

MEMORANDUM

Agenda Item No. 8(H)(1)

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

DATE: February 1, 2022

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution relating to the Andover Street Lighting Improvement Special Taxing District, as amended by Ordinance No. 22-18, located entirely within the boundaries of the City of Miami Gardens, and generally bounded on the north by NE 215 Street, on the east by NE 2 Avenue, on the south by NE 199 Street, and on the west by NW 7 Avenue; transferring the amended Special Taxing District to the City of Miami Gardens in accordance with section 18-3.1 of the Code; approving and authorizing the County Mayor to execute an amended Interlocal Agreement for the transfer; authorizing the County Mayor to take all actions necessary to effectuate same; waiving the election requirement by two-thirds vote of the Board members present

Resolution No. R-111-22

The accompanying resolution was prepared by the Parks, Recreation and Open Spaces Department 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: February 1, 2022

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 8(H)(1)

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. 8(H)(1)
2-1-22

RESOLUTION NO. R-111-22

RESOLUTION RELATING TO THE ANDOVER STREET LIGHTING IMPROVEMENT SPECIAL TAXING DISTRICT, AS AMENDED BY ORDINANCE NO. 22-18, LOCATED ENTIRELY WITHIN THE BOUNDARIES OF THE CITY OF MIAMI GARDENS, AND GENERALLY BOUNDED ON THE NORTH BY NE 215 STREET, ON THE EAST BY NE 2 AVENUE, ON THE SOUTH BY NE 199 STREET, AND ON THE WEST BY NW 7 AVENUE; TRANSFERRING THE AMENDED SPECIAL TAXING DISTRICT TO THE CITY OF MIAMI GARDENS IN ACCORDANCE WITH SECTION 18-3.1 OF THE CODE OF MIAMI-DADE COUNTY; APPROVING AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE AN AMENDED INTERLOCAL AGREEMENT FOR THE TRANSFER; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO TAKE ALL ACTIONS NECESSARY TO EFFECTUATE SAME; WAIVING THE ELECTION REQUIREMENT BY TWO-THIRDS VOTE OF THE BOARD MEMBERS PRESENT

WHEREAS, on October 18, 1966, the Board of County Commissioners ("Board") passed Resolution No. 1104-66, creating the Andover Street Lighting Improvement Special Taxing District; and

WHEREAS, on December 19, 1972, this Board passed Resolution No. 1863-72, creating the Andover 1st Addition Street Lighting Improvement Special Taxing District (collectively with the Andover Street Lighting Improvement Special Taxing District, the "Special Taxing Districts"); and

WHEREAS, on May 1, 2018, following a request by the City of Miami Gardens ("City"), this Board approved a transfer to the City of the Andover Street Lighting Improvement Special Taxing District and the Andover 1st Addition Street Lighting Improvement Special

Taxing District, contingent upon approval by a majority vote of the qualified electors residing in each district voting at an election called by this Board pursuant to Resolution No. 406-18 and Resolution No. 438-18, respectively; and

WHEREAS, a majority of those qualified electors residing in each of the Special Taxing Districts approved the transfer; and

WHEREAS, section 18-3.1 of the Code of Miami-Dade County vests this Board with the power to designate the governing body of a municipality as the governing body of an existing special taxing district located wholly within the boundaries of such municipality if the municipality assumes any and all liabilities of the special taxing district; and

WHEREAS, at the time of the initial transfer, the Special Taxing Districts were not located entirely within the boundaries of the City; and

WHEREAS, on October 13, 2021, the City passed Resolution No. 2021-132-3687: (1) requesting that this Board amend the boundaries of the Special Taxing Districts, such that the district for which the City is responsible would be consolidated into one amended special taxing district including only properties within the boundaries of the City; (2) approving the attached interlocal agreement; (3) requesting that this Board ratify the City's administration of the Special Taxing Districts since the initial transfer; (4) requesting the transfer of the amended special taxing district; and (5) waiving the election requirement pursuant two-thirds vote of the members present; and

WHEREAS, on February 1, 2022, this Board passed Ordinance No. 22-18, amending the boundaries of the Andover Street Lighting Improvement Special Taxing District to remove properties not within the boundaries of the City, and to merge the contiguous properties within the Andover 1st Addition Street Lighting Improvement Special Taxing District, that are located within the boundaries of the City, into the Andover Street Lighting Improvement Special Taxing District,

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

Section 1. This Board incorporates the matters set forth in the foregoing recitals as part of this Resolution.

Section 2. Pursuant to section 18-3.1 of the Code, this Board designates the governing body of the City of Miami Gardens as the governing body of the Andover Street Lighting Improvement Special Taxing District, as amended by Ordinance No. 22-18.

Section 3. This Board hereby approves the Amended Interlocal Agreement between Miami-Dade County and the City of Miami Gardens in substantially the form attached hereto and incorporated by reference, and authorizes the County Mayor or County Mayor's designee to execute said agreement, and to take all actions necessary to effectuate the transfer.

Section 4. This Board hereby ratifies the City of Miami Garden's administration of the Special Taxing Districts since the initial transfer as set forth in the Amended Interlocal Agreement. The City shall continue to operate the Special Taxing Districts pursuant to the Interlocal Agreements approved by this Board on May 1, 2018, until the Amended Interlocal Agreement is effective.

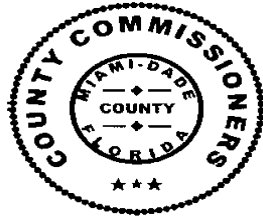
Section 5. The City of Miami Gardens shall continue to maintain full control of the Andover Street Lighting Improvement Special Taxing District, as amended.

Section 6. Pursuant to section 18-3.1 of the Code, this Board hereby waives, pursuant to two-thirds vote of the members present, the election requirement for the transfer of the Andover Street Lighting Improvement Special Taxing District, as amended, to the City of Miami Gardens.

The foregoing resolution was offered by Commissioner **Joe A. Martinez**, who moved its adoption. The motion was seconded by Commissioner **Kionne L. McGhee** and upon being put to a vote, the vote was as follows:

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

The Chairperson thereupon declared this resolution duly passed and adopted this 1st day of February, 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: **Melissa Adames**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

DPL

Daija Page Lifshitz

RESOLUTION NO. 2021-132-3687

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, RELATING TO THE ANDOVER STREET LIGHTING IMPROVEMENT SPECIAL TAXING DISTRICT AND THE ANDOVER 1ST ADDITION STREET LIGHTING IMPROVEMENT SPECIAL TAXING DISTRICT, ATTACHED HERETO AS EXHIBIT "A"; REQUESTING THAT MIAMI-DADE COUNTY AMEND THE BOUNDARIES OF THE SPECIAL TAXING DISTRICTS; REQUESTING THAT MIAMI-DADE COUNTY TRANSFER THE AMENDED ANDOVER STREET LIGHTING IMPROVEMENT SPECIAL TAXING DISTRICT TO THE CITY OF MIAMI GARDENS IN ACCORDANCE WITH SECTION 18-3.1 OF THE CODE OF MIAMI-DADE COUNTY; APPROVING AND AUTHORIZING EXECUTION AN AMENDED INTERLOCAL AGREEMENT FOR THE TRANSFER; REQUESTING RATIFICATION OF THE CITY'S ADMINISTRATION OF THE SPECIAL TAXING DISTRICTS; WAIVING THE ELECTION REQUIREMENT BY TWO-THIRDS VOTE OF THE CITY COUNCIL MEMBERS PRESENT; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on October 18, 1966, Miami-Dade County adopted Resolution No. 1104-66, creating the Andover Street Lighting Improvement Special Taxing District; and

WHEREAS, on December 19, 1972, Miami-Dade County adopted Resolution No. 1863- 72, creating the Andover 1st Addition Street Lighting Improvement Special Taxing District (collectively with the Andover Street Lighting Improvement Special Taxing District, the "Special Taxing Districts"), and

WHEREAS, on May 1, 2018, following a request by the City of Miami Gardens ("City"), Miami-Dade County approved a transfer to the City of the Andover Street Lighting Improvement Special Taxing District and the Andover 1st Addition Street Lighting Improvement Special Taxing District, contingent upon approval by a majority vote of the qualified electors residing in each district voting at an election called by this Board pursuant to Resolution No. 406-18 and Resolution No. 438-18, respectively; and

WHEREAS, a majority of those qualified electors residing in each of the Special Taxing Districts approved the transfer; and

WHEREAS, Section 18-3.1 of the Code of Miami-Dade County vests Miami-Dade County with the power to designate the governing body of a municipality as the governing body of an existing special taxing district located wholly within the boundaries of such municipality if the municipality assumes any and all liabilities of the special taxing district; and

WHEREAS, at the time of the initial transfer, the Special Taxing Districts were not located entirely within the boundaries of the City; and

WHEREAS, the City desires to continue to maintain and control the special taxing districts to the extent the properties are located within the City, and

WHEREAS, the City intends to request that Miami-Dade County (1) amend the boundaries of the Special Taxing Districts, such that the district for which the City is responsible would be consolidated into one amended special taxing district including only properties within the boundaries of the City; (2) authorize the City to enter into an amended interlocal agreement with Miami-Dade County for this purpose; (3) request that Miami-Dade County ratify the City's administration of the Special Taxing Districts since the initial transfer; (4) transfer the amended Andover Street Lighting Improvement Special Taxing District to the City,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA AS FOLLOWS:

Section 1: ADOPTION OF REPRESENTATIONS: The foregoing Whereas paragraphs are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Resolution.

Section 2: AUTHORIZATION: The City Council of the City of Miami Gardens hereby requests that Miami-Dade County amend the boundaries of the Special Taxing Districts, such that the district for which the City is responsible would be consolidated into one amended special taxing district including only properties within the boundaries of the City, attached hereto as Exhibit "A".

Section 3: AUTHORIZATION: The City Council of the City of Miami Gardens authorizes the Mayor and City Clerk to execute and attest an amended interlocal agreement with Miami-Dade County for this purpose, subject to the review and approval of the City Attorney.

Section. 4. AUTHORIZATION: The City Council hereby requests and authorizes Miami-Dade County to ratify the City's administration of the Special Taxing Districts since the initial transfer and the transfer the amended Andover Street Lighting Improvement Special Taxing District to the City.

Section 5: AUTHORIZATION: The City Council hereby waives, pursuant to two-thirds vote of the members present, the election requirement for the transfer of the Andover Street Lighting Improvement Special Taxing District, as amended, to the City of Miami Gardens.

Section 6: EFFECTIVE DATE: This Resolution shall take effect immediately upon its final passage.

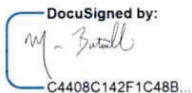
PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON OCTOBER 13, 2021.

DocuSigned by:

B912A2EE5E0C4ED

RODNEY HARRIS, MAYOR

ATTEST:

DocuSigned by:

C4408C142F1C48B...

MARIO BATAILLE, CMC, CITY CLERK

PREPARED BY: SONJA KNIGHTON DICKENS, CITY ATTORNEY

SPONSORED BY: CAMERON BENSON, CITY MANAGER

Moved by: Councilwoman Wilson
Seconded by: Councilwoman Julien

VOTE: 6-0

Mayor Harris
Vice Mayor Leon
Councilwoman Campbell
Councilwoman Ighodaro
Councilwoman Julien
Councilman Stephens, III
Councilwoman Wilson

Absent
Yes
Yes
Yes
Yes
Yes
Yes
State of Florida
County of Miami-Dade

CERTIFICATION

I, the undersigned, duly appointed City Clerk of the City of Miami Gardens, Florida, hereby certify that the attached is a true and correct copy of RES 2021-132-3687 as shown in the records of the city on file in the office of the city clerk.

Witness, my hand and the corporate seal of the city of Miami Gardens, Florida, this 13th day of Oct 2021.


City Clerk
City of Miami Gardens, Florida

**AMENDED AGREEMENT FOR THE TRANSFER OF THE ANDOVER STREET
LIGHTING IMPROVEMENT SPECIAL TAXING DISTRICT, AS AMENDED, FROM
MIAMI-DADE COUNTY TO THE CITY OF MIAMI GARDENS**

THIS AMENDED AGREEMENT FOR TRANSFER OF THE ANDOVER STREET LIGHTING IMPROVEMENT SPECIAL TAXING DISTRICT, AS AMENDED BY ORDINANCE NO. _____, CURRENTLY MAINTAINED BY THE CITY OF MIAMI GARDENS (**AGREEMENT**), made and entered into this _____ day of _____, 2022, by and between the **CITY OF MIAMI GARDENS, FLORIDA**, a municipal corporation of the STATE OF FLORIDA (hereinafter referred to as the “**City**”) and **MIAMI-DADE COUNTY**, a political subdivision of the STATE OF FLORIDA (hereinafter referred to as the “**County**”).

WITNESSETH

WHEREAS, the City previously requested transfer of the ownership of the assets and control of the Andover Street Lighting Improvement Special Taxing District and the Andover 1st Addition Street Lighting Improvement Special Taxing District (“**Special Taxing Districts**”) from the County to the City such that the City Council would be the governing body responsible for the Special Taxing Districts; and

WHEREAS, on May 1, 2018, the County approved the transfer of the Special Taxing Districts to the City, contingent upon approval by a majority vote of the qualified electors residing in the Special Taxing Districts; and

WHEREAS, the electorate approved the transfer of the Special Taxing Districts to the City, and twelve days later the City Council became the governing board of the Special Taxing Districts (“**Initial Transfer**”); and

WHEREAS, the City and the County entered into an Interlocal Agreement for the transfer (“**Prior Interlocal Agreements**”), copies of which are attached hereto and incorporated herein; and

WHEREAS, since the Initial Transfer the City has maintained full responsibility for the operation and maintenance of the Special Taxing Districts; and

WHEREAS, at the time of the Initial Transfer the Special Taxing Districts were not located entirely within the boundaries of the City; and

WHEREAS, pursuant to a request by the City, the County has since amended the boundaries of the Special Taxing Districts such that the Andover Street Lighting Improvement Special Taxing District only includes properties within the boundaries of the City (“**Amended Special Taxing District**”); and

WHEREAS, the properties that were within the boundaries of the Special Taxing Districts but are not within the boundaries of the Amended Special Taxing District (“**Removed Properties**”) will merge with Andover 1st Addition Street Lighting Improvement Special Taxing District which will now be entirely in the unincorporated area of the County; and

WHEREAS, the County and City are both desirous of continuing to have the City maintain full responsibility for the operation and maintenance of the Amended Special Taxing District; and

NOW, THEREFORE, in consideration of the covenants herein provided, the City of Miami Gardens and Miami-Dade County agree as follows:

1. The foregoing recitals are incorporated herein.
2. This Agreement shall become effective upon the last effective date of a joint resolution transferring the Amended Special Taxing District (“**Effective Date**”). This Agreement incorporates the Prior Interlocal Agreements, which shall also remain in effect until the Effective Date. After the Effective Date, the Prior Interlocal Agreements shall remain in effect as to the Amended Special Taxing District unless a provision is in conflict with this Agreement in which case this Agreement governs as to that provision.
3. The County will continue to have no involvement in operations and maintenance of the Special Taxing Districts, and the City will continue to be exclusively responsible for the Special Taxing Districts, as provided in the Prior Interlocal Agreements. On the Effective Date, the County will accept responsibility for the Removed Properties.
4. The City authorized the County to amend the boundaries of the Special Taxing Districts, but any other action requiring board approval shall continue to be presented to the City Council. As of the Effective Date, any action requiring board approval for the Amended Special Taxing District shall still be presented to the City Council, but actions for the Removed Properties shall be presented to the Miami-Dade County Board of County Commissioners
5. The County ratifies the City’s administration of the Special Taxing Districts during the period between the Initial Transfer and the Effective Date. On the Effective Date, the County resumes responsibility for all liabilities of the Removed Properties. However, the City maintains sole responsibility for all liabilities of the Removed Properties, whether known or unknown, stemming from the period between the Initial Transfer and the Effective Date of this Agreement.
6. The City shall be responsible for establishing assessment rates and collecting assessments for the Amended Special Taxing District beginning on the Effective Date. If the City intends on using the uniform method for the levy, collection, and enforcement of non-ad valorem assessments, the City shall comply with the requirements of section 197.3632 of the Florida Statutes and shall make such arrangements with the Miami-Dade County Office of the Property Appraiser and Miami-Dade County Tax Collector.
7. The City shall ensure that the Florida Power and Light (“FPL”) utility accounts for the Amended Special Taxing District are in the City’s name, and shall assist the County in taking back the utility accounts for the Removed Properties.
8. The City shall still be responsible for the existing contractual obligations with FPL for the Amended Special Taxing District.
9. The City’s Council shall continue to be responsible for the continuous operation, and maintenance of the Amended Special Taxing District’s improvements and systems, if any.

10. The City shall continue to be responsible for payment of all of the Amended Special Taxing District's expenses, as well as the expenses attributed to the Special Taxing Districts from the date of the Initial Transfer to the Effective Date of this Agreement.
11. The City shall transfer to the County, within sixty (60) days, any active, transferrable warranties on improvements or equipment for the Removed Properties.
12. Within thirty (30) days of the Effective Date, the City shall provide to the County a final financial reconciliation of all known liabilities for the Removed Properties. Any omission from the final reconciliation shall not constitute a waiver by either the County or the City for payment to or from the Special Taxing Districts' accounts.
13. Within sixty (60) days of the Effective Date, the City shall remit to the County any surplus funds in the Special Taxing Districts' accounts for the Removed Properties, as well as funds for any bills sent to the County for charges to the Special Taxing Districts since the Initial Transfer.
14. Pursuant to section 2-8.9 of the Code of Miami-Dade County, the City is encouraged to pay the Living Wage.
15. To the extent allowed by, and subject to the limitations of, section 768.28 of the Florida Statutes, the City does hereby agree to indemnify and hold the County, its officials, employees and instrumentalities, harmless from any and all liability for any damage, injury, or claim that may arise by virtue of the Amended Special Taxing District and the City's administration of the Special Taxing Districts, or the exercise of any rights, obligations or actions under this Agreement or the Prior Interlocal Agreements, including but not limited to the City's failure to provide services or maintain, repair, replace, or operate the Improvements.
16. The undersigned further agrees that these conditions shall be deemed a continuing obligation between the City and the County and shall remain in full force and effect and be binding on the City, and any permitted successors or assigns.
17. In the event that the City requests any third party to assume any of the responsibilities hereunder, the City acknowledges that such assumption shall not relieve the City from any obligations or responsibilities hereunder. Any failure by any third party shall not subject the County to any liability for any damage, injury, or claim that may arise.
18. Nothing in this Agreement, expressed or implied, is intended to: (a) confer upon any entity or person other than the parties and any permitted successors or assigns, any rights or remedies under or by reason of the Agreement as a third party beneficiary or otherwise except as specifically provided in this Agreement; or (b) authorize anyone not a party to this Agreement to maintain an action pursuant to or based upon this Agreement. Additionally, nothing herein shall be deemed to constitute a waiver of any rights under section 768.28 of the Florida Statutes, or as a waiver of the County's sovereign rights.
19. The language agreed to herein expresses the mutual intent and agreement of the County and the City, and shall not, as a matter of judicial construction, be construed more severely against

one of the parties from the other.

20. Any notices to be given hereunder shall be in writing and shall be deemed to have been given if sent by hand delivery, recognized overnight courier (e.g., Federal Express), or by written certified U.S. mail, with return receipt requested, addressed to the Party for whom it is intended, at the place specified. The method of delivery shall be consistent among all of the persons listed herein. For the present, the City and County designate the following as the respective places for notice purposes:

City: City of Miami Gardens
18605 NW 27th Avenue
Miami Gardens, Florida
33056

County: Miami-Dade County
Stephen P. Clark Center
111 Northwest First Street
Miami, Florida 33128

IN WITNESS WHEREOF, the City of Miami Gardens has caused this instrument to be executed by its respective officials thereunto duly authorized, this the day and year above written.

CITY OF MIAMI GARDENS, a municipal corporation ATTEST:

By: _____
Mario Bataille, City Clerk

By: _____
Cameron Benson, City Manager

APPROVED AS TO LEGAL FORM
AND CORRECTNESS:

Sonja Knighton Dickens, City Attorney

MIAMI-DADE COUNTY BOARD OF COUNTY COMMISSIONERS, FLORIDA ATTEST:

By: _____
Mayor or Mayor's Designee Date

APPROVED AS TO LEGAL FORM
AND CORRECTNESS:

Assistant County Attorney

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk Date