

CITY OF CORAL GABLES, FLORIDA

RESOLUTION NO. 2008- 203

AN AMENDED RESOLUTION OF THE CITY COMMISSION OF CORAL GABLES, WITH ATTACHMENTS, AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF CORAL GABLES AND THE CITY OF MIAMI TO ALLOW THE COMBINED PROPERTIES WHICH MAKE UP PUBLIX SUPERMARKET, INC., LOCATED IN BOTH CORAL GABLES AND MIAMI AT 114 PONCE DE LEON BOULEVARD (CORAL GABLES), AND 3690 WEST FLAGLER STREET (MIAMI), TO BE DEVELOPED AS ONE INTEGRATED DEVELOPMENT OVER THE MUNICIPAL BOUNDARIES OF BOTH CITIES.

WHEREAS, pursuant to Resolution No. 2007-273, on December 11, 2007, the City Commission authorized the City Manager to enter into an Interlocal Agreement with the City of Miami with regard to a property owned by Ponce Medical Plaza, LLC; and

WHEREAS, the real property is now owned by Publix Supermarket, Inc., therefore an amended Interlocal Agreement is required; and

WHEREAS, Florida Statutes, §163.01, the "Florida Interlocal Cooperation Act 1969," permits local governments to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities; and

WHEREAS, the real property making up Publix Supermarket, Inc. is located within the municipal boundaries of Coral Gables and Miami at 114 Ponce de Leon Boulevard (Coral Gables) and 3690 West Flagler Street (Miami); and

WHEREAS, the owner wishes to develop the combined properties as one integrated development and building structure over the municipal boundaries of Coral Gables and Miami; and

WHEREAS, the Coral Gables property would now contain 73% of the Floor Area Ratio of the Combined Properties and the Ad Valorem tax revenues collected by Coral Gables shall be 73%; and

WHEREAS, the Interlocal Agreement meets the minimum requirements outlined in Florida Statutes §163.01; and

WHEREAS, the City Commission of Coral Gables finds that it is in the best interest of the City to enter into an Interlocal Agreement with the City of Miami.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF CORAL GABLES:

SECTION 1. The foregoing "Whereas" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Resolution upon adoption hereof.

SECTION 2. That the City Manager is hereby authorized to execute the attached Amended Interlocal Agreement with the City of Miami to meet certain specified conditions in order for the City to receive its appropriate distribution of ad valorem tax revenues.

SECTION 3. That this Resolution shall become effective immediately upon the date of its passage and adoption herein.

PASSED AND ADOPTED THIS EIGHTEENTH DAY OF NOVEMBER, A.D., 2008.

(Moved: Withers / Seconded: Anderson)

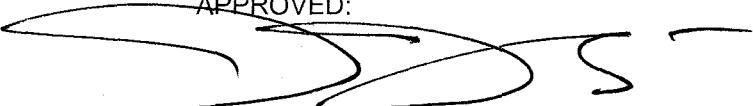
(Yea: Anderson, Withers, Slesnick)

(Absent: Kerdyk, Cabrera)

(Majority: 3-0 Vote)

(Agenda Item: H-4)

APPROVED:


DONALD D. SLESNICK II
MAYOR

ATTEST:


WALTER J. FOEMAN
CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:


ELIZABETH M. HERNANDEZ
CITY ATTORNEY

INTERLOCAL AGREEMENT
BETWEEN
THE CITY OF CORAL GABLES
AND
THE CITY OF MIAMI

THIS INTERLOCAL AGREEMENT (the "Agreement") by and between the City of Coral Gables, Florida ("Coral Gables"), a municipal corporation organized under the laws of the State of Florida, ("Coral Gables") and the City of Miami, Florida, a municipal corporation organized under the laws of the State of Florida, is entered into this _____ day of _____, 2008.

WITNESSETH

WHEREAS, the real property described in Exhibit A attached hereto is located within the municipal boundary of Coral Gables ("Coral Gables Property") at 114 Ponce de Leon Blvd.; and

WHEREAS, the real property described in Exhibit B attached hereto is located within the municipal boundary of Miami ("Miami Property") at 3690 West Flagler Street; and

WHEREAS, the Miami Property and the Coral Gables Property (jointly, the "Combined Properties") abut each other; and

WHEREAS, Publix Supermarket, Inc. ("Owner") is the fee title owner of the Combined Properties; and

WHEREAS, Owner wishes to develop the Combined Properties as one integrated development and building structure located over the municipal boundaries of Miami and Coral Gables; and

WHEREAS, Owner has requested that Miami and Coral Gables enter into the instant agreement.

WHEREAS, Miami and Coral Gables have determined that such integrated development concept is acceptable and in the best interests of both municipalities; and

WHEREAS, Miami and Coral Gables desire to enter into this agreement in order to set forth the covenants, terms and conditions for the distribution of taxes for their respective Cities; and

WHEREAS, by agreement dated April 7, 2008 and recorded under Official Records Book 26367, Page 1014, Miami and Coral Gables entered into an agreement covering the Combined Properties ("First Interlocal"); and

WHEREAS, the Project now being envisioned for the Combined Properties is different than the Project referenced in the First Interlocal; and

WHEREAS, Miami and Coral Gables wish to enter into a new Interlocal in the manner hereinafter described which will replace and supersede the First Interlocal in its entirety.

NOW THEREFORE, in consideration of the mutual promises herein contained, Miami and Coral Gables enter into this Interlocal Agreement and agree as follows:

1. The above recitals are true and correct and incorporated herein.
2. Miami and Coral Gables agree that they will administratively process and approve, subject to the conditions set forth below, an integrated development for the Combined Properties substantially in accordance with the plans entitled Flagler Publix, prepared by Fisher and Associates, dated 8/11/08 and revised 9/8/08 (City Log-in stamp), consisting of 31 sheets ("Flagler Publix Plan"), which plans are on file with the City of Miami Department of Hearing Boards and the City of Coral Building and Zoning Department or any other plan that complies with the zoning and building codes of both municipalities, which Flagler Publix Plan are deemed as being attached hereto and are incorporated by reference herein as if set forth in full in the Agreement and the Flagler Publix Plans are approved by both municipalities in the manner required by law.

3. The Flagler Publix Plan contemplates a total Building Foot Print Lot Coverage of 67,156 S.F. for the Combined Properties allocated as follows:
 - 49,240 S.F. proposed on the Coral Gables Property.
 - 17,916 S.F. proposed on the Miami Property.
4. Miami shall review, process and consider the approval of all development and construction within the Miami Property. Coral Gables shall review, process and consider the approval all development and construction within the Coral Gables Property in accordance with applicable laws, codes and regulations. .
5. Miami shall charge for and receive any and all process, permit, impact fees or other fees normally charged by Miami in the development and construction of that portion of the Flagler Publix Plan located on the Miami Property. Coral Gables shall charge for and receive any and all process, permit, impact fees or other fees normally charged by Coral Gables in the development and construction of that portion of the Flagler Publix Plan located on the Coral Gables Property.
6. Miami and Coral Gables may consider the employment of a private building permit processor, to be paid by Owner, to coordinate submittal and processing of building approvals and permits with each respective municipality and the County, as may be required.
7. The City of Coral Gables Police Department and the City of Coral Gables Fire Department shall provide primary and first response services to the Combined Properties, but shall promptly alert Miami of any fire or law enforcement emergencies or situations affecting the Miami Property. Miami and Coral Gables may, at their discretion, enter into other service, mutual aid, and/or cooperation agreements relating to police and fire services and/or procedures relating to the Combined Properties.
8. Miami and Coral Gables acknowledge and agree that the Miami-Dade County Property Appraiser's office will issue a Miami real property tax

folio number for the Miami Property and a Coral Gables real property tax folio number for the Coral Gables Property.

9. Miami and Coral Gables agree that the sum of the ad valorem tax revenues collected for the Combined Properties (the sum of the ad valorem tax revenue collected by Miami for the Miami Property and the ad valorem tax revenue collected by Coral Gables for the Coral Gables Property), ("Combined Properties Tax Revenue"), shall be allocated between Miami and Coral Gables in approximately the following manner (the "Tax revenue Allocation Formula"):

27% shall be paid to Miami

73% shall be paid to Coral Gables

10. The Tax Revenue Allocation Formula shall be based on the following allocation criteria :

- a) Total Building Foot Print Lot Coverage for the Combined Properties: 67,156 S.F.
- b) Building Foot Print Lot Coverage for the Coral Gables Property: 49,240 S.F. (73%).
- c) Building Foot Print Lot Coverage for the Miami Property: 17,916 S.F. (27%).

11. Within 30 days after receipt by Miami and Coral Gables of their respective ad valorem tax revenues from the Miami-Dade County Tax Collector's Office, both municipalities shall use their best efforts to coordinate to comply with and effectuate the Tax Revenue Allocation Formula. In the event Miami receives ad valorem tax revenues greater than 27% of the Combined Properties Tax Revenue, it shall promptly pay to Coral Gables a sum equal to the amount necessary to adjust its share to not more than 27% of the Combined Properties Tax Revenue. In the event Coral Gables receives ad valorem tax revenues greater than 73% of the Combined Properties Tax Revenue, it shall promptly pay to Miami a sum equal to the

amount necessary to adjust its share to not more than 73% of the Net Combined Properties Tax Revenue.

12. Miami and Coral Gables through their applicable personnel involved in their respective fields will consult with each other as to any building, planning, zoning, permitting, regulatory, police and fire, or other issues of municipal concern regarding the Combined Properties or any one of them, as applicable.
13. The term of this Agreement shall be for an initial period of five (5) years from the date it is executed. The Agreement shall automatically renew for up to thirty-five additional annual terms of one (1) year each. The total term of the Agreement shall not exceed forty (40) years, after which it may be reconsidered, renewed, revised, or allowed to lapse by the City of Miami and City of Coral Gables.
14. Either party may terminate this Agreement for good cause, which is any cause found by majority vote of a City Commission to be in the interests of the public health, safety, and general welfare to require termination at any time by giving the other party three hundred sixty (360) days advance written notice of such termination. In such event, the Property Appraiser's office shall be notified and the terminating party shall surrender its rights to the aforementioned tax incentive.
15. All notices required pursuant to this Agreement shall be in writing and shall be delivered by hand or by United States Postal Service, certified mail service, postage prepaid, return receipt requested, addressed to the following addressees of record:

CITY OF MIAMI CITY MANAGER

444 SW 2nd Av., 9th Fl.
Miami, FL 33130-1910

CITY OF CORAL GABLES, CITY MANAGER

405 Biltmore Way
Coral Gables, FL 33134

16. The parties will attempt to resolve their disputes and controversies arising under this Agreement by the PROCEDURAL OPTIONS AFFORDED BY THE Florida Governmental Conflict Resolution Act, Chapter 164, Florida Statutes, as amended. This will be a condition precedent to any civil action between the parties arising out of this Agreement.
17. Florida law will apply to the interpretation of this Agreement. Venue shall lie in Miami-Dade County, Florida.
18. This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to matters contained herein and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. Any amendments to or waivers of the provisions herein shall be made by the parties in writing.
19. In the event the Owner elects not to develop the Combined Properties under the Flagler Publix Plan or any other site plan creating a unified development and elects to develop the Miami Property and the Coral Gables Property separately, this Agreement shall terminate and shall have no cause or effect on the development of the Combined Properties. The Owner shall in such instance give written notice of such election in the manner provided for in Paragraph 15 of this Agreement. Owner shall waive the right to such election upon commencement of construction of a unified development on the Combined properties.
20. 20, The First Interlocal is hereby deemed as being of no further force and effect. Owner may, at Owner's discretion, record this Agreement in the Public records of Miami-Dade County for purposes of public notice and information.

IN WITNESS WHEREOF, the parties have entered into this Agreement this _____ day of _____, 2008.

CITY OF CORAL GABLES

By: _____

David L. Brown, City Manager

ATTEST:

By: _____

Walter Foeman, City Clerk

APPROVED AS TO LEGAL FORM

AND SUFFICIENCY:

Elizabeth M. Hernandez, City Attorney

CITY OF MIAMI

By: _____

Pedro Hernandez, City Manager

Attest:

By: _____

Priscilla H. Thompson, City Clerk

APPROVED AS TO LEGAL FORM
AND SUFFICIENCY:

Julie O. Bru, City Attorney

EXHIBIT "A"

LEGAL DESCRIPTION:

THE WEST 46.8 FEET OF LOTS 1,2 AND 3 AND ALL OF LOTS 4,5,6 AND 7, LESS DEDICATIONS FOR RIGHT OF WAY, BLOCK 1, OF AMENDED PLAT OF KIRKLAND HEIGHTS, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 3 AT PAGE(S) 214, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGIN AT A POINT ON THE SOUTH LINE OF LOT 7, BLOCK 1, AFOREMENTIONED, 20.00 FEET EASTERLY OF THE SOUTHWEST CORNER OF SAID LOT 7; THENCE RUN NORTH 00°30'45" WEST ALONG A LINE 20.00 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF LOTS 6 AND 7 FOR 104.78 FEET TO THE POINT OF CURVE; THENCE RUN NORTHERLY, NORTHEASTERLY AND EASTERLY ALONG A CIRCULAR CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 50°30'45" FOR AN ARC DISTANCE OF 39.49 FEET TO A POINT OF TANGENCY WITH A LINE THAT IS 20.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF LOT 6; THENCE RUN NORTH 90°00'00" EAST ALONG A LINE THAT IS 20.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF LOTS 6,5,4 AND 3, FOR 142.08 FEET TO A POINT; THENCE RUN SOUTH 00°29'04" EAST ALONG THE WEST LINE 3,2 AND 1 FOR A DISTANCE OF 130.00 FEET TO THE SOUTH LINE OF LOT 1; THENCE RUN SOUTH 90°00'00" WEST, ALONG THE SOUTH LINE OF LOTS 1 AND 7, FOR 167.24 FEET TO THE POINT OF BEGINNING.

EXHIBIT "B"

LEGAL DESCRIPTION:

LOT 2, BLOCK 1, OF EAST CORAL GABLES, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLATS BOOK 11, PAGE 24, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

AND
LOT 1, BLOCK 1, OF EAST CORAL GABLES, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLATS BOOK 11, PAGE 24, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

AND
BEGIN AT THE NORTHEAST CORNER OF LOT 1, IN BLOCK 1, OF CORAL GABLES, FLAGLER STREET SECTION, ACCORDING TO THE MAP OR PLAT, AS RECORDED IN PLAT BOOK 10, AT PAGE 12, OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA; THENCE RUN WEST ALONG THE NORTH BOUNDARY LINE OF LOT 1, IN BLOCK 1, OF SAID SUBDIVISION, A DISTANCE OF 53.6 FEET; THENCE NORTH PARALLEL WITH THE WESTERN BOUNDARY LINE OF PONCE DE LEON BOULEVARD A DISTANCE OF 150 FEET TO THE SOUTH BOUNDARY LINE OF FLAGLER STREET; THENCE RUN EAST 53.6 FEET TO THE WESTERLY BOUNDARY LINE OF PONCE DE LEON BOULEVARD; THENCE RUN SOUTH 150 FEET TO THE POINT OF BEGINNING, SAME BEING THE TRACT OF LAND MARKED "RESERVED" SITUATED ON THE WEST SIDE OF PONCE DE LEON BOULEVARD, AS SHOWN BY SAID MAP; TOGETHER WITH THE IMPROVEMENTS LOCATED THEREON, LESS THE NORTH 20.00 FEET FOR ROAD RIGHT-OF-WAY.

AND ALSO:

LOTS 3,4,5 AND LOTS 6, 7, 8 AND 9 LESS RIGHT-OF-WAY FOR DOUGLAS ROAD, IN BLOCK 1, EAST CORAL GABLES, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 11, PAGE 24, PUBLIC RECORDS OF DADE COUNTY FLORIDA, SUBJECT TO AN EASEMENT OVER AND ACROSS THE FOLLOWING DESCRIBED PROPERTY:

COMMENCING AT THE NORTHWESTERLY CORNER OF LOT 3, BLOCK 1, CORAL GABLES FLAGLER STREET SECTION, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 10, PAGE 12 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, RUN SOUTH 69°37'30" EAST ALONG THE NORTHEASTERLY LINE OF THE SAID LOT 3 FOR A DISTANCE OF 16.29 FEET TO THE POINT OF BEGINNING; THENCE FROM THE ABOVE ESTABLISHED POINT OF BEGINNING CONTINUE SOUTH 69°37'30" EAST ALONG THE SAID NORTHEASTERLY LINE OF LOT 3 FOR A DISTANCE OF 97.6 FEET TO THE NORTHEASTERLY CORNER OF SAID LOT 3; THENCE RUN SOUTHEASTERLY ALONG THE EASTERLY LINE OF THE AFORESAID LOT 3 ALONG A CURVE, TO THE RIGHT HAVING FOR ITS ELEMENTS A RADIUS OF 350 FEET AND A CENTRAL ANGLE OF 49°53'6" FOR AN ARC DISTANCE OF 25.00 FEET; THENCE RUN NORTH 55°11'00" WEST FOR A DISTANCE OF 100.11 FEET TO THE POINT OF BEGINNING; TOGETHER WITH AN EASEMENT OVER AND ACROSS THE FOLLOWING DESCRIBED PROPERTY;

BEGINNING AT THE SOUTHWESTERLY CORNER OF LOT 2, BLOCK 1, CORAL GABLES FLAGLER STREET SECTION, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 10, PAGE 12 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA; THENCE FROM THE ABOVE ESTABLISHED POINT OF BEGINNING RUN NORTH ALONG THE WEST LINE OF THE SAID LOT 2 FOR A DISTANCE OF 16.00 FEET; THENCE RUN SOUTH 57°03'30" EAST FOR A DISTANCE OF 72.15 FEET TO A POINT OF INTERSECTION WITH THE SOUTHWESTERLY LINE OF THE SAID LOT 2; THENCE NORTH 69°37'30" WEST ALONG THE SAID SOUTHWESTERLY LINE OF LOT 2 OR A DISTANCE OF 65.00 FEET TO THE POINT OF BEGINNING.