

## RESOLUTION NO. 14-1210

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA APPROVING AND AUTHORIZING THE PROPOSED SETTLEMENT AGREEMENT REGARDING THE CONSTRUCTION OF THE YOUTH CENTER EAST; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE SETTLEMENT DOCUMENTS; AUTHORIZING THE TOWN MANAGER TO IMPLEMENT THE TERMS AND CONDITIONS OF THE SETTLEMENT AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, JB Builders & Contractors, Inc. d/b/a Ballarena Construction (hereinafter “Ballarena Construction”) was hired pursuant to Contract/ Project No. ITB 2012-49 (“Construction Contract”) construct the Youth Center East Park (hereinafter “Youth Center”); and

**WHEREAS**, the Town Manager declared Ballarena Construction in default for numerous reasons mostly involving structural defects; and

**WHEREAS**, since the date of declaration of default there has been no construction activities; and

**WHEREAS**, Banker Insurance Company is the company that issued Public Works Bond Number 3211559 for the project; and

**WHEREAS**, Bankers Insurance has the option under the Bond to either elect to complete construction of the Youth Center or make payment to the Town in the amount necessary to complete the Project beyond the amount the Town would otherwise have been required to pay under the Construction Contract; and

**WHEREAS**, Bankers Insurance has chosen to make payment to the Town in the amount necessary to complete the Project beyond the amount the Town would otherwise have been required to pay under the Construction Contract; and

**WHEREAS**, the Town Manager and Town Attorney have been in negotiations with Bankers Insurance, to obtain the funds necessary to complete the construction of the Youth Center; and

**WHEREAS**, Bankers Insurance has agreed to accept full responsibility to make payment to any unpaid subcontractors; and

**WHEREAS**, there remain outstanding issues concerning the windows and store fronts, including their quality, design, and workmanship; and

**WHEREAS**, Bankers Insurance has agreed to pay for the cost of completion of the Youth Center in the amount of \$726,000 (hereinafter "Settlement Funds"), which sum would not include the cost of the windows and storefronts, which amount would be subject to negotiation pursuant to separate agreement; and

**WHEREAS**, obtaining the Settlement Funds at this time would allow for a more expeditious construction of the Youth Center.

**WHEREAS**, the Town Council of the Town of Miami Lakes, Florida finds that settlement of the Matter is in the best interest of the Town of Miami Lakes;

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals.** The foregoing recitals are true and correct and are incorporated herein by reference.

**Section 2. Approval of Settlement.** The Town Manager and Town Attorney are authorized to negotiate a settlement in the amount of \$726,000 with Bankers Insurance which sum would not include the cost of the windows and storefronts, as said is subject to negotiation pursuant to separate agreement.

**Section 3. Authorization of Town Officials.** The Town Manager is authorized to accept and execute a Settlement Agreement and any other document concerning this matter on behalf of the Town, subject to the approval of the Town Attorney as to form and legality. The Town Manager and/or his designee and the Town Attorney are authorized to take all actions necessary to implement the terms and conditions of the Settlement Agreement.

**Section 4. Authorization of Fund Expenditure.** The Town Manager is authorized to expend funds to implement the terms and conditions of the Settlement Agreement and complete construction of the Youth Center.

**Section 5. Execution of Agreement.** The Town Manager is authorized to execute a Settlement Agreement on behalf of the Town, to execute any required agreements and/or documents to implement the terms and conditions of the Settlement Agreement and to execute

any non-material extensions and/or amendments to the Settlement Agreement, subject to the approval as to form and legality by the Town Attorney.

**Section 6. Effective Date.** This Resolution shall take effect immediately upon adoption.

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Passed and adopted this 8<sup>th</sup> day of April, 2014.

The foregoing resolution was offered by Frank Mingo who moved its adoption. The motion was seconded by Tony Lama and upon being put to a vote, the vote was as follows:

- Mayor Wayne Slaton yes
- Vice Mayor Manny Cid yes
- Councilmember Tim Daubert yes
- Councilmember Tony Lama yes
- Councilmember Ceasar Mestre yes
- Councilmember Frank Mingo yes
- Councilmember Nelson Rodriguez yes

Wayne Slaton  
Wayne Slaton  
MAYOR

Attest:

M. Tejada  
Marjorie Tejada  
TOWN CLERK

Approved as to form and legal sufficiency:

Raul Gastesi, Jr.  
Raul Gastesi, Jr.  
Gastesi & Associates, P.A.  
TOWN ATTORNEY