MEMORANDUM

Agenda Item No. 4(C)

TO: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

DATE: March 7, 2017

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Ordinance related to boundary change and incorporation procedures; amending Articles I and II of the Code of Miami-Dade County, Florida; requiring any municipality seeking to annex an area containing a community redevelopment area to acknowledge the continuing existence of the community redevelopment agency and agree to pay the required tax increment from municipal ad valorem tax revenues as a condition of annexation; requiring any new municipality seeking to incorporate and which contains a community redevelopment area to acknowledge the continuing existence of the community redevelopment agency and agree to pay the required tax increment from municipal revenues, as a pre-agreed condition of incorporation set forth in the municipal charter; providing for future governance of the community redevelopment agency

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Barbara J. Jordan.

Abigail Price-Williams
County Attorney

APW/smm

MEMORANDUM
(Revised)

TO: Honorable Chairman Esteban L. Bovo, Jr.
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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(C)
3-7-17

ORDINANCE NO. _____

ORDINANCE RELATED TO BOUNDARY CHANGE AND INCORPORATION PROCEDURES; AMENDING ARTICLES I AND II OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; REQUIRING ANY MUNICIPALITY SEEKING TO ANNEX AN AREA CONTAINING A COMMUNITY REDEVELOPMENT AREA TO ACKNOWLEDGE THE CONTINUING EXISTENCE OF THE COMMUNITY REDEVELOPMENT AGENCY AND AGREE TO PAY THE REQUIRED TAX INCREMENT FROM MUNICIPAL AD VALOREM TAX REVENUES AS A CONDITION OF ANNEXATION; REQUIRING ANY NEW MUNICIPALITY SEEKING TO INCORPORATE AND WHICH CONTAINS A COMMUNITY REDEVELOPMENT AREA TO ACKNOWLEDGE THE CONTINUING EXISTENCE OF THE COMMUNITY REDEVELOPMENT AGENCY AND AGREE TO PAY THE REQUIRED TAX INCREMENT FROM MUNICIPAL REVENUES, AS A PRE-AGREED CONDITION OF INCORPORATION SET FORTH IN THE MUNICIPAL CHARTER; PROVIDING FOR FUTURE GOVERNANCE OF THE COMMUNITY REDEVELOPMENT AGENCY; PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, the Board of County Commissioners adopted County Resolution No. R-1006-13 directing the Mayor to identify one or more universities or a professional consultant to contract with the County to analyze and make recommendations concerning future incorporations and annexations within the unincorporated area; and

WHEREAS, subsequently, the Board authorized the County Mayor or Mayor's designee to enter into an agreement with PMG Associates, Inc. to carry out the functions required by County Resolution No. R-1006-13; and

WHEREAS, PMG Associates, Inc. submitted a report to the Board dated October 2015 entitled "Analysis of Incorporation and Annexation Within the Unincorporated Areas;" and

WHEREAS, among other things, the report recommended that the Board adopt a policy to continue County operation of community redevelopment agencies (CRAs) in unincorporated areas which are subsequently annexed or incorporated; and

WHEREAS, although the inclusion of a CRA within a municipality by incorporation or annexation has no legal effect on the existence of a CRA, it is advisable that the potential new governing body of the area be aware of and agree to be bound by its obligations with respect to the CRA and that the CRA not be hindered in carrying out the purpose for which it was created; and

WHEREAS, this Board now wishes to implement this recommendation as set forth herein,

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

Section 1. Article I of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:[1]

ARTICLE I. - BOUNDARY CHANGE PROCEDURE

* * *

[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.

Section 20-3. Initiated by governing body of municipality.

Any proposed boundary change desired by the governing body of a municipality shall be initiated by resolution of such governing body adopted after a public hearing held pursuant to written notice mailed to all owners of property within the area and within six hundred (600) feet thereof in such proposed boundary changes, according to the current tax assessment roll, and pursuant to published notice; provided, however, that no notice shall be required when all owners of property within the area and within six hundred (600) feet thereof shall consent in writing to the proposed boundary change. The cost of such notice shall be paid by the governing body of the municipality. Three (3) duly certified copies of such resolution requesting the proposed boundary changes, together with proof of compliance with the notice requirements aforesaid, shall be filed with the Clerk of the County Commission, and shall be accompanied by the following:

(A) An accurate legal description of the lands or land area involved in such proposed boundary change.

* * *

(F) In addition to the foregoing, there shall be filed with the Clerk of the County Commission the following information:

(1) Land use plan and zoning. The municipality shall present a general land use plan and a map showing proposed zoning for the subject area which, if annexed, will be enacted by the municipality. This information shall be submitted regardless of size of area or state of existing development.

* * *

>>(7) Existing Community Redevelopment Agency. The municipality shall acknowledge in writing, in a format acceptable to the Office of Management and Budget or its successor department, the existence of any community redevelopment agency operating within the area proposed to be annexed and shall agree to be bound by the provisions of Section 20-8.9 of the Code.<<

* * *

Sec. 20-7. - Public hearing.

* * *

(A) At the conclusion of the public hearing the Board of County Commissioners, in evaluating the appropriateness of a petition for boundary change shall consider the following guidelines:

(1) The suitability of the proposed boundaries, in conjunction with the existing municipality, provide for a municipal community of interest that is both cohesive and inclusive. The proposed annexation area should:

(a) Not divide a U.S. Census Designated Place, to the extent feasible.

(b) Include adjacent areas of ethnic minority and lower income residents in which a majority of those residents have so petitioned.

(c) Have contiguity and not create any unincorporated enclave area(s). An unincorporated enclave area is defined as an area that would be 1) surrounded on more than eighty (80) percent of its boundary by one (1) or more municipalities and 2) of a size that could not be serviced efficiently or effectively.

(d) Have natural or built barriers as boundaries, to the extent feasible, and

* * *

>>(10) Whether there is a community redevelopment agency operating within the area proposed to be annexed.<<

(B) At the conclusion of such public hearing, the County Commission, in the exercise of its discretion, may deny the requested boundary change, by motion, or may direct the County Attorney to prepare an appropriate ordinance accomplishing the proposed boundary change, which ordinance shall be placed on the official agenda of a subsequent regular meeting of the County Commission for

consideration and adoption on first reading, or the County Commission may defer such requested boundary change for further consideration at a subsequent meeting, at which no public hearing or discussion by others than members of the County Commission shall be required.

* * *

>>**20-8.9.** **Continuation of Existence of Community Redevelopment Agency as a Condition of Annexation; Municipality Required to Agree to Pay Tax Increment; Future Governance of Such Community Redevelopment Agency**

Each municipality proposing to annex a portion of the unincorporated area shall agree that any community redevelopment agency which is operating wholly or partially within the area proposed to be annexed at the time of the annexation shall continue to exist until the expiration of the life of the community redevelopment agency in accordance with the terms of the community redevelopment plan in existence on the date of the annexation or as otherwise provided by law. The municipality shall agree to pay, when due, the tax increment from municipal ad valorem tax revenues that Miami-Dade County would have been required to pay if the area were not annexed. The amount of such payments will be calculated on an annual basis by the County's Office of Management and Budget or successor office and shall be paid into the trust fund established pursuant to Section 163.387, Florida Statutes.

The governing body of the municipality shall have the right to approve any amendments to the community redevelopment plan or bond issuances that will extend the life of the community redevelopment agency that are proposed after the incorporation of the area, subject to approval by the Board of County Commissioners and applicable taxing authorities.

If the Board of County Commissioners is acting as the governing body of the community redevelopment agency, the Board of County Commissioners, in its sole discretion, may, upon the request of the municipality, delegate those certain delegable powers under Chapter 163, Part III, Florida Statutes, to the governing body of the new municipality or to a board of commissioners selected by the municipality that is to be established pursuant to Section 163.356, Florida Statues.

If the governing body of the community redevelopment agency is comprised of members appointed by the Board of County Commissioners, the municipality, the community redevelopment agency, Miami-Dade County and other taxing authorities will have to agree in order to delegate or transfer those certain delegable powers to the governing body of the municipality or to a board of commissioners selected by the municipality. If the delegable powers are not transferred to the governing body of the municipality, as provided herein, upon each vacancy in office of the governing body of the community redevelopment agency, the Board of County Commissioners, may in its sole discretion, allow the governing body of the municipality to fill the vacancy.

The provisions of this section shall be considered a condition of annexation. Every ordinance enacted to effectuate the annexation of unincorporated areas of the County to a municipality shall expressly set forth such conditions, unless this condition is waived by a 2/3's vote of the membership of the Board. Furthermore, the provisions of this section shall also be included in an interlocal agreement between the municipality, any non-County taxing authorities, and the Board of County Commissioners. Such interlocal shall be approved by the municipality and any non-County taxing authorities prior to the Board's adoption of an ordinance effectuating an annexation.<<

Section 2. Article II of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

ARTICLE II. – INCORPORATION PROCEDURE

* * *

Sec. 20-22 Planning Advisory Board's consideration of petition for incorporation.

* * *

(C) The Planning Advisory Board, upon receipt of a petition and appropriate County department staff review and comment shall:

(1) Conduct a properly advertised public hearing within the area proposed for incorporation.

(2) Require additional information from appropriate County departments as needed.

(3) Make written recommendations with respect to the petition and any Municipal Advisory Committee Report which shall include the following:

(a) An analysis of the issues outlined in Section 20-23(B);

(b) Whether the proposed incorporation:

(1) will divide a historically recognized community;

* * *

>>(8) contains an existing community redevelopment area operating within its boundaries.<<

(c) Other considerations deemed relevant by the Board

* * *

Sec. 20-26. - Future Municipalities' Obligations to the County.

(a) As a condition of incorporation approved pursuant to Article [[~~I~~]]>>6<< of the Miami-Dade County Home Rule Charter, each new municipality shall include a provision in its charter and shall agree to remain a part of the Miami-Dade County Fire-Rescue District and the Miami-Dade County Library System in perpetuity.

(b) As a condition of incorporation approved pursuant to Article [[~~I~~]]>>6<< of the Miami-Dade County Home Rule Charter, each new municipality shall include a provision in its charter and shall agree in perpetuity to contract with the Miami-Dade County Police Department ("MDPD") and pay for specialized police services from its municipal millage or other municipal funds. For purposes of this

subsection, specialized police services include, but are not limited to, narcotics, criminal intelligence, economic crimes, homicide, robbery, sexual crimes, environmental crimes, domestic crimes, and crime scene investigations; property and evidence efforts; tactical operations activities; and aviation patrol.

(c) As a condition of incorporation approved pursuant to Article [[~~I~~]]>>6<< of the Miami-Dade County Home Rule Charter, each new municipality shall include a provision in its charter and shall agree to contract with the Miami Dade County Police Department ("MDPD") and pay for local patrol police services for three years or such longer period of time as may be requested by the municipality.

(d) The fiscal impact of an incorporation on the remainder of the unincorporated area shall be revenue neutral; provided, however, any municipality which does not meet the foregoing requirement, as a condition of incorporation pursuant to Article [[~~I~~]]>>6<< of the Miami-Dade County Home Rule Charter, shall agree to make an annual mitigation payment to the County's Municipal Services Trust Fund in the Unincorporated Municipal Service Area Budget, the amount of which shall be determined by the Board of County Commissioners, in the event of a negative fiscal impact of the municipality's incorporation on the unincorporated area. For purposes of this subsection, "a revenue neutral municipality" is defined as an area that previously, as part of the unincorporated municipal service area, generated revenues equal to or less than the cost of services provided to the area by the County. Any annual mitigation amount determined by the Board of County Commissioners pursuant to the provisions of this paragraph shall be established so as not to trigger "most-favored-nation-status" clauses which are contained in any municipal charter.

(e) As a condition of incorporation approved pursuant to Article [[~~I~~]]>>6<< of the Miami-Dade County Home Rule Charter, each new municipality shall include in its charter that such municipality shall be responsible for (i) its pro-rata share of any County debt outstanding at the time the municipality incorporates and with respect to the Stormwater Utility, outstanding at the time the municipality elects to be separate from the Stormwater Utility through

an interlocal agreement or by exemption and (ii) its prorata share of any refunding of such debt. The municipality's annual pro-rata share of debt service shall be determined by multiplying the total debt service in each Fiscal Year by the municipality's percentage share of pledged revenues (revenues pledged by the County to the repayment of the debt). The municipality's percentage share shall be determined by dividing the pledged revenues collected within the municipality during the County's Fiscal Year in which municipality incorporates, and with respect to the Stormwater Utility in the Fiscal Year in which the municipality elects to separate from the Stormwater Utility district; by the total pledged revenues collected in that same Fiscal Year. It is further provided that the municipality's charter shall authorize the County to continue to collect and distribute the pledged revenues in a manner that is consistent with the requirements of the debt and shall recognize the municipality's obligations pursuant to this subsection.

(f) The Board of County Commissioners may by way of resolution allow the distribution of existing unincorporated bond proceeds to municipalities created after September 1, 2000 for the same type of project originally described in the bond documents.

(g) As a condition of incorporation approved pursuant to Article [[~~I~~]]>>6<< of the Miami-Dade County Home Rule Charter, each new municipality, as a part of its charter, shall provide for adoption of Miami-Dade County's workforce housing development program established at Chapter 33, Article XIIA of the Code of Miami-Dade County, as amended, provided, however, that any municipality may establish and enforce more stringent regulations as necessary to ensure provision of workforce housing units within its jurisdiction.

(h) As a condition of incorporation approved pursuant to Article [[~~VI~~]]>>6<< of the Miami-Dade County Home Rule Charter, each new municipality shall provide, as a part of the charter, that the Board of County Commissioners retains jurisdiction over the modification or deletion of declarations of restrictive covenants accepted by either the Board of County Commissioners or a Community Zoning Appeals Board in connection with a Comprehensive

Development Master Plan application or zoning application, regardless of whether such declaration provides for modification or deletion by a successor governmental body. It is provided, however, that the Board of County Commissioners may not exercise such jurisdiction unless the applicable municipality has first approved the modification or deletion.

>>(i) As a condition of incorporation approved pursuant to Article 6 of the Miami-Dade County Home Rule Charter, each new municipality shall agree that any community redevelopment agency which is operating wholly or partially within the boundaries of the municipality at the time of the incorporation of the municipality shall continue to exist until the expiration of the life of the community redevelopment agency in accordance with the terms of the community redevelopment plan in existence on the date that the new municipality is incorporated or as otherwise provided by law. The new municipality shall also agree to pay, when due, the tax increment from municipal ad valorem tax revenues that Miami-Dade County would have been required to pay if the area were not annexed. The amount of these payments will be calculated on an annual basis by the County's Office of Management and Budget or successor office.

The governing body of the municipality shall have the right to approve any amendments to the community redevelopment plan or bond issuances that will extend the life of the community redevelopment agency that are proposed after the incorporation of the area, subject to approval by the Board of County Commissioners and applicable taxing authorities.

If the Board of County Commissioners is acting as the governing body of the community redevelopment agency, the Board of County Commissioners, in its sole discretion, may upon the request of the municipality delegate those certain delegable powers under Chapter 163, Part III, Florida Statutes, to the governing body of the municipality or to a board of commissioners established in accordance with Section 163.356, Florida Statutes.

If the governing body of the community redevelopment agency is comprised of members appointed by the Board of County Commissioners, the new municipality, the community redevelopment agency, Miami-Dade County and other taxing authorities will have to agree in order to delegate or transfer those certain delegable powers to the governing body of the new municipality or to a board of commissioners selected by the municipality. If the delegable powers are not transferred to the governing body of the new municipality, as provided herein, upon each vacancy in office of the governing body of the community redevelopment agency, the Board of County Commissioners, may in its sole discretion, allow the governing body of the municipality to fill the vacancy.

The provisions of this section shall be considered a condition of incorporation of a new municipality. Therefore, unless waived by a 2/3's vote of the membership of the Board of County Commissioners, (1) any ordinance of the Board of County Commissioners authorizing the incorporation of an area containing a community redevelopment agency, in whole or in part, shall set forth the provisions of this section as a condition of incorporation and (2) each new municipality shall include a provision in its charter and enter into an interlocal agreement agreeing to the requirements of this section.<<

Section 3. 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 4. 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 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:

Cynthia Johnson-Stacks
Terrence A. Smith

Prime Sponsor: Commissioner Barbara J. Jordan