

MEMORANDUM

Agenda Item No. 7(D)

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


DATE: (Second Reading: 7-7-22)
May 17, 2022

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Ordinance relating to the
Southeast Overtown Park West
Community Redevelopment
Area; amending section 29-6
of the Code; revising delegation
of exercise of powers of the
Southeast Overtown Park West
Community Redevelopment
Agency; extending the
termination date of the agency;
making technical changes

Ordinance No. 22-78

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Keon Hardemon.



Geri Bonzon-Keenan
County Attorney

GBK/smm



MEMORANDUM

(Revised)

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

DATE: July 7, 2022

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 7(D)

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(D)
7-7-22

ORDINANCE NO. _____ 22-78

ORDINANCE RELATING TO THE SOUTHEAST OVERTOWN
PARK WEST COMMUNITY REDEVELOPMENT AREA;
AMENDING SECTION 29-6 OF THE CODE OF MIAMI-DADE
COUNTY, FLORIDA; REVISING DELEGATION OF
EXERCISE OF POWERS OF THE SOUTHEAST OVERTOWN
PARK WEST COMMUNITY REDEVELOPMENT AGENCY;
EXTENDING THE TERMINATION DATE OF THE AGENCY;
MAKING TECHNICAL CHANGES; PROVIDING
SEVERABILITY, INCLUSION IN THE CODE, AND AN
EFFECTIVE DATE

WHEREAS, during the 1969 legislative session, the Florida Legislature enacted the Community Redevelopment Act of 1969, which is presently codified in part III of chapter 163, Florida Statutes, as amended from time to time (the “Act”); and

WHEREAS, the Act confers certain powers upon counties with home rule charters, which include, but are not limited to, the power to delegate certain of the county’s powers to a community redevelopment agency created pursuant to the Act; and

WHEREAS, on December 7, 1982, this Board adopted Resolution No. R-1677-82, which approved the Southeast Overtown/Park West Community Redevelopment Agency Redevelopment Plan (the “original plan”); and

WHEREAS, on December 7, 1982, this Board also adopted and enacted Ordinance No. 82-115, as codified in section 29-6 of the Code of Miami-Dade County, Florida (the “Code”), which created the Southeast Overtown/Park West Community Redevelopment Agency Redevelopment Agency’s (“Agency”) trust fund for the purpose of funding the activities described in the plan; and

WHEREAS, on April 19, 1983, this Board adopted Resolution No. R-467-83, which approved an Interlocal Cooperation Agreement between the City of Miami (the “City”) and the County (the “1983 interlocal agreement”), which among other things, delineated those areas of responsibility for the redevelopment of the redevelopment area (“original redevelopment area”); and

WHEREAS, pursuant to the original plan and the 1983 interlocal agreement, the City was authorized to undertake redevelopment activities within the designated original redevelopment area; and

WHEREAS, the Agency was also responsible for implementing activities and projects designed to revitalize and redevelop the original redevelopment area in accordance with the original plan; and

WHEREAS, on December 31, 2007, this Board adopted Resolution No. R-1372-07, which approved an interlocal cooperation agreement between the County, the City, the Omni Community Redevelopment Agency, and the Agency, which, among other things, amended the 1983 Interlocal Agreement (the “2007 interlocal agreement”); and

WHEREAS, the City and the Agency agreed to generate a finding of necessity study to substantiate the expansion of boundaries of the original redevelopment area and an amendment to the redevelopment plan (“amended plan”) to expand the original redevelopment area’s boundaries and extend the life of the Agency and redevelopment area until March 31, 2030; and

WHEREAS, pursuant to the 2007 interlocal agreement and applicable law, the finding of necessity study and the amended plan were subject to approval by this Board; and

WHEREAS, on July 23, 2009, this Board, after making certain findings, adopted Resolution No. R-1039-09, which approved the amended plan, which expanded the boundaries of the original redevelopment area, subject to the execution of a second amendment to the 1983 interlocal agreement; and

WHEREAS, this Board, in accordance with Resolution No. R-1039-09, also approved the extension of the life of the Agency until March 31, 2030; and

WHEREAS, on June 16, 2012, this Board adopted Resolution No. R-516-12, which approved the issuance of up to \$50,000,000.00 in debt for needed capital projects in the amended plan; and

WHEREAS, on June 18, 2013, this Board adopted Resolution No. R-480-13, which approved an amendment to Resolution No. R-516-12, to increase the Agency's debt to a principal amount of not to exceed \$60,000,000.00 from the previously approved principal amount of \$50,000,000.00; and

WHEREAS, on June 26, 2018, the Agency adopted CRA Resolution No. CRA-R-18-0030 accepting and adopting an assessment of need study in accordance with this Board's Resolution Nos. R-611-15 and R-499-16, which require community redevelopment agencies that seek to extend the agencies and the redevelopment area's lives to prepare and submit such assessment of need study to the County as consideration of this Board granting an extension; and

WHEREAS, on September 24, 2018, the Agency adopted CRA Resolution No. CRA-R-18-0040 accepting an amendment to the plan (the "2018 amended plan"), and directing its Agency's Executive Director to submit such plan to the City of Miami Commission ("City Commission") and this Board for their approval; and

WHEREAS, on March 7, 2019, the Agency also adopted CRA Resolution No. CRA-R-19-0005 accepting and adopting an amendment to the 1983 interlocal agreement (the “2018 amended interlocal”), and further directing the Agency’s Executive Director to submit the 2018 amended interlocal to the City Commission and this Board for their approval; and

WHEREAS, on May 9, 2019, the City Commission adopted Resolution No. R-19-0175 making certain findings regarding the assessment of need study, and directing the Agency’s Executive Director to transmit the study to this Board; and

WHEREAS, on May 9, 2019, the City Commission adopted Resolution No. R-19-0176 approving and accepting the 2018 amended plan, and directing the Agency’s Executive Director submit the 2018 amended plan to this Board for its review, consideration, approval and acceptance; and

WHEREAS, on May 13, 2019, the City Commission adopted Resolution No. R-19-0233 approving and authorizing the City Manager to execute the 2018 amended interlocal, and directing the Agency’s Executive Director to transmit same to this Board for its review, consideration, approval and acceptance; and

WHEREAS, the assessment of need study, the 2018 amended plan and the 2018 amended interlocal, have been submitted to this Board for its approval and are being considered by this Board in a separate legislative item; and

WHEREAS, this Board is sympathetic to the needs of the redevelopment area to reverse the slum or blight that has occurred in such area; and

WHEREAS, in 2019, the Florida Legislature amended the Act as codified in section 163.3755, Florida Statutes, to require that a community redevelopment agency in existence on October 1, 2019, shall terminate on the expiration date provided in the agency’s charter on October

1, 2019, or on September 30, 2039, whichever is earlier, unless the governing body of the county or municipality that created the community redevelopment agency approves its continued existence by a majority vote of the members of the governing body; and

WHEREAS, this Board finds that it is the best interest of the County and the residents of Miami-Dade County to extend the life of the Agency and the redevelopment area until March 31, 2042 in accordance with section 163.3755(1), Florida Statutes; and

WHEREAS, accordingly, this Board wishes to amend the Code to reflect the extension of the life of the Agency and the redevelopment area,

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

Section 1. Section 29-6 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 29-6. Tax increment financing for Southeast Overtown/Park West Redevelopment Area.

- (a) *Delegation of exercise of powers.* Pursuant to Section 163.410, Florida Statutes, Miami-Dade County >>(“County”)<< ~~[[will enter]]~~ >>initially entered<< into an interlocal agreement with the City of Miami >>(“City”) by<< which~~[[, when approved by resolution of the Board of County Commissioners, will provide for the delegation of]]~~ certain specified redevelopment powers >>were delegated<< to the City ~~[[of Miami]]~~ with respect to the Southeast Overtown/Park West Redevelopment Area >>(“redevelopment area”). The Southeast Overtown Park West Community Redevelopment Agency (“Agency”) was subsequently created and the interlocal agreement was amended to add the Agency as an additional party. Under the terms of the interlocal agreement, the Agency is responsible for the redevelopment activities in the redevelopment area as

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

more fully described in the community redevelopment plan (the “plan”), as amended and approved by the Board of County Commissioners.<< [[AH]]>>Notwithstanding the foregoing, all<< powers not specifically delegated therein ~~[[shall be]]~~>>have been<< reserved exclusively to the Board of County Commissioners.

- (b) *Appropriation of funds; calculation of increment.* The County shall annually pay into the fund a sum equal to the increment in the income, proceeds, revenues and funds of the County derived from, or held in connection with, the ~~[[community]]~~ redevelopment ~~[[project]]~~ area as may be amended from time to time by the Board of County Commissioners' and the ~~[[City's]]~~>>Agency's<< undertaking and carrying out of the ~~[[community redevelopment project]]~~ >>activities set forth in the<< plan as may be amended from time to time by the Board of County Commissioners. The increment shall be determined annually and shall be that amount equal to ~~[[ninety-five (95)]]~~ >>95<< percent of the difference between:

- (1) That amount of general Countywide operating ad valorem taxes levied each year by the County on taxable real property contained within the geographic boundaries of the community redevelopment project area; and
- (2) That amount of general Countywide operating ad valorem taxes which would have been produced by the rate upon which the tax is levied each year by or for the County upon the total of the assessed value of the taxable real property in the community redevelopment project area, as shown upon the most recent assessment rolls used in connection with the taxation of such property by the County, prior to the effective date of the County's Resolution No. R-1677-82 approving the ~~[[community redevelopment]]~~ plan.

In the event that ~~[[project]]~~>>the<< plan ~~[[amendments are]]~~>>is amended and<< approved ~~[[which]]~~>>by the Board of County Commissioners to<< to expand ~~[[district]]~~>>the<< boundaries >>of the redevelopment area<<, a new base year as described in (b)(2) above will be assigned for the purpose of calculating incremental revenue from parcels within the expanded boundaries. The new base year will be the year in which such parcels were added by a ~~[[project]]~~>>plan<< amendment approved by the Board of County Commissioners.

- (c) *Obligation to appropriate; duration of obligation; limitations on bond sales and refunding; accounting requirements for County increment.* The County shall annually appropriate to the fund the tax increment due the fund by January first of each year. The County's obligation to annually appropriate to the fund shall commence immediately upon the effective date of this section (~~[[ten (10)]]~~>>10<< days after December 21, 1982) and continue until all loans, advances and indebtedness incurred as a result of the community redevelopment project have been paid. In no year shall the County's obligation to the fund exceed the amount of that year's tax increment as determined in subsection (b) of this section. Beginning with the twentieth year after the date of sale of the initial bonding or indebtedness, no new sale of bonds or indebtedness supported by the County's tax increment may occur nor may existing indebtedness so supported be refunded without approval of the Board of County Commissioners. The County's increment contributions are to be accounted for as a separate revenue within the fund but may be combined with other revenues for the purpose of paying debt services.
- (d) *Review and approval of master bond indenture or other financing instrument or ordinance or resolution authorizing financing instruments; review of subsequent financing instruments to assure compliance with master indenture.* The County Commission shall approve the initial master bond indenture and ordinance or resolution authorizing financing instruments and instruments of indebtedness such as bonds or tax anticipation notes as described in ~~[[Section]]~~>>section<< 163.385, Florida Statutes,>>as amended,<< as to its provisions relating to refunding, prepayment and redemption, other provisions relating to the governance of financing instruments and instruments of indebtedness, the application of funds necessary to pay costs of necessary residential property acquisition, moving expenses and relocation benefits as provided under the redevelopment plan. Subsequent financing instruments or instruments of indebtedness prepared pursuant to the master indenture shall be reviewed by the County Mayor or >>County<< Mayor's designee and shall be approved unless ~~[[he or she determines]]~~>>they determine<< that the instruments do not conform with the terms of the approved initial master indenture and ordinance or resolution authorizing financing instruments.

>>(e) Termination of the Agency. The Board of County Commissioners, by a majority vote of its members, hereby extends the continued existence of the Agency in accordance with section 163.3755(1), Florida Statutes. The Agency shall terminate on March 31, 2042, unless extended by the Board of County Commissioners in accordance with section 163.3755, Florida Statutes, as may be amended from time to time.

(f)<<[[~~(e)~~]] *Relocation assistance trust fund.* Out of the proceeds of each bond sale, there shall be withdrawn, placed in trust, and separately accounted for, such sums as are prescribed in the [[~~redevelopment~~]] plan to pay the costs of moving expenses and relocation benefits.

[[~~(f)~~]]>>(g)<< *Review of financial records; right of audit.* The financial records for the fund shall be available for County inspection and the County reserves the right of audit.

[[~~(g)~~]]>>(h)<< *Public purpose.* This section being for a public purpose and for the welfare of the citizens of Miami-Dade County, Florida, it shall be liberally construed to effectuate the purposes thereof.

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. 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 become and be made a part of the Code of Miami-Dade County, Florida. 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 4. 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:

July 7, 2022

Approved by County Attorney as
to form and legal sufficiency:

JMM FR

Prepared by:

ASA

Terrence A. Smith

Prime Sponsor: Commissioner Keon Hardemon