

MEMORANDUM

Agenda Item No. 8(H)(1)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: July 19, 2022

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution approving an Interlocal Agreement between Miami-Dade County and the Florida Department of Transportation regarding the County's commitment to fulfill requirements related to the National Environmental Policy Act for the design and development of the Ludlam Trail; and authorizing the County Mayor to execute same and implement all provisions contained therein

The accompanying resolution was prepared by the Parks, Recreation and Open Spaces Department and placed on the agenda at the request of Prime Sponsor Commissioner Rebeca Sosa.



Geri Bonzon-Keenan
County Attorney


GBK/ks

Memorandum



Date: July 19, 2022

To: Honorable Chairman Jose “Pepe” Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava 
Mayor

Subject: Interlocal Agreement with the Florida Department of Transportation for Ludlam
Trail National Environmental Policy Act requirements

EXECUTIVE SUMMARY

The purpose of this item is to gain authorization by the Board of County Commissioners (Board) to enter into an Interlocal Agreement with the Florida Department of Transportation (FDOT) requiring the County to fulfill National Environmental Policy Act of 1969 (NEPA) requirements upon completion of the NEPA Project Development and Environment (PD&E) study for the Ludlam Trail project. Due to Federal and State funding awards, the Ludlam Trail project is required to fulfill NEPA requirements. These requirements include fulfillment of NEPA commitments related to environmental considerations and NEPA re-evaluations during the final design and construction phases.

RECOMMENDATION

It is recommended that the Board of County Commissioners approve the attached Interlocal Agreement (Attachment A) with FDOT for the Ludlam Trail project requiring the County to fulfill NEPA requirements upon completion of the NEPA PD&E study for the Ludlam Trail project and authorize the Mayor or Mayor’s Designee to execute the Interlocal Agreement.

SCOPE

The Ludlam Trail is primarily located in Commission District 6 represented by Commissioner Rebeca Sosa with a section located in Commission District 7 represented by Commissioner Raquel A. Regalado, respectively but it is an asset of countywide significance. Once fully constructed and operational, the Ludlam Trail will serve as a major component of the Miami-Dade County Parks and Open Space Master Plan Greenway System’s segment titled the Miami Loop, which envisions a connected system of publicly-accessible greenway trails including the Ludlam Trail, The Underline, Miami River Greenway and the Perimeter Trail.

BACKGROUND

The Ludlam Trail (Trail) is envisioned to be a shared-use pathway for bicycles, pedestrians, joggers and other non-motorized uses. The Trail will provide an alternative means of non-motorized transportation, recreational opportunities, and connections between residential areas and parks, schools, transit and areas of economic activity. The Trail will eventually connect from the Underline at the south end to the Perimeter Trail at Miami-International Airport at the north end. It is an integral component of the Miami Loop Greenway System which includes the Underline, Miami River Greenway, Perimeter Trail and the Ludlam Trail.

In December 2018, the County acquired significant sections of the Trail from 400 feet north of NW 7 Street to SW 80 Street. The acquisition was a combination of fee-simple ownership of a significant portion of the 100-foot wide trail (identified in the County’s Comprehensive Development Master

Plan as the Recreational Segments) and 18-foot-wide perpetual easements through three private development node areas at SW 8 Street, SW 24 Street and SW 40 Street. The acquisition is consistent with and supported by the County’s Corridor District zoning classification for the Ludlam Trail.

Pursuant to 23 United States Code (U.S.C.) 327 and a 2016 Memorandum of Understanding between the FDOT and the Federal Highway Administration (FHWS), the FDOT has assumed FHWA's responsibilities under the NEPA for Local Agency Program (LAP) transportation related projects. FDOT’s Office of Environment oversees environmental review, interagency consultation and other regulatory compliance-related actions pertaining to the review or approval of NEPA projects.

The County has received federal funds via grant awards, and State funds via grant awards and legislative allocations in support of planning, design and construction for the Ludlam Trail project. These funds are administered through the FDOT’s Local Agency Program and include certain requirements, including fulfillment satisfaction of NEPA. The County, through the Parks, Recreation and Open Spaces (PROS) Department has substantially completed a PD&E study per NEPA requirements. The PD&E study analyzed the proposed Ludlam Trail’s potential impacts to environmental, social, historical, recreational and other resources. Public engagement was conducted to receive public input for the project, including a public information meeting in November 2019 with over 400 attendees, and a public hearing in August 2021 with over 140 attendees. As a part of the PD&E, the County prepared a Categorical Exclusion Type II report to document the findings of the PD&E study.

FDOT has requested that the County execute the Interlocal Agreement, substantially in the form attached to the resolution, for the County’s commitment to complete the NEPA requirements and NEPA re-evaluations required during the design and construction phases of the Ludlam Trail project.

FISCAL IMPACT/FUNDING SOURCE

There is no fiscal impact to the County with respect to the execution of the Ludlam Trail Interlocal Agreement with the FDOT.

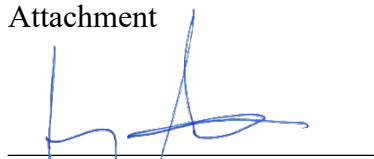
DELEGATED AUTHORITY

The County Mayor or Mayor’s designee is delegated the authority to execute and implement this Interlocal Agreement.

TRACK RECORD/MONITOR

This Interlocal Agreement will be tracked and monitored by Alissa Turtletaub, Park Planning Section Supervisor of the Parks, Recreation and Open Spaces Department.

Attachment



Jimmy Morales
Chief Operations Officer

ATTACHMENT A

AGREEMENT BETWEEN THE FLORIDA DEPARTMENT OF TRANSPORTATION AND MIAMI-DADE COUNTY, REGARDING LUDLAM TRAIL CORRIDOR (FROM SW 80TH STREET TO 400 FEET NORTH OF NW 7TH STREET AT APPROXIMATELY 68TH AVENUE)

WHEREAS, the purpose of this Agreement is to affirm the understanding between the Florida Department of Transportation (DEPARTMENT) and Miami-Dade County (COUNTY) regarding implementation of the Miami-Dade County Project Number 403502-19-001, FDOT Financial Project Identification Number 444236-1, and Efficient Transportation Decision Making (ETDM) Number 14369, Ludlam Trail Corridor from SW 80th Street to 400 feet North of NW 7th Street, in Miami-Dade County, Florida (PROJECT); and

WHEREAS, a Type 2 Categorical Exclusion (Type 2 CE) for the PROJECT is being conducted by the COUNTY, in coordination with the DEPARTMENT, which will contain certain commitments necessary for project implementation in compliance with the National Environmental Policy Act and associated state and federal laws; and

WHEREAS, a General Warranty Deed to the COUNTY from LR 13-18 LLC was executed on December 21, 2018 and recorded in Miami-Dade County's Official Records Book 31275, Pages 3522-3532 for COUNTY ownership of areas of the project corridor from SW 80th Street to between SW 12th Street (SOUTH TRAIL); and

WHEREAS, a Special Warranty Deed to the COUNTY from FECI LT1 LLC was executed on December 21, 2018 and recorded in Miami Dade County's Official Records Book 31275, Pages 3184-3189 for COUNTY ownership of the project corridor from SW 8th Street to 400 feet north of NW 7th Street (NORTH TRAIL); and

WHEREAS, the NORTH TRAIL and the SOUTH TRAIL, are referred to collectively herein as the TRAIL; and

WHEREAS, an Assignment and Assumption Agreement between Miami-Dade County and FECI LT1 LLC for the Interim Trail Use, extending between railroad mileposts LR 11+3989 and LR 13+0000, was executed on November 19, 2018 and recorded in Miami Dade County's Official Records Book 31307, Pages 1400-1413; and

WHEREAS, there are three privately-owned development nodes located within the PROJECT limits (hereinafter the Development Nodes) and the COUNTY has acquired perpetual access easements across these privately owned development nodes (Access Easements) for the purpose of providing a continuous trail from SW 80th Street to 400 feet North of NW 7th Street; and

WHEREAS, the Development Nodes are located at US 41 / SR 90 / SW 8th Street / Tamiami Trail / Calle Ocho to SW 12th Street; SW 24th Street / Coral Way; and SR 976 / SW 40th Street / Bird Road; and

WHEREAS, a Perpetual Easement Agreement for each development node has been recorded in the public records in favor of Miami-Dade County at Official Record Book 31275 at page 3324, Official Record Book 31275 at page 3818, Official Record Book 31275 at page 3855, and Official Record Book 31275 at page 3889, respectively; and

WHEREAS, the DEPARTMENT and the COUNTY are entering into this Agreement to ensure and memorialize the COUNTY's implementation of the commitments as contained in the final approved Type 2 CE for the PROJECT.

NOW, THEREFORE, BE IT RESOLVED THAT the DEPARTMENT and the COUNTY agree as follows:

1. The above-stated recitals are true and correct, and incorporated herein.
2. In conducting the PROJECT, the COUNTY will perform or cause to be performed all commitments contained in the final approved Type 2 CE in accordance with associated state and federal laws.
3. The COUNTY will prepare all National Environmental Policy Act (NEPA) Re-evaluations necessary to advance the PROJECT, as required by 23 C.F.R. §771.129 and the DEPARTMENT'S Project Development and Environment Manual (PD&E Manual), Effective July 1, 2020, as may be subsequently amended, and coordinate these NEPA Re-evaluations with the DEPARTMENT.
4. The COUNTY shall further be obligated to perform or cause to be performed any and all new project commitments that may arise from public involvement and/or be set forth in NEPA Re-evaluations.
5. The COUNTY shall comply or shall cause the compliance with all Federal and State law requirements applicable to the development of the PROJECT, including but not limited to, requirements pertaining to Final Design, NEPA Re-evaluations, Design Changes, Permitting, and ROW Acquisition. The COUNTY is not prohibited from seeking or obtaining state or federal grants, funding, or appropriations for the TRAIL.
6. The COUNTY shall not modify the Perpetual Easement Agreements identified above, prior to consulting with the DEPARTMENT to confirm any amendment continues to support the PROJECT.

7. Prior to the COUNTY advancing the PROJECT to construction, the COUNTY shall complete a re-evaluation to confirm the validity of the project findings, as well as to update any changes in existing conditions, applicable laws and/or commitments.
8. This Agreement and the related PD&E apply to the PROJECT, including those portions of the Development Nodes over which the COUNTY has obtained perpetual Access Easements to support the TRAIL.
9. This Agreement may be amended when such an amendment is agreed to in writing by all signatories. The DEPARTMENT and the COUNTY may hereafter enter into future agreement(s) concerning the PROJECT that may amend all or some of the terms of this Agreement. Such agreement(s) shall refer to this Agreement, and specifically state an intention to modify any of the terms of this Agreement.
10. This Agreement will become effective when all the parties have signed it. The date this agreement is signed by the last party to sign it (as indicated by the date associated with that party's signature) will be deemed the date of this agreement.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the dates exhibited, by the signatures below.

MIAMI-DADE COUNTY

**STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION**

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Attest: _____

Name: _____

Title: County Clerk

Approved as to form and legality:

Department Legal Review:

By: _____

Name: _____

Title: County Attorney



MEMORANDUM
(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: July 19, 2022

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 8(H)(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
- 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 present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) 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(H)(1)
7-19-22

RESOLUTION NO. _____

RESOLUTION APPROVING AN INTERLOCAL AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE FLORIDA DEPARTMENT OF TRANSPORTATION REGARDING THE COUNTY'S COMMITMENT TO FULFILL REQUIREMENTS RELATED TO THE NATIONAL ENVIRONMENTAL POLICY ACT FOR THE DESIGN AND DEVELOPMENT OF THE LUDLAM TRAIL; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SAME AND IMPLEMENT ALL PROVISIONS CONTAINED THEREIN

WHEREAS, this Board desires to accomplish the purpose outlined in the accompanying Interlocal Agreement, a copy of which is substantially incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. The recital clauses enumerated above are true and correct and are incorporated herein by reference.

Section 2. This Board approves the Interlocal Agreement between the County and the Florida Department of Transportation, in the form attached to the Mayor's memorandum as Attachment A, and authorizes and directs the County Mayor or County Mayor's designee to execute said Interlocal Agreement on behalf of Miami-Dade County, Florida and to implement all 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:

Jose "Pepe" Diaz, Chairman

Oliver G. Gilbert, III, Vice-Chairman

Sen. René García

Sally A. Heyman

Eileen Higgins

Kionne L. McGhee

Raquel A. Regalado

Sen. Javier D. Souto

Keon Hardemon

Danielle Cohen Higgins

Joe A. Martinez

Jean Monestime

Rebeca Sosa

The Chairperson thereupon declared this resolution duly passed and adopted this 19th day of July, 2022. 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.

MRP

Monica Rizo Perez