

RESOLUTION NO. 2022-055

RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, INITIATING CONFLICT RESOLUTION PROCEDURES PURSUANT TO CHAPTER 164, FLA. STAT., THE FLORIDA GOVERNMENTAL CONFLICT RESOLUTION ACT, REGARDING A CONFLICT BETWEEN THE CITY OF HIALEAH AND MIAMI-DADE COUNTY, FLORIDA; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on April 3, 2019, V Engineering & Consulting Corp. (“Contractor”), a contractor that was installing a 36-inch water main for Miami-Dade County (“County”), damaged the City’s 16-inch sewer main (“Main”) at West 28 Ave and West 60 Street; and

WHEREAS, the Contractor undertook to repair the damage at the Contractor’s cost; and

WHEREAS, shortly after the repair, the City discovered that there was significant water intrusion, including soil and rocks (“Infiltration”), in the Main, which caused the Main to back up, the pump station to exceed operating thresholds, and led to complaints from residents; and

WHEREAS, the City determined that the Contractor’s repair, which was incomplete and defective, failed and was the cause of the Infiltration in the Main; and

WHEREAS, the City expended significant sums in paying to treat the Infiltration as sewage; and

WHEREAS, the City hired its own contractor, Miller Pipeline, to properly complete the repairs, which in fact were completed on or about March 25, 2020; and

WHEREAS, the repair work included, but was not limited to, excavation, pumping of the ground water to allow the repair to take place, and repair of the damaged Main and the manhole to which it was connected; and

WHEREAS, the cost of the repair work to correct the faulty repair and properly repair the initial damage to the Main amounted to \$319,479.38; and

WHEREAS, on August 28, 2020, the City presented its claim and demand for damages for the repair work and the costs of processing the Infiltration as sewage (“Claim”), in writing, to the County; and

WHEREAS, the County, on September 2, 2020, informed the City that the Contractor must indemnify the County and the County’s Water and Sewer Department for any negligence associated with the Contractor’s work and provided the insurance information for the Contractor and County; and

WHEREAS, the Contractor disputed the loss and, on May 13, 2021, the Contractor and County's insurer denied the claim in its entirety; and

WHEREAS, the City filed a court action against the County and the Contractor on November 8, 2021; and

WHEREAS, after the court action was filed, the parties re-filed the Claim with the insurance company for the policy that was actually in effect at the time the damage occurred; and

WHEREAS, on March 24, 2021, the court entered an order staying the court action while the City and the County exhaust the intergovernmental conflict resolution procedures of the Florida Governmental Conflict Resolution Act ("Act"); and

WHEREAS, the purpose and intent of the Act is to promote, protect, and improve the public health, safety, and welfare and to enhance intergovernmental coordination efforts by the creation of a governmental conflict resolution procedure that can provide an equitable, expeditious, effective, and inexpensive method for resolution of conflicts between and among local and regional governmental entities, such as the City and the County; and that such conflict be resolved to the greatest extent possible without litigation; and

WHEREAS, the Act authorizes the City to initiate the conflict resolution provisions of the Act prior to or after initiating court proceedings against the County; and

WHEREAS, the Act sets forth the procedures for notice and conflict dispute resolution of intergovernmental disputes and authorizes the City Council to initiate the conflict resolution procedure through the passage of a resolution by its governing body.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The foregoing facts and recitations contained in the preamble to this Resolution are hereby adopted and confirmed as being true and are made a specific part of this Resolution.

Section 2: The City has a conflict with the County.

Section 3: The issue in conflict is the failure of the County and its Contractor to reimburse the City for the costs of repair to the Main and the costs of paying to process the Infiltration as sewage.

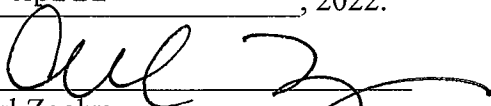
Section 4: The City believes that the County and Contractor have failed to adequately respond to the City's attempts to address and resolve the conflict.

Section 5: The Mayor and City Council hereby state their intention to initiate the conflict resolution procedures of the Act prior to prosecuting action on a previously filed court proceeding in order to resolve the conflict between the City and the County.

Section 6: The Mayor is authorized and directed to provide a certified copy of the Resolution and the letter required by Sec. 164.1052, Fla. Stat., to the County Mayor, within 5 days after the passage of this Resolution, by certified mail, return receipt requested, to schedule a conflict assessment meeting, and to take all other appropriate action pursuant to the Act.

Section 7: This resolution shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.


PASSED AND ADOPTED this 12 day of April, 2022.



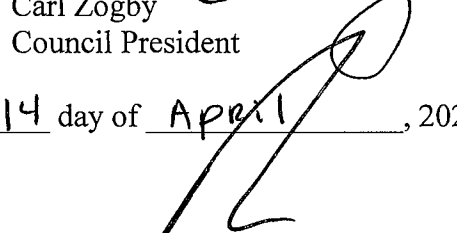
Carl Zogby
Council President

Attest:

Approved on this 14 day of April, 2022.

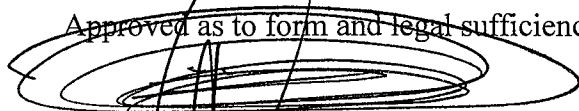


Marbelys Fatjo, City Clerk



Mayor Estevan Bovo, Jr.

Approved as to form and legal sufficiency:



Lorena E. Bravo, City Attorney

Resolution was adopted by 6-0-1 vote with Councilmembers, Calvo, Casals-Munoz, Garcia-Roves, Perez, Rodriguez and Zogby voting "Yes" and with Council Member Tundidor absent during roll call.