

BISCAYNE GARDENS MUNICIPAL ADVISORY COMMITTEE CONCEPTUAL AGREEMENT

The following offers a conceptual incorporation agreement for the proposed municipal government of the Biscayne Gardens area that addresses area residents' desire for local government and ensures that the remainder of the unincorporated area is not unduly harmed by this action. While many items remain to be worked out in terms of specific implementation measures, this conceptual agreement outlines a framework under which the Biscayne Gardens area can proceed with its incorporation process.

Background

The Biscayne Gardens Municipal Advisory Committee (MAC), a group of Biscayne Gardens area residents appointed by the Board of County Commissioners (BCC), was by Ordinance No. 04-142, adopted by the BCC on July 27, 2004, to review the concerns raised by both members of the County Commission and County staff and the manner in which those concerns may be alleviated in the event that the Biscayne Gardens area is incorporated as a municipality. The group met for 20 months with local officials, private government consultants and County staff from various departments, prior to the 2007 moratorium on incorporation petitions. Subsequent to the repeal of the ordinance establishing the moratorium, the MAC reconvened in August 2013 and has met on a monthly basis since then.

The following is a Conceptual Agreement proposed by the Biscayne Gardens Municipal Advisory Committee.

CONCEPTUAL AGREEMENT

Whereas, the boundaries of the proposed municipality of Biscayne Gardens (hereafter referred to as "proposed municipality ") are shown in Attachment A and are generally described as follows:

Northern most. NE 167th Street
Southern most. NW 128th Street
Eastern most. NE 18th Avenue
Western most. NW 17th Avenue

Whereas, the Biscayne Gardens Municipal Advisory Committee acknowledges that certain municipal-type services are essential to the health and welfare of its community and the County as a whole,

Whereas, the members of the Committee acknowledge that the proposed municipality will benefit in many ways from the continued

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unincorporated municipal service area programs, services and activities, and other County administrative and support systems as detailed below,

Whereas, the Biscayne Gardens area has certain unmet needs that can be addressed by the incorporation of the area into a new municipality,

Now, therefore, the members of the Committee agree to the following:

Section 1. – County Services

Pursuant to the Code of Miami-Dade County, Chapter 20, Sections 20-25 and 20-26, and Chapter 15, Section 15-3, the proposed municipality of the Biscayne Gardens area will remain a part of the Miami-Dade Fire Rescue District, the Miami-Dade Library System, and the Miami-Dade Solid Waste Collection and Disposal system in perpetuity.

The proposed municipal government of the proposed municipality Biscayne Gardens will also contract by inter-local agreement with the Miami-Dade Police Department for an initial three-year period for a specific level of patrol staffing. Payment amounts and other pertinent items relating to the provision of local patrol services shall be set forth in a contract (Interlocal Agreement) between the Biscayne Gardens area and Miami-Dade County. Such contract shall also provide that "the initial three-year period" shall commence upon the execution of the Local Patrol Contract by all parties. At the end of the three (3) year period, the Biscayne Gardens area may elect not to renew the Local Patrol Contract, at which point a transition period of no less than twelve (12) months will begin.

The proposed municipality of the Biscayne Gardens area shall pay from its municipal funds, for specialized law enforcement services to be exclusively provided by the Miami-Dade Police Department in perpetuity. Payment amounts and other pertinent terms relating to the provision of specialized police services shall be set forth in a contract between the Biscayne Gardens area and Miami-Dade County. These specialized police services include, but are not limited to, tactical central investigations, such as narcotics, criminal intelligence, economic crimes, homicide, robbery, sexual crimes, domestic violence, crime scene investigations and property and evidence. Specialized law enforcement services do not include police activities of a countywide nature such as warrants, crime lab, public corruption unit, communications, jail, court services, and all Sheriff's services as defined by state law. For as long as Miami-Dade County continues to fund specialized police services from the countywide budget, taxpayers in the Biscayne Gardens area shall receive a credit equivalent to any payment made through the countywide millage.

Whereas, the incorporation of the proposed municipality of the Biscayne Gardens area will have an adverse financial impact on the remainder of the unincorporated municipal service area (UMSA),

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Now therefore, the members of the Biscayne Gardens Municipal Advisory Committee understand and agree that the County shall convey local parks within the boundaries of the proposed municipality in as-is condition.

The parks that shall be conveyed by Miami-Dade County in as-is condition to the proposed municipality of the Biscayne Gardens area are:

- Oak Grove Park,
- Biscayne Gardens Park
- Jeb Estates Park.

Additional terms and conditions regarding the proposed municipality's responsibilities to operate, develop and maintain the conveyed parks will be set forth in an Interlocal Agreement between Miami-Dade County and the proposed municipality of the Biscayne Gardens area at the time the parks are transferred to the new municipality.

The Biscayne Gardens Municipal Advisory Committee members understand and agree that the County shall convey local roads within the boundaries of the proposed municipality in as-is condition. Additional terms and conditions regarding the proposed municipality's responsibilities to maintain the conveyed roads will be set forth in an Interlocal Agreement between Miami-Dade County and the proposed municipality of the Biscayne Gardens area at the time the roads are transferred to the new municipality. There are approximately 84.5 centerline miles in the proposed study area, of which, approximately 66.8 centerline miles will be transferred to the proposed municipality. The County is proposing to keep the following roads, which total approximately 17.7 centerline miles:

- NW 6 Avenue from NW 151 Street to NW 2 Avenue
- NW 2 Avenue from NW 128 Street to NW 151 Street
- NW 2 Avenue from NW 154 Street to NW 167 Street
- N Miami Avenue from NW/NE 128 Street to NW/NE 167 Street
- NE 2 Avenue from NE 159 Street to NE 167 Street
- NE 10 Avenue from NE 147 Street to NE 151 Street
- NE 12 Avenue from NE 143 Street to NE 151 Street
- NE 16 Avenue from NE 143 Street to NE 151 Street
- S Biscayne River Drive from N Miami Avenue to NW 151 Street
- Memorial Highway from NE 135 Street to NW 154 Street
- NW 143 Street from NW 7 Avenue to N Miami Avenue
- NW 151 Street from NW 7 Avenue to S Biscayne River Drive
- NE 151 Street from NE 10 Avenue to NE 18 Avenue
- NW 159 Street from NW 6 Avenue to NE 8 Avenue

The proposed municipality of the Biscayne Gardens area will receive all municipal revenues to which it is entitled. Additionally, the municipality will receive revenues (excluding countywide revenues) that the County by right may otherwise retain, such as franchise fees, provided, however, the municipality will continue to be responsible for its pro rata share of the debt service for the QNIP bond indebtedness and all other bond indebtedness issued in reliance upon municipal revenues from the unincorporated area prior to incorporation, until the bonds are retired or the Municipality pre-pays its portion of the debt service. The municipality will continue to receive all services that are provided within cities under the countywide budget.

The proposed municipality of the Biscayne Gardens area will be granted all rights, powers and privileges afforded to all municipalities and provided under general laws of the State of Florida subject only to the restrictions placed upon it by this agreement which will be indicated under a separate charter article entitled "Special Conditions".

- In recognition of the fact that the development of a new municipality requires considerable effort and a period of transition during which The Biscayne Gardens area can benefit from a strong mentoring relationship with the current service providers and administration, and in recognition of the fact that both the Biscayne Gardens area and the County desire to have an ongoing, cooperative relationship, the County will provide municipal assistance to the proposed municipality of the Biscayne Gardens area as established in Interlocal Agreements between the Municipality and the County.

Section 2. - Continuing Obligation as to County Bonds

The County issued Public Service Tax Revenue Bonds, Series 1999 and Series 2002 prior to the Municipality's incorporation, which are currently outstanding in the respective principal amounts of \$71,295,000 and \$55,275,000 (collectively the "PST Bonds"). The PST Bonds are payable from Public Service Taxes (defined below) collected in the unincorporated area and in the municipalities incorporated within the County since July 2, 1996. The County receives Public Service Taxes pursuant to Section 166.231, Florida Statutes, and as of October 1, 2001, from a communications service tax assessed pursuant to Chapter 202, Florida Statutes and Section 29 of the County Code (collectively, "Public Service Taxes"). Within 30 days of the adoption of the municipal charter, the new municipality agrees to enact an ordinance, pursuant to Section 166.231, Florida Statutes, authorizing the levy of the public service tax at a rate no less the rate established by the County for electrical water and gas services prior to the incorporation of the municipality. The new municipality further agrees immediately following its incorporation to enact an ordinance, pursuant to Section 202.19, Florida Statutes, authorizing the levy of the communication services tax

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at a rate no less than the rate established by the County for communications services prior to the incorporation of the Municipality.

The proposed municipality agrees that, until the PST Bonds have been paid or provision made for their payment pursuant to Article X of Ordinance No. 96-108, enacted by the Board on the July 2, 1996 authorizing the issuance of the PST Bonds, the County shall have the right to receive and apply to debt service on the PST Bonds all of the Public Service Taxes collected in the unincorporated area and within the boundaries of the proposed municipality. The proposed municipality's debt service obligation as to the PST Bonds in each fiscal year or portion thereof following incorporation shall be its pro rata share of such debt service obligation. The proposed municipality's pro rata share of the debt service obligation accruing on the PST Bonds during each fiscal year while the PST Bonds are outstanding will be equal to that percentage of the total debt service accruing on the PST Bonds in such fiscal year calculated by multiplying such total debt service by a fraction the numerator of which will be the total amount of Public Service Taxes collected within the boundaries of the unincorporated area comprising the boundaries of the proposed municipality during the fiscal year prior to the incorporation of the proposed municipality and the denominator of which will be the total amount of Public Service Taxes collected in the entire unincorporated area of the County and the municipalities incorporated within the County since July 2, 1996 during the fiscal year prior to the incorporation of the proposed municipality.

Following the County's reservation of the proposed municipality's pro rata share of PST Bonds debt service to accrue during any fiscal year, the balance of the Public Service Taxes collected within the boundaries of the proposed municipality shall be remitted to the proposed municipality.

On September 16, 2013, in accordance with Resolution No. R-681-13, the Miami-Dade County Florida Stormwater Utility Revenue Refunding Bonds, Series 2013 (the "Stormwater Bonds"), refunded all of the outstanding Miami-Dade County Stormwater Utility Revenue Bonds, Series 1999 and Series 2004, except for the Miami-Dade County Stormwater Utility Revenue Bonds, Series 2004, maturing on April 1, 2014 and April 1, 2015.

The outstanding total debt service amounts on the Stormwater Bonds are payable from the stormwater utility fees collected in the unincorporated area and within the municipalities that exempted from the Miami-Dade County Stormwater Utility after 2004. The County assesses and collects the stormwater utility fee (the "Stormwater Utility Fees") pursuant to Sections 24-51 through 24-51.5 of the County Code, and in accordance with Section 403.0893, Florida Statutes.

The proposed municipality agrees that until the Stormwater Bonds have been paid or provision made for their payment pursuant to Article IX or Ordinance No.

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98-187, enacted by the Board on December 15, 1998 authorizing the issuance of the Stormwater Bonds, the County shall have the right to receive and apply to debt service on the Stormwater Bonds all of the Stormwater Utility Fees collected within the unincorporated area, within the boundaries of the proposed municipality, and within all municipalities that exempted from the Miami-Dade County Stormwater Utility after 2004, and also within any municipal annexations approved after 2004. The municipality's debt service obligation as to the Stormwater Bonds in each fiscal year of portion thereof following incorporation shall be its pro-rata share of such debt service obligation. The proposed city's pro-rata share of the debt service obligation due on the Stormwater Bonds during each fiscal year while the Stormwater Bonds are outstanding will be equal to that percentage of the total debt service due on the Stormwater Bonds in such fiscal year calculated by multiplying such total debt service by a fraction of the numerator of which will be the total amount of Stormwater Utility Fees due (based on Equivalent Residential Unit) within the boundaries of the proposed incorporated area and the denominator of which will be the total amount of Stormwater Utility Fees due (based on Equivalent Residential Unit) in the unincorporated area of the County, and within the municipalities that exempted and any annexations approved after 2004.

Following the County's reservation (through a WASD Stormwater Billing Agreement) of the proposed municipality's pro-rata share of Stormwater Utility Bonds debt service due during any fiscal year, the balance of the Stormwater Utility Fees collected within the boundaries of the proposed municipality shall be remitted to the proposed municipality, unless such debt service is collected directly through an interlocal agreement or other County approved means.

Section 3. - Regulatory Control

The local government comprehensive plan adopted by the municipality pursuant to Chapter 163, Part II, Florida Statutes, shall be consistent with the adopted Miami-Dade County Comprehensive Development Master Plan (the CDMP) as it may be amended from time to time, as applied to the sites listed below:

DEPARTMENT/FACILITY	LOCATION
Golden Glades Trash and Recycling Center Biscayne Gardens	140 NW 160 th Street Miami, FL

The list of facilities may be revised by the BCC from time to time.

Any use or activity allowed by the CDMP may not be limited or impeded in any way by the local government comprehensive plan adopted by the proposed municipality. Additionally, the proposed municipality shall pass no ordinance or

regulation that would limit or impede the operation of the aforementioned County facilities. Jurisdiction over the listed sites for purposes of comprehensive planning, zoning and building approvals (including but not limited to site plan approvals, issuance of building permits, building inspections, compliance with the South Florida Building Code or other applicable building code, issuance of certificates of occupancy, zoning applications, special exceptions, variances, building and/or zoning moratoria, and all other types of functions typically performed by Building and/or Planning and Zoning Departments) water and sewer installations, compliance with environmental regulations, and utility regulation shall be and is hereby vested in Miami-Dade County regardless of any proposed municipality code, or ordinance provision to the contrary.

This provision shall not alter or affect the legal rights of any person residing or owning real property within the proposed municipality. The proposed municipality shall not institute, intervene or otherwise participate in, in opposition to Miami-Dade County in any judicial or formal administrative proceeding regarding land use or development of the listed sites, or Miami-Dade County's planning or regulatory requirements for any of these facilities of countywide significance. This section shall not apply to a particular site listed above if there has been an official determination by the Board of County Commissioners of Miami-Dade County that a site will no longer be used by Miami-Dade County.

The proposed municipality agrees to include language in its municipal charter agreeing 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.

Section 4. - Conditions of Incorporation

The proposed municipality agrees to include in its municipal charter language adopting the 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.

Section 5. - Favored Nation Status

If a subsequent incorporation is approved without the newly incorporated area being required to remain in the Miami-Dade Fire Rescue District, Miami-Dade Library System, Miami-Dade Solid Waste Collection Service Area, or without

contracting with the Miami-Dade Police Department for local patrol and specialized police services, the proposed municipality of the Biscayne Gardens area will not be required to receive that particular service from the County.

The provisions of this section, apply only to the service or services listed in this Section 4 and in no way alter the agreement regarding the remaining services.