

MEMORANDUM

Agenda Item No. 8(H)(2)


TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: June 4, 2019

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Resolution relating to the Biscayne Beach Security Guard Special Taxing District located entirely within the boundaries of the City of Miami Beach, and bounded on the north, west and south by Biscayne Bay, and on the east by Hawthorne Avenue and North Stillwater Drive; transferring the Special Taxing District to the City of Miami Beach in accordance with section 18-3.1 of the Code; approving and authorizing the County Mayor to execute an Interlocal Agreement for the transfer; authorizing the County Mayor to take all actions necessary to effectuate same

The accompanying resolution was prepared by the Parks, Recreation and Open Spaces Department and placed on the agenda at the request of Prime Sponsor Commissioner Sally A. Heyman.



Abigail Price-Williams
County Attorney

APW/lmp

Memorandum



Date: June 4, 2019

To: Honorable Chairwoman Audrey M. Edmonson
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 written in a cursive style and is positioned to the right of the "From:" field.

Subject: Resolution Approving the Transfer of the Biscayne Beach Security Guard Special Taxing District to the City of Miami Beach

Recommendation

On December 5, 1989, the Board of County Commissioners (Board) passed Ordinance No. 89-126, and created the Biscayne Beach Security Guard Special Taxing District (Special Taxing District), located entirely within the boundaries of the City of Miami Beach (City). This Ordinance was amended on March 7, 2017 by Ordinance No. 17-13. Section 1.01 of the Home Rule Charter and Section 18-3.1 of the Code of Miami-Dade County (Code), vests this Board with the power to designate the governing body of a municipality as the governing body of an existing special taxing district if the municipality assumes any and all liabilities of the special taxing district. The transfer of this Special Taxing District is requested pursuant to Resolution No. 2018-30576 of the City Commission of the City of Miami Beach passed on October 17, 2018, and attached hereto. As such, it is recommended that the Board approve the attached resolution and Interlocal Agreement authorizing the transfer of the Special Taxing District to the City in accordance with section 18-3.1 of the Code.

Scope

This Special Taxing District lies within Commission District 4, which is represented by County Commissioner Sally A. Heyman.

Fiscal Impact/Funding Source

Transfer of this Special Taxing District will result in no economic impact on the Miami-Dade County (County) budget.

Social Equity Statement

The proposed resolution transfers a special taxing district, pursuant to section 18-3.1 of the Code. If approved, the City will be the new governing body for the Special Taxing District, and the property owners within the Special Taxing District will continue to pay special assessments appropriately apportioned according to the special benefit they receive from the Special Taxing District's services regardless of their demographics, and that the total estimated amount of the special assessment to be levied would not be in excess of such special benefit.

Track Record/Monitor

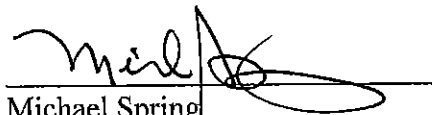
The Special Taxing District transfer will be managed by the Parks, Recreation and Open Spaces Department (PROS) and overseen by the Chief of the Special Assessment Districts Division, Lorena Guerra-Macias.

Background

Contingent upon approval of the transfer of this Special Taxing District by this Board and the City by joint resolution, and subsequent ratification by the qualified registered voters within the Special Taxing District, the City will become the governing body as provided in the Interlocal Agreement between the County and the City, and will become responsible for all past and future liabilities of the Special Taxing District. The final transfer is expected to be complete on October 1, 2020. Every qualified registered voter residing within the Special Taxing District's boundaries will be afforded the opportunity to vote at an election conducted by mail, estimated to be held on December 17, 2019. The transfer will be accomplished pursuant to the attached Interlocal Agreement between the County and the City, and will be assisted by PROS.

Boundaries: On the North, Biscayne Bay;
 On the East, Hawthorne Avenue and North Stillwater Dr.;
 On the South, Biscayne Bay;
 On the West, Biscayne Bay.

In accordance with the requirements of section 18-3.1 of the Code, I recommend that this Special Taxing District be transferred to the City, if approved by the referendum required subsequent to the public hearing.


Michael Spring
Senior Advisor

**TRANSFER OF THE BISCAYNE BEACH SECURITY GUARD SPECIAL TAXING
DISTRICT FROM MIAMI-DADE COUNTY TO THE CITY OF MIAMI BEACH**

THIS AGREEMENT FOR TRANSFER OF THE BISCAYNE BEACH SECURITY GUARD SPECIAL TAXING DISTRICT CURRENTLY MAINTAINED BY MIAMI-DADE COUNTY (AGREEMENT), made and entered into this ____ day of _____, 2019, by and between the **CITY OF MIAMI BEACH, FLORIDA**, a municipal corporation of the STATE OF FLORIDA (hereinafter referred to as the "City") and **MIAMI-DADE COUNTY**, a political subdivision of the STATE OF FLORIDA (hereinafter referred as the "County").

WITNESSETH

WHEREAS, the City has requested transfer of the ownership of the assets and control of the Biscayne Beach Security Guard Special Taxing District ("**Special Taxing District**") from the County to the City such that the City Commission will become the governing body responsible for the Special Taxing District; and

WHEREAS, the City and the County are mutually desirous of transferring the Special Taxing District to the City; and

WHEREAS, the City shall take full responsibility for the operation and maintenance of the Special Taxing District as determined herein, including exclusive responsibility for all pre-existing and future liabilities, whether known or unknown,

NOW, THEREFORE, in consideration of the covenants herein provided, the City of Miami Beach and Miami-Dade County agree as follows:

1. The foregoing recitals are incorporated herein.
2. This Agreement shall become effective upon the last effective date of a joint resolution transferring the Special Taxing District, and a favorable election of the residents for the transfer ("**Effective Date**"). Either party may terminate this Agreement prior to the joint resolution being passed by both the Board of County Commissioners and the City Commission.
3. Prior to passing the joint resolution, the City shall have the right to conduct due diligence, including an inspection of the Special Taxing District's improvements.
4. Twelve (12) days after the Effective Date, unless a contest of the election is filed pursuant to section 102.168 of the Florida Statutes, the Board of County Commissioners ("**Board**") will no longer be the governing body of the Special Taxing District and the City Commission shall be the governing board of the Special Taxing District ("**Transfer Date**"). If a contest is filed, the transfer will occur upon a successful resolution of such contest upholding the election, which is no longer challengeable by any appeal.

5. On October 1, 2020, the County will cease all involvement, including all operations and maintenance for the Special Taxing District, and the City will be exclusively responsible for the Special Taxing District ("Completion Date").
6. The County will continue to provide service to the Special Taxing District between the Transfer Date and the Completion Date ("Transition Period"), but any action requiring Board approval will be presented to the City Commission.
7. Prior to the Transfer Date, the Special Taxing Districts Division of the County shall provide to the City a preliminary financial reconciliation of all known liabilities for the Special Taxing District.
8. Beginning on the Transfer Date, the City shall be responsible for all pre-existing and future liabilities of the Special Taxing District, whether known or unknown, and regardless of whether they appear on the financial reconciliation provided by the County.
9. During the Transition Period, the Special Taxing Districts Division of the County will be available to meet with the City to provide assistance with operations questions.
10. The City shall be responsible for establishing assessment rates and collecting assessments for the Special Taxing District beginning October 1, 2020. If the City intends on using the uniform method for the levy, collection, and enforcement of non-ad valorem assessments, the City shall comply with the requirements of section 197.3632 of the Florida Statutes and shall make such arrangements with the Miami-Dade County Office of the Property Appraiser and Miami-Dade County Tax Collector.
11. The City shall arrange for transfer of the Special Taxing District's utility accounts into the City's name, to take effect no later than September 1, 2020. Such utilities include, but are not limited to, Florida Power and Light and Miami-Dade County Water and Sewer.
12. Prior to the Completion Date, the City shall assume the existing contractual obligations for the Special Taxing District if the County cannot terminate said contracts, or shall procure contracts with vendors to provide all necessary services to the Special Taxing District, including, but not limited to, contracts for the following services: security guards, extermination, janitorial, gate repair, and building repair. The City's contractors shall commence service on October 1, 2020.
13. Prior to the Completion Date, the City shall be responsible for establishing its own protocols and policies for accessing the Special Taxing District, including, but not limited to, the issuance and use of access devices, if any. The County shall transfer to the City the Special Taxing District's entire inventory of unissued access devices. Notwithstanding this provision, the City agrees at all times to maintain public access to the public roads within the Special Taxing District, in accordance with state law, and the Code of Miami-Dade County, Florida.
14. Beginning on the Completion Date, the City Commission shall be responsible for the continuous operation, maintenance, repair, and replacement, when necessary, of the

Special Taxing District's improvements and systems, including, but not limited to, the guardhouse, guardhouse air conditioning, plumbing and electrical, security cameras, and guard gate.

15. Beginning on the Completion Date, the City shall be responsible for payment of all of the Special Taxing District's expenses.
16. The County shall transfer to the City, effective on the Completion Date, any active, transferrable warranties on the Special Taxing District's improvements or equipment.
17. Within thirty (30) days of the Completion Date, the County shall provide to the City a final financial reconciliation of all known liabilities for the Special Taxing District. Any omission from the final reconciliation shall not constitute a waiver by either the County or the City for payment to or from the Special Taxing District's account.
18. Within sixty (60) days of the Completion Date, the County shall remit to the City any remaining surplus funds in the Special Taxing District's account, or shall issue an invoice to the City for any deficit in the Special Taxing District's account.
19. Following expiration of all existing contractual obligations, pursuant to section 2-8.9 of the Code of Miami-Dade County, the City is encouraged to pay the Living Wage.
20. To the extent allowed by, and subject to the limitations of, section 768.28 of the Florida Statutes, the City does hereby agree to indemnify and hold the County, its officials, employees and instrumentalities, harmless from any and all liability for any damage, injury, or claim that may arise by virtue of the Special Taxing District, or the exercise of any rights, obligations or actions under this Agreement, including but not limited to the City's failure to provide services or maintain, repair, replace, or operate the improvements.
21. The undersigned further agrees that these conditions shall be deemed a continuing obligation between the City and the County and shall remain in full force and effect and be binding on the City, and any permitted successors or assigns.
22. In the event that the City requests any third party to assume any of the responsibilities hereunder, the City acknowledges that such assumption shall not relieve the City from any obligations or responsibilities hereunder. Any failure by any third party shall not subject the County to any liability for any damage, injury, or claim that may arise.
23. Nothing in this Agreement, expressed or implied, is intended to: (a) confer upon any entity or person other than the parties and any permitted successors or assigns, any rights or remedies under or by reason of the Agreement as a third party beneficiary or otherwise except as specifically provided in this Agreement; or (b) authorize anyone not a party to this Agreement to maintain an action pursuant to or based upon this Agreement. Additionally, nothing herein shall be deemed to constitute a waiver of any rights under section 768.28 of the Florida Statutes, or as a waiver of the County's sovereign rights.

24. The language agreed to herein expresses the mutual intent and agreement of the County and the City, and shall not, as a matter of judicial construction, be construed more severely against one of the parties from the other.

25. Any notices to be given hereunder shall be in writing and shall be deemed to have been given if sent by hand delivery, recognized overnight courier (e.g., Federal Express), or by written certified U.S. mail, with return receipt requested, addressed to the party for whom it is intended, at the place specified. The method of delivery shall be consistent among all of the persons listed herein. For the present, the City and County designate the following as the respective places for notice purposes:

For the County: Miami-Dade County Mayor
111 NE 1st Street, Suite 2910
Miami, FL 33128

With a Copy to: Miami-Dade Parks, Recreation, and Open Spaces Department
Attn: Director
275 NW 2nd Street, 5th Floor
Miami, FL 33128

Miami-Dade County Attorney's Office
111 NE 1st Street, Suite 2810
Miami, FL 33128

For the City: City Manager, City of Miami Beach
1700 Convention Center Drive, 4th Floor
Miami Beach, FL 33139

With a Copy to: City Attorney, City of Miami Beach
1700 Convention Center Drive, 4th Floor
Miami Beach, FL 33139

IN WITNESS WHEREOF, the City and County have caused this instrument to be executed by their respective officials thereunto duly authorized, this the day and year above written.

ATTEST:

CITY OF MIAMI BEACH, a municipal corporation

By: _____
Rafael E. Granado, City Clerk

By: _____
Jimmy Morales, City Manager

Date

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

4
7
R. E. Granado 3-12-19
City Attorney Date

MIAMI-DADE COUNTY BOARD OF COUNTY COMMISSIONERS, FLORIDA

ATTEST:

By: _____ Date _____
Mayor or Mayor's
Designee

HARVEY RUVIN, CLERK

By: _____ Date _____
Deputy Clerk

RESOLUTION NO. 2018-30576

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, IN ACCORDANCE WITH SECTION 18-3.1 OF THE MIAMI-DADE COUNTY CODE, REQUESTING THE MIAMI-DADE COUNTY BOARD OF COUNTY COMMISSIONERS TO TRANSFER CONTROL OF THE BISCAYNE BEACH SECURITY GUARD SPECIAL TAXING DISTRICT FROM THE COUNTY TO THE CITY, AND TO DESIGNATE THE MAYOR AND CITY COMMISSION AS THE GOVERNING BODY OF THE SPECIAL TAXING DISTRICT, SUBJECT TO A MAJORITY VOTE OF THE QUALIFIED ELECTORS RESIDING IN THE SPECIAL TAXING DISTRICT.

WHEREAS, in 1989, the City of Miami Beach's ("City") Mayor and City Commission and the Miami-Dade County ("County") Board of County Commissioners ("Board") approved the creation of the Biscayne Beach Security Guard Special Taxing District ("Special Taxing District") in City Resolution No. 88-19368 and County Ordinance No. 89-126 to provide 24-hour security guard service to Biscayne Beach; and

WHEREAS, on February 2, 2016, the County Board adopted Ordinance No. 16-14, creating a new Section 18-3.1 in the Miami-Dade County Code, providing that, subject to Charter referendum approval at the November 8, 2016 election, a municipality could be authorized to act as the governing body of a special taxing district located entirely within its municipal boundaries, and that control of an existing special taxing district in a municipality could be transferred from the County Board to the governing body of such municipality; and

WHEREAS, on November 8, 2016, the electorate approved a County Charter Amendment validating and giving effect to County Ordinance No. 16-14; and

WHEREAS, the Biscayne Beach Security Guard Special Taxing District is located entirely within the boundaries of the City; and

WHEREAS, Section 18-3.1 of the County Code provides, in part, that by joint resolutions of the County Board and the governing body of a municipality, the governing body of a municipality may be designated as the governing body of an existing special taxing district located entirely within the boundaries of such municipality, subject to a majority vote of the qualified electors residing in the special taxing district at an election called by and conducted as provided by the County Board; and

WHEREAS, the transfer of control of the Biscayne Beach Security Guard Special Taxing District from the County Board to the City has been requested and is supported by the Biscayne Beach Homeowner's Association; and


WHEREAS, the Mayor and City Commission hereby request the transfer of control of the Biscayne Beach Security Guard Special Taxing District from the County Board to the Mayor and City Commission of the City of Miami Beach, and the designation of the Mayor and City Commission as the governing body of the Special Taxing District, subject to a majority vote of the qualified electors residing in the Special Taxing District.

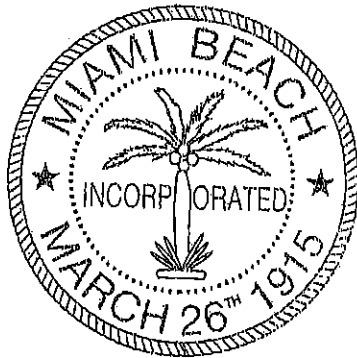
NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, the Mayor and City Commission, in accordance with Section 18-3.1 of the Miami-Dade County Code, hereby request the Miami-Dade County Board of County Commissioners to transfer control of the Biscayne Beach Security Guard Special Taxing District from the County to the City, and to designate the Mayor and City Commission as the governing body of the Special Taxing District, subject to a majority vote of the qualified electors residing in the Special Taxing District; and, further authorize the City Manager to do all things necessary to carry out the intent of this Resolution and direct the City Clerk to transmit a copy of this Resolution to Mayor Carlos A. Gimenez and members of the Miami-Dade County Board of County Commissioners.


PASSED AND ADOPTED this 17th day of October, 2018.

ATTEST:


Dan Gelber, Mayor


10/30/18
Rafael E. Granado, City Clerk



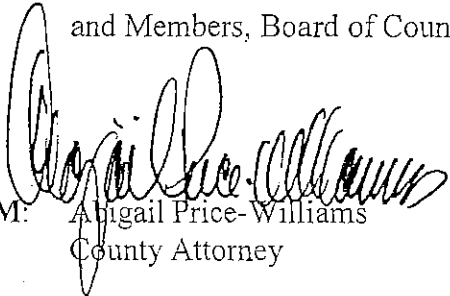
APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

City Attorney 10-9-18
Date



MEMORANDUM
(Revised)

TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: June 4, 2019

FROM: 
Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 8(H)(2)

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 present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) 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. 8(H)(2)
6-4-19

RESOLUTION NO. _____

RESOLUTION RELATING TO THE BISCAYNE BEACH SECURITY GUARD SPECIAL TAXING DISTRICT LOCATED ENTIRELY WITHIN THE BOUNDARIES OF THE CITY OF MIAMI BEACH, AND BOUNDED ON THE NORTH, WEST AND SOUTH BY BISCAYNE BAY, AND ON THE EAST BY HAWTHORNE AVENUE AND NORTH STILLWATER DRIVE; TRANSFERRING THE SPECIAL TAXING DISTRICT TO THE CITY OF MIAMI BEACH IN ACCORDANCE WITH SECTION 18-3.1 OF THE CODE OF MIAMI-DADE COUNTY; APPROVING AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE AN INTERLOCAL AGREEMENT FOR THE TRANSFER; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO TAKE ALL ACTIONS NECESSARY TO EFFECTUATE SAME

WHEREAS, the Board of County Commissioners ("Board") desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

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

Section 1. This Board incorporates the matters set forth in the foregoing recitals as part of this Resolution.

Section 2. Pursuant to section 18-3.1 of the Code, this Board designates the governing body of the City of Miami Beach as the governing body of the Biscayne Beach Security Guard Special Taxing District.

Section 3. The City of Miami Beach shall be responsible for all pre-existing and future liabilities, for the protection of any creditors, whether known or unknown.

Section 4. This Board hereby approves the Interlocal Agreement in substantially the form attached to the County Mayor's memorandum, both of which are incorporated by reference, between Miami-Dade County and the City of Miami Beach, and authorizes the County Mayor or County Mayor's designee to execute said agreement.

Section 5. The City of Miami Beach will take full control of the Biscayne Beach Security Guard Special Taxing District as provided in the Interlocal Agreement.

Section 6. The provisions of this Resolution shall take effect when approved by a majority vote of the qualified electors residing in the Special Taxing District at an election to be called by this Board and noticed and conducted as this Board shall determine by Resolution.

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:

Audrey M. Edmonson, Chairwoman

Rebeca Sosa, Vice Chairwoman

Esteban L. Bovo, Jr.

Jose "Pepe" Diaz

Eileen Higgins

Joe A. Martinez

Dennis C. Moss

Xavier L. Suarez

Daniella Levine Cava

Sally A. Heyman

Barbara J. Jordan

Jean Monestime

Sen. Javier D. Souto

The Chairperson thereupon declared the resolution duly passed and adopted this 4th day of June, 2019. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the 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.



Daija Page Lifshitz