

MEMORANDUM

Agenda Item No. 8(M)(1)

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

DATE: May 17, 2022

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution approving a settlement agreement between Miami-Dade County and G7 Holdings, Inc. in the amount of \$68,000.00 to resolve all claims raised in the lawsuit styled as *G7 Holdings, Inc. v. Miami-Dade County*, Case No. 2021-0022181-CA-21; authorizing the County Mayor to execute the settlement agreement, take all actions in accordance with the provisions thereof, and to exercise any rights set forth therein

Resolution No. R-488-22

The accompanying resolution was prepared by the Solid Waste Management Department and placed on the agenda at the request of Prime Sponsor Commissioner Raquel A. Regalado.



Geri Bonzon-Keenan
County Attorney

GBK/ks

Memorandum



Date: May 17, 2022

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

From: Daniella Levine Cava
Mayor 

Subject: Recommendation for Approval of Settlement Agreement between Miami-Dade County and G7 Holdings, Inc.

Executive Summary

The attached resolution seeks approval by the Board of County Commissioners (“Board”) for the execution of a Settlement Agreement between Miami-Dade County (“County”) and G7 Holdings, Inc. (“G7”), a debris removal contractor, to fully resolve a lawsuit that is currently pending in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida.

Recommendation

It is recommended that the Board approve a Settlement Agreement between the County and G7 in the amount of \$68,000 to fully resolve a lawsuit styled as *G7 Holdings, Inc. v. Miami-Dade County*, Case No. 2021-0022181-CA-21, that is currently pending in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida. This settlement will resolve all claims by G7 for monetary relief against Miami-Dade County, as well as any entitlement to attorney’s fees and costs relating to the alleged breach of contract and untimely payment concerning G7’s debris removal during Hurricane Irma.

Scope

The impact of this item is countywide in nature.

Fiscal Impact/Funding Source

Under the terms of the Settlement Agreement, the County agrees to pay G7 a total of \$68,000 as full and final settlement of all disputes referenced in G7’s lawsuit. The Department of Solid Waste Management (“DSWM”) will use the General Operations budget account in the Collections Fund, under Other Court Costs, to cover the cost of the settlement.

Track Record/Monitor

Michael W. Ruiz, Assistant Director for Administration, DSWM, will monitor the implementation of the Settlement Agreement.

Delegated Authority

Upon approval of the resolution, the County Mayor or the County Mayor’s designee will be authorized to execute the Settlement Agreement attached to the resolution as Exhibit A for and on behalf of Miami-Dade County and to exercise all rights contained therein.

Background

On September 10, 2017, Hurricane Irma strengthened to a Category 4 hurricane as it accelerated toward the Florida Keys. The eye made landfall in Cudjoe Key. Miami-Dade County sustained widespread heavy tree and fence damage. As a result, the DSWM issued a Request for Quotes for Hurricane Irma Debris Removal Services under Pre-Qual Contract No. 6417-0/17, Emergency Debris Removal, and Contract No. 9360-1/23 for Hauling and Disposal of Emergency Debris. G7 was awarded work under both.

Over the course of the recovery, G7 provided hurricane recovery services for which it was paid a total of \$71 million. Payment for these services followed FEMA requirements for federal reimbursement. The County used a Monitoring Agency (Tetra Tech) to review invoices, followed by an audit by DSWM Accounting staff prior to payment. Initial prompt payment concerns raised by G7 in 2018 totaled nearly \$700,000. DSWM met with G7 multiple times over the intervening years in an attempt to resolve the issue. The parties, however, were unable to resolve all issues as G7 filed suit against Miami-Dade County on September 29, 2021, and now claimed \$182,945.55 in damages. After Miami-Dade County filed its Answer and Affirmative Defenses, G7 filed a Notice of Filing a Proposal for Settlement with the Court and served Miami-Dade County with a settlement offer in the amount of \$77,777.77. Notably, if the County had simply rejected G7’s settlement offer and G7 were to ultimately recover a judgment that was 25 percent greater than its offer of \$77,777.77, then G7 would have been entitled to recover its reasonable attorney’s fees and costs that were incurred from the date they served the County with its offer under Fla. Stat. § 768.79.

Instead, Miami-Dade County entered into good faith settlement discussions with G7 and responded to G7 in writing, as required under Fla. R. Civ. P. 1.442, with a written counteroffer in the amount of \$68,000. G7 then accepted Miami-Dade County’s counteroffer, which amounts to 0.096 percent of the total amount paid to G7 for its work under the contracts.

The County has evaluated the terms of this settlement agreement and determined that it is in the interest of the County to enter into the settlement agreement attached as Exhibit A to the resolution.



Jimmy Morales
Chief Operations Officer



MEMORANDUM

(Revised)

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

DATE: May 17, 2022

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 8(M)(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(M)(1)
5-17-22

RESOLUTION NO. _____ R-488-22

RESOLUTION APPROVING A SETTLEMENT AGREEMENT BETWEEN MIAMI-DADE COUNTY AND G7 HOLDINGS, INC. IN THE AMOUNT OF \$68,000.00 TO RESOLVE ALL CLAIMS RAISED IN THE LAWSUIT STYLED AS G7 HOLDINGS, INC. V. MIAMI-DADE COUNTY, CASE NO. 2021-0022181-CA-21; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THE SETTLEMENT AGREEMENT, TAKE ALL ACTIONS IN ACCORDANCE WITH THE PROVISIONS THEREOF, AND TO EXERCISE ANY RIGHTS SET FORTH 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:

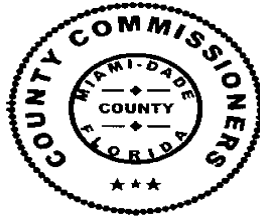
Section 1. The foregoing recitals and accompanying memorandum are incorporated herein by reference.

Section 2. This Board approves the settlement agreement between Miami-Dade County and G7 Holdings, Inc., in substantially the form attached hereto as Exhibit A and incorporated herein by reference, in the amount of \$68,000.00 to resolve all claims in the lawsuit styled as *G7 Holdings, Inc. v. Miami-Dade County*, Case No. 2021-0022181-CA-21, which is currently pending in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida. The County Mayor or County Mayor's designee is authorized to execute the settlement agreement, take all actions in accordance with the provisions thereof, and exercise any rights set forth therein.

The foregoing resolution was offered by Commissioner **Kionne L. McGhee**, who moved its adoption. The motion was seconded by Commissioner **Sen. Rene Garcia** 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	absent	Danielle Cohen Higgins	absent
Eileen Higgins	aye	Joe A. Martinez	aye
Kionne L. McGhee	aye	Jean Monestime	aye
Raquel A. Regalado	aye	Rebeca Sosa	absent
Sen. Javier D. Souto	aye		

The Chairperson thereupon declared this resolution duly passed and adopted this 17th day of May, 2022. 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: **Basia Pruna**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

MBV

Michael B. Valdes
Keoki Baron

EXHIBIT A

SETTLEMENT AGREEMENT AND RELEASE

THIS AGREEMENT is made and entered into by and between G7 Holdings, Inc. ("G7") and Miami-Dade County, a political subdivision of the State of Florida (the "County").

RECITALS:

WHEREAS, G7 entered into a contract with the County in February 2012, whereby G7 became prequalified to furnish labor, services, and materials to the County relating to debris removal arising from emergency situations as declared by the County (the "Contract"); and

WHEREAS, G7 contends that the County was late in paying several invoices for debris removal services provided by G7 resulting from Hurricane Irma (the "Project"); and

WHEREAS, G7 filed a suit against the County on September 29, 2021 alleging claims for breach of contract and violations of Fla. Stat. § 218.74 and Miami-Dade County Code § 2-8.1.4(4)(E), styled "*G7 Holdings, Inc. v. Miami-Dade County*," Case No. 2021-022181-CA-(21), currently pending in the Circuit Court for the 11th Judicial Circuit, in and for Miami-Dade County, Florida (the "Action"); and

WHEREAS, the County and G7 desire to amicably settle all potential controversies, claims and disputes between them relating to the Project and the Action, and to release each other from any and all liability with respect to same, and to set forth their mutual understanding and agreements with respect thereto; and

WHEREAS, nothing in this Agreement should be construed as an admission of liability by the County, and the Agreement cannot be used as an admission by G7, interested persons, or the County in this or any other proceeding; and

NOW, THEREFORE, in consideration of the premises, and based on the recitals set forth above which form a part of this Agreement, the parties agree as follows:

1. Payment.

Within fourteen (14) days from the date that this Agreement becomes effective, the County shall pay G7 in the amount of \$68,000.00 (the "Payment"). Such Payment shall be made payable to G7 and delivered to:

G7 Holdings, Inc.
8600 NW 36th Ave
Miami, Florida 33147

This Agreement shall become effective ("Effective Date") upon approval of this Agreement by the Board of County Commissioners of Miami-Dade County, Florida (the "BCC") and (1) the expiration of the requisite 10-day veto period, or (2) the BCC's override of any veto, whichever

occurs first. However, if the Payment is not delivered to G7 within sixty (60) days of G7's execution of this Agreement, with time being of the essence, then this Agreement is voidable at the choice of G7 wherein G7 shall maintain all rights and remedies available to it prior to entering into this Agreement. In the event that this Agreement is voided by G7's choosing upon the County's default, nothing herein shall be considered a withdrawal of the Proposal for Settlement served by G7 on the County on February 22, 2022.

2. Acceptance of Payment as Full Accord and Satisfaction.

G7 agrees to accept the payment listed in Paragraph 1 above as full accord and satisfaction of all monies currently due it under or relating to the Project and the work performed on the Project by G7 and by any subcontractors, materialmen or suppliers, and as full accord and satisfaction of any and all payment claims by any subcontractors, materialmen or suppliers that have been or could have been asserted relating to the Project. Without limiting the proceeding, G7 specifically waives any claim for or entitlement to any further compensation from the County arising out of or relating to the Project or the Action.

3. Release of the County by G7.

In consideration of the Payment listed in Paragraph 1 above, G7 releases and waives the County, and its officers, employees and agents, from any and all claims, controversies, damages, disputes or causes of action it has or may have, whether known or unknown, against the County, and its officers, employees and agents arising out of or in connection with the Project or the Action or the work performed under the Project.

4. Dismissal of the Action by G7

Within three (3) business days of the Agreement's Effective Date, G7 agrees to prepare and file (1) a Stipulation of Dismissal of the Lawsuit, with prejudice and (2) an Agreed Order of Dismissal Based on Settlement, and each party agrees to bear its own attorneys' fees and costs.

5. Costs and Expenses

The Parties to this Agreement are solely responsible for their own costs and expenses, including, but not limited to, attorneys' fees and costs, incurred with respect the Action, and the negotiation, drafting, and execution of this Agreement.

6. No Third-Party Rights.

Nothing in this Agreement shall be deemed to create any rights in favor of, or to inure to the benefit of, any third party or parties, or to waive or release any defense or limitation against third party claims. Further, nothing in this Agreement shall be deemed to waive or release any claims, causes of actions, rights or defenses the County or G7 has or may have against other parties.

6. Representations and Warranties.

G7 represents and warrants that it has full power and authority to enter into and deliver this Agreement on behalf of themselves and any affiliated Persons, and each individual signing this Agreement on behalf of G7 is fully authorized to do so. The County represents and warrants that, upon approval of this agreement by the Miami-Dade Board of County Commissioners, it has full power and authority to enter into and deliver this Agreement on behalf of itself and any affiliated Persons, and the individual signing this Agreement on behalf of the County has been fully authorized to do so by the Board of County Commissioners.

7. Miscellaneous.

This Agreement is a contractual settlement, not a mere recital, and is executed for the purpose of compromising disputed claims and avoiding future litigation. Nothing contained in this Agreement shall ever be construed as an admission of liability or responsibility by any Party in connection with any claim, lien, defense, demand, charge, complaint, action, or cause of action asserted against by any party under this Agreement against any other party under this Agreement. This Agreement is binding upon the parties hereto and their successors and assigns, provided, however, that no rights shall accrue hereunder to or for the use or benefit of any person or entity other than the parties hereto, their respective successors or assigns. This Agreement represents the entire integrated agreement between the parties hereto and supersedes all prior negotiations, representations or agreements, and may be amended only by written instrument signed by both the County and G7. The parties hereto have voluntarily executed this Agreement based upon their independent investigation without relying upon any representations of the other party or its agents, attorneys, or representatives. The provisions of this Agreement shall be applied and interpreted in a manner consistent with each other so as to carry out the purposes and intent of the parties, but if for any reason any provision is unenforceable or invalid, such provision shall be deemed severed from this Agreement and the remaining provisions shall be carried out with the same force and effect as if the severed provision had not been a part of this Agreement. The headings of the Paragraphs are included solely for convenience of reference, and if there is any conflict between such headings and the text of the Agreement, the Agreement shall control. This Agreement may be executed in any number of separate counterparts, each of which shall together be deemed an original, but the several counterparts shall together constitute but one and the same Agreement. This Agreement shall be governed by, and constructed in accordance with the laws of the State of Florida, without regard to such State's conflict of law decisions and law, and jurisdiction and venue to enforce the same shall exist only in the Circuit of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida.

8. Notwithstanding.

Anything herein to the contrary, both parties reserve any and all rights necessary to enforce the provisions of this Agreement.

IN WITNESS WHEREOF, this Agreement has been executed on the day and year set forth below.

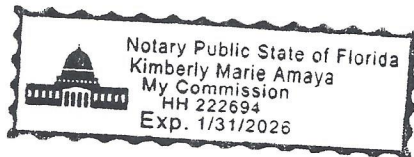
[Signatures on next pages]

G7 HOLDINGS, INC.

By: _____

Its: Greg Davis

The foregoing instrument was sworn to and subscribed before me this 29th day of March, 2022, by Greg Davis who executed the foregoing and produced _____ as identification or is personally known to me.



Amaya
Signature of Notary Public

(SEAL)

Kimberly Amaya
Print, Type or Stamp Commissioned
Name of Notary Public

MIAMI-DADE COUNTY

By: _____

Its: _____

The foregoing instrument was sworn to and subscribed before me this _____ day of _____, 2022, by _____ who executed the foregoing and produced _____ as identification or is personally known to me.

Signature of Notary Public

(SEAL)

Print, Type or Stamp Commissioned
Name of Notary Public