

MEMORANDUM

Agenda Item No. 8(N)(1)

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

DATE: November 19, 2020

FROM: Geri Bonzon-Keenan
Successor County Attorney

SUBJECT: Resolution approving final settlement agreement between Miami-Dade County and the City of Hialeah withholding \$195,233.82 from the Joint Participation Agreement which totaled \$3,548,341.85 for the design and construction of NW 142 Street from NW 107 Avenue to NW 97 Avenue; authorizing the payment of the remaining balance in the amount of \$3,353,108.03; and authorizing the County Mayor to execute settlement agreement and to exercise rights conferred therein

Resolution No. R-1198-20

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

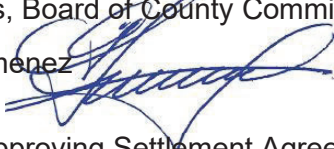


Geri Bonzon-Keenan
Successor County Attorney

GBK/smm

Date: November 12, 2020

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

From: Carlos A. Gimenez
Mayor 

Subject: Resolution Approving Settlement Agreement with the City of Hialeah

Recommendation

It is recommended that the Board of County Commissioners (Board) approve the attached Settlement Agreement with the City of Hialeah (City) for the withholding of \$195,233.82 from the Joint Participation Agreement (JPA) which totaled \$3,548,341.85 for the design and construction of NW 142 Street from NW 107 Avenue to NW 97 Avenue and authorize the payment of the remaining balance in the amount of \$3,353,108.03.

Scope

The Project completed by this JPA is located in County Commission District 12, represented by Commissioner Jose "Pepe" Diaz.

Fiscal Impact

The JPA provided up to \$3,548,341.85 from Road Impact Fee (RIF) District 3 funds for completion of the project. The project was included in the FY 2019-20 Adopted Budget and Multi-Year Capital Plan under Capital Project No. 2000000540 in the Department of Transportation and Public Works (DTPW). Approval of this Settlement Agreement will reduce the required payment to the City by \$195,233.82. These funds will be available for other eligible projects in RIF District 3.

Track Record/Monitor

The JPA authorized the use of the resources of the City to contract and construct the Project on a reimbursable basis. The Project was assigned to Rene Idarraga, P.E., Chief, Construction Division, DTPW, who oversaw construction and inspections conducted by DTPW staff before the release of construction funds was recommended.

Background

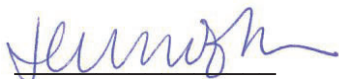
DTPW entered into a JPA with the City in the amount of \$3,548,341.85 for the NW 142 Street Road Improvement Project in November of 2018, as approved by R-1089-18. As part of the JPA, whenever County funds were used for this Project, the City agreed to comply with applicable County regulations, including but not limited to, the Small Business Enterprise (SBE) Goods and Services Program, the SBE Architecture and Engineering Program, the SBE Construction Services Program, the Community Workforce Program, the Resident First Training and Employment Program and the Responsible Wages and Benefits Ordinance. The work covered under this JPA was reviewed by the County's Small Business Development Division and Contract Measure Recommendation of 2.12 percent SBE Goods and Services and 7.44 SBE Construction was established.

During a recent review by Small Business Development (SBD) of a reimbursement request submitted by the City for the aforementioned project, it was identified that the City did not include or incorporate Section 5 (Compliance with Laws) and Section 6 (Business Program Compliance and Oversight) of the JPA in its construction contract with JVA Engineering Contractors, requiring that the City comply with all applicable federal, state and local laws, codes, ordinances, rules and regulations, including,

Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners
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but not limited to the SBE Goods and Services Program, the SBE Architecture and Engineering Program, the SBE Enterprise Construction Services Program, the Community Workforce Program, the Resident First Training and Employment Program and the Responsible Wage and Benefits Ordinance. The City entered into the construction contract prior to executing the JPA with the County.

Due to the failure to comply with the requirements of the executed JPA, the County is withholding payment to the City of Hialeah. After good faith negotiations between both parties, the parties agreed to resolve pending dispute by the County withholding an amount equivalent to the estimated additional cost of the contract had the SBD requirements been included in the construction contract between the City and JVA Engineering Contractors (\$195,233.82). This estimated cost was provided to the City by its contractor based upon the requirements of the JPA. The Settlement Agreement with the City is attached to this memorandum.



Jennifer Moon
Deputy Mayor

The Settlement Agreement Related to the Joint Participation Agreement (JPA) between
Miami-Dade County and the City of Hialeah (City) for NW 142 Street from
NW 107 Avenue to NW 97 Avenue.

This AGREEMENT, made and entered into this _____ day of _____, 2020, by and between the CITY OF HIALEAH, FLORIDA, a municipal corporation of the STATE OF FLORIDA, and MIAMI-DADE COUNTY, a political subdivision of the STATE OF FLORIDA

WITNESSETH

WHEREAS, the City of Hialeah entered into a Joint Participation Agreement (JPA) in the amount of \$3,548,341.85 for the NW 142 Street Road Improvement Project in November of 2018; and

WHEREAS, Sections 5 (Compliance with Laws) and 6 (Business Program Compliance and Oversight) of the JPA require that the City comply with all applicable federal, state and local laws, codes, ordinances, rules and regulations, including, but not limited to the Small Business Enterprise Goods and Services Program, the Small Business Enterprise Architecture and Engineering Program, the Small Business Enterprise Construction Services Program, the Community Workforce Program, the Resident First Training and Employment Program, and the Responsible Wage and Benefits Ordinance (Ordinance No. 90-143); and

WHEREAS, during a recent review of a reimbursement request by the City for the aforementioned project, it was identified that the City did not include or incorporate Sections 5 and 6 in its construction contract with JVA Engineering Contractors; and

WHEREAS, a failure to comply with the requirements of the executed JPA would cause Miami-Dade County either to withhold full payment or assess a fine to the municipality as a result of these actions;

WHEREAS, the City agrees to the compromise of this dispute without either admitting or denying the County's assertions;

NOW, THEREFORE, the City of Hialeah and Miami-Dade County have agreed to the following resolution of this matter in order to close out the JPA:

1. The amount of \$195,233.82 will be reduced from the reimbursement request and the City will receive a final payment of \$3,353,108.03.

Attest:

HARVEY RUVIN
CLERK OF THE BOARD

MIAMI-DADE COUNTY, FLORIDA
BY IT'S BOARD OF
COUNTY COMMISSIONERS

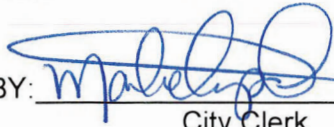
By: _____
Deputy Clerk

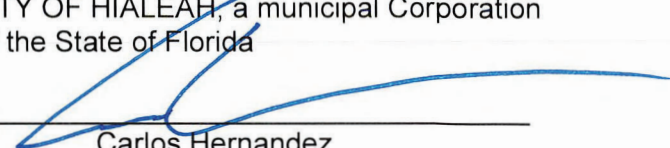
By: _____
County Mayor or County Mayor's Designee

Approved by County Attorney
as to form and legal sufficiency _____
County Attorney

Attest:

CITY OF HIALEAH, a municipal Corporation
Of the State of Florida

BY:  6/30/20
City Clerk

BY: 
Carlos Hernandez
Mayor

Approved by City Attorney
as to form and legal sufficiency 
City Attorney



MEMORANDUM

(Revised)

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

DATE: November 19, 2020

FROM: 
Geri Bonzon-Keenan
Successor 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)

11-19-20

RESOLUTION NO. R-1198-20

RESOLUTION APPROVING FINAL SETTLEMENT AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE CITY OF HIALEAH WITHHOLDING \$195,233.82 FROM THE JOINT PARTICIPATION AGREEMENT WHICH TOTALED \$3,548,341.85 FOR THE DESIGN AND CONSTRUCTION OF NW 142 STREET FROM NW 107 AVENUE TO NW 97 AVENUE; AUTHORIZING THE PAYMENT OF THE REMAINING BALANCE IN THE AMOUNT OF \$3,353,108.03; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SETTLEMENT AGREEMENT AND TO EXERCISE RIGHTS CONFERRED THEREIN

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 this Board:

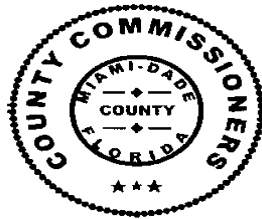
Section 1. Approves the Settlement Agreement with the City of Hialeah withholding \$195,233.82 from the Joint Participation Agreement for the design and construction of NW 142 Street from NW 107 Avenue to NW 97 Avenue.

Section 2. Authorizes the County Mayor or County Mayor's designee to execute the Settlement Agreement, in substantially the form attached to the accompanying memorandum and incorporated herein, to make payment of the remaining balance of the Joint Participation Agreement in the amount of \$3,353,108.03 and to exercise the County's rights conferred therein.

The foregoing resolution was offered by Commissioner **José "Pepe" Diaz** , 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:

	Rebeca Sosa, Vice Chairwoman	aye	
Jose "Pepe" Diaz	aye	Sen. René García	aye
Oliver G. Gilbert, III	aye	Keon Hardemon	aye
Sally A. Heyman	aye	Eileen Higgins	aye
Joe A. Martinez	aye	Kionne L. McGhee	aye
Jean Monestime	aye	Raquel A. Regalado	aye
Sen. Javier D. Souto	aye	District 8 - Vacant	vacant

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

Bruce Libhaber