Memorandum

MIAMI-DADE COUNTY

Date: October 20, 2009

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

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

From: George M. Burgess
County Manager

Subject: Joint Participation Agreement between Miami-Dade County and the City of Miami Beach to Provide $1,564,179 in City of Miami Beach General Obligation Bond Funds, and the Transfer to the County of up to $1,000,000 in Federal Surface Transportation Enhancement Program Funds, for the County's Construction of the Venetian Causeway Streetscape Project

---

RECOMMENDATION

It is recommended that the Board of County Commissioners (BCC) approve the attached resolution authorizing the execution of a Joint Participation Agreement (JPA) between Miami-Dade County and the City of Miami Beach (City) for the Venetian Causeway Streetscape Project.

SCOPE

This JPA will provide for improvements along
the portion of the Venetian Causeway that lies within the City of Miami Beach in Commission District 4.

FISCAL IMPACT/FUNDING SOURCE

The total cost of construction for the entire length of the project is $7,869,179. Funding for the project will be provided by Federal and Local sources. This Agreement provides the County with up to $1,564,179 in City of Miami Beach General Obligation Bond Funds and the transfer to the County of up to $1,000,000 in Federal Surface Transportation Enhancement Program Funds that the City applied for and received for the construction of the project through the Florida Department of Transportation (FDOT). Additional funds will be provided by:

a) City of Miami Street Bond Program Funds - $1,900,000
b) City of Miami Street Bond Program/FDEP Funds/Sunshine State Loan Funds (to construct elements of the City's stormwater system) - $270,000
c) City of Miami Surface Federal Surface Transportation Enhancement Program Funds - $1,000,000
d) Miami-Dade County – Federal Surface Transportation Enhancement Program Funds - $585,000
e) Miami-Dade County Road Impact Fee District 8 Funds - $550,000
f) Miami-Dade County - Sunshine State Loan Funds - $1,000,000

Miami-Dade County and the Cities of Miami and Miami Beach have executed their respective Local Agency Program (LAP) Agreements with FDOT in order to receive the aforementioned Federal funds reimbursements for the project. The reimbursement of these funds will be requested by the Cities and these funds as well as City funds committed to the project will be provided to the County for the construction of the project.

The County and the City of Miami will also execute a JPA under a separate item to provide for improvements along the portion of the Venetian Causeway that lies within the City of Miami.

DELEGATION OF AUTHORITY

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

TRACK RECORD/MONITOR

The City of Miami Beach will utilize the resources of the County to contract, construct and administer these improvements on a reimbursable basis. Disbursement of funds to the County shall be based upon County invoices with certified copies of paid contractor estimates. The project will be assigned to Mr. Bassam Moubayed, CFM, Chief, Construction Division, who will oversee inspections conducted by Public Works Department (PWD) staff.

BACKGROUND

The Venetian Causeway Streetscape Improvements Project is a joint effort between the County and the Cities of Miami and Miami Beach, in accordance with the Venetian Causeway Neighborhood Alliance. It will include roadway beautification enhancements and improvements to the Venetian Causeway; such as stormwater improvements, sidewalks, curb and gutters, raised landscape medians, continuous bike lanes, decorative roadway lighting, tree planting, signalization, pavement markings, signage, and other streetscape improvements including, but not limited to gateway signage and colored concrete crosswalks.

The construction of the Venetian Causeway Streetscape Project will not conflict with the ongoing rehabilitation of the Venetian Causeway bridges. PWD will implement a Public Involvement Plan (PIP) during the construction of the project to provide information to all affected property owners, tenants, and area residents of the work to be performed in the area. On May 13, 2009, the Miami Beach City Commission adopted Resolution No. 2009-27070 approving this JPA. The project is anticipated to commence by the end of October 2009 and be completed by the end of October 2010.

Assistant County Manager

MEMORANDUM

(Revised)

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

DATE: October 20, 2009

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

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

Please note any items checked.

_____ **"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**

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

_____ **No committee review**

✓ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(P)(1)(A)
10-20-09

RESOLUTION NO. _____

RESOLUTION APPROVING EXECUTION OF A JOINT PARTICIPATION AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE CITY OF MIAMI BEACH TO PROVIDE $1,564,179 IN CITY FUNDS, AND THE TRANSFER TO THE COUNTY OF UP TO $1,000,000 IN SURFACE TRANSPORTATION ENHANCEMENT PROGRAM FUNDS, FOR THE COUNTY'S CONSTRUCTION OF THE VENETIAN CAUSEWAY STREETSCAPE PROJECT; 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 Miami Beach and Miami-Dade County wish to facilitate the construction of the Venetian Causeway Streetscape Project,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board approves the Joint Participation Agreement between Miami-Dade County and the City of Miami Beach, providing up to $1,564,179 in City of Miami Beach General Obligation Bond Funds, and the transfer to the County of up to $1,000,000 in Surface Transportation Enhancement funds, for the County's construction of the Venetian Causeway Streetscape Project, 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

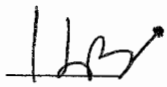
Bruno A. Barreiro	Audrey M. Edmonson
Carlos A. Gimenez	Sally A. Heyman
Barbara J. Jordan	Joe A. Martinez
Dorrin D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 20th day of October, 2009. This resolution shall become effective 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.

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

HARVEY RUVIN, CLERK

Approved by County Attorney as
to form and legal sufficiency.



By:_____
Deputy Clerk

Hugo Benitez

Attachment 2

JOINT PARTICIPATION AGREEMENT BETWEEN THE CITY OF MIAMI BEACH AND MIAMI-DADE COUNTY FOR THE CONSTRUCTION OF VENETIAN CAUSEWAY STREETSCAPE IMPROVEMENTS

This Agreement is entered this 13th day of May, 2009, by Miami-Dade County, a political subdivision of the State of Florida (County), and the City of Miami Beach, a municipal corporation of the State of Florida (City), (Agreement).

RECITALS

WHEREAS, the County, through its Public Works Department, and the City desire to enter into a Joint Participation Agreement to manage the construction of capital streetscape improvements to the Venetian Causeway consistent with the Venetian Causeway Master Plan, developed by Urban Resource Group, and adopted by the City of Miami and the City of Miami Beach (the Project); and

WHEREAS, the County acknowledges that the Venetian Causeway is a County Right-of-Way and that General Obligation Bond funds provided by the City for Project improvements are exclusively limited by funding source to use for above-ground enhancements to needed County improvements; and

WHEREAS, the City set aside $1,827,000 in its 1999 General Obligation Bond for enhancements to the Venetian Causeway; and

WHEREAS, the City will also pass through to the County funds applied for by the City and obtained for this Project from the Florida Department of Transportation (FDOT), through a Local Agency Program (LAP) Agreement; and

WHEREAS, on March 30, 2006, as adopted by the City pursuant to Resolution No. 2005-26020, the County and the City entered into an Interlocal Agreement to manage and implement the consulting services, which include planning, design, and construction administration of the Project; and

WHEREAS, the Miami-Dade County Board of County Commissioners and the Miami Beach City Commission find that it is in the best interest of the County and the City to now enter into a Joint Participation Agreement to manage and implement the construction of the Project.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants promises, terms and conditions contained herein, and for other good and valuable considerations each party to the other given, receipt and sufficiency of which is hereby acknowledged, it is mutually covenanted, promised, and agreed between the County and City as follows:

Section 1. Recitals

The above recitals are true and correct and incorporated herein by reference.

Section 2. Scope of Services

2.1 The work will consist of roadway improvements to include: sidewalks, stormwater improvements, curb and gutters, raised landscape medians, bike lanes, decorative roadway lighting, tree planting, signalization, pavement markings, signage, and other streetscape improvements.

2.2 The County will select a licensed Contractor in accordance with its formal Procurement Process. Said firm shall be licensed in the State of Florida to perform said work and shall have the requisite qualifications and experience to perform the work that is the subject of this Agreement.

2.3 The contribution of City funds to the County for construction of the Project is currently estimated to be a maximum of $1,564,179, and cannot be used for the construction of water, sanitary sewer, stormwater improvements, or the undergrounding of above-ground utilities such as electric, telephone, and cable. These City funds can only be used within the City limits of the City of Miami Beach.

2.4 The City will also pass through to the County funds applied for by the City and obtained for this Project from FDOT, through a LAP Agreement ($1,000,000), which has been developed by the County on the City's behalf and executed between the City and FDOT. These funds may be used for all improvements included in Section 2.1. The County will submit invoices to the City. These invoices will be forwarded to FDOT for reimbursement of LAP funds. Upon receipt of funds by the City, the funds will be forwarded to the County.

2.5 The amounts committed by the City are based on current estimated costs of the Project. Additionally, the parties recognize that amendments increasing the City's financial contribution will be required only if the City requests additional work beyond what is required in the Construction Documents. Provided that there is no increase in the amount of County funds required, and that the City's financial contribution is not increased by more than $25,000, such amendments may be executed by the City Manager and the County Mayor or County Mayor's designee without the need for approval by the City and County Commissions. Any amendment which increases the City's financial contribution by an amount exceeding $25,000 shall require the approval of the Mayor and City Commission of Miami Beach.

2.6 The City shall make payments to the County for the City's financial contribution, on a reimbursement basis. Said reimbursements shall be due to County within thirty (30) days of City's receipt of a proper invoice. Invoices shall be presented

no more frequently than every thirty (30) days. Reimbursement by the City to the County for the City's financial contribution will be made based upon the City's pro-rata share of the construction cost for each invoice.

Section 3. Notices

3.1 All notices hereunder must be in writing and shall be deemed validly given if sent by U.S. certified mail, return receipt requested, hand delivered or overnight delivery addresses as follows:

County: Esther L. Calas, P.E.
Public Works Department
Miami-Dade County
111 N.W. First Street, Suite 1640
Miami, Florida 33128

City: City Manager, City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139

Copied to: Public Works Director, City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139

Capital Improvement Projects Director, City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139

3.2 Notice may also be provided to any other address designated by the party to receive notice if such alternate address is provided via U.S. certified mail, return receipt requested, hand delivered, or by overnight delivery. In the event an alternate notice address is properly provided, notice shall be sent to such alternate address in addition to any other address which notice would otherwise be sent, unless other delivery instruction as specifically provided for by the party entitled to notice.

3.3 Notice shall be deemed given on the day on which personally served, or the day of receipt by either U.S. certified mail or overnight delivery.

Section 4. Entire Agreement

4.1 The City and the County agree that this is the entire Agreement between the parties. This Agreement supersedes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein, and there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. This Agreement cannot be modified or amended without the express written consent of the parties. No modification, amendment, or alteration of the

terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith. Notwithstanding any provision herein, this Agreement in no way obviates or nullifies the obligations of the City under the City Charter or of the County under the County Charter.

4.2 Title and Paragraph headings are for convenient reference and are not intended to confer any rights or obligations upon the parties to this Agreement.

Section 5. Amendments

5.1 This Agreement may be modified only in a written instrument signed and sealed by the City Manager of Miami Beach or the Miami Beach City Commission, as the case may be, and the County Mayor or County Mayor's designee of Miami-Dade County (as provided for in Section 4 above).

Section 6. Indemnification

6.1 To the extent permitted by Section 768.28, Florida Statutes, the parties agree to indemnify each other for liability due to any act or omission, neglect or wrongdoing of a party or any of its officers, agents, or employees. Further the parties agree to defend each other against any and all such claims or demands which may be claimed and have arisen as a result of or in connection with the parties' participation in the Agreement.

Nothing contained herein shall be construed to contradict the provisions of Section 768.28, Florida Statutes. Nor shall this Article be construed to require either party to indemnify the other for the negligent acts of the other.

Section 7. Effective Date and Term

7.1 This Agreement shall become effective upon the signatures of the City and the County, and shall remain in full force and effect until such time when construction of the Project is completed and closed-out, and the County's Contractor's accounts as well as those of the County Public Works Department and the County's Agent (if applicable) are closed. The effectiveness of this Agreement is subject to the execution by the City of Miami and the COUNTY of their Joint Participation Agreement for improvements of the Venetian Streetscape Project. In the event that contract is not executed by December 31, 2009, this Agreement shall become null and void and of no effect.

Section 8. Severability

8.1 If any term or provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall not be affected and every other term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

Section 9. Assignment

9.1 Neither this Agreement nor any term nor provision hereof of right hereunder shall be assignable by any parties and any attempt to make such assignment shall be void.

Section 10. Counterparts

10.1 This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same Agreement.

Section 11. Governing Law/Litigation

11.1 This Agreement shall be construed in accordance with the laws of the State of Florida, and any proceedings arising in any matter pertaining to this Agreement shall, to the extent permitted by law, be held in circuit court in Miami-Dade County, Florida.

11.2 In the event that any party to this Agreement should seek legal or administrative recourse to enforce the terms of this Agreement, the breaching party shall be obligated to pay the prevailing party the reasonable attorney's fees and costs incurred by the prevailing party.

11.3 This Agreement shall be governed by, and construed in accordance with, the laws of the State of Florida, both substantive and remedial, without regard to principles of conflict of laws. The exclusive venue for any litigation arising out of this Agreement shall be Miami-Dade County, Florida, if in state court, and the U.S. District Court, Southern District of Florida, if in federal court. BY ENTERING INTO THIS AGREEMENT, CITY AND COUNTY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO, OR ARISING OUT OF, THIS AGREEMENT.

[REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on their behalf as of the date first above written.

ATTEST:

MIAMI-DADE COUNTY
a political subdivision of
the State of Florida

By its Board of County
Commissioners:

By: _____
County Mayor or County Mayor's Designee

HARVEY RUVIN, CLERK OF THE BOARD

By: _____
Deputy Clerk

Approved as to form and
legal sufficiency:

By: _____
County Attorney

ATTEST:

CITY OF MIAMI BEACH
a municipal corporation

By: Robert Parcher
Robert Parcher
City Clerk

By: Matti H. Bower
Matti H. Bower
Mayor

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

City Attorney 4/16/09
Date

RESOLUTION NO. 2009-27070

A RESOLUTION OF THE MAYOR AND CITY COMMISION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A JOINT PARTICIPATION AGREEMENT WITH MIAMI-DADE COUNTY FOR THE CONSTRUCTION OF THE VENETIAN CAUSEWAY STREETSCAPE IMPROVEMENT PROJECT.

WHEREAS, Miami-Dade County (the County), through its Public Works Department, is managing the Venetian Causeway Streetscape Improvement Project (the Project), which will consist of roadway improvements to include sidewalks, stormwater improvements, curb and gutters, raised landscape medians, bike lanes, decorative roadway lighting, tree planting, signalization, pavement markings, signage, and other streetscape improvements; and

WHEREAS, in 1999, when the City General Obligation Bond (GO) was approved, an allocation, in the amount of $1,827,000, was included for streetscape improvements for the Venetian Causeway, from the City limits to Dade Boulevard; and

WHEREAS, Resolution No. 2005-26020, dated October 19, 2005, approved an Interlocal agreement (ILA) between the City and the County, which delineated the parties respective rights in the implementation of the planning, design, and construction of the Project, including the City's contribution of $180,000 for design costs; and

WHEREAS, the Project is at the 100% design level and the estimated construction cost is $7,868,688, which will be funded with County, City of Miami, and City funds, as well as with Federal funding; and

WHEREAS, the City is the recipient of $1,000,000 in Federal Transportation Enhancement Program (TEP) funds for the Project, which the City has agreed to pass through to the County for the Project; and

WHEREAS, the City is required to enter into a Joint Participation Agreement (JPA) with the County for the City's contribution for construction costs of the Project, in the amount of $2,564,179; of this contribution, $1,000,000 is from TEP Funds and $1,564,179 is from the balance of 1999 GO Bond funds; and

WHEREAS, the Administration would recommend that the Mayor and City Commission approve the attached Joint Participation Agreement (JPA) with Miami-Dade County for the Venetian Causeway Streetscape Improvements Project.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA that the Mayor and City Commission hereby approve and authorize the Mayor and City Clerk to execute a Joint Participation Agreement (JPA) with Miami-Dade County (MDC) for the construction of the Venetian Causeway Streetscape Improvement Project.

PASSED AND ADOPTED this 13th day of May, 2009.

ATTEST:

Robert Parcher

CITY CLERK
Robert Parcher

Matti H. Bower

MAYOR
Matti Herrera Bower

T:\AGENDA\2009\May 13\Consent\Venetian JPA Reso.doc

APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION

12

5/22/09

City Attorney Date