

MEMORANDUM

Agenda Item No. 8(H)(1)

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


DATE: October 3, 2019

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Resolution relating to the Air Park Industrial Street Lighting Improvement Project located entirely within the boundaries of the City of Miami Gardens, and bounded on the North by Biscayne Canal, on the east by NW 33 Court, on the South by NW 151 Street, and on the West by NW 37 Avenue; transferring the Special Taxing District to the City of Miami Gardens in accordance with section 18-3.1 of the Code; waiving election pursuant to two-thirds (2/3) vote of members present; approving and authorizing the County Mayor to execute an Interlocal Agreement for the transfer; and authorizing the County Mayor to take all actions necessary to effectuate same

Resolution No. R-1044-19

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 Barbara J. Jordan.



Abigail Price-Williams
County Attorney



APW/uw

Memorandum



Date: October 3, 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".

Subject: Resolution Approving the Transfer of the Air Park Industrial Street Lighting Improvement Project to the City of Miami Gardens

Recommendation

On November 17, 1987, the Board of County Commissioners (Board) passed Ordinance No. 87-84, creating the Air Park Industrial Street Lighting Improvement Project (Special Taxing District), located entirely within the boundaries of the City of Miami Gardens (City). 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. 2018-01-3314 of the City Council of the City of Miami Gardens passed on January 10, 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. Further, it is recommended that the Board authorizes the transfer of this Special Taxing District waiving by two-thirds (2/3) vote of the members present the requirement to hold an election authorizing said transfer. Waiver of election is appropriate in this case as no qualified electors reside within the Special Taxing District.

Scope

This Special Taxing District lies within Commission District 1, which is represented by County Commissioner Barbara J. Jordan.

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.

Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners
Page No. 2

Track Record/Monitor

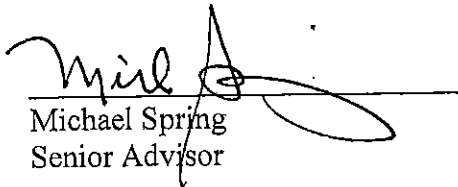
The Special Taxing District transfer will be managed by the Parks, Recreation and Open Spaces Department (PROS) and overseen by the Chief of the Special Taxing Districts Division, Lorena Guerra-Macias.

Background

Contingent upon approval of the transfer of this Special Taxing District by this Board and the City by joint resolution, and waiver of election by two-thirds (2/3) vote of the members present in accordance with section 18-3.1 of the Code, 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. 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 Canal;
 On the East, NW 33 Court;
 On the South, NW 151 Street;
 On the West, NW 37 Avenue.

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 AIR PARK INDUSTRIAL STREET LIGHTING
IMPROVEMENT PROJECT FROM MIAMI-DADE COUNTY TO THE CITY OF
MIAMI GARDENS**

THIS AGREEMENT FOR TRANSFER OF THE AIR PARK INDUSTRIAL STREET LIGHTING IMPROVEMENT PROJECT CURRENTLY MAINTAINED BY MIAMI-DADE COUNTY (**AGREEMENT**), made and entered into this day of __, 2019, by and between the **CITY OF MIAMI GARDENS, 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 Air Park Industrial Street Lighting Improvement Project ("**Special Taxing District**") from the County to the City such that the City Council 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 Gardens 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 ("**Effective Date**").
3. Twelve (12) days after the Effective Date, the Board of County Commissioners will no longer be the governing body of the Special Taxing District and the City Council shall be the governing board of the Special Taxing District ("**Transfer Date**").
4. 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**").
5. 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 Council.

6. 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.
7. 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.
8. 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.
9. 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.
10. The City shall arrange for transfer of the Special Taxing District's Florida Power and Light ("FPL") utility accounts into the City's name, to take effect no later than September 1, 2020.
11. Prior to the Completion Date, the City shall assume the existing contractual obligations with FPL for the Special Taxing District if the County cannot terminate said contract, or shall procure a new contract with FPL to provide all necessary services to the Special Taxing District. The City shall commence service on October 1, 2020.
12. Beginning on the Completion Date, the City's Council shall be responsible for the continuous operation, and maintenance of the Special Taxing District's improvements and systems, if any.
13. Beginning on the Completion Date, the City shall be responsible for payment of all of the Special Taxing District's expenses.
14. 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.
15. 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.
16. 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.

17. 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.
18. 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.
19. 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.
20. 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.
21. 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.
22. 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.

City: City of Miami Gardens
18605 NW 27th Avenue
Miami Gardens, Florida 33056

County: Miami-Dade County
Stephen P. Clark Center
111 Northwest First Street
Miami, Florida 33128

IN WITNESS WHEREOF, the City of Miami Gardens has caused this instrument to be executed by its respective officials thereunto duly authorized, this the day and year above written.

CITY OF MIAMI GARDENS, a municipal corporation

ATTEST:

By: _____
Mario Bataille, City Clerk

By: _____
Cameron Benson, City Manager

APPROVED AS TO LEGAL FORM
AND CORRECTNESS:

Sonja Knighton Dickens, City Attorney

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. 2018-01-3314

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, ACCEPTING THE TRANSFER OF THE SPECIAL LIGHTING DISTRICTS AND SPECIAL PURPOSE DISTRICTS OUTLINED ON EXHIBITS "A" AND "B" RESPECTIVELY, SUBJECT TO VOTER APPROVAL; AUTHORIZING THE CITY MANAGER TO EXECUTE INTERLOCAL AGREEMENTS FOR THIS PURPOSE IN THE FORM ATTACHED HERETO AS EXHIBIT "C;" PROVIDING FOR INSTRUCTIONS TO THE CITY MANAGER; PROVIDING FOR INSTRUCTIONS TO THE CITY CLERK; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Miami-Dade County has approved several Special Taxing Districts that are located within the boundaries of the City of Miami Gardens; specifically, there are twenty-five Special Lighting Districts as outlined on Exhibit "A" attached hereto, as well as three Special-Purpose Districts outlined on Exhibit "B", and

WHEREAS, in accordance with Section 18-3.1 of the Miami Dade County Code of Ordinances, subject to referendum approval, municipalities would be authorize to act as the governing body for special taxing districts located entirely within their municipal boundaries, and

WHEREAS, on April 12, 2017, the City Council for the City of Miami Gardens adopted Resolution number 2017 – 74 – 2179 expressing its desire to transfer control of special lighting taxing districts from Miami-Dade County to the city of Miami Gardens, and

WHEREAS, since that time staff has been working with Miami-Dade County to gather all the information relating to the proposed transfer, and

WHEREAS, in addition, it is being recommended that the three Special Purpose Districts be transferred to the City, and

WHEREAS, in accordance with Section 18.3.1 of the Code, the City of Miami Gardens is requesting, that all of the taxing special taxing districts outlined in Exhibits "A" and "B" be transferred the City and that the City Council for the City of Miami gardens be designated as the governing body of the taxing special taxing districts up on transfer, and

WHEREAS, this Resolution will also authorize the City to enter into Interlocal Agreements with the County for this purpose, with any transfer of the Special Taxing Districts will be subject to a majority vote of the qualified electors in the respective districts,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA AS FOLLOWS:

Section 1: ADOPTION OF REPRESENTATIONS: The foregoing Whereas paragraphs are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Resolution.

Section 2: AUTHORIZATION: The City Council of the City of Miami Gardens hereby authorizes the transfer of the Special Lighting Districts and Special Purpose Districts outlined on Exhibits "A" and "B" respectively, subject to voter approval.

Section 3: INSTRUCTIONS TO THE CITY MANAGER: The City Manager is directed to take any and all steps necessary to complete the process of having the Special Districts transferred to the City and to execute Interlocal Agreements with Miami Dade County in the form of that Agreement attached here to as Exhibit "C."

Section 4: INSTRUCTIONS TO THE CITY CLERK: The City Clerk is hereby authorized to obtain two (2) fully executed copies of the subject Agreements with one to be maintained by the City, and one to be delivered to Miami Dade County.

Section 5: EFFECTIVE DATE: This Resolution shall take effect immediately upon its final passage.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON JANUARY 10, 2018.



OLIVER GILBERT, III, MAYOR

ATTEST:



RONETTA TAYLOR, MMC, CITY CLERK

PREPARED BY: SONJA KNIGHTON DICKENS, CITY ATTORNEY

SPONSORED BY: MAYOR OLIVER GILBERT, III

Moved by: ROBINSON
Seconded by: GILBERT

VOTE: 7-0

Mayor Oliver Gilbert, III	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)
Vice Mayor Erhabor Ighodaro, Ph.D.	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)
Councilwoman Lisa C. Davis	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)
Councilman Rodney Harris	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)
Councilwoman Lillie Q. Odom	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)
Councilwoman Felicia Robinson	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)
Councilman David Williams Jr	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)

EXHIBIT A

L-Number	District Name	Lights by Billing	No of Lights by Master	Lumens	Type
L-96	Riverdale	70	75	6300	Open Bottom
L-95	Sunshine State Industrial Park	97	97	50000	Cobra Head
L-835	Park Centre Business Park	12	18	50000	Cobra Head
L-81	Liberty Homes	105	103	6300	Open Bottom
L-793	Lakes of Tuscany Phase One	41	40	16000	Open Bottom
L-78	Andover First Addition	49	39	4500	Open Bottom
L-76	Lake Lucerne	104	80	6300	Open Bottom
L-757	MDPD North District Station	3	24	9500	Open Bottom
L-577	Palmetto Lakes Industrial Park	145	3	22000	Cobra Head
L-55	Peachtree Lane	43	138	50000	Cobra Head
L-52	Miami Gardens	147	7	16000	Open Bottom
L-41	Westwood Manor	29	41	6300	Open Bottom
L-39	Stoneybrook	40	143	6300	Open Bottom
L-344	Greendale	24	1	16000	Open Bottom
L-312	Bunche Park South	88	3	22000	Open Bottom
L-30	Andover	129	29	6300	Open Bottom
L-216	Venetian Acres	54	46	6300	Open Bottom
L-215	Air Park Industrial	16	23	9500	Open Bottom
L-2	Bunche Park	304	88	9500	Open Bottom
L-196	North Dade Country Club Villas	204	127	6300	Open Bottom
L-153	Rolling Oaks	37	52	9500	Open Bottom
L-15	Scott Lake Manor East	716	1	22000	Open Bottom
L-149	Golden Glades	55	17	50000	Open Bottom
L-1323	Walden Townhomes	274	302	2500	Open Bottom
L-10	Crestview	224	2	7000	Open Bottom
L-1	Scott Lake Manor	224	183	9500	Open Bottom
			37	9500	Open Bottom
			729	6300	Open Bottom
			5	9500	Open Bottom
			1	16000	Open Bottom
			55	9500	Open Bottom
			255	5800	Open Bottom
			1	6300	Open Bottom
			224	2500	Open Bottom

EXHIBIT B

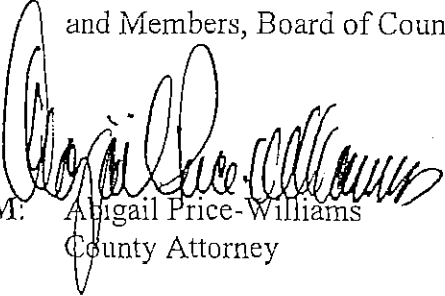
#	PWWM District #	FAMIS Project #	District Name	FOLIOS	FT ²	FT ² / FOLIO
2	<u>M178</u>	906001	Air Park Industries	45	875,882	19,041
5	<u>M199</u>	906005	Dolphin	15	12,692,618	846,175
87	M376	906131	Jordan's Landing	60	342,724	5,712
				121	13,911,224	870,928



MEMORANDUM
(Revised)

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

DATE: October 3, 2019

FROM: 
Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 8(H)(1)

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)(1)
10-3-19

RESOLUTION NO. R-1044-19

RESOLUTION RELATING TO THE AIR PARK INDUSTRIAL STREET LIGHTING IMPROVEMENT PROJECT LOCATED ENTIRELY WITHIN THE BOUNDARIES OF THE CITY OF MIAMI GARDENS, AND BOUNDED ON THE NORTH BY BISCAZYNE CANAL, ON THE EAST BY NW 33 COURT, ON THE SOUTH BY NW 151 STREET, AND ON THE WEST BY NW 37 AVENUE; TRANSFERRING THE SPECIAL TAXING DISTRICT TO THE CITY OF MIAMI GARDENS IN ACCORDANCE WITH SECTION 18-3.1 OF THE CODE OF MIAMI-DADE COUNTY; WAIVING ELECTION PURSUANT TO TWO-THIRDS (2/3) VOTE OF MEMBERS PRESENT; APPROVING AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE AN INTERLOCAL AGREEMENT FOR THE TRANSFER; AND 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 waves election by two-thirds (2/3) vote of members present and designates the governing body of the City of Miami Gardens as the governing body of the Air Park Industrial Street Lighting Improvement Project.

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

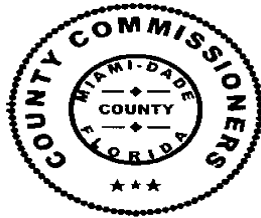
Section 4. This Board hereby approves the Interlocal Agreement in substantially the form attached to the County Mayor’s memorandum, both of which are incorporated by reference, between Miami-Dade County and the City of Miami Gardens, and authorizes the County Mayor or County Mayor’s designee to execute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

Section 5. The City of Miami Gardens will take full control of the Air Park Industrial Street Lighting Improvement Project as provided in the Interlocal Agreement.

The foregoing resolution was offered by Commissioner **Esteban L. Bovo, Jr.**, who moved its adoption. The motion was seconded by Commissioner **Rebeca Sosa** and upon being put to a vote, the vote was as follows:

Audrey M. Edmonson, Chairwoman	aye
Rebeca Sosa, Vice Chairwoman	aye
Esteban L. Bovo, Jr.	aye
Jose “Pepe” Diaz	aye
Eileen Higgins	aye
Joe A. Martinez	aye
Dennis C. Moss	aye
Xavier L. Suarez	aye
Daniella Levine Cava	aye
Sally A. Heyman	aye
Barbara J. Jordan	aye
Jean Monestime	aye
Sen. Javier D. Souto	aye

The Chairperson thereupon declared the resolution duly passed and adopted this 3rd day of October, 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

Linda L. Cave

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

DPL

Daija Page Lifshitz