

MEMORANDUM

Agenda Item No. 8(N)(2)

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 Village of Palmetto Bay (Village) withholding \$19,274.27 from the Joint Participation Agreement (JPA) which totaled \$356,930.97 for the SW 82 Avenue and SW 168 Street traffic circle project; authorizing the payment of the remaining balance in the amount of \$337,656.70; and authorizing the County Mayor to execute Settlement Agreement and to exercise rights conferred therein

Resolution No. R-601-21

The accompanying resolution was prepared by the Transportation and Public Works Department and placed on the agenda at the request of Prime Sponsor Commissioner Danielle Cohen Higgins.



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 Village of Palmetto Bay

Recommendation

It is recommended that the Board of County Commissioners (Board) approve the attached Settlement Agreement with The Village of Palmetto Bay (Village). The agreement provides for the withholding of \$19,274.27 from a Joint Participation Agreement (JPA), which totaled \$356,930.97, for the SW 82 Avenue and SW 168 Street Traffic Circle Project and authorizes the payment of the remaining balance in the amount of \$337,656.70.

Scope

The Project is within the Village of Palmetto Bay, which is located in County Commission District 8, represented by Commissioner Danielle Cohen Higgins.

Fiscal Impact/Funding Source

The JPA provided up to \$356,930.97 from Road Impact Fee (RIF) District 5 funds for completion of the project. The project was included in the FY 2020-21 Adopted Budget and Multi-Year Capital Plan under CAPITAL PROGRAM 2000000536 – INTERSECTION IMPROVEMENTS - COUNTYWIDE, PROJECT: 3001310 - TRAFFIC CIRCLE AT SW 82 AVE AND SW 168 ST in the Department of Transportation and Public Works (DTPW). Approval of this Settlement Agreement will reduce the required payment to the City by \$19,274.27. These funds will be available for other eligible projects in RIF District 5.

Track Record/Monitor

The County utilized the resources of the Village 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

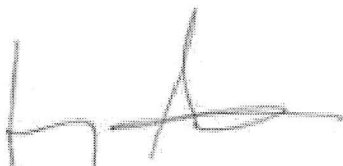
DTPW entered into a Joint Participation Agreement (JPA) with the Village in the amount of \$356,930.97 for the SW 82 Avenue and SW 168 Street Traffic Circle Project in July of 2017, as approved by R-811-17. As part of the JPA, whenever County funds were to be used, the Village agreed to comply with applicable 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 Responsible Wages and Benefits Ordinance (Ordinance No. 90-143).

Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners
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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 submitted by the Village for the aforementioned project, it was identified that the Village did not include or incorporate Section 5 (Compliance with Laws) and Section 6 (Business Program Compliance and Oversight) of the JPA requiring that the Village 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 Maggolo Inc. As a result, the Village's construction contract did not include SBD requirements and therefore, was not in compliance with County requirements.

Due to the failure to comply with the requirements of the executed JPA, the County is withholding payment to the Village. After good faith negotiations between both parties, the parties agreed to resolve pending dispute by the County withholding \$19,274.27.

Attached is the Settlement Agreement with the Village of Palmetto Bay.



Jimmy Morales
Chief Operations Officer

Settlement Agreement Related to the Joint Participation Agreement (JPA) between
Miami-Dade County and the Village of Palmetto Bay (Village) for the SW 82 Avenue
and SW 168 Street Traffic Circle Project.

This AGREEMENT is made and entered into this _____ day of _____, 2021, by and between the VILLAGE OF PALMETTO BAY, FLORIDA, a municipal corporation of the STATE OF FLORIDA, and MIAMI-DADE COUNTY, a political subdivision of the STATE OF FLORIDA.

WHEREAS, the Village of Palmetto Bay (Village) entered into a Joint Participation Agreement (JPA) in the amount of Three Hundred Fifty-Six Thousand Nine Hundred Thirty Dollars and Ninety-Seven Cents (\$356,930.97) for the SW 82 Avenue and SW 168 Street Traffic Circle Project in July of 2017; and

WHEREAS, Sections 5 (Compliance with Laws) and 6 (Business Program Compliance and Oversight) of the JPA require that the Village 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 Village for the aforementioned project, it was identified that the Village did not include or incorporate Sections 5 and 6 in its construction contract with Maggolo, 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; and

WHEREAS, the Village agrees to the compromise of this dispute without admitting the County's assertions.

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

1. The amount of Nineteen Thousand Two Hundred Seventy-Four Dollars and Twenty-Seven Cents (\$19,274.27) will be reduced from the reimbursement request and the Village will receive a final payment of the properly received reimbursement request minus \$19,274.27.

Attest:

HARVEY RUVIN
CLERK OF THE BOARD

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

By: _____
Deputy Clerk

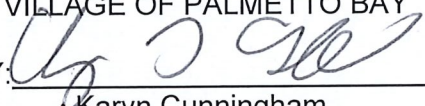
By: _____
County Mayor or County Mayor's Designee

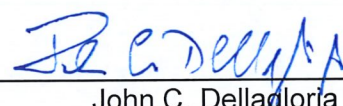
Approved by County Attorney
as to form and legal sufficiency _____
County Attorney

Attest

BY: 
Missy Arocha
Village Clerk

VILLAGE OF PALMETTO BAY

BY: 
Karyn Cunningham
Mayor

Approved by Village Attorney
as to form and legal sufficiency  _____
John C. Dellagloria
Village 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)(2)

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)(2)
6-15-21

RESOLUTION NO. _____ R-601-21

RESOLUTION APPROVING FINAL SETTLEMENT AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE VILLAGE OF PALMETTO BAY (VILLAGE) WITHHOLDING \$19,274.27 FROM THE JOINT PARTICIPATION AGREEMENT (JPA) WHICH TOTALED \$356,930.97 FOR THE SW 82 AVENUE AND SW 168 STREET TRAFFIC CIRCLE PROJECT; AUTHORIZING THE PAYMENT OF THE REMAINING BALANCE IN THE AMOUNT OF \$337,656.70; 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 Village of Palmetto Bay from the Joint Participation Agreement for the SW 82 Avenue and SW 168 Street Traffic Circle Project.

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 \$337,656.70 and to exercise the County's rights conferred therein.

The foregoing resolution was offered by Commissioner **Danielle Cohen Higgins** , who moved its adoption. The motion was seconded by Commissioner **Rebeca Sosa** and upon being put to a vote, the vote was as follows:

the vote was as follows:

	Jose "Pepe" Diaz, Chairman	aye	
	Oliver G. Gilbert, III, Vice-Chairman	aye	
Sen. René García	absent	Keon Hardemon	aye
Sally A. Heyman	aye	Danielle Cohen Higgins	aye
Eileen Higgins	aye	Joe A. Martinez	aye
Kionne L. McGhee	absent	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) ten (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 dark ink, appearing to read "B. Libhaber".

Bruce Libhaber