

Memorandum



Date: October 23, 2018

To: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Agenda Item No. 8(N)(4)

Subject: Joint Participation Agreement Between Miami-Dade County and the Village of Palmetto Bay to Provide Miami Dade County with Funding in an Amount up to \$400,000.00 for the Construction of a Roadway Improvement Project Along SW 136 Street from US-1 to Old Cutler Road

RECOMMENDATION

It is recommended that the Board of County Commissioners (Board) approve the attached resolution authorizing the execution of a Joint Participation Agreement (JPA) between Miami-Dade County (County) and the Village of Palmetto Bay to provide the County with funding in an amount up to \$400,000.00 for the construction of a roadway improvement project along SW 136 Street from US-1 to Old Cutler Road (Project).

SCOPE

The Project is located within the Village of Palmetto Bay and the Village of Pinecrest, located in County Commission District 8, represented by Daniella Levine Cava and Commission District 7, represented by Xavier L. Suarez respectively.

FISCAL IMPACT

The construction cost estimate for the Project is \$1,700,345.00. The Village of Palmetto Bay will provide funding in an amount up to \$400,000.00 for the Project. The balance of the Project's construction costs will be provided by the Village of Pinecrest (\$300,345.00) and the Florida Department of Transportation (FDOT) (\$1,000,000.00). A JPA with the Village of Pinecrest and a Local Agency Program Agreement with FDOT are being presented for approval by the BCC under separate resolutions.

TRACK RECORD/MONITOR

The Project will be assigned to Rene Idarraga, P.E., Chief, Construction Division, Miami-Dade County Department of Transportation and Public Works, who will oversee inspections conducted by staff.

BACKGROUND

The Village of Palmetto Bay, the Village of Pinecrest, and the County have been working on the concept of providing bicycle facilities on SW 136 Street from US-1 to Old Cutler Road. The Project provides east-west connectivity for bicycle mobility, connecting the South Dade Busway bicycle facility, with the Old Cutler Trail bicycle facility. The Village of Palmetto Bay is providing the design of the Project at its sole expense.

On April 19, 2017, the Village Council of Palmetto Bay adopted Resolution No. 2017-47 authorizing the Village Manager to enter into a JPA with the County for the Project. The County will implement a Public Involvement Plan (PIP) during the construction of the Project to provide information to property owners, tenants, and area residents for major work to be performed in the area. Construction is tentatively scheduled to commence in July 2020.


Alina T. Hudak
Deputy Mayor

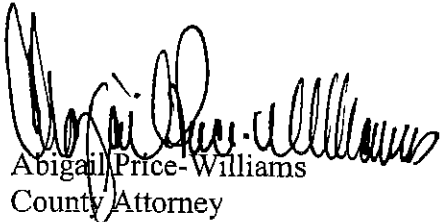


MEMORANDUM

(Revised)

TO: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

DATE: October 23, 2018

FROM: 
Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 8(N)(4)

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
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor'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(N)(4)
10-23-18

RESOLUTION NO. _____

RESOLUTION APPROVING A JOINT PARTICIPATION AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE VILLAGE OF PALMETTO BAY TO PROVIDE THE COUNTY WITH FUNDING IN AN AMOUNT UP TO \$400,000.00 FOR THE CONSTRUCTION OF A ROADWAY IMPROVEMENT PROJECT ALONG SW 136 STREET FROM US-1 TO OLD CUTLER ROAD; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THE SAME AND EXERCISE THE PROVISIONS CONTAINED 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 Village of Palmetto Bay and Miami-Dade County wish to facilitate a roadway improvement project along SW 136 Street from US-1 to Old Cutler Road,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board approves a Joint Participation Agreement between Miami-Dade County and the Village of Palmetto Bay to provide the County with funding in an amount up to \$400,000.00 for the construction of a roadway improvement project along SW 136 Street from US-1 to Old Cutler Road, in substantially the form attached hereto and made a part hereof; and authorizes 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. This Resolution, and the authorization contained herein, is expressly conditioned on the County receiving all necessary approvals for additional funding as identified in the Mayor's Memorandum.

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:

- | | |
|-------------------------------------|----------------------|
| Esteban L. Bovo, Jr., Chairman | |
| Audrey M. Edmonson, Vice Chairwoman | |
| Daniella Levine Cava | Jose "Pepe" Diaz |
| Sally A. Heyman | Eileen Higgins |
| Barbara J. Jordan | Joe A. Martinez |
| Jean Monestime | Dennis C. Moss |
| Rebeca Sosa | Sen. Javier D. Souto |
| Xavier L. Suarez | |

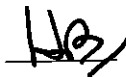
The Chairperson thereupon declared the resolution duly passed and adopted this 23rd day of October, 2018. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

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.



Hugo Benitez

**JOINT PARTICIPATION AGREEMENT
BETWEEN THE VILLAGE OF PALMETTO BAY AND MIAMI-DADE COUNTY
SW 136 STREET FROM US-1 TO OLD CUTLER ROAD**

This AGREEMENT made and entered into this ___ day of _____, 2018, by and between the VILLAGE OF PALMETTO BAY, FLORIDA, a municipal corporation of the STATE OF FLORIDA, hereinafter referred to as the "Village", 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 a roadway improvement project in MIAMI-DADE COUNTY, hereinafter referred to as the "Project" described as follows:

Construction of bicycle facilities along SW 136 Street from US-1 to Old Cutler Road; and

WHEREAS, the Village wishes to utilize the resources of the County to contract and construct 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. RESPONSIBILITIES OF VILLAGE:

1.1. Design: The Village will secure at its sole expense after the County's execution of this Agreement a qualified firm to provide engineering design and consulting services to develop the construction plans, technical specifications, special provisions, pay items and cost estimates for the Project in accordance with

standard Florida Department of Transportation, County, and/or Village, as applicable, design criteria, to the satisfaction of the County Department of Transportation and Public Works Director. The Village's design consultant shall be made available to County at the Village's expense solely to review shop drawings and perform required post-design services, limited to Project design. The County agrees that the selection, retention and discharge of the design consultant shall be the responsibility of the Village in accordance with applicable laws and Village procedures.

1.2. Financial Provisions – Construction: The Project's construction is currently estimated to cost \$1,700,345.00 (this amount includes a 10% contingency). Subject to the provisions of Section 2.4 of this Agreement, the Village agrees that it will, no later than fourteen (14) calendar days after the County's approval of the contract award recommendation, disburse to the County funding in the amount of FOUR HUNDRED THOUSAND DOLLARS (\$400,000.00) for payment of the Village's share of the estimated construction cost. The County may utilize these funds for payment towards the costs of Project construction. The Village shall incur no liability for any costs in excess of said funding amount unless there has been a duly authorized increase approved by the Village Council. The County shall not be obligated to commence work if the Village's share of the construction cost is in excess of said funding amount. If the bid amount exceeds the current estimated cost of the Project, the County reserves the right to reject all bids and rebid.

The County intends to have its final and complete accounting of all costs incurred in connection with the Village's portion of the work performed hereunder within one hundred eighty (180) calendar days of final payment of construction costs. All construction cost records and accounts shall be subject to audit by a representative of the Village for a period of three (3) years after final close out of the construction. The Village will be notified of the final cost. Both parties agree that in the event final accounting of the total construction costs pursuant to the terms of this agreement is less than the total deposit to date, a refund of the excess will be made by the County to the Village. If the final accounting is not performed within one hundred eighty (180) calendar days, the County is not relieved from its obligation to pay.

1.3. Project Cost Adjustment: The amount contributed by the Village is based on the current estimated costs of the Project. The parties recognize that adjustments to the above referenced cost may be required in the future and that at the options of the parties, amendments may be entered into to revise the funds available for the Project. Provided that there is no increase in the amount of Village funds required as stated in Section 1.2, Amendments may be executed by the Village Manager and the County Mayor or County Mayor's designee without the need for approval by the Village Council and County Commission. Otherwise, further funding commitments shall be subject to the approvals of the parties' respective governing boards.

1.4. Permits and Approvals: During the course of the design, the Village shall obtain all necessary permits, and utility adjustments; and coordinate the review of

construction documents by utilities and permitting agencies. The Village shall make all necessary adjustments as required for approval and/or permitting by those agencies. The Village shall obtain all necessary permits, and utility adjustments for the Project in accordance with applicable state, federal and local laws and ordinances. The Village shall not pay for any permits required by the Miami-Dade County Department of Transportation and Public Works.

2. RESPONSIBILITIES OF COUNTY:

2.1. Public Information and Involvement: The County will implement a Public Involvement Plan (PIP) during the construction of the Project to provide information to property owners, tenants, and area residents, including but not limited to: public meetings, Project documentation and flyers, business signs, directional parking signs, and schedules for major work to be performed in the area. Appropriate investigation of the Project stakeholders will be used to develop the goals and objectives to implement the PIP.

2.2. Publicity: By the acceptance of these funds, the County agrees that the activities funded by this Agreement shall recognize and adequately reference the Village as a funding source.

2.3. 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 Village, at the request and cost of the Village. The County agrees to permit the Village auditors to inspect the books, records and accounts of the Project for three (3) years after completion of the Project. These records shall be made available to the Village for inspection within five (5) business days upon written

receipt of a written request from the Village.

2.4. Construction: The County shall procure the services of a licensed contractor holding and engineering contractor's license to construct the Project. The County may award the contract through any available lawful means which, in the County's discretion, affords the most competitive price for construction of the Project and which may include, but is not limited to, bid solicitation, request for proposals, the award of a change order on existing County contract(s), or the extension of unit-prices provided in connection with prior competitive bid awards. Notwithstanding any provision to the contrary, the County shall comply with all applicable County contract compliance and oversight measures.

The construction contract shall also contain a requirement that the contractor(s) provide a payment and performance bond at least in the amount and form required by state law naming the Village and the County as joint obligees or joint contracting public entities. The construction contract shall contain a contingency amount to address unforeseen conditions and other required changes which shall not exceed ten percent (10%) of the base amount of the contract.

The Village agrees that the selection, retention and discharge of such contractor shall be the responsibility of the County.

2.5. Claims and Change Orders: The County shall notify the Village's Public Works Director in writing when claims or change orders arise. The County shall also invite the Village to participate in negotiations of these claims and change orders. The Village 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 within ten (10) calendar days.

2.6. Construction Administration and Inspection: The County shall exercise all responsibilities of the owner under the construction contract, including construction administration and inspections. The County may delegate this function to an authorized agent or Construction Engineering Inspection (CEI) consultant. The Village's inspector or a consultant of the Village shall have an oversight role in the routine daily inspections for the Project. In the case of a disagreement over the interpretation of the plans, the County's Department of Transportation and Public Works Director, or their designee, shall have final authority. The Village's designated representative and the County's designated representative shall jointly perform the inspection of the Project which immediately precedes substantial completion.

2.7. Right-of-Way: The County shall acquire at its sole expense, any right-of-way that is required to complete the construction of the Project.

2.8. Maintenance: The County shall be solely responsible for maintenance upon completion of construction.

2.9. Coordination with Miami-Dade County Public Schools: Due to potential safety, operational and bus transportation impacts, the County shall coordinate with Miami-Dade Public Schools staff to implement maintenance of traffic measures.

3. 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.

4. **PROJECT SIGNAGE**: The County shall furnish and install a Project sign in each direction of traffic indicating that this project is being funded in coordination with the Village, in proximity to the start/end of the Project limits. Should Maintenance of Traffic (MOT) signage be required as part of the work, the Project sign shall be placed an appropriate distance before the MOT signage range. The Project signs shall remain in place for the duration of the work or as directed by the Project engineer.
5. **INDEMNIFICATION**: To the extent authorized by Florida law, the Village 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 Village, 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 Village to the extent of all the limitations included in 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 Village for its sole negligence or breach of contract.

In the event of breach or non-performance by the persons selected by the County to perform the work, the County shall, upon written request by the Village, assign to the Village any and all of its rights under the affected contract for purposes of the Village's prosecution of claims, actions or causes of action resulting from such breach or non-performance unless the County pursues such claims, actions or causes of action through arbitration, administrative proceeding or lawsuit. The County agrees to cooperate fully with the Village in the prosecution of any such claim or action. Any damage recovered by the Village which is attributable to an expenditure by the County shall be returned to the County by the Village, within sixty (60) business days of receipt.

6. 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. Each party will bear its own attorney's fees.

7. 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.

8. **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.
9. **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 Village or County elect to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) business days after the finding by the court becomes final.

10. 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: Department of Transportation and Public Works
c/o Director
Miami-Dade County
701 NW 1 Court, Suite 1700
Miami, Florida 33136
(786) 469-5406

To the Village:

Attention: Edward Silva
Village Manager
Village of Palmetto Bay
9705 East Hibiscus Street
Palmetto Bay, Florida 33157
(305) 259-1234

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 County Mayor's Designee

Approved by County Attorney
as to form and legal sufficiency

County Attorney

ATTEST:

BY: 
Missy Arocha
Village Clerk

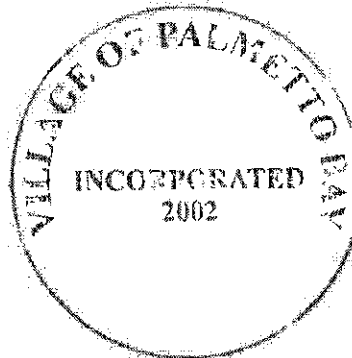
VILLAGE OF PALMETTO BAY, a municipal
corporation of the State of Florida

BY: 
Edward Silva
Village Manager

(Affix Village Seal)

Approved by Village Attorney
as to legal form and correctness


Village Attorney



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2
3 **RESOLUTION NO. 2017-47**

4 **A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF**
5 **THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO**
6 **JOINT PARTICIPATION AGREEMENT (JPA) BETWEEN MIAMI-**
7 **DADE COUNTY AND THE VILLAGE OF PALMETTO BAY FOR**
8 **DESIGN AND CONSTRUCTION OF BIKE LANE IMPROVEMENTS**
9 **ON SW 136TH STREET FROM US-1 TO OLD CUTLER ROAD;**
10 **FURTHER AUTHORIZING THE VILLAGE MANAGER TO ENTER**
11 **INTO AND EXECUTE A JPA WITH MIAMI DADE COUNTY TO**
12 **PROVIDE LIMITED FUNDING IN THE AMOUNT OF \$100,000**
13 **TOWARDS THE DESIGN AND \$400,000 TOWARDS THE**
14 **CONSTRUCTION OF THIS PROJECT FOR A MAXIMUM**
15 **COMMITMENT OF \$500,000; AND PROVIDING FOR AN**
16 **EFFECTIVE (Sponsored by Administration)**

17 **WHEREAS**, Miami-Dade County (the "County") and the Village of Palmetto Bay (the
18 "Village") both desire to facilitate the design of bike lane improvements on SW 136th St from
19 US-1 to Old Cutler Road; and

20
21 **WHEREAS**, development of bike lanes on SW 136th ST will create safe pedestrian-
22 friendly environment and convenient non-motorized travel and improve the appearance of the
23 street, while providing connectivity to transit infrastructure at the busway and bike connectivity
24 to the Old Cutler Path; and

25
26 **WHEREAS**, in order to fund the design of the bike lane improvements, the Village
27 needs to utilize resources of the County to prepare the final design of the SW 136th bike lane
28 project for construction purposes; and

29
30 **WHEREAS**, the Village agrees to provide supplemental funding to the County in an
31 amount of up to \$100,000 and enter into the SW 136th Street Bike Lane Improvement Joint
32 Participation Agreement; and

33
34 **WHEREAS**, the remainder of the \$500,000 will be provided once the design has been
35 approved by the Village Council; and

36
37 **WHEREAS**, the Village Council finds that this Resolution is in the best interest and
38 welfare of the residents of the Village.

39
40 **NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND VILLAGE**
41 **COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:**

42
43 **Section 1. Recitals.** The above recitals are true and correct and are incorporated
44 herein by this reference.

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46 **Section 2. Authorization of the Village Manager.** The Village Manager is
47 authorized to take all action necessary to enter into the SW 136th Street Bike Lane

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Improvement Joint Participation Agreement, subject to the terms and conditions negotiated between both parties prior to disbursement of funds to the County.

Section 3. This Resolution shall take effect immediately upon adoption by the Village Council.

PASSED AND ADOPTED this 19th day of April, 2017.

Attest:

DocuSigned by:
Missy Arocha
Missy Arocha
Village Clerk

DocuSigned by:
Eugene Flinn
Eugene Flinn
Mayor

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE VILLAGE OF PALMETTO BAY, FLORIDA ONLY:

DocuSigned by:
Dexter W. Lehtinen
Dexter W. Lehtinen
Village Attorney

FINAL VOTE AT ADOPTION:

- Council Member Karyn Cunningham YES
- Council Member David Singer YES
- Council Member Larissa Siegel Lara YES
- Vice-Mayor John DuBois NO
- Mayor Eugene Flinn YES

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