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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM Agenda Item No. 7(E)

TO: Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners

DATE: April 4, 2011

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

SUBJECT: Ordinance relating to annexation; amending Miami-Dade County, Florida Ordinance Nos. 03-157 and 04-46, and Resolution Nos. R-507-02, -791-03, R-793-03, R-461-04, and R-129-06; deleting certain requirements for mitigation payments to Miami-Dade County from the City of Florida City, the Town of Medley, the City of North Miami, and the City of Hialeah Gardens; modifying Interlocal Agreement between Miami-Dade County and Town of Medley to provide for Stormwater Utility debt service payments

Ordinance No. 11-19

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Jose "Pepe" Diaz.

R. A. Cuevas, Jr.
County Attorney

RAC/cp

(Public Hearing 4-4-11)

Memorandum

MIAMI-DADE COUNTY

Date: January 20, 2011

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Ordinance Approving the Phase Out of Mitigation for Annexations

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Recommendation

It is recommended that the Board of County Commissioners (BCC) adopt the accompanying ordinance amending the County Code related to annexations and related interlocal agreements involving the City of Florida City, the Town of Medley, the City of North Miami, and the City of Hialeah Gardens to allow mitigation payments to be phased out consistent with the phase-out timetable approved related to mitigation payments by those cities to the County made by newly incorporated municipalities. Additionally, the Town of Medley interlocal will require the Town to make payments for Stormwater Utility debt service.

Scope

The municipalities making mitigation payments are located within County Commission Districts 2, 3, 4, 8, 9 and 12. The mitigation payments directly affect the Unincorporated Municipal Service Area (UMSA) budget.

Fiscal Impact/Funding Source

In FY 2009-10 the municipalities paying mitigation for annexations (Florida City, Medley, North Miami and Hialeah Gardens) paid $815,112 into the Municipal Services Trust Fund (MSTF) as noted in the table below.

	Medley	Hialeah Gardens	North Miami	Florida City	Total
FY 2009-10	703,342	52,312	37,290	22,168	815,112

The UMSA FY 2010-11 budget does not include payments from three of the four municipalities. By approving this item, the municipalities of Medley, North Miami and Hialeah Gardens will not make payment into the MSTF for FY 2010-11 because they have made seven payments into the MSTF. The City of Florida City will make a payment of approximately $23,000 in FY 2010-11 and one more payment in FY 2011-12.

Track Record/Monitor

The Office of Strategic Business Management will monitor each agreement.

Background

Since 2000, the BCC has adopted legislation requiring newly formed municipalities or annexations that had a negative fiscal impact on the County to make mitigation payments into the MSTF. The payments into the MSTF were required in order to offset the revenue loss in the remaining unincorporated area as a result of the incorporation or annexation. The MSTF is used to fund police services around the newly formed municipality or newly annexed area, whereby these newly incorporated or annexed areas derived a benefit from these payments.

In 2008 the BCC adopted legislation allowing the municipalities of Miami Lakes, Doral and Palmetto Bay to phase out mitigation payments through changes in their respective municipal charters. The phase out would require the municipalities to make seven payments into the MSTF. At this time there are no municipalities paying mitigation into the MSTF for incorporations.

Municipalities that annexed unincorporated land into their municipal boundaries which had an adverse financial impact on the County were also required to pay mitigation into the MSTF through interlocal agreements. Along with the phase out of mitigation for the newly incorporated municipalities, the BCC considered an ordinance to phase out the mitigation payments from the municipalities of Medley, North Miami, Florida City and Hialeah Gardens. The ordinance was deferred until the issues and legal action with the new municipalities was resolved. To date all payments from new municipalities in the MSTF have been phased out and all issues resolved. County staff has worked with the annexing municipalities to amend the County ordinances approving their respective annexations relating to the mitigation provision and similarly, to amend the resolutions which would authorize modifying the municipalities' interlocal agreements to phase out their payments into the MSTF. The municipalities of Medley, North Miami, Florida City and Hialeah Gardens have executed amendments to their interlocal agreements that phase out the mitigation payments after the seventh year, which is comparable to the legislation approved by the BCC for the municipalities of Doral, Miami Lakes and Palmetto Bay.

The Medley annexation for Section 30 did not contain a provision for the payment of stormwater utility debt service. The attached amendment to the interlocal agreement for Section 30 also includes a section where the Town has agreed to reimburse the County for previous years of debt service payments and will continue to make debt service payments until the bonds are retired.

Jennifer Glazer-Moon, Special Assistant/Director
Office of Strategic Business Management

cmo02611

MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners

DATE: April 4, 2011

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

SUBJECT: Agenda Item No. 7(E)

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 Manager'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. 7(E)
4-4-11

ORDINANCE NO. 11-19

ORDINANCE RELATING TO ANNEXATION; AMENDING MIAMI-DADE COUNTY, FLORIDA ORDINANCE NOS. 03-157 AND 04-46, AND RESOLUTION NOS. R-507-02, R-791-03, R-793-03, R-461-04, AND R-129-06; DELETING CERTAIN REQUIREMENTS FOR MITIGATION PAYMENTS TO MIAMI-DADE COUNTY FROM THE CITY OF FLORIDA CITY, THE TOWN OF MEDLEY, THE CITY OF NORTH MIAMI, AND THE CITY OF HIALEAH GARDENS; MODIFYING INTERLOCAL AGREEMENT BETWEEN MIAMI-DADE COUNTY AND TOWN OF MEDLEY TO PROVIDE FOR STORM WATER UTILITY DEBT SERVICE PAYMENTS; PROVIDING SEVERABILITY, INCLUSION IN AND EXCLUSION FROM THE CODE AND AN EFFECTIVE DATE

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

Section 1. Section 4 of the Miami-Dade County Ordinance No. 04-76 is hereby amended to read as follows:[1]

> Section 4. This ordinance shall be effective if the City of Hialeah Gardens executes a duly authorized Interlocal agreement which it agrees, among other things, to: [[~~(a) make an annual mitigation payment to the County's Municipal Services Trust Fund in an amount equivalent to .506 mills of the assessed value of the portion of the Northwest Commercial Business Industrial Area contained within the annexed area (b)~~]] >>(a)<< pay to Miami-Dade County the annexed area's prorated share of the Stormwater Utility Revenue Bonds debt service estimated at $15.00 per year for approximately 20 years or as provided in the interlocal agreement

[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.

> and (>>b<< [[e]]) require approval of land uses and land development regulations outside Miami-Dade County's Urban Development Boundary to be consistent with the Miami-Dade County Comprehensive Development Master Plan (Master Plan) and that Miami-Dade County retains jurisdiction regarding applications to amend the Master Plan or Developments of Regional Impact in connection with Master Plan Amendments in that portion of the annexed area lying outside the Urban Development Boundary

Section 2. Section 4 Miami-Dade County Ordinance 03-157 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

> Section 4. This ordinance shall be effective only if the City of North Miami executes a duly authorized interlocal agreement wherein it agrees to [[~~(a) make an annual mitigation payment to the County's Municipal Services Trust Fund and (b)~~]] pay Miami-Dade County the annexed area's prorated share of the Stormwater Utility Revenue Bonds debt service estimated at $26 per year for approximately 22 years.

Section 3. The interlocal agreements approved pursuant to Resolution Nos. R-791-03, R-793-03, R-461-04 and R-129-06 between Miami-Dade County and the City of North Miami (Exhibit B), City of the Town of Medley (Exhibit C), City of Hialeah Gardens (Exhibit D), and City of Florida City (Exhibit E) are hereby amended to provide for the termination of mitigation and the County Mayor or Designee is authorized to execute such amendments in substantially the form attached.

Section 4. The interlocal agreement approved pursuant to Resolution No. R-507-02 between Miami-Dade County and the Town of Medley (Exhibit A) is hereby amended to provide for the termination of mitigation and to provide for storm water utility debt service payments and the County Mayor or Designee is authorized to execute such amendments in substantially the form attached.

Section 5. 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 6. 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 except that Sections 3 and 4 of this ordinance amending the Resolution Nos. R-507-02, R-791-03, R-793-03, R-461-04 and R-129-06 shall not be codified. 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 7. 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: April 4, 2011

Approved by County Attorney as
to form and legal sufficiency

Prepared by:

Craig H. Coller

Prime Sponsor: Commissioner Jose "Pepe" Diaz

EXHIBIT A

FIRST AMENDMENT TO THE MEDLEY INTERLOCAL AGREEMENT (UMSA LOSS REIMBURSEMENT TO MIAMI-DADE COUNTY -SECTION 30) (STORMWATER UTILITY DEBT SERVICE PAYMENT)

This amendment made and entered into this 6th day of July, 2010, by and between THE TOWN OF MEDLEY, a municipal corporation pursuant to the laws of the State of Florida (the "Town") and MIAMI-DADE COUNTY, a political subdivision of the State of Florida (the "County").

WHEREAS, on May 21, 2002, the Miami-Dade County Board of County Commissioners (Board) approved Ordinance 02-79 changing the boundaries of the Town to annex an area of lands which was part of the Unincorporated Municipal Service Area (UMSA); and

WHEREAS, on May 31, 2002, the Town and the County entered into an Interlocal Agreement governing the annexation; and

WHEREAS, the Interlocal Agreement did not contain any payment provisions for Stormwater Utility Debt Service; and

WHEREAS, the Town recognizes that the annexation area should make its pro-rata share payments of Stormwater Utility Debt Service for the annexation area; and

WHEREAS, the interlocal agreement required among other things that the Town make payments into the Municipal Services Trust Fund; and

WHEREAS, the County has phased out mitigation payments for incorporations making payments into the Municipal Services Trust Fund; and

WHEREAS, the Town has requested that mitigation be phased out for municipalities having annexed property.

NOW, THEREFORE, THE COUNTY AND THE TOWN agree as follows:

I. The recitations set forth above are true and correct and adopted as part of this amendment.

II. The Medley Interlocal Agreement of May 31, 2002, attached and made a part hereof is hereby amended in the following respects:

Subsection 2.2 is created concerning the length of payments into the Municipal Services Trust Fund as follows:

2.2 The Town's payments into the Municipal Services Trust Fund for the Section 30 annexation will cease after the seventh payment made by the Town in FY 2009-10.

Subsection 2.3 is created concerning the Stromwater Utility Debt Service Payments as follows:

2.3 Stormwater Utility Debt Service Payments – The Town agrees to pay the pro-rata share of the Stormwater Utility Debt Service (SWU) Payments attributable to the annexation area until such time as the previously issued $41,580,000 Stormwater Utility Revenue Bond Series 1999 has been retired. The Town's pro-rata share is based on the stormwater utility revenue attributable to the annexation area as a percentage of all Miami-Dade Stormwater Utility revenue. That percentage is used to calculate the payment due for the annexation area by the Town. The attached schedule details all of the payments until the retirement of the bond. Additionally, the Town agrees to pay the SWU debt service payments for the years 2004 through 2009 which total $49,981 upon the execution of this amendment. Payments are due from the Town October 1 of each year until the bonds have been retired.

III. In all other respects, the Interlocal Cooperation Agreement is ratified and confirmed.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in their names by their duly authorized officers and the corporate seals to be affixed hereto, all as of the day and year first above written.

[THE REST OF THIS PAGE LEFT INTENTIONALLY BLANK]

WITNESS our hands and seals on this 6th day of July, 2010.

Town of Medley,
a municipal corporation of the
State of Florida

By: _____
Mayor Ramon Rodriguez

ATTEST:

By: _____
Town Clerk

Metropolitan Miami-Dade County,
a political subdivision of the State of
Florida

By: _____
Mayor Carlos Alvarez or designee

By: _____
Deputy Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

By: _____ _____
County Attorney Date
Craig H. Coller

EXHIBIT B

FIRST AMENDMENT TO THE CITY OF NORTH MIAMI INTERLOCAL AGREEMENT

This amendment made and entered into this 24 day of August, 2010, by and between THE CITY OF NORTH MIAMI, a municipal corporation pursuant to the laws of the State of Florida (the "City") and MIAMI-DADE COUNTY, a political subdivision of the State of Florida (the "County").

WHEREAS, on July 8, 2003, the Miami-Dade County Board of County Commissioners (Board) approved Ordinance 03-157 changing the boundaries of the City to annex an area of lands which was part of the Unincorporated Municipal Service Area (UMSA); and

WHEREAS, on August 22, 2003, the City and the County entered into an Interlocal Agreement governing the annexation; and

WHEREAS, the interlocal agreement required among other things that the City make payments into the Municipal Services Trust Fund; and

WHEREAS, the County has phased out mitigation payments for incorporations making payments into the Municipal Services Trust Fund; and

WHEREAS, the City has requested that mitigation be phased out for municipalities having annexed property.

NOW, THEREFORE, THE COUNTY AND THE TOWN agree as follows:

I. The recitations set forth above are true and correct and adopted as part of this amendment.

II. The City of North Miami Interlocal Agreement of August 22, 2003, attached and made a part hereof is hereby amended in the following respects:

Article II c. is created concerning the length of payments into the Municipal Services Trust Fund:

c. The City's payments into the Municipal Services Trust Fund for the annexation will cease after the seventh payment made by the City in FY 2009-10.

III. In all other respects, the City of North Miami Interlocal Agreement is ratified and confirmed.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in their names by their duly authorized officers and the corporate seals to be affixed hereto, all as of the day and year first above written.

[THE REST OF THIS PAGE LEFT INTENTIONALLY BLANK]

WITNESS our hands and seals on this 24 day of August, 2010.

City of North Miami,
a municipal corporation of the
State of Florida

By: _____
Russell Benford
City Manager

Metropolitan Miami-Dade County,
a political subdivision of the State of
Florida

By: _____
Mayor Carlos Alvarez or designee

ATTEST:

By: _____
Deputy City Clerk

By: _____
Deputy Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

By: _____
City Attorney
V. Lynn Whitfield

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

By: _____ _____
County Attorney Date
Craig H. Coller

EXHIBIT C

FIRST AMENDMENT TO THE MEDLEY INTERLOCAL AGREEMENT (UMSA LOSS REIMBURSEMENT TO MIAMI-DADE COUNTY -SECTION 10)

This amendment made and entered into this 6th day of July, 2010, by and between THE TOWN OF MEDLEY, a municipal corporation pursuant to the laws of the State of Florida (the "Town") and MIAMI-DADE COUNTY, a political subdivision of the State of Florida (the "County").

WHEREAS, on July 8, 2003, the Miami-Dade County Board of County Commissioners (Board) approved Ordinance 03-156 changing the boundaries of the Town to annex an area of lands which was part of the Unincorporated Municipal Service Area (UMSA); and

WHEREAS, on April 19, 2003, the Town and the County entered into an Interlocal Agreement governing the annexation; and

WHEREAS, the interlocal agreement required among other things that the Town make payments into the Municipal Services Trust Fund; and

WHEREAS, the County has phased out mitigation payments for incorporations making payments into the Municipal Services Trust Fund; and

WHEREAS, the Town has requested that mitigation be phased out for municipalities having annexed property.

NOW, THEREFORE, THE COUNTY AND THE TOWN agree as follows:

I. The recitations set forth above are true and correct and adopted as part of this amendment.

II. The Medley Interlocal Agreement of April 19, 2003, attached and made a part hereof is hereby amended in the following respects:

Subsection 2.2.4 is created concerning the length of payments into the Municipal Services Trust Fund:

2.2.4 The Town's payments into the Municipal Services Trust Fund for the Section 10 annexation will cease after the seventh payment made by the Town in FY 2009-10.

III. In all other respects, the Medley Interlocal Agreement is ratified and confirmed.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in their names by their duly authorized officers and the corporate seals to be affixed hereto, all as of the day and year first above written.

[THE REST OF THIS PAGE LEFT INTENTIONALLY BLANK]

WITNESS our hands and seals on this 6th day of July, 2010.

Town of Medley,
a municipal corporation of the
State of Florida

By: _____
Mayor Ramon Rodriguez

ATTEST:

By: _____
Town Clerk

Metropolitan Miami-Dade County,
a political subdivision of the State of
Florida

By: _____
Mayor Carlos Alvarez or designee

By: _____
Deputy Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

By: _____ _____
County Attorney Date
Craig H. Coller

EXHIBIT D

FIRST AMENDMENT TO THE CITY OF HIALEAH GARDENS INTERLOCAL AGREEMENT

This amendment made and entered into this ____ day of _____, 20__, by and between THE CITY OF HIALEAH GARDENS, a municipal corporation pursuant to the laws of the State of Florida (the "City") and MIAMI-DADE COUNTY, a political subdivision of the State of Florida (the "County").

WHEREAS, on April 13, 2004, the Miami-Dade County Board of County Commissioners (Board) approved Ordinance 04-76 changing the boundaries of the City to annex an area of lands which was part of the Unincorporated Municipal Service Area (UMSA); and

WHEREAS, on June 18, 2004, the City and the County entered into an Interlocal Agreement governing the annexation; and

WHEREAS, the interlocal agreement required among other things that the City make payments into the Municipal Services Trust Fund; and

WHEREAS, the County has phased out mitigation payments for incorporations making payments into the Municipal Services Trust Fund; and

WHEREAS, the City has requested that mitigation be phased out for municipalities having annexed property.

NOW, THEREFORE, THE COUNTY AND THE CITY agree as follows:

I. The recitations set forth above are true and correct and adopted as part of this amendment.

II. The City of Hialeah Gardens Interlocal Agreement of June 18, 2004, attached and made a part hereof is hereby amended in the following respects:

Section D 1. c. is herby created concerning the length of payments into the Municipal Services Trust Fund to read as follows:

c. The City's payments into the Municipal Services Trust Fund for the annexation will cease after the seventh payment from the date of the subject annexation made by the City in FY 2009-10.

III. In all other respects, the City of Hialeah Gardens Interlocal Agreement is ratified and confirmed.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in their names by their duly authorized officers and the corporate seals to be affixed hereto, all as of the day and year first above written.

[THE REST OF THIS PAGE LEFT INTENTIONALLY BLANK]

WITNESS our hands and seals on this _____ day of _____, 20___.

City of Hialeah Gardens,
a municipal corporation of the
State of Florida

By:_____
Mayor Yioset De La Cruz

ATTEST:

By:_____
City Clerk

Metropolitan Miami-Dade County,
a political subdivision of the State of
Florida

By:_____
Mayor Carlos Alvarez or designee

By:_____
Deputy Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

By:_____ _____
County Attorney Date
Craig H. Coller

EXHIBIT E

FIRST AMENDMENT TO THE CITY OF FLORIDA CITY INTERLOCAL AGREEMENT

This amendment made and entered into this ____ day of _____, 20__, by and between THE CITY OF FLORIDA CITY, a municipal corporation pursuant to the laws of the State of Florida (the "City") and MIAMI-DADE COUNTY, a political subdivision of the State of Florida (the "County").

WHEREAS, on June 7, 2005, the Miami-Dade County Board of County Commissioners (Board) approved Ordinance 05-111 changing the boundaries of the City to annex an area of lands which was part of the Unincorporated Municipal Service Area (UMSA); and

WHEREAS, on February 4, 2006, the City and the County entered into an Interlocal Agreement governing the annexation; and

WHEREAS, the interlocal agreement required among other things that the City make payments into the Municipal Services Trust Fund; and

WHEREAS, the County has phased out mitigation payments for incorporations making payments into the Municipal Services Trust Fund; and

WHEREAS, the City has requested that mitigation be phased out for municipalities having annexed property.

NOW, THEREFORE, THE COUNTY AND THE TOWN agree as follows:

I. The recitations set forth above are true and correct and adopted as part of this amendment.

II. The City of Florida City Interlocal Agreement of February 4, 2006, attached and made a part hereof is hereby amended in the following respects:

Section D 1. c. is created concerning the length of payments into the Municipal Services Trust Fund:

c. The City's payments into the Municipal Services Trust Fund for the annexation will cease after the seventh payment made by the City in FY 2011-12.

III. In all other respects, the City of Florida City Interlocal Agreement is ratified and confirmed.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in their names by their duly authorized officers and the corporate seals to be affixed hereto, all as of the day and year first above written.

[THE REST OF THIS PAGE LEFT INTENTIONALLY BLANK]

WITNESS our hands and seals on this _____ day of _____, 20___.

City of Florida City,
a municipal corporation of the
State of Florida

By:_____
Mayor Otis Wallace

Metropolitan Miami-Dade County,
a political subdivision of the State of
Florida

By:_____
Mayor Carlos Alvarez or designee

ATTEST:

By:_____
City Clerk

By:_____
Deputy Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

By:_____ _____
County Attorney Date
Craig H. Coller