



# MEMORANDUM

(Revised)

TO: Hon. Chairperson Barbara Carey-Shuler, Ed.D.  
and Members, Board of County Commissioners

DATE: July 13, 2004

FROM: Robert A. Ginsburg  
County Attorney

SUBJECT: Agenda Item No. 11(A)(4)

Please note any items checked.

- "4-Day Rule" ("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
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- Housekeeping item (no policy decision required)
- No committee review

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 11(A)(4)  
7-13-04

RESOLUTION NO. \_\_\_\_\_

RESOLUTION CALLING FOR A SPECIAL ELECTION IN CONJUNCTION WITH THE GENERAL ELECTION IN MIAMI-DADE COUNTY, FLORIDA, TO BE HELD ON NOVEMBER 2, 2004, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORS RESIDING WITHIN THE BOUNDARIES OF A PROPOSED NEW MUNICIPALITY IN THE AREA OF THE CUTLER RIDGE THE QUESTION OF WHETHER THE BOARD OF COUNTY COMMISSIONERS SHOULD BE AUTHORIZED TO CREATE A NEW MUNICIPALITY IN THE AREA OF THE CUTLER RIDGE PURSUANT TO SECTION 5.05 OF THE MIAMI-DADE COUNTY HOME RULE CHARTER

**WHEREAS**, Section 5.05 of the Home Rule Charter establishes the framework by which new municipalities may be created in Miami-Dade County; and

**WHEREAS**, the Cutler Ridge Municipal Advisory Committee (the "Committee"), a group of Cutler Ridge area residents appointed by the Board of County Commissioners (the "Board") has submitted its Cutler Ridge Area Committee report and resolution as amended (attached hereto and incorporated herein by reference as Composite Exhibit A) which offer acceptable solutions to certain of the issues relating to incorporation which concern the Board; and

**WHEREAS**, the Committee report provides in a conceptual agreement that the new municipality will, among other things, contract with the Miami-Dade Police Department for patrol police services for an initial period of three years; and

**WHEREAS**, the Committee understands and acknowledges that the special conditions for incorporation include, but are not limited to, remaining a part of the Miami-Dade Fire Rescue District, the Miami-Dade Public Library System, the Miami-Dade Solid Waste collection system,

as well as contracting and paying for specialized police services from the Miami-Dade County Police Department; and

**WHEREAS**, the Committee understands and acknowledges that payment for contracted specialized police services will continue from year-to-year and the costs upon which such payments are based will be recalculated every three years and will be determined based upon the municipality's utilization over the previous three years; and

**WHEREAS**, the Committee understands and acknowledges that payment for the specialized police services will come from the municipality's millage revenue or other available municipal revenues; and that payment of specialized police services shall remain so long as any of the special conditions for incorporation exist; and

**WHEREAS**, the Board is desirous of calling an election resolution in reliance upon the representations contained in the County Manager's Report and Resolution of the Committee and the statements contained in this resolution,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:**

Section 1. The matters set for above are hereby incorporated by reference in this Resolution.

Section 2. An special election is hereby called in conjunction with the general election to be held in Miami-Dade County, Florida, on Tuesday, NOVEMBER 2, 2004, for the purpose of submitting to the qualified electors residing within the boundaries of a proposed new municipality in the area of the Cutler Ridge the question of whether or not the Board of County Commissioners should be authorized to create a new municipality in the area of the Cutler Ridge

pursuant to Section 5.05 of the Miami-Dade Home Rule Charter. The boundaries of the proposed new municipality are as follows:

Northernmost: SW 184<sup>th</sup> Street

Southernmost: SW 232<sup>nd</sup> Street

Easternmost: Biscayne National Park

Westernmost: South Miami-Dade Transit Corridor Busway

A sketch of the boundaries of the proposed new municipality is attached to this Resolution as Exhibit B.

Section 3. The election is called in reliance upon the representations of the Cutler Ridge Municipal Advisory Committee conceptual agreement and report dated October 22, 2003, (Composite Exhibit A).

Section 4. Notice of such election shall be published in accordance with Section 100.342, Florida Statutes (2000).

Section 5. The results of such election shall be determined by a majority of the qualified electors residing within the boundaries of a proposed new municipality in the area of the Cutler Ridge voting upon the question. The polls at such election shall be open from 7:00 a.m. until 7:00 p.m. on the day of such election. All qualified electors residing within the boundaries of a proposed new municipality in the area of the Cutler Ridge, Miami-Dade County, Florida, shall be entitled to vote at said election. The County registration books shall remain open at the Office of the Miami-Dade County Supervisor of Elections until thirty (30) days prior to the date of such election, at which time the registration books will be closed in accordance with the provisions of the general election laws. Touch screen voting machines shall be used in such election, and the question shall appear on the ballot in substantially the following form:

PROPOSED NEW MUNICIPALITY: CUTLER RIDGE

SHALL THE MIAMI-DADE COUNTY BOARD OF COUNTY COMMISSIONERS BE AUTHORIZED TO CREATE A NEW MUNICIPALITY IN THE AREA OF CUTLER RIDGE WITH THE FOLLOWING GENERAL BOUNDARIES?

NORTHERNMOST BOUNDARY: SW 184<sup>th</sup> STREET

EASTERNMOST BOUNDARY: BISCAYNE NATIONAL PARK

SOUTHERNMOST BOUNDARY: SW 232<sup>nd</sup> STREET

WESTERNMOST BOUNDARY: SOUTH MIAMI-DADE TRANSIT CORRIDOR BUSWAY

YES

NO

Section 6. Such question shall appear on the ballot as a separate question or proposal. Those qualified electors desiring to adopt or approve such proposal shall be instructed to vote "YES". Those qualified electors desiring to reject or disapprove the question shall be instructed to vote "NO".

Section 7. Optical scan or touch screen systems may be used for absentee voting by qualified electors residing within the boundaries of a proposed new municipality in the area of the Cutler Ridge for voting on this question at said election. The form of such absentee ballot shall be in accordance with the requirements prescribed by the general election laws, and shall have printed thereon the question or proposal hereinabove set forth, with a proper place for voting either "YES" or "NO" following the statement of the question or proposal aforesaid.

Section 8. The election on the questions or proposal aforesaid shall be held in accordance with applicable provisions of general law relating to elections and the provisions of the Miami-Dade County Home Rule Charter. The County Manager, the Finance Director, the Supervisor of Elections and the Clerk of The County Commission are hereby authorized and directed to take all appropriate actions necessary to carry into effect and accomplish the provisions of this resolution. The election shall be a nonpartisan election. Election Inspections Boards, inspectors and clerks to serve as elections officials in connection with this election shall be appointed in accordance with the provisions of the general election laws.

Section 9. This election shall be canvassed by the County Canvassing Board, in accordance with the provisions of Section 2.07 of the Home Rule Charter.

The foregoing resolution was offered by Commissioner \_\_\_\_\_, who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Dr. Barbara Carey-Shuler, Chairperson	
Katy Sorenson, Vice-Chairperson	
Bruno A. Barreiro	Jose "Pepe" Diaz
Betty T. Ferguson	Sally A. Heyman
Joe A. Martinez	Jimmy L. Morales
Dennis C. Moss	Dorrin D. Rolle
Natacha Seijas	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 13<sup>th</sup> day of July, 2004. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: \_\_\_\_\_  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.

*CHC/GJC*

Craig H. Collier/Cynthia Johnson-Stacks

**CUTLER RIDGE  
MUNICIPAL ADVISORY COMMITTEE  
REPORT**

The following offers a conceptual incorporation agreement for the proposed municipal government of Cutler Ridge that addresses area residents' desire for local government and ensures that the remainder of the unincorporated area is not unduly harmed by this action. While many items remain to be worked out in terms of specific implementation measures, this conceptual agreement outlines a framework under which Cutler Ridge can proceed with its incorporation process.

**Background**

The Cutler Ridge Area Municipal Advisory Committee, a group of Cutler Ridge-area residents appointed by the Board of County Commissioners, was created under the sponsorship of Commissioner Sorenson to review the concerns raised by both members of the County Commission and County staff and the manner in which those concerns may be alleviated in the event that Cutler Ridge is incorporated as a municipality. The group met for 16 months with local officials, private government consultants and County staff from various departments.

The following is a conceptual agreement proposed by the Cutler Ridge Area Municipal Advisory Committee.

**CONCEPTUAL AGREEMENT**

Whereas, the boundaries of the proposed municipality of Cutler Ridge (hereafter referred to as "proposed municipality ") are as follows:

A portion of Miami-Dade County, Florida generally bounded on the North by S.W. 184th Street (the South boundary of the Village of Palmetto Bay), bounded on the South by S.W. 232 Street, bounded on the East by Biscayne National Park and bounded on the West by the South Miami-Dade Transit Corridor (Bus Way), said portion being more particularly described in Appendix A.

Whereas, the Cutler Ridge Area Municipal Advisory Committee acknowledges that certain municipal-type services are essential to the health and welfare of its community and the County as a whole,

Whereas, the members of the Committee acknowledge that the proposed municipality will benefit in many ways from the continued unincorporated municipal service area programs, services and activities, and other County administrative and support systems as detailed below,

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**Cutler Ridge Municipal Advisory Committee  
Conceptual Agreement**

Whereas, the Cutler Ridge area has certain unmet needs that can be addressed by the incorporation of the area into a new municipality,

Whereas, the incorporation of the proposed municipality of Cutler Ridge, recognized as "Revenue Neutral", will not generate a net loss of revenue to the remaining unincorporated area, therefore requires no contribution to the Municipal Service Trust Fund (MSTF).

Now, therefore, the members of the Committee agree to the following:

### **Section 1. – County Services**

Pursuant to the Code for Miami-Dade County, Chapter 20, Section 20-26, and Chapter 15, Section 15-21.1, the proposed municipality of Cutler Ridge will remain a part of the Miami-Dade Fire Rescue District, the Miami-Dade Library System, and the Miami-Dade Solid Waste Collection system in perpetuity.

The proposed municipality may contract by inter-local agreement with the Department of Solid Waste Management for additional services and, if so desired, the local government may negotiate additional collection schedules and frequency for the proposed municipality. The private trash collection currently in place in the residential and commercial areas of Cutler Ridge will continue. The County's Solid Waste Department will provide services to all new residential customers and continue serving existing customers.

The proposed municipal government of Cutler Ridge will also contract by inter-local agreement with the Miami-Dade Police Department for an initial three-year period for a specific level of patrol staffing. Payment amounts and other pertinent items relating to the provision of local patrol services shall be set forth in a contract (inter-local Agreement) between Cutler Ridge and Miami-Dade County. Such contract shall also provide that "the initial three-year period" shall commence upon the execution of the Local Patrol Contract by all parties. At the end of the three (3) year period, Cutler Ridge may elect not to renew the Local Patrol Contract at which point a transition period of no less than twelve (12) months will begin.

The proposed municipality of Cutler Ridge shall pay from its municipal funds, for specialized law enforcement services to be exclusively provided by the Miami-Dade Police Department in perpetuity. Payment amounts and other pertinent terms relating to the provision of specialized police services shall be set forth in a contract between Cutler Ridge and Miami-Dade County. These specialized police services include, but are not limited to, tactical central investigations, such as narcotics, criminal intelligence, economic crimes, homicide, robbery, sexual crimes, domestic violence, crime scene investigations and property and evidence. Specialized law enforcement services do not include police activities of a countywide nature such as warrants, crime lab, public

corruption unit, communications, jail, court services, and all Sheriff's services as defined by state law. For as long as Miami-Dade County continues to fund specialized police services from the countywide budget, taxpayers in Cutler Ridge shall receive a credit equivalent to any payment made through the countywide millage.

The Cutler Ridge MAC members understand and agree that the County conveys local parks within the boundaries of the proposed municipality in as-is condition. The parks to be conveyed by Miami-Dade County in as-is condition to the proposed municipality of Cutler Ridge are: Bel Aire Park, Cutler Ridge Park, Cutler Ridge Pool, Franjo Park, Lincoln City Park #1, Lincoln City Park #2, Saga Bay Park, Saga Lake Park, and Whispering Pines Park. Additional terms and conditions regarding the proposed municipality's responsibilities to operate, develop and maintain the conveyed parks will be set forth in an inter-local agreement between Miami-Dade County and the proposed municipality of Cutler Ridge at the time the parks are transferred to the new municipality.

The proposed municipality of Cutler Ridge will receive all municipal revenues to which is entitled, such as, utility taxes. Additionally, the municipality will receive those revenues (excluding countywide revenues) that the County by right may otherwise retain, such as franchise fees. The municipality will continue to receive all services that are provided to cities under the countywide budget.

The proposed municipality of Cutler Ridge will be granted all rights, powers and privileges afforded to all municipalities and provided under general laws of the State of Florida subject only to the restrictions placed upon it by this agreement which will be indicated under a separate charter section entitled "Special Conditions".

## **Section 2. - Continuing Obligation as to County Bonds**

The County issued Public Service Tax Revenue Bonds, Series 1996, Series 1999 and Series 2002 prior to the City's incorporation, which are currently outstanding in the respective principal amounts of \$18,445,000, \$71,295,000 and \$55,275,000 (collectively the "PST Bonds"). The PST Bonds are payable from Public Service Taxes (defined below) collected in the unincorporated area and in the municipalities incorporated within the County since July 2, 1996. The County receives Public Service Taxes pursuant to Section 166.231, Florida Statutes, and as of October 1, 2001, from a communications service tax assessed pursuant to Chapter 202, Florida Statutes and Section 29 of the County Code (collectively, "Public Service Taxes"). Within 30 days of the adoption of the municipal charter, the new city agrees to enact an ordinance, pursuant to Section 166.231, Florida Statutes, authorizing the levy of the public service tax at a rate no less the rate established by the County for electrical water and gas services prior to the incorporation of the city. The new city further agrees immediately following its

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**Cutler Ridge Municipal Advisory Committee  
Conceptual Agreement**

incorporation to enact an ordinance, pursuant to Section 202.19, Florida Statutes, authorizing the levy of the communication services tax at a rate no less than the rate established by the County for communications services prior to the incorporation of the City.

The proposed city agrees that, until the PST Bonds have been paid or provision made for their payment pursuant to Article X of Ordinance No. 96-108, enacted by the Board on the July 2, 1996 authorizing the issuance of the PST Bonds, the County shall have the right to receive and apply to debt service on the PST Bonds all of the Public Service Taxes collected in the unincorporated area and within the boundaries of the proposed city. The proposed city's debt service obligation as to the PST Bonds in each fiscal year or portion thereof following incorporation shall be its pro rata share of such debt service obligation. The proposed city's pro rata share of the debt service obligation accruing on the PST Bonds during each fiscal year while the PST Bonds are outstanding will be equal to that percentage of the total debt service accruing on the PST Bonds in such fiscal year calculated by multiplying such total debt service by a fraction the numerator of which will be the total amount of Public Service Taxes collected within the boundaries of the unincorporated area comprising the boundaries of the proposed city during the fiscal year prior to the incorporation of the proposed city and the denominator of which will be the total amount of Public Service Taxes collected in the entire unincorporated area of the County and the municipalities incorporated within the County since July 2, 1996 during the fiscal year prior to the incorporation of the proposed city.

Following the County's reservation of the proposed city's pro rata share of PST Bonds debt service to accrue during any fiscal year, the balance of the Public Service Taxes collected within the boundaries of the proposed city shall be remitted to the proposed city.

The County has issued Stormwater Utility Revenue Bond Series 1999 (the "Stormwater Bonds") of which \$38,805,000 remains outstanding, payable from the stormwater utility fees collected in the unincorporated area and within the exempted cities (defined below). The County assesses and collects the stormwater utility fee pursuant to Sections 24-61 through 24-61.5 of the County Code, and Section 403.0893, Florida Statutes (the "Stormwater Utility Fees").

The proposed city agrees that until the Stormwater Bonds have been paid or provision made for their payment pursuant to Article IX or Ordinance No. 98-187, enacted by the Board on December 15, 1998 authorizing the issuance of the Stormwater Bonds, the County shall have the right to receive and apply to debt service on the Stormwater Bonds all of the Stormwater Utility Fees collected in the unincorporated area, within the boundaries of the proposed city and within the five cities exempted from County Ordinance No. 91-66, as amended (the "Exempted Cities"). The City's debt service obligation as to the Stormwater Bonds in each fiscal year or portion thereof following incorporation shall be its pro

rata share of such debt service obligation. The proposed city's pro rata share of the debt service obligation accruing on the Stormwater Bonds during each fiscal year while the Stormwater Bonds are outstanding will be equal to that percentage of the total debt service accruing on the Stormwater Bonds in such fiscal year calculated by multiplying such total debt service by a fraction of the numerator of which will be the total amount of Stormwater Utility Fees collected within the boundaries of the unincorporated area comprising the boundaries of the unincorporated proposed city during the fiscal year prior to the incorporation of the proposed city and the denominator of which will be the total amount of Stormwater Utility Fees collected in the entire unincorporated area of the County, within the Exempted Cities and within the municipalities incorporated in the County since July 2, 1996 during the fiscal year prior to the incorporation of the City.

Following the County's reservation of the proposed city's pro rata share of Stormwater Utility Bonds debt service to accrue during any fiscal year, the balance of the Stormwater Utility Fees collected within the boundaries of the proposed city shall be remitted to the proposed city.

### **Section 3. - Regulatory Control**

The local government comprehensive plan adopted by the municipality pursuant to Chapter 163, Part II, Florida Statutes, shall be consistent with the adopted Miami-Dade County Comprehensive Development Master Plan (the CDMP) as it may be amended from time to time, as applied to the sites listed below:

<b>DEPARTMENT/FACILITY</b>	<b>LOCATION</b>
MIAMI-DADE POLICE DEPARTMENT Cutler Ridge	10800 SW 211 Street
MIAMI-DADE FIRE DEPARTMENT Lakes by the Bay Cutler Ridge	21501 SW 87 Avenue 10850 SW 211 Street
WATER AND SEWER DEPARTMENT Water and Sewer Pump Station	10350 Puerto Rico Drive

The list of facilities may be revised by the BCC from time to time.

Any use or activity allowed by the CDMP may not be limited or impeded in any way by the local government comprehensive plan adopted by Cutler Ridge. Additionally, Cutler Ridge shall pass no ordinance or regulation that would limit or impede the operation of the aforementioned County facilities. Jurisdiction over the listed sites for purposes of zoning and building approvals (including but not limited to site plan approvals, issuance of building permits, building inspections, compliance with the South Florida Building Code or other applicable building code, issuance of certificates of occupancy, zoning applications, special

exceptions, variances, building and/or zoning moratoria, and all other types of functions typically performed by Building and/or Zoning Departments) water and sewer installations, compliance with environmental regulations, and utility regulation shall be and is hereby vested in Miami-Dade County regardless of any Cutler Ridge code, or ordinance provision to the contrary.

This provision shall not alter or affect the legal rights of any person residing or owning real property within the proposed municipality of Cutler Ridge. The proposed municipality of Cutler Ridge shall not institute, intervene or otherwise participate in, in opposition to Miami-Dade County in any judicial or formal administrative proceeding regarding land use or development of the listed sites, or Miami-Dade County's planning or regulatory requirements for any of these facilities of countywide significance. This section shall not apply to a particular site listed above if there has been an official determination by the Board of County Commissioners of Miami-Dade County that a site will no longer be used by Miami-Dade County.

#### **Section 4. - Favored Nation Status**

The proposed municipality of Cutler Ridge and the County agree, that if subsequent to this agreement and restriction, another area of unincorporated Miami-Dade County is incorporated without the conditions outlined in this agreement, and those terms of incorporation would be beneficial to the municipality of Cutler Ridge, the terms of this conceptual agreement will immediately be replaced with the terms granted to the subsequent new municipality.

If a subsequent incorporation is approved without the newly incorporated area being required to remain in the Miami-Dade Fire Rescue District, Miami-Dade Library System, Miami-Dade Solid Waste collection service area, or without contracting with the Miami-Dade Police Department for local patrol and specialized police services, the proposed municipality of Cutler Ridge will not be required to receive that particular service from the County.

The provisions of this section, apply only to the service or services modified, and in no way alter the agreement regarding the remaining services.

