

MEMORANDUM

TO:	Honorable Chairman Oliver G. Gilbert, III and Members, Board of County Commissioners	DATE:	Agenda Item No. 7(G) (Second Reading 5-7-24) March 19, 2024
FROM:	Geri Bonzon-Keenan County Attorney	SUBJECT:	Ordinance related to Service Concurrency Management Program; amending section 33G-5 of the Code; delegating authority to the County Mayor to enter into proportionate share mitigation agreements for roadway concurrency

Ordinance No. 24-46

The accompanying ordinance was prepared by the Regulatory and Economic Resources Department and placed on the agenda at the request of Prime Sponsor Commissioner Danielle Cohen Higgins.


Geri Bonzon-Keenan
County Attorney

GBK/uw

Memorandum



Date: May 7, 2024

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

From: Daniella Levine Cava
Mayor 

Subject: Ordinance Relating to Roadway Concurrency Proportionate Share Mitigation Agreement

Executive Summary

The proposed ordinance delegates the approval and execution of proportionate share mitigation agreements for roadway concurrency (agreements) to the County Mayor or the County Mayor's Designee.

The agreements require an applicant for a development order to provide a monetary proportionate share contribution to mitigate the traffic impacts of the proposed development if the application does not meet concurrency standards. The contribution is used to fund improvements to regionally significant transportation facilities that will provide a benefit to the area and relief to the increased vehicular traffic generated by the proposed development. The approval of the agreements is largely ministerial, because the Florida Statutes provide the governing standards and require local governments to accept agreements that meet those standards.

In 2011, as part of a comprehensive revision to state growth management laws in the Community Planning Act (Laws of Florida Ch. 2011-139), Section 163.3180 of the Florida Statutes was amended to require local governments to allow development applicants to satisfy transportation concurrency requirements by paying the proportionate share of transportation improvements to address transportation deficiencies attributable to the development application, as determined by a set formula. Prior to the statutory change, public transportation facilities were required to be in place at the time that they were needed to serve the new development. Since that amendment, many developers have availed themselves of this statutory option to pay for their proportionate share of required improvements rather than constructing necessary improvements themselves.

Currently, these proportionate share mitigation agreements for roadway concurrency are prepared as agenda items and presented to the Board of County Commissioners (Board) for consideration. The proposed development is placed on hold until the Board acts on the agreement, which can lead to delays in zoning, plat, and building permit approvals.

Miami-Dade County has adopted roadway level of service standards for the unincorporated municipal service area through the Comprehensive Development Master Plan (CDMP), which is implemented through Chapter 33G (Service Concurrency Management Program) of the Code of Miami-Dade County, Florida (Code). The CDMP and Chapter 33G, in accordance with section 163.3180, Florida Statutes, govern how proportionate share mitigation agreements for roadway concurrency are created, offered, and structured. Ultimately, these agreements follow a standard template, with only the site-specific information adjusted. Delegating authority to the County Mayor or the County Mayor's designee will reduce the time in which agreements are executed from 3-4 months to 3-4 weeks. Notably, in Ordinance

No. 17-43, the Board delegated related authority to enter into proportionate share mitigation agreements for public school concurrency, which similarly follow a specific formula and format.

Recommendation

It is recommended that the Board of County Commissioners (Board) adopt the proposed ordinance revising Section 33G-5 of the Code to delegate authority to the County Mayor or County Mayor's designee to enter into proportionate share mitigation agreements for roadway concurrency.

Scope

The amendment to Section 33G-5 affect the Unincorporated Municipal Service Area (UMSA) and other areas where the County exercises zoning jurisdiction.

Delegation of Authority

The proposed ordinance delegates authority to the County Mayor or the County Mayor's designee to approve and execute the agreements.

Fiscal Impact/Funding Source

Approval of this item will create a positive fiscal impact to the County by delegating the execution of agreements to the County Mayor or County Mayor's designee. Delegating this authority shortens their processing time by months and saves the costs of county staff time in preparing agenda items for the Board's consideration.

Social Equity

The amendment to Section 33G-5 provides a positive social equity benefit in potentially shortening the development process by eliminating the additional time it takes for agreements to complete the agenda process and be acted on by the Board. With specific regard to the County's housing needs, a quicker development process yields a faster supply of units available on the market and potentially lowers rental or purchase prices.

Track Record/Monitor

Raul A. Pino, P.L.S., in the Platting and Traffic Review Division within the Department of Regulatory and Economic Resources administers and monitors Chapter 33G.

Background

In 2011, the Florida Legislature adopted the Community Planning Act, which revised Florida's growth management laws to, among other changes, eliminate the requirement that public transportation facilities be in place at the time that they are needed for new development. As amended, section 163.3180(5)(h)1.c., Florida Statutes, instead requires local governments that continue to implement a transportation concurrency system, as the County does, to allow each development applicant to satisfy transportation concurrency requirements by paying the applicant's proportionate share of transportation improvements to address transportation deficiencies attributable to the application, as determined by a set formula. In accordance with Florida Statutes and Section 33G-5(6) of the Code, when trips generated by the proposed development result in a failure to achieve the adopted roadway level of service standard, the applicant may satisfy the level of service standard through proportionate share mitigation as provided in Section

163.3180(5)(h), Florida Statutes. To mitigate the impacts and proceed with their development, applicants can elect to execute agreements with the County.

Section 163.3180 of the Florida Statutes requires local governments to apply concurrency to transportation facilities to include principles, guidelines, standards, and strategies, such as adopted levels of service, in their comprehensive plans. Miami-Dade County has adopted roadway levels of service standards for all the unincorporated municipal service area. Objective TC-1 of the Transportation Element of the CDMP sets forth the County's concurrency standards, and Policies CIE-3C and TC-1B of the CDMP establish level of service standards for all State and County roads in Miami-Dade County. Further, Section 33G-5 of the Code requires review for traffic circulation concurrency when an application for development order is received. The Platting and Traffic Division within the Department of Regulatory and Economic Resources reviews the impact of proposed developments on the existing surrounding roadways to determine if adopted roadway level of service standards are met.

The proposed ordinance delegates authority to the County Mayor or County Mayor's designee to execute these agreements in the interest of efficiency and to remove unnecessary processes for the County and the development community.



Jimmy Morales
Chief Operations Officer



MEMORANDUM

(Revised)

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

DATE: May 7, 2024

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 7(G)

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(G)
5-7-24

ORDINANCE NO. 24-46

ORDINANCE RELATED TO SERVICE CONCURRENCY MANAGEMENT PROGRAM; AMENDING SECTION 33G-5 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; DELEGATING AUTHORITY TO THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO ENTER INTO PROPORTIONATE SHARE MITIGATION AGREEMENTS FOR ROADWAY CONCURRENCY; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

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

Section 1. Section 33G-5 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 33G-5. - Procedures.

- * * *
- (6) No development order shall be issued by any County board, agency or department unless the following conditions are met:
- (a) *Initial development orders:*
1. Unless otherwise provided by this chapter, initial development orders may be approved only if all services and facilities (roadways (traffic circulation), mass transit, potable water supply, sanitary sewer, local recreation open space, solid waste disposal, and flood protection), except for public schools (which are subject only to a non-binding, planning

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.

level review at this stage), meet or exceed LOS standards and the development authorized by issuance of the initial development order must not result in a reduction of any LOS below LOS standards; or the facilities necessary to accommodate the impacts of the proposed development at or above the applicable standards as established in the CDMP are:

* * *

- d. For roadways, satisfied through proportionate share mitigation as provided in section 163.3180, Florida Statutes.

* * *

(b) *Intermediate development orders:*

- 1. Unless otherwise provided by this chapter, intermediate development orders may be approved only if all services and facilities (roadways (traffic circulation), mass transit, potable water supply, sanitary sewer, local recreation open space, solid waste disposal, public schools, and flood protection) meet or exceed LOS standards and the development authorized by issuance of the intermediate development order must not result in a reduction of any LOS below LOS standards; or the facilities necessary to accommodate the impacts of the proposed development at or above the applicable standards as established in the CDMP are:

* * *

- d. For roadways, satisfied through proportionate share mitigation as provided in Section 163.3180, Florida Statutes; or

* * *

(c) *Final development orders:*

1. Unless otherwise provided by this chapter, final development orders may be approved only if all services and facilities (roadways (traffic circulation), mass transit, potable water supply, sanitary sewer, local recreation open space, solid waste disposal, public schools, and flood protection) meet or exceed LOS standards and the development authorized by issuance of the final development order must not result in a reduction of any LOS below LOS standards; or if the subject development is located inside the Urban Development Boundary and:

* * *

- b. For roadways, mass transit, and public schools the facilities necessary to accommodate the impacts of the proposed development at or above the applicable standards as established in the CDMP are:

* * *

- (9) For >>roadways<< [[roads]], satisfied through proportionate share mitigation as provided in Section 163.3180, Florida Statutes; or

* * *

(e) *Additional provisions relating to public school concurrency.*

* * *

4. *Delegation of authority.* Subject to the approval of the County Attorney as to form and legal sufficiency, the Mayor or Mayor's designee is hereby delegated the authority to

enter into proportionate share mitigation agreements in accordance with the Interlocal Agreement for Public Facility Planning, adopted under Resolution R-423-09, as may be amended.

>>(f) Additional provisions relating to transportation concurrency; delegation of authority. Subject to the approval of the County Attorney as to form and legal sufficiency, the Mayor or Mayor's designee is hereby delegated the authority to enter into proportionate share mitigation agreements for roadway concurrency, as provided in this section.<<

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:

May 7, 2024

Approved by County Attorney as
to form and legal sufficiency:

GKS for GBK

Prepared by:

JEM

Lauren E. Morse