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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Agenda Item No. 9(A)(1)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: March 5, 2013

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

SUBJECT: Resolution approving settlement of claims relating to Miami-Dade County's Single Family Home Rehabilitation Loan Program and Butler family's home and authorizing the County Mayor to execute settlement agreement under which County payments total $100,000.00
Resolution No. R-171-13

The accompanying resolution was prepared by the Community Action and Human Services Department and placed on the agenda at the request of Prime Sponsor Commissioner Dennis C. Moss.

R. A. Cuevas, Jr.
County Attorney

RAC/cp

Memorandum

MIAMI-DADE COUNTY

Date: March 5, 2013

To: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Settlement with Sheila Butler and Family relating to the Miami-Dade County's Single Family Rehabilitation Loan Program in the amount of $100,000

RECOMMENDATION

It is recommended that the Board of County Commissioners (Board) approve the attached Settlement Agreement with Ms. Sheila Butler ("Ms. Butler") and her family resolving claims pursuant to Ms. Butler's participation in the Single Family Home Rehabilitation Loan Program administered by the Miami-Dade County Community Action and Human Services Department (CAHSD).

SCOPE

Ms. Butler's property is located in Commission District 9.

FISCAL IMPACT/FUNDING SOURCE

The fiscal impact to the County of $100,000 shall be paid from the General Fund.

TRACK RECORD/MONITOR

The person responsible for assuring that all home rehabilitation performance benchmarks pursuant to the settlement agreement are met and payments are disbursed in accordance with the settlement agreement is Alfredo Rodriguez, Division Director, Community Action and Human Services Department.

BACKGROUND

Ms. Butler is a participant in CAHSD's Single Family Home Rehabilitation Loan Program. The program provides eligible participants loans for home rehabilitation through its partnership with the Miami-Dade County Public Housing and Community Development Department. In 2006 and 2007, Ms. Butler, as well as her husband Herbert L. Butler, and children Shanese, Elease and Herbert L. Butler, Jr., signed promissory notes for loans totaling $56,100 of which a total of approximately $38,766.38 was ultimately disbursed.

Ms. Butler claims the County staff inspector responsible at the time for oversight of the rehabilitation of her property, essentially told her to select a contractor, Top Construction, Inc., and allowed the repair work to proceed without verifying that all of the required permits were obtained. The contractor was paid loan funds totaling approximately $38,766.38 despite having failed to meet the home's rehabilitation benchmarks. Rehabilitation work on the home remains unfinished and the home has been uninhabitable since repair work began October 2006. The County staff inspector involved separated from the County in June 2007, and it should be noted he passed away in January 2011. The contractor, Top Construction, Inc., is no longer used by CAHSD in the Single Family Rehabilitation Loan Program.

Upon execution of the Settlement Agreement, Ms. Sheila Butler, Mr. Herbert L. Butler, Ms. Elease Butler, and Ms. Shanese Butler will release Miami-Dade County of any liability relating to the property and participation in the home rehabilitation loan program.

It was determined after pre-suit settlement discussions that a total amount of $78,438 should be allocated as a settlement to rehabilitate Ms. Butler's property, as well as a total of $20,062 for rent, based on $750 per month for approximately 26 months, and $1,500 for attorney's fees to Ms. Butler, thereby comprising a total settlement amount of $100,000, which shall not be a loan.

Additionally, the County will release Ms. Butler of her obligation to pay Miami Dade Citation 2010-B093976 in the amount of $720 and reduce the amount owed under Miami Dade Citation T010950 from $1,235.35 to $1,048.50. However, any other fines, tickets, sanctions, or causes of action arising out of or relating to the property are Ms. Butler's sole responsibility.

In accordance with the attached Settlement Agreement, the County will not recommend or select a contractor for Ms. Butler. Rehabilitation of the property will be performed at Ms. Butler's direction and monitored and approved by both the CAHSD and the Miami-Dade County Regulatory and Economic Resources Department ("RER"). CAHSD will ensure that the performance benchmarks outlined in the Settlement Agreement have been completed and are in compliance with all applicable building codes prior to payment. The Butler family shall remain obligated pursuant to the terms of their outstanding County loan documents, but the period of time Ms. Butler has lived outside the subject Property since execution of the aforementioned three sets of loan documents shall not count against the time frames noted in those loan documents for forgiveness and/or deferral of repayment if Ms. Butler: (1) begins rehabilitation of the subject property in good faith within 30 days of receipt of the first payment made under the Settlement Agreement, (2) complies with County monitoring as described above, (3) completes rehabilitation in good faith within 180 calendar days of receipt of the first settlement payment, (4) obtains a certificate of occupancy, and (5) thereafter resides in the Property for the remainder of the loan forgiveness and repayment deferral periods. As part of the Agreement, both parties expressly deny any liability to the other.

CAHSD has implemented aggressive verification processes to prevent contractors who fail to obtain proper permits from commencing work at program participants' homes and/or contractors who fail to meet projects' benchmarks from collecting payment. For example, CAHSD has developed and implemented policies and procedures outlining processes for verifying that required permits have been obtained from the appropriate entity (i.e., County or Municipality) and defining how and when respective contractors are eligible for payment.

Additionally, dedicated staff is assigned to each project and is responsible for ensuring that contractors meet performance benchmarks within the project's prescribed time frames. Further, supervisory approval is required prior to the processing and disbursement of contractor payments.

Attachment

Russell Benford
Deputy Mayor

MEMORANDUM
(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: March 5, 2013

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

SUBJECT: Agenda Item No. 9(A)(1)

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 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. 9(A)(1)
3-5-13

RESOLUTION NO. R-171-13

RESOLUTION APPROVING SETTLEMENT OF CLAIMS RELATING TO MIAMI-DADE COUNTY'S SINGLE FAMILY HOME REHABILITATION LOAN PROGRAM AND BUTLER FAMILY'S HOME AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SETTLEMENT AGREEMENT UNDER WHICH COUNTY PAYMENTS TOTAL $100,000.00

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

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that the County Mayor or County Mayor's designee is authorized to enter into a settlement agreement for $100,000.00 between Miami-Dade County and Sheila Butler, Herbert L. Butler, Elease Butler, and Shanese Butler, attached as Exhibit A, relating to the rehabilitation of the Butlers' home through the County's single family home rehabilitation loan program.

The foregoing resolution was offered by Commissioner **Lynda Bell**, who moved its adoption. The motion was seconded by Commissioner **Esteban L. Bovo, Jr.** and upon being put to a vote, the vote was as follows:

Rebeca Sosa, Chairwoman			**aye**
Lynda Bell, Vice Chair			**aye**
Bruno A. Barreiro	**aye**	Esteban L. Bovo, Jr.	**aye**
Jose "Pepe" Diaz	**absent**	Audrey M. Edmonson	**aye**
Sally A. Heyman	**absent**	Barbara J. Jordan	**aye**
Jean Monestime	**aye**	Dennis C. Moss	**aye**
Sen. Javier D. Souto	**aye**	Xavier L. Suarez	**aye**
Juan C. Zapata	**aye**		

The Chairperson thereupon declared the resolution duly passed and adopted this 5th day of March, 2013. 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

By: Christopher Agrippa
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Estephanie S. Resnik

SETTLEMENT AGREEMENT

This SETTLEMENT AGREEMENT (the "Agreement") is entered into as of this ___ day of _____ 2012 (the "Effective Date") by MIAMI-DADE COUNTY (the "County") and Sheila E. Butler, Herbert L. Butler, Shanese Butler, and Elease Butler ("Claimant"), (collectively the County and Claimant shall be referred to as the "Parties").

WHEREAS, Claimant is a participant in the County's home rehabilitation loan program, administered by the Miami-Dade Community Action and Human Services Department (formerly known as the Miami-Dade Community Action Agency); and

WHEREAS, as of the Effective Date of this Agreement, rehabilitation work is unfinished on Claimant's Property, located at 10311 SW 183rd Street, Miami, Florida 33157, legally described in Exhibit "A" hereto (the "Property"); and

WHEREAS, the County and Claimant have engaged in settlement discussions regarding rehabilitation of the Property; and

WHEREAS, the Parties desire to amicably resolve and settle all disputes, claims, controversies, and differences between or amongst each other; and

WHEREAS, the Parties expressly deny any liability to the other Parties,

NOW THEREFORE, in consideration and reliance upon the covenants undertaken herein by the Parties including the whereas clauses set forth above, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. The County will pay Sheila E. Butler ("Ms. Butler") the total amount of $78,438 with which to rehabilitate the Property at 10311 SW 183rd St., Miami, Florida 33157. Of this $78,438, the County will pay the first half, $39,219, after approval of this Agreement by the Board of Miami-Dade County Commissioners and signature of this Agreement by the Mayor or Mayor's designee. Ms. Butler must complete the entire rehabilitation of the Property and present the County with a certificate of occupancy for the Property within 180 calendar days of receiving this $39,219 lump sum amount from the County.

2. The County will pay the remaining $39,219 in four installments after completion of each of the following construction phases, which must be performed at Ms. Butler's direction and monitored and approved by both the Miami-Dade Community Action and Human Services Department and the Miami-Dade Permitting, Environment and Regulation Affairs Department, now known as the Regulatory and Economic Resources Department:

(1) Structural $5,869.35

(2) Plumbing $7,825.80

(3) Electrical $7,825.80

(4) Punch List and Certificate of Occupancy $17,698.05

Ms. Butler must present the County with a certificate of occupancy for the subject property in order to receive this last installment.

3. Ms. Butler will be solely responsible for all repairs done to the Property, and the County will play no role whatsoever in such work except to monitor rehabilitation progress prior to making payments as described above. Further, the County reserves all its rights as a regulatory government and cannot make any representations, promises or compromises as to its regulatory duties (such as permitting, inspecting, building code compliance, code enforcement, etc.).

4. The County shall pay $1,500 for attorney's fees to Ms. Butler for this matter, to be disbursed with the first rehabilitation installment following approval by the Board of Miami-Dade County Commissioners and signature of this Agreement by the Mayor or Mayor's designee.

5. The County will pay Ms. Butler a total of $20,062 for rent, based on $750 per month for approximately 26 months. The County will pay this $20,062 in rent only after Ms. Butler presents the County with a copy of a certificate of occupancy for the Property upon completion of rehabilitation.

6. The County's Public Works and Waste Management Department will release Ms. Butler of her obligation to pay the amount of $720.00 pursuant to Citation Number 2010-B093976.

7. The County's Permitting Environment and Regulatory Affairs Department, now known as the Regulatory and Economic Resources Department, will reduce Ms. Butler's $1,235.35 lien pursuant to Citation T010950 to $1,048.50, thereby reducing her obligation to pay to $1,048.50.

8. Any other fines, tickets, sanctions or causes of action arising out of or relating to the subject property are Ms. Butler's sole responsibility.

9. The $78,438 for rehabilitation plus $20,062 for rent plus $1,500 for attorney's fees, totaling $100,000, shall constitute settlement payments to be disbursed to Ms. Sheila E. Butler as described above and shall not constitute loans.

10. Immediately upon the Effective Date of this Agreement, Claimant, individually and collectively, agrees to release Miami-Dade County of any and all potential liability relating to this Agreement.

SHEILA E. BUTLER, for SHEILA E. BUTLER'S self, heirs, executors, administrators, successors and assigns, hereby remises, releases, acquits, satisfies and forever discharges MIAMI-DADE COUNTY, together with MIAMI-DADE COUNTY'S directors, officers, attorneys, employees, agents, insurers, successors and assigns, of and from all manner of action and actions, cause and causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialities, covenants, contracts, controversies, agreements, promises, variances, trespasses, attorneys' fees, costs, judgments, executions, claims, damages, and demands whatsoever, in law or in equity, which SHEILA E. BUTLER ever had, now has, or may have against MIAMI-DADE COUNTY, arising from or in connection to the Property and the Miami-Dade Community Action and Human Services Department's home rehabilitation loan program.

HERBERT L. BUTLER, for HERBERT L. BUTLER's self, heirs, executors, administrators, successors and assigns, hereby remises, releases, acquits, satisfies and forever discharges MIAMI-DADE COUNTY, together with MIAMI-DADE COUNTY'S directors, officers, attorneys, employees, agents, insurers, successors and assigns, of and from all manner of action and actions, cause and causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialities, covenants, contracts, controversies, agreements, promises, variances, trespasses, attorneys' fees, costs, judgments, executions, claims, damages, and demands whatsoever, in law or in equity, which HERBERT L. BUTLER ever had, now has, or may have against MIAMI-DADE COUNTY, arising from or in connection to the Property and the Miami-Dade Community Action and Human Services Department's home rehabilitation loan program.

SHANESE BUTLER, for SHANESE BUTLER'S self, heirs, executors, administrators, successors and assigns, hereby remises, releases, acquits, satisfies and forever discharges MIAMI-DADE COUNTY, together with MIAMI-DADE COUNTY'S directors, officers, attorneys, employees, agents, insurers, successors and assigns, of and from all manner of action and actions, cause and causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialities, covenants, contracts, controversies, agreements, promises, variances, trespasses, attorneys' fees, costs, judgments, executions, claims, damages, and demands whatsoever, in law or in equity, which SHANESE BUTLER ever had, now has, or may have against MIAMI-DADE COUNTY, arising from or in connection to the Property and the Miami-Dade Community Action and Human Services Department's home rehabilitation loan program.

ELEASE BUTLER, for ELEASE BUTLER'S self, heirs, executors, administrators, successors and assigns, hereby remises, releases, acquits, satisfies and forever discharges MIAMI-DADE COUNTY, together with MIAMI-DADE COUNTY'S directors, officers, attorneys, employees, agents, insurers, successors and assigns, of and from all manner of action and actions, cause and causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialities, covenants, contracts, controversies, agreements, promises, variances, trespasses, attorneys' fees, costs, judgments, executions, claims, damages, and demands whatsoever, in law or in equity, which ELEASE BUTLER ever had, now has, or may have against MIAMI-DADE COUNTY, arising from or in connection to the Property and the Miami-Dade Community Action and Human Services Department's home rehabilitation loan program.

11. Ms. Butler shall sign any forms or documents deemed necessary by the County to reduce fines as described above and disburse settlement funds.

12. Claimant, individually and collectively, shall remain obligated to the County for any amounts previously disbursed under the terms pursuant to any outstanding loan documents or obligations, including but not limited to the following: (1) promissory note executed October 5, 2006, in the amount of $34,000.00 which is secured by a mortgage recorded at Book 25060 Page 0303-309, of which $34,000.00 was disbursed; (2) promissory note executed March 14, 2007, in the amount of $17,100.00 which is secured by a mortgage recorded at Book 25556 Page 1243-1252, of which $2,766.38 was disbursed; and (3) promissory note executed October 5, 2006, in the amount of $5,000.00 which is secured by a mortgage recorded at Book 25047 Page 1405-1413, of which $2,000.00 was disbursed. The period of time Ms. Butler has lived outside the subject Property since execution of the aforementioned three sets of loan documents shall not count against the time frames noted in those loan documents for forgiveness and/or deferral of repayment if Ms. Butler begins rehabilitation of the subject property in good faith within 30 days of receipt of the first payment made under this Agreement, complies with County monitoring as

described above, completes rehabilitation in good faith within 180 calendar days of receipt of the first settlement payment as noted above, obtains a certificate of occupancy, and thereafter resides in the Property for the remainder of the loan forgiveness and repayment deferral periods.

13. This Agreement and the Parties' obligations hereunder are expressly contingent upon the final approval of this Agreement by the Board of Miami-Dade County Commissioners ("the Board"), which shall be within the Board's sole discretion. If the Board, in its sole discretion, does not approve of the Agreement, this Agreement shall be null and void. Claimant understands that such approval is an express contingency to the settlement of this matter. In the event the Board does not approve this Agreement, the Parties agree this Agreement and related negotiations are not admissible in court.

14. The Effective Date of this Agreement shall be the date upon which the Mayor or the Mayor's designee executes same, following approval by the Board of Miami-Dade County Commissioners.

15. The Parties warrant that (i) they have executed this Agreement with full knowledge of their rights; (ii) they have had the opportunity to receive independent legal advice from their attorneys if desired with respect to the matters herein set forth and the rights and asserted rights arising out of said matters; and (iii) they have not relied on any statements or representations (other than representations set forth in this Agreement) by any other Party or its representatives.

16. This Agreement shall be governed by, construed and interpreted in accordance with the laws of the State of Florida.

17. The Parties agree that any dispute arising out of, or associated with, this Agreement shall be litigated in and only in Miami-Dade County, Florida, United States of America.

18. No waiver or modification shall be binding unless executed in writing by all Parties.

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19. The Parties agree this Agreement shall not be construed against the drafter, and this Agreement shall be construed as a whole according to the fair meaning and not for or against any party.

20. This Agreement constitutes the entire, integrated agreement made by and among the Parties. This Agreement fully supersedes any and all prior or contemporaneous understandings, representations, warranties, and agreements, pertaining to the subject matter hereof.

21. Each of the Parties hereto represents and warrants that it has full and complete authority to enter into and execute this Agreement under the terms set forth above, and subject to the contingencies set forth herein.

22. This Agreement may be executed and delivered in separate counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts together shall constitute but one and the same instrument and agreement.

THE REST OF THIS PAGE IS INTENTIONALLY LEFT BLANK. SIGNATURES BEGIN ON THE FOLLOWING PAGE.

For County:

By: _____
Signature

_____
Print name of County Mayor
or Mayor's Designee

_____
Date

ATTEST:

HARVEY RUVIN, CLERK

BY:

_____

_____
DEPUTY CLERK

_____
Date

For Claimant:

By: Sheila Butler
Signature

Sheila Butler
Print name of Sheila E. Butler

12/16/12
Date

By: Herbert L. Butler
Signature

12/16/12
Print name of Herbert L. Butler

Herbert L. Butler
Date

By: Shanese Butler
Signature

Shanese Butler
Print name of Shanese Butler

12/16/12
Date

By: Elease Butler
Signature

Elease Butler
Print name of Elease Butler

12/16/12
Date

EXHIBIT "A"
LEGAL DESCRIPTION

Folio: 30-5032-016-0650

Lot 9, Block 5, of Rose Haven, according to the Plat thereof,
as recorded in Plat Book 49-49 of the Public Records of Miami-Dade County, Florida.

ROSEHAVEN PB 49-49 LOT 9 BLK 5 LOT SIZE 75,000 X 140 OR 18799-4393 0799 4 OR 18799-4393 0799 01