

TOWN OF GOLDEN BEACH, FLORIDA

RESOLUTION NO. 2050.09

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, APPROVING A JOINT PARTICIPATION AGREEMENT WITH MIAMI-DADE COUNTY FOR BRIDGE DESIGN SERVICES IN CONNECTION WITH THE REPLACEMENT OF THE CENTER ISLAND BRIDGE AND NAVONA AVENUE BRIDGE; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Golden Beach (the "Town") and Miami-Dade County (the "County") desire to facilitate the design of bridge replacement projects for the Center Island Bridge and the Navona Avenue Bridge (the "Project"); and

WHEREAS, the County wishes to utilize the resources of the Town to design the Project, with the County providing funding or reimbursement for a portion of the eligible costs incurred by the Town for the design of the Project up to a maximum amount of \$300,000.00, subject to the terms and conditions set forth in the Joint Participation Agreement between the County and the Town for Bridge Design Services (the "Joint Participation Agreement") attached hereto as Exhibit "A"; and

WHEREAS, the Town Council finds that it is in the best interest of the Town to enter into the Joint Participation Agreement attached hereto as Exhibit "A."

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. That each of the above-stated recitals is hereby adopted and confirmed.

Section 2. Joint Participation Agreement Approved. That the Joint Participation Agreement between the Town and Miami-Dade County, in substantially the form attached hereto as Exhibit "A", is hereby approved, and the Mayor is hereby authorized to execute the Joint Participation Agreement, on behalf of the Town, once approved as to form and legal sufficiency by the Town Attorney.

Section 3. Implementation. That the Mayor and Town Manager are hereby authorized to take any and all action necessary to implement this Resolution and the Joint Participation Agreement in accordance with the terms, conditions and purposes of this Resolution and the Joint Participation Agreement.

Section 4. Effective Date. That this Resolution shall be effective immediately upon adoption.

Sponsored by Town Administration.

The Motion to adopt the foregoing Resolution was offered by Vice Mayor Lusskin, seconded by Councilmember Rojas and on roll call the following vote ensued:

Mayor Glenn Singer	<u>Aye</u>
Vice Mayor Judy Lusskin	<u>Aye</u>
Councilmember Ben Einstein	<u>Aye</u>
Councilmember Amy Rojas	<u>Aye</u>
Councilmember Ken Bernstein	<u>Aye</u>

PASSED AND ADOPTED by the Town Council of the Town of Golden Beach,
Florida, this 27th day of October, 2009.



MAYOR GLENN SINGER

ATTEST:



ELIZABETH SEWELL
TOWN CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:



STEPHEN J. HELFMAN
TOWN ATTORNEY

**JOINT PARTICIPATION AGREEMENT
BETWEEN MIAMI-DADE COUNTY AND THE TOWN OF GOLDEN BEACH
BRIDGE DESIGN SERVICES**

This AGREEMENT, made and entered into this 27 day of OCT., 2009, by and between the TOWN OF GOLDEN BEACH, FLORIDA, a municipal corporation of the STATE OF FLORIDA, hereinafter referred to as the "Town", and MIAMI-DADE COUNTY, a political subdivision of the STATE OF FLORIDA, hereinafter referred to as the "County".

WITNESSETH

WHEREAS, both parties herein wish to facilitate the design of bridge replacement projects in MIAMI-DADE COUNTY, hereinafter referred to as the "Project" described as follows:

The design services for the replacement of the Center Island Bridge and the Navona Avenue Bridge; and

WHEREAS, the County wishes to utilize the resources of the Town to design the Project, subject to the terms and conditions of this Agreement,

NOW, THEREFORE, in consideration of the promises and covenants contained herein, the parties agree:

RESPONSIBILITIES OF TOWN:

- 1.1. **Design:** The Town will secure engineering design and consulting services from qualified firms, pursuant to §Section 287.055, of the Florida Statutes, to develop the construction plans, technical specifications, special provisions, pay items and cost estimates for the Project in accordance with standard Florida Department of Transportation, County, and/or Town, as applicable, design criteria, to the satisfaction of the County's Public Works Director or their designee. The County agrees that the selection, retention and discharge of the design consultant shall be the responsibility of the Town in accordance with applicable laws and Town procedures. Notwithstanding any provision to the contrary, the Town shall comply with all applicable County contract compliance and oversight measures relating to the expenditure of County funds, in accordance with Section 6 of this Agreement.
- 1.2. **Permits and Approvals:** The Town shall obtain a preliminary approval (dry-run) of all necessary permits, and utility adjustments; and coordinate the review of construction documents by utilities and permitting agencies. The Town shall make all necessary adjustments as required for approval and/or permitting by those agencies. The Town shall perform a satisfactory dry-run of all necessary permits, and shall perform all utility adjustments for the Project in accordance with applicable state, federal and local laws and ordinances. The Town shall not pay for any permits required by the Miami-Dade County Public Works Department.

- 1.3. **Right-of-Way**: The Town shall acquire at its sole expense, any right-of-way that is required to complete the construction of the Project.
- 1.4. **Public Information and Involvement**: The Town will implement a Public Involvement Plan (PIP) during the design of the Project to provide information to property owners, tenants, and area residents, including but not limited to: public meetings, project documentation and flyers, business signs, directional parking signs, and schedules for major work to be performed in the area. Appropriate investigation of the project stakeholders will be used to develop the goals and objectives to implement the PIP. The Town shall submit a copy of the PIP to the County Public Works Director for review and concurrence.
- 1.5. **Accounting**: The Town shall at all times maintain separate accounting for the costs of the Project so those costs may be independently verified and audited by the County, at the request and cost of the County. The Town agrees to permit the County auditors to inspect the books, records and accounts of the Project for three (3) years after completion of the Project. These records shall be made available to the County for inspection within five (5) business days upon written receipt of a written request from the County.
- 1.6. **Additional Work**: The Town shall notify the County Public Works Director in writing before additional work is authorized beyond the allocated amount. The Town shall also invite the County to participate in negotiations of any additional work. The County shall review and make a determination or approval of all additional work or supplemental agreements, permits, modifications of plans, or other requests for approvals submitted by the Town.

2. RESPONSIBILITIES OF COUNTY:

2.1. Funding Amount, Reimbursement of Project Costs: The project design is currently estimated to cost \$598,000. The County agrees to provide funding, up to a maximum amount of \$300,000 for eligible costs, as defined herein, incurred by the Town for the design of the Project. The County shall disburse to the Town funds for the Project in the manner set forth in this Section. 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 and the Citizens' Independent Transportation Trust (CITT).

2.2. County Payments of Project Costs: The County funds provided for eligible costs as defined herein, incurred for the design of the Project are specified below:

<u>Funding Amount</u>	<u>Funding Source</u>	<u>County Fiscal Year of Commitment</u>
\$300,000 (Maximum)	Transit Surtax Funds (Design)	2009-2010

2.3. Project Cost Adjustments: The amount contributed by the County is based on the current estimated costs of the Project. The parties recognize that adjustments to the above-referenced cost may be required in the future and that at the option of the parties, amendments may be entered into to revise the funds available for the Project. Provided that there is no increase in the amount of County funds required as stated in Section 2.1, amendments may be executed by the Town Manager and the County Mayor or County Mayor's

designee without the need for approval by the Town Council and County Commission. Otherwise, further funding commitments shall be subject to the approvals of the parties' respective governing boards.

3. **ELIGIBLE COSTS:** The parties agree that only the below identified costs that may be incurred by the Town that are directly related to the Project are eligible for reimbursement, provided adequate documentation accompanies the reimbursement request in the form of approved invoices, verified payment requests, documented journal entries, and/or check vouchers. For purposes of this Agreement, eligible costs are further defined as those pertaining to the design of Project elements that are the standard items normally provided for by the County in County bridge replacement projects, and not the enhancement of standard items, or the incorporation of items which are in addition to those standard items. The County shall not be assumed to be liable to provide reimbursement for the design of such items that do not conform to this section of the Agreement. The parties further agree that eligible costs will not include fees for project management.
4. **SCHEDULE AND MANNER OF REIMBURSEMENTS:** Upon execution, the Town shall furnish the County with a copy of the estimated budget for the Project, and will similarly furnish the County with any and all revisions thereto. At the time of contract award for this Project, the Town shall submit the Estimated Payout Schedule for the Project to the County Public Works Director. Quarterly disbursement of County funds to the Town shall be based upon Town invoices with certified copies of paid consultant billings attached and shall not include any other charges. The quarterly

submittal for invoice shall also include a certified copy of payment to Sub-Contracted firms.

5. **COMPLIANCE WITH LAWS**: The parties shall comply with applicable federal, state and local laws, codes, ordinances, rules and regulations in performing their respective duties, responsibilities, and obligations pursuant to this Agreement and with all applicable laws relating to the Project. The parties shall not unlawfully discriminate in the performance of their respective duties under this Agreement.
6. **BUSINESS PROGRAM COMPLIANCE AND OVERSIGHT**: Whenever County funds are used, the Town agrees to comply with applicable County regulations including but not limited to the Community Small Business Enterprise (CSBE) Program, Community Business Enterprise (CBE) Program, the Community Workforce Program (CWP), and the Responsible Wages and Benefits Ordinance (Ordinance No. 90-143). Specifically, the Town agrees to abide by the applicable contract measure recommendation(s) established by the Department of Business Development Project Worksheet for the participation of specified business entities and/or trades, and for CWP requirements, as administered by the County's Department of Small Business Development (SBD). SBD shall have the right to oversee and perform compliance monitoring, including but not limited to, the right to audit and to require reports and documentation related to the Code.
7. **CITIZENS' INDEPENDENT TRANSPORTATION TRUST APPROVAL**: Unless waived by action of the County, this Agreement shall only become effective upon approval by the Board of County Commissioners and the Citizens' Independent Transportation Trust (CITT) or, if not approved by the CITT, by the Board of County

Commissioners reaffirmance of the award by 2/3 vote of its membership, all pursuant to the applicable ordinance. In the event the Agreement is not approved, the Agreement shall be null and void and be of no force or effect.

8. **INDEMNIFICATION**: To the extent authorized by Florida law, the Town hereby agrees to indemnify, defend, save and hold harmless the County to the extent of all the limitations included with Section §768.28, Florida Statutes, from all claims, demands, liabilities and suits of any nature whatsoever arising out of, because of or due to the breach of this Agreement by the Town, its agents or employees. It is specifically understood and agreed that this indemnification clause does not cover or indemnify the County for its sole negligence or breach of contract.

To the extent authorized by Florida law, the County hereby agrees to indemnify, defend, save and hold harmless the Town to the extent of all the limitations included in Section §768.28, Florida Statutes, from all claims, demands, liabilities and suits of any nature whatsoever arising out of, because of or due to the breach of this Agreement by the County, its agents or employees. It is specifically understood and agreed that this indemnification clause does not cover or indemnify the Town for its sole negligence or breach of contract.

In the event of breach or non-performance by the persons selected by the Town to perform the work, the Town shall, upon written request by the County, assign to the County any and all of its rights under the affected contract for purposes of the County's prosecution of claims, actions or causes of action resulting from such breach or non-performance unless the Town pursues such claims, actions or causes of action through arbitration, administrative proceeding or lawsuit. The Town agrees

to cooperate fully with the County in the prosecution of any such claim or action. Any damage recovered by the County which is attributable to an expenditure by the Town shall be returned to the Town by the County, within sixty (60) business days of receipt.

9. **DISPUTE RESOLUTION, APPLICABLE LAW:** The parties shall resolve any disputes, controversies or claims between them arising out of this Agreement in accordance with the "Florida Governmental Conflict Resolution Act", Chapter 164, Florida Statutes, as amended. This Agreement shall be governed by the laws of the State of Florida. Venue in any proceedings shall be in Miami-Dade, Florida.

10. **ENTIRE AGREEMENT, AMENDMENTS:** This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms contained herein shall be effective unless set forth in writing in accordance with this section. No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the parties.

11. **JOINT PREPARATION:** The parties acknowledge that they have sought and received whatever competent advice and counsel as was necessary for them to form

a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties from the other.

12. SEVERANCE: In the event a portion of this Agreement is found to be invalid by a court of competent jurisdiction, the remaining provisions shall continue to be effective unless the Town or County elect to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) business days after the finding by the court becomes final.

13. NOTICES: Any and all notices required to be given under this agreement shall be sent by first class mail, addressed as follows:

To the County:

Attention: Esther L. Calas, P.E.
Director, Public Works Department
Miami-Dade County
111 NW First Street, Suite 1640
Miami, Florida 33128
(305) 375-2960

To the Town:

Attention: Alexander Diaz
Town Manager, Town of Golden Beach
1 Golden Beach Drive
Golden Beach, Florida 33160
(305) 932-0744 Ext 224

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 _____
County Attorney

ATTEST:

TOWN OF GOLDEN BEACH, a municipal
corporation of the State of Florida

BY: Elizabeth Sewell
Elizabeth Sewell
Town Clerk

BY: Glenn Singer
Glenn Singer
Mayor

(Affix Town Seal)

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