Memorandum

MIAMI-DADE COUNTY

Date: January 22, 2009

To: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

Agenda Item No. 8(P)(1)(B)

From: George M. Burgess
County Manager

Subject: Joint Participation Agreement Between Miami-Dade County and the City of South Miami in the Amount of $15,126.11 to Fund Milling, Resurfacing, Pavement Markings, and Maintenance of Traffic for the West Side of SW 57 Avenue from SW 74 Street to SW 72 Street

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RECOMMENDATION

It is recommended that the Board of County Commissioners (BCC) approve the attached resolution authorizing execution of a Joint Participation Agreement (JPA) between Miami-Dade County and the City of South Miami (City) for milling, resurfacing, pavement markings, and maintenance of traffic for the west side of SW 57 Avenue from SW 74 Street to SW 72 Street. Proceeds form the Charter County Transit Surtax were used to fund the project, therefore approval by the Citizen's Independent Transportation Trust (CITT) is required.

SCOPE

This project is located within the City of South Miami, in Commission District 7.

FISCAL IMPACT/FUNDING SOURCE

The total construction cost for the aforementioned improvements was $30,252.22. The City is providing $15,126.11 from City funds through this JPA. The County is providing the remaining $15,126.11 through proceeds from the Charter County Transit System Sales Surtax (the Surtax). The proposed improvements qualify under the allowable work categories included in the People's Transportation Plan (PTP) Neighborhood Improvements Section. Specific funding for this project was allocated from the respective Commission District PTP yearly allocations.

DELEGATION OF AUTHORITY

No additional authority is being requested within the body of this contract.

TRACK RECORD/MONITOR

The City is utilizing the resources of the County to contract, construct and administer these improvements. A lump sum disbursement of City funds to the County shall be made upon receipt of the executed Agreement by the City. The project was assigned to Mr. Bassam Moubayed, CFM, Chief, Construction Division, who oversaw inspections conducted by PWD staff.

BACKGROUND

The County's original project included the construction of new sidewalks, modification of angle parking to parallel parking, curb and gutters, pavement milling and resurfacing, pavement markings, and storm drainage along the east side of SW 57 Avenue between SW 74 Street to SW 72 Street. This project

was initiated as a request from local residents representing the High Pines Homeowners Association to enhance Americans with Disabilities Act (ADA) compliance and accessibility in the area, as well as enhancing safety with the parking situation.

The City later approached the County to include milling, resurfacing, and pavement markings to the west side of SW 57 Avenue. This roadway is maintained by the County, but forms a jurisdictional boundary between the City and the County. The City had been consulted during the development of the project, and made this request during the original project's bid process. Previously, the City planned to improve the west side of SW 57 Avenue through its own project, but concluded that incorporating the improvements at this time into the County's project would provide a more uniform driving surface for traffic in the area.

This JPA provides for the City's participation in the construction of these improvements for an amount of $15,126.11. It was approved by the South Miami City Commission on July 22, 2008. The project was carried under the PTP Project entitled Roadway Resurfacing Contract Countywide (Project – CICC 7360-0/08 RPQ No. 20060440), and is substantially completed pending the final thermoplastic pavement markings.

Assistant County Manager

MEMORANDUM

(Revised)

TO: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

DATE: January 22, 2009

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Agenda Item No. 8(P)(1)(B)

Please note any items checked.

_____ **"4-Day Rule" ("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**

_____ **Bid waiver requiring County Manager's written recommendation**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **Housekeeping item (no policy decision required)**

_____ **No committee review**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(P)(1)(B)
1-22-09

RESOLUTION NO. _____

RESOLUTION AUTHORIZING EXECUTION OF A JOINT PARTICIPATION AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE CITY OF SOUTH MIAMI TO PROVIDE $15,126.11 IN CITY FUNDS FOR THE CONSTRUCTION OF IMPROVEMENTS FOR THE WEST SIDE OF SW 57 AVENUE FROM SW 74 STREET TO SW 72 STREET; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXERCISE THE PROVISIONS THEREIN

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference; and

WHEREAS, both the City of South Miami and Miami-Dade County wish to facilitate the milling, resurfacing, pavement markings, and maintenance of traffic for the West Side of SW 57 Avenue from SW 74 Street to SW 72 Street,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board approves this Joint Participation Agreement between Miami-Dade County and the City of South Miami, providing $15,126.11 in City funds to the County for expenses incurred in this construction, in substantially the form attached hereto and made a part hereof; and authorizing the County Mayor or County Mayor's designee to execute same for and on behalf of Miami-Dade County and to exercise the provisions contained therein.

The foregoing resolution was offered by Commissioner ,

who moved its adoption. The motion was seconded by Commissioner

and upon being put to a vote, the vote was as follows:

Dennis C. Moss, Chairman
Jose "Pepe" Diaz, Vice-Chairman

Bruno A. Barreiro	Audrey M. Edmonson
Carlos A. Gimenez	Sally A. Heyman
Barbara J. Jordan	Joe A. Martinez
Dorrin D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 22nd day of January, 2009. This resolution shall become effective as follows: (1) ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board, and (2) either i) the Citizens' Independent Transportation Trust (CITT) has approved same, or ii) in response to the CITT's disapproval, the County Commission re-affirms its award by two-thirds (2/3) vote of the Commission's membership and such reaffirmation becomes final.

MIAMI-DADE COUNTY, FLORIDA

BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By:_____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency

Bruce Libhaber

SW 57 AVENUE FROM SW 74 STREET TO SW 72 STREET RESURFACING JOINT PARTICIPATION AGREEMENT

This AGREEMENT, made and entered into this _____ day of _____, 2009, by and between the CITY OF SOUTH MIAMI, a municipal corporation of the STATE OF FLORIDA, hereinafter referred to as the "City", and MIAMI-DADE COUNTY, a political subdivision of the STATE OF FLORIDA, hereinafter referred to as the "County".

WITNESSETH

WHEREAS, both parties herein wish to facilitate the construction of a road improvement project in MIAMI-DADE COUNTY, hereinafter referred to as the "Project" described as follows:

Milling, resurfacing, pavement markings, and maintenance of traffic for the West Side of SW 57 Avenue from SW 74 Street to SW 72 Street; and

WHEREAS, the City wishes to utilize the resources of the County to construct and administer the Project, subject to the terms and conditions of this agreement;

NOW, THEREFORE, in consideration of the promises and covenants contained herein, the parties agree:

1 **PERMITS AND APPROVALS**: The County shall identify and obtain all necessary permits, and utility adjustments for the Project in accordance with applicable State, Federal and Local Laws and ordinances.

2 **ACCOUNTING**: The County shall at all times maintain separate accounting for the costs of the Project so those costs may be independently verified and audited by the City, at the request and cost of the City. The County agrees to permit the City auditors to inspect the books, records and accounts of the Project for three years after completion of the Project. These records shall be made available to the City for inspection within five (5) working days upon written receipt of a written request from the City.

3 **CONSTRUCTION**: The County shall assign the Project to be constructed through an existing open contract for resurfacing.

4 **CLAIMS AND CHANGE ORDERS**: The County shall notify the City Public Works Director in writing when claims or change orders arise. The County shall also invite the City to participate in negotiations of these claims and change orders. The City shall review and make a determination or approval of all change orders or supplemental agreements, permits, modifications of plans, or other requests for approvals submitted by the County. Failure of the City to respond, in writing, to the County's request for evaluation within thirty (30) days shall be automatically deemed an approval by City, without the necessity of future action by the City.

5 **CONSTRUCTION ADMINISTRATION AND INSPECTION**: The County shall exercise all responsibilities of the owner under the construction contract, including construction administration and inspections. In the case of a disagreement over the interpretation of the plans, the County Public Works Director, or their representative, shall have final authority subsequent to an independent final inspection by the County.

6 **CITY PAYMENTS OF PROJECT COSTS**: The City agrees to pay a lump sum amount of $15,126.11 to the County for the work to be executed by the County. Payment will be forwarded by the City upon final execution of this Agreement.

7 **PROJECT COST ADJUSTMENTS**: The amount contributed by the City is based on the current estimated costs of the Project. The parties recognize that adjustments to the above-referenced costs may be required in the future and that at the option of the parties, amendments may be entered into to revise the funds available for the Project.

8 **COMPLIANCE WITH LAWS**: The parties shall comply with applicable federal, state and local laws, codes, ordinances, rules and regulations in performing their respective duties, responsibilities, and obligations pursuant to this Agreement and with all applicable laws relating to the Project. The parties shall not unlawfully discriminate in the performance of their respective duties under this Agreement.

9 **INDEMNIFICATION**: To the extent authorized by Florida law, the City hereby agrees to indemnify, defend, save and hold harmless the County to the extent of all the limitations included with section 768.28, Florida Statutes, from all claims, demands, liabilities and suits of any nature whatsoever arising out of, because of or due to the breach of this Agreement by the City, its agents or employees. It is specifically understood and agreed that this indemnification clause does not cover or indemnify the County for its sole negligence or breach of contract.

To the extent authorized by Florida law, the County hereby agrees to indemnify, defend, save and hold harmless the City to the extent of all the limitations included with section 768.28, Florida Statutes, from all claims, demands, liabilities and suits of any nature whatsoever arising out of, because of or due to the breach of this Agreement by the County, its agents or employees. It is specifically understood and agreed that this indemnification clause does not cover or indemnify the City for its sole negligence or breach of contract.

10 **DISPUTE RESOLUTION, APPLICABLE LAW**: The parties shall resolve any disputes, controversies or claims between them arising out of this Agreement in accordance with the "Florida Governmental Conflict Resolution Act", Chapter 164, Florida Statutes, as amended. This Agreement shall be governed by the laws of the State of Florida. Venue in any proceedings shall be in Miami-Dade, Florida.

11 **ENTIRE AGREEMENT, AMENDMENTS**: This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms contained herein shall be effective unless set forth in writing in accordance with this section. No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the parties.

12 **JOINT PREPARATION**: The parties acknowledge that they have sought and received whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties from the other.

13 **SEVERANCE**: In the event a portion of this Agreement is found to be invalid by a court of competent jurisdiction, the remaining provisions shall continue to be effective unless the City or County elect to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

14 **NOTICES**: Any and all notices required to be given under this agreement shall be sent by first class mail, addressed as follows:

To the County:

Attention: Esther L. Calas, P.E.
Director, Public Works Department
Miami-Dade County
111 NW 1st Street, Suite 1640
Miami, Florida 33128
(305) 375-2960

To the City:

Attention: W. Ajibola Balogun, REM, CFEA
City Manager / Director, Public Works
City of South Miami
6130 Sunset Drive
South Miami, Florida 33143
(305) 663-6318

IN WITNESS WHEREOF, the parties hereto set their hands and official seals the day and year first above written.

ATTEST:

HARVEY RUVIN
CLERK OF THE BOARD

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

BY: _____
Deputy Clerk

BY: _____
County Mayor or His Designee

Approved by County Attorney
as to form and legal sufficiency _____
County Attorney

ATTEST:

CITY OF SOUTH MIAMI, a municipal
corporation of the State of Florida

BY: _____
City Clerk

BY: _____
W. Ajibola Balogun
City Manager

Approved by City Attorney
as to form and legal sufficiency _____
City Attorney