

Meeting Date
February 20, 2018



| AGENDA | |
|----------|---------|
| Section | Consent |
| Item No. | II.A.1 |

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

| | |
|--------------|--|
| SUBJECT: | Approve and Authorize the Chair to accept and execute the General Release for the Mathers Swing Bridge Claim – D4 (Fiscal Impact: \$75,000 Claim Settlement) |
| DEPT/OFFICE: | Public Works – Road & Bridge (Central Area) |

Requested Action:

It is requested that the Board approve and authorize the Chair to accept and execute the General Release from Beyel Brothers, Inc. for the Mathers Swing Bridge claim in the amount of \$75,000. It is further requested that the Board authorize any Budget Change Requests associated with this approval.

Summary Explanation & Background:

On November 2, 2015, a vessel owned by Beyel Brothers, Inc. allegedly struck the Mathers Swing Bridge fender system, which damaged this element of the bridge. The County presented a claim to Beyel Brothers, Inc. for the cost of the damage to the protective fender system. The fender system is intended to sacrificially prevent boats and barges from striking and damaging critical and more costly structural bridge components.

After a period of negotiation, Beyel Brothers, Inc. has agreed to pay \$75,000 to the County as full and final satisfaction of all claims arising from the incident. Based on recent cost estimates, the projected cost to perform a full repair of the fender system is over \$300,000. At the time the fender was struck by the barge, the fender system was in excess of 25 years old. Fender systems have a limited lifespan, at the end of which they need extensive refurbishment or replacement. Beyel's insurance carrier adjusted the replacement cost of the fender system by factoring into their claim valuation the depreciation related to that portion of the life expectancy of the fender system which had already been expended and prior damage to the fender unrelated to this incident. For this reason, the offered settlement amount is less than the full cost of performing a full repair/refurbishment of the damaged fender elements.

It is the opinion of the Public Works Department that the final offer represents a fair proportionate share to cover the damage caused by the barge, and therefore recommends acceptance. It is noted that the Mathers Swing Bridge is not covered by the County's insurance; therefore the \$75,000 settlement is the full amount that we will be able to recover from this loss. It is anticipated that this offer amount can be used towards the cost to repair the fender system. The alternative would be to reject the offer and litigate over a final settlement which would have an uncertain outcome and could result in substantial costs.

Clerk to the Board Instructions: Please return signed General Release to Public Works Department.

Exhibits Attached: General Release (3 originals)

| | | | | | | | |
|--|--|---------------------------------|-------------------------------------|--------------------------------|--------------------------|----|--------------------------|
| Contract /Agreement (If attached): Reviewed by County Attorney | | Yes | <input checked="" type="checkbox"/> | No | <input type="checkbox"/> | PR | <input type="checkbox"/> |
| County Manager Frank Abbate | Assistant County Manager John P. Denninghoff | Department Director / Extension | | Andrew J. Holmes, P.E. / 57202 | | | |
| | Interim Assistant County Manager Jim Liesenfelt | | | | | | |

**BREVARD COUNTY
BOARD OF COUNTY COMMISSIONERS**



INITIAL CONTRACT REVIEW AND APPROVAL FORM

SECTION I - GENERAL INFORMATION

| | |
|--|---|
| 1. Contractor: | |
| 2. Fund/Account #: | 3. Department Name: Public Works |
| 4. Contract Description: General Release - Mathers Swing Bridge | |
| 5. Contract Monitor: Jeanette Scott | 7. Contract Type: |
| 6. Dept/Office Director: Andrew J. Holmes, P.E. | OPERATION EXPENSE |

SECTION II - REVIEW AND APPROVAL TO ADVERTISE

| <u>COUNTY OFFICE</u> | <u>APPROVAL</u> | | <u>SIGNATURE</u> | <u>DATE</u> |
|----------------------|--------------------------|--------------------------|------------------|-------------|
| | <u>YES</u> | <u>NO</u> | | |
| User Agency | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| Risk Management | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |
| County Attorney | <input type="checkbox"/> | <input type="checkbox"/> | _____ | _____ |

SECTION III - REVIEW AND APPROVAL TO EXECUTE

| <u>COUNTY OFFICE</u> | <u>APPROVAL</u> | | <u>SIGNATURE</u> | <u>DATE</u> |
|----------------------|-------------------------------------|--------------------------|--------------------|------------------|
| | <u>YES</u> | <u>NO</u> | | |
| User Agency | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>tlw</u> | <u>1/23/18</u> |
| Risk Management | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>[Signature]</u> | <u>1/23/2018</u> |
| County Attorney | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>[Signature]</u> | <u>1/23/18</u> |

SECTION IV - CONTRACTS MANAGEMENT DATABASE CHECKLIST

| <u>CM DATABASE REQUIRED FIELDS</u> | <u>Complete</u> ✓ |
|--|--------------------------|
| Department Information | <input type="checkbox"/> |
| Department | <input type="checkbox"/> |
| Program | <input type="checkbox"/> |
| Contact Name | <input type="checkbox"/> |
| Cost Center, Fund, and G/L Account | <input type="checkbox"/> |
| Vendor Information (SAP Vendor #) | <input type="checkbox"/> |
| Contract Status | <input type="checkbox"/> |
| Contract Title | <input type="checkbox"/> |
| Contract Type | <input type="checkbox"/> |
| Contract Amount | <input type="checkbox"/> |
| Storage Location (SAP) | <input type="checkbox"/> |
| Contract Approval Date | <input type="checkbox"/> |
| Contract Effective Date | <input type="checkbox"/> |
| Contract Expiration Date | <input type="checkbox"/> |
| Contract Absolute End Data (No Additional Renewals/Extensions) | <input type="checkbox"/> |
| Material Group | <input type="checkbox"/> |
| Contract Documents Uploaded in CM database (Initial Contract Form with County Attorney/ Risk Management Approval; Signed/Executed Contract) | <input type="checkbox"/> |
| "Right To Audit" Clause Included in Contract | <input type="checkbox"/> |
| Monitored items: Uploaded to database (Insurance, Bonds, etc.) | <input type="checkbox"/> |



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Tammy.Rowe@brevardclerk.us

February 21, 2018

MEMORANDUM

TO: Andrew Holmes, Public Works Director

RE: Item II.A.1., Acceptance of General Release for Mathers Swing Bridge Claim

The Board of County Commissioners, in regular session on February 20, 2018, executed the General Release from Beyel Brothers, Inc. for the Mathers Swing Bridge Claim in the amount of \$75,000; and authorized any necessary Budget Change Requests associated with this approval. Enclosed are three fully-executed copies of the Release.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

/cmw

Encls. (3)

cc: Contracts Administration
Budget
Finance

GENERAL RELEASE

BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS, who hold a business address at 2725 Judge Fran Jamieson Way, Viera, FL 32940, hereinafter known as "**Releasors**;" and

BEYEL BROTHERS, INC., whose business address is 550 Cidco Road, Cocoa, FL 32926, and its employees, agents, personal representatives, successors or predecessors in interest, insurance companies, insurance adjusters, insurance agents and brokers, hereinafter known as "**Releasees**;" and

Wherefore, **Releasors** and **Releasees** have come to a mutual understanding surrounding the events of November 2, 2015, when the **Releasees'** vessel(s) allegedly struck the **Releasors'** Mathers Swing Bridge (Bridge No. 704063) in Florida (the "**Incident**") and resulted in alleged damage and/or loss to the **Releasors**; and

Whereas **Releasors** have presented a claim for the resulting damage and/or loss; and

Whereas the **Releasees** have agreed to pay the amount of \$75,000 and the **Releasors** have accepted this sum in full and final satisfaction of all claims arising from the **Incident**; and

Now therefore, for good consideration as set forth above, the receipt of which is hereby acknowledged by the **Releasors**, **Releasors** hereby forever release, discharge, acquit, and forgive **Releasees** and its insurers from any and all claims, actions, suits, demands, agreements, liabilities, judgments, and proceedings both at law and in equity that **Releasors** may have in relation to the damage and/or loss arising from the **Incident**.

In the event of any legal action to enforce, interpret, or construe the terms of this release, each party shall bear its own attorney's fees and costs.

This release contains the ENTIRE AGREEMENT between the parties hereto, and the terms of this release are contractual and shall be binding upon and inure to the benefit of the parties, their successors, and assigns and to the extent permitted by law.

BY:

BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS, Releasors
As approved by Board February 20, 2018

Signed By: _____



Print Name: RITA PRITCHETT

Title: CHAIR

Dated: FEBRUARY 20, 2018

ATTEST:

SCOTT ELLIS, CLERK