

MEMORANDUM

EPC
Agenda Item No. 1G3

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: April 14, 2016

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Ordinance amending Chapter 30A of the Code; creating section 30A-158 of the Code; establishing requirement for executed Community Benefits Agreements as a prerequisite for the distribution of County funds for certain developments unless exempt; providing definitions, requirement for community benefits, exemptions, penalties, and enforcement

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Xavier L. Suarez.



Abigail Price-Williams
County Attorney

for

APW/smm

Memorandum



Date:

To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

A handwritten signature in black ink, appearing to be "Carlos A. Gimenez", written over the printed name of the Mayor.

Subject: Fiscal Impact Statement for Ordinance Establishing Requirement for Executed Community Benefits Agreement for Distribution of County Funds

The proposed ordinance amends the County Code to establish a requirement for a negotiated community benefits agreement between a developer seeking a distribution of County funds, inclusive of any other governmental contributions, and representative(s) of the respective host community impacted by the project.

The proposed ordinance requires that developers negotiate and execute a community benefits agreement for any projects that include: 1) the direct or indirect transfer of County-owned parcels with a cumulative value of \$250,000.00 or more without open bidding or priced below market rates; 2) any lease of County-owned land; 3) the provision of County subsidies such as tax abatements, grants, bonds, etc. cumulatively valued at \$100,000.00 or more; 4) any governmental (i.e., federal, state and municipal) contributions cumulatively valued at the lesser of ten (10) percent of the covered project or \$500,000.00; and 5) tax increment financing through the incorporation of the requirements in the interlocal agreement of a newly created community redevelopment agency or to an existing one that seeks an amendment to their redevelopment plan. The proposed ordinance does allow for certain development projects to be exempted from the requirement to negotiate a community benefits agreement based on certain criteria. Exemptions include the main purpose of the project being the provision of a community benefit project such as workforce or affordable housing, infill housing, educational facilities, and a community health clinic, or certain exigencies, subject to Board consideration, that make entering into a community benefits agreement infeasible.

APPLICABLE PROJECTS

To assess the proposed ordinance's potential impact on future projects information has been compiled to determine the number of existing projects for which this ordinance would be applicable.

Transfer of Parcels

The Board authorizes the conveyance of County-owned properties of varying values, for roadway, affordable or infill housing, and other public purposes, most of which are valued at less than \$250,000, but many are also conveyed via non-bid. An example of a land transaction that would have been applicable if this ordinance was in place is the sale of the property conveyed by the School Board to the County and later sold to the developer of American Dream Mall via a no-bid process under State of Florida Statute 125.045, otherwise known as the economic development statute. Another project that would fall under the requirements of this proposed ordinance is the potential sale of Water and Sewer property to the developers of a soccer stadium via a no-bid process under the same economic development statute.

Lease of County Owned Land

County departments manage leases on County-owned lands with for-profit and not-for-profit entities for varying public or private purposes, but further research on certain leases would be required to determine if the type of development would apply under this ordinance. It is important to note that County departments have also entered into leases for County-owned land with other County departments as well as other governmental jurisdictions (i.e., municipalities and state agencies). Utilities have also entered into leases for County-owned land to install communications towers, electrical substations and powerlines.

The Internal Services Department currently manages leases for multiple County departments on County-owned land with for-profit and not-for-profit entities (19 leases), other governmental entities (14 leases), and utility companies (two leases). These figures exclude leases in County-owned facilities for office/operating space or retail services, as well as leases on County-owned land for the development of housing units, an educational facility, and a facility intended for health and other services for special-needs children. Examples of the leases with for-profit and not-for-profit entities that would have been applicable include 42,471 square feet with Naeem Khan, LLC for the development of a clothing manufacturing facility; 13,800 square feet with The Art of Cultural Evolution, Inc. for the construction, operation and maintenance of a public art and science facility; four (4) acres with the United Cerebral Palsy Association for the construction of a facility dedicated to individuals needing services; and five (5) acres with the Easter Seal Society of Dade County, Inc. on land owned by the Community Action and Human Services Department for the construction of a facility dedicated to the provision of services to individuals with autism and Down's Syndrome, among others. In the case of the leases with other governmental entities on County-owned land, examples include 15 acres with the State of Florida Department of Children and Families, 1.7 acres with the City of Hialeah Gardens, and multiple sites with the City of Miami's Department of Off-Street Parking. Again, further research on all the leases with other governmental agencies and the remaining, non-referenced leases with for-profit and not-for-profit entities is required to determine if any development activities would have required a community benefits agreement had this proposed ordinance been in place at the time each lease agreement became effective.

In the case of the Miami-Dade Aviation Department, 24 leases on County-owned land were identified with private and not-for-profit organizations. All 24 leases would have been subject to the requirements of this proposed ordinance had it been in place at the time each lease was executed. Examples include, but are not limited to, the lease of over two (2) million square feet with AeroTerm/Centurion Air Cargo for the development of an air cargo warehouse and aircraft maintenance hangar at Miami International Airport; 405,543 square feet with the United Parcel Service for the construction of a cargo facility at Miami International Airport; over 21 million square feet with AVE, LLC, AA Acquisitions, LLC, and The Carrie Meek Foundation for developments at the Miami-Opa locka Airport; and 514,008 square feet with Tamiami Air for the development of a hangar at Miami Executive Airport.

With respect to PortMiami, there are up to ten (10) leases, three (3) are cargo terminal related and the remaining seven (7) are for cruise terminals, that may have applied under this proposed ordinance. However, each lease for County-owned land at PortMiami has different terms and requirements depending on business needs and opportunities. PortMiami enters into these leases normally making a commitment to improve some of the leasehold infrastructure, which in such case is considered a subsidy and applicable under this proposed ordinance.

The Transportation and Public Works Department identified multiple properties. Staff identified six (6) separate leases with private developers on County-owned land for the development of office and hotel space near the Dadeland North and Dadeland South Metrorail stations that may have been eligible if this proposed ordinance had been in place at the time.

The Parks, Recreation and Open Spaces Department also manages several leases on County-owned land, which require further review to determine if the activity/development on the land would have been applicable under this proposed ordinance. Staff did identify certain land leases that this proposed ordinance may have applied to, such as the development of three (3) mini-soccer complexes. The Parks, Recreation and Opens Spaces also has five (5) leases with utility companies for the placement of electric substations or cell towers.

Subsidies and Contributions

As to any subsidies with a cumulative value greater than \$100,000, staff was not able to identify all projects within a certain time period that meet this criteria in an effort to provide a point of reference. The County provides funding to various organizations from multiple funding sources that can be used for developments that meet the definition under this proposed ordinance. Examples include the Targeted Jobs Incentive Fund and Qualified Targeted Industry incentives programs, of which four (4) of the 11 awards approved by the Board in the last year would have been applicable under this proposed ordinance. A past example of a tax abatement would include the \$389,000.00 historic preservation ad valorem tax exemption for the Fontainebleau Hotel. Another example of an incentive is the 10-year environmentally endangered land covenants program where private property owners are provided an economic incentive to preserve and maintain environmentally endangered lands.

Had this proposed ordinance been in place prior to the approval of the Building Better Communities General Obligation (BBC-GOB) Program, all grant awards under the BBC-GOB Program Project No. 124 – Economic Development Fund and Project No. 320 – Economic Development Fund (Targeted Urban Areas) would have been subject to the requirements of this proposed ordinance. Board approved allocations for these projects are as large as the \$13.5 million for Miami Wilds under Project No. 124 – Economic Development Fund and as small as \$2 million for Miami Design District NE 2 Avenue (DACRA) under Project No. 320 – Economic Development Fund (Targeted Urban Areas).

In negotiating with developers to offset transportation impacts with the County, the Transportation and Public Works Department occasionally enters into an agreement for contributions where by developers construct roadways in lieu of the payment of road impact fees. It is unclear whether payment through project construction of a fee that would otherwise be paid, where the assessed value of the project is equal to or greater than the fee owed, would constitute a subsidy under this proposed ordinance. Assuming it would, there are 95 such agreements today, which would have been subject to the requirements of this proposed ordinance had it been in place when each agreement was executed. Aside from the entering into agreements with developers for road impact fees, the same is done for fire, police, parks and school impact fees. This proposed ordinance would affect the limited impact fee exemptions, including roads and water and sewer connection fees, for properties located in enterprise zones, as those exemptions completely abate the full amount of the fees in exchange for the creation of jobs. No projects are currently receiving any benefit to date, but the County has fielded inquiries from interested developers of projects that will also be subject to the requirements of this proposed ordinance. Likewise, there may be other situations where the County requires mitigation or contributions from developers that could fall under this proposed ordinance, such as certain Department of Regulatory and Economic Resources permits for access on County-owned canal right-of-ways and permits to mitigate impacts to natural resources.

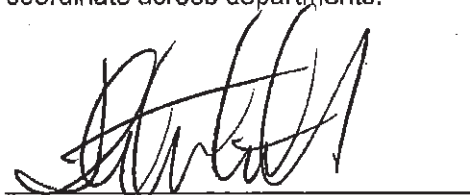
PROCESS

The proposed ordinance dictates that once a developer seeking a distribution of County funds submits an application to the Director of the Department of Regulatory and Economic Resources, the process of informing the host community prior to negotiating a community benefits agreement is triggered. This would require the Department of Regulatory and Economic Resources to generate and mail a written notice to the host community of the project and a scheduled meeting. Once the meeting with the host community has taken place, the developer is to submit a community impact report, which is to be verified by the County, noting how this particular project will affect the community. Upon the County's verification of the community impact report, the developer must then schedule meetings with the host community to negotiate a community benefits agreement. The number of meetings will depend on the Director of the Department of Regulatory and Economic Resources' assessment of whether the project is of high-impact or not. The proposed ordinance states that the notice and distribution costs incurred by the County will be covered by the developer. The developer is required to execute a community benefits agreement with the representatives of the host community prior to negotiating a request for County funds.

Based on the thresholds provided in the proposed ordinance, which apply to a significant number of projects that are managed across multiple County departments, in addition to projects that are not pursuing County-managed funds but receive funds from other levels of government, implementation of this proposed ordinance will create a fiscal impact to the County as these duties cannot be absorbed by existing staff. Duties include, but may not be limited to, a) communicate and coordinate with all County departments and other government agencies for the tracking of eligible projects and to meet the notice and distribution requirements; b) monitor for compliance and proper implementation; and c) coordinate technical expertise input spread across multiple County departments, such as Transportation and Public Works for traffic impacts, the Division of Environmental Resources Management in the Department of Regulatory and Economic Resources for environmental impacts, Public Housing and Community Development for housing impacts, and the Small Business Division in the Internal Services Department for local hiring/wage commitments. Such technical experts can assist staff at the managing departments or in the newly created office; however, additional technical staff might be needed to the extent that the workload of the managing departments and existing technical experts increases as a result of the requirement to verify community impact reports, which again depends on the number of projects.

RESOURCE REQUIREMENTS

The programs and projects described in detail above are only examples that staff was able to identify as potentially being affected under the proposed ordinance and are in no means a complete list of every program or project that could be subject to its requirements. It is difficult to estimate the additional staffing resources necessary to implement this requirement based on the number of projects to which it will apply and the size of the host community. There is currently no central repository in the County that could be used for reference, or one County department that manages all projects for which these requirements can apply. Meeting the requirements/tasks for which the County is responsible under this proposed ordinance would likely require the creation of an office within an existing County department to coordinate and ensure implementation. Alternatively, the functions prescribed in the proposed ordinance could be decentralized to departments already liaising with or managing individual covered projects. However, depending on the potential number of projects and associated verification duties, additional staff will likely be required to coordinate across departments.



Jack Osterholt
Deputy Mayor

Fis04116 160136

Memorandum



Date:

To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez". The signature is fluid and cursive, written over the printed name.

Subject: Social Equity Impact Statement for Ordinance Establishing Requirement for Executed Community Benefits Agreement for Distribution of County Funds

The proposed ordinance amends the County Code to establish a requirement for a negotiated community benefits agreement between a developer seeking a distribution of County funds, inclusive of any other governmental contributions, and representative(s) of the respective host community impacted by the project.

The overall intent of this proposed ordinance is to afford local communities, identified as host communities, the ability to seek benefits that address their respective deficiencies or needs through the negotiation and execution of a community benefits agreement. More specifically, the proposed ordinance will apply to projects that include: 1) the direct or indirect transfer of County-owned parcels with a cumulative value of \$250,000 or more without open bidding or priced below market rates; 2) any lease of County-owned land; 3) the provision of County subsidies such as tax abatements, grants, bonds, etc. cumulatively valued at \$100,000 or more, 4) any governmental (i.e., federal, state and municipal) contributions cumulatively valued at the lesser of ten (10) percent of the covered project or \$500,000.00; and 5) tax increment financing through the incorporation of the requirements in the interlocal agreement of a newly created community redevelopment agency or to an existing one that seeks an amendment to their redevelopment plan. However, the proposed ordinance does allow for certain development projects to be exempted from the requirement to negotiate a community benefits agreement based on certain criteria. Exemptions include the main purpose of the project being the provision of a community benefit project such as workforce or affordable housing, infill housing, educational facilities, and a community health clinic, or certain exigencies, subject to Board consideration, that make entering into a community benefits agreement infeasible.

By requiring a specific number of meetings between a developer and a host community and its representatives, this proposed ordinance encourages a significant amount of community input and engagement on development projects that will have an immediate impact on the host community. In addition to increased engagement, an executed community benefits agreement, to which the County will be a third-party beneficiary, will document all the negotiated benefits of the development project (i.e., green building practices, local contracting, etc.) or ancillary amenities outside the development's scope (i.e., free WiFi, donations for host community services, etc.) that are to be provided to the host community. These benefits can also have a positive impact on adjacent communities and, depending on the scope of the development project, the entire County.

As part of the process to negotiate a community benefits agreement, the developer seeking a distribution of County funds will assume the fiscal burden associated with submitting an application for public support, development and distribution of a community impact report, publishing and distributing the required notices, and organizing public meetings to negotiate. The proposed ordinance requires that the submitted community impact report address 12 specific items, all which must be verified by the County. The community impact report will provide the projected benefits (i.e., jobs, services, etc.) and burdens (i.e., traffic, environmental impacts, etc.) of the specific project. Any community impact report found by the County to be incomplete or inaccurate must be resubmitted by the developer within a specified amount of time. The specific cost to a developer of preparing, and resubmitting a revised community impact report, if necessary, cannot be determined as it would vary depending on the type

and scope of project. The developer will also assume the fiscal responsibility associated with all activities necessary to directly provide monthly reports to the Board.

In addition to the direct costs incurred by a developer, it is difficult to estimate any additional costs that may be borne by the host community and all Miami-Dade County residents. While some of the larger projects may be able to absorb the costs associated with negotiating a community benefits agreement or may be developing the necessary information for the community impact report as part of the standard regulatory process, smaller projects may not see the requisite return on investment to pursue a distribution of County funds. It is also important to consider that because of the requirements to notice and meet with the community, negotiate a community benefits agreement as well as prepare a community impact report, eligible projects under this proposed ordinance may see protracted timeframes to obtain approval of a distribution of County funds as these requirements must be met before making a request for public support. In the case of leases of County-owned land at PortMiami and at the airports, these requirements may put the County at a competitive disadvantage with other communities. Regardless of a project's magnitude, developers may make a business decision to seek additional private investment in order to not negotiate a community benefits agreement or forgo seeking County funds and look to other locations outside of the County. If the development does not occur in Miami-Dade County, the host community and County may lose the opportunity to generate additional economic activity (i.e., jobs) and realize any increases in the tax base.



Jack Osterholt
Deputy Mayor

160136



MEMORANDUM

(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: February 2, 2016

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 4(D)

Please note any items checked.

- "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
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's _____, 3/5's _____, unanimous _____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 4(D)
2-2-16

ORDINANCE NO. _____

ORDINANCE AMENDING CHAPTER 30A OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; CREATING SECTION 30A-158 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; ESTABLISHING REQUIREMENT FOR EXECUTED COMMUNITY BENEFITS AGREEMENTS AS A PREREQUISITE FOR THE DISTRIBUTION OF COUNTY FUNDS FOR CERTAIN DEVELOPMENTS UNLESS EXEMPT; PROVIDING DEFINITIONS, REQUIREMENT FOR COMMUNITY BENEFITS, EXEMPTIONS, PENALTIES, AND ENFORCEMENT; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, Miami-Dade County has subsidized significant projects which impact its local communities; and

WHEREAS, Community Benefit Agreements (“CBAs”) are contracts between developers and community organizations which can address a broad range of community needs; and

WHEREAS, CBAs are safeguards to ensure that affected residents share in the benefits of major developments; and

WHEREAS, CBAs allow community groups to have a voice in shaping and mitigating the impact that a project has on the surrounding community; and

WHEREAS, CBAs require developers to provide the impacted community with certain negotiated benefits; and

WHEREAS, CBAs provide a vehicle to enforce the developer’s promises,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
MIAMI-DADE COUNTY, FLORIDA:

Section 1. Section 30A-158 of the Code of Miami-Dade County, Florida, is hereby created to read as follows:¹

>>**Sec. 30A-158. Community Benefit Agreements**

- (1) Title. This section shall be referred to as the Miami-Dade County Community Benefits Agreement Ordinance.
- (2) Purpose. It shall be the policy of Miami-Dade County to require, wherever feasible, proportional community benefits as a condition precedent to significant public support for development in the form of bonds, subsidies, tax abatements, tax increment financings, below-market priced land, or other enhanced public resources.

As a prerequisite to a request for public support, the developer shall (i) submit the required application for such support, (ii) produce and distribute a Community Impact Report, (iii) organize and hold meetings with the affected communities and community representatives, and (iv) negotiate and execute a Community Benefits Agreement with the community representatives, or request and receive an exemption.

- (3) Definitions. The following definitions shall apply to this section:
- A. “Apprentice” means an individual enrolled in a construction apprenticeship program that is registered with the State of Florida.
- B. “Board” means the Board of County Commissioners of Miami-Dade County.
- C. “CDBG Eligible Block Group” means a geographical area whose residents are extremely low to moderate income.

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

- D. “Census Tract” means a small, relatively permanent statistical subdivision of a county or equivalent entity that is updated by local participants prior to each decennial census as part of the Census Bureau’s Participant Statistical Areas Program.
- E. “Code” means the Code of Miami-Dade County, Florida.
- F. “Community Benefits” means the amenities, benefits, commitments, urban revitalization, cash incentives, improvements, or promises to the Host Community described in Section (5)(C).
- G. “Community Benefits Agreement” or “CBA” means an agreement negotiated between a Developer and Community Representatives that provides for a range of community benefits in connection with the development of a Covered Project.
- H. “Community Representative” means the appointed leader or elected representative of a community group (i.e., church, community-based organization, labor or trade union, coalition, homeowners or condominium association, neighborhood alliance, school board, foundation). An elected official (i.e., mayor, manager, commissioner, councilperson) or designee cannot serve as a Community Representative.
- I. “Contractor” means any person, firm, partnership, limited liability company, corporation, joint venture, proprietorship, or other entity that enters into a contract for performance of construction work on the development project within the Host Community, including subcontractors of any level and/or type.
- J. “Covered Project” means a project, including a High Impact Project, where a Developer has or will request a Distribution of County Funds.
- K. “Department” means the Department of Regulatory and Economic Resources (“RER”) or its successor department.

- L. “Developer” means any person, firm, partnership, limited liability company, corporation, joint venture, proprietorship, or other entity that enters into a Development Agreement.
- M. “Development Agreement” means the agreement or agreements between the County and the Developer pursuant to which the County provides or commits to a Distribution of County Funds for a Covered Project, regardless of the label or title affixed to such agreement.
- N. “Director” means the Director of the Department of Regulatory and Economic Resources, or its successor department.
- O. “Distribution of County Funds” means:
- (1) direct or indirect transfer to the Developer of County-owned land parcels that have a cumulative market value of Two Hundred Fifty Thousand Dollars (\$250,000) or more (as determined by the County Property Appraiser or independent appraisal), without open bidding, or when priced below market rates (where allowed by law);
 - (2) any lease to a Developer of County-owned land;
 - (3) provision or approval by the County of other forms of public subsidies to the Developer, including but not limited to tax abatements, grants, or bonds, that are cumulatively valued at One Hundred Thousand Dollars (\$100,000) or more;
 - (4) any governmental contribution(s) cumulatively valued at the lesser of (i) ten percent (10%) of the total value of the Covered Project, or (ii) Five Hundred Thousand Dollars (\$500,000); or
 - (5) any plan amendment to an existing community redevelopment agency (“CRA”) or creation of a new CRA, after the effective date of this ordinance, for a subsequently approved Developer.
- P. “Employer” means any person or entity employing individuals to perform On-Site Jobs.

- Q. “Extremely Low Income Households” means one or more natural persons or a family whose total annual household income does not exceed thirty percent (30%) of the median annual adjusted gross income for households within the State of Florida.
- R. “First Source Hiring Program” means a collaborative partnership between the Developer, Miami-Dade County, and an appropriate workforce development agency that, to the extent consistent with federal and state law, includes provisions to promote the hiring, training, and employability of residents and displaced workers from the Host Community, including construction, temporary, and permanent jobs in connection with a project. Such hiring program shall be consistent with the goals and objectives of §§ 2-2113 (First Source Hiring Referral Program), 2-1701 (Community Workforce Program), and 2-11.17 (Residents First Training and Employment Program).
- S. “Focus Area” means a geographical area slated for economic revitalization.
- T. “High Impact Project” means any Covered Project proposed to be located in the County, that because of the nature of the development and/or the Host Community, is reasonably expected to produce disproportionately high human health or environmental impacts, including social, aesthetic, economic, physical, chemical, or biological impacts, in the Host Community. Determination of whether a project is a High Impact Project shall be made by the Director as set forth in Section (5)(B).
- U. “Host Community” means the community or communities within the Census Tract(s) where the Covered Project is physically located and may also include communities within adjacent Census Tracts that may be affected by the activities of the Covered Project, as determined by agreement among members of the Host Community and its representative party or parties to a Community Benefits Agreement, but shall in no case be smaller than the Census Tract where the Covered Project is physically located.
- V. “Lessee” means any person or entity leasing space in a Covered Project.

- W. “Living Wage” means the payment of the applicable living or responsible wage pursuant to §§ 2-8.9 and 2-11.16 of the Code.
- X. “Low-Income Households” means one or more natural persons or a family that has a total annual gross household income that does not exceed eighty percent (80%) of the median annual income adjusted for family size for households within Miami-Dade County. With respect to rental units, the Low Income Households’ annual income at the time of initial occupancy may not exceed eighty percent (80%) of the area’s median income adjusted for family size. While occupying the rental unit, a Low Income Households’ annual income may increase to an amount not to exceed one hundred-forty percent (140%) of eighty percent (80%) of the area’s median income adjusted for family size.
- Y. “On-Site Jobs” means any job for which at least fifty percent (50%) of the work hours are performed on-site at a Covered Project.
- Z. “Very Low Income Households” means one or more natural persons or a family that has a total annual gross household income that does not exceed fifty percent (50%) of the median annual income adjusted for family size for households within Miami-Dade County. With respect to rental units, the Very Low Income Households’ annual income at the time of initial occupancy may not exceed fifty percent (50%) of the area’s median income adjusted for family size. While occupying the rental unit, a Very Low Income Households’ annual income may increase to an amount not to exceed one hundred-forty percent (140%) of fifty percent (50%) of the area’s median income adjusted for family size.
- AA. “Workforce Housing” means dwelling units, the sale, rental or pricing of which is restricted to households whose income is within the workforce housing target income range established at sixty-five percent (65%) up to one hundred-forty percent (140%) of the most recent median family income for Miami-Dade County reported by the United States Department of Housing and Urban Development as maintained by the Department of Planning and Zoning.

(4) Community Impact Reports.

- (a) Upon submission of an application for a Covered Project to the Department, on a form prescribed by the Director, the Developer must within thirty (30) days of such submission, request that a written notice be generated and mailed by the Department, informing the Host Community of the proposed project and of a scheduled meeting. The first meeting for purposes of informing the Host Community about the proposed project shall be called by the Miami-Dade County Commissioner(s) in whose district(s) the project is located within twenty-one (21) days, but not less than fourteen (14) days, of the date of notice informing the Host Community of the proposed project. The Developer will be responsible for the costs associated with the distribution and mailing of the meeting notice.
- (b) Not more than sixty (60) days following submission of an application pursuant to Section (4)(a), the Developer of any Covered Project must submit to the County a Community Impact Report detailing the following with respect to the project:
1. The number and type of all direct, indirect, and induced jobs anticipated to result from the project and the wage and benefit levels of each;
 2. a statement of the intention and obligation to comply with the provisions of the County's responsible wage ordinance (§ 2-11.16 of the Code);
 3. any enforceable commitments to hire local or disadvantaged residents from the Host Community;
 4. any workplace health and safety measures in place for project employers, including OSHA-10 hour trainings and illness and injury prevention programs;
 5. whether any project employers are signatory to collective bargaining, labor peace or neutrality agreements with any union;
 6. significant environmental impacts including, but not limited to air, water, and soil pollution, noise, and plans for on-site adaptation to projected sea-level rise;
 7. endangered species habitat disruption;

8. traffic impacts;
 9. housing impacts including the number, type, and affordability level of any residential units created or removed from the market in connection with the project;
 10. community services impacts including specific services that will be added or removed by the project (i.e., water, sewer, parks, roads, police, fire);
 11. local small business impacts, including any local small businesses that will be included in or displaced by the project; and
 12. the fiscal impact of the project on the County and State of Florida, including all subsidy (including tax abatements and credits) the project may receive and any payments the project will make to public coffers.
- (c) The Developer will include with its Community Impact Report an affidavit signed under penalty of perjury attesting to the report's accuracy.
- (d) The County will develop and publish detailed guidance regarding the required contents of a Community Impact Report and resources available to Developers for completing Community Impact Reports.
- (e) The County will verify the accuracy of any Community Impact Report it receives. In the event the County determines that a Community Impact Report contains inaccuracies, the submitting Developer must remedy the inaccuracies within ten (10) days of notification from the County. Once the County has verified the accuracy of a Community Impact Report, it will make that report available (i) online, (ii) to residents of the Host Community, (iii) to Community Representatives, and (iv) to anyone else requesting a copy. The Developer will be responsible for the costs associated with such distribution of the Community Impact Report.
- (f) Other than the duties and responsibilities outlined above, the Board and other County officials shall have no involvement in the processes of negotiating any Community Benefits Agreement.

- (5) Provision of Community Benefits. The following standards and requirements shall apply to providing Community Benefits as a condition precedent to receipt of any Distribution of County Funds:
- A. Covered Projects. For any proposed Covered Project that requests or proposes to receive a Distribution of County Funds, the Developer shall, following the County's publication of the Community Impact Report for the project, engage in the following actions:
1. Organize at least three (3) meetings, at a reasonable time and location, open to the Host Community to ensure adequate community participation.
 2. Each subsequent meeting must be publicly noticed in a general circulation newspaper; posted at the future site of development; and for at least two (2) of the Host Community meetings, notice must be mailed to residents within the Census Tract.
 3. Failure to adequately notice and hold the above mentioned meetings for a Covered Project renders the Developer's application for Distribution of County Funds invalid, unless the Developer can show good cause, per Section (6) below.
 4. The Developer of a Covered Project shall interact with the Community Representatives for purposes of negotiating and executing a legally binding and enforceable Community Benefits Agreement to benefit the Host Community.
- B. High Impact Projects. For any proposed High Impact Project that requests or proposes the receipt of a Distribution of County Funds, the Department may determine that the requirements of Section (5)(B)(1) shall apply. Determination of whether a project is a High Impact Project shall be made by a finding of the Director. The Director may consider the Comprehensive Development Master Plan ("CDMP"), other applicable County regulations, the recommendations of County departments, and other resources the Director deems relevant, to assist in this determination.

1. High Impact Project Required Community Benefits Agreement. Upon determination by the Director that a proposed project is a High Impact Project, the Developer must engage in the following actions:

a. After the first Host Community meeting occurs, the Developer must, following the County's publication of the Community Impact Report, organize at least five (5) subsequent meetings, at a reasonable time and location, open to the Host Community to ensure adequate community participation.

b. Each subsequent meeting must be publicly noticed in a general circulation newspaper; posted at the future site of development; and for at least three (3) of the Host Community meetings, notice must be mailed to residents within the Census Tract.

c. Failure to adequately notice and hold the above mentioned meetings for a High Impact Project renders the Developer's application for Distribution of County Funds invalid, unless the Developer can show good cause, per Section (6) below.

d. The Developer of a High Impact Project shall interact with the Community Representatives for purposes of negotiating and executing a legally binding and enforceable Community Benefits Agreement to benefit the Host Community.

C. Negotiated Benefits. The Community Benefits Agreement shall provide for Community Benefits as negotiated by the Developer and the Community Representatives, and must comply with the requirements contained in Section (7)(B) of the ordinance. The parties are not required to reach an agreement providing any particular Community Benefit. Each of the Community Benefits delineated below should be considered for inclusion in the CBA, as well as any other appropriate Community Benefits:

1. responsible wages for construction jobs, construction-related, and living wages for post-construction jobs;

2. targeted benefits or appropriately negotiated employment opportunities;
3. job training, including an apprenticeship program that is currently registered with and approved by the United States Department of Labor, or a state-approved apprenticeship agency or program;
4. extremely low, low and moderate income housing, or Workforce Housing or Community land trusts;
5. quality of life or environmental impacts and mitigations;
6. technological advances for the Host Community, including free Wi-Fi;
7. neighborhood infrastructure and amenities, including but not limited to, streetscape improvements, urban tree cover, green space, and public parks;
8. community representation for the benefit of the Host Community in the development and post-development processes;
9. transparency during development and post-development;
10. donations for Host Community services, such as schools, nonprofit programs, and public transportation;
11. provision of affordable, quality early childhood education and child care services to Host Community residents;
12. affordable housing units;
13. OSHA 10 Hour safety training established by the Occupational Safety and Health Administration of the United States Department of Labor;
14. a First Source Hiring Program;
15. percentage of contracting jobs and post-development jobs reserved for formerly incarcerated individuals;
16. to the extent permitted by law, local-owned contracting requirements, such as a requirement that a majority or other specified percentage of contractors retained to provide services relating to the Development Project consist of local businesses or one or more categories of local businesses;

17. adherence to green/environmental building best practices;
18. donation(s) to Host Community schools, nonprofits, and other community service providers;
19. workforce development programs, such as:
 - a) where specialized technical training is necessary for employment in the Developer's business, pre-apprenticeship, apprenticeship, and other training in the County's high schools, community colleges, and workforce training programs targeting residents of the Host Community;
 - b) one or more adult pre-apprenticeship programs operated by one or more qualified administrators or an administrative collaboration comprised of organizations that benefit residents of the Host Community;
 - c) actively supporting workforce development activities that provide employment opportunities for residents of the Host Community, including but not limited to programs through federal workforce funds received annually and allocated by agencies such as the State's Regional Workforce Boards, Workforce Florida, Inc., or another appropriate workforce development agency or entity;
 - d) providing annual contractor readiness training for local businesses, through the United States Department of Transportation Bonding Education Program or other relevant training opportunities; and
 - e) hosting annual contractor information and networking sessions about upcoming contracting opportunities with the Florida Department of Transportation in Miami-Dade County;
20. youth employment programs:
 - a) programs to require Contractors, subcontractors and developers to hire county youth in the Host Community, such as summer internship positions to qualified Miami-Dade County youth;

- b) providing program materials, training, and support for Miami-Dade Public Schools or other educational institutions in the Host Community; and
 - c) providing employment and career mentoring opportunities for youth who reside in the Host Community, including but not limited to the Florida Department of Education's Mentoring/Student Assistance Initiative;
21. land use programs:
- a) actively promoting county real estate and investment opportunities in the Host Community through agencies such as the local community development corporation, or another appropriate real estate investment agency or entity;
 - b) providing additional recreational opportunities, parks, educational services, environmental amenities, housing capacity or other benefits in the Host Community; and
 - c) providing funds for demolition of abandoned homes or other structures in the Host Community;
22. provisions that require periodic reporting, the frequency to be determined by the parties, of activities and ongoing monitoring of compliance by the parties throughout the course of the project;
23. provisions that require the parties to periodically meet and confer, the frequency to be determined by the parties, and disclose the parties' activities and the status of compliance to Host Community residents, and that require periodic public meetings with the opportunity for participation by Community Representatives;
24. a community needs assessment regarding the Host Community, conducted by the County in consultation with the Community Representatives, at the Developer's expense;
25. an environmental and public health assessment of the impacts of the proposed development, conducted by the County in consultation with the Host Community, at the Developer's expense, not otherwise required by law; and

26. specified remedies for violation of the Community Benefits Agreement, which unless otherwise agreed by the parties, may include without limitation, specific performance, liquidated damages, claw back provisions, or revocation or withdrawal of tax abatement and public subsidies, either directly by the County, or by application to the Florida Department of Revenue, as provided by law.

(6) Exemptions. The Developer may request from the Board, a determination via resolution, which exempts it from entering into a CBA. The installation of public infrastructure to support or supply the development, and the creation of jobs are not exempt activities under this Section, unless such project is otherwise deemed exempt as provided in this Section below. An exemption request may be made by demonstrating that:

- A. The main use and purpose of the development will be to provide a community benefit, such as (i) fifty percent (50%) of the housing units in the housing project will be for Workforce Housing or forty percent (40%) Low-Income Households or twenty-five percent (25%) Very Low Income Households or ten percent (10%) Extremely Low Income Households, (ii) creation of infill housing pursuant to § 17-121 et seq. of the Code, (iii) educational facilities, or (iv) a community health clinic; or
- B. identifying a Community Representative(s) to negotiate on behalf of the Host Community is infeasible or impractical; or
- C. good faith negotiations have occurred for a reasonable time period, but negotiations have reached an intractable impasse; or
- D. other exigencies make entering a Community Benefits Agreement infeasible in the particular instance.

To request an exemption, the Developer shall: (i) provide the Board with the basis of its request in writing; (ii) state with particularity the efforts made by the Developer to engage the Host Community and the Community Representatives, and the efforts made to reach accord on a CBA; and (iii) documentation as to how it will otherwise seek to implement the purpose of this Section to provide

Community Benefits. Clauses (ii) and (iii) above are only required if the Developer seeks an exemption based upon Sections (6)(B), (6)(C), or (6)(D) of the ordinance.

For an exemption based upon Sections (6)(B), (6)(C), or (6)(D) of the ordinance, a duly noticed public hearing will be held in which the Developer and Host Representatives will have an opportunity to speak. Written documentation of such public hearing will be submitted to the Board, prior to the Board's consideration and vote on an exemption request.

(7) Development Agreement.

A. The County shall enter into a Development Agreement with any Developer to whom it provides a Distribution of County Funds. The County shall include in each Development Agreement, as material terms thereof, provisions requiring the Developer and all contractors, subcontractors, Lessees, transferees and successors in interest to comply with the applicable terms of Section (5), and to include such provisions in all contracts with subcontractors, employees, Lessees, or sub-Lessees naming the County as a third-party beneficiary of all such terms with the power to enforce those terms against the parties to the contract in any court of competent jurisdiction.

B. A Community Benefits Agreement shall include a provision that the County is an intended Third-Party Beneficiary and as such the County may, in its discretion, enforce the CBA. Any CBA must contain the following provision: ***"Miami-Dade County retains all of its sovereign prerogatives and rights as a county under the laws of the State of Florida, and shall in no way be estopped or otherwise prevented from withholding or refusing to issue any approvals of applications for building, zoning, planning or development under present or future laws and regulations of whatever nature applicable to the planning, design, construction, and development of the project or the operation thereof, or be liable for the same."***

C. Any Community Benefits Agreement shall be incorporated as a material term of any Development Agreement for the subject project and shall include an acknowledgement by the Developer of the County's right to enforce against the Developer the Developer's

obligations under the CBA, and may also include commitments by the Developer to the County of specific Community Benefits. Nothing in any Development Agreement shall preclude, prevent, or otherwise limit the Community Representative(s) or its successors from having standing to enforce a CBA to which it is a party. This subsection shall not be interpreted to change, alter, or diminish the legal and equitable duties, rights, and remedies of the parties to the CBA.

D. Each Development Agreement shall require the Developer submit to the County and Community Representatives quarterly reports detailing compliance with any Community Benefits requirements, and shall permit the County to obtain liquidated damages for noncompliance pursuant to Section (9), as well as specific performance of the provisions of the Development Agreement, and recovery and return of any Distribution of County Funds.

(8) Monitoring. Developers seeking a Distribution of County Funds shall submit to the Board and the Community Representative(s) monthly activity reports related to the Covered Project. This requirement begins upon either the Developer's application to the Department or request to the Board for a Distribution of County Funds, whichever comes first. The Commission Auditor shall provide quarterly reports to the Board based upon the monthly activity reports.

(9) Penalties for Noncompliance; Enforcement. The provisions of this Section are prescriptive in nature, and are set forth as required conditions to request and to receive a Distribution of County Funds for Covered Projects. A material failure to comply with the provisions of this Section shall result in denial, suspension, termination, revocation, or withdrawal of applications for a Distribution of County Funds, or reimbursement to the County of the monetary value or equivalent of the Distribution of County Funds. Except when obtained through substantial and material misrepresentation or fraud, the resolution of the Board which approved the Distribution for County Funds shall be evidence of compliance with the provisions of this Section, and thereafter remedies shall be limited to enforcement of the Community Benefits Agreement and/or Development Agreement.<<

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. The County Mayor or County Mayor's designee is hereby directed to prepare and submit the implementing order to this Board for approval, not later than ninety (90) days following the effective date of this ordinance.

Section 5. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

David Stephen Hope

Prime Sponsor: Commissioner Xavier L. Suarez

GRAL for
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