

MEMORANDUM

Amended
Substitute
Agenda Item No. 11(A)(15)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: September 3, 2014

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Resolution directing the Mayor
to negotiate an interlocal
agreement with the City of
Miami Gardens regarding the
City of Miami Gardens
performing permitting of
properties surrounding Dolphin
Stadium within the City
Resolution No. R-783-14

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



R. A. Cuevas, Jr.
County Attorney

RAC/smm



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(Revised)

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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**
- 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 _____

Amended
Substitute
Agenda Item No. 11(A)(15)
9-3-14

RESOLUTION NO. R-783-14

RESOLUTION DIRECTING THE MAYOR OR DESIGNEE TO NEGOTIATE AN INTERLOCAL AGREEMENT WITH THE CITY OF MIAMI GARDENS REGARDING THE CITY OF MIAMI GARDENS PERFORMING PERMITTING OF PROPERTIES SURROUNDING DOLPHIN STADIUM WITHIN THE CITY; AUTHORIZING DISTRICT COMMISSIONER AND COMMISSIONER'S STAFF TO PARTICIPATE IN NEGOTIATIONS

WHEREAS, the City of Miami Gardens (the "City") was incorporated in 2003, and as part of that incorporation process, the Board of County Commissioners ("County Commission") placed the proposed City's Charter before the electorate in the area now known as the City of Miami Gardens; and

WHEREAS, Section 9.6 of the City's Charter contained certain pre-agreed conditions required by the County, as a condition of the incorporation of the City; and

WHEREAS, the City's electors approved Section 9.6 as part of their adoption by election of the proffered City Charter; and

WHEREAS, only the electors of the City have the power to approve an amendment to the City Charter pursuant to a duly-called election and other applicable requirements contained in the Miami-Dade County Home Rule Charter and the Code of Miami-Dade County; and

WHEREAS, pursuant to Section 9.6 of the City's Charter, Miami-Dade County (the "County") retained certain jurisdiction, such as jurisdiction for building permits, over the facility currently known as SunLife Stadium and certain surrounding properties, as described in Appendix C to the City's Charter ("Appendix C"); and

WHEREAS, Section 9.6 of the City's Charter also provides that the County retains jurisdiction over the Dolphin Center Development of Regional Impact (DRI) Development Order, which covers the properties described in Appendix C as well as additional properties described in Appendix D of the City's Charter ("Appendix D"); and

WHEREAS, the County believes that, with the exception of the Dolphin Center Development of Regional Impact (DRI), the City has jurisdiction and the authority to issue building permits and regulate zoning on the properties described in Appendix D of the City's Charter; and

WHEREAS, the City wishes to have greater jurisdiction over certain properties surrounding Sun Life Stadium, as described in Appendix C of the City's Charter, and input into the Development of Regional Impact for properties as described in Appendices C and D; and

WHEREAS, the City recently sued the County and alleges, among other things, that Section 9.6 of the City's Charter is invalid and unconstitutional, and in the alternative, if Section 9.6 of the City's Charter is valid, then jurisdiction over the properties described in Appendix C and Appendix D of the City's Charter transferred to the City as of December 31, 2012 pursuant to the language of Section 9.6; and

WHEREAS, the County disagrees with the City's interpretation of Section 9.6; and maintains that pursuant to Section 9.6 of the City's Charter, the County has jurisdiction over the properties in Appendix C and jurisdiction over the Development of Regional Impact for the properties in Appendix D; and has asserted that, based on Section 6.05 of the Miami-Dade Home Rule Charter, the Board of County Commissioners may not authorize the removal of Section 9.6 of the City's Charter without an amendment to the City's Charter; and

WHEREAS, Section 6.05 of the Miami-Dade County Home Rule Charter provides: “Notwithstanding any provision of this Charter to the contrary, with regard to any municipality created after September 1, 2000, the pre-agreed conditions between the County and the prospective municipality which are included in the municipal charter can only be changed if approved by an affirmative vote of two-thirds (2/3) of the members of the Board of County Commissioners then in office, prior to a vote of the qualified municipal electors”; and

WHEREAS, irrespective of the lawsuit, the County Commission, in the interest of continuing its good relationship with the City and encouraging the continued growth of an important municipality within Miami-Dade County, wishes to enter into an interlocal agreement with the City regarding these matters; and

WHEREAS, Section 9.6 of the City’s Charter provides that, “the City and Miami-Dade County will enter into an Interlocal agreement that includes the provisions of this Section”; and

WHEREAS, such an interlocal agreement shall provide that, among other things:

1. Miami Dade County will continue to process all building permit applications for the Stadium Site (“Stadium Site” shall consist of the property so designated on Appendix C of the City’s Charter). All permitting, land use and zoning approvals for the Stadium Site shall remain with Miami-Dade County. Any changes to or transition from this status quo for the Stadium Site may only be addressed in a separate item presented to the Board of County Commissioners.

2. Except for the Stadium Site, the City, via the City or a City-approved private provider, will issue building permits for the Outer Parcels (as defined hereunder) in accordance with the County’s regulations and the County’s fees, and receive all revenue from such permits issued by the City for the Outer Parcels. The County shall process all building permits for

current uses of the Outer Parcels that support the current uses of the Stadium Site (e.g., parking lot maintenance), but if the Outer Parcels are ever developed, the City shall process all building permits for the Outer Parcels. The Outer Parcels consist of those properties in Appendix C referred to as “Dolphin Center East One,” “Dolphin Center East Two,” and “Dolphin Center West.”

3. Miami-Dade County will agree that the City will have the opportunity to provide input into and the ability to challenge the County’s Comprehensive Development Master Plan policies and Development of Regional Impact (DRI) decisions for the properties described in Appendix C and Appendix D of the City’s Charter, except not for the Stadium Site.

4. The County will prepare, in consultation with the City, and consider an ordinance establishing a process for the City to issue a recommendation to the County Commission for any zoning application for properties described in Appendix C or any Development of Regional Impact application for properties described in Appendix C or Appendix D, and if the City recommends denial of such an application, the County Commission may only approve such an application by a two-thirds (2/3’s) vote of members present, and failure to approve such an application by a two-thirds (2/3’s) vote of members present shall be deemed a denial, however, this shall not prevent the Board of County Commissioners from deferring an application to another day. This ordinance, however, shall not apply to the Stadium Site.

5. The City and the County shall cooperate to provide joint notices and advertising of any zoning application where the City will be providing a recommendation for properties described in Appendix C or Development of Regional Impact application described in Appendix C or Appendix D in order to prevent duplication of effort and fees. This shall not apply to the Stadium Site.

6. In the event that Section 9.6 of the City of Miami Gardens' Charter is modified or deleted, the provisions of the interlocal agreement that are related to the Stadium Site, as described in more detail in subsection 1 of this whereas clause, shall survive and be binding on all parties.

7. This interlocal agreement shall not prevent the City of Miami Gardens from modifying Section 9.6 of the City's Charter, subject to any required approval of the Board of County Commissioners and resident electors in the City of Miami Gardens, to provide the City with zoning jurisdiction over the Outer Parcels.

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

Section 1. The above recitals are incorporated into this item.

Section 2. This Board directs the Mayor or the Mayor's designee to negotiate an interlocal agreement, which shall contain the provisions in the above recitals, between Miami-Dade County and the City of Miami Gardens. The Mayor or the Mayor's designee shall prepare this interlocal agreement for placement on the agenda of the appropriate County Commission committee within sixty (60) days of the date of this resolution and/or of the next available meeting of the Board of County Commissioners, subject to the applicable Rules of Procedure of the Board of County Commissioners.

Section 3. This Board hereby authorizes the County Commissioner for the district in which the subject property is situated and the respective Commissioner's staff to participate in the negotiations of the interlocal agreement and any potential settlement of the lawsuit, provided that such participation does not waive any requirement that the agreements be presented to this Board for approval.

The Prime Sponsor of the foregoing resolution is Commissioner Barbara J. Jordan. It was offered by Commissioner **Barbara J. Jordan**, who moved its adoption. The motion was seconded by Commissioner **Xavier L. Suarez** and upon being put to a vote, the vote was as follows:

	Rebeca Sosa, Chairwoman	aye	
	Lynda Bell, Vice Chair	aye	
Bruno A. Barreiro	aye	Esteban L. Bovo, Jr.	aye
Jose "Pepe" Diaz	aye	Audrey M. Edmonson	aye
Sally A. Heyman	absent	Barbara J. Jordan	aye
Jean Monestime	aye	Dennis C. Moss	aye
Sen. Javier D. Souto	aye	Xavier L. Suarez	aye
Juan C. Zapata	aye		

The Chairperson thereupon declared the resolution duly passed and adopted this 3rd day of September, 2014. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

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

HARVEY RUVIN, CLERK



By: **Christopher Agrippa**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

A handwritten signature in black ink, consisting of the letters "ASP" in a stylized, cursive font, enclosed within a circular scribble.

Craig H. Coller
Cynthia Johnson-Stacks
Abbie Schwaderer-Raurell