

MEMORANDUM

Agenda Item No. 11(A)(19)

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

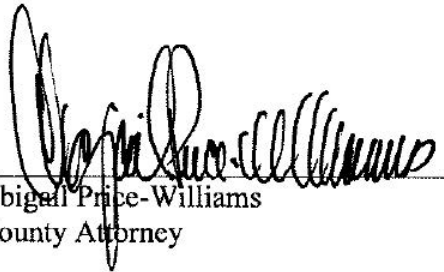
DATE: August 31, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Resolution approving the First Amendment to the Joint Participation Agreement between Miami-Dade County and the City of Hialeah to provide the City with additional funding in an amount not to exceed \$2,763,165.24, for a total agreement amount not to exceed \$7,052,463.24, for the design and construction of road improvements along NW 97 Avenue from NW 154 Street to NW 170 Street; and authorizing the County Mayor to execute the same and exercise the provisions contained therein, all of which are subject to satisfaction of condition precedent

Resolution No. R-883-20

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Jose "Pepe" Diaz.


Abigail Price-Williams
County Attorney

APW/smm

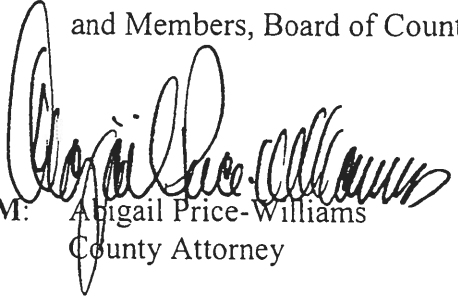


MEMORANDUM

(Revised)

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

DATE: August 31, 2020

FROM: 
Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 11(A)(19)

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. 11(A)(19)
8-31-20

RESOLUTION NO. R-883-20

RESOLUTION APPROVING THE FIRST AMENDMENT TO THE JOINT PARTICIPATION AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE CITY OF HIALEAH TO PROVIDE THE CITY WITH ADDITIONAL FUNDING IN AN AMOUNT NOT TO EXCEED \$2,763,165.24, FOR A TOTAL AGREEMENT AMOUNT NOT TO EXCEED \$7,052,463.24, FOR THE DESIGN AND CONSTRUCTION OF ROAD IMPROVEMENTS ALONG NW 97 AVENUE FROM NW 154 STREET TO NW 170 STREET; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THE SAME AND EXERCISE THE PROVISIONS CONTAINED THEREIN, ALL OF WHICH ARE SUBJECT TO SATISFACTION OF CONDITION PRECEDENT

WHEREAS, on December 6, 2016, pursuant to Resolution No. R-1169-16 this Board approved a Joint Participation Agreement between the City of Hialeah and Miami-Dade County to provide the City with up to \$4,289,298.00 for the design and construction of a road improvement project along NW 97 Avenue from NW 154 Street to NW 170 Street; and

WHEREAS, the City of Hialeah and Miami-Dade County wish to continue to facilitate the road improvement project along NW 97 Avenue from NW 154 Street to NW 170 Street; and

WHEREAS, due to changes in the project scope, an additional \$2,763,165.24 is required to adjust the amount provided under the Joint Participation Agreement from \$4,289,298.00 to \$7,052,463.24,

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

Section 1. Approves the foregoing recitals, which are incorporated herein by reference.

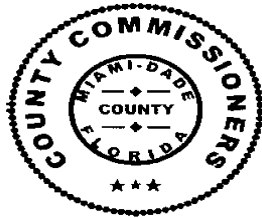
Section 2. Subject to the Transportation Planning Organization approving any necessary amendments to the Transportation Improvement Program to increase funding to this project and such amendments becoming effective (the “condition precedent”), approves the First Amendment to the Joint Participation Agreement between Miami-Dade County and the City of Hialeah, providing up to an additional \$2,763,165.24 to the City of Hialeah for eligible expenses incurred in the design and construction of these improvements, in substantially the form attached hereto and made a part hereof.

Section 3. Directs the County Mayor or County Mayor’s designee to, subject to the condition precedent, execute the First Amendment to the Joint Participation Agreement, exercise all provisions contained therein, and take all actions necessary to effectuate same, including but not limited to confirmation that the condition precedent has occurred.

The Prime Sponsor of the foregoing resolution is Commissioner Jose "Pepe" Diaz. It was offered by Commissioner **Rebeca Sosa** , who moved its adoption. The motion was seconded by Commissioner **Sally A. Heyman** 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
Jose “Pepe” Diaz	aye
Eileen Higgins	aye
Joe A. Martinez	absent
Dennis C. Moss	aye
Xavier L. Suarez	aye
Daniella Levine Cava	aye
Sally A. Heyman	aye
Barbara J. Jordan	aye
Jean Monestime	aye
Sen. Javier D. Souto	aye

The Chairperson thereupon declared this resolution duly passed and adopted this 31st day of August, 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

By: **Melissa Adames**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

A handwritten signature in black ink, appearing to read "B. Libhaber", is written over a horizontal line.

Bruce Libhaber

**FIRST AMENDMENT TO JOINT PARTICIPATION AGREEMENT
FOR NW 97 AVENUE FROM NW 154 STREET TO NW 170 STREET
BETWEEN MIAMI-DADE COUNTY AND THE CITY OF HIALEAH**

This First Amendment to the Joint Participation Agreement is made and entered into this _____ day of _____, 2020, by and between the CITY OF HIALEAH, FLORIDA, a municipal corporation of the STATE OF FLORIDA, hereinafter referred to as the "City", and MIAMI-DADE COUNTY, a political subdivision of the STATE OF FLORIDA, hereinafter referred to as the "County".

WITNESSETH

WHEREAS, pursuant to Resolution No. 1169-16, approved by the Board of County Commissioners of Miami-Dade County, Florida, on December 6, 2016, the parties hereto entered into a Joint Participation Agreement to facilitate the design and construction of a road improvement project in Miami-Dade County, (the "Agreement") along NW 97 Avenue, from NW 154 Street to NW 170 Street in Hialeah, Miami-Dade County, as more particularly described in the Agreement (the "Project"); and

WHEREAS, due to changes in the Project scope, an additional \$2,763,165.24 is required to adjust the amount provided under the Joint Participation Agreement from \$4,289,298.00 to \$7,052,463.24, for the additional scope of work referenced in the attached Exhibit A which is incorporated herein; and

WHEREAS, the Agreement allows for the amendment of the County funds available for the Project subject to the approvals of the parties' respective governing boards,

NOW, THEREFORE, in consideration of the mutual desires of the parties hereto, the following modifications are made to the aforementioned Agreement:

RECITALS: The recitals are true and correct and are incorporated herein by this reference to form a part of this First Amendment to the Joint Participation Agreement.

2.1. Funding Amount, Reimbursement of Project Costs: The County agrees to provide funds up to ~~\$4,289,298.00~~ \$7,052,463.24 (this amount includes ten percent (10%) contingency) for eligible costs, as defined herein, incurred by the City for the design and construction of the Project. The County shall disburse to the City 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 the Board of County Commissioners. The City 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 City 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:

<u>Funding Amount</u>	<u>Funding Source</u>	<u>County Fiscal Year of Commitment</u>
\$1,250,000.00	Road Impact Fee District 3	2016-2017
\$1,250,000.00	Road Impact Fee District 3	2017-2018
\$1,789,298.00	Road Impact Fee District 3	2018-2019
<u>\$2,763,165.24</u>	<u>Road Impact Fee District 3</u>	<u>2019-2020</u>

In all other respects, except as herein amended, the original Agreement shall remain unchanged and in full force and effect.

Remainder of Page

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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

Assistant County Attorney

ATTEST:

CITY OF HIALEAH, a municipal
corporation of the State of Florida

BY: _____
Marbelys L. Fatjo
City Clerk

BY: _____
Carlos Hernandez
Mayor

(Affix City Seal)

Approved by City Attorney
as to form and legal sufficiency

City Attorney

EXHIBIT A

After the JPA was executed, two big developers (Lennar & Flagler) began development on either side of the project. Since the developments had moved faster than anticipated the original scope of the project would not suffice, additional improvements were warranted. As a result, the following was requested (County permitting) which was never part of the original scope of the project:

- Plateauing existing intersections
- ICPR Modeling for the drainage
- Design and construct an outfall to the NW 138th St canal
- Additional survey services in order to design on the requested outfall at NW 138th St
- Vortex system outlet due to contamination
- Design and construction of a 96" Culvert at NW 154th St
- Design and construction of a 96" Culvert at NW 170th St
- Design and construction of a signal at the NW 158th St intersection
- Design and construction of a signal at the NW 162nd St intersection
- Modification of pavement marking plans at the NW 158th St intersection to accommodate the signal design
- Modification of pavement marking plans at the NW 162nd St intersection to accommodate the signal design.

The revised adjusted project cost is estimated at \$7,052,463.24, which is higher than the original amount of \$4,289,298.00 provided under the JPA. This increase will be provided by up to \$2,763,165.24 from Road Impact Fee District 3 funds. The City Council approved this Amendment on August 11, 2020. The Project is under construction and the anticipated construction completion date is May 2021.