

# MEMORANDUM

Agenda Item No. 11(A)(1)

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

**DATE:** June 1, 2022

**FROM:** Geri Bonzon-Keenan  
County Attorney

**SUBJECT:** Resolution amending the Miami-Dade County Purchase of Development Rights Program and establishing the Purchase of Development Rights Trust Fund

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**This item was amended at the 5-11-22 Chairman's Council of Policy Committee to make corrections to Exhibit A. On typewritten pages 7 and 8, the references to "the Mayor or his designee" shall be replaced by "the County Mayor or the County Mayor's designee", and on typewritten page 11, under subsection (2), "majority" shall be replaced by "supermajority."**

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

  
Geri Bonzon-Keenan  
County Attorney

GBK/uw



**MEMORANDUM**  
(Revised)

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Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- 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)(1)  
6-1-22

RESOLUTION NO. \_\_\_\_\_

RESOLUTION AMENDING THE MIAMI-DADE COUNTY  
PURCHASE OF DEVELOPMENT RIGHTS PROGRAM AND  
ESTABLISHING THE PURCHASE OF DEVELOPMENT  
RIGHTS TRUST FUND

**WHEREAS**, on September 18, 2007, this Board adopted Resolution No. R-1036-07, creating the Miami-Dade County Purchase of Development Rights Program (the “PDR Program”) with funding through the Building Better Communities General Obligation Bond Program (the “BBC GOB Program”); and

**WHEREAS**, the PDR Program was created to ensure that agricultural properties remain undeveloped and available for farming, to facilitate the preservation of agricultural land through the purchase of conservation easements and limitation of development rights; and

**WHEREAS**, on July 21, 2009, this Board adopted Resolution No. R-1016-09, allowing for state and federal funding of the PDR Program in addition to BBC GOB Program funds; and

**WHEREAS**, lands that are outside the Urban Development Boundary that are designated as either “Agriculture” or “Open Land” on the Comprehensive Development Master Plan (“CDMP”) Land Use Plan map are eligible for such conservation easements; and

**WHEREAS**, the PDR Program is voluntary for both buyer and seller, and any acquisition requires approval by this Board; and

**WHEREAS**, currently the PDR Program is funded primarily through grants from the United States Department of Agriculture; and

**WHEREAS**, the PDR Program currently allows charitable donation of development rights but does not have a mechanism to accept monetary contributions for land acquisition; and

**WHEREAS**, this Board desires to create a mechanism to allow private entities and non-profit organizations to donate funds for the PDR Program by creating a Purchase of Development Rights Trust Fund to receive such donations and ensure they are expended only for the purposes set forth in this resolution,

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

**Section 1.** The foregoing recitals are incorporated herein and are approved.

**Section 2.** The PDR Program is amended consistent with the program description attached as Exhibit A, which is incorporated as if set forth herein, to allow private entities and non-profit organizations to make monetary contributions to the PDR Program for easement acquisition purposes.

**Section 3.** The County Mayor or County Mayor's designee is directed to establish the Purchase of Development Rights Trust Fund (the "Trust Fund") to be administered in accordance with this resolution and the County's investment policies for the sole purpose of receiving private sector monetary contributions, as well as public sector contributions, to fund the PDR Program.

**Section 4.** The Trust Fund shall be kept and maintained in trust, and any deposits, including interest earned on such deposits, to the Trust Fund shall be used solely for the purposes of ensuring that agricultural properties remain undeveloped and available for farming and facilitating the preservation of agricultural land through the purchase of conservation easements and limitation of development rights.

**Section 5.** The County Mayor or County Mayor's designee shall report at least annually to this Board as to expenditures from the Trust Fund. The completed report shall be placed on an agenda of the full Board, without committee review, pursuant to Ordinance No. 14-65.

The Prime Sponsor of the foregoing resolution is Chairman Jose “Pepe” Diaz. 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                  |                        |

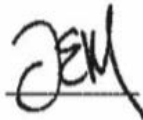
The Chairperson thereupon declared this resolution duly passed and adopted this 1<sup>st</sup> day of June, 2022. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an 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.



Lauren E. Morse

**EXHIBIT A  
MIAMI-DADE COUNTY  
PURCHASE OF DEVELOPMENT RIGHTS PROGRAM**

**PURPOSE**

It is the policy of Miami-Dade County to purchase conservation easements on viable private agricultural property, thereby limiting residential development rights for said property. In doing so, the County will protect its supply of valuable agricultural land from excessive or premature residential development and create the opportunity for continued agricultural usage. This will be accomplished through the establishment of the Purchase of Development Rights (PDR) Program.

The goals of the PDR Program are to:

- preserve farmland and support viable farm operations;
- protect open space; and
- maintain the agricultural areas rural character, and quality of life.

The PDR Program involves only willing sellers and a willing buyer, and nothing in the PDR Program shall be construed to require the County to purchase development rights from any landowner.

**BACKGROUND**

Miami-Dade County's agricultural land is a unique and economically vital resource to the community. Our lands support a locally and nationally important agricultural industry. The County's climate makes it possible to produce fresh agricultural commodities in the dead of winter when other growing regions of the United States are too cold.

In addition to its economic benefits, the County's agricultural area contributes significantly to the open space and natural resource benefits, including rural character, scenic beauty, cultural heritage, hunting and other recreational opportunities. The agricultural area also provides environmental benefits, including watershed protection and wildlife habitat. By enhancing the scenic beauty and rural character of the County and providing other open space benefits, the County's agricultural area increases the overall quality of life and makes the County an attractive place to live and work for all of Miami-Dade's residents.

The population growth in Miami-Dade County has continued to increase dramatically. As the population has increased, agricultural land has been converted to residential and other developed uses. Land suitable for farming is an irreplaceable natural resource with soil and topographic characteristics that have been enhanced by generations of agricultural use. When such land is converted to residential or other more urbanized uses that do not require those special characteristics, a critical community resource is permanently lost to the citizens of the County. Residential development in agricultural areas also makes farming more difficult by increasing conflict over farming practices and increasing risk of trespass, liability exposure and property damage. Because agricultural

land is an invaluable economic, natural and aesthetic resource, the County should make an effort to maintain sufficient agricultural land in a substantially undeveloped state to ensure the long-term viability of agriculture and to create a long-term business environment for agriculture in the county.

The purchase of development rights and the placement of an agricultural conservation easement on farmland through the PDR Program serves a public purpose. Acquisition of development rights requires that the County enter into agreements with property owners to obtain such development rights. Properties on which the County has purchased development rights and entered into an agricultural conservation easement shall remain substantially undeveloped in order to remain viable for agricultural use.

Miami-Dade County wishes to acquire conservation easements on viable agricultural property, voluntarily offered to the County by property owners. Each easement will limit future residential dwellings on the corresponding property. The easements will thus: provide an opportunity for agricultural practices, as well as the protection and efficient use of the County's agricultural resources; preserve agricultural and open land; establish and preserve the rural character of the County; conserve and protect soil, biodiversity, wildlife habitat, and aquatic habitat; and improve the quality of life for the inhabitants of the County. The PDR Program shall be available for all eligible lands in Miami-Dade County, excluding only those lands under the ownership or control of the United States of America, the State of Florida, a local municipality, or an agency or instrumentality of any of those entities.

### **PROPERTIES ELIGIBLE FOR PARTICIPATION IN THE PDR PROGRAM**

A property's eligibility for participation in the PDR Program is determined by the following criteria: (i) the property shall be located entirely in Miami-Dade County; (ii) the property shall be designated agriculture or open land on the land use plan map of the Comprehensive Development Master Plan of Miami-Dade County; (iii) the property shall have undeveloped residential density available; (iv) the property shall have at least 70% of its land area devoted to active agricultural use; (v) the property shall be suitable for agricultural production; and (vi) the property shall not be subject to any unresolved enforcement activity by any governmental entity.

### **PDR PROGRAM PROCEDURES**

1. The PDR Program Administrator shall create such forms as necessary for the completion of the PDR Program and submit the property evaluation criteria to the County Mayor or the County Mayor's designee for approval.
2. The PDR Program Administrator shall solicit the owners or easement holders of properties that Miami-Dade County finds desirable for participation in the PDR Program. If a solicited owner(s) is interested in selling or donating their development rights, the owner(s) must provide the

Administrator with a completed, non-binding request for consideration in the PDR Program.

- a. The Administrator will determine the eligibility of each property requesting consideration.
  - b. Property owners' names will be kept on file by the Administrator, but removed from forms submitted for review and recommendation, as outlined below.
  - c. Within 30 business days of receiving any request for consideration in the PDR Program, the Administrator, together with the Directors of the Miami-Dade County Cooperative Extension Service and Miami-Dade Department of Planning and Zoning, will evaluate, the property that is the subject of the request, based on the viability of the land for agricultural practices, property size, soil type, historical agricultural use, proximity to urban development, protected lands and other agricultural properties, and financial considerations.
  - d. • The Administrator will coordinate the appraisals on the properties selected. Appraisals will be conducted by independent certified (MAI, ASA) appraisers hired from Miami-Dade County's approved appraiser vendor 11st in accordance with established County hiring practices.
  - e. The Administrator will negotiate with property owner(s) the proposed sale price, as well as the terms and conditions of the proposed conservation easement.
  - f. The owner(s) will complete and sign an offer sheet listing the sale price, any terms or restrictions, and standard requirements to be included in the conservation easement.
  - g. Within 30 business days after the signature of an offer sheet, the Administrator will forward the offer sheet, together with the property evaluation forms to the County Mayor or the County Mayor's designee for review and approval.
3. Recommendations shall then be forwarded to the Board of County Commissioners on which properties are most appropriate for participation in the PDR Program. Such recommendations will delineate the properties recommended for participation in the PDR Program, as well as any related terms or conditions. The recommendations will include the offer sheet, appraisal, the property evaluation forms, and the conservation easement.



4. By majority vote, the Board of County Commissioners shall select the properties that will participate in the PDR Program and approve by resolution the related conservation easements.
5. For each property that is selected for participation in the PDR Program, a conservation easement will be promptly executed by the property owner and recorded by the Clerk of the Courts for Miami-Dade County.
6. Easements will be monitored annually according to the following monitoring process.

## **MONITORING PROCESS**

### **Initial Property Evaluation Report**

For each participating property, the monitoring process will commence with preparation of an Initial property evaluation report by the PDR Program Administrator. In preparing the initial property evaluation report, the PDR Program Administrator, a staff member from Miami-Dade County Team Metro and the Miami-Dade County Cooperative Extension Office will conduct a physical inspection of the property.

The Initial property evaluation report, which shall be recorded with the related easement at the closing of the development. rights purchase, shall include pertinent Information regarding the status and condition of the property Including:

- an aerial photo of the property;
- a certified survey of the property;
- a list of existing conditions of the property, including soil and crop type, size and extent of natural areas, zoning and land use designations;
- a property map depicting existing conditions, Including but not limited to structures or Improvements, natural areas, cropland and signs; and
- a title search showing clear title of the property.

The initial property evaluation report shall be approved and signed by the property owner(s), or the owner's registered agent, if applicable, and by the Administrator.

### **Annual Monitoring**

The conservation easements that are executed and recorded in connection with the PDR Program shall be monitored on an annual basis. The Administrator shall examine properties where development rights have been purchased by Miami-Dade County through the PDR Program. Particularly, the Administrator, together with a staff member from Miami-Dade County Team Metro and the Miami-Dade County Cooperative Extension Office, shall conduct an annual site visit. The Administrator shall thereafter

complete an annual monitoring report form. The Administrator shall also submit the completed annual monitoring report to any other Jurisdiction that has rights under the conservation easement. The property owner(s), or the owner's registered agent if applicable, must also execute the annual monitoring report. A copy of the annual monitoring report will be retained by Miami-Dade County and placed in the property file held by the PDR Program Administrator, and a copy of the recorded report will also be mailed to the property owner.

### **Enforcement**

If a participating property is found to be in violation of the applicable conservation easement, the Administrator must follow the notification of violation process outlined in the easement and contact the following:

- the County Mayor's Office;
- the Board of County Commissioners;
- the County Attorney's Office; and
- any other Jurisdiction that has rights under the easement.

In the event a participating property is in violation of the applicable conservation easement, Miami-Dade County shall seek compliance or initiate legal action, if necessary.

### **CONSERVATION EASEMENT TERMS AND CONDITIONS**

Each conservation easement shall conform to the requirements of the PDR Program and shall be in a form approved by the County Attorney. Each conservation easement shall contain, at a minimum, restrictions related to the following:

1. Permitted uses: only those uses permitted In the AU (Agricultural) Zoning District, as amended from time to time, shall be permitted, subject to the restrictions of the conservation easement.
2. Restriction on new dwellings: the number of future residential dwellings on any participating property shall be limited.
3. Duration of the conservation easement: each conservation easement shall specify the duration thereof. Easement duration may be perpetual in nature or restricted as follows:
  - (a) Exchange of easements.
    - (1) Upon the expiration of 10 years from the date on which a conservation easement was recorded, the owner or successor in interest to the property that is subject to the easement may petition the Board of County Commissioners for the extinguishment of such easement in exchange for the conveyance to the County of a

conservation easement on a different property meeting all of the eligibility requirements as set forth in the PDR Program.

- (2) Requirements for exchange: no such exchange of easement shall be authorized unless a supermajority of the Board of County Commissioners finds that:
- (A) the exchange is determined to be essential to the orderly development and growth of the County;
  - (B) the exchange is consistent with the then-effective Comprehensive Development Master Plan for the County;
  - (C) The exchange does not adversely affect the County's interests in accomplishing the purposes of the PDR Program;
  - (D) The property proposed for exchange is:
    - (I) of at least equal fair market value and at least equal acreage;
    - (II) of greater value as permanent open-space land than the land upon which the original easement was recorded; and
    - (III) of at least equivalent location and usefulness for agricultural production as is the land upon which the original easement was recorded.
- The easement will be for a period of not less than 15 years from the date of which the conservation easement was recorded.

(b) Extinguishment of easements.

- (1) Upon the expiration of 25 years from the date on which a conservation easement was recorded, the owner or successor in interest to the property which is subject to the easement may petition the Board of County Commissioners for the extinguishment of such easement.
- (2) Requirements for extinguishment: no such extinguishment of easement shall be authorized unless a supermajority of the Board of County Commissioners finds that:
- (A) The extinguishment is determined to be essential to the orderly development and growth of the County;
  - (B) The extinguishment is consistent with the then-effective Comprehensive Development Master Plan for the County; and
  - (C) There is provision to the County of reimbursement of the original purchase price compounded by the GOB

bond rate paid by the taxpayers of Miami-Dade County on the funds received for the easement.

(c) Expenses: The petitioning property owner shall bear all expenses and fees related to an exchange or extinguishment, including but not limited to purchase of the substituted easement, site assessments, surveys, appraisals, closing costs, recording fees and taxes, title search, and title insurance if required.

4. Other restrictions: the property shall also be subject to standard restrictions contained in conservation easements pertaining to uses and activities allowed on the property. These standard restrictions shall be delineated in the recorded easement and shall include, but not be limited to restrictions pertaining to: (i) accumulation of trash and junk; (ii) display of billboards, signs and advertisements not related to the agricultural use of the property; (iii) grading, blasting or earth removal not related to the agricultural use of the property; (iv) conduct of industrial or commercial activities not related to the agricultural use on the property; and (v) monitoring of the easement.
5. Designation of easement holders: the County shall be the sole easement holder unless otherwise stated in the conservation easement.

#### **PURCHASE OF DEVELOPMENT RIGHTS PROGRAM TRUST FUND**

The Administrator shall be responsible for the creation and maintenance of a "Purchase of Development Rights Program Trust Fund" ("the Trust Fund") in consultation with the County Mayor or County Mayor's designee. Such fund shall be for the sole purpose of receiving donations and grants for the acquisition of conservation easements pursuant to the PDR Program in order to ensure that agricultural properties remain undeveloped and available for farming and facilitating the preservation of agricultural land through the purchase of conservation easements and limitation of development rights.

The Trust Fund may receive donations from non-profit organizations or private entities or grants from federal or state programs. The Trust Fund shall be administered in accordance with the approving resolution and the County's investment policies. The Trust Fund shall be maintained in an interest-bearing account. The trust fund shall be separately maintained as a special revenue fund in the County's audited financial statements. Copies of such audited financial statements shall be forwarded to the Board of County Commissioners as part of the financial audit of the PDR Program.

Monies deposited in the trust fund, along with any interest earnings thereon, shall be used solely to effectuate the preservation of agricultural land in Miami-Dade County through the PDR Program. The County Mayor or County Mayor's designee shall provide for a periodic financial audit of the trust fund and for a report of such audit to the Board of County Commissioners no less than once a year.