

# MEMORANDUM

Agenda Item No. 7(A)

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

**DATE:** (Second Reading: 10-17-23)  
September 19, 2023

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

**SUBJECT:** Ordinance relating to the Miami-Dade County Expressway Authority and the Greater Miami Expressway Agency; exercising Miami-Dade County's home rule powers preserved within article VIII, section 6 of the Florida Constitution of 1968 and the Miami-Dade County Home Rule Charter; superseding, nullifying, and modifying the act contained in sections 18 through 28 of chapter 2023-70 of the laws of Florida as a special, local, or general law applicable only to Miami-Dade County; abolishing the Greater Miami Expressway Agency in Miami-Dade County created or reestablished by such act; reenacting any portion of Miami-Dade Ordinance No. 21-35 previously superseded

The accompanying ordinance was prepared and placed on the agenda at the request of Co-Prime Sponsors Commissioner Kevin Marino Cabrera and Vice Chairman Anthony Rodríguez, and Co-Sponsors Commissioner Juan Carlos Bermudez, Chairman Oliver G. Gilbert, III, Commissioner Danielle Cohen Higgins, Commissioner Eileen Higgins and Commissioner Kionne L. McGhee.

  
Geri Bonzon-Keenan  
County Attorney

GBK/uw

MDC001

# Memorandum



**Date:** October 17, 2023

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

**From:** Daniella Levine Cava  
Mayor

A handwritten signature in blue ink that reads "Daniella Levine Cava". The signature is written in a cursive, flowing style.

**Subject:** Fiscal Impact Statement for Ordinance Relating to Miami-Dade Expressway Authority

---

The implementation of this Ordinance will not have a fiscal impact to Miami-Dade County. The ordinance abolishes the Greater Miami Expressway Authority and transfers all assets, facilities, tangible and intangible property, liability for any bonds, and any other rights or obligations from the Greater Miami Expressway Authority to the Miami-Dade Expressway Authority.

A handwritten signature in blue ink, appearing to be "Jimmy Morales". The signature is written in a cursive, flowing style.

---


Jimmy Morales  
Chief Operations Officer

# Memorandum



**Date:** October 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 Relating to Miami-Dade County Expressway Authority  
– File No. 231834

---

The proposed ordinance asserts Miami-Dade County's home rule powers as enshrined in the Constitution of the State of Florida to reestablish the Miami-Dade Expressway Authority (MDX), which was abolished under state law creating the Greater Miami Expressway Agency (GMX). The State law aims to clarify the legal status, ownership and control of the roads that constitute the expressway system in Miami-Dade County and portions of northeast Monroe County following the County's effort to abolish GMX via Ordinance No. 21-35 adopted on May 4, 2021.

MDX filed a Complaint for Declaratory Relief, Injunctive Relief, and Quiet Title against GMX on July 26, 2022. The trial judge issued final judgement declaring Miami-Dade County's 2021 ordinance valid and MDX the lawful owner of the toll facilities. GMX appealed this case, and it is now pending in the Third District Court of Appeal. State law renders MDX as dissolved and transfers all assets, employees, contracts, rights, and liabilities to GMX, a state agency that is not subject to any county's home rule powers.

Under the proposed ordinance, MDX is reinstated because the State law supplanting MDX with GMX contravenes the County's constitutional rights to home rule. The State law is deemed constitutionally invalid as it constitutes a special law applying only to Miami-Dade County. The expressways under GMX's purview lie exclusively within Miami-Dade County. The Monroe County loop road under GMX's jurisdiction does not meet the State's standard for an expressway. Thus, this ordinance abolishes GMX, returning local control of the local toll Board to the County. Consequently, the ordinance has a demonstrable positive social equity benefit as it removes a State agency from governing local affairs, preserving home rule and ensuring local assets remain under local control.



---

Jimmy Morales  
Chief Operations Officer



**MEMORANDUM**  
(Revised)

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

**DATE:** October 17, 2023

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

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

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(A)  
10-17-23

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

ORDINANCE RELATING TO THE MIAMI-DADE COUNTY EXPRESSWAY AUTHORITY AND THE GREATER MIAMI EXPRESSWAY AGENCY; EXERCISING MIAMI-DADE COUNTY’S HOME RULE POWERS PRESERVED WITHIN ARTICLE VIII, SECTION 6 OF THE FLORIDA CONSTITUTION OF 1968 AND THE MIAMI-DADE COUNTY HOME RULE CHARTER; SUPERSEDING, NULLIFYING, AND MODIFYING THE ACT CONTAINED IN SECTIONS 18 THROUGH 28 OF CHAPTER 2023-70 OF THE LAWS OF FLORIDA AS A SPECIAL, LOCAL, OR GENERAL LAW APPLICABLE ONLY TO MIAMI-DADE COUNTY; ABOLISHING THE GREATER MIAMI EXPRESSWAY AGENCY IN MIAMI-DADE COUNTY CREATED OR REESTABLISHED BY SUCH ACT; REENACTING ANY PORTION OF MIAMI-DADE ORDINANCE NO. 21-35 PREVIOUSLY SUPERSEDED; PROVIDING SEVERABILITY, EXCLUSION FROM THE CODE, AND AN EFFECTIVE DATE

**WHEREAS**, on November 6, 1956, the people of Florida amended the Florida Constitution by adopting Article VIII, Section 11 of the Florida Constitution of 1885, preserved in Article VIII, Section 6 of the Florida Constitution of 1968 (“Home Rule Amendment”), which authorized the people of Miami-Dade County to adopt a home rule charter; and

**WHEREAS**, the Home Rule Amendment provides that, upon the adoption of the Home Rule Charter, the people of Miami-Dade County would have the power, among others, to “abolish ... authorities, boards, or other governmental units whose jurisdiction lies wholly within Dade County, whether such governmental units are created by the Constitution or the Legislature or otherwise...,” and to enact ordinances that “may conflict with, modify or nullify any existing local, special or general law applicable only to Dade County”; and

**WHEREAS**, on May 21, 1957 the electors of Miami-Dade County adopted a home rule charter (“Miami-Dade County Home Rule Charter”); and

**WHEREAS**, pursuant to sections 1.01(A)(22) and (24) of the Miami-Dade County Home Rule Charter, the Board of County Commissioners was granted “the power to carry on a central metropolitan government” including, but not limited to, the authority to “adopt such ordinances ... as may be required in the exercise of its powers” and to “[s]upersede, nullify, or amend any special law applying to this county, or any general law applying only to this county, or any general law where specifically authorized by the Constitution”; and

**WHEREAS**, section 9.04 of the Miami-Dade County Home Rule Charter contains a supremacy clause that provides:

- A. This Charter and the ordinances adopted hereunder shall in cases of conflict supersede all municipal charters and ordinances, except as herein provided, and where authorized by the Constitution, shall in cases of conflict supersede all special and general laws of the state.
- B. All other special and general laws and county ordinances and rules, and regulations not inconsistent with this Charter shall continue in effect until they are superseded by ordinance adopted by the board pursuant to this Charter and the Constitution; and

**WHEREAS**, Article 6, Section 6(e) of the Florida Constitution of 1968 recognizes that “[a]ll provisions of the Metropolitan Dade County Home Rule Charter, heretofore or hereafter adopted by the electors of Dade County pursuant to the [Home Rule Amendment] shall be valid, and any amendments to such charter shall be valid; provided that the said provisions of such charter and the said amendments thereto are authorized under [the Home Rule Amendment]”; and

**WHEREAS**, on December 13, 1994, the Miami-Dade County Board of County Commissioners adopted Ordinance 94-215, forming the Dade County Expressway Authority (now known as the Miami-Dade County Expressway Authority) pursuant to the Florida Expressway Authority Act; and

**WHEREAS**, the Florida Expressway Authority Act is a general law which allowed Florida counties to form agencies of the state known as expressway authorities “to acquire, hold, construct, improve, maintain, operate, and own expressway systems” consisting of state roads; and

**WHEREAS**, in accordance with the Florida Expressway Authority Act, the Miami-Dade County Expressway Authority operated and managed an expressway system exclusively in Miami-Dade County that consisted of the Airport Expressway (State Road 112), the Dolphin Expressway (State Road 836), the Don Shula Expressway (State Road 874), the Snapper Creek Expressway (State Road 878), and the Gratigny Parkway (State Road 924); and

**WHEREAS**, on May 3, 2019 the Florida Legislature, by sections 13, 14, 15, 16, and 17 of Chapter 2019-169 of the Laws of Florida (the “Greater Miami Expressway Agency Act of 2019”), attempted to create the Greater Miami Expressway Agency wholly within Miami-Dade County, abolish the Miami-Dade Expressway Authority, and transfer all the assets, liabilities, and powers from the Miami-Dade Expressway Authority to the new agency; and

**WHEREAS**, the Greater Miami Expressway Agency Act of 2019 related exclusively to Miami-Dade County in that it, among things: (1) created an agency of the state that exists only in Miami-Dade County; (2) restricted the appointment authority of Miami-Dade County and the County’s Transportation Planning Organization by prohibiting them from appointing members of the abolished Miami-Dade County Expressway Authority to the new Agency’s board; (3) required the governing body of the only agency capable of being created under the act to review the Miami-Dade Expressway Authority’s employees to determine whether those employees will keep their jobs; (4) defined the term “Agency” as only meaning the Greater Miami Expressway Agency; (5) prohibited anyone who had lobbied the Miami-Dade Expressway Authority within the previous four years from serving as an officer of the new agency; (6) prohibited anyone who has been an employee of a person or entity that has done business with the former Miami-Dade County

Expressway Authority from serving as an officer of the new agency; (7) imposed restrictions on former officers, employees, or consultants of the Miami-Dade County Expressway Authority; (8) created a toll rebate program only within Miami-Dade County; (9) transferred the governance and control of the Miami-Dade County Expressway Authority to the Greater Miami Expressway Authority; and (10) dissolved only the Miami-Dade County Expressway Authority and impacted no other expressway authority in Florida; and

**WHEREAS**, in Miami-Dade Ordinance No. 21-35, this Board found that the Greater Miami Expressway Agency Act of 2019 only operated in Miami-Dade County, related exclusively to Miami-Dade County, and was therefore a special law (or a general law applying only in Miami-Dade County) that could be superseded, nullified, or amended by Miami-Dade County under the home rule authority provided to it by the Florida Constitution and the Miami-Dade County Home Rule Charter; and

**WHEREAS**, through the enactment of Miami-Dade Ordinance No. 21-35, the Board of County Commissioners (a) superseded and nullified the Greater Miami Expressway Agency Act of 2019, (b) abolished the board, offices, and functions of the Greater Miami Expressway Agency created or required to be created by that act, and (c) directed that all assets, facilities, tangible and intangible property, liability for any bonds, and any other rights or obligations of the Miami-Dade County Expressway Authority that were transferred to the Greater Miami Expressway Authority under the Greater Miami Expressway Agency Act of 2019 revert, by operation of law, to the Miami-Dade County Expressway Authority, including any additional assets obtained or liability incurred by the Greater Miami Expressway Authority under any apparent authority; and

**WHEREAS**, after the passage of Miami-Dade Ordinance No. 21-35, the Miami-Dade Expressway Authority filed a two-count complaint against the Greater Miami Expressway Agency in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida that



sought to obtain declaratory relief and to quiet title regarding the Miami-Dade Expressway Authority's ownership of assets of the five Miami-Dade County tolled expressways that made up the expressway system at issue; and

**WHEREAS**, the Circuit Court of the Eleventh Judicial Circuit held (1) that the Greater Miami Expressway Agency was properly abolished by Miami-Dade County in accordance with the Florida Constitution and (2) that the legislative act creating the Greater Miami Expressway Agency and abolishing the Miami-Dade Expressway Authority was subject to nullification by Miami-Dade County because it was "a special law, not a general law ... [that was] explicitly and substantively directed exclusively to Miami-Dade County and no amount of legislative camouflage changes that"; and

**WHEREAS**, the Greater Miami Expressway Agency appealed that final judgment to the Third District Court of Appeal where the litigation remains pending; and

**WHEREAS**, during the 2023 legislative session amidst the pending litigation, the Florida Legislature adopted Sections 18 through 28 of Chapter 2023-70 of the Laws of Florida (the "2023 Amendment"); and

**WHEREAS**, in the 2023 Amendment, the Florida Legislature indicated that it found "the need to clarify the legal status, ownership, and control of the roads that constitute the expressway system in Miami-Dade County ..., following Miami-Dade County's attempt to abolish the Greater Miami Expressway Agency in Miami-Dade Ordinance 21-35 (May 4, 2021)"; and

**WHEREAS**, in an apparent attempt to avoid creating the same grounds that allowed Miami-Dade County to exercise its constitutional home rule authority to supersede and nullify the Greater Miami Expressway Agency Act of 2019, the Florida Legislature purported to expand the scope of the area served by the Greater Miami Expressway Agency by adding a remote portion of mainland northeast Monroe County; and

**WHEREAS**, under the 2023 Amendment, the only authority given to the Greater Miami Expressway Agency is to “govern the expressway system within the geographical boundaries of Miami-Dade County and the portion of northeast Monroe County” previously described; and

**WHEREAS**, there are no expressways in the portion of Monroe County described by the 2023 Amendment and the “expressway system” described by the 2023 Amendment lies exclusively within Miami-Dade County; and

**WHEREAS**, the only road within that portion of Monroe County is County Road 94, commonly known as Loop Road, which is a federally-owned road that runs entirely through the Big Cypress National Preserve; and

**WHEREAS**, Loop Road is a largely unpaved, gravel road that narrows at various times to a width of no more than 15 total feet with alligator-infested, cypress swamp on either side; and

**WHEREAS**, in accordance with section 336.045, Florida Statutes, the Florida Department of Transportation (“FDOT”) is required to “develop and adopt uniform minimum standards and criteria for the design, construction, and maintenance of,” among other things, “all public streets, roads, highways, [and] bridges”; and

**WHEREAS**, in the development of such minimum standards and criteria, FDOT is required to “consider design approaches which provide for the compatibility of such facilities with the surrounding natural area or manmade environment; the safety and security of public spaces; and the appropriate aesthetics . . . .”; and

**WHEREAS**, in furtherance of that mandate, FDOT has adopted the “Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways,” commonly known as the “Florida Greenbook”; and

**WHEREAS**, under the minimum standards in the Florida Greenbook, controlled access expressways in rural areas must incorporate at least two travel lanes, each 12 feet in width, exclusive of shoulders, which for even the least traveled roads, must have a minimum width of 2 feet meaning that any expressway must be at least 28 feet in lane and shoulder width; and

**WHEREAS**, even the least traveled bridges (and many will be required to traverse the cypress swamp land found along Loop Road) require wider lanes—15 feet where one lane is used and 22 feet per lane where two lanes are used; and

**WHEREAS**, a report prepared by the United States Department of Transportation’s Federal Highway Administration regarding the state of the roadways within the Big Cypress National Preserve shows that even on the most improved and developed portions of the roadway that have been paved, the total available paved areas are 18 feet wide, with lanes that are either 8 or 9 feet wide, which is still below the standard for an expressway; and

**WHEREAS**, for any expressway, additional space is also required to accommodate medians (the smallest of which are 26 feet wide in controlled access expressways), and lighting is also be required to illuminate any expressway; and

**WHEREAS**, the Big Cypress Natural Preserve was also designated as the first International Dark Sky Place in a National Park Service Unit east of Colorado to protect ecologically sensitive areas from light pollution; and

**WHEREAS**, even forgivingly applied, the minimum standards set forth in the Florida Greenbook for the design of expressways makes it clear that no expressway could be constructed on Loop Road or anywhere else within the remote portion of mainland northeast Monroe County included in the 2023 Amendment; and

**WHEREAS**, this Board, therefore, finds that the jurisdiction of the Greater Miami Expressway Agency is in truth and in fact exclusively within Miami-Dade County, regardless of the guise in which it may have been framed; and

**WHEREAS**, the 2023 Amendment also provides that all appointments to the board of directors for the re-established Greater Miami Expressway Agency must be residents of Miami-Dade County or reside within “15 miles of an area with the highest amount of agency toll roads”; and

**WHEREAS**, no portion of Monroe County described by the 2023 Amendment is within 15 miles of an area with the highest amount of agency toll roads, and, in fact, the closest portion of Monroe County is approximately 29 miles from the nearest portion of the expressway system; and

**WHEREAS**, no resident of Monroe County can therefore be appointed to the board of directors for the re-established Greater Miami Expressway Agency; and

**WHEREAS**, Monroe County also has no appointment authority for the re-established Greater Miami Expressway Agency because the 2023 Amendment provides that non-gubernatorial appointments must be made by either the Miami-Dade County Board of County Commissioners or the Miami-Dade County Transportation Planning Organization, and all gubernatorial appointees must be Miami-Dade residents; and

**WHEREAS**, this Board finds that the 2023 Amendment only operates in Miami-Dade County and relates exclusively to Miami-Dade County, and is therefore a local, special or general law applicable only to Dade County that can be superseded, nullified, or modified by Miami-Dade County; and

**WHEREAS**, this Board finds that the Florida legislature's attempt to abolish the Miami-Dade County Expressway Authority again, reestablish the Greater Miami Expressway Agency, and transfer all the assets, liabilities, and powers from the Miami-Dade Expressway Authority to the Greater Miami Expressway Agency is an infringement upon the local home rule authority granted to the people of Miami-Dade County; and

**WHEREAS**, under these circumstances, this Board wishes to exercise its responsibility and authority under the Miami-Dade County Home Rule Charter and Home Rule Amendment to the Florida Constitution, to abolish the Greater Miami Expressway Agency, and nullify, supersede, and modify the 2023 Amendment,

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

**Section 1.** The foregoing recitations are hereby incorporated by reference.

**Section 2.** This Board finds that sections 18 through 28 of Chapter 2023-70 of the Laws of Florida together constitute a special or local law applying only to Miami-Dade County (or a general law applying only in Miami-Dade County).

**Section 3.** This Board, in the exercise of the home rule powers vested in Miami-Dade County by Article VIII, Section 6 of the Florida Constitution of 1968 and the Miami-Dade County Home Rule Charter, hereby supersedes and nullifies sections 18 through 28 of Chapter 2023-70 of the Laws of Florida.

**Section 4.** This Board further finds that the Greater Miami Expressway Agency, created or required to be created by section 15 of Chapter 2019-169 of the Laws of Florida and subsequently reestablished by section 18 of Chapter 2023-70 of the Laws of Florida, is an agency whose jurisdiction effectively lies wholly within Miami-Dade County.

**Section 5.** This Board, in the exercise of the home rule powers vested in Miami-Dade County by Article VIII, Section 6 of the Florida Constitution of 1968 and the Miami-Dade County Home Rule Charter, hereby abolishes the board, offices, and functions of the Greater Miami Expressway Agency created or required to be created by section 15 of Chapter 2019-169 and subsequently reestablished by section 18 of Chapter 2023-70.

**Section 6.** Any portion of Ordinance No. 21-35 that was superseded by sections 18 through 28 of Chapter 2023-70 of the Laws of Florida is hereby reenacted.

**Section 7.** To the extent necessary to effectuate the purposes of this ordinance and to preserve contractual rights, protect bondholder rights, and provide for the assumption of any liabilities, this Board exercises the home rule powers vested in Miami-Dade County by Article VIII, Section 6 of the Florida Constitution of 1968 and the Miami-Dade County Home Rule Charter to “modify ... any existing local, special or general law applicable only to Dade County” to declare that, by virtue of this Board’s abolition of the Greater Miami Expressway Authority and the nullification of sections 18 through 28 of Chapter 2023-70 of the Laws of Florida, (1) all assets, facilities, tangible and intangible property, liability for any bonds, and any other rights or obligations of the Miami-Dade County Expressway Authority that were transferred to the Greater Miami Expressway Authority under Chapter 2019-169 or Chapter 2023-70 revert, by operation of law, to the Miami-Dade County Expressway Authority and (2) any additional assets obtained or liability incurred by the Greater Miami Expressway Authority under any apparent authority shall, by operation of law, become the responsibility of the Miami-Dade County Expressway Authority.

**Section 8.** If any section, subsection, sentence, clause or provision of this ordinance is held invalid or any section of Chapter 2023-70 of the Laws of Florida nullified by Section 3 of this ordinance is deemed to be a valid general law, then the remainder of this ordinance shall not be affected by such determination.

**Section 9.** The County Attorney is authorized to prosecute or defend any lawsuits to ensure that the purpose and intent of this ordinance are fulfilled.

**Section 10.** It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall be excluded from the Code of Miami-Dade County, Florida.

**Section 11.** This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as  
to form and legal sufficiency:

GKS For GBK

Prepared by:

MBV

Michael B. Valdes  
Miguel A. Gonzalez

Co-Prime Sponsors: Commissioner Kevin Marino Cabrera  
Vice Chairman Anthony Rodríguez

Co-Sponsors: Commissioner Juan Carlos Bermudez  
Chairman Oliver G. Gilbert, III  
Commissioner Danielle Cohen Higgins  
Commissioner Eileen Higgins  
Commissioner Kionne L. McGhee