

# MEMORANDUM

Agenda Item No. 7(B)

**TO:** Honorable Chairman Oliver G. Gilbert, III  
and Members, Board of County Commissioners

**DATE:** November 1, 2022

(Second Reading: 1-17-23)

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

**SUBJECT:** Ordinance changing the boundaries of the Village of Virginia Gardens, Florida, and amending the Village's municipal charter to provide for the annexation of certain lands pursuant to section 6.04(b) of the Home Rule Charter and chapter 20 of the Code; relating to the area referred to as the Virginia Gardens annexation area with approximate outer boundaries on the North by NW 36 Street, on the South by State Road 836, on the East by Miami International Airport/NW 55 Avenue, and on the West by State Road 826; providing for reservation to the County of utility tax revenues; providing for County retention of residential garbage and refuse collection and disposal unless certain circumstances occur; requiring payment of certain outstanding debt service attributable to the annexation area; waiving section 20-28 of the Code which would require the Village to pay mitigation; waiving the provisions of Resolution No. R-606-22 with respect to requiring the Village to pay mitigation to the County; providing for County retention of jurisdiction over certain declarations of restrictive covenants and areas and facilities of Countywide significance; providing for contingent effective date; providing for interdependency, inclusion in the Code, and an effective date

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Kevin Marino Cabrera.




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Geri Bonzon-Keenan  
County Attorney

GBK/uw

MDC001

**Date:** January 17, 2023

**To:** Honorable Chairman Oliver G. Gilbert, III  
and Members, Board of County Commissioners

**From:** Daniella Levine Cava  
Mayor 

**Subject:** Fiscal Impact Statement for Ordinance Relating to Changing the Boundaries of the Village of Virginia Gardens and Waiving the Provisions Requiring Mitigation Payment to the County

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The proposed ordinance would amend the boundaries of the Village of Virginia Gardens (Village), to include approximately 1,026.7 acres of the unincorporated municipal services area (UMSA). All the annexation area is within the Commercial, Business or Industrial Area (CBI).

### **Background**

The conceptual basis for mitigation is to lessen the financial impact of annexations or incorporations on the UMSA budget. It is important to bear in mind that, despite recent annexations and incorporations, over 1.2 million people still live in the unincorporated area of the County out of the total 2.7 million residents. Annexations and incorporations are approved locally by the Board per our constitutional home rule charter, whereas the Florida Legislature approves annexation and incorporations in other counties.

The County went through a number of decades with no new annexations or incorporations. Then in 1991, Key Biscayne incorporated followed by Aventura, Sunny Isles Beach and Pinecrest during the 1990s; all wealthy donor areas within UMSA. It became apparent that wealthy areas of UMSA were incorporating and these revenues were no longer available to provide UMSA services. The concern was that if the annexations and incorporations continued among wealthy areas, UMSA would be ultimately left with areas that would require an increase to the millage rate in order to continue to provide UMSA the same level of service.

To address this concern, the Board adopted several policies to safeguard UMSA, where a municipality or proposed municipality would mitigate some of the negative impact to UMSA for that particular area if they chose to annex or incorporate the area. Miami Lakes, Palmetto Bay, Doral were all donor areas and as such all agreed to incorporate and configured their cities with the understanding that mitigation payments would be part of the incorporation. Miami Gardens and Cutler Bay were revenue neutral and therefore made no mitigation payments. Additionally, several annexations were also required to mitigate their respective impact on UMSA. The agreements negotiated as part of these incorporations required mitigation payments in perpetuity. In 2008 the Board allowed the municipalities of Miami Lakes, Doral and Palmetto Bay to phase out the payments after seven years. Additionally, the Board also phased out mitigation payments for annexations in the same format.

Since 2000 the Board has approved 5 incorporations and 20 annexations. Three of the incorporations and five of the annexations required mitigation payments. Below is a breakdown of these annexations and incorporations.

**2000** – Miami Lakes incorporated on December 5<sup>th</sup>; agreeing to contribute the equivalent of one mill of property tax revenues (\$1.45 million for FY 2000-01). The agreement included a clause known as the Most Favored Nations, which provided that should a donor area incorporated under terms more beneficial than those of Miami Lakes, those terms would then be applicable to Miami Lakes as well.

**2002** – Palmetto Bay incorporated on September 10<sup>th</sup>; agreeing to contribute the equivalent of one mill of municipal property tax revenues (\$1.578 million for FY 2002-03)

**2003** – Doral incorporated on June 24<sup>th</sup>. Since the incorporation included a Commercial, Business, Industrial Area (CBI), the Board established a commercial and a residential mitigation; the equivalent of 1.5 mills each of the total taxable value of each of the areas.

Doral initial residential mitigation payment - \$2.9 million

Doral initial CBI mitigation payment \$4.4 million

Thereafter, the required mitigation amount was adjusted by the CPI for the residential area, not to exceed 3% over the previous year and by the tax roll growth for the CBI area multiplied by 1.5 mills.

**2006** – Bills were introduced in the Florida Senate and House during the annual session seeking to prohibit a County from using its authority to require payment by certain municipalities as a condition of incorporation. The bills sought to be effective on any municipality formed after January 1, 2000. Both bills were withdrawn by their respective sponsors.

On March 21<sup>st</sup>, 2006 the Board created the Mitigation Adjustment Policy Review Task Force (R-342-06) to conduct a study and submit recommendations for the adjustment of mitigation payments by Miami Lakes, Palmetto Bay and Doral. The report and recommendations were presented to the Board on July 11<sup>th</sup> at the Infrastructure and Land Use Committee.

**2007** – Florida Legislature passed Chapter 2007-26 providing that “any municipality formed after January 1, 2000, and any municipality formed after July 1, 2007, shall not be required to pay any charge, assessment, tax, fee or other consideration as a condition for allowing the citizens of an area to incorporate and govern themselves.”

On April 30<sup>th</sup>, 2007 the Board adopts resolution no. R-508-07 expressing intent to phase out mitigation for Miami Lakes, Palmetto Bay and Doral.

On July 27<sup>th</sup> Miami Lakes, Palmetto Bay and Doral filed a lawsuit against Miami Dade County seeking declaratory relief to determine the validity of Chapter 2007-26 of the Laws of Florida.

Miami-Dade County counter-claimed seeking a declaration that the law is unconstitutional on its face because it intrudes upon the County’s exclusive constitutional authority to establish methods to create municipalities and amend municipal charters with the County.

**2008** – On June 4<sup>th</sup>, the 11<sup>th</sup> Judicial Circuit Court Final Summary Judgement granted the County’s request to declare Florida section 165.0225 unconstitutional as it violates the County’s Home Rule Charter (Case No. 07-23662 CA 20).

On October 7<sup>th</sup>, 2008 the Board adopted resolution no. R-1067-08, directing the County Mayor to explore resolutions of mitigation payment disagreements with Miami Lakes, Palmetto Bay and Doral

On November 20<sup>th</sup>, the Board adopted resolutions nos. R-1268-08 and R-1269-08 approving an amendment to the municipal charters of Doral and Palmetto Bay eliminating mitigation payments under certain conditions, which called for a phasing out of such payments beginning in fiscal year 2010-11.

**2011** – The Board adopted Ordinance No. 11-19 relating to annexation deleting requirement for mitigation payments from Florida City, Medley, North Miami and Hialeah Gardens. The

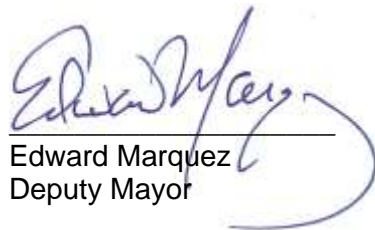
Ordinance allowed mitigation payments to be phased out consistent with the phase-out timetable of previously approved incorporations and annexations. No more than seven payments were made by each municipality into the Municipal Services Trust Fund.

**Fiscal Impact**

The 2021 preliminary roll taxable value for proposed annexation area generates \$2,769,257 in revenue to UMSA. Miami Dade County spent an estimated \$2,092,784 in the area for services. Therefore, the net revenue loss to the UMSA budget is an estimated \$676,473 if this annexation is approved. Additionally, the County will continue to receive utility tax revenues from the area estimated at \$675,486. It is important to note that the per capita taxable value of Virginia Gardens is \$127,991 which is above the average for the County at \$119,758.

The 2022 preliminary roll taxable value \$1,266,663,001 which is an increase of \$73,926,816 from the 2021 preliminary roll. The Village has reduced its millage rate by 1.07% from 4.9 mills to 4.6 mills. UMSA has also reduced its millage rate by 1 percent to 1.909 from 1.9283. Additionally, if the Village's reduced millage rate of 4.6 mills is applied to property folios in the annexation area the average property owner would pay an additional \$5,516.


Should this ordinance be approved without requiring mitigation, this would create a negative fiscal impact to UMSA. **I strongly recommend that the ordinance and interlocal agreement be amended to include mitigation payments for seven years.**



Edward Marquez  
Deputy Mayor

**Date:** January 17, 2023

**To:** Honorable Chairman Oliver G. Gilbert, III  
and Members, Board of County Commissioners

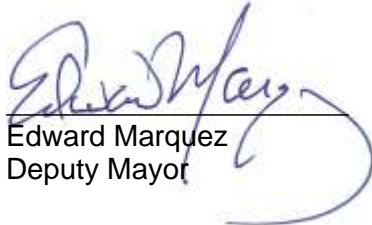
**From:** Daniella Levine Cava   
Mayor

**Subject:** Social Equity Statement for Ordinance Changing the Boundaries of the Village of Virginia Gardens

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The proposed Ordinance amends the municipal boundaries of the Village of Virginia Gardens to annex 1,026.7 acres of land from the unincorporated municipal services area (UMSA). If implemented, the annexation areas will become part of the Village boundaries without an election as the area has under 250 residents since it is entirely commercial and industrial. These business owners that are affected by the annexation do not have the ability to vote and their only participation in the process is to attend any public hearings. If the annexation is approved, there may be a social benefit to the businesses from having government closer and more accessible with services such as local police patrol and public works.

Although the Village of Virginia Gardens has reduced its millage rate to 4.6 mills, the average property owner will pay additional estimated property taxes of \$5,516; additional expenses which could be passed on to the consumer. These increased costs may create a social burden on these business owners and their clients. **I strongly recommend that the ordinance and interlocal agreement be amended to include mitigation payments for seven years.**

  
Edward Marquez  
Deputy Mayor



**MEMORANDUM**  
(Revised)

**TO:** Honorable Chairman Oliver G. Gilbert, III  
and Members, Board of County Commissioners

**DATE:** January 17, 2023

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

**SUBJECT:** Agenda Item No. 7(B)

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. 7(B)  
1-17-23

ORDINANCE NO. \_\_\_\_\_

ORDINANCE CHANGING THE BOUNDARIES OF THE VILLAGE OF VIRGINIA GARDENS, FLORIDA, AND AMENDING THE VILLAGE'S MUNICIPAL CHARTER TO PROVIDE FOR THE ANNEXATION OF CERTAIN LANDS PURSUANT TO SECTION 6.04(B) OF THE HOME RULE CHARTER AND CHAPTER 20 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; RELATING TO THE AREA REFERRED TO AS THE VIRGINIA GARDENS ANNEXATION AREA WITH APPROXIMATE OUTER BOUNDARIES ON THE NORTH BY NW 36 STREET, ON THE SOUTH BY STATE ROAD 836, ON THE EAST BY MIAMI INTERNATIONAL AIRPORT/NW 55 AVENUE, AND ON THE WEST BY STATE ROAD 826; PROVIDING FOR RESERVATION TO THE COUNTY OF UTILITY TAX REVENUES; PROVIDING FOR COUNTY RETENTION OF RESIDENTIAL GARBAGE AND REFUSE COLLECTION AND DISPOSAL UNLESS CERTAIN CIRCUMSTANCES OCCUR; REQUIRING PAYMENT OF CERTAIN OUTSTANDING DEBT SERVICE ATTRIBUTABLE TO THE ANNEXATION AREA; WAIVING SECTION 20-28 OF THE CODE OF MIAMI-DADE COUNTY WHICH WOULD REQUIRE THE VILLAGE TO PAY MITIGATION; WAIVING THE PROVISIONS OF RESOLUTION NO. R-606-22 WITH RESPECT TO REQUIRING THE VILLAGE TO PAY MITIGATION TO THE COUNTY; PROVIDING FOR COUNTY RETENTION OF JURISDICTION OVER CERTAIN DECLARATIONS OF RESTRICTIVE COVENANTS AND AREAS AND FACILITIES OF COUNTYWIDE SIGNIFICANCE; PROVIDING FOR CONTINGENT EFFECTIVE DATE; PROVIDING FOR INTERDEPENDENCY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

**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 August 16, 2017, the Village of Virginia Gardens ("Village") submitted an application for the annexation of the unincorporated area referred to in the Village's application as the Virginia Gardens Annexation Area, contiguous to the Village; and

**WHEREAS**, on July 7, 2022, the Board adopted County Resolution No. R-606-22 directing the County Attorney to prepare the appropriate ordinance and interlocal agreement to effectuate the annexation request; and

**WHEREAS**, the County Mayor recommended that the Village be required to pay mitigation to the County in connection with this annexation, and because the Virginia Gardens Annexation is a Commercial Business Industrial District (CBI) area, mitigation would be required pursuant to section 20-28 of the Code; and

**WHEREAS**, this Board, however, does not wish to require mitigation, and this ordinance therefore waives the provisions of section 20-28 of the Code which would require the Village to pay mitigation with respect to CBI areas, and also waives County Resolution No. R-606-22 with respect to requiring the Village to pay mitigation to the County in connection with this annexation; and

**WHEREAS**, other than the provisions on mitigation which are hereby waived, the Village's application for the Virginia Gardens Annexation Area complies with the County's procedures, requirements, and Code provisions related to municipal boundary changes, including, but not limited to, the provisions in section 20-3.1 of the Code related to contiguity, the Urban Development Boundary, and providing information about enclaves; and

**WHEREAS**, the annexation of the Virginia Gardens Annexation Area by the Village would not create an enclave because, among other things, the remaining unincorporated areas are all of a size that could be serviced efficiently and effectively; and

**WHEREAS**, the County does not have any other pending applications for the annexation of the Virginia Gardens Annexation Area or any portion thereof; and



**WHEREAS**, in addition, no municipality that could present such an annexation application for consideration by this Board in accordance with section 20-3.1 has indicated any intent or interest in the annexation of the Virginia Gardens Annexation Area or any portion thereof; and

**WHEREAS**, this Board wishes to change the boundaries of the Village pursuant to its annexation request, which provides for the reservation to the County of certain revenues, rights, and responsibilities, as set forth herein,

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

**Section 1.** The foregoing recitals are incorporated into this ordinance and are approved.

**Section 2.** The municipal boundaries of the Village of Virginia Gardens (“Village”) are hereby changed, extended and enlarged, and the Village’s charter is hereby amended by the annexation to the Village of the following property (the “annexation area”):

**Annexation by the Village of Virginia Gardens**

**Virginia Gardens Annexation Area**

**Legal Description**

Those portions of Sections 26, 35 and 36 Township 53 South, Range 40 East, and those portions of Section 31, Township 53 South, Range 41 East and those portions of Government Lot 2 and, lying between Township 53 South and Township 54 South, Range 40 East; Miami-Dade County, Florida being described as follows:

**Commencing** at the Northeast corner of said Section 26, thence Southerly along the Easterly line of said Section 26, for a distance of 1,524.92 feet to point of intersection with the centerline of NW 36 Street Extension - State Route No 948, (also labeled “Base Line of Survey”) as shown and delineated on the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP SECTION 87220 -2506 dated October 3, 1994 derived from the STATE OF

FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP SECTION 87673 -2301, recorded in Map Book 75, Page 80 of the Public Records of Miami-Dade County, Florida; the **POINT OF BEGINNING**. thence Westerly, along the centerline of NW 36 Street Extension - State Route No 948, (also labeled "Base Line of Survey") for the following five (5) courses and distances: (1) thence along the arc of said curve to the right with a radial bearing of S 18°56' 42" W, through a central angle of 01°56' 32", having a radius of 1,910.08 feet, for an arc distance of 64.75 feet to a point of tangency; (2) thence N 69°06' 47" W, for a distance of 1,485.99 feet to a point of curvature of a circular curve concave to the South ,thence along the arc of said curve to the left , through a central angle of 21°32' 35", having a radius of 1,910.08 feet, for an arc distance of 718.18 feet; (4) thence S 89°20' 39" W, for a distance of 502.96 feet to the point of intersection with the centerline of NW 72 Avenue (Milam Road) also the North-South quarter line of Section 26, Township 53 South, Range 40 East, Miami-Dade County, Florida; (5) thence S 89°21' 44" W, continuing along said centerline, for a distance of 1,833.66 feet to a point; thence S 00°38' 16" E, leaving said centerline, for a distance of 120.00 feet to a point labeled "End Exist L.A. R/W" same point also labeled "End L.A." as shown and delineated on the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP SECTION 87260 -2518 dated October 31, 1989 derived from the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP SECTION 87260 -101, recorded on Map Book 72, Page 61 of the Public Records of Miami-Dade County, Florida; thence with and along said limited access right of way line the following courses and distances: thence S 80°56' 15" W, for a distance of 136.47 feet; thence S 38°14' 43" W, for a distance of 797.72 feet; thence S 08°35' 49" W, for a distance of 279.51 feet; thence S 01°42' 29" E, for a distance of 778.89 feet to a point on the East- West Quarter line of Section 26, Township 53 South, Range 40 East, Miami-Dade County, Florida; thence S 01°31' 53" E, for a distance of 1,521.39 feet; thence S 04°23' 38" E, for a distance of 200.25 feet; thence S 01°31' 53" E, for a distance of 886.61 feet to a point on the North line of Section 35, Township 53 South, Range 40 East, Miami-Dade County, Florida and the centerline of NW 25 Street; thence Easterly, with and along the North Line of said Section 35, Township 53 South, Range 40 East, Miami-Dade County, Florida and the centerline of NW 25 Street, for a distance of 160.00 feet; thence continuing with and along said limited access right of way line for the following courses and distances: thence S 00°08' 36" E, for a distance of 100.00 feet; thence Westerly, for a distance of 154.21 feet; thence S 02°46' 28" W, for a distance of 1,016.01 feet;

thence S 01°44' 21" E, for a distance of 1,526.77 feet to a point on the East-West Quarter Line of Section 35, Township 53 South, Range 40 East, Miami-Dade County, Florida; thence continuing with said limited right of way lines the following courses and distances: thence S 01°43' 06" E, for a distance 1,573.17 feet; thence S 06°43' 02" E, for a distance of 401.67 feet to a point lying 70 feet East of the West Section Line of said Section 35; thence S 02°34' 10" E, for a distance of 610.99 feet to a point lying 60 feet North of the North Line of Government Lot 2 also the Northern right of way of NW 12 Street; thence continuing S 02°34' 10" E, for a distance of 678.63 feet to a point on the centerline of SR-836 as shown and delineated in the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP SECTION 87200-2503, recorded in Map Book 81, Page 14 of the Public Records of Miami-Dade County, Florida; thence with the centerline of said SR 836 the following courses and distance: S 76°45'26" E, for a distance of 1,159.32 feet to a point of curvature of a circular curve concave to the North, thence along the arc of said curve to the left , through a central angle of 40°57'13", having a radius of 2,864.79 feet, for an arc distance of 2,047.68 feet; thence N 62°17'21" E, for a distance of 2,015.63 feet to a point of curvature of a circular curve concave to the South, thence along the arc of said curve to the right, through a central angle of 25°04'49", having a radius of 2,864.79 feet, for an arc distance of 1,254.01 feet; thence N 87°22'10" E, for a distance of 1,939.94 feet to a point of curvature of a circular curve concave to the South, thence along the arc of said curve to the right , through a central angle of 11°19'06", having a radius of 5,729.58 feet, for an arc distance of 1,131.83 feet; thence S81°18'44" E, for a distance of 421.82 feet to a point of curvature of a circular curve concave to the North, thence along the arc of said curve to the left , through a central angle of 21°46'39", having a radius of 3,274.04 feet, for an arc distance of 1,244.43 feet; thence N 76°54'37" E, for a distance of 1,036.04 to a point; thence N 13°05'23" W, leaving said SR 836 centerline, for a distance of 250.59 feet to a point on the North line of Tract 1 as shown and delineated on FOURTH REVISED AND AMENDED PLAT OF SEMROCSA, recorded on Plat Book 50, Page 77 of the Public Records of Miami-Dade County, Florida; thence N 02°40'11" W, perpendicular to said North line, for a distance of 53.00 feet to a point on the North right of way line of the CSX railroad; thence Westerly along said North right of way line the following courses and distances: thence S 87°19' 49" W, for a distance of 1,382.45 feet to a point of curvature of a circular curve concave to the South, thence along the arc of said curve to the left ,through a central angle of 03°46' 00" having a radius of 1,935.08 feet, for an arc distance of 127.21 feet; thence S

83°33'49" W, for a distance of 1,332.08 feet to a point of curvature of a circular curve concave to the North, thence along the arc of said curve to the right, through a central angle of 03°27'21", having a radius of 1,910.08 feet, for an arc distance of 115.21 feet; thence S 87°01'09" W, for a distance of 3,679.31 feet a point on the Easterly line of Section 35, Township 53 South, Range 40 East, Miami-Dade County, Florida, thence S 87°01'09" W, for a distance of 198.56 feet; thence N 87°05'36" W, for a distance of 106.69 feet to a point of curvature of a non-tangent circular curve which radius point bears N 06°37'09" W, thence along the arc of said curve to the right, through a central angle of 09°01'25", having a radius of 739.49 feet, for an arc distance of 116.46 feet; thence S 86°59'28" W, for a distance of 18.01 feet to a point of intersection with the centerline of NW 12 Street; Thence S 67°49'50" W, with said centerline, for a distance of 1,942.53 feet to its point of intersection with the South line of Section 35 Township 53 South, Range 40 East, Miami-Dade County, Florida; thence S 89°49'48" W, along the centerline of NW 12 Street and the Southerly lines of the of Section 35, Township 53 South, Range 40 East, Miami-Dade County, Florida for a distance of 2,065.90 feet to a point of intersection with the Southerly extension of the Easterly right of way of Milam Dairy Road as shown and delineated on MILAM DAIRY ROAD REALIGNMENT, DADE COUNTY PUBLIC WORKS DEPARMENT RIGHT OF WAY MAP, recorded on Map Book 112, Page 58 of the Public Records of Miami-Dade County, Florida; thence N 28°11'20" W, along said Southerly extension line and the Easterly right of way of Milam Dairy Road, for a distance of 772.38 feet to a point of curvature of a circular curve concave to the Northeast, thence along the arc of said curve to the right, through a central angle of 101°27'04" having a radius of 1,095.92 feet, for an arc distance of 1,940.50 feet; thence N 73°15'44" E, for a distance of 577.62 feet to a point of curvature of a circular curve concave to Northwest, thence along the arc of said curve to the left, through a central angle of 44°55'15" having a radius of 1,195.92 feet, for an arc distance of 937.62 feet to the point of intersection with the West right of way line of NW 72 Avenue; thence S 01°38'48" E, along said West right of way line, for a distance of 346.33 feet to a point on the North line of the SW 1/4 of Section 35, Township 53 South, Range 40 East, Miami-Dade County, Florida; thence S 01°38'30" E, continuing along the west right of way line of said NW 72 Avenue, for a distance of 266.61 feet to the point of intersection with Westerly extension of the South line of Block 4 as shown and delineated on MIAMI AIRPORT INDUSTRIAL PARK, recorded on Plat Book 84, Page 4 of the Public Records of Miami-Dade County, Florida; thence N 87°00'43" E, with said extension line,

the North line of NW 20 Street and being also the Southerly line of MIAMI AIRPORT INDUSTRIAL PARK and the Southerly line of Block 1 as shown and delineated in FIRST ADDITION OF COMMERCE PARK, recorded on Plat Book 99, Page 45, across the Canal and along the South line of that property described in ORB 30679, Page 3892, and it's Easterly extension, all part of the Public Records of Miami-Dade County, Florida, for a distance of 1,703.15 feet thence N 01°44'24" W, for a distance of 1,603.25 feet; thence N 89°51'25" E, for a distance of 466.35 feet; thence N 01°44'24" W, for a distance of 1,220.93 feet to a point on the South line of Section 26, Township 53 South, Range 40 East, Miami-Dade County, Florida; thence N 01°44'36" W, for a distance of 1,041.57 feet; to a point of a non-tangent circular curve, which radius point bears S 89°31'03" E, thence along the arc of said curve to the right, through a central angle of 37°37'50", having a radius of 686.56 feet, for an arc distance of 450.92 feet; thence N 38°06'47" E, for a distance of 196.03 feet to a point of curvature of a circular curve concave to the Northwest, thence along the arc of said curve to the left, through a central angle of 25°37'06", having a radius of 1,167.34 feet, for an arc distance of 521.95 feet; thence N 01°44'36" W, for a distance of 566.34 feet to a point, thence N 01°44'15" W, for a distance of 1,121.33 feet to the **POINT OF BEGINNING.**

The annexation of this annexation area was requested by the Village in Village Resolution No. 924, adopted by the Village, which ordinance is attached hereto as Exhibit A for informational purposes only. A map depicting the annexation area, as set forth in this ordinance, is attached hereto as Exhibit B and made a part hereof by reference. In the event of any inconsistency between the boundaries of the annexation area as described by the legal description and the map identified as Exhibit B, the boundaries of the annexation area as described by the legal description in this ordinance shall prevail.

**Section 3.** Pursuant to section 20-8.2 of the Code, this ordinance shall be effective only upon the condition and with the reservation that the County shall forever continue to collect and receive all utility tax revenues accruing within the annexation area in the same manner as though the annexation area remained a part of the unincorporated area of the County.

**Section 4.** Pursuant to section 20-8.4 of the Code, this ordinance shall be effective only upon the condition and with the reservation that the County shall forever continue to collect and dispose of all residential waste within the annexation area in the same manner as though such annexation area remained part of the unincorporated area of the County, unless the authority to collect such waste is delegated by the County to the governing body of the municipality through a 20-year interlocal agreement which provides for collection services and a 20-year interlocal agreement that provides for disposal services in substantially the form approved by County Resolution No. R-1198-95.

**Section 5.** Pursuant to section 20-8.8 of the Code, this ordinance shall be effective only upon the condition and with the reservation that the Board shall retain jurisdiction over the modification or deletion of declarations of restrictive covenants accepted by either the Board 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 the modification or deletion by a successor governmental body.

**Section 6.** Pursuant to section 20-8.6 of the Code, this ordinance shall be effective only upon the condition and with the reservation that the County shall retain regulatory jurisdiction over Areas and Facilities of Countywide Significance as designated by the Board. The entire annexation area has been designated by the Board as an Area or Facility of Countywide Significance, and the County shall retain regulatory jurisdiction over the entire annexation area.

**Section 7.** Pursuant to section 20-8.5 of the Code, this ordinance shall be effective only upon the condition and with the reservation that the Village shall pay to the County the annexation area's prorated share of the Stormwater Utility Revenue Bonds debt service estimated at \$132,510.19 per year through the end of calendar year 2029.

**Section 8.** The Village shall execute a duly authorized Interlocal Agreement acceptable to the County wherein it agrees, among other things, to the requirements referenced in sections 3, 4, 5, 6, and 7 above. The Village has represented that it will enter into said Interlocal Agreement with the County, substantially in the form included in County Resolution No. R-\_\_\_\_\_, (the "Interlocal Agreement"). In exercising the County's discretion to approve this annexation, the County has relied upon all of the representations in the Interlocal Agreement, including, but not limited to, those representations related to the above-mentioned requirements.

**Section 9.** This ordinance hereby waives the provisions of section 20-28 of the Code which would require the Village to pay mitigation with respect to CBI areas, and also waives County Resolution No. R-606-22 with respect to requiring the Village to pay mitigation to the County in connection with this annexation.

**Section 10.** It is the intention of the Board, 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 in Appendix B – Ordinances Changing Municipal Boundaries. 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 11.** The provisions of this ordinance are interdependent upon one another, and the entire ordinance shall be deemed invalid if any of its provisions are declared invalid or unconstitutional. If any of the sections of this ordinance are found or adjudged to be illegal, void or of no effect, the entire ordinance shall be null and void and of no force or effect.

**Section 12.** This ordinance shall be effective only upon the condition and with the reservation that the Village and the County execute the Interlocal Agreement, substantially in the form included in County Resolution No. R-\_\_\_\_\_, and that such Interlocal Agreement remain in effect.

**Section 13.** This ordinance shall become effective upon the later of: (a) 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; and (b) upon the execution of the Village and the County of the Interlocal Agreement, substantially in the form included in County Resolution No. R-\_\_\_\_\_.

PASSED AND ADOPTED:

Approved by County Attorney as  
to form and legal sufficiency:

Handwritten initials 'GBK' in blue ink above a handwritten signature in black ink.

Prepared by:

Abbie Schwaderer-Raurell  
James Eddie Kirtley  
Monica Rizo Perez

Prime Sponsor: Commissioner Kevin Marino Cabrera



# Exhibit A to Ordinance

## RESOLUTION NO. 924

**A RESOLUTION OF THE MAYOR AND THE VILLAGE COUNCIL OF THE VILLAGE OF VIRGINIA GARDENS, FLORIDA REINITIATING RESOLUTION NO. 806 WHICH AMENDED RESOLUTION NO. 734, WHICH INITIATED AND REQUESTED THE PROPOSED BOUNDARY CHANGES OF THE VILLAGE OF VIRGINIA GARDENS IN ORDER TO ANNEX PROPERTY BEARING THE LEGAL DESCRIPTION CONTAINED IN EXHIBIT "A" TO RESOLUTION NO. 734, SO AS TO MODIFY THE BOUNDARIES FOR PROPOSED ANNEXATION SET FORTH IN RESOLUTION NO. 734; AUTHORIZING THE MAYOR AND THE VILLAGE CLERK AND OTHER PROPER ASSISTANTS TO TAKE ANY AND ALL ACTIONS AS MAY BE NECESSARY TO SUBMIT/PURSUE THE REQUEST FOR THE PROPOSED BOUNDARY CHANGES TO THE BOARD OF COUNTY COMMISSIONERS OF MIAMI DADE COUNTY, FLORIDA; AND AUTHORIZING THE VILLAGE CLERK TO TRANSMIT COPIES OF THIS RESOLUTION TO THE CLERK OF THE COUNTY COMMISSION; REPEALING ALL RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, pursuant to section 6.04 of the Miami-Dade County Home Rule Charter and section 20-3 of the Code of Miami-Dade County Florida, the Village of Virginia Gardens may initiate, by Resolution, a proposed boundary change where there are 250 or fewer registered electors within the proposed annexation area and where the area is less than 50% developed residential;

WHEREAS, the Village of Virginia Gardens conducted duly noticed and advertised public hearings coinciding with the reading of this Resolution; and

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE VILLAGE COUNCIL OF THE VILLAGE OF VIRGINIA GARDENS, FLORIDA, THAT:

Section 1: The Mayor and the Village Council of the Village of Virginia Gardens hereby approve the changes, extension and enlargement of the municipal boundaries of the

# Exhibit A to Ordinance

Village of Virginia Gardens, Florida, and to affect such change, by the annexation to the Village of Virginia Gardens of property legally described in Exhibit "A" to Resolution No. 806, and shown on an accompanying map, Exhibit "B" to Resolution Nos. 806 and 734. A copy of Resolution Nos. 806 and 734 are attached hereto and made a part hereof.

Section 2: The Village Council of the Village of Virginia Gardens, Florida hereby requests that the Board of County Commissioners of Miami-Dade County, Florida adopt an ordinance changing, extending and enlarging the Village's municipal boundaries as approved by the Village and as described in the legal description set forth in Exhibit "A" to this Resolution.

Section 3: The Mayor and the Village Clerk and all such other Village officials and officers are hereby authorized and directed to take all action and to execute such certificates, documents and agreements as may be deemed necessary or desirable in connection with the submission of the request for such boundary change to the Board of County Commissioners of Miami-Dade County, Florida, for approval.

Section 4: The Village Clerk is hereby authorized and directed to transmit three certified copies of the Resolution, together with proof of compliance of notice procedures to the Clerk of the County Commission, accompanied by the attachments as required by Section 20-3 of the Code of Miami-Dade County, Florida.

Section 5: Repeal of Resolutions in Conflict. All Resolutions or parts of Resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Section 6: Severability Clause. If any phrase, clause, sentence, paragraph or section of this Resolution shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any

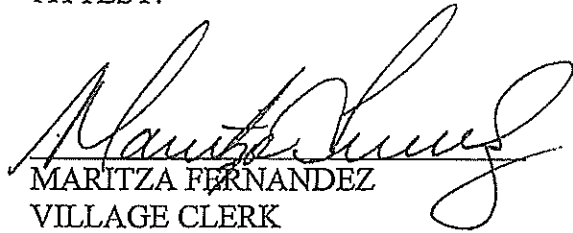
# Exhibit A to Ordinance


of the remaining phrases, clauses, sentences, paragraphs or sections of this Resolution.


Section 7: Effective Date. This Resolution shall take effect and be in force from and after its date of passage.

PASSED, and ADOPTED on this 2<sup>nd</sup> day of August, 2017.

ATTEST:

  
MARITZA FERNANDEZ  
VILLAGE CLERK

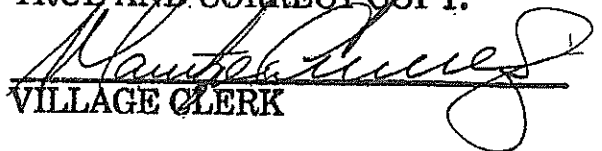
  
FRED SPENCER DENO, IV  
MAYOR OF THE  
VILLAGE OF VIRGINIA GARDENS

  
DEBRA CONOVER  
COUNCIL PRESIDENT

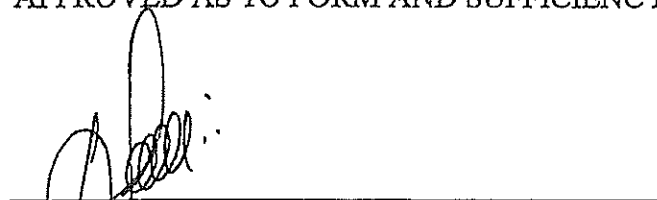
VOTE OF THE COUNCIL:

Councilwoman Elizabeth Taylor-Martinez	<u>YES</u>
Councilman Steven K. Petterson	<u>YES</u>
Councilman Jorge Arce	<u>YES</u>
Councilwoman Debra Conover	<u>YES</u>
Councilman Richard Block	<u>YES</u>

I, HEREBY CERTIFY THIS TO BE A  
TRUE AND CORRECT COPY.

  
VILLAGE CLERK

APPROVED AS TO FORM AND SUFFICIENCY:

  
JOSE M. HERRERA, ESQ.  
VILLAGE ATTORNEY

