have caused this Agreement to be executed as of the day and year first above written.

CRA:

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


By: 
Kevin A. Burns, Chairman

By: 
Dennis Kelly, Interim Executive Director

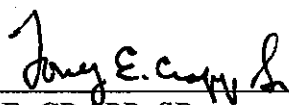
Attest:

By: 
Deputy for Frank Wolland, City Clerk

Approved as to form and legal sufficiency:

By: 
Gray Robinson, P.A., CRA Attorney

EXECUTIVE DIRECTOR:


TONY E. CRAPP, SR.