

MEMORANDUM

Agenda Item No. 8(N)(1)

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

DATE: June 15, 2021

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution approving final Settlement Agreement between Miami-Dade County and the Town of Medley withholding \$54,000.00 from the Joint Participation Agreement (JPA) which totaled \$1,000,000.00 for the project at NW 89 Avenue from NW 93 Street to NW 95 Street and NW 93 Street from NW 89 Avenue to NW 87 Avenue; authorizing the payment of the remaining balance in the amount of \$946,000.00; and authorizing the County Mayor to execute Settlement Agreement and to exercise rights conferred therein

Resolution No. R-600-21

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



Geri Bonzon-Keenan
County Attorney

GBK/uw

Memorandum



Date: June 15, 2021

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

From: Daniella Levine Cava
Mayor *Daniella Levine Cava*

Subject: Resolution Approving Settlement Agreement with the Town of Medley

Recommendation

It is recommended that the Board of County Commissioners (Board) approve the attached Settlement Agreement with The Town of Medley (Town) for the withholding of \$54,000.00 from a Joint Participation Agreement (JPA), which totaled \$1,000,000.00, for the NW 89 Avenue from NW 93 Street to NW 95 Street and NW 93 Street from NW 89 Avenue to NW 87 Avenue Road Improvement Project and authorize the payment of the remaining balance in the amount of \$946,000.00.

Scope

The Project is within The Town of Medley, which is located in County Commission District 12, represented by Commissioner Jose "Pepe" Diaz.

Fiscal Impact

Under the original JPA, the County was to provide up to \$1,000,000.00 from Road Impact Fee (RIF) District 1 funds. The project is included in the FY 2020-21 Adopted Budget and Multi-Year Capital Plan under CAPITAL PROGRAM: 200000054 ROAD WIDENING – COUNTYWIDE, PROJECT: 3000012- WIDEN NW 89 AVENUE AND NW 93 STREET in the Department of Transportation and Public Works (DTPW). Approval of this Settlement Agreement will reduce the required payment to the City by \$54,000.00. These funds will be available for other eligible projects in RIF District 1.

Track Record/Monitor

The County utilized the resources of the Town to contract and construct the Project on a reimbursable basis. The Project was assigned to Rene Idarraga, P.E., Chief, Construction Division, Miami-Dade County Department of Transportation and Public Works (DTPW), who oversaw construction and inspections conducted by DTPW staff before the release of construction funds was recommended.

Delegated Authority

There are no authorities requested beyond that specified in the resolution which includes authority for the Mayor and Mayor's designee to execute this settlement agreement and to exercise the County's rights conferred therein.

Background

DTPW entered into a JPA with the Town in the amount of \$1,000,000.00 for the NW 89 Avenue from NW 93 Street to NW 95 Street and NW 93 Street from NW 89 Avenue to NW 87 Avenue Road Improvement Project in November of 2016, as approved by R-1031-16. As part of the JPA, whenever County funds were used, the Town agreed to comply with applicable County 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

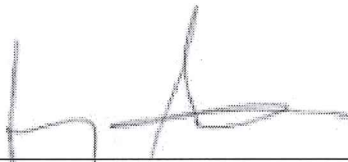
Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners
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Responsible Wages and Benefits Ordinance (Ordinance No. 90-143). The work covered under this JPA had been reviewed by the County's Small Business Development Division.

During a recent review by Small Business Development (SBD) of a reimbursement request by the Town for the aforementioned project, it was identified that the Town did not include or incorporate Section 5 (Compliance with Laws) and Section 6 (Business Program Compliance and Oversight) of the JPA requiring that the Town 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) in its construction contract with H & R Paving, Inc. As such SBD requirements were not included in the Town's construction contract and therefore, were not complied with.

Due to the failure to comply with the requirements of the executed JPA, the County is withholding payment to the Town. After good faith negotiations between both parties, the parties agreed to resolve pending dispute by the County withholding \$54,000.00.

Attached is the Settlement Agreement with the Town.



Jimmy Morales
Chief Operations Officer

Settlement Agreement Related to the Joint Participation Agreement (JPA) between Miami-Dade County and the Town of Medley (Town) for NW 89 Avenue from NW 93 Street to NW 95 Street and NW 93 Street from NW 89 Avenue to NW 87 Avenue.

This AGREEMENT, made and entered into this 8th day of April, 2020, by and between the TOWN OF MEDLEY, FLORIDA, a municipal corporation of the STATE OF FLORIDA, and MIAMI-DADE COUNTY, a political subdivision of the STATE OF FLORIDA

WITNESSETH

WHEREAS, the Town of Medley (Town) entered into a Joint Participation Agreement (JPA) in the amount of \$1,000,000.00 for the Road Improvement Project in November of 2016; and

WHEREAS, Sections 5 (Compliance with Laws) and 6 (Business Program Compliance and Oversight) of the JPA require that the Town 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 Town for the aforementioned project, it was identified that the Town did not include or incorporate Sections 5 and 6 in its construction contract with H&R Paving Inc.; 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 Town agrees to the compromise of this dispute without either admitting or denying the County's assertions;

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

1. The amount of \$54,000.00 will be reduced from the reimbursement request and the Town will receive a final payment of the properly received reimbursement request minus \$54,000.00.

Attest:

HARVEY RUVIN
CLERK OF THE BOARD

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

By: _____
Deputy Clerk

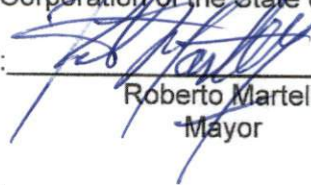
By: _____
County Mayor or County Mayor's Designee

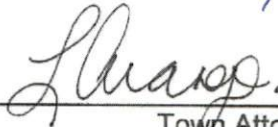
Approved by County Attorney
as to form and legal sufficiency _____
County Attorney

Attest:

BY:  _____
Town Clerk

TOWN OF MEDLEY, a municipal
Corporation of the State of Florida

BY:  _____
Roberto Martell
Mayor

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



MEMORANDUM

(Revised)

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

DATE: June 15, 2021

FROM: 
Gen Bonzon-Keenan
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)
6-15-21

RESOLUTION NO. _____ R-600-21

RESOLUTION APPROVING FINAL SETTLEMENT AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE TOWN OF MEDLEY WITHHOLDING \$54,000.00 FROM THE JOINT PARTICIPATION AGREEMENT (JPA) WHICH TOTALED \$1,000,000.00 FOR THE PROJECT AT NW 89 AVENUE FROM NW 93 STREET TO NW 95 STREET AND NW 93 STREET FROM NW 89 AVENUE TO NW 87 AVENUE; AUTHORIZING THE PAYMENT OF THE REMAINING BALANCE IN THE AMOUNT OF \$946,000.00; 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:

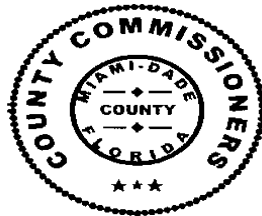
Section 1. Approves the Settlement Agreement with the Town of Medley from the Joint Participation Agreement for the Project at NW 89 Avenue from NW 93 Street to NW 95 Street and NW 93 Street from NW 89 Avenue to NW 87 Avenue.

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 in the remaining balance of the Joint Participation Agreement in the amount of \$946,000.00 and to exercise the County's rights conferred therein.

The foregoing resolution 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:

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

The Chairperson thereupon declared the resolution duly passed and adopted this 15th day of June, 2021. 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.

Bruce Libhaber