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EXCEPTIONAL SOLUTIONS™

## Memorandum

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Date: May 9, 2019

To: Rafael G. Casals, ICMA-CM, CFM, Town Manager

From: Alex A. David, AICP, Acting Community Development Director

Subject: Town and Miami-Dade County Annexation Process

Project:

CC:

## ANNEXATION PROCESSES

### Town Process

Annexation initiatives in Miami-Dade County are governed by the Miami-Dade County Code, Section 20-3 and the Florida Statutes, Chapter 171. Once a municipality determines that it desires to annex an area it must apply to the County Commission following the requirements of Section 20-3 and Chapter 171. The application process is quite rigorous and lengthy and is only approved by the County Commission after a successful supportive vote of the population (in areas with at least 250 electors) in the area to be annexed. Completing the process can take months or years and depends on a variety of economic analyses.

Municipalities in Miami-Dade County have developed their own process of reviewing the impacts of a potential annexation by analyzing the revenues anticipated from the area, derived from the property taxes and other fees; costs associated with providing municipal services (i.e. police, parks, and code compliance, etc.); capital improvement costs estimated for the area; compatibility of the area with that of the municipality; any annual mitigation fees that may be imposed by Miami-Dade County; and tax revenues and franchise fees retained by the County.

When determining if a municipality should enter into an annexation proposal, it should first understand who and what they are annexing as well as the costs it will incur in providing services to the area, along with what tax rate will be necessary in providing all the necessary services to the area. This evaluation can be accomplished in two phases:



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*Phase 1.* Understanding the character and detailing the area under study.

*Phase 2.* Understanding the costs associated with the annexation area by:

- Analyzing the existing cost of services by the current provider;
- The cost to the Town for providing those services in the future and the Town's ability to finance those services; and,
- The effect of the resulting tax load on current Town residents and businesses and, those to be annexed.

If a decision is made by the Town Council to proceed with an annexation application, the following steps outlined in Phase 3. will be necessary:

*Phase 3.* Preparation of a formal annexation application for the area chosen for the potential annexation and submittal to Miami-Dade County for review:

- Developing and preparing the draft Annexation Report (Pursuant to Section 20-3, Code of Miami-Dade County) for Town review;
- Finalizing Annexation Application Reports;
- Advertising and Noticing of proposed action of Town Council;
- Public Hearing; and,
- Annexation Application Report Transmittal and Filing with Miami-Dade County;
- Facilitation of County review process (continue negotiations and attend and represent the Town at all Planning Advisory Board, sub-committees of the County Commission and Commission hearings related to said Annexation Application; and,
- Represent the Town in negotiations concerning Interlocal Agreements after successful approval of annexation).

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### **Detailed Town Annexation Procedure**

If the Town Council directs the evaluation to proceed within Phase 3, the Town will evaluate the annexation area to determine the impact and the resources required to provide municipal services. The following are the suggested steps to properly evaluate an annexation:

1. Town staff evaluates the area and identifies the resources and capital improvements required to provide the same level of service currently provided to Town residents and business owners.
2. Staff involved in the evaluation, include, but are not limited to: Police, Code Compliance, Building, Public Works/Sanitation, Planning (land use and zoning), and Parks & Recreation.
3. The Finance Department, with the assistance of the County's Office of the Property Appraiser, and the Office of Management and Budget, identifies the anticipated revenues from the area (i.e. Property Tax, Sales Tax, Communication Tax, and Stormwater Utility Fees).
4. A report is compiled and presented to the Town Council for consideration. If the Town Council votes to consider the annexation, a Public Hearing is scheduled and noticed.
5. Property owners within the proposed annexation area and those living within 600 feet radius of the area are notified of the Public Hearing.
6. A Public Hearing is held to hear comments in favor of, or against, the proposed annexation. The Town Council renders a decision whether to move forward or not with the proposed annexation.
7. If the Town Council approves moving forward with the annexation, a certified resolution in support of the annexation is adopted and forwarded along with the following documents and information to the Miami-Dade County Clerk of the Board:
  - A) An accurate legal description of the land area;
  - B) A map or survey sketch accurately showing the location of the area involved, the existing boundaries of the municipality or municipalities affected and indicating their relationship with the annexation area;
  - C) Certificate of the County Supervisor of Registration (Elections) certifying that the area involved contains either more than, or less than two hundred fifty (250) residents who are qualified electors;
  - D) A brief statement setting forth the reasons for the annexation;



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E) A statement declaring whether an enclave borders the municipality and whether the proposed boundary change includes such an enclave;

F) The following information:

- a. Land use plan and zoning.
- b. List of services to be provided (police protection, fire protection, water supply and distribution, collection and treatment of sewage, garbage and refuse collection and disposal, street lighting, street construction and maintenance, parks and recreation facilities and services, building inspections, zoning administration, local planning services, special services, and general government).
- c. Timeline for supplying the services listed in b.A
- d. Financing the services.
- e. Tax load on the area to be annexed.
- f. Identification of any areas designated as terminals in the County's Adopted Land Use Plan Map.

G) Certificate of the Director of the Department of Planning and Zoning certifying that the area proposed for annexation having two hundred and fifty (250) or fewer registered electors is more than fifty (50) percent developed residential.

H) A petition indicating the consent of twenty-five (25) percent plus one (1) of the electors in the area proposed for annexation, if the area under consideration has more than 250 registered electors.

### **Miami-Dade County Annexation Process**

The process of establishing a boundary change in Miami-Dade County is outlined in the County Code Chapter 20, Article I, entitled "Boundary Change Procedure."

Miami-Dade County has conducted several studies regarding incorporations and annexations, and over the years there have been attempts to modify the County Code to facilitate the processes, but very little has changed.



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### **Miami-Dade County Annexation Procedure**

If the resolution adopted by the municipality considering the annexation is favorable, an application that meets the requirements set forth in Chapter 20-3 of the County Code is forwarded to the County Clerk's Office. The following is an outline of the steps involved in the review and consideration of an annexation by the Board of the County Commission (Commission):

1. County Clerk receives and reviews the application for compliance with County Code Chapter 20-3, and forwards the application for acceptance by the Commission.
2. Once the annexation application is accepted by the Commission, it is forwarded to the Office of Management and Budget (OMB) for review.
3. The OMB provides a report on the annexation application and forwards the report to the Planning Advisory Board Subcommittee entitled "Incorporation & Annexation Committee", for their review and recommendation.
4. The Incorporation & Annexation Committee makes a recommendation to the Planning Advisory Board, who holds a Public Hearing to hear comments related to the proposed boundary change.
5. The Planning Advisory Board forwards a recommendation based on criteria outlined in the County Code on the proposed annexation, and County Mayor makes a recommendation and places it on the Commission's Agenda.
6. The Commission Chairperson may assign the annexation request to the Land Use Committee (Committee) to hold a Public Hearing to consider the proposed annexation and hear any comments from the public.
7. Following the Public Hearing, if any, a recommendation from the Committee, along with the Planning Advisory Board and County Mayor recommendations are forwarded to the Commission for consideration.
8. If the proposed boundary change is approved by the Commission, the Commission directs the County Attorney to draft an ordinance modifying the municipal boundaries, so as to include the annexation.
9. If there are more than 250 resident electors in the area, or the area is developed more than 50 percent residential, the boundary change will be contingent upon an affirmative vote of the registered voters within the proposed annexation area.
10. If there are less than 250 resident electors in the area, and the area is developed less than 50 percent residential, a boundary change can occur upon the Commission's approval of the ordinance.



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11. If a vote of the area electors is taken and the annexation is approved, the Commission considers adopting the Boundary Change Ordinance on Second Reading, based on the guidelines provided in the County Code. Note: The County Commission may still deny the annexation request, regardless of the outcome of the vote.

Other County requirements for annexations are as follows:

- Requires annual mitigation payment if the area is not “a revenue neutral area” (Sec. 20-8.7),
- Retains utility tax revenues (Sec. 20-8.2) and electrical franchise revenues (Sec. 20-8.1) generated in the annexing area,
- Requires payment of 100% of the net excess of revenues minus expenses attributable to a Commercial Business or Industrial (CBI) Areas when incorporating such an area within the boundary of an annexation or incorporation (Sec. 20-28),
- Requires annexing municipality to pay for Bond Indebtedness (Sec. 20-8.5), that may exist within the area being annexed.
- Requires continued payment of the fire debt service, associated with the Fire and Rescue Service District (Chapter 18, Article II, Sec. 18-32),
- Retains regulatory control over Areas and Facilities of Countywide Significance (Sec. 20-8.6), and
- Retains garbage and refuse collection and disposal (Sec. 20-8.4), unless delegated by the Board of County Commission to the municipality.

### **Service Transition**

If the Board of the County Commission approves the annexation through the adoption of the Boundary Change Ordinance on second reading, the County formerly notifies the municipality, and the transition of providing municipal services are discussed and coordinated between the municipality and the County’s Office of Management and Budget. Interlocal Agreements, if any, are considered and executed by both agencies; maps and records are adjusted; and site-specific zoning may be considered by the municipality for the new annexed area at a future date.

The County continues to collect and retain the electric franchise revenues and utility tax revenues accruing within the annexed area, in the same manner as if the annexed area remained a part of unincorporated Miami-Dade County, Florida.

The costs of annexing an area and the revenues limitation imposed by the County, highlights the importance of a municipality to properly evaluate an annexation to ensure that the revenues derived from the area covers the costs of providing services.