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

MEMORANDUM

Agenda Item No. 8(N)(1)

TO: Honorable Chairwoman Audrey M. Edmonson and Members, Board of County Commissioners

DATE: July 21, 2020

FROM: Abigail Price-Williams County Attorney

SUBJECT: Resolution approving a Joint Participation Agreement between Miami-Dade County and the Town of Cutler Bay to provide the Town of Cutler Bay with funding in an amount up to $8,889,159.00 for the design and construction of a roadway improvement project along Franjo Road from Old Cutler Road to SW 184 Street; and authorizing the County Mayor to execute the same and exercise the provisions contained therein

Resolution No. R-734-20

The accompanying resolution was prepared by the Transportation and Public Works Department and placed on the agenda at the request of Prime Sponsor Commissioner Daniella Levine Cava.

Abigail Price-Williams
County Attorney

APW/uw

Memorandum

Date: July 21, 2020

To: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Joint Participation Agreement Between Miami-Dade County and the Town of Cutler Bay to Provide the Town of Cutler Bay with Funding in an Amount up to $8,889,159 for the Design and Construction of a Roadway Improvement Project Along Franjo Road from Old Cutler Road to SW 184 Street

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 and the Town of Cutler Bay (Town) to reimburse the Town up to $8,889,159 for the design and construction of a roadway improvement project along Franjo Road from Old Cutler Road to SW 184 Street (Project).

Scope

The Project is within the Town, in District 8, represented by Commissioner Daniella Levine Cava.

Fiscal Impact/Funding Source

The County will provide up to $8,889,159 from Road Impact Fee District 6 funds. This project is included in the FY 2019-20 Adopted Budget and Multi-Year Capital Plan under project number 2000000540 (Site 3002527).

Track Record/Monitor

The County will utilize the resources of the Town to design, contract and construct the Project on a reimbursable basis. The design phase of the Project will be assigned to Leandro Oña, P.E., Chief, Highway Division, Department of Transportation and Public Works (DTPW), who will review the submission of design invoices provided by the Town. The construction phase of the Project will be assigned to Rene Idarraga, P.E., Chief, Construction Division, DTPW, who will oversee construction inspections conducted by DTPW staff before the release of construction funds is recommended.

Whenever County funds are used, the Town agrees to comply with applicable County regulations, including but not limited to, the Small Business Enterprise (SBE) Goods Program, the SBE Services Program, the SBE Architecture and Engineering Program, the SBE Construction Services Program, the Community Workforce Program (CWP), the Resident First Training and Employment Program (RFTE) and the Responsible Wages and Benefits Ordinance, Sec. 2-11.16 of the County Code.

The work covered under this JPA has been reviewed by the County's Small Business Development Division. A Contract Measure Recommendation of 34.16 percent SBE Architectural and

Engineering, 13.11 percent SBE Construction and 4 percent SBE Services was established.

Background

The Town has been working to provide its major corridors with multimodal capacity improvements to enhance the movement of people within and through the community. Four corridors were recently evaluated as part of the Town's Complete Streets Corridor Study. Franjo Road, one of the corridors, is now moving toward implementation and the Town is seeking a JPA with the County to assist with the implementation of the Project.

The Project consists of widening Franjo Road from Old Cutler Road to SW 184 Street from two to three lanes. The Project includes a center turn lane, curb and gutters, shared use path, storm drainage system, pavement markings and signage, signalization and roadway lighting.

On January 15, 2020, the Town Council adopted Resolution No. 20-04 approving this JPA. The Town will implement a Public Involvement Plan (PIP) during the design and 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 June 2022.

Jennifer Moon
Deputy Mayor

MEMORANDUM

(Revised)

TO: Honorable Chairwoman Audrey M. Edmonson and Members, Board of County Commissioners

DATE: July 21, 2020

FROM: Abigail Price-Williams County Attorney

SUBJECT: Agenda Item No. 8(N)(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(N)(1)
7-21-20

RESOLUTION NO. R-734-20

RESOLUTION APPROVING A JOINT PARTICIPATION AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE TOWN OF CUTLER BAY TO PROVIDE THE TOWN OF CUTLER BAY WITH FUNDING IN AN AMOUNT UP TO $8,889,159.00 FOR THE DESIGN AND CONSTRUCTION OF A ROADWAY IMPROVEMENT PROJECT ALONG FRANJO ROAD FROM OLD CUTLER ROAD TO SW 184 STREET; 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 Town of Cutler Bay and Miami-Dade County wish to facilitate a roadway improvement project along Franjo Road from Old Cutler Road to SW 184 Street,

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 Town of Cutler Bay providing up to $8,889,159.00 to the Town of Cutler Bay for eligible expenses incurred in the design and construction of these improvements, 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.

The foregoing resolution was offered by Commissioner **Jean Monestime** , who moved its adoption. The motion was seconded by Commissioner **Dennis C. Moss** and upon being put to a vote, the vote was as follows:

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

The Chairperson thereupon declared the resolution duly passed and adopted this 21st day of July, 2020. 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

Melissa Adames
By:_____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Hugo Benitez

JOINT PARTICIPATION AGREEMENT
BETWEEN MIAMI-DADE COUNTY AND THE TOWN OF CUTLER BAY
FRANJO ROAD FROM OLD CUTLER ROAD TO SW 184 STREET

This AGREEMENT, made and entered into this _____ day of _____, 2020, by and between the TOWN OF CUTLER BAY, FLORIDA, a municipal corporation of the STATE OF FLORIDA, hereinafter referred to as the "Town", 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:

The widening of Franjo Road from Old Cutler Road to SW 184 Street from two (2) to three (3) lanes, with center turn lane, curb and gutters, shared use path, storm drainage system, pavement markings and signage, signalization, and roadway lighting; and

WHEREAS, the County wishes to utilize the resources of the Town to design, 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:

RESPONSIBILITIES OF TOWN:

1.1. **Design**: The Town will secure engineering design and consulting services from qualified firms 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 Town, as applicable, design criteria, to the satisfaction of the County Department of Transportation and Public Works (DTPW) Director. The Town's design consultant shall be made available to County 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 Town in accordance with applicable laws and Town procedures. Notwithstanding any provision to the contrary, the Town shall comply with all applicable County contract compliance and oversight measures relating to the expenditure of County funds, in accordance with Section 6 of this Agreement, and include such requirements in all solicitations. Prior to the advertisement to solicit design services from qualified firms, the Town shall provide the County DTPW, Capital Improvements Division with the Miami-Dade County Technical Categories in order to comply with Miami-Dade County Code Section 2-10.4.01 and Implementing Order 3-32 (Small Business Enterprise Architecture and Engineering Program).

Subsequent to the evaluation of proposals by the Town and the Town's determination of the most advantageous proposal, the Town shall provide said evaluation to the County DTPW Director for review and approval. The County Small Business Development (SBD), a Division of the Internal Services Department, shall also be required to conduct a Pre-award Compliance review to determine the consultants' compliance with Small Business Enterprise measures prior to the Town awarding the contract. Final commitment of County funds for the Project shall occur upon approval of the design contract amount by the County DTPW Director.

1.2. **Permits and Approvals**: The Town shall obtain all necessary permits, and utility adjustments; and coordinate the review of construction documents by utilities and permitting agencies. The Town shall make all necessary adjustments as required for approval and/or permitting by those agencies. The Town shall obtain all necessary permits, and utility adjustments for the Project in accordance with applicable state, federal and local laws and ordinances. The Town shall not pay for any permits required by the County DTPW.

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

1.4. **Public Information and Involvement**: The Town will implement a Public Involvement Plan (PIP) during the design and 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 shall be used to develop the goals and objectives to implement the PIP. The Town shall submit a copy of the PIP to the County DTPW Director for review and concurrence prior to its implementation.

Projects that exceed $1,000,000.00 in construction costs shall comply with the process and guidelines for the preparation and implementation of PIPs as established by Miami-Dade County Implementing Order 10-13.

1.5. **Publicity**: By the acceptance of these funds, the Town agrees that the Project elements funded by this Agreement shall recognize and adequately reference the County as a funding source. The Town shall ensure that all publicity, public relations, advertisements and signs recognizes and references the County for the support of all contracted activities. This is to include, but is not limited to, all posted signs, pamphlets, wall plaques, cornerstones, dedications, notices, flyers, brochures, news releases, media packages, promotions, and stationery. The use of the official County logo is permissible for the publicity purposes stated herein. The Town shall submit sample or mock up of such publicity or materials to the County for review and approval. The Town shall ensure that all media representatives, when inquiring about the activities funded by this Agreement, are informed that the County is its funding source.

1.6. **Accounting**: The Town shall at all times maintain separate accounting for the costs of the Project so those costs may be independently verified and audited

by the County, at the request and cost of the County. The Town agrees to permit the County 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 County for inspection within ten (10) business days upon written receipt of a written request from the County.

1.7. **Construction**: The Town shall procure the services of a licensed contractor holding an engineering contractor's license to construct the Project. The Town may award the contract through any available lawful means, in accordance with Section 255.20, Florida Statutes, which in the Town'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 Town contract(s), or the extension of unit-prices provided in connection with prior competitive bid awards. Notwithstanding any provision to the contrary, the Town shall comply with all applicable County contract compliance and oversight measures relating to the expenditure of County funds, in accordance with Section 6 of this Agreement, and include such requirements in all solicitations. Prior to the advertisement to solicit a licensed contractor to construct the Project, the Town shall forward to the County DTPW Capital Improvements Division all necessary documentation to review for the application of Small Business Enterprise (SBE) measures, Wage and Workforce requirements. In turn DTPW, will obtain concurrence from SBD.

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 County and Town as joint obligees or joint contracting public entities. The construction contract shall contain a contingency amount to address unforeseen conditions and owner required changes which shall not exceed ten percent (10%) of the base amount of the contract, unless otherwise approved in writing by designated representatives of the County and Town. The commitment for the expenditures of any contingency funds shall not be made by the Town without the prior written approval of the County DTPW Director. The County shall respond, in writing, within thirty (30) business days of receiving written requests from the Town to approve the commitment of contingency funds.

Subsequent to the evaluation of bids or proposals by the Town and the Town's determination of the most advantageous bid or proposal, the Town shall provide said evaluation to the County DTPW Director for review and approval. SBD shall also be required to conduct a Pre-award Compliance review to determine the bidders' compliance with the SBE measures prior to the Town awarding the contract. Final commitment of County funds for the Project shall occur upon approval of the contract award recommendation by the County DTPW Director. The County agrees that the selection, retention and discharge of such contractor shall be the responsibility of the Town.

1.8. **Claims and Change Orders**: The Town shall notify the County DTPW Director in writing when claims or change orders arise. The Town shall also

invite the County to participate in negotiations of these claims and change orders. The County 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 Town. SBD shall also be notified of any change orders to evaluate the applicability of SBE measures.

1.9. **Construction Administration and Inspection**: The Town shall exercise all responsibilities of the owner under the construction contract, including construction administration and inspections. The Town may delegate this function to an authorized agent or Construction Engineering Inspection consultant. The County's inspector shall have an oversight role in the routine daily inspections. In the case of a disagreement over the interpretation of the plans, the County DTPW Director shall have final authority subsequent to an independent final inspection by the County. The Town's designated representative and the County's designated representative shall jointly perform the inspection of the Project which immediately precedes substantial completion. The Town shall certify upon completion that the Project has been constructed pursuant to the design plans, specifications and approved change orders. Final payment to the Town and obligation of maintenance responsibility to the parties shall be subject to the final acceptance of the Project by the County DTPW Director.

1.10. **Coordination with Miami-Dade County Public Schools**: Due to potential safety, operational and bus transportation impacts, the Town shall coordinate

with Miami-Dade County Public Schools staff to implement maintenance of traffic measures.

1.11. **Nondiscrimination**: During the performance of this Agreement, the Town agrees to not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, gender identity or gender expression, status as victim of domestic violence, dating violence or stalking, or veteran status, and on housing related contracts the source of income, and will take affirmative action to ensure that employees and applicants are afforded equal employment opportunities without discrimination. Such action shall be taken with reference to, but not limited to: recruitment, employment, termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on the job training.

By entering into this Agreement, the Town attests that it is not in violation of the Americans with Disabilities Act of 1990 (and related Acts) or Miami-Dade County Resolution No. R-385-95. If the Town or any owner, subsidiary or other firm affiliated with or related to the Town is found by the responsible enforcement agency or the County to be in violation of the Act or the Resolution, such violation shall render this Agreement void. This Agreement shall be void if the Town submits a false affidavit pursuant to this Resolution or the Town violates the Act or the Resolution during the term of this Agreement, even if the Town was not in violation at the time it submitted its

affidavit. The provisions of Section 1.11 shall be included in any agreement between the Town and any consultant and/or contractor performing work on this Project.

2. **RESPONSIBILITIES OF COUNTY**:

2.1. **Funding Amount, Reimbursement of Project Costs**: The County agrees to provide funds up to $8,889,159.00 (this amount includes ten percent (10%) contingency) for eligible costs, as defined herein, incurred by the Town for the design and construction of the Project. The County shall disburse to the Town funds for the Project in the manner set forth in Section 4. The County shall incur no liability for any costs in excess of said funding amount unless there has been a duly authorized increase approved by Miami-Dade Board of County Commissioners. The Town shall not be obligated to commence work should the bid amount exceed the funding provided by the County. If the bid amount exceeds the funding amount, the Town reserves its rights to reject all bids and re-bid the Project.

2.2. **County Payments of Project Costs**: The County funds provided for eligible costs as defined herein, incurred for the design and construction of the Project are specified below:

Funding Amount	Funding Source	County Fiscal Year of Commitment
$541,786.00	Road Impact Fee District 6	2019-2020
$2,250,000.00	Road Impact Fee District 6	2020-2021
$2,250,000.00	Road Impact Fee District 6	2021-2022
$2,250,000.00	Road Impact Fee District 6	2022-2023
$1,597,373.00	Road Impact Fee District 6	2023-2024

2.3. **Project Cost Adjustments**: The amount contributed by the County 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 option 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 County funds required as stated in Section 2.1, amendments may be executed by the Town Manager and the County Mayor or County Mayor's designee without the need for approval by the Town Council and County Commission. Otherwise, further funding commitments shall be subject to the approvals of the parties' respective governing boards.

3. **ELIGIBLE COSTS**: The parties agree that only the below identified costs that may be incurred by the Town that are directly related to the Project are eligible for reimbursement, provided adequate documentation accompanies the reimbursement request in the form of approved invoices, verified payment requests, documented journal entries, and/or check vouchers. For purposes of this Agreement, eligible costs are further defined as those pertaining to the design and construction of Project elements that are the standard items normally provided for by the County in County road improvement projects, and not the enhancement of standard items, or the incorporation of items which are in addition to those standard items. The County shall not be assumed to be liable to provide reimbursement for the design, construction or maintenance of such items that do not conform to this section of the Agreement. If enhancements to standard items are constructed in this Project, the Town may request County reimbursement only to a maximum amount

corresponding to that which would be expended in providing the normal standard version of that item for a project of the same scope. The parties further agree that eligible costs will not include fees for construction management, construction inspections, and project management.

4. **SCHEDULE AND MANNER OF REIMBURSEMENTS**: Upon execution of the Agreement, the Town shall furnish the County with a copy of the estimated budget for the Project, and will similarly furnish the County with any and all revisions thereto. At the time of contract award for this Project, the Town shall submit the Estimated Quarterly Construction Payout Schedule for the Project to the County DTPW Director. Quarterly disbursement of County funds to the Town shall be based upon Town invoices with certified copies of paid contractor invoices attached and shall not include any other charges. A delay in processing of invoices may occur if subcontractor reporting required by County Code is not current, as reflected in the County's Business Management Workforce System (see Section 6 of this Agreement).

5. **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.

6. **SMALL BUSINESS, WAGE, AND WORKFORCE PROGRAMS COMPLIANCE AND OVERSIGHT**: Whenever County funds are used, the Town agrees to comply with applicable County regulations, including but not limited to, the Small Business

Enterprise (SBE) Goods Program, the SBE Services Program, the SBE Architecture and Engineering Program, the SBE Construction Services Program, the Community Workforce Program (CWP), the Resident First Training and Employment Program (RFTE), and the Responsible Wages and Benefits Ordinance, Section 2-11.16 of the County Code. The program provisions are available at: https://www.miamidade.gov/smallbusiness/business-development-legislation.asp. Specifically, the Town agrees to abide by the applicable contract measure recommendation(s) established by the County's SBD Division Project Worksheet for the participation of specified business entities and/or trades and for Wage and Workforce requirements, as administered by SBD. The County's web-based Business Management Workforce System (BMWS) shall be utilized to comply with SBE, wage, and workforce programs and Subcontractor reporting requirements (http://mdcsbd.gob2g.com). SBD shall have the right to oversee and perform compliance monitoring, including but not limited to, the right to audit and to require reports and documentation related to the Miami-Dade County Code and Implementing Orders. Failure to comply with the requirements of the executed Agreement by the Town, the County will withhold payment in the amount equivalent to the fines which will be assessed against a private contractor.

7. **PROJECT SIGNAGE**: The County shall furnish and install a Project sign in each direction of traffic indicating that this Project is being funded by Road Impact Fees, in coordination with the Town, 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.

8. **INDEMNIFICATION**: To the extent authorized by Florida law, the Town 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 Town, 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 Town 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 Town for its sole negligence or breach of contract.

In the event of breach or non-performance by the persons selected by the Town to perform the work, the Town shall, upon written request by the County, assign to the County any and all of its rights under the affected contract for purposes of the County's prosecution of claims, actions or causes of action resulting from such breach or non-performance unless the Town, at its option, pursues such claims, actions or causes of action through arbitration, administrative proceeding or lawsuit. The Town agrees to cooperate fully with the County in the prosecution of any such

claim or action. Any damages recovered by the County which is attributable to an expenditure by the Town shall be returned to the Town by the County, within sixty (60) business days of receipt.

9. **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.

10. **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.

11. **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.

12. **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 Town 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.

13. **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: Alice N. Bravo, P.E.
Director, Department of Transportation and Public Works
Miami-Dade County
701 NW 1 Court, Suite 1700
Miami, Florida 33136
(786) 469-5406

To the Town:
Attention: Rafael Casals
Town Manager, Town of Cutler Bay
10720 Caribbean Boulevard, Suite 105
Cutler Bay, Florida 33189
(305) 234-4262

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:_____ _____ BY:_____
Deputy Clerk County Mayor or County Mayor's Designee

Approved by County Attorney
as to form and legal sufficiency_____
County Attorney

ATTEST:

TOWN OF CUTLER BAY, a municipal corporation of the State of Florida

BY: Debra Eastman BY: Rafael Casals
Debra E. Eastman Rafael Casals
Town Clerk Town Manager

(Affix Town Seal)

Approved by Town Attorney
as to form and legal sufficiency_____
Town Attorney
Weiss Serota Helfman Cole & Bierman, P.L.