

MEMORANDUM

Agenda Item No. 11(A)(5)


TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: December 1, 2021

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution approving an Interlocal Agreement between Miami-Dade County and the City of Miami Gardens in connection with the proposed annexation of the unincorporated area known as Ives Estate; authorizing the County Mayor to execute the agreement in substantially the form attached and to exercise all rights contained therein

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Vice-Chairman Oliver G. Gilbert, III.



Geri Bonzon-Keenan
County Attorney


GBK/uw



MEMORANDUM
(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: December 1, 2021

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 11(A)(5)

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. 11(A)(5)
12-1-21

RESOLUTION NO. _____

RESOLUTION APPROVING AN INTERLOCAL AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE CITY OF MIAMI GARDENS IN CONNECTION WITH THE PROPOSED ANNEXATION OF THE UNINCORPORATED AREA KNOWN AS IVES ESTATE; AUTHORIZING THE COUNTY MAYOR OR DESIGNEE TO EXECUTE THE AGREEMENT IN SUBSTANTIALLY THE FORM ATTACHED AND TO EXERCISE ALL RIGHTS CONTAINED THEREIN

WHEREAS, section 6.04 B of the Miami-Dade County Home Rule Charter and chapter 20 of the Code of Miami-Dade County (“Code”) authorize the Board of County Commissioners (“Board”) to approve changes to municipal boundaries; and

WHEREAS, on June 19, 2019, the City of Miami Gardens (“City”) submitted an application for the annexation of the unincorporated area known as Ives Estate (the “annexation area”) adjacent to the City; and

WHEREAS, on November 19, 2020, the Board adopted Resolution No. R-1209-20 directing the County Attorney to prepare the appropriate ordinance and interlocal agreement to effectuate the annexation; and

WHEREAS, the City represented that it will enter into the interlocal agreement with the County that is attached to this resolution as Exhibit 1 (hereinafter, the “Interlocal Agreement”); and

WHEREAS, the County Mayor's memorandum dated November 19, 2020, related to this proposed annexation by the City of Miami Gardens represented that the interlocal agreement between the County and the City would require the City to remain in the Miami-Dade County Fire

District in perpetuity; the City's Charter, however, already requires that the City remain in the Miami-Dade County Fire District in perpetuity, and the interlocal agreement makes reference to the City's Charter requirement; and

WHEREAS, similarly, the City's Charter requires the City to remain within the Miami-Dade Solid Waste Collection Service Area in perpetuity, and the interlocal agreement makes reference to the City's Charter requirement and includes an additional requirement should the City's charter ever be amended regarding solid waste; and

WHEREAS, in exercising the County's discretion to approve this annexation, the County has relied upon all of the representations in the Interlocal Agreement; and

WHEREAS, on _____, the Board adopted Ordinance No. _____ providing that this annexation shall not take effect unless and until the City executes the Interlocal Agreement attached as Exhibit 1 and that the Interlocal Agreement must remain in effect; and

WHEREAS, on April 14, 2021, the City Commission adopted City Resolution No. 2021-035-3590 approving the Interlocal Agreement, and the City has executed the Interlocal Agreement; and

WHEREAS, this Board wishes to approve the Interlocal Agreement and authorize the County Mayor or designee to execute such agreement,

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

Section 1. Approves the foregoing recitals and incorporates them into this resolution.

Section 2. Approves the Interlocal Agreement, attached hereto as Exhibit 1, by and between the County and the City.

Section 3. Authorizes the County Mayor or designee to execute the above-referenced agreements in substantially the form attached and to exercise all rights contained therein.

The Prime Sponsor of the foregoing resolution is Vice-Chairman Oliver G. Gilbert, III. It 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:

| | |
|---------------------------------------|------------------------|
| Jose "Pepe" Diaz, Chairman | |
| Oliver G. Gilbert, III, Vice-Chairman | |
| Sen. René García | Keon Hardemon |
| Sally A. Heyman | Danielle Cohen Higgins |
| Eileen Higgins | Joe A. Martinez |
| Kionne L. McGhee | Jean Monestime |
| Raquel A. Regalado | Rebeca Sosa |
| Sen. Javier D. Souto | |

The Chairperson thereupon declared this resolution duly passed and adopted this 1st day of December, 2021. 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.



Abbie Schwaderer-Raurell
James Eddie Kirtley

Interlocal Agreement

Miami Gardens Ives Estates Annexation

This Interlocal Agreement (the "Agreement") is entered into this _ day of , 20 , by and between Miami-Dade County, Florida ("County") and the City of Miami Gardens ("City"), a Florida municipal corporation.

WITNESSETH

WHEREAS, section 6.04 of the Home Rule Charter for Miami-Dade County authorizes the County to approve changes to municipal boundaries; and

WHEREAS, the City desires to change its boundary to include and annex the tract of land described in the accompanying ordinance, and in Exhibit A attached hereto and made a part hereof, which is known as Ives Dairy Estates (the "Annexed Property"); and

WHEREAS, the City has made certain representations to the County in conjunction with, and as part of the consideration of, its annexation application for the Annexed Property, including but not limited to, a representation that it desires to, and will, remain in the Miami-Dade Fire Rescue District as provided in the City of Miami Gardens Charter; and

WHEREAS, the County has relied upon those representations in exercising its discretion to permit the annexation of the Annexed Property; and

WHEREAS, to memorialize those representations and to provide for points of compromise and other matters, the County and the City wish to enter into this Agreement; and

WHEREAS, pursuant to this Agreement, the City will assume municipal-type services once the annexation has been approved, and the County will retain certain functions, responsibilities, rights, and obligations, as set forth herein,

NOW, THEREFORE, in consideration of the promises and the mutual covenants contained herein, the parties hereby agree as follows:

- A. The above recitals are incorporated as if fully set forth herein.**
- B. Debt Service. Obligations of the City.**

1. **Utility Taxes.** Pursuant to current applicable law and Chapter 20 of the Code of Miami-Dade County, Florida (“County Code”), the County shall continue to receive and retain the utility tax revenues generated from the Annexed Property in perpetuity..
2. **Stormwater Utility Bond Debt Service.** The City agrees to pay the County the remaining stormwater utility debt service payments for the Annexed Property calculated at \$30,550.00 per year until the year 2029 or as provided in Section 20-8.5. The City will begin the annual debt service payment upon the date that the Annexed Property is included in the City of Miami Gardens’ Stormwater Utility.

C. Stormwater Management. The City shall execute or modify a cost-share Interlocal Agreement with the County for canal and/or drainage system maintenance activities to cover expenditure cost-share in the annexed area, and, additionally, the City shall execute or modify an NPDES Interlocal Agreement with the County to satisfy the requirements of the joint NPDES Permit No. FLS000003.

D. Solid Waste Disposal. Section 9.2 of the City’s Charter provides that the City shall remain within the Miami-Dade Solid Waste Collection Service Area in perpetuity. Should section 9.2 of the City’s Charter be amended, in the manner permitted by the Miami-Dade County Home Rule Charter and the Miami-Dade County Code, to remove said obligation, the following section will apply to the Annexed Property:

Pursuant to Section 20-8.4 of the County Code, the County shall forever continue to collect and dispose of all residential waste within the Annexed Property in the same manner as though such Annexed Property remained part of the unincorporated areas of the County, unless the authority to collect such waste is delegated by the County to the governing body of the City through a 20-year interlocal agreement that provides for the collection

services, and a 20-year interlocal agreement that provides for disposal services in substantially the form approved by Resolution R-1198-95. In the event that the City contracts with a private waste hauler to collect residential waste within the Annexed Property, the private hauler will be obligated to pay the Disposal Facility Fee to the County in accordance with Section 15-25.2 of the County Code, and the City shall include this requirement in the contract with its private waste hauler.

E. Transfer of Public Roads

1. Certain public roads that are currently maintained by and under the jurisdiction of the County are within the Annexed Property (hereinafter referred to as "Road Segments" except the Exempt Road(s) shall not be included in the definition of "Road Segments") and, pursuant to Section 335.0415, Florida Statutes, jurisdiction and responsibility for public roads may be transferred by mutual agreement of the County and the City. In addition, Section 337.29(3), Florida Statutes, provides that title to roads transferred pursuant to Section 335.0415, Florida Statutes, shall be in the government entity to which such roads have been transferred upon the recording of a deed or right-of-way map in the public records.
2. In accordance with paragraph 1 of this section E above, upon the Effective Date, the County shall transfer the jurisdiction, ownership, and control of the Road Segments to the City; provided, however, that the County is not transferring, and shall retain, all traffic engineering functions for all of the Road Segments. There are no Exempt Roads for this Annexed Property, and therefore, with the exception of all traffic engineering functions and

other matters referenced herein in Section E, the County will not retain control of any roads within the Annexed Property.

3. The right and responsibility of all traffic engineering matters to regulate traffic and determine appropriate measures and install, maintain, modify or remove traffic control devices such as traffic signals, signs, and pavement markings, roundabouts or other traffic-calming devices within the Annexed Property remains with the County. In addition, the County shall retain control over all road closures. Nothing herein diminishes the County's jurisdiction over all traffic engineering matters within the County, including within municipalities, except for State road rights-of-way. The County has the authority to set the hours and days that construction by any County department or agency shall take place in, or on, any public street, with prior written notice to the City. The rights and responsibility to issue permits or collect fees for construction, including utility work, within the public rights-of-way of all Road Segments are expressly transferred to the City by this Agreement, except those associated with traffic engineering. The City agrees that it shall not levy any fee or require a permit from any County department, agency or instrumentality for work within, beneath, or upon the Road Segments. The City agrees to accept all legal rights, responsibilities and obligations with respect to the Road Segments, including, but not limited to, the operation, maintenance, planning, design, and construction of the Road Segments except for the traffic engineering.
4. As limited by Section 768.28, Florida Statutes the County shall remain responsible for any tort liability for any actions arising out of the County's operation and maintenance of the Road Segments prior to and up to the effective date of the transfer of such roadways. Except as otherwise

provided herein, the City and the County agree that this Agreement contains no indemnification or hold harmless agreement or provisions concerning any claims, demands, damages and causes of action that may be brought against either party by third parties relating to the Road Segments. The City and the County shall each individually defend any action or proceedings brought against their respective agencies by third parties relating to the Road Segments and shall be individually responsible for all of their respective costs, attorney's fees, expenses and liabilities incurred as a result of any such claims, demands, suits, actions, damages and causes of action, including the investigation or the defense thereof, and from and against any orders, judgments or decrees that may be entered as a result thereof.

5. The County shall, within thirty (30) days of the Effective Date, provide the City with all available County's Engineering Division's Section Maps, which generally depict the rights-of-way, inclusive of the Road Segments.
6. Upon the Effective Date, the County Mayor and City Mayor shall determine a mutually agreeable date for the recordation and transfer of the Road Segments after the Effective Date.
7. The County shall provide the City with a list of all completed roadway/sidewalk/stripping projects for the Road Segments and, upon the City Mayor's request, provide any existing plans, specifications, drawings, and permits for such projects.
8. Whenever one of the parties to this Agreement desires to give notice to the other, such notice must be in writing, sent by U.S. Mail, certified, return receipt requested, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving of notice shall

remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving notice:

For the COUNTY:

Daniella Levine Cava
County Mayor
Mayor's Office
Stephen P. Clark Center
111 N.W. 1st Street, Suite 2910
Miami, Florida 33128
Telephone: (305) 375-5311
Facsimile: (305) 375-4658

For the City:

Cameron Benson
City Manager
18605 NW 27 Avenue
Miami Gardens, FL 33056
Telephone: (305) 305-622-8000

F. Department of Regulatory and Economic Resources.

1. Permitting

The Miami-Dade Department of Regulatory and Economic Resources, hereinafter "RER", shall process and issue building permits for all applications received prior to the effective date of the annexation, for new construction, alterations, repairs or demolitions on real property within the boundaries of the Annexed Property. RER shall process and issue all subsidiary building permits associated with a master permit issued or applied for prior to the effective date of the annexation as provided for above to ensure completion of a project. For the purpose of this Agreement, a master permit is defined as the primary building permit issued by the Building Official which enables the permit holder to commence construction, alteration,

repair, installation or demolition work. A subsidiary permit is any ancillary permit required under the Building Code to complete a project commenced under a master building permit as determined by the Building Official. A subsidiary permit may be in the same or a different trade as the master permit. RER's services contemplated by this paragraph shall include the performance of all required inspections, plan reviews, and the issuance of the applicable Certificate of Occupancy and/or Certificate of Completion.

2. Permit Records and Reports.

a. Within thirty (30) days after the Effective Date, RER shall deliver to the City Manager a written report listing each active master building permit and subsidiary building permit issued within the boundaries the Annexed Property. This report shall include the address of the property, the permit numbers, description of permit type, and the dates the permits were issued and the last inspection date and type for the open permits. This report shall be updated monthly until all of the open permits are finalized.

b. RER shall maintain all other records related to Construction Permitting and Building Code Division services performed by RER within the Annexation Area boundaries in accordance with its current practice for the unincorporated area as required by law. Copies of such records may be obtained from RER upon request of the City at the cost specified for the reproduction of documents contained in the RER's fee schedule.

3. Compensation

RER shall retain all building permit fees, penalties, and other fees and charges collected by RER for any application filed, or permits issued, prior to the City assuming building services. RER shall retain all building permit fees for any

required subsidiary permits issued by the RER pursuant to the provisions of the initial paragraph of this section, regardless of the date of issue.

4. Expired Permits

RER shall provide a report, within 30 days of the Effective Date, to the City listing any building permit for work within boundaries of the Annexed Property that expired prior to the City's assumption of building services. The list shall include the permit number, job address, description of permit type and last inspection date and type. Each month thereafter within 15 days after the end of each month, RER will provide the City with an updated report listing any building permits that expired within the previous calendar month until such time as all permits within the Annexed Property are finalized. Copies of any available permit application, plans, files or other documents related to an expired building permit may be obtained from RER upon written request of the City at the cost specified for the reproduction of documents contained in RER's fee schedule. After the Effective Date, the City shall be responsible for enforcement actions relating to any expired building permit reported to the City by the Construction Permitting and Building Code Division. It is in the complete and sole discretion of the City to engage in any enforcement action relating to any such expired permit.

For permits issued under the South Florida Building Code, an expired permit is any permit issued by the Construction Permitting and Building Code Division which lacks a final inspection approval from the Building Department and/or lacks compliance with the laws, rules or regulations of any other County, State or Federal regulatory authority having jurisdiction and has not had an inspection within 180 days of the date of issuance or from the date of the last inspection under the permit. For permits issued under the Florida Building Code, an expired permit is any building permit issued by the Construction Permitting and Building Code

Division which lacks a final inspection approval from the Construction Permitting and Building Code Division and/or lacks compliance with the laws, rules or regulations of any other County, State or Federal regulatory authority having jurisdiction which has not had an approved inspection within 180 days of the date of the issuance of the permit or within 180 days of the date of the last approved inspection made by RER. Regulatory authorities having jurisdiction include, but are not limited to, the following: Miami-Dade Fire Rescue, Miami-Dade Department of Regulatory and Economic Resources, Miami-Dade Public Works and Solid Waste Department, Miami-Dade Water and Sewer Department, Florida Department of Health and Rehabilitative Services, United States Army Corps of Engineers, State Fire Marshal, Miami-Dade County Public Schools and Miami-Dade Transit.

5. RER Authority/Responsibility

RER in its performance of the services set forth in this Agreement is authorized and designated to continue to act on behalf of the City as the City's Building Official in accordance with any applicable building codes and Chapter 468, Florida Statutes until the City assumes responsibility on the Effective Date. The City will assume responsibility for processing any permit applications submitted on or after the Effective Date, with the exception of certain subsidiary permits, as discussed in paragraph 1, performing inspections on any permits issued by the City and proceeding with enforcement on expired permits and all cases transferred by the County in accordance with the terms of this Agreement. Under this Agreement, as of the Effective Date, with respect to building permits, the County will only retain authority to process applications and issue permits submitted prior to the municipal service assumption date or the date agreed to transfer services and subsidiary permits tied to master permits issued by the County, and perform all inspections

for the master and subsidiary permits issued by the County until the issuance of the Certificate of Completion, Certificate of Occupancy, or expiration of the permit.

6. Enforcement

Until the Effective Date, RER shall continue, either directly or through contractors, with any Building Code enforcement case initiated as a result of the receipt of a complaint or opening of a case file prior to the annexation approval date. Such cases include code enforcement for building permit violations, unsafe structures, and working without permits. As of the Effective Date, RER shall close all active enforcement cases and provide the City with a list of the closed cases. RER shall be entitled to retain all fines, fees, costs and penalties resulting from the investigation and pursuit of any enforcement action initiated under this section above for the cases closed by RER. This includes the payment of any lien filed or amount paid in satisfaction of a court judgment. In the event a Building Code enforcement case is turned over to the City for completion of any enforcement action, RER shall be entitled to collect any fines, fees, or penalties owed to RER as of the date the case is turned over to the City. The City shall negotiate on a case by case basis with RER on any share that it may be entitled to. In addition, RER shall be entitled to collect all enforcement fees and costs accrued in the matter of any unsafe structures enforcement case that is closed by RER after the Effective Date. If the unsafe structures enforcement case is turned over to the City, then RER shall only be entitled to recover those fees and costs which have accrued up to the date the case is transferred to the City.

Notwithstanding the transition of powers and duties provided for in this Agreement, the Building Official for Miami-Dade County and for the City may opt to enter into a separate agreement for the County's completion of specified enforcement cases that may have been commenced by the County and are near completion, all in the

interest of efficiency, cost savings and protecting the public safety. Until the execution of such agreement, all enforcement authority and responsibility shall remain with the City. Such agreement shall contain a specific identification of cases to be completed by the County, shall provide for the allocation of fees and costs relating to those cases, and shall be executed by the County Mayor or his designee and the City Manager not later than sixty (60) days following the Effective Date.

7. **Restrictive Covenants**

Pursuant to Section 20-8.8, Code of Miami-Dade County, Miami-Dade County shall retain jurisdiction over the modification or deletion of declarations of restrictive covenants accepted by either the Board of County Commissioners or a Miami-Dade County 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. It is provided, however, that the Board of County Commissioners may not exercise such jurisdiction unless the City of Miami Gardens has first approved the modification or deletion.

G. Fire Rescue District

The Annexed Property shall remain within the Miami-Dade Fire Rescue District, consistent with section 9.2 of the City's Charter, unless section 9.2 of the City's Charter is amended, in the manner permitted by the Miami-Dade County Home Rule Charter and the Miami-Dade County Code, to remove said obligation.

H. Public Safety

Jurisdiction for police service in the areas annexed to the City, including all legal rights, responsibilities, and obligations consistent with its municipal police powers, is hereby assumed by the City of Miami Gardens Police Department commencing on the Effective Date of this Agreement.

I. Library District

Pursuant to section 9.2 of the City's Charter, the City shall remain within the Miami-Dade Library System in perpetuity. Should section 9.2 of the City's Charter be amended, in the manner permitted by the Miami-Dade County Home Rule Charter and the Miami-Dade County Code, to remove said obligation, the Annexed Property shall remain within the Miami-Dade Library System in perpetuity.

J. Term

The provisions of this agreement shall be in full force and effect commencing on the date of the execution of this Agreement and the Effective Date and continuing in perpetuity.

K. Representations by the City and the County and Authority to Enter into Agreement

The City has represented that it will enter into this Agreement providing for, among other things, the City to forever remain in the Miami-Dade Fire Rescue District, and the County has relied upon such representations in exercising its discretion to approve the annexation. In addition, each party acknowledges that this Agreement has been duly approved and executed by its governing body based on the representations referenced above, and that each party has the required power and authority to enter into and perform the obligations hereunder.

L. Invalidation of Provisions, Severability

Wherever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement is prohibited or invalid under applicable law, the remaining provisions of this Agreement shall not be affected by such invalidity.

M. Existing Agreements

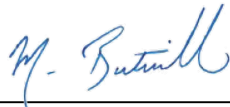
Any and all existing interlocal agreements between the County or any of its departments of agencies (such as but not limited to RER, Miami-Dade County Stormwater Utility, Transportation and Public Works, Water and Sewer, Miami-Dade Police Department, etc.) and the City shall remain in full force and effect and shall not be altered, changed, modified, amended, or terminated as a result of this agreement unless specified herein. It is provided, however, that where this Agreement is inconsistent with any such prior Agreement, the terms of this Agreement shall supersede and control.

N. Effective Date and Term


The term "Effective Date" as used herein shall mean the effective date of the annexation. The annexation shall not be effective before this Agreement has been fully and properly executed. The Effective Date shall be the later of the following: (1) ten days after the Board of County Commissioners approves the ordinance accomplishing the annexation, unless vetoed by the Mayor; or (2) if an election in the Annexed Property is required, the date after the election results are certified; or (3) the date upon which this Agreement has been fully and properly executed. The provisions of this Agreement shall be in full force and effect commencing on the Effective Date and shall continue in perpetuity.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective and duly authorized representatives.

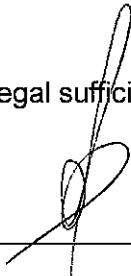
Attest:

By: 
City Clerk

CITY OF MIAMI GARDENS, FLORIDA

By: 
Cameron Benson, City Manager

Date: 4/21/2021 TA

Approved for legal sufficiency and form:

City Attorney

Attest:

Harvey Ruvin, Clerk

By: _____
Deputy Clerk

MIAMI-DADE COUNTY, FLORIDA

By: _____
Mayor Daniella Levine Cava or designee

Approved for legal sufficiency and form:

County Attorney